

THE INDIGENOUS WORLD 1998-99

IWGIA

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INTERNATIONAL
WORK GROUP FOR
INDIGENOUS AFFAIRS

US\$ 23.00
ISBN 87-90730-12-7

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WORLD
1998-99**

**IWGIA
Copenhagen 1999**

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ISSN 0105-4503 ISBN 87-90730-12-7

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Cover: Jorge Monras; cover photo: courtesy of International Labour Office

Typesetting: Christian Erni

Prepress: Christensen Fotosats, Frederiksberg, Denmark

Print: Eks-Skolens Trykkeri, Copenhagen Denmark

Translation from Spanish: Elaine Bolton

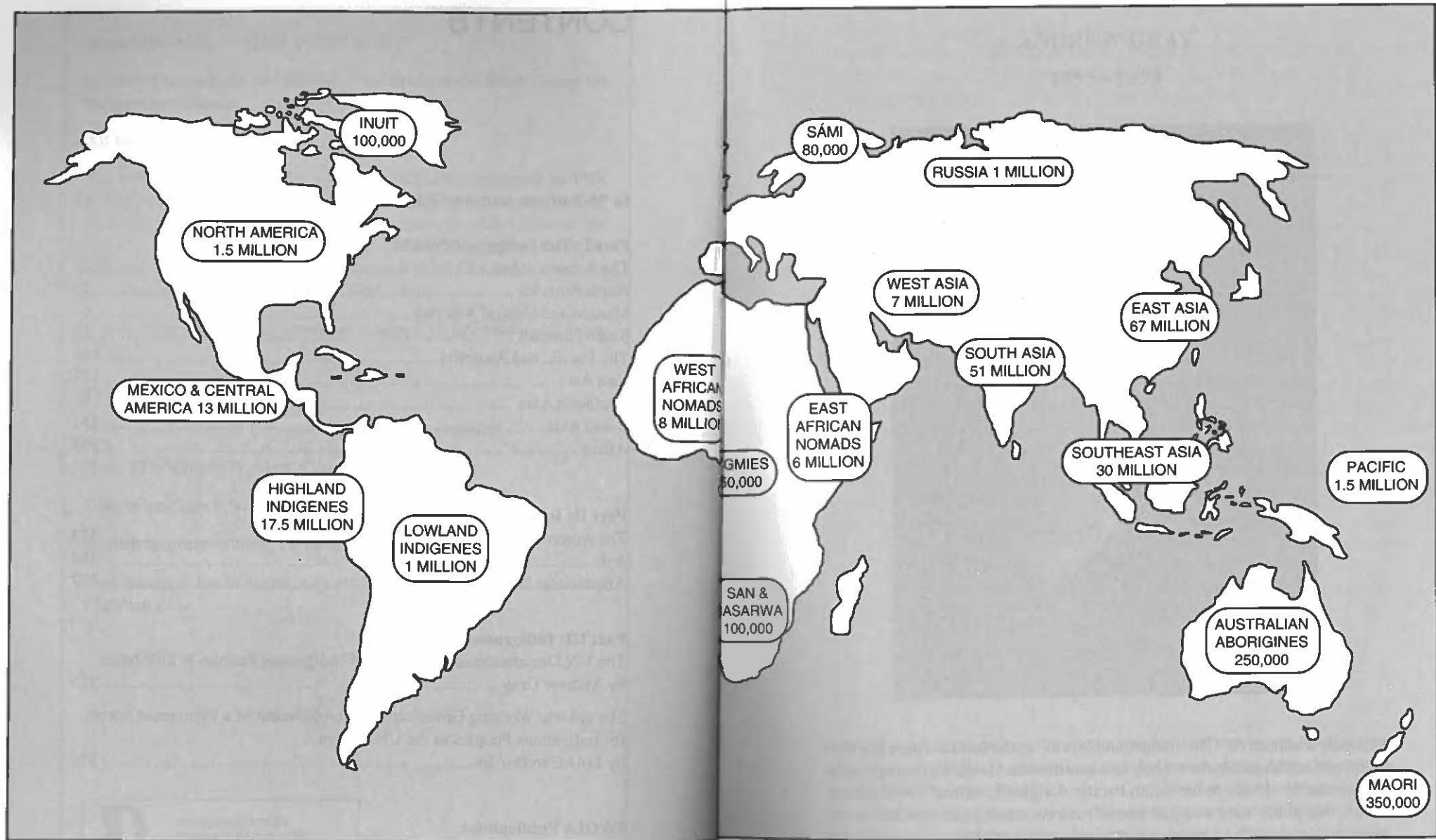
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This edition of the Indigenous World has been compiled and edited by Christian Erni



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ANDREW GRAY

1955 - 1999



After 16 years of intensive work for the international movement for the rights of indigenous peoples, Andrew Gray is no longer among us. On a networking trip for IWGIA in the Pacific, Andrew Gray and Jens Dahl managed to get out of the Twin Otter plane which crashed into the sea seven kilometres from the shores of Vanuatu on 8 May. Andrew was severely injured in the impact, and in the dark, rain and waves, he did not survive.

This year's edition of "The Indigenous World" is the last to which our dear friend and colleague Andrew Gray has contributed. He died in a tragic accident on the 8th of May in the South Pacific. Originally called "IWGIA Yearbook", this publication was just one of Andrew's many ideas on how to respond to the need for a broader public awareness of the situation of indigenous peoples and for determined and consequent lobbying in support of their struggle. This, the 13th issue is dedicated to his memory.

In 1983, the International Work Group for Indigenous Affairs had advertised a position vacant following the departure of our former secretary. We were looking for an anthropologist who could serve as a Director in the Secretariat in Copenhagen, and at the same time a person who possessed the academic skills necessary to do research and to write. We were interviewing a number of anthropologists whom we had singled out on the basis of their applications when suddenly this young man, of whom we knew nothing, appeared. Andrew had come straight from Göteborg where a friend of his, a fellow South-Americanist, had told him about the vacant position in IWGIA. We interviewed and spoke with Andrew, and there was no doubt in our minds: this was our man.

Andrew immediately came across as an anthropologist who had done not only excellent field work, but was engaged in the lives of the people he had lived with, the Harakmbut, and their future. He already said then that he would not look for a university position. He wanted to use his experience and skills to work actively to strengthen the situation of indigenous peoples who were being assaulted by State societies. Ever since then, whenever he was asked if he would apply for a vacant position, he would decline the suggestion. With his outstanding intellectual resources and his enormous capacity to work, he could easily have chosen a purely academic path, and with brilliant results. But he always declined for the same reasons: his compassion for the many vulnerable small-scale societies in the world. We cannot stress enough the rare and valuable qualities Andrew possessed, and how delighted we were that he chose to channel so much of his energy through his work in IWGIA.

Very quickly, Andrew gained an impressive amount of knowledge on indigenous affairs and, coupled with his ability to analyse complex issues, he soon gained respect wherever he went. He worked tirelessly within IWGIA's Secretariat in Copenhagen, writing and editing documents and our newsletter 'Indigenous Affairs', preparing for conferences and meetings and then writing up reports from them, as well as numerous reports from his networking trips. His contribution to the understanding and promotion of indigenous issues spans the whole spectrum of topics, such as indigenous rights, self-determination and self-government, biodiversity and other environmental concerns. He was a hard working and prolific writer who managed to put into print his own thoughts, as well as those of many indigenous individuals and organizations who entrusted this to him. From 1983 on, Andrew's written contributions can be found in numerous IWGIA publications. In addition to his documents on the gold rush in Harakmbut territory in Peru and his docu-

ment on indigenous peoples and biodiversity, he can be found as a major contributor to a number of other documents, as well as to *Indigenous Affairs*. Special mention must also be made of IWGIA's yearbook, *The Indigenous World*, which was Andrew's brainchild and to which he contributed substantially ever since its first issue. Anthropology remained the solid foundation of his work, and in 1997 he published three impressive volumes on the Harakmbut of Amazonian Peru.

Andrew engaged himself wholeheartedly in international fora such as the ILO and the UN. It is in IWGIA's yearbook that we find Andrew's numerous and lucid reports from the meetings of the United Nations' Working Group on Indigenous Populations, including the process of drafting the Declaration on the Rights of Indigenous Peoples, a process which started in 1983. He also engaged himself extensively in the proceedings aimed at establishing a UN Permanent Forum on Indigenous Peoples. Andrew played a major role in the International Commission which IWGIA set up to investigate the dire situation of the Jumma peoples of the Chittagong Hill Tracts in Bangladesh and this helped lay the ground for the negotiations of the recently signed peace agreement.

After six years as IWGIA's Director, Andrew became a member of the International Board of IWGIA, and then its Vice-Chairman in 1998. He continued his contributions to IWGIA's publications but he also engaged himself in projects administered through IWGIA, such as a huge land titling project in Peru and a holistically conceived project which he planned together with the Harakmbut.

As Andrew became renowned for his work for the rights of indigenous peoples, he also became a council member of Anti-Slavery International and a Policy Advisor to the Forest People's Programme.

For six years he worked as the first incumbent of the position of Director of IWGIA and he established an excellent precedent for that position before he became a member of the International Board of our organization and then Vice-Chairman. In these capacities he also made use of his unique way of dealing with all kinds of people: his fabulous sense of humour and his sincere way of attending to people always made it pleasant to be in his company and it invariably meant that whenever there were difficulties within IWGIA as an organization, Andrew was there with deliberations based on his perceptive and sensitive analysis of any situation involving a number of people with different qualities and interests.

After the long days of meetings and intense work, how we enjoyed his fun-making, his ability to re-enact sequences of the meetings and to imitate

people and caricature them, never mockingly, but with affection. And here we touch upon some crucial dimensions in a small organization such as IWGIA, namely the closeness, the warmth, the friendship that we all share. The loss of Andrew as a friend is so immense that words do not suffice. With Andrew a supporting wall has been torn from IWGIA. With Andrew we have lost a close and intimate friend. We lost him in the middle of his stride. Only a few days before he left for the Pacific, at our Board meeting in Copenhagen, we agreed to design a new research project together. And so it is with many of us who had the privilege to work with him, because Andrew was torn away so young and so fully engaged in his life projects, into which he so generously invited us all.

Among fellow anthropologists, Andrew stood as an extraordinary and uncompromising figure, with solid roots in his scholarly field, in his extensive work with the Harakmbut people in the Peruvian rainforest and in his moral engagement. He stood as a tall and straight tree with interests and a compassion for people which stretched beyond the horizon of so many of his contemporaries. In spite of his young age, Andrew has left a legacy: a legacy which he shaped through a process which we were so lucky to be able to participate in.

It is with a profound sense of grief that we go through the process of coming to terms with the fact that the energetic Andrew, so full of life and laughter, has died. On behalf of IWGIA, we wish to convey our deepest sympathy and compassion to his wife Sheila and son Robbie and to all of Andrew's family.

A Fund for Andrew Gray

A fund for Andrew Gray has been established whereby all donated funds will be used for the Harakmbut indigenous people in Peru. Andrew worked for many years with immense dedication and affection to support the cause of the Harakmbut people, and a close relationship developed between Andrew and the Harakmbut people. Specifically the funds will be used for making a boarding facility for Harakmbut students from remote communities who come to attend school in the city of Puerto Maldonado.

Donations can be made via IWGIA: Sydbank, Købmagergade 45, Copenhagen, account no. 7031-1097110. Please indicate your name on the transfer. Sterling donations can be forwarded to: Forest Peoples Programme, 1C, Fosseyway Business Centre, Stratford Road, Moreton-in-Marsh, GL 56 9NQ, UK

Mexico, Central and South America

This section has been compiled and edited by *Alejandro Parellada*, Latin America Programme Coordinator and editor of IWGIA's Documents series.

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Andrés Ramírez is a lawyer and member of the NGO Tierraviva (Paraguay).

Dorthe Kristensen belongs to the national group of IWGIA in Denmark. She has a degree in Medical Anthropology from the University of London (Chile).

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The Pacific and Australia

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East Asia

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Southeast Asia

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Danilo Geiger is a Social Anthropologist currently working at the Department of Social Anthropology of the University of Zurich, Switzerland. He is

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Luingam Luithui is a Tangkhul Naga from Ukhrul. He holds an MPhil in Political Economy of Forestry. He is one of the founding members of the Naga Peoples Movement for Human Rights (NPMHR), and is currently serving his second term as Secretary General of the Asia Indigenous Peoples Pact (AIPP). *Meredith Preston* is trained in international relations, holding an MA in the field of Global Security. Her present focus is the transformation of political community beyond the state and the indigenous rights movement. She is currently working with the AIPP (*Nagaland*).

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Torben Retbøll teaches History and Latin at Aarhus Katedralskole, Denmark. He has written and edited several books on mass media and international affairs, most recently *East Timor: Occupation and Resistance* (IWGIA, 1998). An Italian version of this book will be published in 1999 (*East Timor*).

Bawi Lian Salai, a Chin, is the coordinator of the Chin Human Rights Organisation based in Ottawa, Canada (*Burma: Chin State*).

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South Asia

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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 (*Bangladesh: Chittagong Hill Tracts*).

Dr. B. Janardhan Rao is Associate Professor at the Department of Public Administration and Human Resource Management of Kakatiya University, Warangal, Andhra Pradesh. He is the Convenor of the Adivasi Solidarity Committee in Warangal and Core Committee member of the All-India Coordination Committee (*India: Andhra Pradesh and Orissa*).

K. Nagraj Sabhapati is the special legal correspondent of Press Trust of India. He has covered all Supreme Court cases during last 16 years. At present he is working as a project researcher with Rural Litigation & Entitlement Kendra (RLEK) in Dehra Dun. RLEK is working for the empowerment of the Van Gujjar and Jaunsari indigenous people (*India: Uttar Pradesh*).

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Parshu Ram Tamang is the Secretary General of the Nepal Federation of Nationalities (NEFEN). For more than twenty years he has worked to promote the cause of the indigenous peoples of Nepal. He has written books on the Tamang and Janajati indigenous peoples and works as a lecturer at the Tribhuran University in Nepal (*Nepal*).

Africa

Magdalena Brörmann has been working in the development field in Africa for more than 20 years. She worked as Education Co-ordinator for the initial three years of the Nyae Nyae Village Schools Project (1992 to 1995). Since 1996 she has been working for WIMSA, mainly focussing on the on-the-job training for the WIMSA trainees (*Namibia*).

Nigel Crawhall is a Linguist and at present the Project Director of the Indigenous Peoples of Africa Co-ordinating Committee. He is currently

working on a Cultural Resources Audit with the =Khomani San of the Southern Kalahari under the auspices of the South African San Institute (*South Africa*).

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 (*Equatorial Africa*).

Daniela Renner, is a Social Anthropologist. She has worked in forestry and protected area projects among others in Papua New Guinea and former Zaïre (now Democratic Republic of Congo). At present she works as Technical Advisor in the Dzanga-Sangha Project in the Central African Republic (*Equatorial Africa: Central African Republic*).

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*).

Part II: Indigenous Women's Issues

Angeline van Achterberg is a Social Anthropologist. Her main areas of study and interest are gender issues and the North-West Region of Africa. She went for fieldwork among the Kel Ahaggar Tuareg in Tamanrasset, Algeria in 1984. In 1992, she returned to the Netherlands and joined the Netherlands Centre for Indigenous Peoples where she is the Regional Coordinator for Africa. (*African Indigenous Women's Organisation*)

Ratnaker Bhengra (for his CV see India: Jharkhand) (*Jharkhand Women's Organisation*).

Victoria Tauli Corpuz is Convenor and presently the Executive Director of the Tebtebba Foundation where the Asia Indigenous Women's Network (AIWN) is based. *Bernice Aquino See*, a Networker - is presently the Secretary General of Innabuyog, the Regional Federation of Women's Organizations in the Cordillera, Philippines, which is an active member of AIWN and co-host of its First Conference (*Asia Indigenous Women's Network*).

Tiann Monie works with the UN Cambodia Rehabilitation and Reintegration Programme (CARERE) and UNDP's Highland Peoples Programme in Ratanakiri Province. She focuses on gender issues in indigenous communities.

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Nellys Palomo Sánchez is born in Colombia, she is director of the journal "Desde los cuatro puntos" and founding member of the "Coordinadora Nacional de Mujeres Indígenas de México" ("National Co-ordination of Indigenous Women in Mexico") (*Indigenous Women in the American Continent*).

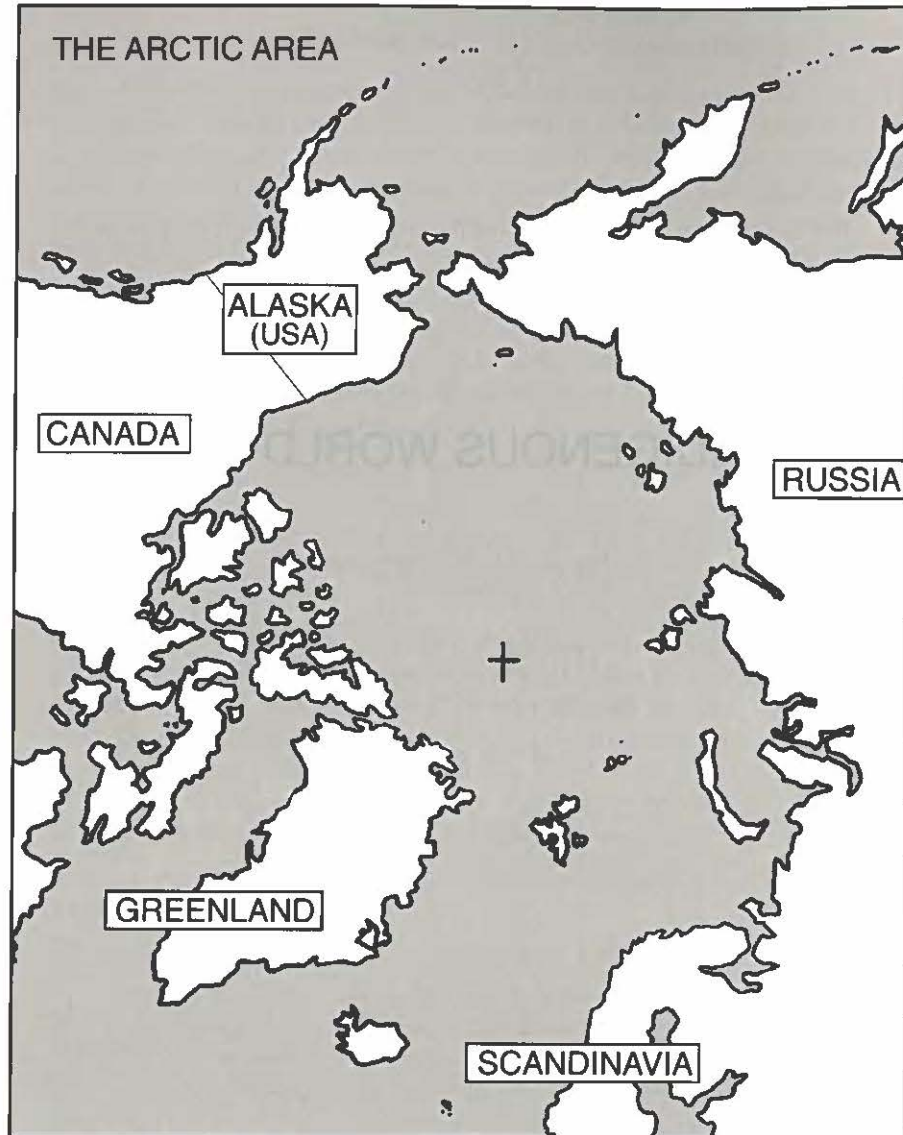
Part III: Indigenous Rights

Andrew Gray, anthropologist, was the former director and vice-chairman of the board of IWGIA (*United Nations: Intersessional Working Group*).

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PART I

THE INDIGENOUS WORLD



Countries/regions covered in this issue: Alaska, Greenland, Russia, Sápmi

ARCTIC

ALASKA

The Aftermath of the Venetie Decision

1998 was the year of the aftermath of the U.S. Supreme Court decision in the Venetie case. The decision, handed down in February, ruled that “Indian Country” does not exist in Alaska. Indian Country is the American legal term that describes the geographical area that an indigenous tribe has jurisdiction over. The Supreme Court decision was a huge setback for Alaska Native village tribes.

Almost immediately after the decision, the governor of Alaska appointed the State Commission on Rural Alaska Governance and Empowerment to make recommendations for improving the lives of Alaska Natives living in villages. At the commission’s first meeting in March, a resolution was passed calling on the state to support tribal governments in Alaska. The resolution stated that “Tribes exist in Alaska as governing entities. Recognition and support by the state of Alaska is essential to the success of Alaska’s system of governance.” The commission was supported with the last \$25,000 left in the state’s anti-Indian Country legal fund. The long-term impact of the commission is, as yet, unknown.

Alaska Natives March in Protest

In May over 4000 people staged the largest protest march ever held in Alaska. Most of them were Alaska Natives but there were some non-Natives there as well. The march was a protest against the “assault” on Native rights, with particular emphasis on the Venetie Supreme Court decision. The crowd marched through the centre of Anchorage, Alaska’s largest city, to a grass park strip where several Native leaders presented speeches. Several smaller marches were held throughout Alaska at the same time including one in the state capitol city, Juneau, in which Alaska governor Tony Knowles took part.

Human Rights Declaration Passed by Alaska Native Leaders

Just prior to the May protest march, Native leaders from across Alaska met in Anchorage and ratified a sweeping bill of rights. The preamble states, “We possess and affirm our inherent right to govern ourselves and determine our own destiny.”

The document goes on to state:

“As sovereign First Nations, we declare these rights to include but not be limited to the following:

- *The right to develop and maintain our distinct identities and attributes, and the right to protect, preserve, and retain our customs, traditions and tribal governmental authorities.*
- *The right to self-determination, by virtue of which we will freely determine our political status and freely pursue our economic, social, cultural, spiritual, and educational development.*
- *The right to be secure in the enjoyment of our traditional economic and cultural pursuits, including hunting, fishing, trapping and gathering.*
- *The right to decide our own priorities for the process of development as it affects our lives, beliefs, institutions and spiritual well-being and the lands, waters, territories and resources that we occupy or otherwise use.*
- *The right to own, develop, control and use our lands, territories, waters and resources, including the full recognition of our laws, traditions, customs and entities devoted to the development of our resources.*
- *The right to participate fully at all levels of decision-making in matters which may affect our rights, lives and destinies.*
- *The right to be fully informed, to consent and to know the consequences of any and all decisions in the historical and political context without any limitation of our status.*

Nothing in this declaration may be construed as diminishing the existing, historical or future rights that the indigenous peoples of the Alaska region may have or acquire.

We hold these to be fundamental, inherent human rights which have not been, and cannot be diminished or extinguished.”

Historic Vote Keeps Corporation in Native Hands

In March, Cook Inlet Region, Inc., one of the most financially successful of the Alaska Native business corporations created under the Alaska Native Claims Settlement Act of 1971, held an historic vote of its shareholders. One of the most controversial provisions of the original land claims act was one that provided for stock in the Native-owned corporations to go on the public market 20 years after the 1971 enactment. The impact of this would have

been that the corporations would almost certainly have fallen out of Native control. A 1988 amendment to the act blocked the automatic change in stock status and replaced it with an option. That option was that Native shareholders could vote to have their corporation become public. Cook Inlet Region, Inc. was the first corporation to exercise the vote option. The shareholders voted by a narrow margin to keep the stock restricted, thus keeping the corporation in Native control. An appraisal of the company put the value of a typical stockholder's 100 shares at about \$100,000 on the public market, although this figure is considered low by some.

Subsistence Rights

The debate over indigenous subsistence rights has continued with no progress being made. December 1998 was to be of great significance as it marked the deadline for the State of Alaska to comply with federal law and guarantee a preference for rural residents of Alaska to engage in subsistence fishing. If the State did not comply, fisheries on federal lands in Alaska would come under federal control. The same situation existed for hunting but, because of the State's unwillingness to act, hunting on federal lands came under federal regulations in 1991. The State was granted several extensions to enable it to comply, but the federal Secretary of the Interior made it absolutely clear that the last extension was to be the final one. This turned out to be untrue as Alaska's powerful senator, Ted Stevens, secured an eleventh hour extension to the moratorium. In the meantime, the Alaska State Legislature, which is controlled by the Republican Party, has been unwilling to put the issue to a vote of the people. Because of an Alaska State Supreme Court decision in 1990, the Alaska Constitution needs to be changed in order for the State to guarantee a rural preference for the subsistence taking of fish and game. Such a constitutional change requires a public election which cannot be held unless the legislature approves it.

Aboriginal hunting and fishing rights in Alaska were abolished under the 1971 Alaska Native Claims Settlement Act. The Marine Mammal Protection Act of 1972 restored the rights for marine mammals but subsistence hunting and fishing rights were not addressed until the 1980 Alaska National Interest Lands Conservation Act guaranteed a rural preference in times of shortage. This had the effect of restoring subsistence rights to Alaska's indigenous peoples as they live primarily in rural areas. In 1990 the Alaska Supreme Court ruled that a rural preference was unconstitutional which put the state at odds with the federal government.

GREENLAND

Throughout 1999 Greenland will be celebrating the 20th anniversary of Greenland Home Rule - a part of its history which has often symbolically been described as the life and seasons of a girl turning into a young woman - *niviarsiaq*. *Niviarsiaq* is the national flower of Greenland and also the symbol and logo of the Siumut Party, which since Home Rule has been the country's leading political party.

In the recent ordinary election to the Greenland Parliament, the social democratic Siumut Party once again showed its strength. The 60 year old priest Jonathan Motzfeldt was re-elected for another four year term. Motzfeldt was the Premier for the first 12 years of Greenland Home Rule and was reinstated as Premier in 1997. This time the election, the seventh since the introduction of Home Rule, was exciting and unpredictable. A new electoral system was introduced which saw the huge country that is Greenland turned into one electoral district instead of being divided into eight ridings as it formerly was.

The new system provides voters with the opportunity to judge politicians on their comprehensive national political accomplishments, rather than on their achievements in their local constituencies. And this is exactly the point. The system was, in fact, set up to do away with the very local and regional focus and approach of many members of Parliament who in several cases also held positions as mayors of their electoral districts.

There is no doubt that the new system has been effective in stirring up many "traditions and old habits", even if parts of the status quo remain in place. The election, which, with 74.8% of voters voting had the second highest turnout in the history of Home Rule, resulted in 14 new faces in the 31 seat parliament whose members were elected from among 206 candidates.

An important consequence of the election was that it prompted Siumut to renew its partnership with a former coalition partner - the left wing Inuit Ataqatigiit Party (IA) - whose leader, Josef Motzfeldt, was the winner of the election with the highest number of personal votes.

With the average age of parliamentarians being 46 years old, the election also resulted in the youngest ever parliament. It has its youngest ever Speaker of Parliament (40) and a very young Chair of the Finance Committee (26). One more woman was elected increasing the number of women to 6 (or 20 percent of the total).

With the new Siumut-IA coalition government taking shape and the Parliament having now constituted itself, opponents of the system are reiterating

their concerns. They worry that the system will greatly disadvantage remote rural areas, which have fewer people and less exposure than the urban centres with the capital Nuuk at their head (which have 14 of the 31 seats). The system did, however, benefit the so-called protest movement (the independent candidate and the association of independent candidates) which, as a result of the weight of personal votes, saw their number of seats jump from one to five. The results of the election are as follows. The IA won seven seats, the Siumut 11 seats, the Atassut seven seats and the Kattusseqatigiit independent candidate one seat.

The Issue of Independence

One of the major issues of political debate which continues to surface, and which also became part of the election campaign, is the issue of becoming independent from Denmark. On one hand, there is a strong desire to become a sovereign nation independent from Denmark. On the other, there is overall political and public awareness that political independence is intrinsically linked with economic self-sufficiency, which of course is a dilemma for those advocating a split from Denmark.

The Siumut party has long signalled its support for independence, yet it acknowledges that the process cannot be "fast-tracked". Instead, Siumut is advocating a greater say in foreign policy matters within the Danish Realm, a position that is echoed by its former coalition partner Atassut. The current "compromise" reached with its new coalition partner, the left wing (socialist) Inuit Ataqatigiit party, is to establish an internal commission to look deeper into the possibilities of a more independent position for Greenland within the Realm. The Danish Prime Minister Poul Nyrup Rasmussen has on a number of occasions already - most recently following the elections - mentioned the possibility of granting Greenland a more prominent profile in international affairs. The issue of independence has been the focus of recurring "Heads of States" meetings between the Danish Prime Minister, the Premier of Faeroe Islands and the Premier of Greenland. The Faeroe Islands have recently opted for a "fast-tracked" program to sovereignty.

The European Union

Premier Jonathan Motzfeldt recently met with the President of the European Union (EU), Commissioner Jacques Santer, together with the Danish Foreign Affairs Minister, Niels Helweg Petersen, in the EU's capital Brussels. The meeting marked the beginning of a new round of negotiations between Greenland and the EU. In 1995 former Premier Lars Emil Johansen met with

the former President of the EU Commission, Jacques Delors, before embarking on negotiations which led to the current agreement.

Greenland left the EU in 1985, in order to maintain control over its own fishing grounds. When Greenland renounced its membership of the EU (then the EEC), which had originally been forced upon it before the introduction of Home Rule, it negotiated a fisheries agreement with the EU and was also included in the EU's Overseas Countries and Territories Agreement (OLT). In the coming months Greenland will commence the fourth round of negotiations with the EU in order to renew the current arrangement involving a fisheries agreement and a five year fisheries protocol. And for the first time Greenland will be participating in a conference between Britain, France, Holland, Denmark, the 20 OLT-countries and the European Commission at the invitation of the President of the EU Commission.

The object of the conference is to identify the needs and aspirations of the OLT-countries with regard to a new and revised agreement which is planned to come into effect in the year 2000. In light of Greenland's special relationship with the EU and the ongoing revision of the OLT, it is considered important that Premier Motzfeldt participates in such activities to ensure that Greenland is visible and that the special needs of the only Arctic country among the OLT-countries are addressed.

Minerals

On the 1st of July 1998 the Mineral Resources Administration was transferred to the Greenland Home Rule Government. The transfer was based on a very welcome historic agreement between the Danish Government and the Greenland Home Rule Government of January 1998 which granted Greenland executive authority over the granting of licences for prospecting, the exploration of mineral resources and the regulation of licence-holders' activities.

In preparation for the transfer, which also required amendments to Danish legislation including the Mineral Resources Act for Greenland, the Greenland Home Rule Government set up the Bureau of Minerals and Petroleum (BMP) as part of its administration in Greenland. The BMP performs tasks relating to the Greenland Government, the Greenland Parliament and the Joint Committee on Mineral Resources in Greenland. This last body is the joint decision making authority for the Danish Government and the Greenland Home Rule Government responsible for mineral resource activities. When Greenland was granted Home Rule, the Joint Committee was the compromise solution to a highly controversial issue which remains unresolved, namely the ownership of Greenland's non-renewable resources.

In the continued search for oil and minerals in Greenland, a new company - Nuna Minerals A/S (Inc.) - has been created to focus only on minerals. The new company is the result of the Danish State pulling out of mineral exploration activities carried out by Nuna Oil A/S (Inc.) and transferring its stocks to the state owned company DONG (Danish Oil and Natural Gas). In the future, Nuna Oil will focus only on oil and gas while the new company which is owned by the Greenland Home Rule Government will take over Nuna Oil's activities in the field of mineral exploration. After the promising find at Nalunaq, Nuna Minerals A/S is currently engaged in the hunt for gold in South Greenland. Falling mineral prices are making it more difficult to attract foreign investors to mineral exploration. During the coming years it is foreseen that there will be a drop-off in activity, even if extraordinary efforts are made to maintain an interest in the field.

Infrastructure

Knowing that the success of industries such as the oil, mineral and tourist ones is intrinsically linked to the country's infrastructure, the Home Rule Government is constantly making an effort to overcome existing limitations. In 1998 two new airports were opened in Sisimiut and Aasiaat. These were the first of seven new airports planned to improve the network of regional airports along the West Coast. In 1999 airports in Umannaq (Qaarsut) and Maniitsoq will follow. The final airports are to be located in Upernavik, Qaanaaq and Paamiut and are expected to be running by 2003. There are currently some 60 airfields in Greenland, mostly community helicopter stops with landing areas as small as 30 metres in diameter. Kangerlussuaq, Narsarsuaq, Nuuk, Ilulissat, Kulusuk and Nerlerit Inaat are today big, modern airports with customs facilities for international flights, while the rest are only fit for domestic services. Special regulations apply to the Thule Air Base.

It is the intention that the infrastructural improvements - mainly involving the seven new airports for Dash 7 aircraft - will effect not only the oil and mineral sectors but will also spill over into the tourism sector. Tourism, along with the oil, mineral and fisheries concerns, are considered to be the industries and business sectors with the greatest potential in Greenland. In order to ensure capacity for a growing tourist industry, Greenland's airline has expanded its activities both internally and externally. Greenlandair Ltd. now has transatlantic flights between Copenhagen and the two major airports of entry into Greenland.

Renewable Resources

As was described in earlier issues, Greenland has a long tradition of applying different management schemes to the management of the most vital resources, notably to fish and marine mammals. These schemes are often based on or combine the results of scientific research with the local knowledge of hunters and fishermen.

Today Greenland is experiencing increasing competition between different interest groups, mainly full-time hunters and those who hunt for leisure. In order to ensure co-operation between resource users and the managers and biologists assigned to put forward and implement regulations and to provide the scientific basis for management efforts respectively, in 1997 the Greenland Parliament requested that a national conference on renewable resources be held at Pinnngortitaleriffik, the Greenland Institute for Natural Resources. It was an all Greenland joint effort between various sectors of the resources administration, i.e., between the Department of Fisheries, Hunting, Industry and Agriculture and the Department of the Environment, the Greenland Hunters' and Fishermen's Association (KNAPK), the Greenland Association of Municipalities, KANUKOKA and Pinnngortitaleriffik.



*Traditional harvesting of sea mammals: whaling in Greenland
(Foto: IWGIA Archive).*

Approximately 150 hunters, fishermen, biologists, politicians, people working in tourism, managers, sports hunters, inspectors and municipal employees from all over Greenland gathered in Nuuk for a three day meeting at Greenland's Cultural Centre, Katuaq. The participants made presentations, participated in workshops and group discussions etc. The participants were in agreement on a number of points that dealt with the limited availability of renewable resources and the need to regulate access to them. As a result of the various discussions a number of recommendations were made, which have been compiled in a report which will function as a schedule of ideas for future action. One of the recommendations, which has already been acted upon by the Minister for Fisheries and Hunting, is the establishment of a Hunters' Council. The mandate of the Council representing the above interest groups is to give advice and direction to the Government and the Parliament on issues related to hunting.

Nuka A/S (Inc.) to Serve the Communities

In 1998 the giant fishing corporation, Royal Greenland A/S owned by the Greenland Home Rule Government, created a new service company to deal with service oriented, home market, community run activities. Its aim was to separate once and for all the commercial fisheries business from community services. More than 80 small communities continue to play a central role in Greenland. The establishment of Nuna A/S is intended to ensure that maximum attention is paid to the special conditions and needs of outlying areas. The company will promote the interests and partnership of its local employees, as it further develops the production and sales of products for the home market.

Nuka A/S will basically be responsible for buying, production, packaging and sales of all resources - except for shrimp, halibut and crabs. Seven plants distributed along the West and East coasts of Greenland will be producing products as varied as frozen seal and whale meat, whale skin, reindeer, musk oxen, waterfowl, berries, salt fish and roe. The Greenland Home Rule Government recently decided to buy Nuka A/S from Royal Greenland thereby clearly separating Royal Greenland from its previous politically motivated socio-economic responsibilities.

PUISI A/S - Translates to "Seal Incorporated"

This new company's name refers to its only product, namely seal and different seal products aimed at the hungry Chinese market. PUISI A/S is starting off by producing spicy sausages for export to China and will eventually pro-

duce other products such as a variety of seal meat products, dog feed, seal penises and intestines for medical purposes. It is estimated that around 150,000 seals including their furs, may be exported to China on an annual basis. In the Southern communities on the West coast of Greenland, the PUISI project will initially create some 25 to 35 new jobs quite apart from employing interested and capable hunters. In South Greenland seals are hunted year round using rifles and small outboard boats.

Greenland Trade Turns 225

The Greenland Trade Company, Kalaallit Niuërfiat (KNI), is celebrating its 225th anniversary with activities and events all over Greenland. On the list of happenings are rock concerts, a "culture cruise ship", a museum shop (showing tools from the colonies and trading posts), an international fashion show and arts exhibition, soccer games with the world famous Danish World Cup team etc. Only 25 years ago the management of KNI - then called KGH (Royal Greenland Trade) - was based in Copenhagen. KGH then included just about every operation in Greenland, from fisheries to shipping and the postal service. From 1985 to 1986 the company was transferred to the Greenland Home Rule Government. First to be transferred were the fish plants and trawlers, and later the goods and supply services. Lately KNI has been undergoing a massive restructuring program which has seen all but the company's core functions - namely trade - taken over by other companies or turned into independent companies altogether.

ICC General Assembly in Nuuk

A major event in Greenland this past summer was the ICC General Assembly held at the beautiful Katuaq Cultural Centre. The Nuuk Cultural Festival also ran in tandem with the ICC Assembly meetings. Participants and guests from all over the world gathered in Nuuk for the week long General Assembly meeting, which was given added spice by numerous performances by Inuit artists from the four member countries. The Acting President and Executive Council Member for many years, Mr Aqqaluk Lyngé of Greenland, was elected President for the next four years. Greenland held the first Presidency of the ICC from 1980 to 1986 and took over again in 1997, when the Canadian President, Ms Rosemary Kuptana, resigned.

Within the Inuit region, the Inuit in Greenland are so far seen to have enjoyed the most extensive self-government of all. It therefore sent a very strong message and was a powerful symbolic gesture to have the Prime Minister of Denmark, Mr Poul Nyrup Rasmussen, be the first head of state ever

to address an ICC AGM. In his speech, which was very well received, the Prime Minister expressed strong support for Inuit and indigenous peoples' rights to manage their own affairs, including those concerning marine mammals, within their own territories.

RUSSIA

So far, Russia has no nationwide legislation to protect the rights of native peoples. As of April 1999, none of the national laws on the rights of Russia's native peoples as declared in the President's Decree of April 1992, has been passed.

At the end of 1998, the State Committee for Socio-economic Development of Russia's North was reorganized and is now part of the newly formed Russian federation (RF) Ministry for Regional Policy. The former RF Ministry of the North was the only federal body to have officially dealt with, among other general socio-economic development issues, those issues concerning native peoples of the North. That is, concerning only those native peoples who had the official status of small peoples of the North (this official status currently extends to 30 peoples of the North, Siberia and the Far East, making an official total of about 200,000 persons). Russian ethnographers are of the opinion that the actual figure for native peoples who maintain a traditional way of life and live on their ancestors' territory, is higher. In the North alone a list of 49 peoples or ethnic groups comprising a total of approximately one million persons has been compiled. In addition, the draft law On The Basis of the Legal Status of Russia's Small Peoples lists 17 small native peoples of the Northern Caucasus, approximately another 100,000 persons. The fact that North Caucasian groups were included in the list of beneficiaries of the federal law on the rights of native peoples, drew sharp protests from the heads of Russia's sub-federal regions in the Northern Caucasus. And the draft laws currently elaborated refer only to the officially recognised native peoples of the North, Siberia and the Far East.

Economic Crisis in the North

The official report of the new Ministry, "On the Socio-economic Situation and the Progress of Economic Reform in the Northern Territories in 1998", describes the general economic crisis in the Russian North. Several pages are devoted to the situation of small peoples of the North. According to the re-

port, children and teenagers under 16 comprise 39%, working-age persons 52% and elderly persons 9% of the total population of 200,000.

The former agricultural and industrial system, which provided the native population with working places and salaries, no longer exists. The material and technical base is totally dilapidated. The regular exchange of goods between entities under various types of ownership has virtually ceased, and the population has returned to natural forms of providing means for living, such as reindeer-raising, fur-hunting, fishing and gathering wild plants. Hence it is impossible to generate a steady cash flow from reindeer-raising and other traditional occupations and use the proceeds to buy tents, burners, rubber boats, binoculars, rifles, ammunition and other instruments which were formerly supplied by the state on a centralized basis.



*Forest Nenets family near Kharampur River, Western Siberia
(Foto: Alexander Pika).*

Many regions of the Far North saw a noticeable decrease in the number of reindeer in herds, the total decreasing by over 900,000 since 1990. The breeding nucleus of the Russian reindeer herd has been practically destroyed.

The structural changes in the occupations of the peoples of the North during the reform period have grave consequences. The primary concern is

for the drastic reduction in the number of persons engaged in traditional occupations. At the beginning of 1993, 53% of workers were engaged in traditional occupations. The figure fell to 32% by the beginning of 1998. Currently only 10% of Tofalars, 13% of Nivhs, 14% of Nanaians, 19% of Mansi and 20% of Hants are engaged in traditional occupations. These statistics only include official, salaried working places. In reality, the number of persons leading a traditional way of life and living off the natural economy is significantly higher, but it cannot be accounted for statistically.

Due to the general decline of the North's business structure, between 40 and 45%, and in some settlements up to 100%, of workers belonging to Northern nationalities, are unemployed. For instance, in the villages of Bor, Sumarokovo, Bakhta, Momsa, Mirnoye, Lebed in the Turukhan area of the Krasnoyarsk region, there is 93% unemployment. In the Chita area, over 80% of Evenks are unemployed. In the areas of the Tuva republic populated by Tuvin Tojins, the registered level of unemployment exceeds the republic's average by a factor of 2.4. In the Koriak Autonomous Region, 1137 of the economically active population of 4750 are unemployed. The outflow of qualified personnel has led to a deficit in the number of social workers in areas with dense populations of small peoples of the North.

Deteriorating Health Conditions

In the last few years, unfavourable trends have been observed in the health of aboriginal peoples of Russia's Far North. Tuberculosis is the worst problem. The sickness rate amongst the native population of the Hanty-Mansijsk Autonomous Region is 4.4 times higher than average. In the Yamalo-Nenetsk Autonomous Region the rate is 3.4 times higher than average. In practically every territory populated by North peoples there are high levels of enterobiosis and opisthorhosis have been discovered among children. The sickness rate is tens of times higher than in the rest of Russia.

Native peoples of the North have one of the highest rates of alcoholism - it exceeds the general Russian rate by a factor of between 12 and 14. Currently, no measures are being taken in the Russian Federation to stop the distribution of alcoholic beverages in the regions of the Far North or in those equivalent areas which are the main dwelling areas of native peoples of the North. Moreover, the sale of alcoholic beverages in these regions and in the Russian Federation as a whole is one of the main sources of revenue at every level.

The level of general education and professional qualifications of aboriginal peoples remains low, which is a drawback for them in regional labour

markets. At present, 48% of native North people aged over 15 have received primary and partial secondary education. 17% have not even received primary education and almost half of this total is completely illiterate.

In the last few years the situation has been aggravated by difficulties in getting not only specialized education (neither the families of reindeer breeders or fishermen, nor the business units where the parents work can afford to pay for higher or specialized secondary education), but also a full secondary education, as this requires moving to another settlement. Moreover, a concrete obstacle to secondary education is the lack of teachers, due to the fact that many have left for the "continent".

These negative currents led to a sharp aggravation of the social and psychological situation. The death rate among the local population increased. Traumas, alcohol poisoning, respiratory and contagious diseases are among the main causes of death for persons of working age. Over 30% of deaths among North peoples are caused by violence, whereas the figure for the rest of Russia is only 11%. The suicide rate in northern ethno-national communities is three to four times higher than in the rest of the country.

The main aim of the Federal target program entitled "Economic and Social Development of Local Native Peoples of the North to the Year 2000", which was approved by the RF Government Regulation No. 1099 of September the 13th 1996, is to establish the necessary conditions for further development and for internally promoting the means of living, among local native peoples in areas which they have densely settled.

The Federal Law On the Federal Budget for 1998 approved the total financing amount for the Program, which came to 439.37 million Rubles. In 1998 only 6.41 million Rubles have been allocated from the budget.

Lobbying the Government

This year the IWGIA and the Russian Association of Indigenous Peoples of the North (RAIPON) launched a joint project to lobby the State Duma for a block of laws concerning the rights of native peoples. For several years now, participants of the IWGIA Moscow group have been members of the working group of the RF State Duma national affairs committee, which is the body that prepares the draft laws in question. The procedure for drafting laws is rather difficult. The initial texts are prepared by lawyers specializing in international human rights laws or land and mineral reserves issues. However their competence does not stretch to the specific details of native peoples' culture, living conditions and problems. The texts are subsequently consid-

ered by members of the working group who specialize in native peoples, and comments concerning specific details are prepared. The working group also includes a RAIPON representative, who voices the opinion of native peoples. Yet the State Duma procedure can disregard the opinion of social and scientific organisations. They are simply taken into account. The only result of these efforts was that laws which encroached on the rights of native peoples were usually not accepted for consideration at Duma sessions.

This year, thanks to a series of circumstances, RAIPON and the IWGIA were able to change their tactics. First, the block of draft laws concerning the rights of native peoples was taken up by Yabloko deputies, who consented to voice the requirements of RAIPON and the Anxious North national expert group, if these requirements were duly set forth in legal terms. Thanks to funding from the Danish Greenland project, RAIPON had some means to pay for legal advice. RAIPON and IWGIA Moscow have jointly prepared comments about existing draft laws based on the interests of native peoples as far as traditional land usage and natural resources are concerned. Lawyers have turned these comments into legal amendments and addenda, which were also legally agreed with the RF President's comments. These amendments and addenda changed the text of draft laws in favour of native peoples. They were suggested by deputies working in the State Duma Committees for North affairs, for natural resources and for national affairs, were included in the text of the draft law and are to be further supported at State Duma sessions. Reports on the lobbying activities of RAIPON and IWGIA Moscow can be found in the journal "The Living Arctic", a publication of IWGIA Moscow.

Establishment of an Ethno-Ecological Territory in Koriak Autonomous Region

The scientific concept of implementing the rights that native peoples have to traditional territories and natural resources, by creating specially protected ethno-ecological territories for traditional usage of nature, has been developed and published in issue No. 5 of the academic publication *Ethnographic Review*, and in *The Living Arctic*.

An attempt at organising such an ethno-ecological territory was made in the Koriak Autonomous Region in areas of traditional settlement of Itelmens. After two years of discussing the advantages of organising such a territory for the traditional use of nature with the local population and the Council for the Revival of Kamchatka's Itelmens, the region's administration was asked to organise an ethno-ecological territory, Tkhsanom, as a territory where natural resources are placed under the joint management and control of both the na-

tive peoples and the region's administration. While the discussions were taking place, sponsors were found - the WWF and the GEF (Global Environmental Facility) - who were ready to participate in the establishment of the Tkhsanom territory and to help the territory's communities. On December the 2nd 1998, the head of the Koriak administration signed the documents relating to the organisation of Tkhsanom, the territory dedicated to the traditional use of nature, and approved the draft procedure for the usage and management of the territory, based on the suggestions of the Itelmen Revival Council and of the author of the concept.

A broader project concerning the central and North-western regions of Kamchatka, whose preliminary title is the Sociocultural Development of the GEF Program in Kamchatka, was prepared with the help of David Kester (USA) and Erich Kasten (Germany).

The Tkhsanom experience was considered by the RAIPON co-ordination Council, and approved and recommended for consideration and implementation by regional RAIPON organisations at the suggestion of the IWGIA Moscow national group and RAIPON. The entire documentation on the project was published in *The Living Arctic*, Issue No. 10.

The Shortcomings of Economic Reforms

The organisation of large ethno-ecological territories cannot be the only form of maintaining and developing the traditional culture and way of life of Russia's native peoples. During the Perestroika period, the State Committee for North Affairs and the Russian Ministry of Agriculture suggested new methods of organising traditional businesses, instead of the former collective and joint farms, to native peoples of the North. Now these methods are to be reviewed and expressed in legal terms in federal and regional legislation.

Unfortunately, the last few years showed that the methods suggested at top levels of government that were implemented in some regions, of organising the traditional businesses of native peoples, (for instance, allocating territories for traditional usage of nature in the form of family land plots, farms and national enterprises), were unable to provide the native population with either rights to the allocated territories or a level of development that would ensure at least a minimum subsistence revenue. Family land plots and farms sustained losses, and a lack of financing led to the deterioration of the entire structure of native settlements. Due to the poverty of the population, hunting grounds, reindeer pastures and fishing territory were given away to new owners in exchange for promises of minimal material revenue, under agreements that amounted to actual robbery. In some places the new owners were major

oil and gas companies, in others various LLC's producing and processing mineral resources or renewable natural resources such as timber, fish, etc. Reindeer herds and pasture territories were taken over by new owners who used their profits not for developing traditional businesses and native settlements, but for commercial needs which the locals were ignorant of. The attempt to commercialize traditional business and create "national companies" also ended in failure. Members of the national companies had no starting capital and no possibility of acquiring the necessary equipment or finding markets for their produce. The state was unable to allocate the promised starting capital and the majority of national companies rapidly became dependent on commercial structures, and then actually fell into the latter's hands or ceased to exist. This happened because all the traditional resources which, for a brief period of time, came into the ownership of the native population, were not protected by federal law and hence could not but be transferred from owner to owner under market conditions.

Lands where natural resources are traditionally used also under severe threat of industrial development. The IWGIA national group constantly monitors, among other issues, the threat and the consequences of industrial development in territories where natural resources are traditionally used. Documents on the conflicts between the native populations and the oil and gas companies in the Khanty-Mansijsk region and on the Sakhalin shelf are regularly published in *The Living Arctic*.

All the above shows that, firstly, the protection of the environment and the pre-emptive right to use of traditional natural resources are the main objectives for those native peoples who depend mainly on such resources. The second important component is national legislation to protect the rights of native peoples. The third is the increase of RAIPON's political status within the country, the legislative expansion of its functions and rights in the way it develops internal national management and influences the state's internal and foreign policy. This is the sphere in which the IWGIA national group in Moscow and RAIPON are now working together, trying to influence the concept of national legislation on the rights of native peoples and make the native population itself realize the importance of their role.

SÁPMI

Sápmi, Samiland is a region which for thousands of years has been inhabited by the Sámi people. This region extends along a curved zone from Røros in Norway and Idre in Sweden to the east part of the Kola peninsula in Russia. The region is 1500 km long and 300 to 400 km wide. It is divided by the borders of four nations (Norway, Sweden, Finland and Russia) and still constitutes a clear, separate cultural area where the Sámi language is the most important unifying feature.

Sweden

The Sámi protest march, which started at the beginning of August 1995 in Karesuando (see *The Indigenous World 1995-96*), arrived in Copenhagen on the 21st of August 1998. Here Lars J-son Nutti and Tomas Cramér presented the commissioner of the Baltic with a long list of encroachments to which the Sámi in Sweden are being exposed. The commissioner of the Baltic has the mandate to protest against violations of human rights inside the Baltic region to which Sweden belongs. The Sámi protest march was initiated by The Working Group for the Sámi Rights Struggle whose main purpose is to secure the Sámi peoples' right to self-government and the Sámi peoples' right to land and water. It was planned that the protest march should go all the way through Europe to Brussels but because of a lack of money it had to be stopped. The march will probably continue in the year 2000.

Close to 75% of the Sámi living in Sweden think that they live in a racist country. One third of Sámis claim that they have been treated or spoken to contemptuously, and one in five have been harassed at work. These results have recently been published in an official report made by the Ombudsman for discriminative issues DO. 60% of those who participated think that the conflict between the native and non-native population has grown worse in the last five years. The small game hunting on native land is said to be the single most important reason for the conflict, the investigation is the first ever that has been conducted in Sweden.

Norway

The Sámi Rights Committee's second report on the right to land and water in Finnmark which was delivered in February 1997 (see *The Indigenous World 1996-97*, pp. 38-40) has been the reason for ongoing debate throughout the year. The majority of the Sámi live in Finnmark and the debate was espe-

cially concentrated on the Sámi rights report's suggestion to either establish a Finnmark land administration as a new body to administer the land and non-renewable resources in Finnmark, or to establish a Sámi land administration which would replace the Finnmark land administration in those municipalities that agree to it. The Finnmark land administration would have an eight-member board. The municipality of Finnmark and the Sámi Parliament would be in charge of the allocation of land and resources and would have a strong say in mining and other activities that radically interfere with nature in Finnmark.

The Sámi land administration would have a seven-member board. The Sámi Parliament would appoint five members and the Finnmark municipality two. The difference between the Sámi land administration and the Finnmark land administration would be that in the former, Sámi representation on the board would be stronger.

The Norwegian Barristers' Association's Committee for Reindeer Herding and Sámi Rights is very critical of the suggestion and pointed out that the Sámi Rights Committee did not come up with a genuine decision on the ownership of central Finnmark. The Sámi Rights Committee's point of departure is that it is the state that owns non-private land in Finnmark. The Norwegian Barristers' Association points out that the question of ownership is in fact the most crucial problem requiring clarification. Part of the mandate and a "central task" of the Sámi Rights Committee "will be to clear up questions and reach a decision about the Sámi peoples' or the local peoples' rights to land and water in the Sámi settlements."

The Sámi Rights Committee's legal group and the Committee's international law group have both addressed the question of ownership and have come to different conclusions. The Sámi Rights Committee has not yet made up its mind although it has declared that the opinion of the international law group is very important. The international law group is of the opinion that the fact that the Sámi have traditionally used central Finnmark is sufficient reason for them to claim the right to ownership over this area. And the Barristers' Association thinks that this is a matter which the Sámi Rights Committee should have come to a decision about. The Kautokeino Municipal Council agreed to the establishment of a Sámi land administration. Kautokeino is the first and only instance of a hearing which has agreed to establish a Sámi land administration. Kautokeino municipality recognises that the Sámi peoples' traditional use of non-cultivated natural resources in their own municipality and within the municipalities which are included in the defined Sámi ground administration, represents a *de facto ownership over the area*. This

applies both to the renewable and non-renewable resources. And therefore the municipality supports the idea of establishing a Sámi land administration.

The working group of the Finnmark Fishing Association is not very pleased about the Sámi Rights Committee's proposal for new administrative bodies. For them the existing administrative model is the best (the state administers the area through the state forest administration). And they demand that if a Finnmark land administration is established a majority of its members must come from the Finnmark county administration. If this does not happen the Finnmark Fishing Association will question the existence of democratic principles in the country. The association does not want land and water to be administered at municipal and hamlet levels, and thinks that the renewable resources of the sea must continue to be administered by the Fishery Department.

The Sámi Council, consisting of Sámi interest groups in Finland, Sweden, Russia and Norway, is very critical of the Sámi Rights Committee's report and rejects its proposal. The reasons for this are the same as those of the Norwegian Barristers' Association, namely that the ownership rights over land and water are not clarified. As the chairman of the Sámi Council Lars Anders Baer said, "The Sámi Rights Committee has focused on a possible land administration solution for the land in Finnmark. As a single case it is positive, but the committee has not done enough to address the central question of ownership. The rights are a legal question and not a political one, and this question must be clarified once and for all. As it is now, the debate in Finnmark goes on as though the state were the legitimate owner of the land. A point of departure like this leads to doubt, speculations and intermingling of ethnicity.... The Sámi have no rights to own and possess the land because they are Sámi, but do have these rights because they have lived and used these areas long before any other group of people came and took over the land". Furthermore, the Sámi Council is of the opinion that the Sámi Rights Committee has not sufficiently taken into consideration either the Sámi's customary rights or the historically documented encroachments against the Sámi. Nor have obligations undertaken by Norway when it ratified several international conventions been taken into consideration.

Russia

A new Sámi organisation has been formed under the name OOSMO. The chairman is the 31 year old Alexandre Kobelev. The organisation has members from all over the Kola peninsula. As Alexandre Kobelev stated, the organisation will in particular work on strengthening reindeer herding and the Sámi language. The Sámi dialect Kiildin Sámi is now under much pressure because of the social changes which have been forced on the Kola Sámi during the past decades. In the past the children learned the language when they were out on the Tundra with their parents herding the reindeers. During the communist period reindeer brigades were established and it was only the men that went out to herd them. They were away from the family for several months. Children were sent to boarding schools in the city, where only Russian was spoken.

On Northwest Territories and Nunavut in Canada please refer to the section on Canada in the chapter on North America.



Countries covered in this issue: Canada, USA

NORTH AMERICA

CANADA

Nisga'a Land Claim

It has taken 111 years, but it appears as though the Nisga'a First Nation in northwestern British Columbia (BC) are finally close to settling a land claim. In 1887 Nisga'a leaders paddled 800 kms down the Pacific coast to ask for a treaty to protect their land, but were not allowed inside the BC legislature. Federal laws passed in 1927 barred the Nisga'a from even hiring lawyers to help them pursue their rights. 1998 finally saw the initiation of an agreement-in-principle on a land claim between the Nisga'a, the government of Canada and the province of British Columbia - the first such agreement negotiated in BC since the province entered the Canadian Confederation in 1871.

Under the terms of the land claim the Nisga'a will receive C\$191 million, the most advanced form of aboriginal self-government of any Canadian First Nation (including the power to establish their own police, courts and jails), title to 1930 square kms of land in the Nass Valley (a huge increase from the 61 square kms they now occupy on reserves), plus salmon fishing and logging rights and other measures.

The initiation of the Nisga'a agreement-in-principle ignited a storm of controversy in BC - with consequences not only for the 196 other First Nations in BC, but also for aboriginal-state relations across Canada. Critics of the agreement - led by the BC Liberal Party at the provincial level and the Reform Party at the national level - are bitterly opposed to the treaty's self-government provisions, calling them an unconstitutional "third order" of government.

Throughout 1998 they demanded that the treaty be subjected to a province-wide referendum because it would amount to a constitutional amendment. BC Liberal leader Gordon Campbell has staked his political career on torpedoing the agreement and on sharply limiting discussion on aboriginal land claims in the province. Reform MP Keith Martin argued that "apartheid, or separate development, failed in South Africa - and it will fail in BC."

Nisga'a Chief Joe Gosnell responded that "this colonial attitude is fanning the flames of fear and ignorance in this province, and re-igniting the poisonous attitudes of the past." The federal and provincial governments and other supporters of the agreement view the treaty as an exchange of treaty rights for legal rights, and a codification of rights that already exist in the

Canadian Constitution - not, therefore, something requiring a referendum. BC Premier Glen Clark called the agreement "a beacon of light for those of us who believe in social justice," and described the opposition attacks as "a profound act of bad faith. It is simply wrong to have the majority vote on the question of minority rights," Clark argued, before adding that, "As long as I'm the Premier, it won't happen."

The Nisga'a themselves voted in favour of the 252 page treaty in a referendum which saw an 85% turnout. 72% of voters - 61% of all eligible voters - said yes to the agreement. Premier Clark and his social democratic provincial government used a severe procedural tactic to end debate on the treaty in the BC legislature, and force its passage despite howls of outrage from the opposition benches. The federal government is expected to ratify the agreement in 1999, at which point the treaty-making process would be complete.

Looking back on a tumultuous year in BC politics, Joe Gosnell noted that, "This was an agreement arrived at after many, many years of negotiations. It's finished. I expect the government of Canada and the government of British Columbia to live up to their end of the bargain." Tl'azt'en Grand Chief Edward John added that, "We are seeing a very mean-spirited approach by the Liberals, and it's only going to harden our position. The reconciliation with white society that we are all hoping for may become a very difficult objective."

The Nisga'a land claim - and the controversy surrounding it - must be understood in the context of the 1997 Delgamuukw decision, wherein the Supreme Court of Canada ruled that First Nations have title to land they traditionally lived on, and must be consulted when government makes decisions that affect their land. The Delgamuukw ruling also said that First Nations are entitled to compensation when the government allows the land to be used by non-aboriginals. Neither of these elements is reflected in the federal and provincial positions in land claims negotiations, and the Nisga'a would be within their rights to abandon the land claim they have negotiated and press for more - but the leadership has stated that they will adhere to the deal they have signed.

First Nations across BC marked the first anniversary of the Delgamuukw decision with railway blockades, highway blockages, marches and calls for federal and provincial negotiators to step up the pace of treaty negotiations. The Reform Party called for federal legislation to override Delgamuukw.

With the exception of the Nisga'a, who had been in negotiations for more than two decades, all aboriginal claims in BC are being handled under a proc-

ess overseen by a treaty commission. Information about this commission can be found on the internet at <http://www.bctreaty.net/>.

30% of BC First Nations people believe that treaties are inadequate, sell-out deals that surrender their comprehensive sovereign claim to all traditional native territory. Spearheaded by the Union of BC Indian Chiefs, they insist instead on compensation for the use of their ancestral lands by non-natives.

Aboriginal Whaling

1998 saw great controversy over the harvesting of two whales - a bowhead whale harvested by the Inuit of Nunavut and a grey whale harvested by the Makah First Nation of Washington State in the US. The bowhead was the second one hunted by Nunavut Inuit since the signing of the Nunavut land claim. This hunt, which took place near Pangnirtung, went far more smoothly than the one which occurred two years previously.

Newspapers across the country were filled with criticisms of the hunt, and condemnations of the Inuit filled with both factual inaccuracies and bizarre, almost racist logic. The Globe and Mail, Canada's self-proclaimed national newspaper, went so far as to run an interview with a long-time non-Inuit resident of Nunavut who "chortled" at the idea that whale hunting demonstrates respect for the culture and for the elders. "If someone said, 'My grandmother wants me to get her a whale,'" this man stated, "I'd say, 'Baloney. I had sexual intercourse with your grandmother. I know what she thinks.'"

A similar harvest off the coast of Washington State raised the stakes even further. For several months hunters of the Makah First Nation confronted boatloads of 'animal rights' crusaders and hostile media representatives, as they attempted to revive their tribal whaling tradition after receiving permission to do so from the US government. Tensions rose and the controversy increased as month after month of confrontation was broadcast across the continent.

Finally, in early 1999, a Makah harpooner in a seven-man canoe struck a whale, which was soon killed with shots from a .50-calibre rifle fired from a motorised boat accompanying the canoe. The Makah hunters conducted a traditional prayer before using cellular telephones to phone the reservation with the news that they had finally captured a whale.

The bulk of the mainstream press decried what one newspaper termed "the political assassination, at dawn no less, of a grey whale by a previously obscure Indian tribe (with an) atavistic yen for ... blubber." Much was made of the fact that not all young Makah liked the taste of the whale once they got to

try it, and those that did washed it down with Coca-Cola. (Why they weren't free to drink whatever they wished with their dinner wasn't made clear, but the implications are clear...)

One newspaper argued that "There may have been a time, oh, several hundred years ago, when the Makah needed to kill whales for food and fuel. But now there are alternatives - like McDonald's. ... To put this in perspective, the world headquarters of Microsoft is just down the road."

Another mocked the use of ".50-calibre antitank weapons", neglecting to point out that the government-imposed regulations governing the hunt required that the whale be killed as quickly and humanely as possible once it had been struck. (The Inuit used a specially-designed explosive-tipped harpoon.)

Yet another argued that aboriginal whaling was a practice that should be "left behind or ... abandoned because of [its] barbarism and immorality," and likened the hunt to "cannibalism in some African tribes, female genital mutilation ... and the caste system."

The harvesting of the grey whale thus unleashed a wave of anti-aboriginal sentiment both north and south of the border. The most outspoken Canadian supporter of the Makah, a hereditary chief of the Nuu-Chah-Nulth First Nation on Vancouver Island, received threatening phone calls. Politicians in British Columbia - including Premier Glen Clark - condemned the killing, vowing never to let waters off the BC coast be "tainted" by whale's blood.

It should be noted that not all Makah support the revival of the hunt, which could see as many as 20 grey whales taken over the next four years. In 1996 one Makah elder went so far as to persuade members of the International Whaling Commission that the Makah did not satisfy the requirements of the IWC's aboriginal subsistence policy, which states that aboriginal quotas can be given to aboriginal peoples who can demonstrate an "unbroken" history of hunting and who need whale meat to survive.

Northwest Territories and Nunavut

In the Northwest Territories (NWT), the year in the Eastern Arctic was dominated by preparations for the creation of the Nunavut Territory and Government on April the 1st 1999. Senior officials were hired, and a wide range of implementation related activities occurred.

The first election to the new Nunavut parliament took place in February and the electorate appointed eighteen men and one woman to represent them. Of the nineteen member assembly fifteen are Inuit and four are non-Inuit or

Whites. When the assembly convened for the first time it elected Paul Okalik as its first premier. Thirty-four year old, Paul Okalik has degrees in political science and law. Although being a political novice he won a seat in the Nunavut legislature and for the election as premier he successfully opposed the veteran member of the Canadian parliament, Jack Anawack. Nunavut was carved out of the existing Northwest Territories and became Canada's newest territory on April 1.

In the western NWT, progress towards building a 'new' territory remained elusive. With the departure of Nunavut the new western territory will have a majority of non-aboriginal residents, mostly residents of Yellowknife and other large towns. The aboriginal population - composed of several Dene nations, Metis and Inuvialuit - remains deeply divided, and it is unclear if or how an accommodation which meets the needs of all groups can be achieved.

As the life of the existing Government of the Northwest Territories drew to a close there were mounting concerns over 'cronyism' at the highest levels. Premier Don Morin was forced to dare a fellow NWT Member of the Legislative Assembly (MLA) "or anyone else who may believe there is wrongdoing, to file a complaint ... with the Conflict of Interest Commissioner; that is, if they have the guts and the political backbone." The MLA in question did so, and a public inquiry was held into Morin's actions. The Conflict of Interest Commissioner concluded that the Premier had committed "wilful and deliberate violations" of the NWT Conflict of Interest Act, had provided documents which he knew to be "untrue or to contain untruths", and had caused the people of the NWT "embarrassment and expense." She recommended that Morin be reprimanded and be made to pay the legal bills of the MLA who had filed the complaints "from start to finish, plus one dollar, which is to be paid personally, in cash." Morin resigned as Premier, and was replaced by Dene MLA Jim Antoine. Many residents of the NWT expressed the hope that this 'housecleaning' might lead to more honest and transparent government in both new territories.

Other Developments

1998 was a year of continued concern over the killing of aboriginal people by police forces. Connie Jacobs, 36, and her son Ty, 9, were killed during a stand-off with police during a snowstorm on the Tsuu T'ina Nation south of Calgary, Alberta in March. Ms Jacobs had refused to allow social workers and police to seize the six children she was caring for in her dilapidated house on the reserve. The police say that Ms Jacobs fired a shot, and an officer fired back from 10 to 15 metres away. Ms Jacobs and her son - who police did not

know was beside his mother - were killed instantly, but their bodies were not discovered for four hours. Meanwhile, five other children - one just seven months old - remained in the house until police entered it. The children were asleep in the basement when police entered the house, but tiny bloody footprints circled the bodies that lay upstairs. Critics asked why tear gas or some other non-lethal method was not used to subdue Ms. Jacobs. "It certainly appears to us that there are two levels of justice in the country," a Tsuu T'ina Chief said.

This was the most controversial killing of an aboriginal person in Canada since September 1995, when Ontario Provincial Police shot and killed protester Dudley George during a clash at Camp Ipperwash - a property seized from the Kettle and Stoney Point Reserve during World War II for use as a military training facility. The police officer who fired the fatal shot was later convicted of criminal negligence causing death, but in June of 1998 the federal government reached a \$28 million agreement with the band to return the land, build housing and other infrastructure, and to create a trust fund.

Other significant developments in Canada in 1998 included:

The federal government began the implementation of 'Gathering Strength', its response to the report of the Royal Commission on Aboriginal Peoples. One of the most important elements of the strategy is a C\$350 million 'healing fund' to assist victims of sexual, physical and emotional abuse in church and government-run boarding schools.

The Aboriginal Peoples Television Network (APTN) won a landmark bid to be carried on basic cable television packages across Canada, despite strong opposition from the cable companies. APTN's evening newscast, talk shows, documentaries, films and features will begin appearing on television screens in the fall of 1999.

An environmental review panel gave Inco Ltd. approval to proceed with the multi-billion dollar Voisey's Bay nickel mine project, but only if agreements can be reached with the federal and provincial governments, the Labrador Inuit Association and the Innu Nation. Both the Inuit and the Innu supported the panel's recommendations.

As the year ended, the Labrador Inuit were close to signing an 'agreement in principle' for a land claim which would have a significant difference from

those signed by other Inuit regions - a degree of expressly Inuit self-government. In addition to the measures contained in the other land claims, the Labrador Inuit land claim would result in an "Inuit Central Government" with responsibility for education, health and social services. (The Nunavut government, by comparison, is a 'public' government which all residents can vote for and by which all residents will be governed.)

Canadian Inuit leaders organised an airlift of humanitarian aid to Inuit villages in Chukotka, in the extreme northeast corner of Russia, which were desperately short of food and medicine. The aid "must go to people in need, not to governments," said the President of the Canadian wing of the Inuit Circumpolar Conference.

An avalanche killed five children and four adults in the Nunavik (northern Quebec) Inuit community of Kangiqsualujjuaq in the early hours of 1999. Almost the entire community was participating in New Year's Eve festivities in the school gymnasium when a wall of snow hurtled down the side of a mountain behind the school, crashing through the wall of the gym and filling it with three metres of snow and debris. An inquest has been called into the tragedy.

Lubicon Lake Indian Nation

In contrast to the previous three years, 1998 was a year of success and brighter outlooks for the Lubicon and their supporters, especially the Friends of the Lubicon (FOL). On the 14th of April the Daishowa v. FOL trial ended with Judge McPherson's decision confirming that the Friends could continue their boycott of Daishowa products. This was not an illegal form of political impairment of firms - as maintained by Daishowa - but a legitimate expression of free opinion in Canada. However the judge ruled that the FOL were not allowed to use the term "genocide" in connection with their boycott and Daishowa's business activities. Furthermore, the decision did not ratify the Lubicon's position with respect to the 1988 agreement with Daishowa (when the latter declared a moratorium on clear-cutting on traditional Lubicon territory which it later renounced). After the Ontario Court judgement, the Friends announced that they would accept the decision and resume the boycott on May the 24th 1998, while the paper company tried to win time by negotiating with the Lubicon and the Alberta Provincial Government (for cutting licences). At first Daishowa announced that it would refrain from building another giant pulp mill at Peace River, and, after apparently having received other for-

est areas outside Lubicon territory in Northern Alberta in exchange, committed itself in a letter to Lubicon Chief Bernard Ominayak "not to harvest or purchase timber in your area of concern until your land issue is resolved with both levels of government, including harvesting rights, fish, and wildlife concerns." After the "area of concern" was defined in a subsequent letter and map and shown to include approximately 4000 square miles (10,000 square kilometres), Chief Ominayak accepted Daishowa's commitment and informed them that the boycott would be wound down. He also requested that Lubicon supporters bring their boycott of Daishowa paper products to an end. Moreover, B. Ominayak said the Lubicon people would welcome talks with the paper company once their land rights and resource issues had been settled enabling them to "work together on mutually advantageous economic development opportunities..."

On June the 12th the Friends of the Lubicon announced that they were winding down their boycott of Daishowa products, expecting, accordingly, that the paper company would abandon its appeal against MacPherson's judgement. Calling it "a matter of principle", Daishowa's Tom Cochran had announced plans to go ahead with an appeal against that part of the ruling that was not just directed at Daishowa itself, but also allowed boycott action against customers buying paper products from the company. He called it merely a matter of "fairly technical legal questions." On the other hand, why would the international paper company waste time and money on an injunction against a boycott that no longer existed? The obvious conclusion is that the case has everything to do with preparing the way for renewed clear-cutting on Lubicon territory and avoiding environmentally responsible methods of harvesting.

On June the 16th and July the 20th 1998, FOL lawyer Karen Wristen wrote to Daishowa lawyer Peter Jervis asking him if he had any instructions for abandoning the appeal against the court decision, in the light of the fact that FOL were ending the boycott so long as Daishowa stuck to its written commitment. She did not receive an answer. Given that the paper company is known to work closely with the province – which during 1998 stepped up its efforts to tear apart Lubicon society in order to scuttle current Lubicon negotiations – the fear still remains that they simply want the Lubicons out of the way so that they can continue clear-cutting.

Negotiations between the federal government of Canada and the Lubicon Lake Indian Nation to settle claims dating back to the early 1930's, resumed at the beginning of August 1998 in Peace River, Alberta, for the first time in 18 months. The Lubicon claim 246 square kilometres for their reserve, hunting and harvesting rights etc. in their traditional territory of about 10,000

square kilometres. They are also claiming \$72 million for housing and services and about \$33 million to help build up local industries and agriculture in their impoverished community. They also want \$120 million in compensation from Ottawa and Alberta for forestry and energy resources removed from their land. But, as Lubicon legal adviser Fred Lennarson warned, the same old interrelated issues of land and band membership might get in the way again. Alberta has offered 2.6 square kilometres for every five eligible band members, according to Treaty 8, signed in 1898 by other area bands but not by the Lubicon. Former negotiations stalled over the question of who belongs to the band and how they are to be counted. Are there, in short, 300 or 500 Lubicon? (For more details concerning the history of the conflict please see *The Indigenous World* since 1988 and *Indigenous Affairs* 2/95 and 1/96). Negotiations began creaking back to life again in 1998, after Brad Morse, an Ottawa academic and former Indian Affairs bureaucrat, was appointed head federal negotiator. Morse has said that the Lubicon have been "shafted" in the past and has called the band's story a "black mark" on Canada's record.

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UNITED STATES

National American Indian Heritage Month

November 1998 was proclaimed by President Clinton as National American Indian Heritage Month. In his proclamation, the President stressed that "When the first Europeans arrived on this continent, they did not find an empty land; they found instead a land of diverse peoples with a rich and complex system of governments, languages, religions, values, and traditions that have shaped and influenced American history and heritage. Generations of American Indians have served and sacrificed to defend our freedom, and no segment of our population has sent a larger percentage of its young men and women to serve in our Armed Forces..."

It can only be hoped that land disputes between US American Indian nations and the federal and state authorities, along with the ongoing violations of traditional and treaty rights, are to be settled in the light of this respect for the inherent rights of the First Nations and their efforts to defend the ideas of freedom and democracy, regardless of the countless crimes committed by Euro-American colonists against them.

Indian Tribes Reclaim Stolen Lands

In a special issue of *Indian Country Today* (24-31/1998) a report was published based on the investigation into land ownership in Indian reservations in the west of the United States. Although the evidence provided by the *Bureau of Indian Affairs* (BIA) administration of Indian lands is still rather weak, the report concludes that a silent uprising is currently taking place, and that it is reshaping the Indian reservations. Increasingly, Indian experts use legal expertise, state-of-the-art computer technology and co-operation amongst the various Indian nations to retake control of their lands from the federal government and non-Indian businesses. The report was published in a special section of the August of *Indian Country Today* and can be read on: <http://www.indiancountry.com/>

Indian Tribes Chosen for Brownfields Pilot Projects

Brownfields are abandoned or underused industrial or commercial areas where redevelopment is complicated by real or perceived environmental contamination. Property owners, lenders, investigators and developers fear that involvement with these sites will make them liable for contamination that they did not create. In order to increase the economic prospects of especially affected places and to clean up the environment, the *U.S. Environmental Pro-*

tection Agency (U.S. EPA) selected 71 cities, states, towns, counties and Indian tribes nation-wide as brownfield pilot projects. Among the chosen partners are the Navajo Nation, Arizona, the Tohono O'odham Nation, Arizona, and the Ely Shoshone Tribe, Nevada.

For more information see:

<http://www.epa.gov/swerosps/bf/reg9.htm>

Blackfeet Nation

After a long struggle for their religious and treaty rights, the Blackfeet Nation is very close to success in its defence of Montana's Badger-Two Medicine Area against oil drilling. As reported in *The Indigenous World 1994-95*, the oil companies Chevron (American) and PetroFina (Belgian-American) have, obtained drilling permissions for almost the whole area which is a large, pristine wilderness that includes many sacred places traditionally used by the Blackfeet Nation. According to the treaties of 1855 and 1895 between the Blackfeet Nation and the United States, the Blackfeet hold special religious rights in the Badger-Two Medicine Area.

Though the chance of finding oil was extremely low (and estimated 0.5%), the companies were willing to spend money on the project. This project was widely regarded as the oil industry's Trojan horse that would create a precedent for opening mines and oil fields in other more promising parts of protected areas in the northern United States, especially in Alaska.

However, the Blackfeet Nation, supported by U.S. American environmental groups and European support groups was able to foil this agenda. As reported in *The Indigenous World 1997-98*, Chevron accepted US\$8 million compensation. And Senator Bauchus of Montana introduced a bill in Congress to confirm the compromise between the company and the authorities.

Big Mountain Hopi - Dineh Controversy

Although this conflict between two indigenous peoples has its roots deep in history, since the nomadic Dineh (Navaho) invaded the land of the sedentary Hopi (Moqui) some hundred years ago, the recent conflicts should rather be seen in the context of the large coal resources found in the disputed area. During the 1950's, Peabody Coal Company (PCC) secured the exploitation rights under obscure conditions. As environmental injunctions were absent or very limited, PCC made large profits from its strip mines while the land suffered badly from the mining operations. Many traditional Dineh opposed these activities as they not only cause environmental problems but also de-

stroy their sacred places and burial grounds and threaten their way of life. Due to heavy political and economic pressure, the majority of the 2,000 affected Dineh were forced to leave their homeland. As the remaining group of Dineh lacked the support of the Navajo Nation Council, most of them had to accept the conditions of the "Navajo-Hopi Land Dispute Settlement Act" of 1996 (PL 104-301) and the included Accommodation Agreement (AA). Since anyone who refused to sign the AA loses the claims to benefits and rights, the disappointed majority was finally forced to accept the Hopi Tribal Council's conditions. The current situation is very difficult to survey but a tiny group of tenacious traditionalists apparently continue its resistance and still lives in the disputed area.

For a more detailed summary, please see *The Indigenous World 1997-98* and *1993-94*.

Western Shoshone

At the start of 1998, the Western Shoshone from Wells, South Fork, Odgers Ranch and Dann Ranch were in danger of losing the basis of their livelihood when the *Bureau of Land Management (BLM)* announced its intention to confiscate their livestock. A serious attempt to round the livestock up was made, but it was prevented by the strong resistance of the Western Shoshone and by the fact that the attempt attracted international attention. However, the "unauthorised use notice and order to remove" which was valid for one year until February 1999, could have been carried out at any time. The BLM District Office Reno announced that "failure to comply with the notice may result in impoundment of unauthorised livestock." This notice was issued in an atmosphere of threats which since then has led to cracks in the united front of non-payers of grazing fees. Meanwhile, in response to a motion for a preliminary injunction by the WSNC in February 1998, a federal judge recommended that the BLM be prohibited from confiscating Western Shoshone livestock until the court rules on the merits of the pending case *Nye county v. US*. Judge Hunt stated that the Western Shoshone could suffer irreparable harm if the BLM impounds their livestock. "The livestock are fungible goods, susceptible to damage and death. They are the sum and subsistence of the plaintiffs' livelihood and way of life."

In August 1998, the *Interior Board of Land Appeal (IBLA)* granted a stay against any BLM action. Since the IBLA is a decision-making authority within the Department of the Interior, this in fact means that the actions of the local Nevada authority were rejected by a higher part of the hierarchy of the federal bureaucracy.

Ignoring the fact that it is the large-scale mining activities which cause the real ecological problems on Newe Sogobia, the BLM has never answered the question, what should the Western Shoshone live off if they are forced to substantially reduce their numbers of livestock? On lands with an arid climate such as those in Newe Sogobia, an area large enough to feed at least 1000 head of cattle is necessary to run a successful and profitable ranching operation. According to a study on land use, already by the 1970's a ranch with less than 500 head of cattle could hardly survive in Nevada. But no Western Shoshone family owns such large herds or could use a land base large enough for those herds. The Dann sisters, for example, who have fought at the forefront in the resistance campaign against the BLM's violation of the *Treaty of Ruby Valley of 1867* have permission to graze a mere 21 head of cattle!

Finally, the former Nevada BLM director Billy Templeton, admitted that his agency lacked evidence of overgrazing by the Western Shoshone's livestock. Furthermore, the Western Shoshone are not willing to discuss the number of head with the BLM, as such a discussion would be regarded as a recognition of the bureaus overall authority. Rather the answer should be to provide the native cattlemen with a sufficient land area, and in so doing fulfil the federal government's treaty obligation to secure the Western Shoshone bands' new life as farmers and herdsmen. Curtailing the current mining activities would probably alleviate the ecological problems and especially the scarcity of water. Unfortunately, such regulations are not in sight. On the contrary, Newmont Gold Company is even planning a new gold mine, the so-called "Trenton Canyon Project."

Another serious threat to the health not only of the Western Shoshone but to all inhabitants in and around Las Vegas, is the planned building of a nuclear dump site in the Yucca Mountains on the traditional Western Shoshone territory. This is taking place after a large part of the Western Shoshone's land was abused during nuclear tests on the Nevada Test Site (NTS) during the Cold War. The United States and Great Britain conducted 828 underground nuclear tests between 1956 and 1992. Now, the Western Shoshone are also supposed to both bear the burden of storing America's nuclear waste and to tolerate another violation of the still valid Treaty of Ruby Valley of 1867.

Federally employed geologists and nuclear waste lobbyists regard Yucca Mountains as a safe place for temporarily storing high-level nuclear waste until a permanent repository is ready. The engineers of the Department of Energy (DoE) believe that they can combine natural volcanic rocks with man-made barriers to prevent the repository from leaking. The DoE plans to keep

tunnels leading into the repository - almost a thousand feet beneath Yucca Mountain - open until the underground caverns are packed with 77,000 tons of radioactive commercial and military wastes.

Unfortunately, Yucca Mountain is a rock on the move. At the NTS six earthquakes registering above 3.0 on the Richter scale shook the mountain on the 7th of January 1999. Geologists reckon that the Great Basin's mountains have not yet finished forming, and more earthquakes are to be expected.

Just as serious is the discovery in the Nevada desert of plutonium traces from nuclear blasts from Cold War times. Scientists from the Lawrence Livermore National Laboratory in California and the Los Alamos National Laboratory in New Mexico published an article in the respected journal *Nature* confirming suspicions that plutonium can hitch a ride on colloids, or particles of debris suspended in water. This discovery of a potential new pathway for the migration of plutonium increases concerns over the planned Yucca Mountain repository and such stores in general.

On the 27th of October 1998, the newly appointed DoE secretary Bill Richardson met with representatives from local activist groups and the Western Shoshone. The secretary stated that if the project were found to produce adverse impacts on humans or on the environment, it would not move ahead. "It seems clear to me that there are going to be impacts, even the DoE admits that. It appears to hinge on what is acceptable and to whom." Richardson appointed Chris Sterns, a Dineh, to help address this problem. Opponents to the project include not only the Western Shoshone and environmental grass-roots organisations, but also Nevada's representatives in Congress. A petition and letter asking for the disqualification of Yucca Mountain as a potential site was signed by 219 environmental groups and presented to him in November 1998.

In response to the unjust treatment by US Americans since the time of the first contact with the Western Shoshone, the Western Shoshone Nation through Raymond D. Yowell, Chief of the Western Shoshone National Council, filed a litigation in the United States District Court for Nevada, to protect the way of life and livelihoods of the individual citizens of the Western Shoshone Nation. The litigation, case no. CV-S-97-327HDM (RHL), seeks to protect the Western Shoshone's traditional ways of life within their ancestral lands, against interference from or infringement by the US.

John Wells, Southern Representative of the Western Shoshone Nation, stated: "The United States government would like this matter to be bogged down in a myriad of legal complexities in issues of federal civil procedure,

rather than have to address the core issues arising under the United States Constitution, laws, or treaties."

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<http://www.alphacdc.com/wsdp>
<http://www.planet-peace.org/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

For more information regarding Yucca Mountain see:
<http://www.seismo.unr.edu/Catalog/nbe.html>
<http://www.ilasvegassun.com/sunbin/stories/archives/1999/feb/07/508380163.html>

Timbisha Shoshone

After several years of fruitless negotiations with several federal authorities, the Timbisha Shoshone of California's Death Valley reached a land deal agreement in March 1999. Due to the relentless efforts of the tribes lead negotiator, Dr Steven Haberfeld of Indian Dispute Resolution Services, Inc., and Patricia Parker of the Native American Liaison for the NPS, the Bureau of Land Management (BLM) and the United States Interior Department's National Park Service (NPS) agreed on a land transfer recommendation that will secure the Timbisha (Panamint) Shoshone with a permanent land base. It is expected that Congress will approve the recommendation. Within the next months, a draft report will be available to the public for comment and review.

This report proposes that 300 acres of land at Furnace Creek, where the tribe currently holds a tiny 40 acre parcel under a series of temporary-use permits, will be transferred to support the need for expanded tribal housing, economic development, a community centre and governmental facilities. In addition, several BLM lands totaling 7240 acres, that surround the Death Valley National Park, will be transferred to the Timbisha for housing and economic development. Last but not least, the report also supports the designation of an area within the Park to be known as a Tribal Preserve which will be reflected on park maps and co-managed by the park and the Timbisha.

The modern Death Valley National Park, that every year is visited by millions of long-term visitors and day-trippers, contains about 80% of the Timbisha Shoshone's traditional land of about 4.4 million hectares. When the Park was established in 1933, the tribe lost most of its homeland. When the authorities took over the responsibility for managing the park area, it transpired that there was no longer enough room for the few dozen Timbisha. Until then, the Timbisha had traditionally been an integral part of the fragile desert ecosystem.

Though the tribe is federally recognised, it is one of the few recognised Indian nations without a land base. Under the protection of the California Desert Protection Act of 1994, the NPS and BLM were obliged to settle the Timbisha's land claim. While the act demanded that land be found for the Timbisha within or outside the Park, for years the authorities concentrated on finding land outside the Park, i.e., outside the Timbisha's traditional homelands. As the Timbisha did not want to become rootless, they had to stand firm to secure also their homeland under US American law. After the signing of the report Chairperson Pauline Esteves stated: "For the Federal government, the joint land recommendation report is an end to a long standing debate on what to do with the aboriginal people of Death Valley. For the Tribe, the report assures Department of the Interior support for a permanent land base and moves the Tribe one giant step closer to being secure in their homeland. For the public, the working partnership of the Federal government and the Timbisha Shoshone tribe hopefully signals a new beginning in balancing public land interests with the needs and interests of indigenous people of the United States.....What we are fundamentally doing is re-educating many of our people as to who they are. The Timbisha people are not from some other homeland. This is our Homeland. We will stay on, and this plan will give us the opportunity to do that in a self-sufficient, sustainable, and spiritual way." (See also *The Indigenous World 1996-97*).

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Leonard Peltier

Convicted on the grounds of highly doubtful evidence, Leonard Peltier, one of the founders of the American Indian Movement (AIM), is still in prison. He was given two life sentences in 1977 for the murder of two FBI agents after a gunfight on the Pine Ridge Reservation in South Dakota in 1975.

As mentioned in previous issues of *The Indigenous World*, Leonard Peltier's health is bad and even worsening due to failed surgery on his jaw. Leonard Peltier has been refused qualified medical aid at the specialised Mayo clinic.

In light of Leonard Peltier's deteriorating health and harsh living conditions, the European Parliament's resolution of the 11th of February 1999 is warmly welcomed. The parliamentarians criticized his treatment in general and announced a visit of a delegation later in 1999. The attention of such prominent supporters should also promote the outstanding decision of Anne McLellan, the Canadian Minister of Justice, to launch an investigation - the so-called Allmond Report - that will look at the circumstances of Leonard Peltier's extradition from Canada to the U.S.A., which the Ministry started in 1994. Finally, efforts for presidential clemency must be made to re-establish justice.

Sources

Big Mountain Action Group
Blackfeet Support Group
Leonard Peltier Defense Committee, Scarborough
Timbisha Shoshone Tribe
Western Shoshone Defense Committee



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

MEXICO & CENTRAL AMERICA

MEXICO

During 1998, Chiapas continued to be the focal point of attention for indigenous events in Mexico. The systematic violation of the government's *Law for Dialogue, Conciliation and Peace with Dignity in Chiapas*, the police evictions of the autonomous Zapatista municipalities and the unilateral legislative actions carried out by the federal and state governments, allegedly in order to "fulfil" the San Andrés Accords, are the most relevant events.

The EZLN, for its part, survives fenced in by a military cordon which, day after day, is trying to strangle it. In reply, it has carried out a number of different actions with the aim of reinstating itself politically on the national stage. After the Acteal massacre in December 1997, the Zapatista bases carried out actions aimed at achieving - through instating the "autonomous municipalities" by means of action - fulfilment of the commitment, which had been established within the San Andrés Accords, to recognise the autonomous governments.

Following this there was a long silence, broken by a new communication which made public the *Vth Declaration from the Lacandona Jungle* in which a national consultation on the Law of Indigenous Rights and Culture, which was drawn up by the Commission for Concord and Pacification (COCOPA) in 1996 and rejected by President E. Zedillo, was announced. Since this rejection, dialogue had remained at an *impasse* and had even entered a phase of progressive deterioration, largely expressed by growing civil confrontation within the indigenous communities, encouraged by the formation of civil armed groups and by the growing militarisation of the region. The risk of a military way out is perceived as a constant threat.

Unilateral Government Actions against Peace

Although the EZLN had not initially made a demand for autonomy within its war declaration of 1st January 1994, two years later it nevertheless took on board the demand for autonomy which the national indigenous movement had been making since 1995, expressed largely through the National Indigenous Plural Assembly for Autonomy (ANIPA). The right to autonomy was thus included in the San Andrés Accords signed between the government and the EZLN in February 1996.

The scope of the right to autonomy contained within the San Andrés Accords satisfied neither the indigenous movement nor the EZLN itself, who described them as "minimal accords". Nevertheless these Accords, and the right to autonomy contained within them, did become particularly relevant when the government tried to play down the profile of these rights even more in a proposal it submitted to counter the initiative drawn up by the legislative power of COCOPA. Zedillo's counterproposal signified a refusal to recognise what his representatives had accepted in signing the said Accords. In the face of this situation, the EZLN has refused to return to the negotiating table to sign further commitments to peace which the government will subsequently refuse to recognise and fulfil. This situation has created a wide *impasse* to dialogue which has lasted three years.

Based on the fact that the San Andrés Accords constitute a legal document, the EZLN took on the task of implementing their content by means of action. During 1997, it worked to strengthen the autonomous governments in some thirty new municipalities decreed in 1994. The San Andrés Accords established recognition of community governments and autonomous municipalities, as well as a Law of Redefinition of Municipalities which made legal these processes towards autonomy. The government response to these Zapatista actions has been overwhelming.

From 10th April until June 1998, police and military forces invaded a significant number of Zapatista municipalities and took the autonomous authorities prisoner. As of April 1999, they remain in prison. These were the events which commenced the government escalation of military action inside Zapatista territories, which has repeatedly violated the *Law for Dialogue, Conciliation and Peace with Dignity in Chiapas* approved by the Congress of the Union on 10th March 1995 and which constitutes the legal framework for the protection of the peace process dialogue.

1998 was characterised by a government strategy of taking the initiative and "building peace" unilaterally, ignoring the EZLN as an interlocutor and calling on it to accept its rules, demanding the surrender of the rebels but negotiating nothing in return. The staff changes necessary to implement this strategy were made, both in the Government Secretariat for Chiapas and the Chiapas State government. A new Governor, Roberto Albores Guillén, arrived with a belligerent policy.

After the eviction of the autonomous municipal governments, Governor Albores presented a Law of Redefinition of Municipalities in which he "conceded" eight days to the rebels so that "through the existing legal mechanisms" and "in fulfilment of the San Andrés Accords", they could submit

their "request" for new municipalities. At the same time he presented a proposal for redefining municipalities in which the "Zapatista municipalities" were virtually torn to shreds. The Zapatistas did not respond to the challenge and remained outside the process of redefinition of municipalities. Throughout 1998, and as of April 1999, the process of redefinition of municipalities proposed by the Governor has continued, ignoring the interests of the rebels.

This has been the showpiece of the new government strategy for "management" of the Zapatista conflict. During the year, Governor Albores has devoted himself to unilaterally submitting proposals for legal reforms, allegedly with the aim of "fulfilling" the San Andrés Accords. Contrary to his claims, all of these proposals violate the Accords and the right to autonomy has been removed from legislative texts.

Thus, during 1998 and 1999, more than 14 buildings were unilaterally built to house both the "*Peace and Indigenous Conciliation Courts*" and the "peace and indigenous conciliation judges" appointed by the Supreme Court of Justice. Government authorities have stated that with these courts they are aiming to legislate on "indigenous customs and traditions", ignoring the San Andrés Accords which undertook to recognise indigenous regulatory frameworks and not "customs and traditions".

Although conflicts are resolved in the indigenous language and in the presence of traditional indigenous authorities, these courts are not competent to deal with all issues (such as, for example, issues relating to the penal code; nor can they resolve issues relating to natural resources, which "belong to the nation" and thus come under the control of the federal power). Furthermore it is the judge - and not the traditional authorities - who takes the final decision, taking care "not to contravene" the framework of the national legal system.

Within this same picture, and without having negotiated the peace with the rebels, in December 1998 Governor Albores channelled a proposal for legal reform which offered amnesty to "civil armed groups" - excluding the Zapatistas, who are protected by the *Law for Dialogue, Conciliation and Peace with Dignity in Chiapas* - with the aim of giving them the "opportunity" of voluntarily "renouncing violence", surrendering their arms, explosive materials and other objects and in exchange receiving "seeds, tools, progress, production projects and peace".

The proposal was received with great suspicion. It was seen as a ploy to protect the civil armed groups which had been involved in the Acteal massacre. It was furthermore perceived as a government strategy aimed at distributing financial resources to communities in a clear counterinsurgency campaign. Only time will tell if these suspicions are justified. In March 1999,

Governor Albores claimed that alleged members of the EZLN "were voluntarily handing over their arms and balaclavas" in exchange for money for production projects.

The ploy became clear when the same Governor announced that "20 thousand Zapatistas" in ten municipalities had renounced the EZLN, contradicting his previous declarations - aimed at playing down the rebels by qualifying them as a "minor group" of 300 people limited to four municipalities. It should also be noted that as of April 1999 the said legal initiative had not yet been approved by the Congress of the Union and furthermore that, presumably, this law would exclude the Zapatistas from its scope. However, Governor Albores has already begun to apply this law contravening, furthermore, the *Law for Dialogue, Conciliation and Peace with Dignity in Chiapas*, which obliges the parties to negotiate peace and, once agreed, to guarantee the rebels the benefit of an amnesty.

Within this same logic, Governor Albores put forward a proposal for legal reform regarding "Indigenous Rights and Culture". This proposal was made public by the Governor in March 1999, just at the time when the EZLN was organising the National Zapatista Consultation on the same issue. Its aim was to play down the success of the consultation, which gained the support of 2.5 million Mexicans. The Albores proposal on indigenous rights and culture - which is supposed to fulfil the San Andre's Accords - completely obliterates all rights to autonomy and rescinds all rights to free determination and autonomy which had been established in the San Andre's Accords.

Deficient in legal technique and poor in scope, the Albores proposal contrasts with legal reforms achieved within other Mexican states during 1997 and 1998. It is worth noting that in Oaxaca, the State Governor and local Congress proposed and approved legal reforms recognising the indigenous autonomy and other rights established in the San Andre's Accords. In Chiapas, however, the Governor's proposal falls back on indigenist formulations that prove the government and Chiapas politicians' position as one of attempting to continue a colonial-style relationship with the indigenous peoples of Chiapas.

It should be noted that the legal reforms which the State government is promoting have the approval and support of the federal government, and in particular President Zedillo. The federal government has done its part to contribute to this strategy. CONAI has disappeared as a mediating body. Since June 1998, there has been no mediation body between the EZLN and the government. At the same time, official and officious actions of the executive power have aimed at weakening COCOPA to the full, accusing it of not hav-

ing fulfilled its role well and nullifying its contributory function, leaving it practically paralysed throughout 1998 and to date (April 1999).

Nor do these government actions find their social counterbalance. The EZLN handle their alliances with the social movement awkwardly and have become virtually isolated. With openly intolerant actions it accused and discredited different players which, in the past, had been very useful to it in that they contributed to creating a favourable context of social mobilisation.

This weakness has been cleverly exploited by the Governor in order to polarise ideological differences. Several million dollars, which have arrived through World Bank and Inter-American Bank for Reconstruction and Development (IADB) credits, are distributed amongst the communities in exchange for institutional loyalties. This has all contributed to weakening not only the indigenous movement in Chiapas but also the indigenous movement at a national level, which is divided and has not managed to organise a significant political force to enable it to demand fulfilment of the San Andre's Accords. The government offensive gained strength when there was no indigenous social force - such as that built in 1995 and 1996 - or civil force to stop it, as it did in February 1995.

So the challenges to reconstruction of the social fabric and organisational processes are enormous. 1999 will be a particularly complex year, one of political re-adaptation. It is a pre-electoral year, which will prepare for the next elections for President of the Republic. The question remains as to what the EZLN's position will be towards this political event. In the past, the rebels have not participated in electoral processes and have distanced themselves significantly from the Democratic Revolution Party (Partido de la Revolución Democrática), which was at one time a useful ally to them. It is possible that the future of the EZLN, and of peace in Chiapas as a whole, will be at stake in this political event. But more than this: the future of the right to autonomy of indigenous peoples in Mexico as a whole is also inextricably linked to it.

GUATEMALA

The long years of internal conflict in Guatemala, which culminated in the signing of a Peace Accord in 1996, seem to have caused the disintegration of indigenous authorities at an inter-communal level and a weakening at communal level. The emergence of a series of organisations made up of indigenous representatives involved, at different political levels, in the defence of the indigenous population and in certain development projects has been ob-

served. At the same time, a divorce between these organisations, whether of an NGO or a political nature, and the traditional authorities can be perceived.

National and political structures have managed to consolidate themselves into a force to propose, negotiate and achieve the inclusion of constitutional reforms guaranteeing the respect and exercise of indigenous rights within the framework of national legislation. Alongside this, advances in the construction of a legal space within which to promote and defend the way of life of indigenous peoples have been made. The constitutional reforms will have to go to a referendum, in May 1999, for their approval.

The body which has coordinated this force and which brings together a significant number of indigenous organisations, COPMAGUA, made significant advances in terms of negotiating and mobilising in order to push for the inclusion of these issues, which are considered strategic for the political and cultural development of indigenous peoples. Alliances created at this time will be of great future importance.

This recognition of indigenous rights and community authority structures has, however, been seen by powerful sectors in society as a threat to the State. The negotiations have revealed that the construction of a Guatemalan nation requires great efforts, and processes which tend towards overcoming the deep historical abyss between the indigenous and mestizo populations.

The Congress of the Republic was the forum where, through the political parties, pressure from these influential sectors of society was exerted; for their part the political parties took advantage of the moment to push their own platforms and to reorient the direction of constitutional reform towards their own interests, by presenting appeals for unconstitutionality.

On the other hand, COPMAGUA's National Permanent Commissions and the Parity and Special Commissions appear to have reached their limit, not only in terms of time allocated to them but also with regard to content and proposals. Indigenous educational reform has been discussed and brought into line with national educational reform. The method for making indigenous languages official is awaiting ratification of the constitutional reforms in order to generate the Law of Indigenous Languages. The proposals around a Land Fund are awaiting the approval of Congress. But the sensitive and most intense issues - the political participation of indigenous peoples, customary law and the framework of authorities - still have a long path of discussion, negotiation and search for consent ahead of them. The political space for this is limited, however, and comes up against the problem of a lack of viable social and political conditions in which to develop them; on top of which, 1999 is an electoral year.

The result of all this is a growing discussion and awareness amongst Guatemalan citizens on the nature and proposal of State reforms.

The declaration of the Commission for Historical Clarification (CEH), which confirmed the fact that genocide was committed against the Mayan people by the Guatemalan State during the internal armed conflict, is beginning to constitute a fundamental element in the creation of the necessary conditions for indigenous peoples' development, by strengthening the awareness and legitimacy of the indigenous movement's demands. It thus represents an opportunity to move forward the validity of the rule of law, although these elements are only reference points on the horizon.

There exists a great difference between the different Mayan linguistic groups with respect to the types of authority which exist and their level of coordination with other bodies. Amongst the most common can be mentioned those of the auxiliary mayors, principals, bailiffs, elders and Mayan priests, as well as the communal assemblies which are held in order to take decisions of importance to the whole community.

The case of Totonicapán, which is the department with the highest percentage of indigenous people, 96% *Maya K'iche'*, illustrates this issue. A large part of the lands and resources (forests) are *communal*, managed either by the "partialities" or handed to the municipality for protection in order to assure the continuity of control of days gone by and managed by the communities. Management by the "partialities" is little known to outsiders: firstly, the communities try to avoid giving any information regarding them and secondly, they have been the object of fierce attacks in recent years, through discredit being brought on them or through the many sectors which deny their existence by considering them rivals or not suitable for development schemes. This lack of outside knowledge of the "partialities" is reflected in the lack of involvement of this body in the proposals of the national indigenous organisations. The communities annually elect their auxiliary mayors as the highest authority. They carry out the role "ad honorem" and form the management and coordination system of the communities' power structure. This task can be found and is recognised within the Municipal Code, although largely as a support structure to the Municipal Mayor which, in many places, reflects a weaker position subordinated to State and political structures.

After the weakening of the war years, the auxiliary mayors of the municipality of Totonicapán have recovered in recent years, both at communal and municipal level where they have their leadership council. At communal level,

in many cases they have a kind of "community council" with the roles of vice-mayor, youth representative, principal, bailiff, plumber, forest warden, hot bath representatives, secretary, policeman, town crier and development committee representatives all included. In some cases they make up a council of up to 60 or 70 people.

The communal forests in Totoncapán are the most important reference point in the collective identity of the K'iche' communities and so management mechanisms for forestry resources - water and forest - hold a particular importance in indigenous culture. Their management has always been the role of the "partialities" or auxiliary mayors, but due to the weakening of these structures in the 1980s this was complemented by a series of communal water committees which were brought together in a communal association. It is this type of authority and structure which presents the greatest challenge of the moment to the national indigenous organisations. The formulation of national proposals has to be oriented towards the possibility of strengthening such structures and solving the problems facing the communities, and its level of representativeness will be strengthened on the basis of a close coordination with the traditional authorities. This can thus be identified as the greatest challenge for the indigenous movement over the coming years.

With regard to the 1999 general elections, since 1994 a growing tendency towards the involvement of some indigenous leaders in the electoral process has been observed. This has been in order to participate in local power structures, basically in the posts of municipal mayors, and in unions and on councils. Through agreements with political parties or through the creation of independent civic committees, indigenous people have, in recent years, been showing a desire to occupy local management posts, trying to counter the exclusion of which they have been victims in the past and to guarantee effective access to decision-making from an indigenous perspective.

These tendencies have been nurtured by the community management processes of traditional or own authorities, which are characteristic of the indigenous community. In effect, during the 1960s an appropriation of the concept of auxiliary mayor was noted on the part of a large number of communities, alongside the weakening of such mechanisms in others, or the co-optation of the auxiliary mayors by the municipal mayors' offices in the case of the communities most weakened by the internal armed conflict.

The Law of Development Councils, which is to coordinate community participation for development, will have an important impact on the local power structure by legitimising a particular form of decision-making regard-

ing resources and local, regional and national development policies. The same happened with the reform of the Municipal Code. This Law should link with and strengthen the indigenous structures existing in many parts of the country.

Article 66 of the Constitution provides for recognition of indigenous peoples' authorities. Evidently, the auxiliary mayor appears to be a figure of authority which could be recognised, although the way it functions and its representativeness are not the same for all indigenous populations and hence throughout the country. However, a political figure or structure of authority is also necessary which will enable multicultural management, that is, one which uses the strip of space where the two systems, indigenous and State, interconnect in order to coordinate initiatives, manage and participate in decision-making. For this reason, the strengthening of the role of auxiliary mayors has become a priority goal for many communities.

Similarly, links have begun to be woven between the auxiliary mayors and other community leaders for the formulation of their own management structures. This movement of strengthening of community unity responds to the ancestral interests of indigenous peoples, and represents an important step forward in relation to the fragmentation which the socio-political fabric of the communities suffered during the war. It is a first step towards recovering from the trauma caused by the presence of authorities and the policies of division and confrontation within each and every community.

A growing interest in micro-regional and regional forms of coordination can also be noted, which enables a greater impact in decision-making and a space in which to express community interests. In some cases, these processes are reactive, conflictive movements which occur in the defence of indigenous peoples' space and interests, as in the case of the creation of the Ixil Reserve, where the communities were excluded from the creation and from the possible benefits to be derived from such an initiative. Similarly, the communities are beginning to understand and to undertake different experiments to form regional forces which will enable them to gain greater scope and impact. Obviously, the auxiliary mayors and the community authorities form part of these processes and initiatives.

COSTA RICA

Indigenous peoples' struggles in Costa Rica over the last few months have undoubtedly revolved around the possibility of establishing a new legal framework to define and regulate their rights within, and coordination with, the

national legal code. Costa Rica is at a decisive moment in its "indigenist history": whether to decide to take a fundamental step forward by adopting a law which would be a vanguard for the continent or to decide not to do so and remain in the rearguard with an 1970s indigenist style, one which has caused indigenous impoverishment and demobilisation. Indigenous peoples' current struggles within Costa Rica revolve around the stage of the Legislative Assembly.

At the end of 1997 and beginning of 1998, a bill of law introduced by a Member of Parliament and later substantially modified by a representative indigenous delegation, was waiting in line to be debated by MPs in the Legislative Assembly. This bill, entitled "Law for Autonomous Development of Indigenous Peoples" was intended to update the 1977 "Indigenous Law" (which was really no more than a piece of paper as it did not possess the specific mechanisms required for the concretisation of indigenous rights) and establish a regulatory framework for ILO Convention 169, adopted by Costa Rica in 1992.

A few days before the legislature was due to change (1st May 1998), the bill finally arrived at the plenary assembly, having been approved by the Social Affairs Committee of the Legislative Assembly. The first debate pronounced in favour of the bill, but during the second debate - and during the last days of that legislature - a group of MPs submitted a motion to send it to the Constitutional Court, from where it returned with the endorsement of the magistrates, who established that it was not in contradiction with the political Constitution. Nevertheless, not only had the balance of political forces now changed within the new legislature but also the MPs' interest in the issue, and so the plenary decided to return the draft to the Social Affairs Committee for further revision and certain modifications.

This action was accompanied by indigenous demonstrations in the streets in front of the Legislative Assembly, where two groups with radically different positions came face to face. The group in favour of the bill, by far the vast majority, had been working on this project for years: organising workshops, discussions, debates, gathering opinions from a large number of people, managing to coordinate a broad group of independent indigenous organisations. The demands of this broad sector, which had taken shape in this bill, revolved around encouraging indigenous representation on the basis of its own knowledge and ideas, significantly limiting State interference. A proposal in accord, then, with the very concept of autonomy. At the same time, the project established a favourable regulatory framework for respect of indigenous peoples' rights in terms of defining their own development, supervising their

territories, considering indigenous custom as a source of law, widely amending the Costa Rican state's ethnocide and welfarist practices.

The second sector was composed only of people with interests in common with a small group from the National Commission for Indigenous Affairs (CONAI), a pro-government institution which is said to represent all indigenous peoples but which has been characterised by extensive manipulation and extremely paternalistic policies and which, for a long time, has promoted and sustained the status quo. This group submitted a new bill which, instead of limiting State interference in indigenous affairs, intended to broaden it, creating an even more powerful institution with more resources and staff.

The bill and CONAI's proposal, in spite of having a number of articles in common (all from the original bill), propose different and incompatible institutional forms. However, a pro-government MP - inspired by the style of government which encourages "coordination" for the establishment of some lines of policy - has encouraged the parties to sit down around a table to negotiate and amend the bill and the proposal. In a piece of legal engineering typical of our time a new bill was produced, which was also positively sanctioned by the Social Affairs Committee of the Legislative Assembly and which is, finally, at the doors of the plenary assembly. This new draft retains many of the original articles of the first - such as indigenous custom as a source of law - , and this is clearly positive. But at the same time it attempts to make an institutional hybrid of the two proposals: the total dismantling of the State indigenist bureaucracy - characteristic of the original bill's proposals - along with the expansion of the indigenous State entity - CONAI's proposal.

The result was only to be expected: a creature with the features of both parents which ends up being very similar to the one already in existence. The new body aims to call itself the National Indigenous Institute (as in Mexico) and largely retains the same powers and attributions of indigenous institutionalism that have existed for more than 30 years in CONAI. Some speculate that this process has been nothing but a well-planned manoeuvre on the part of those who believe that institutionalism must not change.

What is most serious about this issue is not only that the institution to be created is similar to the one already in existence but that it will be a way of legitimising the aspirations of an indigenous minority which has held power within CONAI for 9 years, maintaining roles and people untouchable through clever manoeuvres such as legal appeals to the Constitutional Court which have the effect of holding up the process. In this way, CONAI's Board of Directors is made up of people who were elected by the Assembly in 1990 and who have taken it upon themselves to block all possibilities for change.

These are the people who submitted a new proposal from the comfort of their own office. It is this which has ended up prostituting a proposal that has evolved through a long and deep process of innumerable workshops held separately by the indigenous organisations followed by innumerable plenary sessions in order to come to an agreement on views; 36 workshops which the Legislative Assembly held in the communities (fulfilling the mandate for consultation established under ILO Convention 169); the National Indigenous Forum of August 1997, which brought 36 indigenous delegates to the Legislative Assembly, occupying MPs' seats for a week in order to revise, modify and create a bill which, for the first time in the history of Costa Rica, took the opinions of indigenous peoples widely into account.

This is thus the inconsistency which characterises the current transformed bill. At the time of writing the project is on hold, awaiting a less confrontational environment between indigenous sectors in order to proceed with another (but much more reduced) consultation. It is difficult to know which opinion will prevail, that which has arisen from a minority whose life's work revolves around indigenist officialdom or that which was the product of a broad majority, through a truly democratic and exemplary process. The depth of Costa Rican democracy - this time with an indigenous overtone - is on trial.

PANAMA

1998 was characterised as being a pre-electoral year, with an eye to the elections of May 1999. This situation was reflected in the indigenous communities, where the candidates gave all kinds of promises. But indigenous people in Panama see the elections as a distraction, rather like sport, because they know that the traditional politicians who alternate in power view the communities simply as a pool of votes and that they have always considered indigenous people as second class citizens. Only tiny drops of support from the government have filtered down to them and the promotion of their rights has been more of a folkloric nature, purely in order to sell their exotic image. But due to the winds of supposed democracy, the indigenous themselves have managed to reach the Legislative Assembly in order to represent their regions, strongly conditioned however by the fact that their participation must be through an established political party. These parties have never put their promises to indigenous people into practice. In any case, it is to be hoped that the demagogy of the political parties will be made concrete in the new Presidency following the recent elections.



Young Kuna women, Kuna Yala (Foto: Mac Chapin).

Indigenous Regions

When an indigenous territory is legalised in Panama, the internal laws which must be approved by the government are submitted to the authorities. This was the case of the Kuna Madungandí region, legalised in 1996 and which, through Executive Decree 228 of 3rd December 1998, adopted its organic administrative charter.

Meanwhile, the name of the Kuna Yala region has finally been made official. Up until now, it had been known officially as the San Blas region. The much longed for change of name was the result of the draft bill submitted by the Kuna lawmakers, which was approved on 28th October 1998.

With regard to the *Ngobe-bugle region*, in early 1999 members of this people complained that the government had still not approved a budget to tackle the different problems facing the communities, in particular with regard to health and education, in spite of the fact that the region was created in 1997

Meanwhile, construction of the highway from Chiriquí Grande to El Almirante in Bocas del Toro progressed, affecting more than 150 families and a number of sacred sites.

With regard to mining, although copper exploitation in Cerro Colorado is suspended (due largely to the low price of this mineral), coal continues to be mined in five areas of the region, without indigenous consent. The area in question relates to more than 17 thousand hectares operated by the Chanquinola Peat SA company, under a concession granted by the Panamanian Ministry of Commerce and Industry in December 1998.

For their part, the Emberá-Wounan have endured a year of great pressures and fears. Inhabitants of the Darién forests on the borders with Colombia, they have been suffering the effects of the armed conflict in the neighbouring country. In recent months incursions by Colombian guerrilla and para-military groups have been recorded, which caused the deaths of three indigenous Emberá from Panama. The Panamanian government sent a large contingent of police to the border and established a Contingency Plan. Because of this situation, the authorities of the Emberá-Wounan region have not been able to meet to elect the governing body of their General Congress, causing a consequent weakening of their organisation.

On a different note, the Second International Indigenous Conference regarding the Permanent Forum of Indigenous Peoples was held from 4th to 6th March 1998 in the Ukepseni community, Kuna Yala region. The conference was

funded by IWGIA, with participation from indigenous delegates from Central and South America.



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

SOUTH AMERICA

VENEZUELA

For most of the period under discussion in this report, the government in office in Venezuela was that of ex-President Rafael Caldera. Most of the following information thus refers to developments which occurred under that government. The new government of President Hugo Chávez has brought about fundamental changes in Venezuelan politics, which have meant that the indigenous people of the country have found themselves facing a different situation. The short period of time that has passed is still insufficient, however, to permit a serious evaluation of these changes.

Indigenous Peoples: Victims of Economic Integration

"If someone were to turn up at your house, cut down the trees in your garden, use your kitchen, sleep in your bed and eat all the food in the larder without even asking your permission - how would you feel?"

These were the words with which Juvencio Gómez, leader of the indigenous community of the Pemón people, Kavanayén-Mapaurí, addressed the then Minister of Interior Relations. He was summing up what had occurred in many of the indigenous communities of south-eastern Venezuela over a period of several months during 1998. The situation of the indigenous people, faced with an expansionist economic policy, is already precarious. The national legal system still does not provide effective mechanisms with which to protect the relationship between indigenous groups and their ancestral territories. Furthermore, according to a recent report of the National Borders Council, 79% of indigenous communities in the Venezuelan states of Amazonas, Bolívar, Delta Amacuro and Apure (all in the south and east of the country) do not hold property titles recognised by the National Agrarian Institute. The remaining villages, approximately 120, hold titles but only provisional ones. Bolívar State has become a huge area of mining activity (see *Indigenous World 1997-98*, chapter "Venezuela") and it is in the interests of the mining companies that the land tenure of the indigenous groups is not legalised. To this situation must be added the danger caused by the Venezuelan government's decision during 1998 to build an electric power line from the Macagua II Hydroelectric Plant in Puerto Ordaz (down river on the Orinoco) to the

town of Santa Elena de Uairén, situated on the border with Brazil. The aim of this electric power line is to supply electricity to the mining companies in the Imataca Forestry Reserve and the north Brazilian town of Boa Vista.

The power line project has to be considered alongside the penetration of Venezuelan indigenous territories (and neighbouring parts of Brazil) by transnational company activities requiring a great deal of electricity. Secondly, the power line itself is a further threat to the integrity of already existing indigenous territories.

This work would encroach upon the fragile ecosystems of the Venezuelan-Guyanese massif and would affect six Environmentally Protected Areas (known as Areas under Special Administrative Control - Areas Bajo Régimen de Administración Especial - in Venezuelan legal terms). The Canaima National Park is one of these, declared as "Cultural Heritage" by UNESCO in 1994. The construction of the power line anticipates serious deforestation of the rainforests, which are green all year round under such environmental conditions.

The majority of indigenous (and also non-indigenous) communities affected by the project are completely opposed to the power line passing through their territories due, above all, to the absence of public consultation regarding the project. In some places, the power line will pass directly above human settlements.

The background to the project lies in a bi-national agreement, signed in 1994 between the presidents at that time of Venezuela (Rafael Caldera) and Brazil (Itamar Franco), forming the basis for the implementation of bilateral economic projects. Within the context of this was another bilateral agreement, establishing the outlines for the implementation of a contract for the supply of electricity from Venezuela to the Brazilian company, Electronorte. The agreement provides for a penalty of US\$5,000 to be paid by Venezuela for each day's delay in provision of electricity, calculated as from the agreed start date of the project (December 1998).

Construction of the link (on Brazilian territory) was funded by, amongst others, the Andean Corporation for Development, with an amount of US\$55 million.

All of this is a good example of how projects carried out on the basis of continental economic integration do not take into account the interests and rights of local people, particularly indigenous people.

During 1998, there were a number of different activities organised by the country's indigenous and environmental groups against the power line: in August, approximately 1,000 indigenous people blocked the road between

south east Venezuela and Brazil for several days, protesting against the power line and demanding recognition of their ancestral rights. Protests have also been directed against the deforestation of the Imataca Forestry Reserve, an indigenous ancestral territory, where the State continued to grant mining and timber concessions in spite of a preventative decision pronounced by the Venezuelan Supreme Court in December 1997. The indigenous protest was broken up violently by the National Guard; Fredy Bolívar, leader of the Pemón community of El Vapor, made the following comments with regard to this, "The National Guard wanted to provoke us into a violent reaction in order to attack us, take us prisoner and shoot us".

These indigenous actions led to a number of influential Venezuelan politicians, such as the State Governor for Bolívar, Sait Rodríguez Sotillo, accusing the indigenous of being "manipulated by forces opposed to the sustainable development of the zone". This is characteristic of the smear campaigns to which indigenous groups in Venezuela are subjected when they defend their rights.

In July 1998, indigenous communities in the zone submitted a demand for nullity to the Bolívar Town Court against administrative actions by the National Parks Institute (a body which controls the management of Venezuela's national parks) regarding the Authorisations for Territorial Occupations and Resource Affectation in the stretch within the beautiful Canaima National Park.

The whole case of the power line also shows that the establishment of Areas Under Special Administrative Control in Venezuela is not an initiative to protect the integrity of the environment but a mechanism used by the State to facilitate its access into these huge and largely border regions of the country. (cf. also: *Indigenous World 1997-98*, chapter on "Venezuela").

Auto-demarcation and Regional Initiatives

During the 1998/99 period no progress was made regarding improved legislative recognition of indigenous rights at national level. Such a gap puts a halt to the initiatives which various indigenous groups have undertaken in recent years to assure defence of their rights. During 1994 and 1995, 15 Ye'kuana forest villages carried out the auto-demarcation of their ancestral territory situated to the north of Amazonas State. The boundary of this territory extends 700 km and covers an area of approximately 20,300 km². This demarcation was achieved with the financial and technical support of Canada's Assembly of First Nations. Nevertheless, Venezuelan law still refuses to

recognise indigenous territories, along with all the legal implications that such recognition would mean.

In order to give continuity and applicability to the results of this process of auto-demarcation a political initiative was advanced, in the hope of a legal pronouncement regarding a Regional Amazonas State Law for the Protection of Indigenous Peoples. Supported by the Venezuelan NGO "Another Future" (Otro Futuro), a draft of the Regional Law was drawn up.

With the support of government funds from the Republic of Austria, several workshops for consultation and promotion of the draft "Law for the Protection of Indigenous Peoples and Communities in Amazonas State" were held during 1998. Because of this initiative, a process of legal awareness raising was achieved amongst members of the remote indigenous communities along the rivers Cunucunuma, Padamo and Cuntinamo. In carrying out the project, emphasis was placed on the equal participation of women from those communities affected.

Due to recent political changes in Venezuela this public process, which aims for a regional indigenous law in Amazonas State has, for the moment, been put on hold. However, this initiative encouraged indigenous groups in neighbouring Bolívar State to commence similar processes of auto-demarcation of their territories. Similar initiatives for regional laws protecting indigenous people in the states of Bolívar and Zulia are also being discussed.

Venezuela lacks the legal institutions which could permit indigenous people to control the negative impacts of a State policy which follows a model of economic growth. Faced with this model indigenous groups demand, above all, recognition of "indigenous territory within the political territorial division of the Republic" - as stated by the Indigenous Federation of Bolívar State in a document entitled, "Imataca Proposal" which was presented at a number of public meetings held in August 1998 with senior representatives of the Venezuelan such as the Minister of the Interior, Asdrúbal Aguiar, of Border Affairs, Pompeyo Márquez, of Agriculture and Livestock, Ramón Ramírez, and of the Environment, Rafael Martínez. On one of these occasions the government's opposition was evident, when the Minister of the Interior stated that, on the basis of what was laid out in the indigenous document, the ideas of "territory", "self-determination" and of a "separate legal administration" were incompatible with the Venezuelan constitution and appeared to be aimed at the formation of an indigenous nation itself.

Threats from a Neoliberal Model of Mining Legislation

Whilst the Rafael Caldera government showed itself to be squarely opposed to the basic demands of the indigenous movement, the Permanent Committee for Energy and Mines of the Senate of the Republic submitted a project for a new Mining Bill in March 1998. This document - which has yet to come into effect as law - affects an issue of key importance for the majority of indigenous regions. It expresses the ideas of the Caldera government, which wanted to implement a policy which would attract important investors into the Venezuelan mining sector. The Bill anticipates no specific indigenous rights in connection with mining activities; quite the contrary, it establishes special legal guarantees for those holding the mining concessions: mining activities are defined as a "public utility". The concession holders have, for example, the right to establish servitude and to expropriate the land (of private properties) in order to implement their activities and work.

One particular element in this Law is a new legal process called, "positive administrative silence". The idea behind this is to speed up administrative procedures in favour of investors. The Law establishes that any interested party has the right to submit requests to the competent administrative authority and to obtain a reply within a legally established period. If a response from the authority is not received within this period, the applicant is considered to have obtained the full right, as if the request had received the full approval of the authority. In other words, if the authority does not explicitly decide within a certain period of time - generally a very short one - the Law establishes a *fiction* of approval regarding any request submitted by the interested parties.

The absurdity of this new legal contrivance is shown, for example, in relation to the mechanism of the Mining Project Feasibility Study: this mechanism is provided for within the Mining Bill and includes "social, cultural and environmental impact studies". According to the Mining Bill, the approval procedure for this Study may in no case exceed 90 days. If the Feasibility Study is not approved within this period, approval will be *ipso jure* faked, in accordance with the "positive administrative silence" from which the applicant benefits - that is, the holder of a mining concession who has to submit a Feasibility Study. Impact studies are generally voluminous and highly complex documents. A period of 90 days is a very short time for the authority to be able to read, understand and evaluate such a study and subsequently set criteria by which to make a decision regarding its validity. In a report, Glevys Rondón, director of the Latin American Mining Monitoring Programme writes in this regard, "If other chronic limitations which affect the public adminis-

tration are added to the time factor, such as a lack of competent and well-paid staff, it is clear that the process of granting concessions under such circumstances becomes not only easy ground for corrupt negotiations but also makes a mockery of the importance which should be given to this activity". A mechanism such as the cultural impact study, which could be a possible legal mechanism by which indigenous groups could participate in decision making regarding activities which may cause them negative social and cultural impacts, is thus made completely absurd by the fiction of "positive administrative silence".

This draft Mining Bill was drawn up in the total absence of any participation from the country's indigenous organisations. On the other hand, and according to the Latin American Mining Monitoring Programme, there was special participation in the formulation of the project on the part of representatives of transnational mining companies such as Bolivar Goldfields, Vengold, Carson Gold and Nexos Resources. Due to the recent political changes in Venezuela, it is extremely unlikely that this draft will be approved as it stands. However, the example shows the extremes to which politics can be taken under neoliberal conditions which, nonetheless, continue to have their proponents and defenders in Venezuela.

Decision of the Supreme Court on the Validity of a Colonial Communal Title

On 6th October 1998, the Supreme Court of Justice took a decision regarding the right of a community belonging to the Kari'ña (Carib) ethnic group in a case which had been pending in the Court since 1989. This case concerns a village located within the boundaries of the autonomous municipality of Maturín, in Monagas State. The villagers had formed the civil association "Comunidad Jesús, María y José de Aguasay" in 1966. They were the descendants of an indigenous community of the same name which had received a communal land title from the Spanish crown in 1783. In spite of this, in 1987 the municipality of Maturín approved a Municipal Bylaw declaring the "Comunidad Jesús, María y José de Aguasay" extinct and declaring that its lands should pass to the municipality's common lands. Having thus declared the lands of the Kari'ña community municipal property, the Municipality then began to concede land contracts to third parties (mainly with the aim of agriculture and livestock rearing).

In 1989, the Community's Governing Council submitted an appeal of unconstitutionality, requesting of the Court:

1. The nullity, through unconstitutionality, of the Municipal Bylaw in which the Community's communal lands are declared municipal common lands;
2. Recognition of the existence of the Indigenous Community of the Kari'ña ethnic group, which is organised legally within the Civil Association, "Comunidad Jesús, María y José de Aguasay";
3. The declaration of nullity of the actions by which contracts had been conceded to third parties, on the basis of unconstitutional appropriation of indigenous land.

The case was seen as an issue of great importance for other Kari'ña communities in Venezuela which hold similar colonial recognition of their lands and thus "letters of solidarity" with the cause were sent to the Court by the Central Venezuelan University, the national indigenous organisation, CONIVE, and the human rights organisation, PROVEA.

This case made the Supreme Court of Venezuela analyse some rather complex legal issues. These were largely related to legislation which the Venezuelan Republic had passed during the first century of its independence with regard to the subject of indigenous communities who possess communal land titles dating from the period of Spanish colonialism (mostly from the end of the 17th century). This Republican legislation tended to divide up the communal lands with the aim of ending the specific legal status of these indigenous groups and, at the end of the 19th century, went to the extreme of decreeing the non-existence of such communities and the legal extinction of their communal lands.

What was the Supreme Court's decision in the case of the "Comunidad Jesús, María y José de Aguasay"? The Venezuelan High Court overturned the contested Bylaw which had declared the communal lands of the Kari'ña part of the municipality's common lands. Within this decision it also recognised the legal existence of this community and all the rights of its members "implicit in this recognition". According to the Supreme Court's decision, the quashed Bylaw was in direct opposition to the Venezuelan constitution because it ignored the reality of the situation by declaring an existing indigenous community to be extinct. At the same time, the Supreme Court refused to consider other possible constitutional injuries effected by the contested Bylaw (such as, for example, violation of private property rights).

This judgement in this legal case appears, at first sight, to be a complete victory for this group of Kari'ña. However, what should be understood by the

Supreme Court's reference to the recognition of "rights...implicit in this recognition"?

In their appeal, the Kari'ña also requested an overturning of the actions by which contracts were conceded to third parties. It can be assumed that this demand was the central aim of the appeal as a whole, because this was how they wanted to undermine the legal basis of the new ownership of ancient Kari'ña lands. The Court's starting point, however, was recognition of the fact that since the Bylaw had come into effect, new legal situations had arisen. The Court stated that a new and fundamental value had entered into play, that of *legal security*. Based on this criteria, the rental contracts in question should be preserved "in order not to assault the rights of third parties who established a legal relationship with the Town Council of Maturín on the basis of a set of rules that were at that time in effect". From this it can be deduced that the overturning of the Bylaw expropriating the Kari'ña's land did not imply, according to the Court, the invalidation of the rental agreements already established by the Municipality with third parties. With the result that the "Comunidad Jesús, María y José de Aguasay" had their legal existence recognised but not the integrity of their original lands.

The principle of legal security was thus applied to the benefit of the parties which were able to take advantage of an illegal and unconstitutional basis and the application of this criteria seems cynical after the Court itself had postponed a situation of legal security by delaying in their final decision for nearly a decade.

Latest Developments: Indigenous Peoples organise to participate in the Constituent Assembly

In February 1999, the tenth constitutional President of Venezuela assumed office. The change in government also changed the political discourse in the country and brought with it many expectations on the part of all popular sectors in the country, including the indigenous peoples. Hugo Chávez Frías was the first Venezuelan presidential candidate to address indigenous groups during his presidential campaign, through a signed document called "An historic compromise", in which he committed himself to "pay off an historic debt to the more than half a million indigenous people...in the memory of the Founding Fathers, Simón Bolívar and Antonio José de Sucre". Through other declarations, the presidential candidate gave reason to believe that his government wanted to correct the neoliberal direction of previous Venezuelan regimes.

According to an influential Caracas daily newspaper, the appointment by Chávez of the new Minister for the Environment in his cabinet is the one which has awakened the curiosity of national public opinion the most: the new holder is Atala Uriana, a woman belonging to the Wayú ethnic group (from the west of Venezuela), linked to the fight for identity of Zulia State's ethnic groups and lecturer in literature in the Department of Social Anthropology of the University of Zulia, Maracaibo. In her first public discourse for the Ministry for the Environment in Caracas on 5th February 1999, the minister concluded with the following words, "We are going to bring down environmental neoliberalism!". Atala Uriana is the first indigenous person to hold the office of minister within the Venezuelan State.

The new President's first large political project is the drawing up of a new political constitution for Venezuela. Several of the new government's decrees have established that the new constitution will be formulated by a Constituent Assembly, likely to be established as from 5th July 1999.

This long awaited fundamental revision of Venezuela's Magna Carta will offer Venezuela's indigenous peoples an historic chance to achieve, at a constitutional level, wide recognition of their specific rights as the native peoples of the country. The current 1961 constitution ignores the pluri-ethnic and multicultural character of the Venezuelan nation.

At such an historic time, Venezuela's indigenous movement can fight for the advances achieved in recognising indigenous people's rights in other Latin American political constitutions to be adapted, or even improved upon, to fit the national context. Much will depend on whether the indigenous peoples can manage to play an active and participatory role in the Constituent Assembly in order to assert their specific rights.

According to a presidential decree, this National Constituent Assembly will be made up of 103 members, of which 76 will be representatives elected by 24 regional constituencies, which are the same as those established as Venezuelan electoral constituencies, and 24 will be elected at a national level. The presidential decree also states that, "Given the exceptional circumstances affecting them...Venezuela's indigenous communities will be represented by three constituencies elected according to ancestral custom and practice and the mechanism chosen by the indigenous organisations. The right to participation here provided for will be in accordance with the plurality of cultures existing in the different regions of the country".

In order to fulfil this regulation, a National Constituent Indigenous Assembly was held from 21st to 25th March 1999, in the city of Bolívar. After

four days of intense activity, three indigenous representatives were elected to the Constituent Assembly.

At the time of writing of this report (April 1999), new and worrying information is coming to light: Venezuela's National Electoral Council (CNE) has declared the election of the three indigenous representatives in the National Indigenous Assembly of Bolivar illegal. The CNE argues that the election was untimely because the Referendum, which will authorise the organisation of the National Constituent Assembly has still not been held. The Referendum is planned for 24th April 1999. Furthermore, activists of the political party, "Acción Democrática" (Democratic Action) and from evangelical sects have begun parallel processes of "indigenous organisation" which have the aim of taking legitimacy away from the results of the National Indigenous Assembly of Bolivar but, deep down, are opposed to the idea of the Constituent Assembly at all.

Finally, the news that the new government of Hugo Chávez wants to continue with the electric power line plans has come out, which would be a serious blow to the hopes of indigenous peoples. As can be seen, no conclusions can yet be made as to whether the new government will be capable of confronting the many interests opposing Venezuela's indigenous people and will finally give their rights and ancestral demands the recognition they deserve.

COLOMBIA

The adoption of neo-liberal policies on the part of the Colombian government has caused serious problems for the indigenous people. There is a clear lack of governmental will to come up with a policy that would solve the indigenous people's territorial problems, especially in zones which are strategic for the implementation of mega-projects.

Although, legally, there exist mechanisms for the defence of indigenous rights, the history of the organisational processes which, since the 1970s have united these peoples, is marked by continual conflict with State actions and projects. Organisational and community mobilisation has often enabled destructive advances onto their territories to be curbed but although they have gained a certain amount of recognition with regard to their rights, the cost to the communities is often high. The option open to indigenous people if they wish to keep their culture alive is that of institutional violence, the deaths of many of their leaders, threats to - and the consequent displacement of - entire communities, processes which destabilise communities both socially and

culturally and conflicts which sometimes threaten their integrity. And now, the war which covers a large part of the country has reached as far as the indigenous territories.

The Case of the Embera Katio

In the ancestral territory of the Embera Katio people, in the Department of Córdoba, work continues on the construction of a hydroelectric plant which will alter the flow of the waters of the river Sinú.

Conflicts between the indigenous peoples and the Urrá company, which is carrying out the work, date back to 1996. Since that date the company has failed to implement the programmes which were agreed in order to mitigate the environmental impact.

The company has also promoted internal conflict within the communities, encouraging parallel authorities. Urrá thus gives the "internal problems" of the communities as a reason for the suspension of funding of programmes agreed with the communities. After several assemblies and mobilisations, the communities decided to appeal to the courts. In March 1998, the communities of Rio Sinú and Rio Verde brought a protection action so that their legitimate authorities would be recognised and so that the Urrá company would negotiate everything relating to the flooding of the indigenous territory and to compensation for the damage caused with their true representatives. In July of the same year, and whilst the protection action was being processed, President Samper issued Decree 1320, whose aim was to resolve the problem with the indigenous people so that the work could be completed and inaugurated on 1st August.

During this period, the government was carrying out a rushed consultation procedure with the indigenous people, convened by the Department of Indigenous Affairs of the Ministry of the Interior and with the participation of Urrá SA and the Ministries of the Environment and Mines and Energy. The aim of this was to fulfil the formal requirements so that an environmental licence for the filling and operation of the dam could be issued. Representatives of the protected communities were excluded from this process. Meeting places were changed without prior notice and the final meeting was held in virtual secrecy at a location far from the indigenous territory so that less participation on the part of the communities could be ensured.

At the same time, in Rio Sinú, unknown armed (and some uniformed) people appropriated the Indigenous Cooperative of Rio Verde's motorboat and outboard motors which the communities use to get around. The indigenous people were accused of collaborating with the guerrillas.

Ignorance and violation of indigenous rights appeared to be the national government's position: in its opening speech in the Congress of the Republic on 20th July it stated that the whole population of the Department of Córdoba would be at risk from flooding if the "individual rights of some indigenous families" were upheld. It was attempting to lay the blame for the historic flooding of the river Sinú on the indigenous people, trying to cause contradictions and conflict between the people living in the catchment area. Furthermore, the periodic flooding of the river Sinú supplies water to the swamps, enabling the life cycle of the fish to be sustained and thus providing food for all the inhabitants of the basin. These inhabitants now find themselves without food because of the construction of the hydroelectric plant.

But on 22nd July, the Constitutional Court ordered the filling of the dam to be suspended and in November the protection action was found in favour of the Embera Katio people. The Constitutional Court ordered the Company to pay compensation to the Embera Katio people for damage caused by the construction work and to recommence the agreed development programmes immediately. It ordered them to proceed with the consultation and agreement process between the Company and the Embera Katio people with regard to the future impact of the filling and operation of the dam and respective measures to be taken for its prevention or mitigation. It ordered indemnity to be paid, including compensation for the loss of part of the indigenous territory, and participation in the profits in accordance with what was established in ILO Convention 169. The municipal council was ordered to abide by the communities' decisions with regard to their legal representation and to make the necessary registrations, as stipulated by the communities. It ordered the Ministry of the Environment to abstain from granting the environmental licence for the filling and operation of the dam until the Company had fulfilled all the terms of the judgement.

Fulfilment of the judgement, however, is in doubt. The municipal council is unjustifiably delaying registry of the indigenous authorities and the Company is not carrying out the development programmes.

At the same time, the communities which have been demanding respect for their rights have been the victims of attacks on the part of armed groups. Last August the traditional leader, Alonso Domicó Jarupia, was assassinated after carrying out an inspection ordered by the Constitutional Court in the settlement of the protection action brought by the communities. Furthermore, whole communities received orders to vacate their territories. In January of this year, ten indigenous people who were travelling on the river Sinú were temporarily arrested and one of them, Alejandro Domicó Jumí, was mur-

dered. The others were freed the following day but received further threats and rumours ran rife that four indigenous leaders from Rio Verde and Rio Sinú were going to be murdered. Confirmation of the rumours was not long in the making. On 24th April, in the early hours of the night, and at home, Lucindo Domicó Cabrera was murdered, one of the most important leaders in the fight for the defence of his people's rights in the face of the Urrá SA company in recent years.

Death rumours continued to revolve around four other leaders, three of whom have had to leave their territory and move far from their people and from the possibility of promoting, together with the governors, the consultation and agreement process with the Company. Inhabitants of the municipality, known to belong to paramilitary groups, openly investigate the leaders and non-indigenous advisors who are supporting this process. Mysterious cars circulate several times a day around the offices of councils which are controlled by the Company.

Meanwhile, the time granted by the Constitutional Court in which the consultation and agreement process was to progress is running out. The Government is exerting many different forms of pressure on the indigenous authorities to make them rapidly negotiate anything at all because they want the plant up and running as a matter of urgency.

Under these conditions, it is unlikely that the Embera Katio people will be able to overcome the setbacks which this construction work has put in their path. It is also unlikely that their cultural integrity will be preserved, even if an acceptable agreement is reached with the Company: their future hangs in the balance because of the war which has reached their territory, the dam and the capacity of the communities to survive as Embera after compensation has been settled.

The Case of the U'wa

Since the beginning of the last decade, the national government has been promoting the seismic exploration of the whole of the Sarare region in search of oil wells. One such area is the Bloque Samoré. This covers the whole of the current territory of the U'wa people, which is located in the departments of Boyacá, Santander and Norte de Santander, in the foothills of the eastern mountain range.

The U'wa people, one of the most traditional living in the country, have rejected this project because "you cannot cut Mother Earth in order to suck out her blood". The *ruiría*, the blood of Mother Earth, is what regulates earth

tremors and sustains the lakes. If it were extracted, the universe would be thrown into confusion and *sira* would punish his people.

The government ignored indigenous protests and in 1995 the Ministry of the Environment authorised the Occidental Petroleum Co. to begin exploration work in the Bloque Samoré.

The licence required Oxy to reach an agreement with the U'wa people regarding amendments to the project which would be necessary because of the fact that a significant number of the exploration lines were drawn through the centre of the indigenous territory. In this way, the government relieved itself of its responsibility to guarantee the integrity of the indigenous people and left them fully at the discretion and power of the oil multinational. In complete contempt of the stipulations of the environmental licence, Oxy began exploration work within the U'wa territory around communities whose lands were not titled as a reserve. This act was denounced to the relevant government bodies (Ministries of the Interior and Environment) but it was not possible to stop the company. They had to resort to publicly complaining and enforcing national and international pressure before Occidental suspended its work in the U'wa territory.

Legal actions were commenced through the intermediary of the Ombudsman in order to defend the rights of the U'wa people, using a protection action which was resolved by the Constitutional Court in favour of the U'wa people in February 1997. Alongside this, an action nullifying the environmental licence was brought which was settled negatively by the State Council one month after the decision of the Constitutional Court. Given that there were now two opposing decisions from the two highest law courts in the country, it was necessary to resort to the international authorities. The case is currently being studied by the Inter-American Commission for Human Rights.

During this period, the U'wa people were subjected to heavy pressure on the part of the oil company and national government, who were attempting to split their unity and strength in the defence of their territory and their constitutional right to integrity by any means.

The government was attempting, by any means, to convince the U'wa of the advantages oil exploration could entail for them. At the same time, the leaders and organisations gave as an example the disaster experienced by their Macahuane neighbours in the Department of Arauca, where Caño Limón was being exploited: cultural disintegration, misery, alcoholism, prostitution. But neither the government nor the multinational have managed to crush the U'wa people.

Recently, the National Indigenous Organisation of Colombia - ONIC - denounced the fact that a new environmental licence was being processed in order to drill in U'wa territory. The Oxycol Company informed the Ministry of the Environment that "it has been possible to establish with certainty that there does not exist the presence of indigenous or black communities around the site of the well, nor within the area of interest to the drilling, nor in areas of direct or indirect influence". This information was corroborated by the Department of Indigenous Affairs of the Ministry of the Interior, who told the Ministry of the Environment that the area affected by the exploration project of Occidental de Colombia "did not involve indigenous peoples". This statement was issued despite the fact that the institution knew that the project would directly affect the area of the Unified U'wa Reservation that was currently being processed with the Agrarian Reform Institute (INCORA), and furthermore that it would be carried out in the traditional areas used by the communities of Cobaría and Aguablanca.

The strategy the government seems to be following in order to guarantee oil exploitation in this area is one of refusing to recognise the U'wa people's ownership of its territory. The majority of the U'wa Territory is not titled and only two small parts are legally protected: the Cobaría Reserve and the Aguablanca Reserve. Since 1993 the communities have been requesting INCORA to title their territory in a reservation which would unite the Cobaría Reserve with that of Aguablanca, as well as the area owned by the communities but for which they have no legal title. The procedure for establishment of this reservation has been continually fraught with difficulties. The legal process was commenced in 1994; the file was subsequently mysteriously lost within INCORA and the process put on hold for a year; only at the end of 1995 did the file appear once more, after which the Supreme Court of Justice denied for a second time the protection action put forward by the Ombudsman on behalf of the indigenous people.

It was possible to carry out studies during the first half of 1996. Once their results were presented, along with a recommendation to establish the Reservation according to the boundaries drawn up by the communities, INCORA argued there was a lack of funds for the purchase of the land required for its establishment. At the end of 1997, in contradiction to the communities' express desire to have only one property title, INCORA converted the Aguablanca Reserve into a Reservation. With this, the U'wa Territory remained legally divided and incomplete and there are already new pressures dividing the unity of the U'wa people, with the argument that each reservation should have a different authority. The communities know full well what

this means and have requested implementation of this resolution to be suspended until there has been due consultation with the communities.

New arguments have been successively presented to justify the lack of titling of the U'wa Territory, but deep down the only issue explaining the apathy of INCORA and the national government is the prospect of oil exploitation in this territory, which they believe will be more difficult if the U'wa people's ownership is legalised.

Pressure from armed groups has also reached the U'wa Territory. In February of this year, three North American activists who were supporting the U'wa people's cause were murdered. This triple assassination was committed by a front of the Revolutionary Armed Forces of Colombia - the FARC - who operate in the region. To date, this guerrilla group has given no reasonable explanation for its action. The North American activists were promoting actions of solidarity and defence of the rights of the U'wa people in the United States, including actions aimed at making the North American multinational stop exploitation of the U'wa territory. The organisations which the three deceased North Americans belonged to have continued this fight and at the last shareholders meeting of the oil company they held U'wa support meetings, managing to get 13% of the shareholders to vote in favour of the company's withdrawal.

Nobody knows how long the U'wa people can resist this onslaught caused by interest in the oil on its territory. But it is clear that the national government is ready to sacrifice this people - and others - in favour of oil exploitation.

ECUADOR

1998 was considered to be a year of great significance for the indigenous movement in Ecuador due to the level of consolidation gained following the crisis caused by the divide-and-rule attempts of ex-President Abdalá Bucaram and due to the fact that they gained general recognition as one of the major social forces to be taken into account in the process of modernisation of Ecuadorian society.

The degree of maturity and political independence achieved by the national indigenous movement was ever more evident during 1998. Indigenous groups have traditionally been represented by parties of the Left and their ethnic interests subordinated to these parties' class concepts; indigenous people had participated in the electoral process under this premise and this representation, relying on other ideologies, and their presence as real players in the

destiny of the nation was unheard of. With the formation of the Pachakutick Movement for Plurinational Unity in 1996, indigenous people made a break with their previous electoral policy and erupted, with unusual strength, onto the unclear national political scene.

The achievement of the Constituent Assembly to draw up the New Constitution represented a triumph for the policy outlined by the leadership of the indigenous movement (particularly the sectors linked to CONAIE - the Confederation of Indigenous Nationalities of Ecuador). The positive results achieved within the scope of the constitution demonstrated the validity of a new form of political organisation characterised by dialogue and a search for consensus amongst broad political sectors.

This new coordinated attitude on the part of the indigenous movement, aimed at giving momentum to their demands, had as its principle result the recognition of the pluricultural and multi-ethnic nature of the State, conferring on these nationalities and peoples the status of legal subjects with collective rights. This recognition within the New Constitution, approved in August 1998, represents a milestone in the Ecuadorian indigenous movement's struggle since, in addition to sustaining the process of building a Plurinational State, it has profoundly modified the priorities of the indigenous organisations' political platform.

Of equal importance for the interests of the indigenous movement was the ratification of ILO's Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries by the National Congress in May 1998, which - amongst other things - legally strengthens the defence of indigenous territories and of the natural resources existing within them.

The weight gained by the indigenous movement has also been demonstrated by the importance the government now gives to its relationship with CONAIE. At the end of the year, after a tense situation caused by the conflict between the indigenous people of the Amazon and the petrol companies, the government created the so-called National Indigenous Forum of Reconciliation for Sustainable Development (Foro Nacional Indígena de Concertación para el Desarrollo Sustentable) as a space in which to consider and define policies appropriate to the needs of indigenous peoples. Together with this forum there is a proposal for the creation of an Indigenous Fund, which aims to channel resources into the implementation of development proposals.

However, over and above the existence of this favourable context, there are actions and situations which are shaping a scenario of future conflict within the indigenous movement at a national level, and which tend to make the political and organisational differences between the regional representatives

of CONAIE more acute. Divergences within the indigenous movement have arisen because of a process of redefinition of its forms of representation. In line with the tendency established by the New Constitution, the classical type of representation - which is of a regional-trade union nature - must be replaced by representation of peoples and nationalities. The Ecuadorian indigenous movement is currently immersed in this redefinition in order to bring itself into line with the prescriptions of the Constitution.

The Economic Crisis

The overall political situation in 1998 was dominated by a change in government. Following the crisis caused by the fall of Bucar(m and the interim government of Alarc(n, the people put their hopes in the appointment of a new government. The triumph of Jamil Mahuad (Popular Democratic Party), with open support from the PSC (Social Christian Party), gave the impression of having opened up a new chapter in Ecuadorian politics, characterised by the search for consensus amongst the national political class.

However, given the gravity of the economic crisis, the response of the government and dominant sectors has been neither new nor encouraging; the classic recipe of neo-liberal structural adjustment policies has prevailed: a reduction in the size of the State; modernisation, understood as the hegemony of the market; minimisation of social expenditure; "tightening the belt" for the poorest sectors.

The situation of the national economy at the end of 1998 was not at all encouraging and, furthermore, the macro-economic indicators were deteriorating.

The immediate causes of this situation are linked to the losses suffered by the impact of the El Niño phenomenon (calculated at around 3 thousand million dollars) and, above all, to the dramatic fall in oil prices (from US\$14 in December 1997 to US\$6 in December 1998).

Although the economic situation is deteriorating considerably, one of the greatest achievements of the government has been the signing of a Peace Agreement with Peru in October 1998. Given this decision on the part of Mahuad, public opinion in general has been favourable towards him and has welcomed with approval the results of this process, above all because of the hope that signing a peace agreement will free up resources to be invested in the socio-economic development of the two peoples.

The Bi-national Plan for Development of Indigenous Peoples

The Peace Agreement signed with Peru commits an amount of US\$3,000 million for development of the border zone by through the Agreement Guarantors (USA, Brazil, Chile and Argentina), multilateral financial organisations (CAF and IDB, amongst others) and the private sector. The development plan for the zone has been drawn up without considering the interests, and without including the collaboration, of the indigenous peoples of the zone. In order to prevent intervention which would have negative consequences for the environment and natural resources, would cause colonisation of lands and have cultural, social and economic impacts, the Shuar, Achuar, Aguaruna and Huambisa peoples from both sides of the Ecuador-Peru border have held two bi-national meetings, and more meetings are planned to consolidate the peace and to stimulate a bi-national plan for integrated and sustainable development. This Plan for Life of the Shuar, Achuar, Aguaruna and Huambisa Indigenous Peoples has been drawn up under the coordination of COICA (the Coordinating Body of the Indigenous Organisations of the Amazon Basin), AIDSESEP from Peru and CONFENIAE from Ecuador, and in collaboration with cooperation agencies, multilateral funders and governments. According to the indigenous representatives, the plan expresses a new vision for the future development of the Amazonian region, a future in which "development" no longer signifies the imposition of foreign and unsustainable projects and systems but development based on respect for nature and the right of indigenous people to participate as collective subjects in their own destiny, in accordance with their culture, socio-economic organisation, values, knowledge and potentialities.

The Struggle for Territory continues

The territorial situation in the Ecuadorian Amazon continues to be uncertain, in spite of significant progress in comparison with other countries of the region. Indigenous organisations in Ecuador have traditionally fought for recognition of their territories. Significant progress was made in this process up until 1993, year in which the greatest number of awards were granted.

The problem which organisations will come up against in the future is growing pressure on the land for internal reasons (demographic growth) and because of the presence of oil companies and the process of colonisation which oil exploitation causes.

One problem which has been dragging on since the days of these awards is the delivery of individual titles which the State undertook, due to the fact that the indigenous peoples were treated as settlers. This form of land award

has affected the integrity of ethnic territory due to a process of subdivision of plots and/or sale to outsiders.

The situation of land tenure has furthermore not been resolved in various communities and organisations. The Huaorani, in spite of having been given their territory, are faced with problems of settlers and other indigenous peoples, due to a lack of clarity of the boundaries. There are also innumerable Shuar, Quichua and Achuar communities which are still not the beneficiaries of property titles.



Shuar, Pastaza Province, Ecuador (Foto: Rolf Blomberg).

The Theft of Knowledge

Another threat encountered by indigenous peoples on their territories is the use and appropriation of traditional knowledge and genetic resources on the part of foreigners, without the consent or involvement of indigenous peoples in access, research or profits.

Since 1996, Ecuadorian indigenous organisations have protested against the US patenting of a variety of *Ayahwasca* - a liana used by many Amazonian indigenous peoples in their ceremonies. Indigenous people do not agree with the patenting of this plant, which they have known and used in their rites for centuries. This has also been a cause for concern on the part of COICA. COICA thus travelled to Washington in March 1999 to deliver a petition to the US Patent and Trademark Office requesting a re-examination of the patent. Apart from being a theft of their traditional knowledge and showing a lack of respect for the collective rights of indigenous peoples, it appears that the patent does not even comply with the basic rules laid down within this system of intellectual property.

The US Patent and Trademark Office has already given its initial response, accepting the request to re-examine the patent because it considered that significant questions were raised in the plea which raised doubts as to whether the legal requirements for granting the patent were satisfactory.

PERU

Indigenous communities in Peru are going through a particularly delicate period in time. Alongside the incipient opening up of new political space (under outside pressure), there persists an incompatibility between the official development model and the special features of the indigenous model.

With support from the World Bank, the Peruvian government is currently studying a series of project proposals for bio-investment and the development of a stable institutional framework for the harmonisation of programmes with indigenous organisations.

For its part, Congress - which periodically receives indigenous peoples' representatives in its Committees - has just moved forward the proposal submitted several months ago by the national indigenous organisation, AIDSESP, for the establishment of a new Committee dedicated exclusively to indigenous affairs. Two bills renewing indigenist legislation are currently under discussion.

The Ombudsman has also been active, within the communities department, in the diffusion of various indigenous rights and the negotiation of specific demands. One notable activity has been a review of the situation of numerous cases of indigenous people imprisoned - often without trial - for drug related offences. These accusations are usually inconsistent and are used as alibis to guarantee the impunity of those involved. Equally notable has been the intervention of the Ombudsman in the prohibition of the forced "removals" which the Armed Forces have been systematically carrying out and which primarily target the indigenous youth of the Amazonian and Andean zones and human settlements.

Because of the importance of the government's portfolio of development projects, the space for rapprochement opened up by the National Commission for Peace and Border Development should also be emphasised. This may, however, cause problems between the indigenous peoples of the northern border due to the construction of road infrastructure through very vulnerable areas, such as the Kampanquis mountain range for example.

In effect, on 26th October peace negotiations were concluded following the signing of the Peru Ecuador Accord for Border Integration, Development and Good Neighbourliness and the Brasilia Act which includes a proposal for a Binational Fund for Peace and Development along with a series of bilateral cooperation programmes.

The announcement of the construction or refurbishment of penetration roads has had an immediate effect and massive encroachment along the announced roads has already occurred. Such is the case of the Aguarunas de San Ignacio communities, which were invaded by more than 200 settlers in the final months of the year, leading to serious tension and conflict.

The Agreements have nevertheless enabled the indigenous peoples of the border to hold two meetings in which they celebrated the "reunion" of the Aguaruna, Shuar and Achuar indigenous families - divided for 50 years -, in which binational programmes were planned and firm proposals for joint action were adopted to ensure that the results of the Agreements would not lead to large numbers of settlers arriving within the framework of the colonial theory of "living borders".

However, perhaps the most noteworthy event within this new panorama is the overall consultation of indigenous communities carried out by the government in meetings in both the Andean and Amazonian zones. This consultation, supported by the World Bank, has revolved around the theme of development. For 1999 there exists an official commitment on the part of government, business and indigenous representatives to sit down at the negotiat-

ing table and debate the indigenous proposal for regulation of oil operations on indigenous territories. And an equal commitment exists to begin a concerted process of formulating an Indigenous Law to update the content of the law of 1974.

The World Bank is seeking to apply the "Operational Directive on Indigenous Peoples (1991)" and within this framework is supporting official programmes aimed at the indigenous population.

It should be noted that the Bank's support is not based on characteristics defined by the indigenous people themselves but takes as its starting point the concept that there can be no development in conditions of extreme poverty and that in Peru a high proportion of the poor are indigenous.

Alongside these new areas of rapprochement, the outlook with regard to territorial security and development policies on indigenous lands is very different.

In the Amazon, latent threats continue from the system of privatisation of free lands and the establishment of auctionable plots. Indigenous peoples can be found on many of these, including some uncontacted peoples (or those voluntarily isolated).

Forestry legislation, with its proposals reformulated time and again, has not yet decided whether to recognise the lamentable situation of unbridled deforestation in the Amazon, along with the consequent rationalisation of the process - which would involve regional closed seasons such as those unsuccessfully established in some of the tributary basins of the river Ucayali - or the deceptive "modernisation" of a system which has its roots in the plundering of resources and the antisocial system of servitude of indigenous community members. The mistaken interpretations of the Convention on Tropical Woods - heralded as some kind of forestry closed season - together with the technical difficulties and the burden of dealing with new management contracts has opened up an intense and accelerated process of exploitation of community forestry resources by illegal practices, including the endorsement of all the fiscal, administrative or penal responsibilities of the communities. It is worth mentioning that there already exist communities labelled as severe tax evaders on the basis of a trade in invoices made out in their names by the timber barons.

Although some agricultural authorities have tried to control these excesses, in general, sectoral authorities have facilitated this dispossession. In the case of the central forest region, the Regional Director has made the situation all the more conflictive, even denying the Asháninka communities their titles which were returned after the period of violence. This has been in order to

facilitate the work of timber companies whose contracts are often undertaken despite the required technical conditions not being fulfilled in some way. Those villages which were sacrificed to achieve the process of pacification of the country - from which the government has benefited so much in terms of image - are thus now relegated to a situation verging on genocide in order to benefit business interests.



Indigenous of Satipo, Peru (Foto: Alejandro Parellada).

There still exist conflicts in the aforementioned central forest region due to the residual violence and cocaine activity, which largely affects the human rights of the indigenous settlers along the rivers Apurimac and Ene.

Alongside these difficulties, more than 27 indigenous peoples are affected by the presence of oil companies on their territories, work which is largely at an exploratory stage. Views with respect to this are varied. Perhaps the most controversial position is that of the Achuar people in Alto Pastaza, whose

elders do not consider the appearance of oil companies as compatible with their future as a people. In general, the position of organisations affiliated to AIDSESEP is, in the main, one of territorial protection when faced with invasions which are considered to be dangerous, focussing their attention on the problems rather than the distribution of benefits, a position which the North American State Department considers characteristic of other minority organisations.

In spite of some hostile regional attitudes to the titling of indigenous lands, the process actively continues in Loreto and Ucayali. CORPI, a regional umbrella for 11 federations affiliated to AIDSESEP, has obtained 78 titles with support from the IWGIA project. ORAI, another regional umbrella of AIDSESEP, also has active titling programmes.

However, most relevant in this aspect is the process of negotiation whose aim is to achieve the declaration of a number of indigenous Communal Reserves such as those of Sira and Vilcabamba (in the central forest), the Amarakaere (in the southern forest) or the Campanquis and the Cenepa (in the northern forest). These Reserves, within the national system of Protected Areas, are essential components of particular indigenous territories which, as areas of multi-communal use have not been considered within the titling processes, given that Peruvian law has not incorporated the concept of territory with reference to a people but only with reference to its units of communal settlement. These Reserves are expected to be declared during the first months of 1999 in what all the organisations affected are confident will be an historic step for Peru in respect of its native peoples.

On the other hand, the new Law of Promotion of Investments in the Amazon is giving rise to a complex panorama. Together with some positive advances - relating largely to the reduction of some operating costs which will possibly benefit the communities - the Law once again proposes the Amazon as a handy resource with which to solve economic crises. Without assessing the true potential of Amazonian development - whose true comparative advantage lies in its biological and cultural diversity - it offers the forest as a tax paradise in which coastal companies can invest profitably money which should have been paid to the State. The communities, and many analysts, do not see the Law as a rational and sustainable proposal for regional development adapted to the special features of the Amazon, but a clever way of reducing tax payments. What seems sure is that the companies will invest in ongoing areas of commercial activity (such as mining and wood) and not in high risk areas or those demanding creativity or long term investment.

One event which again rocked the indigenous panorama during 1998 was the holding of municipal elections. The general conclusion of the elections was that an emerging regionalism is becoming stronger and that this is reacting against the government's centralist policies and against the clear harassment of local governments and the difficulties being put in the way of establishing the decentralised regime provided for in the Constitution.

Demands for decentralisation can also be seen within the provinces and districts. In many parts of the Andean zone, the peasant communities have undertaken a policy of rapprochement with local government and the number of mayors and communal councillors has grown significantly, as has the number of "smaller centres of population" (mini-councils). It is through these initiatives that it is hoped to access public funds without having to approach the paternalistic organisations through which - according to political criteria - the State distributes social expenditure.

In the Amazon the indigenous movement, headed by AIDSESEP, submitted a series of independent lists with patchy success. In any case, they won one provincial municipality and nine districts, as well as numerous councillors in other municipalities, which indicates a significant regional electoral force. This was in spite of frequent accusations of fraud, the most notable case of which was that of the Manseriche municipality, a district of the river Marañón in Alto Amazonas, where the Aguaruna community members gained an overwhelming victory. Manipulating the original figures, the jury declared the official party the winner and would not accept a comparison with those taken away by the military, as established by law, on the part of the electoral committees. The indigenous and mestizo population of the district organised one of the most conflictual acts of protest of the year, which required the persuasive intervention of the Ombudsman.

With regard to the Andean zone, the Special Land Titling Project (PETT) has been promoting individual titling within the communities under the protection of Law No. 26505 with a clear interest in splitting up the native communities. The demands for the creation of implementing groups within the social assistance programmes, together with a continuing and unnecessary state of emergency in the provinces of greatest organisational activity - those which had had to overcome the violence of previous years on their own - are indicative not only of this divisive tendency which simply ignores the pre-eminence of basic Andean organisation but also of the way in which they want to impose a new individual peasant farmer mentality.

With regard to the coastal communities, Congress approved Law No. 26845, the Law of Land Titling of the Peasant Communities of the Coast, the

clearest example of the State's policy of putting an end to associative property on the coast, because of the high profitability of export crops. The title of the law is deceptive as it implies something very different from what in reality is being suggested, which is not to title communities but to divide them and encourage the purchase of their land by third parties.

The facilities which the law grants for the liquidation and individualisation of the lands of the coastal communities are exceptional. The aforementioned Land Law already established differences. Thus whilst the "partners" (the ex-community members) of the peasant and native communities of the mountain and forest require the positive vote of 75% of the assembly to sell, mortgage or carry out any act on communal lands, those of the coastal communities may do the same with only a 50% approval of that body. The Law of Peasant Coastal Communities, however, reduces this percentage even more, by dealing with third parties who have been in possession of the land for a period of no less than two years, and in whose case only a favourable vote of 30% of the assembly is required (Art. 7).

This figure relating to third party owners of communal lands is particularly serious as it could include invaders and usurpers of lands who, thanks to this law and to the influence they may have on parts of the assembly, will now have carte blanche with which to legalise their situation. And what is more, even without counting on the support of any person in the assembly, the non-community owner ("third party") may negotiate a declaration of legal abandonment of communal lands with the Ministry of Agriculture in relation to lands he is occupying, the only condition being that they should be "*...dedicated to agricultural activity of an economic, public, peaceful nature, uninterrupted for a period of no less than two (02) years at the date of presentation of the request for abandonment...*" (Art. 10).

It is clear that the government has established all the necessary mechanisms to put an end to associative property on the coast and to enable the free market of lands and their reconcentration in the hands of private capital.

The change in legal framework regarding communal land tenure also holds a message of a psychological nature: the offer (illusory) of progress which will give the indigenous people their insertion into the free market. In practice, for the majority of them "progress" is reduced to the small amount of money they receive for the rental or sale of their land. They will subsequently remain unprotected because the labour supply (which instead of increasing will reduce) will not be able to fulfil their needs for work and income.

However, as is happening with Law No. 26505 and the proposals for liberating the market for community lands, the harassment of communities is

having the opposite effect of strengthening traditional feeling, reviving organisations and encouraging meetings which are new for the Peruvian social movement.

Within this last area of events, of great importance is the establishment of the Permanent Conference of Indigenous Peoples of Peru, a body which unites, under a platform of indigenous demands, AIDSESEP (Interethnic Association of the Peruvian Forest), CONAP (Confederation of Amazonian Nationalities of Peru), the National Agrarian Federation (CAN), the Peasant Confederation of Peru (CCP), the National Coordinating Body of Peasant and Indigenous Communities of Peru (ADECAP) and the National Union of Aymara Communities (UNCA), along with a series of other departmental federations within the Andean region.

BOLIVIA

In August 1997, Bolivia gained a new government. As always, a change in regime implies a slow re-accommodation of forces from top to bottom. Ministries and ministers change; then national, regional and sectoral authorities, and so on. The slow pace of this means that it takes several months for changes and provisions to reach their target. Things have been no different for the indigenous movement.

1998 began with the slow appearance of disdain on the part of the government but ended with the strengthening of the movement's organisation and unity. As soon as General Bánzer took over the Presidency of the Republic, the Confederation of Indigenous Peoples of Bolivia (CIDOB) requested an audience with him in order to put forward their points of view, proposals and demands. They waited several months for a response which, even out of mere courtesy, did not arrive.

Territory and Indigenous Struggles

The most significant indigenous demand continues to be the demand for the right to territories. Around thirty procedures are underway, which have been waiting some time to continue the technical and legal requirements established by the government itself in order to grant property titles to those indigenous peoples requesting them.

The magnitude and complexity of the steps to be fulfilled in this stage of technical and legal requirements is so big that enormous costs are involved, which central government is not prepared to pay. Much less the indigenous

organisations. One way out, which is working for the moment, is the direct support of Danish State Cooperation (Danida). Some territories in the department of Santa Cruz have been prioritised for completion within a short period of time. However, in spite of external support and other efforts, the issue is moving forward extremely slowly.

On the other hand, new demands are taking shape on the part of those peoples gaining property titles. These relate to management, sectoral (wildlife, water, forests etc.) and integrated plans. This requires greater knowledge of the characteristics of the territories and natural resources. Progress in a project of this type should be mentioned which, from CIDOB's headquarters, is promoting research in communities on natural resources and indigenous peoples' relationship with them.

Natural Resources

The special thing about the project is the extent of community participation throughout the whole process: it is the community members or their organisations who decide what research to carry out and with whom (an academically experienced co-researcher). They appoint an indigenous co-researcher who, by actively participating in the research, learns appropriate methods and techniques. The research is supervised and supported so that it is of an acceptable scientific value. This involves other issues, such as intellectual property rights, protection of the biodiversity and following up the impact of other projects affecting areas populated by indigenous people. There are also efforts and proposals being worked on from an indigenous perspective with regard to these.

Some peoples have begun drawing up sectoral management plans; this is an experience which outlines concerns for the future. Others are now more involved in the research and preparation stages. Relations with central government have not substantially improved throughout the year. Nevertheless, some points of rapprochement have been perceived with regard to specific offices and authorities, as well as specific issues.

The political panorama and a lack of dexterity in adapting to the new situation have led the indigenous Confederation into a period of political and institutional weakening which would only come to an end with the realisation of the national Grand Assembly of indigenous peoples (GANPI 98), the highest decision-making body of indigenous peoples.

Bolivia is considered to be a country rich in hydrocarbons. It is thought that there is the possibility of extracting oil or gas over an area of 53,500,000

hectares, largely in a strip along the foot of the mountains which stretch from the city of Santa Cruz to the border with Argentina.

In 1997 a law of hydrocarbons was approved, which initiated a new process of tenders for oil and gas exploration and exploitation concessions. During that year, licences were granted for 4 million hectares and in 1998 concessions were granted for six blocks covering a total area of 1,430,000 hectares.

Rights of indigenous peoples in relation to the hydrocarbons legislation are poor and given that many of the concessions are on indigenous territories, serious conflicts are anticipated.

According to current legislation, oil activity must take environmental protection into consideration. However, the legal measures are often not complied with as in the case of the municipality of Villa Montes. There, an abandoned and open oil well was recently discovered which was continuing to emit oily substances and gases, contaminating the stream which flows into the river Pilcomayo and threatening the existence of the indigenous people living in the area.

Another issue which has had a great deal of importance has been the construction of the gas pipeline from Santa Cruz to Brazil, with funding from the World Bank. It passes through the territories of the Guaraní, Chiquitano and Ayoreo peoples of the Bolivian Chako. After long negotiations, Petrogasbol - the construction company, agreed to compensation of 3.7 million dollars for the indigenous people, which the indigenous organisations are going to use to implement their territorial demands, take care of natural resource management and create a trusteeship fund for the Kaa-Iya del Izozog national park. This financial contribution is undoubtedly important for the indigenous people but they still do not know exactly what the consequences of the construction of the gas pipeline will be. The negative effects of the area being cleared are already beginning to be noted in a reduction of flora and fauna and it is feared that the opening up of roads will bring with it a new wave of settlers.

New Lines, New leadership

GANPI 98 was held during the second week of November in Camiri, a southern town whose history is linked to the exploitation of oil and which is the headquarters of the Guaraní people's organisation.

The movement's strategic lines were defined during this event: clarification of the fight for indigenously administered territories, that is, the broader perspective beyond achievement of legal land titles: the management of re-

sources, and of their own development. It was also agreed to strengthen the fight to preserve the autonomy of indigenous organisation.

GANPI 98 elected a new leadership for the Confederation. It created two new secretariats: Gender and Environment - Natural Resources. Nicolás Montero, a Guaraní, was elected the new President of CIDOB for the period 1999-2002, and Marcial Fabricano, a Moxeño, was elected Vice-President. The leadership team was completed by nine other people, representing all the geographic regions affiliated to CIDOB.

The fact that GANPI, being the highest body of the indigenous movement, was held with three hundred delegates from 34 different ethnic groups coming from 6 of the 9 departments in the country, says much for its stability and representativeness.

BRAZIL

During 1998, FUNAI (National Foundation of the Indians), the federal body responsible for providing assistance to the indigenous people of Brazil was, surprisingly, not the object of the usual accusations of inefficiency, omission and incompetence made by the indigenous organisations and all sectors of civil society which support indigenous issues. It cannot, however, be said that the government of Fernando Henrique Cardoso has managed to outline an indigenist policy aimed at these very different segments of the Brazilian population or that he has presented serious and effective solutions which will guarantee indigenous peoples a decent existence within Brazilian society. This "lull" clearly reflects the strategy adopted by the former president of FUNAI, Sullivan Silvestre, of distributing material benefits amongst those indigenous leaders most active in the corridors of the indigenist organisation, as well as establishing an intense agenda of touring the different Indigenous Lands, visiting communities and presenting himself as the "father of the Indians". There is no doubt that it was an effective way of keeping the leaders away from Brasilia and of increasing the commissioning of administrative teams in the "travelling army" of his entourage.

It thus becomes clear that indigenous issues continue to hold a low priority for the current government. In compensation, there has been an increase in the rate of indigenous lands demarcated, although this is part of a programme funded by the PPG-7 (Pilot Programme to Conserve the Americas) and channelled through GTZ, which established an office to support and supervise the work of legal recognition of these lands within FUNAI's head-

quarters. Furthermore, health care services deteriorated whilst those of education were maintained at a level far below the explosive level of demand.

Indigenous Lands

As previously mentioned, the Pilot Programme for the Protection of the Brazilian Tropical Rain Forests of the PPG-7 took on an important role in the process of recognition of indigenous lands, acting almost as a mechanism for pressurising the indigenist body which, through the Programme for the Protection of the Indigenous Lands of the Amazon (PPTAL), received funding to carry out studies, identify, demarcate and protect Indigenous Lands. Below is a summary of the main achievements of 1998:

Fourty-seven Indigenous Lands authorised

During 1998 the President of the Republic promulgated decrees authorising 47 Indigenous Lands, a total of 15,711,186 hectares. Thirty one authorisations were in the Legal Amazon and 16 in other states of the federation. These authorisations are very significant as a whole, as they finalise the recognition of Indigenous Lands which indigenous people have been claiming for more than ten years. Amongst these the following should be mentioned:

- The five lands of Alto y Medio Río Negro (19,610,539 hectares), which had already been recognised in a fragmented form by the Sarney government in 1989 within the philosophy of the Calha Norte Project, which advocated a fragmentation of indigenous lands in the frontier areas.
- The authorisation of the Indigenous Lands of Batovi and Wavi, which extend the Xingu Indigenous Park. This has been a fight of the *Waurá* and *Suyá* peoples with a view to protecting the rivers which are contaminated by farming activities around the borders of the Indigenous Park. The costs of demarcation were covered by BIRD/Prodeagro.
- A demarcation and authorisation of the Indigenous Parks of Tumucumaque (PA) and Araguaia (MT/GO), created in the 1960s and 1970s without ever have been demarcated. These two lands were demarcated with funding from PPTAL.
- The Maraiwatsede Indigenous Land, of the *Xavantes* people (MT), who finally achieved authorisation of the lands they were expelled from in the 1960s when the *Suyá* Missu estate was established, at a time when the federal government was granting big tax incentives for the occupation of the Amazon. This land was sold to other groups and, finally, fell

under the control of the Italian company, ENI. The demarcation was carried out with funding from BIRD/Prodeagro.

Twenty-three Indigenous Lands declared permanent possessions

Through 23 decisions, the Minister of Justice declared 13,229,296 hectares of land to be permanent indigenous possessions. These are 16 Indigenous Lands in the Legal Amazon and seven in other states. This represents a big step forward in the recognition of Indigenous Lands on the part of the federal government, caused by strong pressure on the part of indigenous people and their allies. The following should be highlighted:

- The declaration of permanent indigenous possession made by the Ministry of Justice regarding *Indigenous Land Vale do Javari* (8,457,000 hectares). Approximately 4,000 indigenous people live on this land and FUNAI has confirmed the existence of at least three still uncontacted groups. It is threatened by constant invasion from the lumber companies, with whom conflicts are frequent. Recognition of this land as a continuous area has taken years of campaigning. The demarcation is planned for 1999 with PPTAL funding.
- *Indigenous Land Raposa Serra do Sol*, in Roraima, finally declared a permanent indigenous possession after years of awaiting recognition of this land as a continuous area of more than 1,678,800 hectares by the federal government. This ministerial act triggered a strong reaction on the part of landowners within the Indigenous Land who, along with local politicians, are pressurising the federal government to reject its decision. The state government has submitted a lawsuit to the High Court Justice to reverse the ruling.
- The declaration of permanent indigenous possession of *Indigenous Land Munduruku*, previously demarcated with an area of 948,541 hectares and extended to 1,340,360 hectares. This extension was an historic demand of the indigenous people and was the result of an intense campaign which came up against a great deal of resistance from the local politicians and mining interests; there exist 442 titles for mineral exploitation in the area, representing 92% of the subsoil. This Indigenous Land neighbours onto the Garimpeira de Medio Tapajós Reserve. Demarcation of the Munduruku Indigenous Land is also planned for 1999 with PPTAL funding.

Scarcely 16% of the Indigenous Lands in the identification study were concluded and approved by the President of FUNAI.

These studies were brought about via 16 Measures pronounced by the President of FUNAI for publication in the official newspaper and via the approval of the Minister of Justice. They cover 11,188,327 hectares and all these lands are situated in the Legal Amazon. Only a small *Guarani* land of 4,025 hectares, situated in the state of Matto Grosso do Sul, is not in the Legal Amazon.

Technical groups created to identify 34 new Indigenous Lands

Through 21 Decisions, the President of FUNAI created Work Groups to identify 34 new Indigenous Lands and to re-identify other new ones. Of the new identifications, 20 are in the Legal Amazon and 14 in other states.

It is important to note that the Technical Groups were created to identify lands for the *Guarani mbyá* people, who live camped out along the edges of the highways in the southern states of the country and to identify the lands of the *Guarani kaiowá* people from Matto Grosso del Sur.

27 contracts were drawn up between FUNAI and companies which are to carry out the physical demarcation of indigenous lands.

Of these demarcations, 15 are in the Legal Amazon and 12 in other Brazilian states.

More than two dozen administrative acts continued the process of regularisation of farms on 26 Indigenous Lands

Through Five Resolutions of the Comisiones de Sindicatura, the beneficiaries of good faith were recognised on 5 indigenous lands, three of which were in the Legal Amazon. Another 14 Decisions of the President of FUNAI created a Technical Group to carry out reliefs of farms on 14 lands, six of which are in the Amazon. Another eight Decisions of the President of FUNAI created Technical Commissions for the payment of compensation to beneficiaries of Indigenous Lands, five of them in the Amazon.

It is essential to realise that, for the physical survival of indigenous peoples, the mere formal recognition of indigenous lands does not necessarily imply the protection of those territories. The lumber companies, "garimpeiros" (gold prospectors) and mining companies continue to exert economic pressure, and government projects for the construction of roads, power lines, gas pipes and hydroelectric dams within indigenous lands remain high on the agenda of

modernisation of the country. It is estimated that 85% of Brazil's indigenous lands suffer from some kind of invasion.

Indigenist Policy

The demarcation of indigenous territories brings about new challenges for their peoples, above all with regard to respect for the protection and use of natural resources and the need to survive on a confined territory. Given this situation however, FUNAI is systematically taking a position in opposition to that of the projects which guarantee indigenous autonomy on the basis of sustainable development projects, and which are proposed by indigenous people themselves or by aid organisations. The best example of this was the case of the *Waiapi* people in 1997. Throughout 1998 there was no indication on the part of the President of FUNAI, Sullivan Silvestre - the fourth in the Fernando Henrique Cardoso government - of a fight against the informal yet ingrained power structures within the institution which are sustained by segments of society with no interest in implementing viable projects for the future for indigenous societies. The federal government's lack of political will to face up to challenges relevant to the indigenous issue became clear when it confronted, with difficulty, solutions for the total restructuring of a body which for more than ten years had revealed its total inadequacy by implementing antiquated assistential and paternalistic policies. With regard to dialogue with indigenous organisations, NGOs, anthropologists and researchers in general, FUNAI maintained its corporatist and authoritarian position in the face of any dialogue which they believed could have an impact as a possible model of cooperation or society.

Health

Although there are no general statistics available, there are strong signs that the health of indigenous peoples deteriorated throughout 1998, as contact with other sectors of Brazilian society intensified. Indigenous health care continues to be scarce in all indigenous areas of the country, aggravated by a lack of coordination between the organisms responsible for implementing policies in the sector. The National Health Foundation, linked to the Ministry of Health, maintains coordination and is responsible for the prevention of illnesses amongst the indigenous peoples whilst it is FUNAI's role to deal with direct patient care. Meanwhile, no sector of the government manages to maintain health professionals in indigenous areas and does not want to train the government employees available. The "Casas do Indio" ("Indian Houses"), linked to FUNAI, which house indigenous patients being treated in the cities,

do not have the resources even to feed those accompanying the patients, thus causing risks to and contamination of those people temporarily in their care.

To illustrate the level of need in this area, in one region of the upper river Negro, in the Amazon, a frightening number of trachoma carriers were detected, an illness directly associated with poverty which causes blindness and which was considered to be extinct in the country.

Within this picture, even the rates of malaria, influenza, tuberculosis, malnutrition and diarrhoea increased, all common illnesses in the country's indigenous areas. Some communities are confronting cases of AIDS. The Ministry of Health, which maintains a national programme of prevention of sexually transmissible diseases and AIDS, identified more than 30 cases on indigenous lands. Some communities are more vulnerable than others to this illness due to their location on economic and political borders, coming into close contact with non-indigenous people. Although information and prevention work is being carried out, the Ministry of Health does not have a policy of assistance to the sick nor of preventive immunisation of the most vulnerable populations. Official recommendations, drawn up during the 1st and 2nd National Conferences on Indigenous Health, were never implemented by the government.

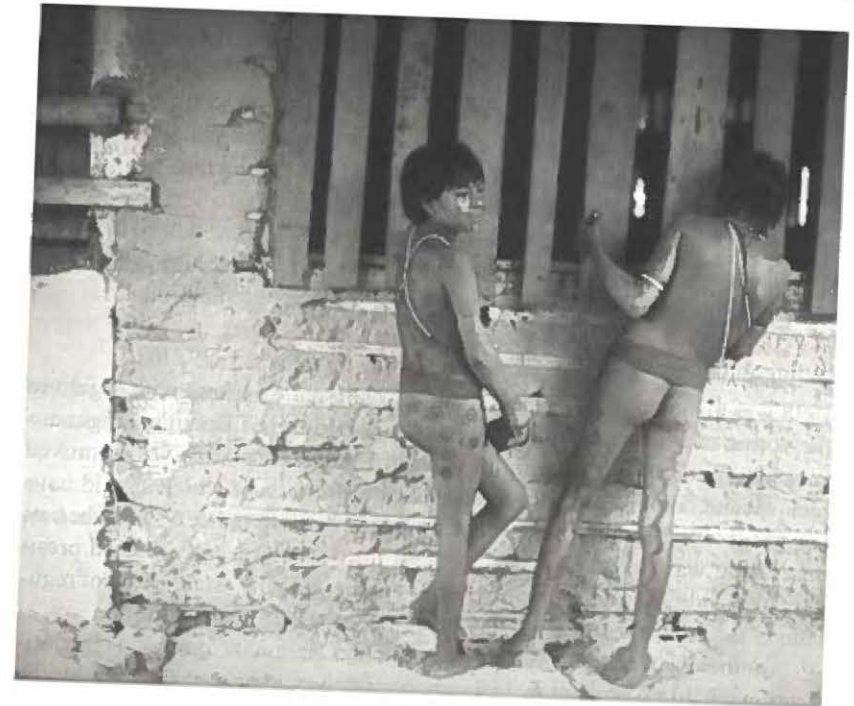
Only at the end of 1998 was the federal government's intention to unify indigenous health care under one body announced, decentralising the work through indigenous health districts. It began to circulate a proposal for discussion in different fora. It anticipates the creation of health districts which would have an ethnic conformation and a logistic action, they would be run by parallel district councils (indigenous and non-indigenous) and would be linked to a national coordination within the National Health Foundation (FNS) of the Ministry of Health. According to this proposal, the FUNAI technicians would be transferred to the FNS and the indigenous organisation would lose its powers of provision of health care to indigenous people.

Education

Since educational assistance to indigenous people became the concern of the Ministry of Education (MEC) in 1991, a great deal of progress has been made. In 1998, the MEC launched a basic document of specific curricular orientations for indigenous schools covering the whole country. This document, entitled a "Referential National Curriculum for Indigenous Schools", was drawn up with the participation of a significant number of indigenous specialists and teachers. The proposal is that this should serve as a reference for the elaboration of each indigenous community's own individual programme proposals

throughout the country and should support training initiatives for indigenous teachers.

Apart from the proposals in this document, the MEC has supported some training courses for indigenous teachers and the publication of teaching materials in indigenous languages, prepared by indigenous support organisations, and has also carried out a review of resources so that the State Education Secretariats could develop training programmes for indigenous teachers.



Yanomami boys, Brazil (Foto: Alejandro Parellada).

In spite of the fact that the principles of a national policy for indigenous school education are now formulated, the financial resources made available by the government are not sufficient for the creation of new training programmes for indigenous teachers and do not reach the real indigenous schools. Neither is there any specific programme of differential attention for these schools in terms of educational materials, meals or infrastructure. The situation is aggravated by the fact that the government is not aware of the number

of students, teachers and indigenous schools existing in the country and by the fact that actions of educational assistance are decentralised through the different State Secretariats for Education, there being no federal coordination.

This policy of decentralisation in the area of education, made effective by the federal government, means that indigenous people remain at the mercy of state and municipal policies, which are often dominated by interests contrary to those of indigenous people. In general, the technicians of the State Education Secretariats do not have sufficient professional qualifications to deal with the indigenous issue. There was no progress in terms of speeding up the transfer of resources direct to indigenous schools, although the government's positive signals regarding their good intentions in relation to improving the quality of indigenous school education resulted in a greater mobilisation of the organisation of indigenous teachers with regard to their rights.

Indigenous communities still do not have an educational system which respects their traditional learning and knowledge, which values their languages and which permits them to have access to universal knowledge.

Indigenous Legislation

1998 was also marked by paralysis in the National Congress with regard to the voting of laws which are important to the future of Brazil's indigenous peoples. The Bill dealing with the Status of Indigenous Societies, approved by a special committee of the Chamber of Deputies and which should have been sent to the Federal Senate, has remained held up (since 1994) when its processing was suspended at the request of the then recently elected president Fernando Henrique Cardoso. This is preventing the establishing of regulations for important mechanisms instituted by the 1998 Constitution.

Another draft bill which is paralysed in the National Congress is the ratification of ILO Convention 169, whose text was approved in 1993 by the Chamber of Deputies, but a political manoeuvre on the part of a government Senator suspended the continuation of its processing. Neither did the proposal for establishing regulations for Article 231 of the Federal Constitution, which deals with mining activity on indigenous lands, advance this year. In this specific case, a number of manoeuvres were undertaken to enable approval of a law permitting mining activity within indigenous areas, supported by MPs defending interests contrary to those of the indigenous peoples.

Indigenous Peoples and the Commemoration of 500 Years of Brazil

Various indigenous leaders had already proclaimed themselves in opposition to the 500 year celebrations of the arrival of Europeans on the lands which were to become Brazil. This declaration has, to date, not had any effect on the National Commission for the Discovery, a body of the Ministry of External Affairs which is responsible for the organising of activities celebrating this event. This commission supports the proposal of a private foundation which aims to implement a succession of social and tourist undertakings with a social and environmental connection, in the coastal region of Brazil where the Portuguese boats arrived. Amongst these projects is the construction of a large architectural work - "Memorial to the Encounter" - located right in the Coroa Vermelha Indigenous Land, occupied by more than 1,000 indigenous *Pataxó* and recently demarcated by the federal government. Meanwhile, for the construction of this complex, transfer of the indigenous people out of this area will be necessary, which clearly caused a great deal of debate around this idea. This project illustrates how Brazil has still not managed to find effective mechanisms for coexisting with its native inhabitants and how the place which indigenous people occupy in the future of the country is still uncertain.

Finally, the accelerated emergence of indigenous associations and organisations in Brazil must be emphasised. There are now more than 290 organisations: the majority are of local or ethnic representation but some aspire to have a regional or national scope. They form a response to the general picture of ineffectiveness of the State in dealing with the indigenous issue and are a sign of indigenous vitality in contemporary Brazil.

Figures: Indigenous Peoples in Brazil in 1998

Indigenous Peoples	210
Indigenous Languages	180
Estimated Indigenous Population	290,000
Number of Indigenous Lands	566
Number of Indigenous Organisations	290

PARAGUAY

The struggle of indigenous peoples in Paraguay for the restitution of their ancestral territories and respect for human rights came to a head in 1998 with the *March for Dignity* to the capital of the Republic, organised on 12th October by sixteen communities of the Enxet and Toba Qom peoples with the main theme of return of their lands.

These events were analysed from a number of different perspectives in terms of their scope. For some analysts the march represented just another protest demonstration on the part of one sector of the population, similar to events held by peasants and workers within the overall situation of poverty which is devastating the country.

In the opinion of social and indigenous organisations, and of a wide sector of the general public, it was undoubtedly an historic event for a number of reasons. Firstly due to the massive participation of the communities - approximately three thousand people - who travelled average distances of more than 400 kms from their settlements in the Chaco region to the capital city. Secondly due to the tremendous efforts of the Coordinating Body of Indigenous Leaders of Bajo Chaco (Coordinadora de Líderes Indígenas del Bajo Chaco), which represented unprecedented progress on the part of indigenous leaders and their communities in terms of organisation, strategy and prominence.

The list of demands submitted to the State authorities by indigenous people on this occasion clearly and precisely detailed the lack of government fulfilment of the postulated inserts into the National Constitution and International Treaties, in clear violation of basic legal rights such as the right to life and to their own cultural identity, plus a complete lack of protection of their social and economic rights.

Outlining responses to these demands, the legislature undertook to provide the Paraguayan Institute of Indigenous People (INDI) with a budget sufficient to satisfy territorial demands. For its part, the government showed itself willing to resolve the most important demands within a period of thirty days. However, to date, substantial advances have not been made in this respect. Similarly, the Supreme Court of Justice and the General State Public Prosecutor's Office guaranteed a speedy response to the paralysed legal processes and to safeguard respect for, and application of, the rights of indigenous peoples.

In concrete, the State's responses have been meagre. The law continues to move characteristically slowly, pronouncing judgements which ignore the rights of indigenous communities. For example, in the case of "Yake Axa

Indigenous Community on Constitutional Protection and Preventative Measures", the courts rejected the right of the said community to legal protection of its environment, and to hunt and gather in its traditional territories. In one of these cases, an appeal for unconstitutionality was placed before the Supreme Court of Justice one and a half years ago but a decision has still not been forthcoming.

In an attempt to provide follow up to the demands of the indigenous communities which carried out the march on 12th October, the government established an Inter-Institutional Commission, through the Institute of Rural Welfare (Instituto de Bienestar Rural), to examine and speed up administrative procedures with regard to land claims. However this has not brought any better solutions. Alongside this, and as a related response, a Health Commission was set up to provide urgent health assistance to the communities, but this has not progressed further than the initial stages. Endemic diseases such as malnutrition, tuberculosis, chagas, parasitosis and so on thus persist to date, largely affecting children and the elderly. The prospect is no brighter with regard to indigenous education. In this respect it is sufficient to mention that the new General Law of Education, approved in 1998, mentions the indigenous population in only two brief articles referring to "*ethnic education aimed at the integration of indigenous peoples into national society*".

Management of the government indigenist body, INDI, continues along the same lines of administrative bankruptcy, with no perceived sign of reform. Although some of the INDI authorities have been changed in line with the change in government, their lack of suitability with regard to indigenous affairs is clear: their relationship with indigenous people and NGOs remains one of exclusion and authoritarianism and, as before, there already exist serious signs of illegal land purchases. It has to be noted that during 1995 and 1997 alone, corruption within this body accounted for a public treasury loss of approximately US\$13,481,805, 62% of the amount destined for the purchase of properties for indigenous communities.

As for the legislature, this cut the budget for land purchases and directed the budget lines for social assistance, until then centralised within INDI, to provincial government departments. This resolution was adopted with no consultation of indigenous leaders, who were excluded from the parliamentary debate even though they put forward proposals to the congressmen in this regard when the overall State expenditure budget was discussed. It must be noted that indigenous participation in government decisions on issues of concern to them has been, and continues to be, non-existent due to the fact that the legal institutional structure of the State bodies does not provide for

concrete channels of participation and control over decisions affecting this and other popular sectors of Paraguayan society. Neither does there exist the political will on the part of the national authorities in general to facilitate this participation and control.

Nonetheless, in the light of the implementation of assistance programmes in the communities, either funded by the State through provincial government, or by the European Union through bodies such as the Chaco Project for Sustainable Development - PRODECHACO - some space for participation has been created, in accordance with the demands for indigenous involvement in these undertakings. However, the mechanisms used to enable such participation have been oriented towards using these spaces as privileges for pro-government indigenous politicians, rather than channels for community concerns regarding the aforementioned project. Conflicts regarding representativeness, the exclusion of landless communities from the assistance plans and the subordination of the solution to territorial demands are some of the negative consequences which have occurred, and which it has been possible to note with regard to the above.

Another relevant aspect during the 98/99 period is the relentless pursuit of the indigenous populations of Chaco on the part of illegal timber traffickers which, until recently, seemed largely to affect the communities of the Eastern Region of the country, with the consequent destruction of the forests. This was noted with greater regularity in those communities which have achieved restitution of part of their territories. The paltry or non-existent support for the settling of the new villages meant that, in some cases, the desperation of their sub-human living conditions led the indigenous people to overcome their reticence to the commercial exploitation of their forests.

It must be noted at this point that much of the land acquired by the communities covers an insufficient or inadequate area for traditional hunting and gathering methods of subsistence. In other cases, the regrouping of the component families of a community into a new settlement leads to difficulty in finding sustainable subsistence alternatives because of a lack of the most minimal infrastructure. The years of separation from their roots and the imposition of a way of living which is foreign to their culture through the economic rules of the dominant society, either via customary labour relations - with the cattle ranch masters, or in the settlements and villages under the control of the missionaries, leads to further problems.

The indiscriminate felling of forests, like any other crime, is obviously only made possible through a widespread impunity. This is caused by a deficient legal administration, corruption of police and forestry agents and by

Mafia headed by people who have great economic power and links with influential politicians. Nonetheless, many of the affected indigenous communities have found effective methods of fighting this disaster through public denouncement and mobilisation, even gaining their members' cohesion around recovery of their traditional values.

In this sense, in order to resolve the many other conflicts which are occurring within the communities, there has been a positive recovery of customary law applied in accordance with the ancestral cultural guidelines of these peoples. Examples such as cases of territorial demarcation between member villages of one community, questions linked to rules governing community use of natural resources, and leadership conflicts can be mentioned. In this respect, an imminent challenge is the inclusion of customary indigenous rules within Paraguayan law, thus recognising their legal nature. A new field is thus opening up in the debate on autonomy for Paraguay's indigenous peoples, which will undoubtedly have to go into greater depth as their lands are slowly restored.

CHILE

1998 was a troublesome year for indigenous people in Chile, particularly with regard to the relationship between the Chilean government and the largest group of indigenous people, the Mapuche and, in particular, the Peheunche. What at first seemed to be isolated bursts of conflict and violence accelerated at the beginning of 1999 into a full-blown confrontation between the Chilean government, private companies and the Mapuche-Pehuenche and their supporters. The result was more than 50 arrests and various reports regarding acts of violence. The focal point was land rights and the current application of the indigenous law, act 19.253 from 1993, which states that "land defined as indigenous will enjoy protection from this act and cannot be disposed, confiscated, encumbered nor acquired through prescription, except between communities or indigenous individuals of the same ethnic group" (Article 13). However, this law has apparently not served its aim, which was namely to guarantee indigenous people the right to their land.

The Mapuche and the Recovery of Territories

The first incident occurred in Lumaco in December 1997, where a group of people - presumably Mapuche - set fire to some trucks carrying timber from the forestry company, Arauco. By referring to the Chilean law of security,

which is used against terrorists, 11 people were arrested, despite lack of evidence. The application of this law repeals normal legal practice and the suspects were consequently imprisoned for months with absolutely no proof at all. This resulted in protests and hunger strikes until finally they gained their freedom.

The crime was never solved but was seen as a sign of strong dissatisfaction with the private forestry companies and the current situation of extreme poverty and lack of land. For instance a study published by the "Corporación de Reforma Agraria" (CORA) showed that a Mapuche family needs 50 hectares of land in order to live. In comparison, an average family had no more than 9.2 hectares in the 1960s and probably no more than 3 hectares in present day Chile. Of the 11 Mapuche arrested in Lumaco, only one had more than three hectares of land, whilst the majority were landless labourers. Furthermore, the statistics for infant mortality, malnutrition, unemployment, alcoholism and illiteracy are highest amongst the Mapuche.

In February 1998, several Mapuche leaders declared that 1998 was going to be a year of protest during which they would work hard for the recovery of 400,000 hectares of land. They had strong arguments on their side, through published studies which demonstrated the extreme poverty of the Mapuche combined with a strong historical memory regarding the loss of the territories since the 'pacification' of the Auracania in 1863. The most serious blow to the Mapuche that can be remembered took place during the period of the dictatorship, when Pinochet declared that "there are no Indians, only Chileans". He divided the Mapuche communities up into individual plots and, according to law 2568 of 1979, rural property would "stop being considered indigenous land with indigenous people the owners". Technically, the Mapuche ceased to exist and their land was reduced from 500,000 hectares in 1973 to 300,000 in 1990.

These memories became a weapon in the fight for the land of several private companies and, in the following months, on several occasions a *fundo* (lands of more than 400 hectares) was occupied with the argument that the land was legitimately the property of the Mapuche. The governmental organ for the protection of indigenous people in Chile had license to buy the land, but no solution was found. In fact, the conflict became aggravated over the following months and the indigenous law did not really serve its purpose. This was particularly the case with regard to the construction of the hydroelectric dam, Ralco, at the river Alto Biobío, where the Pehuenche ethnic subgroup live. This became a symbol of conflict during 1998.

Ralco, the Symbol of Controversy

The multinational company, ENDESA, was founded during the dictatorship of Augusto Pinochet and currently controls 60% of the energy in Chile. Together with the Chilean government, ENDESA has planned seven hydroelectric dams along the river Alto BioBío. The first one, Pangué, is already built and in 1996 the plan for construction of the Ralco dam, in the area of the Pehuenche, was revealed. Nevertheless, in the meantime, the indigenous law had been passed. Consequently, the land could not be used unless the approximately 700 indigenous people whose land was going to be flooded gave their permission. The construction was, in fact, illegal but this was circumvented by the collection of signatures from the families stating that they agreed to move to other territories. However, according to Juan Pablo Orrego, director of the environmental NGO, GABB, only 19 of the 84 families who signed did so on a voluntary basis. The remainder were manipulated by withholding sufficient information about the consequences of the hydroelectric plant or by offering gifts, or simply by forcing them with the threat of violence. On this basis, the Committee for Human Rights has considered the case to be a violation of human rights.

In July 1998, a group of twelve women from seven families took action. They declared themselves opposed to the construction of Ralco and they consequently blocked the bridges in order to prevent ENDESA's employees from carrying out their work. The result was initially a victory and the work was put on hold for some months. However, the victory was short-lived and in January 1999 the sound of the excavators could once again be heard. At the same time, the conflict with the forestry companies intensified.

The Conflict with the Forestry Companies

The conflict with the forestry companies dates back some 25 years and many Mapuche regard them to be the main contributory factor in the extreme poverty of the Mapuche people today. Throughout 1998 and into the beginning of 1999, the forestry company Mininco intensified the felling of trees on territories which the Mapuche considered to be their property. Reactions have been strong and furious. A number of demonstrations in support of respect for Mapuche rights resulted in violent confrontation between Mapuche-Pehuenche people, their supporters and the Chilean police force. During two weeks in 1999 50 people were arrested, among them several injured and four children. Several foreigners also figured amongst those arrested.

The forestry companies speeded up the pace, causing further protests, and as a result the Chilean police force inspected the area at the end of 1998/

beginning of 1999, echoing the days of the Pinochet dictatorship. Sympathizers from abroad faced, and continue to face, the threat of being expelled from Chilean territory. The government representative in the Biobío zone, Zilic, declared in February 1999, "The region of Biobío is open for all tourists who arrive, but we will not tolerate any form of political demonstration or participation by foreigners in internal decision making processes. Anyone who performs acts of this type will be expelled from national territory" (Diario el Sur, 24th February 1999). Consequently, the right to move and express oneself freely is now being seriously challenged and the conflict has spread over the whole ancestral territory of the former Mapuche nation.

CONADI and the Indigenous Peoples of Chile

The indigenous organisation, CONADI, was founded by the Chilean government in order to improve the situation of Chile's indigenous peoples and as an organ for communication between the government and indigenous peoples. Since its formation in 1993, CONADI has gone through a turbulent time. Two directors have been fired due to their opposition to Ralco and the current role of CONADI now seems quite dubious to many Mapuche. Officially, CONADI has the authority to support the Mapuche in the recovery of their land. For example, according to the director, Rodrigo Gonzáles, in 1999 they have been granted the right to buy a third of the 20,000 hectares under dispute. They are also the organ which, in the last instance, has to approve ENDESA and the Chilean government's plan for the construction of Ralco, and at the beginning of 1999 they will vote on the land barter contracts signed by Pehuenche families and ENDESA for the US\$500 million Ralco hydroelectric project.

However, as the government employs the CONADI staff its role has been more that of a mediator between the different sides in the conflict than a contributor of any actual solution. Very few indigenous people in Chile believe that CONADI will vote against the government's interest in the case of Ralco. Representatives from *Rapa Nui* and the *Aymara* have voted against Ralco as well as criticising the role of CONADI in the conflict.

ARGENTINA

In recent years, indigenous people have begun to gain visibility in Argentina. And, although the maps continue to show a white and culturally homogenous centre, vague notions about the contemporary indigenous population are also

circulating. Denied for years by the authorities and non-indigenous society, they now occupy a place in the media, in public office, in the programmes of NGOs which did not traditionally focus on them and in academic circles now more concerned with providing solid contributions to the improvement of their living conditions and with coming out in support of their demands and claims. This effect is partly the result of conceptual and legal changes but is due particularly to active indigenous mobilisation demanding respect for their ancestral identities and cultures within the context of concrete violations of their territorial rights and their self-determination.

Folkloric and exotic images of the native inhabitants exist alongside others in which they are seen as political players denouncing not only the injustice and violation of their own rights, but also those of others. The participation of indigenous teachers in a protest by academic staff from all over the country, who have been demanding an increase in salaries and in the national education budget for the past two years, is a case in point. And the participation of members of indigenous communities and organisations in the traditional resistance marches organised each year by the 'Madres de Plaza de Mayo' demanding truth and justice for acts committed during the last military dictatorship, or when those who died in the Falklands War are remembered. A no lesser fact in this country is, then, that non-indigenous society is slowly gaining a greater consciousness and awareness of indigenous people's demands. Similarly, there is no state official who is now not aware that there exists an indigenous population in the country which must be consulted and respected regarding any government act which affects it, because this is a constitutional requirement. But this is not what happens in practice.

Territorial Rights

In spite of the fact that the National Constitution recognises the ownership and property of lands traditionally occupied by "Argentinian" indigenous peoples, there are few cases in which the said recognition has been put into practice. If we were to make an inventory of titled lands we would note that only small areas of land are concerned, whilst demands for territories covering larger areas remain at a standstill, such as the case of the Lhaka Honhat Association of Native Peoples (330,000 hectares), the Meguesoxochí Association (150,000 ha) and Pulmarí (110,000 ha).

In 1996, the President of the Nation, Dr. Carlos Saúl Menem, made public a plan for the regularisation of control of 2,000,000 hectares of Treasury land for the indigenous people of the provinces of Jujuy, Río Negro and Chubut. Unfortunately, the plan was designed in government offices with no indig-

enous participation to underpin the law and without the prior consultation of provincial government. This is a simple example, but one which demonstrates the effective place given to indigenous participation in government plans and the lack of respect for their self-determination as enshrined in ILO Convention 169, which the Argentinian government adopted by means of Law 24071.

It is clear that the belief that indigenous culture is backward, and that their leaders must be "helped" in the process of decision making, persists in Argentina and thus government actions are designed to provide them with the elements which will enable them to become involved in western progress and civilisation. The programme of regularisation of land assumes a first stage of granting legal status to indigenous communities, a second stage of alleviating their concerns with regard to the way in which titles will be handed out and lastly the measurement and creation of titles. But the National Institute for Indigenous Affairs (INAI) came up against two unexpected responses to their plans in Jujuy: the refusal of the Autarkic Institute for Settlement (Instituto Autárquico de Colonización) to accept the community titles and the desire of some indigenous families to be given family titles rather than community ones, as suggested by the Institute's technicians. Finally, the province submitted the whole procedure for the approval of the local legislative power, evidently in order to maintain control of the clientelistic links with the indigenous people and in order to delay fulfilment of the programme. In Chubut a similar procedure was carried out, creating conflict between members of the Mapuche people through their different expectations with regard to titles. Some families prefer family or individual titles to be provided whilst the indigenous organisations are fighting for community titles.

These setbacks in a complex process which holds quite some difficulties and yet very little political will only serve to confirm the fact that there exists not only an actual but also a conceptual distance between recognition in theory and in practice. Why does the capacity of indigenous people to freely decide their own development continue to be doubted? Why is their right to self-determination not respected? Why are plans and policies designed with no consultation, later claiming they have their acceptance and approval?

The Unified Territory of the Lhaka Honhat Association of Native Communities

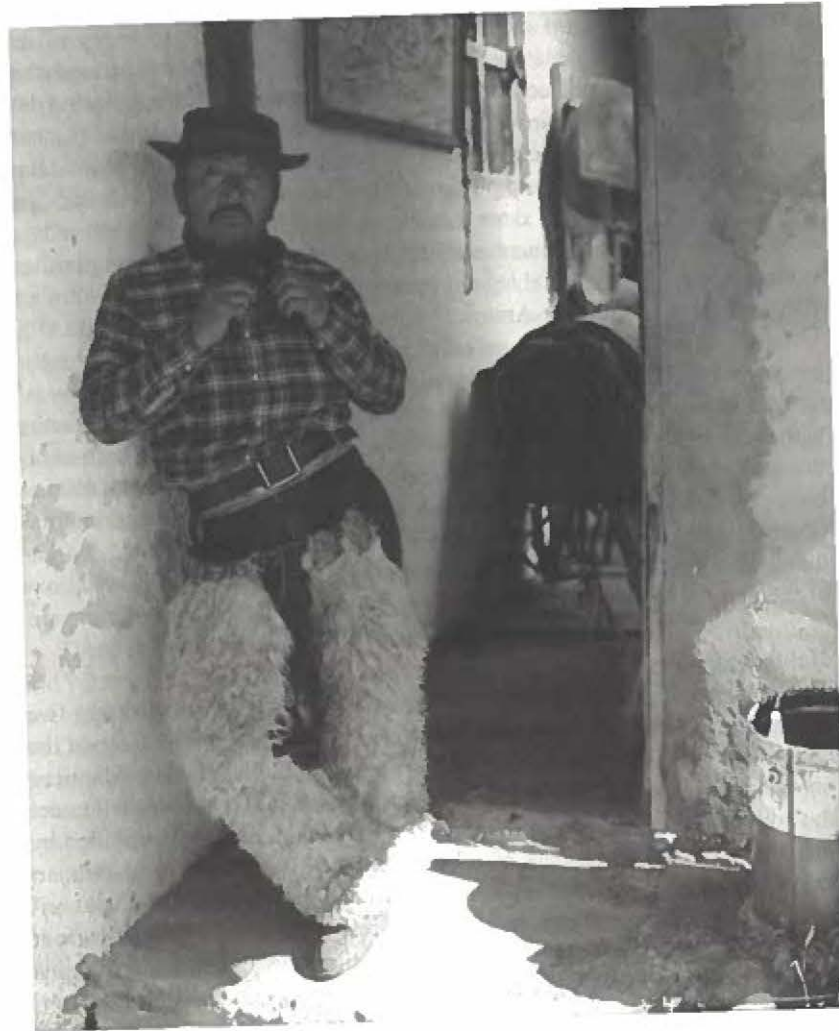
This association brings together 35 communities (more than 6,000 people) from five different peoples (Wichí, Iyojwaja, Komlek, Tapy'y, Nivacklé). The territory is located in Salta Province, in the region of Gran Chaco. To the north is the river Pilcomayo, the natural border with Bolivia and Paraguay.

The zone has suffered serious deterioration in its biodiversity and growing desertification due to the overgrazing caused by the cattle of non-indigenous families who arrived in the area at the beginning of the century. In 1991, the government promised to hand over an area - with no internal subdivisions - to the indigenous communities under a single title and to give the non-indigenous families a proportional area in a neighbouring plot, thus freeing the zone from the burden of cattle in order to encourage the recovery of its biodiversity. In 1995, violating the undertaking which had been obtained, the government commenced construction of an international bridge, ignoring the need to carry out prior environmental and social impact studies. Lhaka Honhat submitted an appeal (on the grounds of unconstitutionality) in defence of the environment and their right to possession and use of the natural resources. In 1996, following a peaceful demonstration of more than one thousand indigenous people, the government reaffirmed its commitment through another agreement. In 1998, internal legal recourse being exhausted, the Argentinian state was taken to the Inter-American Commission of Human Rights (OAS). The attitude of the provincial government has been to deny the Lhaka Honhat authorities their legitimate representation in land management and it has silently swallowed the confusing and malicious actions of the cattle rearers who, with lies and false promises, provoke conflicts between the communities in order to divide them. The Congress of the Nation and the Ombudsman have pronounced themselves in favour of the request. National and international campaigns have been run in the press, denouncing the local and national authorities for lack of fulfilment of the agreements and for violations of indigenous rights, but they continue to fall on deaf ears.

The Pulmarí Territory, the Mapuche People's Demand

This concerns an area of 110,000 ha in an excellent zone incorporating five lakes and six rivers in Neuquén province, on the border with Chile. At the end of the last century, as in so many other cases, the land - with Mapuche people on it - was sold to individuals. Expropriated in the 1940s it fell under the administration, firstly, of the National Parks and was later exploited by the Argentinian Army for its own benefit. In 1987, the Interstatal Pulmarí Corporation (CIP) was created, composed of national and provincial authorities, and one indigenous one. Its aim, never respected, was to benefit the four indigenous communities then in existence in the zone. In 1995, the Neuquina Mapuche Confederation, an organisation grouping together all the communities existing in the province, tired of putting up with the innumerable violations of their territorial rights and of their rights to the use and control of their

natural resources whilst the CIP officials enriched themselves, denounced the president of the Board of Directors for embezzlement of funds and for land concessions to third parties with no prior consultation. In response, the local courts accused the Mapuche of usurping their own lands and took their leaders to court, whilst the Mapuche lands were handed over to tourist and



Mapuche, Argentina (Foto: Alejandro Parellada).

business organisations with complete disregard for indigenous rights. Not satisfied with this, they ordered the removal of Mapuche families who had taken their animals to an area of pasture through an agreement with the authorities. In 1998, after the wave of threats of repression which culminated in the removal and in 7 people being taken prisoner, a "table for dialogue" was constituted with the national and provincial authorities in order to search for a joint agreement favourable to all. Nevertheless, this call for dialogue turned out to be a manoeuvre on the part of the State to cool the conflict down, demobilise the Mapuche and find new ways of achieving the ultimate aim of freely having the 110,000 ha and its natural resources at their disposal.

In December, the communities were notified that 5 of the 22 unresolved lawsuits against their native authorities would go to an oral and public trial.

The central demand made against the State is that the corrupt Pulmarí Interstatal Corporation which, for ten years, has never been investigated in spite of the numerous complaints made to the Criminal Courts, should review and revoke many of the concessions granted which enabled the introduction of many undertakings in Pulmarí.

Amongst these are the enclosures noted along the shores of Lake Moquehue. These are occupations carried out by wealthy people, some of whom are state officials and who have fenced off large plots as if they were their own private property, building houses (between 70 and 100) which they rent to tourists or use themselves. These seizures seem to have been carried out with the prior consent of the Corporation's officials. They have tried to legitimise the plundering, which has already been denounced to the courts as a crime of misappropriation and embezzlement, by legislative means claiming that the Nation had transferred its rights to the province so that they could do as they pleased with the Pulmarí indigenous territory. At the same time, having exhausted internal legal recourse, the Neuquina Mapuche Confederation submitted a complaint against the Argentine State to the Inter-American Commission of Human Rights, arguing that a proper trial was lacking and that their land rights were being violated.

Meguesoxochi Association

In a rich area of Mesopotamia (between the Paraná and Uruguay rivers) in Chaco Province, between the rivers Teuco and Bermejito, 150,000 ha which were made into a reserve in 1924 by presidential decree for the northern Toba people have still not been returned to their legitimate owners. Since then they have remained Treasury lands until 1991, when preparations were undertaken to carry out the work of measuring in order to make the titling of the land for

the communities effective. However, this task was never completed because the money which the national government had put aside for this purpose "mysteriously" disappeared. The complaints made by indigenous leaders, and their active mobilisation - which included the peaceful closure of roads and the capture of bridges - have led, after pressure on and threats to its leaders, to a new agreement by which the Toba will cede part of their territory to local cattle ranchers and a new process of demarcation will begin. 74 years have passed since the signing of the presidential decree. How much longer must the Toba people wait to be able to exercise their territorial rights?

Limitations to Rights to Property and Use of Natural Resources

In spite of the fact that the National Constitution assures indigenous peoples their participation in natural resource management and other interests which affect them, they are not consulted when development projects are decided or concessions are approved for the industrial exploitation of the resources on their territories. Neither are fundamental reforms considered to remedy the situation of the communities which, for unfair historical reasons, have remained within national park areas or environmental reserve zones, causing not only restrictions to their territorial rights but also serious limitations to their use of the most basic resources such as firewood in areas of intense cold and the wild fruits which are their food.

Conflicts in National Parks

In 1937, when the National Parks Administration was created, regulations were established which today justify the plundering of the lands of the Mapuche community of Cañicul, in Neuquén Province. The plan consists of removing the families and relocating them in reserve areas. But the Mapuche own none of these areas and are unable to control the resources of the ecosystem which exists there. In order to put an end to this injustice, the Coordinating Body of Mapuche Organisations of Neuquén (COM) submitted a proposal to the National Parks Administration for territorial recognition of the Mapuche communities which live in the protected areas. This proposal examines a new category of management defined by the COM as "protected indigenous territory".

Oil contamination

Kaxipayiñ and Paynemil are two Mapuche communities situated between the river Neuquén and the lakes of Los Barreales and Mari Menuco. Since

the arrival of the YPF oil company to the zone, the lands and pastures of these communities have been subjected to persistent degradation.

In 1997 public opinion became aware of the effects of oil activity on the inhabitants of the zone when the Under-Secretary for Public Health published the results of a blood and urine analysis carried out on children under 15 and adults over 50 in both communities. The contamination came from pools which YPF used to purge the fuel, whose walls were not waterproofed. This caused a loss of "purging water", which reached the first water table and the oil thus passed directly into the subterranean flow. Consumption of contaminated water caused brain damage, arthritis, sterility, diarrhoea, skin disease and the destruction of liver cells. In spite of the seriousness of the case, the results were only made known six months later. The Ombudsman for Children of Neuquén Province sent a complaint to the Inter-American Commission of Human Rights in order to protect the health and lives of indigenous children. Within such a context, Neuquén Province approved the construction of a gas separation plant, which will transport the raw material to the Bahía Blanca Petrochemical Centre, where the Dow Chemical Company will buy it in order to guarantee itself a supply of ethanol and the Petrobrás company will obtain the liquid gas to take to Brazil. For this purpose, the province sold YPF a plot of 106 hectares of territory which the Kaxipayiñ community claimed as its own. Faced with this outrage, the community members decided to prevent commencement of the work and after an intense process of negotiation they met with the government and businessmen in order to come to an agreement. The provincial government recognised the community and its right to ownership of an area of 4,300 ha of the land, promising transfer of ownership. The company undertook to compensate the community in the form of money, goods and services. The community recognised the ownership of 106 ha acquired by the company and undertook not to hinder the construction of the plant. But the company holds the concession for a further ten years and, at the current rate of exploitation, it is impossible to imagine human life in the zone. The community is thus evaluating this reality from the point of view of their rights.

Right to Self-determination

The National Constitution and laws recognise the ethnic and cultural pre-existence of indigenous peoples; they thus recognise their native authorities and political institutions and assure their participation in all affairs which affect them. However, the policy of the State towards indigenous peoples must be qualified as pseudo-participation because they remain marginalised

from the design of governmental policies and plans. Because no suitable mechanisms have been created for their obligatory consultation, political arrangements of a clientelist style are agreed between some leaders and State officials, who offer meagre favours in exchange for support of their plans and political careers. These clumsy strategies of cooptation aimed at fragmenting incipient indigenous organisation and limiting their right to self-determination appear to be the new forms of State indigenism which, alongside making room for certain demands, sets limits on the action and political representation of its members.

In 1998, through the introduction of a legal decision, the National Institute for Indigenous Affairs (INAI), created the Council for Indigenous Peoples, a consultative organism reporting to the former. The law creating this Institute anticipated a decentralised structure in which indigenous communities should participate directly. In order to integrate this Council into INAI, indigenous representatives were appointed from all over the country, but this was done with no consultation or participation on the part of indigenous communities and organisations. As was to be expected, these unconsultative appointments caused repudiation and rejection on the part of the latter who, by various means, expressed their rejection of the appointed leaders. The creating resolution (Res 2023/98) furthermore clearly specifies the aims, attributions and scope of the Council: "...to make possible the organic representation of the different indigenous peoples who may be consulted *or ascribed* (author's emphasis) participation in those affairs which are their concern" (with) "powers of advice (and) intervention in the cases *ascribed to them* (author's emphasis) and which are connected with their interests."

Although it is explained that the Council appointed by the national authorities is of a transitory nature until elections can be held, it is said that it will be INAI who will supervise the process of setting it up and who will fix the terms for its realisation.

Once more indigenous peoples have been ignored, although there do exist social programmes aimed at "improving" their living conditions. Indeed 1998 seems to have been "the year of projects". Significant sums of money have enabled INAI to implement programmes of grants for indigenous students and to produce various publications, to carry out some land measuring and to subsidise family and individual production undertakings in a form hitherto unknown in Argentina, although indigenous leaders are not empowered to implement their interests and goals autonomously but under the guidance of technicians or State officials.

Legal setbacks

In 1998 Salta Province committed the worst violation of indigenous rights when it revised its constitution for a second time, making the recognition and guarantees achieved conditional on future legislation and suppressing the exercise of indigenous rights to the rights of third parties. The indigenous delegates said, "we feel betrayed because decisions were not made according to what was discussed with us...they responded to interests which are alien to indigenous people and...to which we attach little importance".

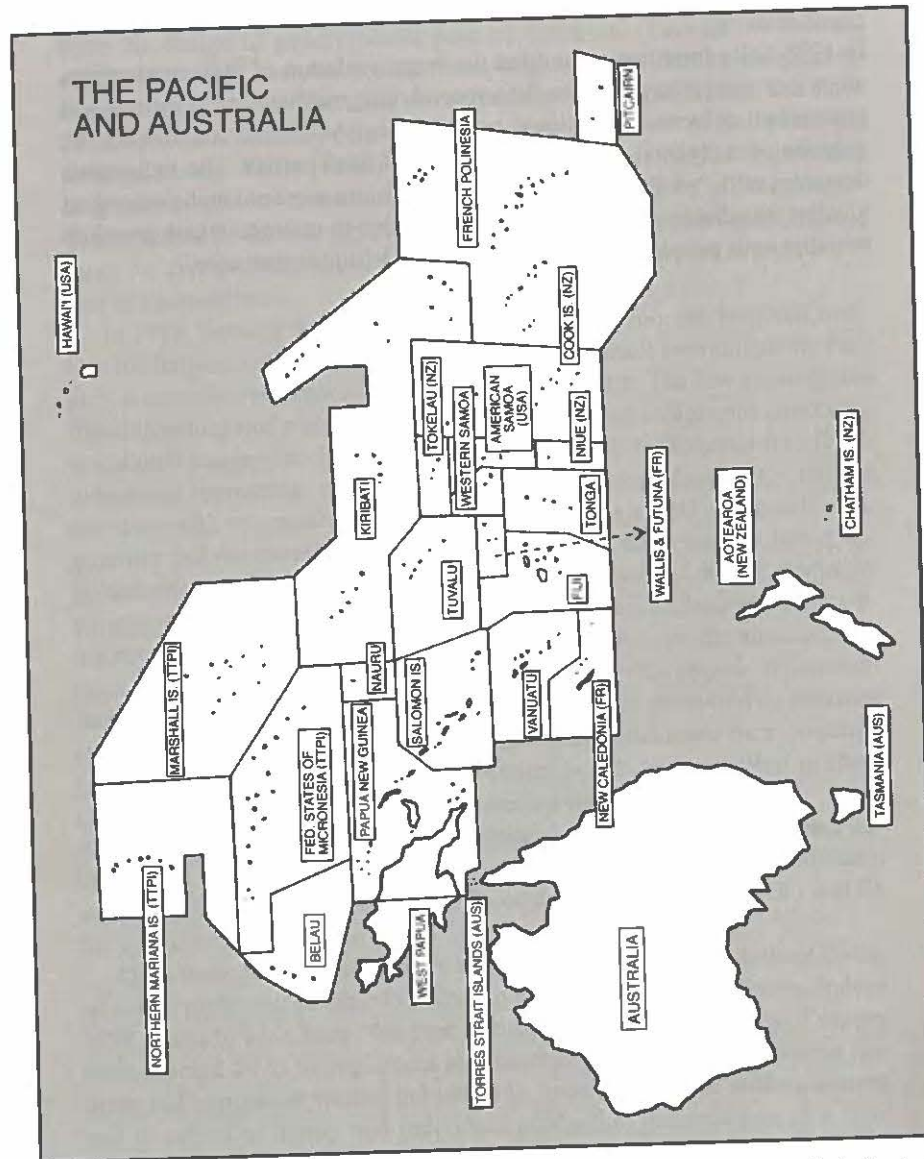
THE PACIFIC & AUSTRALIA

AUSTRALIA

Australia is collectively preparing for the Olympic Games in Sydney in the year 2000, the centenary of the Constitution in January 2001, and of course the new century and the new millennium. In the early 1990's it was widely assumed that an open, progressive, educated, and republican Australia - the country is currently a constitutional monarchy with Queen Elizabeth II as its head of state - would meld the multi-cultural and multi-racial influences of immigration and indigenous cultures into a new, mature, proud, and outward-looking nation. All this encouraged a current of public opinion supporting symbolic and substantive political recognition of Aborigines and Torres Strait Islanders.

However, an inability to effectively communicate official and elite ideals and the decline of rural and remote areas (accompanied by simultaneous government cost-cutting), led to a strong sense of grievance in many areas which spawned protest movements and populist spokespersons. After regaining the leadership of the Opposition in Parliament, John Howard and his Liberal and National Coalition won the 1996 election by effectively exploiting these divisions while claiming to be a moderate himself. Since that election Howard, who holds the indigenous affairs portfolio in cabinet, has found himself curiously caught between extreme populists who remind the public of his earlier stern statements on Aborigines and Asians, and who urge him to 'get tough' with these minorities, and the modernising and inclusive positions of decent Australians including the Opposition leader and sections of Howard's own party. Howard's discomfort with contemporary social and cultural issues blurs his periodic attempts to speak about them, and so intractable indigenous issues refuse to go away.

The other problem has been that while policy proposals and ideas were discussed and winnowed during the Labor years, moving towards the sort of modern consensus adopted in other 'first world' countries under conservative, liberal, or social democratic governments in recent decades, the Howard government does not see that. Rather, led by the Prime Minister, it views this domestic legacy as left-wing whimsy, that is both illegitimate and irresponsible. Eager to change labels and apparently unable to take indigenous policy seriously, it has fallen into the habit of indulging in mere reflex reactions. One positive result has been a mood and movement that is both unprecedented



Countries/regions covered in this issue: Australia, Kanaky (New Caledonia), Ka'Pae'aina (Hawai'i), Guam, Te Ao Maohi (French Polynesia), Bougainville, West Papua

and growing, among non-indigenous people - notably ANTaR (Australians for Native Title and Reconciliation) - who support indigenous people's rights and their political aspirations, The news media, too, have kept a critical eye on government policies and have attempted to promote social tolerance and political accommodation. Overall, however, indigenous policy seems to be stranded on a rock in swirling waters and nobody knows when it might be rescued.

As for a new national identity, Australians learned before it was too late that tolerance and diversity are not the automatic companions of nationalism. There is always a dark side, and it has been all too evident in Pauline Hanson's populist movement, One Nation. That movement looks positively cosy, however, compared to some of the extreme groups in One Nation's shadow - groups fanned by the accumulated nuttiness and paranoia of the American Right which is now infiltrating Australia via the internet. Howard's overwhelmingly popular decision to limit gun ownership after the Tasmania massacre, when three dozen people having picnics one Sunday were gunned down, also rallied a core populist group, gun owners, to engage in an American-style uproar against governments.

Running Sores

The first half of 1998 was dominated by the long running native title debate that resulted from the *Mabo* 1992 and *Wik* 1996 decisions of the High Court. The Prime Minister's legislation was blocked by the Senate until he was able to persuade one senator, Harradine, to accept most of his native title reforms in order to avoid a race election which would probably have torn the self-image and international credibility of the country to tatters. The point of the reforms was, of course, to keep to the absolute minimum the impact of Aboriginal and Islander rights. The two and a half years of the *Wik* debate, which ended in June 1998, saw the tide start to turn against Howard. But in any case, there are so many disputed legal issues that it seems certain that we will not hear the end of native title disputes in national politics or in the higher courts for a very long time to come. Rather than recite the long and convoluted history of that struggle, these pages will focus on new or continuing issues.

The other major national indigenous issue, the Stolen Children, continues to haunt the government. More and more Liberal supporters appear to favour a national apology for the official removal of children permanently from their homes in times past, an apology which the Prime Minister and his indigenous

affairs helper minister, Herron, oppose. The federal government took a provocative and even inflammatory line in court in early 1999 when a case was brought for compensation by two former Stolen Children in Darwin, a case which will continue despite federal attempts to have it thrown out of court.

Relations between the Howard government and the principal indigenous organisations are quite bad, even in instances where this government has handpicked the office holders. After the 1998 election the Prime Minister named his apparently more liberal immigration minister, Ruddock, as special minister for Aboriginal Reconciliation. However, when issues burst into the public arena, Howard appeared to pre-empt Ruddock and take a hard line, so it is unclear how Ruddock will ever be able to make any impact.

Torres Strait

An event given much media attention in early 1999 was the completion of the Saibai Island native title claim process in Torres Strait. As Torres Strait Regional Authority Chairman John Abednego said at the time, "Now that we have a completed model... the claims of the other communities [in Torres Strait] will move forward more quickly." Also the model, he suggested, "will assist with the development of a regional strategy for land and sea."¹ While this symbolic step is important to Islanders, the basic questions of workable marine management, regional self-government, and adequate services and local conditions are far from settled.

One bright spot is the work of Dr Anna Shnukal of the Aboriginal and Torres Strait Islander Studies Unit, University of Queensland, who has been completing papers and essays drawing on her long years of fieldwork in the strait. Her clear and fluent picture of the development and changing shapes of cultural and political regionalism, is the sort of work one hopes to see undertaken in other regions like Nunavut, Sapmi, and Native Alaska someday soon.

Reconciliation Document

Three fundamental constitutional tests now face Australia in respect of Aborigines and Torres Strait Islanders. These are: (1) national *Reconciliation*, as the ideal of harmonious white-black relations is known in Australia; (2) a preamble to the national Constitution and; (3) the future constitutional framework for the Northern Territory.

On the night of his second election victory, on October the 3rd 1998, Prime Minister Howard surprised many people by saying:

I also want to commit myself very genuinely to the cause of true reconciliation with the Aboriginal people of Australia by the centenary of Federation [January 2001]. We may differ and debate about the best way of achieving reconciliation, but I think all Australians are united in a determination to achieve it.

There had been and continues to be pressure from moderates and notables within his own party to do something, and to do it before the whole world is looking at Australia during the Olympic Games of 2000. This is not merely political opportunism. The Liberals have involved leading members, including former prime minister Fraser, who have sincerely advocated and enacted indigenous policy reform for many years.

One of the most frequently discussed symbolic and politico-legal reforms is a 'document of reconciliation' or national 'treaty' with Aborigines and Islanders. Of course the Treaty of Waitangi in New Zealand, the initial North American treaties, and other such arrangements were made by an imperial power in Europe seeking to prevent bloody wars or the extermination of peoples caused by its land-seeking settlers on other continents. Now there are no such powers to make treaties so that any form of enforceable agreement must presumably take the form of national constitutional reform - or local or regional agreements embedded in national constitutions. One could have a 'treaty' in name only, that had no substance, i.e., presumably the sort of treaty the Australian government would wish for, albeit the Howard government opposes the term 'treaty'. One could have something enforceable called either a treaty or some other name, or simply have clauses added to the constitution.

On March the 5th 1999, the front page of *The Australian*, the national newspaper, carried a draft Reconciliation declaration being worked on by the Council for Reconciliation which was reportedly written by Aboriginal spokesperson Ms Jackie Huggins and the great Australian author, David Malouf. It attempted to avoid the problems which Howard claimed to find insurmountable and to take a moderate line:

1. *Speaking with one voice, we the people of Australia, of many origins as we are, make a commitment to go on together recognising the gifts of one another's presence.*
2. *We celebrate the fact that the Aboriginal culture is the oldest living continuous culture on the planet. That culture is still alive. It is sacred, spir-*

- itual and practical, a unique way of living in harmony with the land. Through the land and its first peoples, newcomers to this country may taste that spirituality and rejoice in its grandeur.*
3. *We acknowledge that Australia was colonised without the consent of the original inhabitants.*
 4. *Our nation must have the courage to own the truth and heal the wounds of its past so that we can move on together at peace with ourselves.*
 5. *We hereby take this step: as one part of the nation expresses its sorrow and profoundly regrets the injustices of the past, so the other part accepts the apology and forgives.*
 6. *Our new journey then begins. We must learn our shared history, walk together and grow together to enrich our understanding.*
 7. *Until all Australians have an equal chance to achieve their aspirations, and an equal voice, we will be a diminished nation.*
 8. *We pledge ourselves to stop the injustice and address the disadvantage that Aboriginal and Torres Strait Islander peoples face in their lives.*
 9. *We respect the right of Aboriginal and Torres Strait Islander peoples to remain responsible for their own destinies.*
 10. *We can stand proud as a united Australia that respects this land of ours, values the Aboriginal and Torres Strait Islander heritage, and provides justice and equity for all.*

Within hours of publication Howard responded in a radio interview. He had already received the draft some days earlier and he now said that it contained things "that we can't possibly agree to and others we think could be better expressed" (SDN with Jeremy Cordeaux, March the 5th 1999).

Indeed, when the media had pressed him to be specific after his election night commitment, Howard had seemed to reject any and all the particulars he had mentioned. Perhaps his goodwill had been just a momentary gesture, a throwaway line. There are no grounds for believing that the Prime Minister will accept any document, either a general statement like the one above or anything with legal or political force, unless he has himself written or sponsored it. And there is no reason to hope that he will offer anything which indigenous leaders will find minimally acceptable. Like most Australian politicians he appears to believe that Aborigines are so disadvantaged that they should and will be grateful to accept any meagre gesture.

Preamble to the Constitution

In early 1999 the Prime Minister surprised the country again, this time by saying that he would like to see a new Preamble to the Australian Constitution, one which included recognition of indigenous peoples. He suggested that this could be considered in a national referendum at the same time as the promised vote on November the 6th 1999, on whether to abandon the Queen and install an Australian head of state. (Australians have a Governor-General appointed by the government who carries out every day duties as head of state, although in theory this person, now always an Australian, represents the Queen.)

This suggestion is seen by many commentators as a trick by the Prime Minister to undermine the referendum. That is because contemplating a complex and sensitive issue like Aboriginal recognition, would increase the likelihood that any change to the Constitution regarding who it has as its head of state, would be defeated - the outcome Howard is known to prefer. He had been forced to hold the referendum as an election promise and as a subsequent Constitutional Convention resolution in order to take away a good election issue from Labor. (Polls show that Australians want a directly elected head of state, not one appointed by the government or inherited from British royal blood).

Of course, Howard may merely have wished to silence critics in his own party. The issue quickly turned sour when he refused to recognise the indigenous 'custodianship' of Australia prior to the white invasion and settlement, despite the fact that this word had been unanimously agreed on by the Constitutional Convention in 1998. What most amazed and amused the media and others was Howard's stated desire to write the Preamble himself. He did, and it was released on March the 23rd 1999. The indigenous clause read:

Since time immemorial our land has been inhabited by Aborigines and Torres Strait Islanders, who are honoured for their ancient and continuing cultures.

However, it was not this clause which caused most uproar but rather other items, notably the sixth and seventh of the eight clauses:

Australians are free to be proud of their country and heritage, free to realise themselves as individuals, and free to pursue their hopes and ideals. We value excellence as well as fairness, independence as dearly as mateship.

Australia's democratic and federal system of government exists under law to preserve and protect all Australians in an equal dignity which may never be infringed by prejudice or fashion or ideology nor invoked against achievement.

Since early 1996 the Howard government and Pauline Hanson have based their 'social policies' on the myth of Political Correctness and these proposed Preamble words were seen as an attempt to give the myth national status. That is, Australians should be able to say what they like (i.e., about Aborigines and Asians, is the unstated but generally understood message here), and, they that should not have to pay attention to those (i.e., historians, social scientists, progressive people of all sorts, and the Labor party) who think a greater understanding of society, cultural diversity, and national history is required. Fortunately the draft aroused so much public derision (and so many wonderful newspaper cartoons) that it has little chance of being adopted.

Northern Territory Constitution

For many years the Northern Territory (NT) government has hoped to win statehood. Like non-indigenous settlers in other northern territories - e.g., in Northern Scandinavia, Russia, Alaska, and Northern Canada - such regional authorities dream of becoming rich and powerful by exploiting the lands and seas formerly used to sustain indigenous peoples. The NT government has been more open than most about its ambitions, which is one reason why it has been so easy for Australia's federal government to reject them. However, since 1996 there has been a friendly government in power in Canberra and close political ties have existed between the NT government and the Liberal and National parties.

Around the time of the 1996 election it was repeatedly reported that the Howard team were getting lessons in handling Aboriginal issues from Darwin. Normally in 'first world' countries national governments and élites restrain the anti-indigenous moods and moves of hinterland settlers, even negotiating political settlements over their heads with indigenous peoples and using moral suasion to bring the newcomers to accept them. Contemporary nation-states cannot risk ethno-regional dissident movements on their frontiers or international opprobrium for racial injustice, but such considerations are ignored in Australia today. To be taking lessons from frontier rednecks is a new development for liberal democratic policy-making in the post-war era.

On August the 11th 1998 the NT premier Shane Stone stood with Prime Minister Howard in Canberra and announced that NT statehood would commence on January the 1st 2001, to celebrate the centenary of Federation. Howard added that this move "will be applauded by all but the mean in spirit and narrow of vision". All the difficult issues remained unresolved however, so the press, notably *The Australian* of August the 12th, were sceptical. The timing of the announcement implied that Howard had to do something for his NT political allies before his own imminent election. An NT referendum on the Howard-Stone statehood principles would be held on October the 3rd at the same time as the national election.

Aborigines from Central Australia, i.e., from the southern half of the NT, had already organised their own constitutional convention for Kalkaringi, on the 17th to the 20th of August. There, a grassroots convention followed up on workshops and community meetings that had been held around the NT. The resulting Statement contained the basic position of Aborigines on any NT constitutional process, namely that they rejected the statehood terms proposed by the NT government and its Aboriginal-unfriendly processes: "That we withhold our consent until there are good faith negotiations ... leading to a [Northern Territory] Constitution based upon equality, co-existence and mutual respect... That Aboriginal peoples...have the right to self-determination and that our inherent right of self-government must be recognised and protected in any Constitution of the Northern Territory... [And] That the rights of Aboriginal peoples in relation to land (including land subject to current or historical pastoral leases, reserves and national parks) must be respected and afforded effective Constitutional protection".

Polls in the NT had shown 80% support, in principle, for statehood, and the Aboriginal minority (about a quarter of the population, although an overwhelming percentage of long-term residents) expected to be steam-rolled. However, Stone had been waging a mouthy war against the best known NT Aboriginal leader, Galarrwuy Yunupingu, and high-handedly overrode the patient bipartisan constitutional work of the former NT premier, Steve Hatton. "Pride goeth before a fall", even in the NT, it seems. To the shock of almost everyone except some hard-working Aboriginal organisers, the vote for statehood was defeated in the October the 3rd referendum. (Before long Stone was removed by his party and a new premier attempted a more moderate and less arrogant style.)

NT Aborigines continued their constitutional work with a joint Central and Northern NT conference at Batchelor at the beginning of December 1998.

The Kalkaringi Statement was adopted as the first resolution there with the second being:

That the [federal government] establish an independent Commission of Inquiry to consider the experience of Aboriginal peoples under the Northern Territory Self-Government Act 1978 [i.e., the existing NT constitution], to review the political, social and cultural impact on Aboriginal peoples and financial arrangements for the provision of services to Aboriginal communities and to make recommendations for future relationships between the NT Government and Aboriginal peoples.

Of course a truly open inquiry would discover, as did the 1980 'Unity committee' review in Canada's Northwest Territories, the depth of disaffection among NT indigenous peoples with existing non-indigenous institutions. It remains to be seen if, as in Northern Canada, the people can take heart to seek reform from changing national public attitudes and press authorities north and south.

Meanwhile, NT Aborigines have much to worry about besides critical chronic health problems and living conditions. The NT government has abolished indigenous language programs in school, saying that poor Aboriginal education results require a greater concentration on learning English!² Aboriginal languages are in daily use across the NT so this is a major cultural attack, but it has sparked little more than grumbling outside the NT. What has attracted more notice is a law of former premier Stone that jails people for long periods for the most minor offences after three infractions. In mid-May 1999 an Aborigine - and this law, like so many others in northern, central, and western Australia is primarily a means to control Aborigines - took a towel off a clothesline in Darwin to wipe himself. He has been jailed for a year, raising a national outcry. Earlier two well-educated Aboriginal women who opposed the opening of a new uranium mine in their home area were jailed for a couple of weeks, causing another national furore.

That NT uranium question at Jabiluka in Kakadu National Park is a third national issue. The Howard and NT governments are determined to open a new mine despite Aboriginal and environmental opposition, and critical United Nations reports. If nothing else the NT is providing a case study in how in today's world the old political values of 'doing whatever you like in your own backyard' collide with international values, news reporting, and scrutiny.

Pauline Hanson

Pauline Hanson, the incendiary xenophobic MP who made her name by attacking Aboriginal and Torres Strait Islander "privilege", continued to organise and spark noisy and sometimes violent protests around Australia in 1998. The June 1998 election in Queensland provided an important opportunity for her new One Nation party in her home state. The National and Liberal coalition government in Queensland wanted to win over her supporters in a tight election, and agreed to recommend their voters' second preferences to her candidates.

On June the 2nd in the federal Parliament, Hanson made what she called her Queensland election speech. The speech attacked "the Aboriginal industry" (a phrase Howard has also used), the United Nations draft declaration on indigenous peoples, the Inuit territory of Nunavut in Canada, and an alleged plan by Aborigines and foreigners to use Nunavut and the UN draft declaration "to establish independent race based states in Australia". Having long defended Hanson's outbursts as "free speech" and having attacked those who criticised her, Howard now spoke out at last - to the relief of many Australians. The next day on national radio he said that her speech "verges on the deranged in various places" and was "fanning racist sentiment". He added that her view of the UN document and its role was wrong.

Then days later in the Queensland election the Liberals and the Nationals were savaged by the voters. One Nation got substantially more votes than either the Liberals or the Nationals, but only had 11 MP's elected. In the two weeks before the vote, intense national media attention had given the Hansonites a further boost as it became clear that One Nation was surging. The result put Labor in power and the new premier at once set out ostentatiously to show the state, the country, and Asia in particular that racism and isolationism had no place in Queensland. He also moved to take the edge off the coalition government's tough Aboriginal policies and rhetoric.

Of course the Hanson result in Queensland became a national event, much scrutinised and not always properly understood. Various studies showed, however, that a lack of education, a lack of contact with outsiders, high unemployment, and local or regional economic decline characterised those areas where the Hanson vote was high.³ During the rest of 1998 and early 1999 the well-publicised problems of One Nation party local branches, especially with regard to their authoritarian structures and financial controls, damaged party credibility. Also, after their boisterous and sometimes outrageous speeches and conduct in the Queensland parliament, and thanks to their considerable hypocrisy in the enthusiasm they showed for the parliamentary perks and

expenses they had recently opposed, six of One Nation's 11 MP's left the party, with one of them leaving parliament altogether and being replaced by a Labor MP in the resulting by-election. The March 1999 election in New South Wales saw only one Hansonite elected, i.e., the controversial party director and strategist to the upper house.

Hanson lost her seat in the federal Parliament in October 1998 despite a strong vote in her district, the other parties denying her their preferences in order to defeat her. At the time of writing (May 1999) she seems to be embarked on a new campaign. *The Australian* of May the 19th reported that the previous day "Ms Hanson said residents in Queensland's west feared for their safety because of the 'large Aboriginal population out that way'." Furthermore, she said that "If this was going on in any other part of Australia, where it was not Aboriginal, they would actually have the police in there in force. But because it's Aboriginal, we don't do anything about it." To claim that large chunks of the white-settled interior of Australia are in the hands of violent Aborigines is a remarkable statement, to say the least. One would expect governments to reply, but they have not done so, presumably believing that the wisest way to deal with her is to deny her publicity.

As for what had become known as Hanson's "deranged" speech, i.e., the one about Nunavut and the UN declaration, the Howard government is backpedaling from earlier Australian work on the draft declaration, now opposes indigenous 'self-determination' in UN forums, and was conspicuously absent from the Canadian government reception in Sydney to celebrate the launch of Nunavut. No wonder that cartoonists seat Hanson among Howard's ministers in drawings of the federal cabinet!

Conclusions

Meanwhile the populist cauldron boils and bubbles. Despite a vigorous attempt by Australian national and state governments and political parties following the October 1998 election to convince the world and themselves that Pauline Hanson and her One Nation movement had receded, this belief seems premature. An amateur, under-funded, inept, and inexperienced campaign - and some bad luck - accounted for her poor result. Confusion and anger in large chunks of the public will continue to look for a political home until it is redirected by a new national leadership or changed conditions. Also, the bile of American and other extreme groups that is leaking into Australia, will become a stronger current thanks to the growing use of the Internet.

Australia's public debate is fragmented. A continent of gifted writers and speakers is decanted into small journals with limited readerships or into vig-

orous social exchanges within, rather than between, peer groups. The mass media largely preen themselves on their awareness of politico-administrative technique, and predicting failure or insurmountable difficulties is almost a national trait. So, as far as basic moral and political wrongs such as dispossession, marginalisation, powerlessness, and the resultant problems of indigenous peoples go, there is little guidance available to the general public. Newspaper features or editorials too often lose themselves in mumble. Hence the importance of organisations like ANTaR, and of the few committed journalists. Most valuable are the country's rich store of newspaper cartoonists and stage or television comedians who maintain a sense of scathing outrage, the clear conscience of an otherwise too-often too-clever country.

There are three great tasks ahead for Australia. The first is to return to policies which have some hope of working and work some hope in the indigenous community. The second is to mobilise the non-indigenous community and its social consensus across party lines - a consensus which appears ready to bloom in many dusty lanes and leafy suburbs when the Right's ideological vigilantes leave the scene - in order to enable major policy reform. The third is to rebuild an indigenous-white political relationship with negotiations about political status and policy direction at its core.

Notes

- 1 *TSRA News*, No. 25, February 1999, on-line and in print form.
- 2 See Christine Nicholls' 'Killing Us Softly', *Arena Magazine* No. 40 (April-May 1999), Melbourne, pp12-13.
- 3 See Abbott T et al., 1998: *Two Nations: The Causes and Effects of the Rise of the One Nation Party in Australia*, Bookman, Melbourne. Also, Paul Reynolds and others forthcoming in M Hanson & G Stokes (ed) University of Queensland essays on the Hanson phenomenon.

Sources

Australia's major newspapers, especially *The Australian*, *Sydney Morning Herald*, *Melbourne Age*, and *Brisbane Courier-Mail*, and the Australian Broadcasting Corporation Online News, are major daily sources of information and have web sites that are updated daily, *The Courier-Mail* sharing with other Murdoch newspapers *The Australian* online site. The Council for Aboriginal Reconciliation, ATSIC, Northern Land Council, Torres Strait Regional Authority, and the Human Rights and Equal Opportunity Commission (see especially the Aboriginal and Torres Strait Islander Social Justice) all have web sites with much useful news and background information:

<http://www.austlii.edu.au/au/orgs/car/>

<http://www.atsic.gov.au/>

<http://www.ozemail.com.au/~nlc95/>

<http://www.tsra.gov.au/>

http://www.hreoc.gov.au/social_justice/index.html

Many books on and studies of indigenous issues are published steadily in Australia.

THE PACIFIC

For many indigenous peoples of the Pacific, the issue of self-determination and political independence is still a crucial one, as seen in Kanaky (New Caledonia), French Polynesia, Bougainville, East Timor and West Papua. 1998 marked the 100th anniversary of the Spanish-American war, and the US annexation of Pacific nations such as Guam and Hawai'i, where there are ongoing struggles by the indigenous Chamorro and Kanaka Maoli peoples, who have been made a minority in their own land. Here, as elsewhere in the world, the small, developing island states of the Pacific are adjusting to economic and environmental changes, especially in the aftermath of the Asian economic crisis. Indigenous land tenure systems are coming under pressure as independent island governments come under the sway of World Bank doctrines of privatisation, corporatisation and trade liberalisation.

Kanaky (New Caledonia)

In a referendum on the 8th of November 1998, a large majority of voters in New Caledonia accepted the Noumea Accords - the agreement signed in May 1998 between the French government, the conservative *Rassemblement Pour la Calédonie dans la République* (RPCR) and the Kanak independence movement *Front de Libération Nationale Kanak et Socialiste* (FLNKS).

But the November referendum is not a final resolution of the clashes that disrupted the French colony during the 1980's. A vote on self-determination and independence for New Caledonia - the goal of the indigenous Kanak movement for over two decades - will only take place after another 15 to 20 years.

Nearly 72 per cent of those who voted in November said "Yes" to the question, "Do you approve the agreement on New Caledonia, signed in Noumea on the 5th of May 1998?" Seventy four per cent of 106,706 registered voters turned out (nearly 11 per cent more than for the 1988 referendum on the Matignon Accords). Voting was restricted to those people resident in New Caledonia before 1988.

Support for a "Yes" vote came from all major political forces - the pro-independence coalition led by FLNKS President Rock Wamytan, Jacques

Lafleur's anti-independence RPCR and the French government. The main French political parties sent delegations from Paris to campaign for a Yes vote, and the result was warmly welcomed by Prime Minister Lionel Jospin and President Jacques Chirac.

In the European settler community, there was greater support for the current compromise than for the 1988 Matignon Accords. But in spite of calls for a "Yes" vote from Jacques Lafleur and the RPCR leadership, there was still significant opposition. Over a third of the European-dominated Southern Province voted against the Accords. The municipality of Noumea recorded an even stronger "No" tally, at 42 per cent.

Where indigenous Kanaks came out to vote, there was overwhelming support for the Accords (95.49 per cent of voters in the Loyalty Islands Province voted "Yes", and 86.79 per cent in the Northern Province). However, participation was uneven - less than half the registered voters in the Kanak dominated Loyalty Islands bothered to vote.

Key elements of the Noumea Accords are as follows:

- amendment of the French Constitution in July 1998 to create a "New Caledonian citizenship";
- elections to be held on the 9th of May 1999 for three provincial assemblies, a new Congress and Executive for New Caledonia;
- measures to promote Kanak culture and identity, including a Kanak customary Senate;
- the "irreversible" transfer of powers from Paris to Noumea over fifteen years, with France retaining control over defence, police, law and order, currency and some aspects of foreign policy;
- financial support from Paris for the transition period of "shared sovereignty";
- a final vote on self-determination in 15-20 years time, after three terms of the Congress.

For different groups there is a fundamental difference in perspectives on the Accords. For Rock Wamytan and the leadership of the FLNKS, the Accords are seen as an important step in the transition to political independence. But during the referendum campaign, Lafleur stated, "New Caledonia will never be independent". For many in the settler community, the Accords' key purpose is to delay a vote on self-determination for twenty years. The Accords

also guarantee ongoing French financial support, largely benefiting the European settlers and the business community.

Some Kanak activists are concerned with the following aspects of the Noumea Accords process:

- the 15-20 years before there will be an act of self-determination - in the interim, France will retain control of key sectors of legal and political powers, including defence, currency and finance, law, order and justice, and many aspects of foreign policy;
- the accords are seen as reinforcing and legitimising the RPCR's power in the southern province and local administration;
- there are concerns over the social and environmental impacts of a development model based on mining and tourism;
- the colonial state is presenting itself as an independent arbitrator between pro- and anti-independence parties, rewriting the history of the French State's central role in the colonial process.

But FLNKS leaders argue that demographic change and limits on immigration from France will create a basis for a solid vote in favour of independence at the end of the 15 year transition period. They hope that long-term Caldoche settlers and other immigrants will adapt to the reality that New Caledonia is part of the South Pacific, not France.

The July 1998 revision of France's Constitution created a new category of "New Caledonian citizens" under French law. The new citizenship status is seen as crucial for controlling immigration and local employment, given the thousands of recently arrived French citizens in the country. Only New Caledonian citizens can vote for Provincial assemblies and the new Congress.

But the lead up to elections for these bodies on the 9th of May 1999 was thrown into turmoil when France's highest court overruled a key provision of the 1998 Noumea Accords. On the 15th of March, the *Conseil Constitutionnel* (Constitutional Council) in Paris ruled that all French citizens residing in New Caledonia for at least 10 years - whatever their date of arrival - will be able to participate in provincial elections. They can also adopt the "New Caledonian" citizenship created by the Noumea Accords and the July 1998 revision of the French Constitution. This legal ruling overturns a key part of the Noumea Accords. Under the Accords, the electoral body was effectively fro-

zen in 1998, as only those people resident for ten years after 1988, and their descendants of voting age, could participate in future electoral contests.

The whole saga reinforces the view that the Noumea Accords process is a political settlement negotiated between the French State and political forces in New Caledonia, governed by French law. It is not a self-determination process based on the decolonisation principles and practice of the United Nations. The FLNKS leadership believes that this process is the best way forward to a peaceful vote on self-determination in the future, and felt betrayed by this reversal of a key element of the Accords.

The FLNKS Convention on the 3rd of April announced that they would boycott the elections, throwing the French government into a panic. Pledges by the government that they would again amend the Constitution appeased some of the anger in the independence movement, and the boycott call was reversed.

The strong support for the November referendum masks problems in three key areas, namely the jousting between political parties in the lead-up to the elections, the economic crisis in key sectors of the economy, and France's broader strategic interests in the South Pacific.

The political compromise symbolised by the Noumea Accords is overshadowed by economic problems and industrial disputes. Like many Pacific nations, New Caledonia faces falling commodity prices, the ebb and flow of tourist numbers, and fallout from Asia's financial crisis. With nickel prices at their lowest level since 1986, and exports falling 20 per cent this year, the key mining sector has been hit hard.

However French investment continues to flow in. French fishing fleets are eyeing the new deep-water port under construction at Nepoui, as a base for South Pacific operations. The Paris based *Société Générale* will buy out Westpac Bank's operations in New Caledonia and French Polynesia.

Many Kanaks have welcomed measures in the Noumea Accords that recognise indigenous Kanak culture and identity (highlighted by the preamble which acknowledges the "shadows" of the colonial period). The opening of the Tjibaou Cultural Centre in Noumea, in honour of the Kanak leader assassinated in 1989, marks a renaissance of indigenous cultural activity, that includes a range of grassroots activities in music, art, dance and the recording of oral history and Kanak languages.

But the further delay of a vote on independence has caused concern amongst some indigenous Kanak activists, who have not benefited from the

1988 Matignon Accords. New forces that are active on the ground - trade unions, non-government organisations and landowners' associations - do not accept the current development model of mining, tourism and French grants. A squatters' movement is mobilising the thousands of people, largely Kanaks and Wallisians, who live in settlements on the outskirts of Noumea.

Ka Pae'aina (Hawai'i)

August 1998 marked the 100th anniversary of the annexation ceremony at 'Iolani palace, where the illegal settler Republic of Hawai'i submitted to US sovereignty. The indigenous Kanaka Maoli people of Hawai'i opposed annexation a century ago, and their resistance continues to this day.

In 1898, five years after the United States supported white businessmen in the illegal overthrow of the sovereign Hawaiian kingdom, the US government made Hawai'i a territory of the United States. Although the US government participated in the overthrow of the Hawaiian kingdom in 1893, it did not officially claim Hawai'i as a territory at that time. Sovereignty and lands of Hawai'i were illegally handed to the US government in 1898 by the so-called Republic of Hawai'i.

Research by Noenoe Silva shows that there was extensive Kanaka Maoli opposition to the annexation in 1897-8. This opposition found its voice in three organisations, the Hui Aloha 'Aina o Na Kane (for men), the Hui Aloha 'Aina o Na Wahine (for women), and the Hui Kalai'aina. On the 7th of September and the 8th of October 1897, thousands of Kanaka Maoli rallied against annexation. Hui Aloha 'Aina members travelled to all islands in Hawai'i to garner support. Some 21,269 Kanaka Maoli (out of a population of 40,000) signed the anti-annexation petition that was presented to the US President and Congress in December 1897. Hui Kalai'aina also conducted a petition drive, gathering 17,000 signatures calling for the restoration of the Hawaiian monarchy, which was presented in February 1898.

However, the United States declared war on Spain in April 1898, and the US military required Pearl Harbour in Hawai'i as a military base. This war allowed the US to dominate and annex Spanish territories: the Philippines and Guam in the Pacific, and Puerto Rico and Cuba in the Caribbean (under the December 1898 Treaty of Paris, Spain granted the United States control over the civil rights and political status of the native inhabitants of all territories ceded by Spain).

The war crisis increased the pressure for the annexation of Hawai'i. The Newlands resolution to annex Hawai'i was adopted by the House of Representatives on the 15th of June 1898, and by the US Senate on the 6th of July

1898. President MacKinley signed the resolution the next day, and on the 12th of August an annexation ceremony was held at 'Iolani Palace. At this ceremony, boycotted by the Kanaka Maoli people, Sanford Dole and the Republic of Hawai'i submitted to US sovereignty, handed Kanaka Maoli lands to the US and made the Kanaka Maoli people US citizens without their consent.

In 1946, the United Nations recognised that Hawai'i was amongst the nations illegally dominated by the United States. Hawai'i was listed on the original UN list of non-self-governing territories (together with other Pacific countries like New Caledonia and French Polynesia). However, the US government used the 1959 Statehood vote to manipulate the removal of Hawai'i from the United Nations list. By changing Hawai'i's status from a territory to a state of the United States, the US authorities misrepresented the vote for statehood, depicting it as the will of the people who had voted for a "full measure of self-government".

In 1993, the US Congress signed into law an apology to the Kanaka Maoli people for the 1893 overthrow of our government - the 1993 Public Apology Law, PL No. 103-150, 107 Stat.5 (1993). The apology law admits that the US backed overthrow was illegal and that the annexation and subsequent conferral of statehood were illegal and violated the Kanaka Maoli people's right to sovereignty and self-determination.

Today, the Kanaka Maoli people are still seeking to exercise their right to self-determination. On the 18th of January 1998, the Kanaka Maoli rallied at the 'Iolani Palace to protest against the US annexation, and to oppose the State of Hawai'i's proposed "Native Hawaiian Autonomy Act". On the 12th of August 1998, Kanaka Maoli again rallied at the 'Iolani Palace, to protest against 100 years of US colonialism and US annexation.

Guam

In 1998 the Micronesian island of Guam also marked the 100th anniversary of the Spanish-American war, with ongoing efforts by the indigenous Chamorro people to assert their right to self-determination. The UN Decolonisation Committee has placed Guam on the UN list of non-self-governing territories, in spite of US attempts to wind up the work of the Committee.

For ten years, the US Government and the Guam territorial government held discussions over establishing Guam as a Commonwealth instead of remaining an unincorporated US territory. In 1998, after no progress had been made towards gaining Commonwealth status, the Guam legislature passed legislation PL 23-147 to create the Guam Commission on Decolonisation. According to Guam's Governor Guterrez, "The Guam initiative to establish

a process for decolonisation follows over a decade of inconclusive discussions with the Executive branch of the Administering Power on establishing a process for the exercise of self-determination". (Letter to the UN Secretary General, 24th of May 1998).

While continuing to negotiate with the US government, the Guam Commission on Decolonisation is mandated to tie this process to the provisions of decolonisation in international law. According to Commission member Marilyn Manibusan, "The process we have outlined is based on the principles of international law and the basic human right of colonised people to decolonisation...Ultimately, we will decide our future, with or without the sanction of the administering power". (Speech to NGO Parallel Forum, Pohnpei, FSM, 16th of August 1998).

Guam's Commission on Decolonisation has been involved in lobbying the United Nations through the UN Decolonisation Committee and the Fourth Committee, and has successfully managed to block US efforts to incorporate Guam into an omnibus resolution affecting all remaining US territories. Chamorro representatives lobbied the UN successfully to gain a "stand alone" resolution to focus on Guam's decolonisation. The US mission to the UN objected to any separate resolution, rejecting any mention of Chamorro self-determination or the possibility of a UN mission visiting Guam to inspect the process towards self-determination.

The UN Decolonisation Committee's "stand alone" resolution of the 11th of August 1998 requests the US government "to recognise and respect the political rights and the cultural and ethnic identity of the Chamorro people of Guam". It also calls on the administering power to "co-operate with Guam's Commission on Decolonisation for the implementation and exercise of Chamorro self-determination, in order to facilitate Guam's decolonisation, and to keep the Secretary General informed of progress to that end".

US President Bill Clinton visited Guam in November on his way to the Asia Pacific Economic Conference - the first US president to visit the territory since Ronald Reagan stopped there to refuel in 1986. Amongst issues raised by Guam officials was the transfer of land and controls on immigration from the freely associated states in Micronesia which were formerly US trust territories (Palau, the Marshall Islands and the Federated States of Micronesia). Guam leaders asked Clinton to use his executive powers to expedite transfer to indigenous owners and the territory of 6000 acres of federal excess land, the former Navy Ship Repair Facility and property at Tiyan.

Te Ao Maohi (French Polynesia)

The indigenous Maohi people of "French" Polynesia are living with the legacies of 193 nuclear tests conducted by France between 1966 and 1996. In July 1998, the International Atomic Energy Agency (IAEA) released the report of a two year study of the nuclear test sites at Moruroa and Fangataufa atolls. For nearly thirty years, French government officials stated that there was no radioactive fallout from French nuclear tests, or leakage of radioactivity into the lagoons at Moruroa and Fangataufa. The IAEA report shows, however, that there is radioactive pollution caused by the nuclear tests in spite of decades of denials:

- five kilograms of plutonium remain in the sediments of Moruroa's lagoon as a result of atmospheric nuclear tests and plutonium safety trials, with a further three kilos in Fangataufa's lagoon;
- the concentration of tritium in the lagoon is ten times higher than in the open ocean, as a result of leakage from cavities created by the underground tests;
- particles of plutonium and americium remain at the test sites on Colette, Ariel and Vesta islands on the north side of Moruroa atoll;
- high levels of caesium 137 were found over small areas totalling several hectares on the Kilo-Empereur rim of Fangataufa atoll.

The IAEA report argues that this material has "no radiological significance" and cannot threaten human health in the future. But what of the past? The IAEA study does not look at the health of the thousands of indigenous Maohi workers who staffed the test sites over thirty years, many of whom were exposed to these radioactive isotopes. Yet experience from British and US tests in the 1940's and 1950's shows that there will be long-term health consequences for military and civilian personnel who worked at the test sites.

Maohi workers formerly employed at France's Pacific test sites are calling for open access to their own medical files. Further transparency is required. The IAEA report also shows that 1960's and 1970's atmospheric tests caused radioactive fallout on inhabited islands including Tureia, Tahiti and the Gambier islands, so the effects of French testing go far beyond Moruroa. The French government has ongoing responsibilities, and must address those questions of compensation, the cleaning-up at Moruroa and Fangataufa, and the health of test site workers and French military personnel affected by the tests.

Since the end of the nuclear tests in 1996, Maohi NGO's and churches have been active in the campaign to open French archives and health records, and have supported the thousands of Maohi test site workers. On the 14th of December 1998, the World Council of Churches General Assembly in Harare wrote to the French Prime Minister asking him "to bring out all the facts and the transparency concerning the disclosure of the consequences of the nuclear tests in Polynesia" and to "take all measures that turn out to be necessary with regard to public health and restoration of the environment".

The Protestant *Eglise Evangelique de Polynesie Francaise* (EPPF) and Maohi community groups in the NGO network Hiti Tau have continued their campaign over the aftermath of nuclear testing, following the 1997 publication of the book *Moruroa and Us*. On the 20th of February 1999, an important seminar was held at the French National Assembly in Paris, entitled "The French Nuclear Tests in Polynesia - demanding the truth and proposals for the future". Presentations at the seminar, from French and Maohi churches, NGO's and trade unions covered the economic, social and environmental impacts of the tests, along with proposals for further action.

NGO's and community groups are organising local initiatives, as an alternative to living off the nuclear economy. Through the NGO network Hiti Tau, Maohi women have formed a co-operative to produce *monoi* (a scented coconut oil), using knowledge from older women in the community.

Territorial President Gaston Flosse continues to increase his influence. His reign in Papeete has been marked by the construction of a lavish Presidential Palace, costing millions of dollars. Flosse's continued attempts to criminalise protests by independence activists and non-government organisations, were most sharply illustrated by the mass trial in September 1998 of people charged with protesting against Jacques Chirac's resumption of nuclear testing in 1995. Sixty four people came to trial on charges relating to the 1995 riots, including leading figures from the pro-independence party Tavini Huiraatira. While many of the protesters were charged with minor offences, some leaders faced serious charges. Of the 64 defendants, 33 were found to have hindered air traffic, but were released without penalty. Others were fined or given suspended prison sentences, ranging from one month to three years. Hiro Tefaarere, at the time the leader of the trade union A Tia I Mua, was given the heaviest penalty with three years in prison (18 months to be served without remission) and the deprivation of his civil and political rights for five years. He is currently appealing against the decision.

It became clear however, that those on trial were not only those in the dock, but the provocateurs who had sparked the violence on the 6th of September. In spite of the court's guilty verdicts, the testimony increased the public's belief that the riots had been provoked by police and forces close to President Gaston Flosse.

The trial comes at a time when major political changes are underway in French Polynesia, with conservative forces wanting to discredit the independence movement. The Noumea Accords in Kanaky (New Caledonia), and changes to the French Constitution which create a new citizenship for New Caledonians, have threatened Gaston Flosse's long held attachment to France. Tavini leader Oscar Temaru travelled to Paris in October 1998 to officially meet with the French Overseas Territories Minister Jean-Jack Queyranne for the first time. Queyranne has stated that France would support French Polynesia in its bid to become an observer at the South Pacific Forum, after New Caledonia was invited to take up this post at next year's Forum meeting in Palau.

President Flosse's election as Senator for French Polynesia in the French Senate foreshadows further changes in Tahiti. Flosse has already obtained agreement for a new autonomy statute, which mimics elements of the Noumea model. The French government will amend its Constitution in late 1999 to create a new statute of autonomy for French Polynesia. The new statute will duplicate some elements of the Noumea Accords in New Caledonia. If passed, French Polynesia will become an "overseas country" rather than an "overseas territory" of France with the power to pass laws, sign international treaties and protect local employment. Unlike the Noumea Accords however, there is no vote on self-determination and independence at the end of the transition!

Bougainville

The long running conflict over Bougainville seemed to move towards a settlement in early 1998, but the negotiated breakthrough has not led to a lasting resolution. After protests in the late 1980's between indigenous landowners near the Panguna Copper mine, clashes with police escalated to an armed conflict between the Bougainville Revolutionary Army (BRA) and the Papua New Guinea defence Force (PNGDF). The BRA and its political wing have been calling for self-determination and independence from Papua New Guinea, a call resisted by the Papua New Guinea government, fearful of secessionist tendencies in a nation of over 800 language groups.

After nearly a decade of conflict, there are signs of reconciliation between pro- and anti-independence forces. The signing of the Lincoln Agreement in January 1998 between the Papua New Guinea Government, the pro-independence Bougainville Interim Government (BIG) and the PNG-backed Bougainville Transitional Government (BTG) opened the way for a process of reconciliation, and a political dialogue on the future of the island.

On the 29th of April 1998, leaders from all political forces involved in the Bougainville crisis met to finalise and endorse the text of the cease-fire agreement. The cease-fire, however, did not address the underlying political tensions that still need to be resolved. The PNG Prime Minister Bill Skate has reaffirmed his policy that Bougainville is an integral part of Papua New Guinea, and that "independence is non-negotiable". Clause 4 of the Lincoln Agreement notes that "the parties agree to a phased withdrawal of the PNG Defence Force (PNGDF) from Bougainville, subject to the restoration of civil authority". But some PNG leaders do not see this requires a total withdrawal, and by mid-1999 there were still PNGDF troops on Bougainville.

The peace process established by the Lincoln Accords has been monitored by a Peace Monitoring Group, comprising unarmed military and civilian personnel from Australia, New Zealand, Vanuatu and Fiji. Some commentators expressed concern when the financial burden of the peacekeeping role led New Zealand to ask Australia to take the leading role in the Monitoring Group. For elements of the BRA, Australia has never been seen as a neutral party to the Bougainville crisis, whilst throughout - from the 1991 Endeavor Accords to the 1997 Burnham Declaration and the 1998 Lincoln Agreement - New Zealand has consistently called for a negotiated political settlement.

Another concern was that BRA leader Francis Ona did not sign the cease-fire order in April 1998, even though the BRA's political representatives from the BIG had been central in the negotiations. However the vast majority of BRA fighters and opposition Resistance forces began to follow the cease-fire provisions.

The cease-fire, which came into effect at midnight on the 30th of April, contained a number of elements, including:

- the deployment of unarmed monitors at towns around Bougainville;
- the declaration of Arawa as a neutral demilitarised zone;
- the withdrawal of PNGDF forces from Arawa to Loloho;
- the planned withdrawal of PNG forces once civil order was restored;

- the sending of a five-person peace monitoring mission, as endorsed by the United Nations Security Council, with the aim of monitoring the peace until elections could be held in December 1998 for a new Bougainville Reconciliation Government.

The withdrawal of PNG forces became a central sticking point in the following months. The cease-fire agreement called for the rescinding of the 1989 "call-out order", when the military forces of the PNG Defence Force were called out to aid the civil police engaged in conflict with Bougainvillean landowners near the giant Panguna copper mine. But the PNG government did not rescind the order until the 19th of August (just before the South Pacific Forum meeting which brought together leaders from around the region).

There have been attempts for some time to develop local capacities to maintain order (e.g., in mid-1998, Bougainvilleans underwent police training at the National Police College in Bomana, and thirty auxiliary police were trained at Arawa in June to be the core of a force which could replace the PNGDF military in restoring civil order). But the PNGDF withdrawal from Arawa took over 5 weeks, testing the patience of Bougainvillean negotiators.

A scheduled meeting in June 1998 between PNG Government and BIG representatives did not occur, causing concern that the transitional process towards elections was getting bogged down. The Pan-Bougainville Leaders Congress was finally held on the 20th to 22nd of August. Preparations for this meeting of all the political and social forces, involved a round of preliminary consultative meetings in various districts, a series of women's meetings to prepare a position paper reflecting women's views, and meetings of chiefs at Buin (in the south), Wakunai (in the centre) and Buka (in the north).

This meeting, attended by some 3000 people, produced the "Buin Declaration of the Pan-Bougainville Leaders' Congress". The document notes that "The Congress believes that the people of Bougainville are united in their common aspiration for an independent homeland". It calls on the Papua New Guinea government "to give the people of Bougainville, as a matter of principle, the chance to exercise their individual and collective rights to self-determination". It affirms the need to establish a Bougainville Reconciliation Government (BRG) by the end of 1998, and acknowledges that "a peaceful resolution is only possible through peaceful negotiations".

A month after the Buin Congress, the PNG Government and Opposition hammered out an arrangement to establish a Bougainville Reconciliation Government (BRG). The four Bougainvillean MP's in the PNG Government

- Sam Akoitai, Michael Ogio, Michael Laimo and John Momis - developed a package of reforms promoting greater autonomy for Bougainville, to be put before the PNG Parliament. However both the BTG and the BIG were opposed to the four MP's holding any executive positions in the new Reconciliation government.

After a series of debates, manoeuvres and meetings, the PNG government could not uphold its end of the cease-fire process. It was unable to pass legislation through the National Parliament to make legal the setting up of the Bougainville Reconciliation Government before the end of 1998. The PNG Parliament adjourned for months, torpedoing any hope that the establishment of the BRG would run smoothly. Local leaders in Bougainville expressed their opposition to politician John Momis taking up the position of Governor of the province, and continued to organise a process for elections to the Reconciliation Government, even without the PNG government's endorsement and enabling legislation. On the 1st of January, the Government finally suspended the provincial government legislation, recognising that on the ground, people were pressing ahead to form the government.

The Bougainville Reconciliation Government will include elected members from 69 constituencies, with appointed representatives from the Women's Council, churches, resistance factions and the BRA. In December 1998, a Bougainville Constituent Assembly was proclaimed, until full elections for the BRG can be held. The pro-independence forces continued to organise for the elections to the BRG, scheduled for the 24th to the 30th of April 1999. Over 200 people have been nominated as candidates for the elections, but the validity of the vote has been challenged as in early April, Resistance forces announced that they would not take part.

The legacies of over a decade of conflict will continue to influence the slow pace of reconciliation. In Papua New Guinea, the ongoing Bougainville crisis is causing serious divisions between the Government and Opposition. Past decisions have come back to haunt the present - Sandline International, the mercenary company hired by former Prime Minister Sir Julius Chan, is pressing for full payment of its US\$36 million bill for operations. The current Skate government has faced a series of legal challenges and attempts by Sandline to seize aid funds from Europe as well as other PNG revenue in overseas accounts.

West Papua (Irian Jaya)

The issue of West Papua has moved to the international stage in recent months, with increasing pressure on the Indonesian regime to address West Papuan nationalist demands. There are ongoing protests by local indigenous communities against the social and environmental impacts of major logging and mining projects, such as the Freeport copper mine in the Grasberg Mountains.

In mid-1998, there were a series of protests by indigenous West Papuans around the country, leading to attacks by the Indonesian armed forces. On the 1st of July 1998 (the anniversary of the 1961 proclamation of independence for West Papua), 100 demonstrators gathered in front of the regional parliament in the capital Jayapura, asking to meet the governor and local officials. Their requests were refused, and two people were killed when protests continued the next day. On the 2nd of July, 1,000 people demonstrated in the oil town of Sorong, calling for independence, the repatriation of transmigrants and the removal of Indonesian troops. On the same day, 700 people rallied in Biak, raising the Morning Star flag. The Biak protests were met with massive repression, and on the 6th of July, Indonesian troops attacked the rally on the Biak waterfront. Initially twenty people were killed and 150 were injured, but the crackdown continued. In the following weeks dead bodies were found floating in coastal areas, and by August the death toll was at least 70. In October further flag raisings occurred in Manakwari, with rioters causing more than one billion Rupiah in damage.

Church and NGO leaders have been calling on the Indonesian regime to enter into dialogue with the West Papuan nationalist movement for some time, following the Biak massacre in July 1998. On the 11th of September 1998, the head of the National Task Force on Irian Jaya from the Indonesian Council of Churches, Dr. Phil Erari, met with President Habibie. He proposed a "dialogue with the President to discuss the impact of national development for the people of Irian Jaya and problems concerning human rights violations, politics, law enforcement, the economy, socio-cultural aspects, religion and history". After the December 1998 World Council of Churches (WCC) General Assembly in Harare, the ecumenical movement sent a delegation to West Papua to investigate human rights concerns. Local indigenous representatives, church leaders and non-government organisations have founded new political and community organisations, such as the Forum for the Reconciliation of Irian Jaya Society (FORERI), and the Irian Jaya Traditional Consensus Institute / Conference of all Tribal Peoples of Irian Jaya.

On the 26th of February 1999, there was an unprecedented meeting between Indonesian President B.J. Habibie and West Papuan representatives, where they clearly stated their desire for self-determination and independence. Following two preparatory meetings, the Indonesian President and senior officials held a closed-door meeting with delegates from West Papua at the Merdeka Presidential Palace in Jakarta on the 26th of February. The hundred strong West Papuan delegation included officials, tribal and religious leaders and representatives from women's, intellectuals' and non-governmental organisations.

The opening statement from the West Papuan delegation was presented by Tom Beanal, chairperson of LEMASA (a community organisation of the indigenous Amungme people who live near the giant Freeport copper mine). Beanal read out a declaration signed by the West Papuan delegates, which clearly stated that "the people of West Papua want to separate ourselves from the Unitary Republic of Indonesia, to be fully sovereign and independent among other nations in the world". Fifteen other West Papuan speakers followed Beanal's opening presentation, reaffirming their support for independence. The statements show a clear shift in political opinion in West Papua.

State Secretary Akbar Tanjung, speaking after the talks, said that Habibie had listened to the demand for freedom "with calm and was not emotional." Tanjung also quoted Habibie as having told the West Papuan representatives that "in the future, we need to eradicate practices which oppress human rights".

Indonesian spokespeople soon tried to argue that the delegation was unrepresentative (however, since the meeting, a number of West Papuans who participated have been subjected to acts of intimidation following their return home to Jayapura). But there have been surveys that show strong support for independence. When representatives of the Fakfak district in Irian Jaya surveyed local opinion, 100 per cent of respondents stated that they wanted independence. Beanal said that his NGO recently interviewed residents of the Mimika region and found that only three out of the 13,755 people surveyed wanted autonomy. "The rest called for Irian Jaya independence," he said. "The Papua flag has actually been waving on the island since 1961. All we want from Indonesia is its recognition of Irian independence."

A survey held by the People for Democracy Group in Yapen Waroep found 16,281 people for independence. Autonomy was the preferred option of another 200, while only five agreed on a federal concept. The survey covered the eight districts of South Yapen, North Yapen, West Yapen, Masirei, East Yapen, Angkaisera, Waropen Bawah and Waropen Atas. In Manokwari, 22

out of 24 districts preferred independence while the remaining two selected autonomy.

South Pacific Forum and the Non-Self Governing Territories

The South Pacific Forum is one of the major intergovernmental organisations in the South Pacific, linking Australia, New Zealand and the independent island nations of the South Pacific - Papua New Guinea, Vanuatu, the Solomon Islands, Fiji, Tonga, Samoa, the Cook Islands, Niue, Tuvalu, Kiribati, Nauru, the Federated States of Micronesia, the Republic of Palau and the Republic of the Marshall Islands. The remaining US and French colonies in the region are not members of the Forum, but participate in other regional intergovernmental bodies such as the Pacific Community (SPC) and South Pacific Regional Environment Program (SPREP).

The South Pacific Forum holds annual meetings of member Heads of Government, and has a Secretariat located in Suva, Fiji. Formed in 1971, the Forum was originally intended to encourage informal dialogue between independent island leaders, focusing on issues surrounding self-determination and the nuclear question. Today, the Forum has a much broader brief, and serves as a policy body and information resource to develop collective South Pacific positions on regional and international issues, especially trade and investment, political affairs and international relations.

Membership of the Forum is limited to independent nations, with formal observer status only open to those countries on the path to independence (The Republic of Palau was an observer for some years before it ratified the Compact of Free Association with the United States in 1984).

For many years, indigenous peoples' organisations, NGO's and pro-independence parties have lobbied to get the Forum to add their particular issues to the Forum's agenda. They have also asked the Forum to support the reinstatement of colonised and indigenous peoples on the list of non-self-governing territories at the United Nations.

The UN Decolonisation Committee held its Pacific Regional Seminar in Nadi, Fiji between the 16th and the 19th of June 1998. Non-government organisations such as the Pacific Concerns Resource Centre (PCRC), the Fiji Council of Churches (FCC) and the Pacific Islands Association of Non-Government Organisations (PIANGO) lobbied for the committee to open up to representatives of countries not listed as non-self-governing territories. After PCRC's lobbying, the Fiji government representatives agreed that the seminar should be open to representatives of movements in countries that are not listed on

the UN list of non-self-governing territories. However the UN committee officials were reluctant to accept this initiative. After further lobbying, one Kanak NGO representative and two Tahitians - Oscar Temaru, President of Tavini Huiraatira and Gabriel Tetiarahi of the NGO network Hiti Tau - participated as part of the FLNKS delegation.

In 1998, while lobbying at the Melanesian Spearhead Group, the South Pacific Forum, and the United Nations Decolonisation Committee, Kanak leader Rock Wamytan called for the international community to maintain its "vigilance". For the independence movement FLNKS, the Noumea Accords provide a new opening into the South Pacific region, with New Caledonia assuming observer status at the 1999 South Pacific Forum in Palau. The Accords allow New Caledonia to join regional and international institutions, and to develop trade and other agreements with neighbouring countries. But Wamytan has asked the United Nations to keep New Caledonia on the list of non-self-governing territories at the UN Decolonisation Committee, until full UN observer status is assured.

An FLNKS delegation led by Wamytan attended the South Pacific Forum in Pohnpei in September 1998. For the first time, the conservative RPCR sent official representatives to the Forum, including veteran Kanak RPCR politician Robert Paouta and a functionary from the Territorial administration. In another first, Wamytan and Paouta were both invited to address a dinner hosted for the attending Heads of Delegations. The speeches had an impact. At the Forum leaders' retreat the next day, there was common agreement that New Caledonia should be given full observer status for the next South Pacific Forum, to be held in Palau in 1999. The Forum will await a formal request from the New Caledonia administration chosen during the May 1999 provincial assembly and Congress elections. The French Overseas Territories Minister Jean-Jack Queyranne flew to Pohnpei to attend the Post-Forum dialogue, reflecting France's current efforts to rebuild links with the regional organisation.

With New Caledonia applying for observer status after the May 1999 elections, the South Pacific Forum is currently revising its policy on observer status. On the 14th of April 1999, France's Secretary of State for Overseas Territories Jean Jack Queyranne met in Paris with Noel Levi, the Secretary General of the Forum Secretariat. Queyranne stated that France would support French Polynesia's application to be an official observer at the Forum Secretariat (New Caledonia will join the Forum as an observer at this year's

meeting in Palau). Levi stated he saw "no great obstacle" to French Polynesia joining as an observer.

The French colonies are not the only potential observers at the Forum. In March 1999, Nobel Peace Prize Co-laureate Jose Ramos Horta visited Fiji, and proposed that East Timor might apply for Observer status as part of its transition process leading to independence - a suggestion cautiously welcomed by Forum Secretary General Noel Levi.

Economic Development in the South Pacific

The South Pacific Forum's primary focus is on issues of trade, development and investment in the region. Since 1997, the Forum has held Forum Economic Ministers Meetings (FEMM) in the lead up to the annual Heads of Government meeting. This new focus on economic and trade issues reflects growing attention to the effects of globalisation, in the wake of the Asian economic crisis.

Developments in Asia impact significantly on the Pacific islands, especially as there has been increasing investment and economic activity in the island economies from transnational corporations based in Asia, especially in the forestry, tourism and finance sectors. The impact of Asian fishing fleets in the Exclusive Economic Zones (EEZ's) of island nations is growing, while Asian energy policies contribute to the ongoing nuclear threat to the islands that was once the preserve of Europe and America through nuclear testing (e.g., shipments of plutonium from France to Japan cross the central Pacific, in support of Japan's plutonium economy and Japanese and Taiwanese nuclear firms are involved in efforts to find Pacific islands that will take nuclear waste for storage from their nuclear industry).

The recent political, financial and economic crisis in some Asian countries is part of a broader pattern of global restructuring, managed by global economic institutions and agreements such as the WTO, the IMF, the Asian Development Bank etc. The political crisis in Indonesia has obvious impacts for the Pacific region, in terms of the indigenous peoples' movements in East Timor and West Papua. But the crisis of 1997-8 has had immediate impacts on the small island states of the Pacific as well. This impact varies from country to country, due to varying levels of exposure to Asian economic interests and markets - Papua New Guinea and the Solomon Islands were hit the hardest, other countries less so.

- Logging in the Solomon Islands, often by Malaysian, Japanese and Taiwanese firms has been hard hit. The adverse impact for the Solomon Islands is estimated to be between 15 to 25 per cent of Gross Domestic Product by the Asian Development Bank. Logging normally provides 25 per cent of GDP and 25 per cent of the Solomon Islands' government revenue.
- Papua New Guinea faces a similar downturn, due to the loss of markets for forest products to Malaysia, Japan and other countries. The adverse impact for PNG is estimated at 2.6 to 4.8 per cent of Gross Domestic Product. Lower commodity prices for copper and oil - two key economic sectors in PNG - are the result of recent changes in Asia.
- Vanuatu's Asian markets for beef, timber and tourism have weakened sharply
- Three countries (Fiji, PNG and the Solomon Islands) have experienced significant exchange rate depreciations (20 per cent devaluation for the Fiji dollar in February 1998 and similar amounts for the others in 1997-8).
- Tourism has also been affected, with a drop off in the number of tourists from Japan, Korea, Hong Kong and other South East Asian countries.

It is important not to overemphasise the Asian crisis, because changes in Asia mirror economic and social forces at a global level. All the Pacific island nations are former or current colonies of European powers, and the increasing integration of the European Union has important economic consequences, especially as many African, Caribbean and Pacific (ACP) countries receive development aid and trade subsidies through the Lomé Convention. Lomé ends in the year 2000, and the current renegotiation between the EU and ACP countries is being fought out in the context of the WTO's ideology of "free" trade and "level playing fields".

The Asian crisis has added to the existing economic restructuring in the islands. In spite of the small size of most Pacific island economies, they have not been exempt from World Bank, ADB and IMF attention in the 1990's. In recent years, many Pacific countries, including the Cook Islands, Fiji, Vanuatu, the Federated States of Micronesia and the Republic of the Marshall Islands, have been undergoing Structural Adjustment Programs or "Comprehensive Reform Programs".

But the focus of much of this debate on "economic reform" is on structural adjustment policies, privatisation of government services, introduction of new taxes and changes to customary land tenure systems, in order to en-

courage foreign investment and private sector activity. The annual Forum Economic Ministers Meeting (FEMM) was first held in Cairns, Australia in July 1997 (the second occurred in Nadi, Fiji in July 1998). FEMM agreed that private sector development is central to ensuring sustained economic growth in the countries of the South Pacific Forum. The FEMM Action Plan focused on five areas:

- Economic reform;
- Public Accountability;
- Investment Policies;
- Tariff Policies;
- Multilateral Trade Issues.

In all these areas, FEMM sees the private sector playing a central role in the stimulation of the economic environment to initiate growth. The social impact of such a program is of secondary importance. Secondly, the investment policies promoted by FEMM aim to pursue open, liberal and transparent investment policies, consistent with the Asia Pacific Economic Community's (APEC) non-binding investment principles. Only three countries in the South Pacific Forum are members of APEC (Australia, New Zealand and Papua New Guinea), with the Forum Secretariat being an observer. A closer look at the APEC non-binding investment policies will find several disturbing proposals for Pacific Island countries. APEC's investment policy proposes a western capitalist view of property, particularly land. The FEMM is considering an assessment of the land tenure system in relation to APEC's non-binding investment policies.

APEC is scheduled to meet in Aotearoa (New Zealand) in September 1999. Throughout 1998, NGO's and Maori organisations have begun to organise protests against the neo-liberal policies driven by APEC, and their impact on the indigenous people of Aotearoa.

In view of this crisis, the NGO's' role of disseminating information to the public at large is becoming increasingly important. Educating local communities about the consequences of regional and national policies is now a crucial part of raising the awareness of people at grassroots level. It will help encourage them to actively participate in the formulation of national policies, to hold governments accountable for their decisions and to create viable alternatives to the free market rhetoric coming out of the global economic institutions. NGO's in Pacific countries are organising to ensure that appropri-

ate, people-oriented and sustainable changes are made to the economies of those countries.

Indigenous peoples' organisations and NGO's met in their Fourth NGO Parallel Forum on the 14th to the 17th of August 1998, at Pohnpei, in the Federated States of Micronesia, an event which preceded the annual South Pacific Forum. As can be seen in the following extract from their communiqué, the NGO's spoke out against aspects of the dominant economic vision being promoted by FEMM:

"The Forum's Economic Action Plan is based on narrow economic models which take little or no account of the central importance of systems of customary land tenure or the traditional "subsistence" economy of Pacific peoples. IMF Structural Adjustment Programs and the APEC Non-Binding Investment Principles are not a sound basis for Pacific island development.

"Despite two decades of political independence, our economies are still based on the exploitation of our people, labour and natural resources, with no respect for traditional economies. We are being caught up in a fundamentally flawed model that takes little account of the diversity or strengths of island societies.

"The current economic models endorsed in the FEMM communiqué, represent a form of colonialism based on exploitation which:

- *demands privatisation and promotes individualism in societies that are essentially communal;*
- *puts profits before people;*
- *values competition instead of co-operation;*
- *defines progress in terms of GDP rather than health, education and quality of life."*

European fishing companies are seeking fishing rights in the South Pacific, a region long dominated by Asian and United States fishing fleets. The Forum Fisheries Agency (FAA) reports that the European Union (EU) has applied for licenses to allow 20 perse seiners, to operate in the region. France is separately seeking licenses for French vessels to operate around its colony of New Caledonia. France is funding a free trade zone in the north of New Caledonia, and the development of a deep-water port at Nepoui. This harbour

may be the base for European Union fishing fleets. A French company, Orthangel, has announced plans to build a freezing plant near the port.

At the moment, most of the perse seiners which cruise the Pacific come from the United States or Asia. Distant water fishing fleets include 34 boats from America, 42 from Taiwan, 33 from Japan, 29 from Korea and 10 from the Philippines. If you are in Suva, you can see some of these boats docked at Suva harbour. Over 60% of the worlds catch of fish is taken from the Pacific Ocean. Over 80% of more than 1 million tonnes of Skipjack tuna comes from the Eastern Pacific. Forum Fisheries Agency countries control fishing in more than 30 million square kilometres of the southern and central parts of the Pacific Ocean. The region currently yields 60% of the world's canned tuna supply, and a third of the sashimi quality tuna sold to Japanese homes and restaurants.

A major concern however, is whether Pacific island countries receive enough royalty payments for the resources taken from their exclusive economic zone. Pacific island nations earn about \$130 million a year in royalties and licence fees from fishing fleets, but the catch is worth some \$2 billion.

Island nations are organising for renegotiation of key international economic agreements, such as the SPARTECA treaty (allowing preferential trade access to New Zealand and Australia) and the European Union-ACP Lomé Treaty. Eight Pacific countries are currently members of the ACP group. But the South Pacific Forum is working towards regional integration, promoting the inclusion of other Pacific countries in a future ACP-EU Development Co-operation Agreement, including the French-occupied territories (New Caledonia, French Polynesia and Wallis and Futuna) and the remaining Forum Island countries (the Marshall Islands, the Federated States of Micronesia, Palau, Nauru, the Cook Islands and Niue).

Human Rights

The 10th of December 1998 was the fiftieth anniversary of the Universal Declaration of Human Rights. A number of actions were held in the Pacific to mark the anniversary, but many noted that this vision of human rights focused on individual civil and political rights, and that indigenous Pacific peoples place an important emphasis on collective and communal rights. In spite of 50 years of action since the signing of the Universal Declaration of Human Rights, the violation of human rights continues in East Timor, West Papua, Bougainville, and other countries in the Pacific.

Pacific women are organising to address questions of women's rights as human rights. In September 1998, women from Fiji, Aboriginal Australia, Bougainville, Vanuatu, Maori Aotearoa (New Zealand) and other countries in the region, started planning for a tribunal hearing called the "Pacific Tribunal on Violence against Women and The Land", to be held in late 1999. There are growing movements focusing on violence against women, through networks such as the Pacific Women's Network Against Violence Against Women.

In our region, there are other denials of fundamental rights, such as the intellectual property rights of indigenous peoples over their resources which are under direct threat from bio-pirates, pharmaceutical companies, mining and logging companies and foreign fishing fleets.

Indigenous groups called for South Pacific Forum member governments to endorse and implement the principles of the UN Draft Declaration of the Rights of Indigenous Peoples. At the Pohnpei parallel forum of NGO's in August 1998, they also made the following statement:

"We call on Forum Island countries to lobby in support of the right to self-determination for indigenous peoples, including Aboriginal and Torres Strait Islanders in Australia, the Maori of Aotearoa (New Zealand) and the Kanaka Maoli of Ka Pae'aina (Hawai'i). The international human rights agenda includes the collective rights of indigenous peoples in our region.

"We call on Forum Island countries to oppose the abolition of Aboriginal bloodline rights to land, law and custom under the Native Title Act and 10-Point Plan in Australia.

"We urge Forum Island countries to lobby in support of Aboriginal efforts to bring a court case to the International Court of Justice, regarding the Convention on the Prevention of Genocide, disputing Australia's interpretation, application and fulfilment of the Genocide Convention.

"We call on the Forum to develop a regional strategy to protect intellectual property rights. While promoting economic activity in the region, Forum Island countries must protect the intellectual property rights and traditional knowledge of indigenous communities. Indigenous peoples are struggling every day to protect their resources and

knowledge, and we urge member governments to develop national legislation to halt the theft of natural resources and heritage (from kava to medicinal plants, and even to the level of genetic material under the Human Genome Project)."

Throughout the region, women are involved in a range of projects to protect the environment and traditional knowledge including the Ecowomen program in Fiji, and the traditional medicine Association Wainmate. Increasing attention is being paid to the involvement of women in resource management programs. In the Solomon Islands, women report that problems arise from men making resource management decisions without consulting them: "Logging operations spoil rivers so women walk further to find clean water; coconut plantations too close to villages make soil useless for gardening and mean women have to go out further into the bush for their food gardens". (Ecowomen, November 1998)

EAST ASIA

JAPAN

Ainu

The Ainu are the indigenous people of Hokkaido and the northern Honshu of Japan and its adjacent areas including the Kurile islands and southern Sakhalin Island. Today the majority of Ainu live in Hokkaido. But many are found throughout Japan, and a small number of Ainu also live in Sakhalin. According to the survey conducted by the Hokkaido government in 1993, the Ainu population in Hokkaido alone is 23,830. As many Ainu do not publicly identify themselves for fear of discrimination, the accurate population of Ainu is not known.

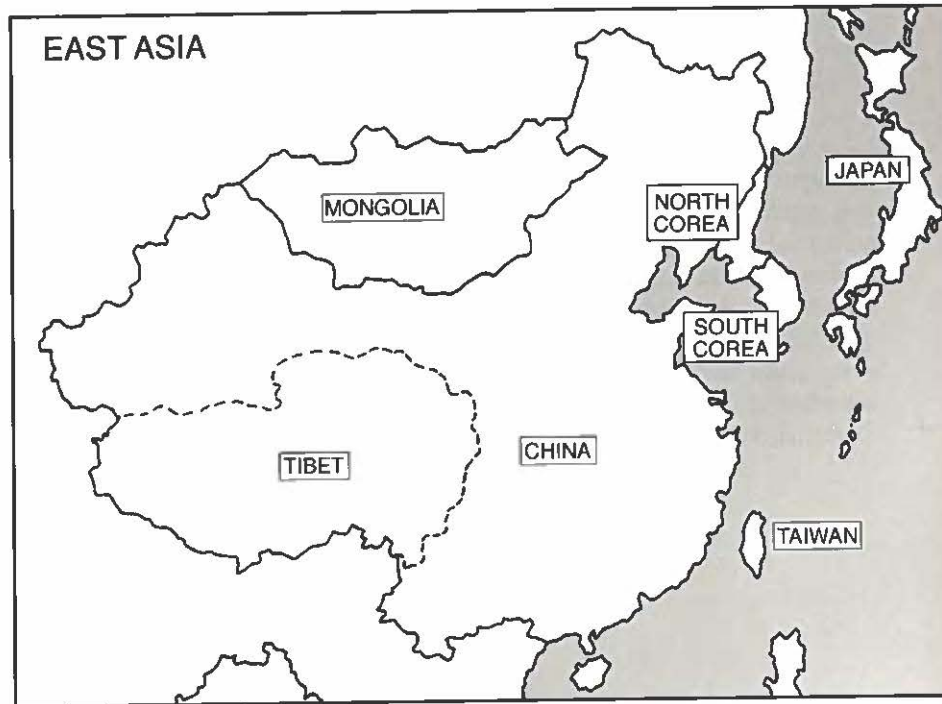
Encroachment of the Ainu Territory by the Japanese

Japanese encroachment in Ainu territory began around the 14th century. Without any consultation with the Ainu, the Japanese government extended its administration over their homelands and forced the Ainu to abandon their language and culture. In 1899 the Hokkaido Kyu-Dojin Protection Act was enacted to rationalise and legitimise the government's assimilation policy (Kyu-Dojin means 'former natives' in Japanese, with an offensive connotation). By the end of the Meiji Restoration period (1868-1912) Ainu homelands were completely taken over by the Japanese.

The Ainu have been entitled to equal protection by law since the present Constitution was declared in 1946. However, the political dominance of the majority Japanese has persisted and the Ainu have been forced to blend into mainstream society. In order to defend their culture and identity, the Ainu have set up several organisations. The Ainu Association of Hokkaido is the largest such organisation and has worked to push the government to repeal the much criticised Hokkaido Kyu-Dojin Protection Act and to recognise Ainu indigenous rights since 1986.

Consequences of the Nibutani Dam

The Japanese government began construction of a dam at the Saru River of Nibutani in 1982 as part of a nation-wide development project. The dam was completed in 1996. Nibutani is the largest Ainu village in Hokkaido and is surrounded by several mountains where their sacred religious sites are lo-



Countries covered in this issue: Japan, China

cated. The area is known to be the cradle of Ainu culture as the Ainu in Nibutani still practice a series of traditional ceremonies.

The government did not consult the Ainu community nor carry out a comprehensive Environmental Impact Assessment prior to the development. Many Ainu residents gave up their land in exchange for monetary compensation and job opportunities with the dam construction work. Some of their sacred sites were obliterated and the ecosystem of the Saru River was irreversibly damaged due to the massive deforestation of the upstream forests.

The original justification was to supply water for an industrial development park in Tomakomai, about 40 km away from the area. As the project eventually began to fall apart, the government announced that the dam was needed for flood control instead. In the area, there have been only two minor floods recorded in the last 100 years, causing no harm to local residents.

Two Ainu filed a lawsuit to challenge the legality of the development. According to one of the plaintiffs, Mr Kayano, the dam construction in Nibutani has meant the indirect ethnocide of the Ainu, as the area is the heart of the Ainu culture and tradition.

On March the 27th 1997, the Sapporo District Court ruled that it was illegal for the government to approve the plan of the development, and called on the government to take into utmost consideration the Ainu culture.

Moreover, the Court stated that the Ainu are the indigenous people of Japan. This, the very first official recognition, was what the Ainu have been seeking for many years and it provided at least a symbolic redress for historical injustices imposed by the Japanese government.

Ainu Act Passed in 1997

On the 8th of May 1997 an Act was passed regarding the Promotion of Ainu Culture and the Dissemination and Education and Knowledge concerning Ainu Traditions.

Mr Kayano (co-plaintiff of the Nibutani Dam lawsuit) played a major role in the process of enacting the new law as the first Ainu member of the House of Councillors. The new law can be seen as the government's response to the Court's decision on the Nibutani Dam lawsuit. It can be also seen as a response to the proposal submitted in 1996 by the Ainu Association of Hokkaido (endorsed by the Hokkaido government) to the central government asking to revise the assimilation policy and recognise Ainu indigenous rights.

The fight for recognition and protection of the Ainu culture received a major boost with the passage of the new law. Because of the government's assimilation policy and discrimination, the Ainu culture was dying. Various activities are now being vigorously promoted to revive the Ainu culture, such as traditional dancing and ceremonies, with a subsidy made available by the new law. The interest in the Ainu culture is currently growing among both the Ainu and the majority Japanese.

The Foundation for Research and Promotion of Ainu Culture was established in Hokkaido in 1997 under the new law. The main objectives are to promote a series of research activities about the Ainu, to promote the Ainu culture and language, and to disseminate information about Ainu traditions. In addition, the Ainu Culture Centre was opened as a Tokyo branch office of the foundation to promote Ainu culture in the same year. The Centre has helped spur recent interest in the Ainu culture in the city. It is hoped that the new interest in the Ainu culture will not be limited only to the cultural aspects, but will grow into a real interest in the challenges the Ainu people face.

Present Problems

Many argue that the new law is still insufficient for the preservation of Ainu culture. At present, only a small fraction of the Ainu population are active in the preservation of their culture and the majority of them can not afford to devote themselves to such activities.

Furthermore, while the initial claim of the Ainu was mostly to improve their living standards, the objective of the new law is limited to the promotion and education of Ainu culture. One third of the Ainu population is said to be suffering from severe economic difficulties. The population percentage of Ainu who receive social benefits is twice as large as that for the majority Japanese, and the percentage of Ainu who go to university is less than half of that of the majority Japanese. Many Ainu are suffering from social and economic damage caused by policies imposed by the majority Japanese and are in need of better access to welfare programmes to revive and maintain a truly viable culture.

Discrimination against the Ainu is still apparent. The main reason being the lack of information on the Ainu both in quality and quantity. At present, a surprisingly brief account of the Ainu is given in the history textbooks for Japanese students. The Japanese education system provides a very sanitised version of Japan's history. An outline of the systematic subjugation of the Ainu by the majority Japanese should be taught at school in a fair and open

manner. There is much yet to be done with regard to realising a more equitable and democratic society in Japan where the Ainu people can enjoy their collective indigenous rights.

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Okinawa

Okinawa, Japan's most South-western prefecture, is composed of some 160 islands in the East China Sea, 48 of which are inhabited. The islands are scattered over a wide area spanning 1,000km from east to west and 400km from north to south. The Okinawa prefecture currently has a population of 1.3 million, and many Okinawans live in other parts of the world including Japan, the USA (especially Hawai'i), and in South American countries such as Brazil, Bolivia and Peru amongst others.

Within Asia, Okinawa is ideally situated. Once known as the Ryukyu Kingdom, it entered into trade relations with China and Southeast Asian countries in the 14th century, which marked the beginning of the great era of overseas trade when Okinawa's arts and crafts flourished, especially its performing arts, dyed textiles, lacquer ware and pottery.

But thanks to Okinawa's favoured geographical location, its history has, since the 17th century, been thorny. In 1609, with the permission of the Japanese government, the Tokugawa shogunate, Satsuma "Han" of the Shimazu clan, a feudal lord from the southernmost part of Japan, invaded Ryukyu with veterans who were survivors of Japan's Feudal Wars. The direct aims of Satsuma were to take control of trade so that he could rebuild the local economy, and to annex the northern part of Ryukyu as a colony. After the invasion, the Ryukyu government unwillingly allowed Satsuma to trade in Ryukyu and ceded to him the northern islands from the Amamis to Yoron.

The Annexation of Ryukyu and Japanese Colonisation

In 1866, at the time that Japan was establishing its modern government (the Meiji regime), King Sho-Tai ascended the throne of the Ryukyu Kingdom. The ceremony was attended by the Chinese Imperial Mission (Sappu-Shi). Sho-Tai was the last king of his dynasty and of the Ryukyu Kingdom.

In 1871, the Meiji government carried out a policy of reorganising local government. It set up a directly supervised prefectural administration system to replace the feudal "Han" governments. At the time, the Ryukyu government apparently paid little attention to this new Japanese policy. It considered that the policy would not seriously affect Ryukyu since it believed that it was a matter of Japanese domestic politics.

However, Japan started to take coercive measures to integrate Ryukyu into Japanese territory. In 1872 the Meiji government gave an official notice (called an "agreement") unilaterally replacing the Ryukyu Kingdom with the "Ryukyu Han". In 1879, it dissolved the Ryukyu government and established the Okinawa Prefecture with the aid of military force. The Japanese government immediately started to implement a coercive policy of assimilating the Ryukyu people into Japanese culture using various means.

Just after the annexation, the formerly dominant class in Ryukyu fled to China and launched a movement aimed at the restoration of the former kingdom. The Japanese government took steps to appease this movement internally, in order to stabilise the political situation in Okinawa. Under this policy which was called the "As-the-ancient-customs-go-on" policy, the Japanese government maintained some old institutions and refrained from any fundamental democratisation of Okinawan society, ignoring the interests of the Okinawan people.

Initially, the Chinese government did not recognise Japan's annexation of Ryukyu. Thus Ryukyu's status remained open for some time, and tension between China and Japan was raised by the annexation. But when the Japa-

nese won the Sino-Japanese War of 1894 to 1895, China lost its influence in Ryukyu. The annexation of Ryukyu now went unchallenged, and the Okinawa Prefecture was firmly established.

The alleged "agreement" on the Ryukyu annexation of 1872 contravened both the terms of the Vienna Convention on Treaty Law, especially Article 51, and customary international law prohibiting the use of force. It should therefore be invalidated. The Okinawan people consider that they still retain the sovereign right to preserve and develop their own languages, cultures and religions, based on their distinct history. And they denounce the assimilation policies and human rights violations perpetrated by the Japanese government over the past century.

Japan's Assimilation Policy

When the Okinawa Prefecture was established in 1879, high-ranking offices were occupied by the Japanese, and the diffusion of education was actively promoted under a prefectural governor who was appointed by the Japanese government. The first Governor, Nabeshima Naoyoshi, started a new education system whose objectives he defined as follows. "The assimilation of languages and customs in Okinawa to those in Japan is the urgent task of the prefectural government, and education is the only way to achieve this task." This education aimed at planting Japanese identity in Okinawans and, in particular, it focused on fostering loyalty to the Japanese language and the Japanese Emperor (Tennō).

While the characteristics of Okinawan cultures were gradually lost because of the assimilation policy implemented through the diffusion of Japanese education, people who stood up for democracy and the abolition of discrimination in Okinawa began to emerge. The emergence of Jahana Noboru, a leader of Jiyū Minken Undō (a movement for freedom and civil rights) in Okinawa is one example.

In 1898, despite the fact that constitutional rights such as the right to vote were not guaranteed for Okinawans, they were still subject to conscription. Obligations preceded rights as far as the indigenous peoples in Okinawa were concerned. Yet some of the leading officials in the Okinawa Prefecture welcomed the enforcement of conscription because it would open a way for the Okinawans to become Japanese.

The destruction of the Okinawan languages went hand in hand with the advancement of Japanese militarism. Japanese militaristic education reached

its peak in 1941 when the name of Sh Gauche (elementary school) was changed to Kokumin Gakkō (a 'national school' or Volks Schule, following the German example). In particular, the "promotion of the standard language" was actively implemented in Okinawa as one way to prove one's loyalty to Imperial Japan. The promotion of the standard language was enforced by legal punishments in the 1940's. This policy was called "A Campaign for Eliminating Dialects" (Hogen Bokumetsu Undo) in which Okinawan languages were unilaterally defined as "dialects".

Under this policy a student who used his or her mother tongue at school was punished by having a "dialect board" (Hōgen Fuda) hung around his or her neck on which was written, "I used a forbidden dialect". To take this board off the student had to find another student who had also used a dialect. This method caused Okinawans to deny their own cultures and develop a sense of inferiority. During World War II, pressure on the Okinawans was increased by a government edict stating that "those who speak dialects are considered to be spies." And even after World War II the "Hōgen Fuda" was used in some places up until the 1960's.

World War II and Post-war Okinawa

During the Second World War, Okinawa was a strategic front-line defence base for Japanese forces. It became the site of the only ground battle fought in Japan. The barrage of American bombs and artillery laid waste to Okinawa's green and beautiful lands. During the final stage of World War II, Okinawa was turned into a battlefield and 122,228 Okinawa residents were killed. If those who died of malaria and malnutrition after the war are included, then about 150,000 people, or one fourth of the entire population of Okinawa, died. Moreover, centuries old cultural assets were reduced to ashes by the heavy bombardments.

The Okinawans placed heavy emphasis on the reconstruction of the education system after the war was over. People worked together to construct school buildings with thatched roofs. They tried to teach children the resolution to "never send children again to the battlefield", and instilled the spirit of democracy using hand-made mimeographed textbooks. In 1948 a system that consisted of elementary schools, junior high schools, and high schools was put into operation, and Ryukyu University was established in 1950. A program to study in the United States began as a result of the assistance of the U.S. military and a program to study in Japan was created as a result of the assistance of the Japanese government. Following the Reversion of Okinawa to Japan in 1972, these study programs were abolished and the Okinawan

education system that had originally had an international flavour, was integrated back into the standard Japanese education program.

A more serious problem is the violation of human rights resulting from the presence of the U.S. military bases. Following the Reversion of Okinawa to Japan, it was hoped that the military bases would be reduced and the situation become the same as it is on the Japanese mainland. However the U.S.-Japan Agreement on the Reversion of Okinawa allowed the U.S. military bases to remain in the islands. Okinawa Prefecture makes up 0.6 percent of Japan, but it contains 75 percent of the areas occupied by U.S. military facilities in Japan. The bases occupy 11 percent of all land in Okinawa Prefecture and 20 percent of Okinawa Island where the Prefecture's population and industry are concentrated.

The damage caused by the vast military base is enormous. The destruction of natural resources by military exercises which use live shells, the noise pollution from military aircraft, the nuclear contamination caused by the use of uranium bullets in exercises and the suspected drainage from nuclear-powered submarines, along with the contamination of the sea, rivers, and soil as a result of the discharge of oil and chemicals from the military bases are just a few such examples. In addition repeated military accidents and the abuse of force have caused deaths and injuries among the people of Okinawa. During the 26 year period since the Reversion of Okinawa in 1972 there have been 130 aeroplane accidents, 154 incidents of field fires caused by live shell exercises and 12 murders of civilians by soldiers. These incidents do not include the infamous rape of a 12 year old girl by U.S. soldiers in September 1995. The primary cause of these incidents and accidents lies in the fact that the U.S. military looks down on Okinawan residents.

Reversing the Loss of Languages and Cultural Identity

The current problem of language education relates to the rise of the generation who can comprehend but not speak Okinawan languages and the rapid rise of the generation who cannot comprehend Okinawan languages. The Okinawan people are not aware of the looming crisis of extinction facing Okinawan languages. This is because there is no need to use Okinawan languages in daily life, and because the Okinawan and Japanese governments do not perceive Okinawan languages as distinct languages and do not promote a policy to maintain such languages.

At present, there are some efforts to promote Okinawan languages and cultures, with some private broadcasting services providing news in Okinawan languages, and the Okinawa Provincial Theatre promoting Ryukyu arts. How-

ever, there is an absence of a universal organisation for education or any co-ordinated effort by the government which is the result of the assimilation policy of the Japanese government that dates back to 1872. To revive the Okinawan languages and to pass them on to younger generations, and to reverse the trend established by more than a hundred years of the Japanese government's assimilation policy, is therefore one of the main missions of the indigenous people of Okinawa.

CHINA

While the economic development of the minority regions may be real enough, there is at the same time a trend of growing ethnic awareness both in the smaller and bigger minority areas. In most cases, this can be accommodated within the confines of local autonomy, but there are also many areas of contention, like the right to religious practices. However, the growing ethnic awareness in the major regions of Tibet, Xinjiang and Mongolia is a more difficult problem for the authorities to handle, as the exercise of real autonomy comes dangerously close to the demands of secession and independence.

Another aspect is the influence of the ongoing experiments of democratization in the form of direct and universal elections at the village level. This has been taking place on an experimental basis since the early eighties, and has now taken place on a number of occasions in two-thirds of the Chinese provinces. This is a contested issue which power-saturated local officials do not find easy to handle, and this issue is likely to become even more sensitive in the minority areas.

A third trend has seen a marked increase in violent protests throughout China during the last year. Most of these protests take the form of bomb attacks, and in most cases, they are direct consequences of the deteriorating conditions of laid-off workers or peasants who are being squeezed by corrupt local officials. This general escalation of social and political violence will undoubtedly lead to a strengthening of the armed police forces all over the country, including those in the minority regions.

There is one noteworthy change in the field of terminology. The official Chinese designations in English of the indigenous peoples have until now been "nationality" or "minority nationalities", terms which reflect the traditional Marxist vocabulary. However beginning last year, the official Chinese press started to apply the term "ethnic" to these groups, as in the case of the name for the highest governmental organ for minority affairs, the ministerial level Commission for Ethnic Affairs. The designation in Chinese, *Minzu*

weiyuanhui, and the general usage of the term *minzu* ("nation" or "nationality") has however not changed. Modern Chinese does not have a generally established term for the word "ethnic". The fact that this new term now has been officially sanctioned in official English language publications may just be a matter of adopting international usage. But it may also possibly signify that the Chinese authorities want to "downsize" the perception of the minority peoples, as the concepts of "nationality" and "nation" are more liable to give connotations to a people with inherent rights of self-determination.

Xinjiang

The ethnic unrest in Xinjiang is escalating slowly but steadily. In an interview with the Hongkong newspaper *Wen Wei Po* on May the 25th 1998, the Communist Party secretary of Xinjiang, the Han Chinese Wang Lequan, admitted that in the past they had been wrong not to openly report on separatist movements in the region, leaving the field to Moslem critics and critics of China abroad. The party secretary pointed to what he described as a fundamental and unresolved issue for the political and social development in the region, namely that only a small fraction of the village leaders of the many ethnic groups in Xinjiang understand and speak Chinese. During the eighties, a large number of Han Chinese cadres, a number of whom spoke the local languages, were either transferred elsewhere or replaced. The communication at the grassroots level had thus deteriorated. The remedy for this situation was, according to Wang, to intensify both ideological and political education of the party members as well as strengthening the party organisations all the way down to the village level.

The reason for these worries are evident when one reads the reports about increasing ethnic unrest. *The Xinjiang Rule of Law Daily (Xinjiang fazhi ribao)* published several reports in February 1999 about the suppression of separatist underground organisations during the last years. The most serious unrest took place in the Yili (Ili) region, as reported in the last year's issue of *The Indigenous Affairs*. At the end of January 1999, two leading activists of an underground Uighur organisation were executed in Yili. In the Kashgar region, where more than fifteen bomb incidents occurred during 1998, more than eighty persons have been arrested. In the capital Ürümqi region, 132 "terrorists, religious extremists and separatists" were arrested in 1998, according to official sources. The co-operation with the police authorities in neighbouring Kazakhstan has developed further. Sources say that the extradition of four persons whom the Chinese authorities have characterized as terrorists was agreed upon early in 1999.

Inner Mongolia

There have seemingly not been any dramatic changes in the developments in Inner Mongolia during the last year. However, the Secretary General of the Inner Mongolian People's Party, an outlawed political party, recently sent a letter to President Wolfensohn of the World Bank, protesting over a World Bank project called the "China-Western Poverty Reduction Project". This project aims to resettle about sixty thousand Han Chinese to the Xi Hai Mongolian Autonomous Prefecture in Qinghai province in Northwestern China. This region has traditionally been populated by Tibetans and Mongols. The World Bank is planning to contribute about \$160 million to this project. The Inner Mongolian People's Party sees this as another effort to colonize traditional Mongolian regions with Han Chinese. Whereas the Han Chinese population in Inner Mongolia was about 10% in 1949, it is now more than 85%, thus reducing the Mongols to a small minority in their own region.

Minority Peoples in the Chinese Media

Reports in the Chinese media in the recent years on the situation in minority areas, display certain peculiarities compared with descriptions and reports about the majority Han Chinese. In the first place, such reporting has been marginalised in the sense that it does not gain the attention as frequently as before. For example, the official English language magazine *Beijing Review* directed their main attention to minority issues on only one occasion in 1998, in issue no. 40, which was mainly devoted to these matters.

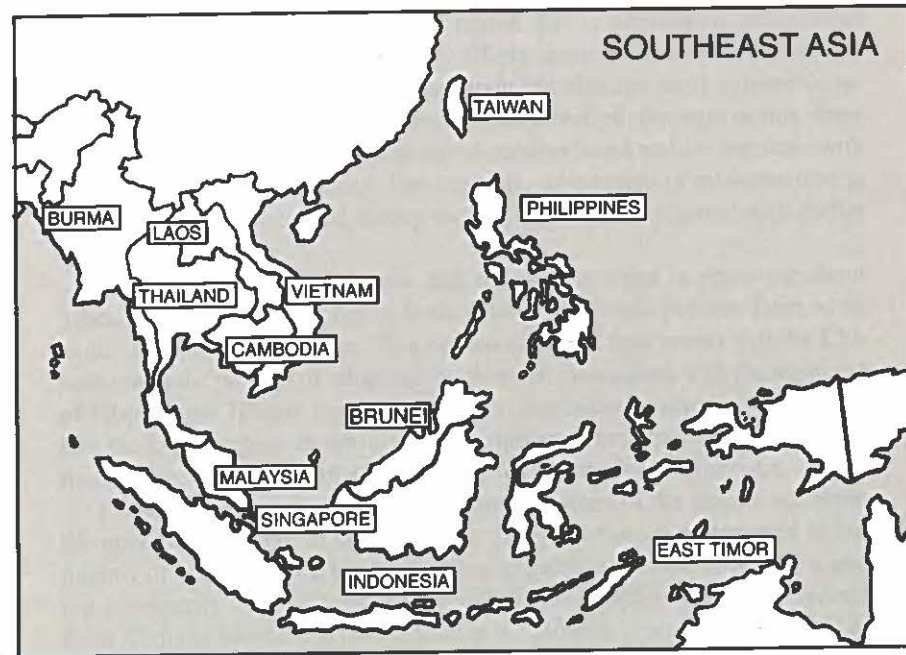
In the second place, the reports from the minority regions have much in common with former ways of reportage in the Chinese press. Whereas the Chinese press as a whole is gradually becoming more diversified when it comes to reporting on social and economic development, the reports from the minority regions are practically always descriptions of the dark past, the great positive changes and the bright future of the minority peoples. The same issue of *Beijing Review* is a good example of that. The idea behind the reports was, according to the lead writer, to contrast the national disintegration in many of the countries in the world today with the unity, stability and peace enjoyed by the Chinese majority as well as by minorities.

In the third place, reports from the other side of the coin suggest that this happy unity is threatened by a "small handful of national splittists", whose motives are not given any chance of fair coverage. Thus, the deeper, underlying causes of the increasing unrest in the major minority regions cannot be given a logical explanation.

In the fourth place, there is one region that is dominating the field of reports and comments about minority affairs, namely Tibet. This reflects the fact that Tibet is by far the most important but also the most vulnerable region in China when it comes to international attention. Because of this, there is a strong stress on the huge amount of economic aid and investments with which Tibet has been blessed. For example, investment in infrastructure in Tibet is said to have tripled during the last five years, compared with earlier periods.

There is however also a new and noteworthy trend in reporting about Tibet. An increasing number of both articles and books present Tibet as an exotic and mysterious place. To a certain extent, it thus seems that the Chinese are in the process of adopting the Western fascination with the mystique of Tibet. Some Tibetan regions even try to capitalize on this new exoticism, like the Deqin region in north-western Yunnan, where the local Tibetan authorities are actively promoting the place as the original Shangri-La.

Finally we may note that while the main themes of the reports are about the unending progress in these regions, the type of progress reported is frequently of a nature that is beneficial from a macro-economic perspective, and not necessarily in the interest of the indigenous peoples. Therefore, reports from Xinjiang boast the great increase in oil and cotton production, as well as the double-tracking of the Lanzhou-Ürümqi railroad. In Inner Mongolia, eighteen new customs posts have been established on the border to the Mongolian Republic, but as the Mongolian population of Inner Mongolia now constitutes less than twenty percent of the population, it is obvious who will be the main beneficiaries of such an opening up to the outside.



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

SOUTHEAST ASIA

PHILIPPINES

Election of a New President and National and Local Officials

In May 1997, a national election was held in which Joseph Ejercito "Erap" Estrada scored a convincing victory over the Ramos-endorsed administration party candidate, Jose de Venecia. At the regional level, most of those who won in the elections were those running for re-election. The majority of these are members of national political parties that have a reactionary orientation. At the local level a few progressive candidates who respect the principles of human rights and indigenous peoples' rights were also elected.

The new administration led by "Erap" expressed its commitment to continue implementing the laws, policies and development agendas of the last administration. This includes the implementation of the Indigenous Peoples Rights Act (IPRA) that was passed in 1997. However, the creation of the National Council of Indigenous Peoples (NCIP), the national body mandated to implement IPRA, has been marred by political squabbles. Parties and groups close to Malacañang (the presidential palace) are vying for the Chairmanship against the wishes of indigenous peoples' advocate groups.

So far, the issue of the Chairmanship of the NCIP remains unresolved, as "Erap" had appointed former Congressman Cesar Sulong, a traditional politician in Mindanao who is unacceptable to a large number of indigenous peoples, to the post. Meanwhile Ramos, during his term of office, had appointed the former head of the Office of Northern Cultural Communities, Mr. David Dao-as to be the Chair. Dao-as refused to vacate his position despite the presence of a new presidential appointee. Although the Implementing Rules and Regulations (IRR) of IPRA were already formulated under the leadership of Dao-as, they had been questioned by several parties including legal advocates because of their inconsistencies with the IPRA and its complicated bureaucratic procedures.

On top of this political squabble, "Erap's" cash-strapped administration has yet to look for funds for the NCIP. The IPRA has been referred to as a milestone law for the recognition of indigenous peoples' rights. However, most indigenous peoples are sceptical, as the systematic violation of their rights worsens with the more aggressive implementation of development

projects in their territories. A growing number of indigenous peoples have launched protest activities against the IPRA.

Another heated issue is "Erap's" decision to appoint Mr. Cerilles, a known logger, as the Secretary of the Department of Environment and Natural Resources (DENR). Advocate groups have been lobbying for his replacement because of his questionable activities in the past as a former Congressman in Mindanao. The DENR is a government agency that mainly deals with indigenous peoples' concerns over land and resources.

Development Aggression

The passage of the Mining Act in 1995 paved the way for the full liberalisation of the national Mining Industry in our country. As a result, 10 million out of the total of 40 million hectares that comprise the Philippine islands are now covered by mining applications. Most of these applications are in the territories of indigenous peoples.

At present, there are 76 pending applications for Financial or Technical Assistance Agreements (FTAAs), 92 applications for Mineral Production Sharing Agreements (MPSAs) and 43 Exploration Permit Agreements. In the Cordillera region alone, mining applications of multi-national companies cover around 1,405,466 hectares of land. This is equal to 77% of the region's 1,829,368 total land area. Newmont Mining Company of US has the greatest number of applications covering 40% of the total land area of the Cordillera, followed by Newcrest, an Australian firm, and Canadian mining companies such as Toronto Ventures Incorporated (TVI).

This February the President approved an FTAA application (located in the province of Leyte) from Asturias Chemicals Industries, Inc. This is the first FTAA that has been approved and was reportedly hailed by mining industry leaders as "providing a new impetus" for the flagging industry. This is a prelude to more mining contracts being approved by the new administration, in spite of the strong and wide protest by indigenous peoples and other affected communities. The government is hoping to process and approve 10 more FTAA's within the year.

The Mining Act of 1995 upholds the state's ownership of mineral rich lands and its right to expropriate them and grant 100% ownership to foreign interests. The act features an exploration permit, a mineral agreement, and a Financial and Technical Assistance Agreement (FTAA). The FTAA authorizes the president to allow large-scale mining operations covering 81,000 hectares for up to 50 years with a single investment of not less than \$50 million. It also offers a 10 year tax holiday, capital tax exemption, 100%

profit and capital repatriation and other incentives besides. Mining Companies also have the right over water and timber resources within the contracted area. They can also evict communities found therein.

A series of protest activities which include local petitions, dialogues, lobbying, pickets and rallies against the Mining Act has been conducted all over the country, mostly by indigenous peoples. The Act violates ancestral land rights and causes irreversible damage to the environment and to the land required by indigenous peoples to sustain their livelihood. Likewise, it is a violation of the peoples' patrimony over the natural resources of the country. Yet the cash-strapped national government is set to sell out the country's mineral resources in exchange for foreign investments.

The Cordillera Region

The Cordillera region, home to 1.3 million indigenous peoples collectively known as the "Igorot", has been confronted by several major problems and developments in the past year. Foremost amongst these have been political issues, the economic crisis and aggressive development policies, coupled with the militarization of the area.

Regional Autonomy

In March 1998, the peoples of the Cordillera overwhelmingly rejected the Regional Autonomy Law (Republic Act 8438) in a plebiscite conducted by the government. A total of 218,131 voted "no" while 133,637 voted "yes". Around 45% of the total voting population boycotted the referendum.

The main reason that this law was rejected was because it did not provide for the fundamental goal of self-determination by genuinely recognizing ancestral land rights, control of indigenous peoples' resources and the genuine exercise of political autonomy based on the peoples' interest and welfare. The Republic Act simply provides for the mechanical setting up of a regional government to implement national laws, policies and programs with no regard for indigenous peoples' rights, or the allocation of funds for the region.

The campaign for a "yes" vote supported by government officials centred on the issue of funds. The peoples' experience of graft and corruption by these very same officials, meant that both a "no" vote and a boycott of the plebiscite were expressions of their opinion of the practices of corruption and the traditional politics of privilege that are rampant in the region. The Cordillera Peoples Alliance, together with some lawyers' groups and the church sector in the region actively campaigned for people to either vote "no" or to boycott the ballot.

With the second rejection of the Autonomy law (the first was in 1990), the present administration now finds itself in a quandary about how it should proceed with the constitutional provision for the creation of the Cordillera Autonomous Region. At present some bodies in the Cordillera Administrative Region are pushing to draft a third Autonomy Law. On the other hand, a bill filed in Congress seeks to convert the Cordillera Administrative Region into a regular region, just like other regions of the country. It however, seeks to create a Regional Development Council.

If approved this bill will result in the abolition of two transitory bodies that were created in preparation for the establishment of the Cordillera Autonomous Region. These two transitory bodies are the Cordillera Regional Assembly and The Cordillera Executive Board created by Executive Order 220 (EO 220) in 1987.



Strengthening unity at the Cordillera Day celebrations 1999 in Mainit, Bontoc Province (Foto: Christian Erni).

The aspiration and demand for genuine regional autonomy remains strong. The rejection of the autonomy law only typifies the peoples' response to a deceptive offer made by the national government, that does nothing to em-

power the grassroots and does not aim to rectify the injustices committed against the Cordillera indigenous peoples.

Mining Operations

The Benguet Corporation, a large mining company operating in the Cordillera region, has temporarily stopped its open-pit mining activities and has shifted its interests to real-estate development. The Ibaloi communities affected by its open pit mining activities have been demanding proper compensation and the rehabilitation of the mined-out areas.

The Lepanto Mining Company, another mining company in the area, had expanded its gold mining activities in the municipality of Mankayan, in the province of Benguet. This was opposed by the affected villages because it encroached upon their watershed area. Lepanto's mining claim covers 13,000 hectares of land. The total land area of the municipality is only 16,000 hectares. The residents fear they will be dislocated because of Lepanto's operations.

Because of the mass protests, eight residents of Mankayan were issued with warrants for their arrest for the violation of the Mining Act. They have posted bail and the case is now pending in court. This is the first case filed in respect of the violation of the Mining Act.

The Philex Mining Company, the biggest mining company in the Philippines which employs more than 3,000 workers in Tuba, Benguet alone, has downsized its labour force by 600. According to Philex officials this is due to the low price of gold on the world market. However, they continue to expand their mining operations, affecting the small-scale mining activities of the Ibalois in the process. As with Lepanto, local residents affected by the Philex mining operation are protesting. The residents are claiming that their water source has been destroyed by Philex's mining operations.

San Roque Multi-Purpose Dam

In spite of the persistent and solid opposition of the affected communities of Itogon, the Export-Import Bank of Japan (J-EXIM) granted a \$302 million loan to the San Roque Power Corporation (SRPC), the consortium which will develop the power plant. The foreign-owned consortium, led by Marubeni, Inc., has obtained a further \$143.5 million syndicated loan from various Japanese Banks. These loans are crucial for the continuing construction of the dam that so far is only 15 % complete. In the past months, the construction has slowed down due to funding problems.

On January the 18th 1999, the Municipal Council of Itogon in the province of Benguet endorsed the San Roque Dam Project, meaning that no remaining legal obstacles stood in the way of its implementation. In a closed-door meeting held at Camp Crame, the Headquarters of the Armed Forces of the Philippines (AFP), the national government gave an ultimatum to local officials. Department of Interior and Local Government Under Secretary Ronaldo Puno said that local officials would have to submit their endorsement of the project, or face the consequences of receiving no funds for Itogon's development until President Estrada's term of office expires. He added, however, that if the project is endorsed, Itogon would receive 61.7 million Pesos (ca. US\$1.5 million) for infrastructure projects out of the 1.5 billion that had been requested for the development of Itogon. Before this meeting, local officials were very sceptical about the project. They had previously requested that proponents of the project address 17 conditions concerning the dam's environmental, social and cultural impact, before they would endorse the project. But all these conditions were set aside after the closed-door meeting with Puno.

President "Erap" along with former President Fidel V. Ramos visited the dam site in San Manuel, Pangasinan to inaugurate the resettlement houses built for 146 displaced residents in the province of Pangasinan. They also declared the national government's commitment to the project.

Militarization

The Cordillera region remains one of the most militarized regions in the country with troops being deployed in areas where there are mining applications and big development projects such as dams and geothermal plants.

In the region at present, the army has the 54th Company (150 troopers) operating in the Mountain Province, the 19th and the 22nd Special Forces Companies from the Third Special Forces Battalion in Abra and the 501st Infantry Battalion Brigade in Kalinga composed of the 45th and 48th IBPA's. Complementing these regular army units are the Regional Mobile Forces (RMF) of the Philippine National Police (PNP). The following forces are supporting military campaigns in Kalinga: three PNP-RMF companies in Abra, an RMF company in Ifugao, another company in Mountain Province and one RMF in Benguet. Aside from these mobile forces, the local PNP are stationed in all municipalities in the region.

Although there has been a relative decrease in the number of paramilitary groups, the Civilian Armed Auxiliary (CAA) and the Civilian Armed Forces Geographical Units (CAFGU) that are maintained by the army, still abound

in the villages. In Kalinga, a total of eight CAA companies are still active and at least three companies are to be found in Abra.

Economic Crisis

The Philippines was devastated by drought and a series of typhoons in 1998. The Cordillera region was not spared these calamities. Around 50 to 70 % of rice production was damaged especially by the La Niña phenomenon. It hit the region just before harvest time. Soil erosion and the closure of roads became a major problem.

Because of the drought during the first half of the year, several rice fields could not be used, causing a 30% decline in rice production. These damages could have been minimized if the national government had come up with effective disaster control programs and provided livelihood assistance to the people.

The worsening economic conditions in the region have resulted in the continuing trend of migration from the villages to the town centres. Overseas employment has also been increasing over the years.

Palawan

Throughout 1998 the indigenous peoples of Palawan faced a multitude of problems as a result of the poor performance of policy options for environmental conservation, the government's failure to implement the Indigenous Peoples Rights Act (IPRA), and also because of forest fires and the increasing immigration of landless farmers. Efforts to survey and delineate indigenous ancestral land have been slow. In part this is due to a shortage of government funds and trained staff, but it is mainly down to the lack of political will. For example, endorsement of the Palawan ancestral domain claims in Rizal has run into opposition from the local authorities.

Occupancy rights in indigenous territories have been granted to a Federation of Land Reform Farmers (FLRF). While this FLRF is chopping down the remaining coastal forest, Teddy Abendan (the FLRF chairman) has issued a public warning to indigenous advocates that any recognition of the ancestral land could lead to severe clashes with the migrants - a bloody revolution.

There is particular concern for the Batak who today number less than 400, and face both cultural and actual extinction. More than three years after its submission, the documentation for their ancestral land claims is still awaiting approval in the Department of Environment and National Resources (DENR) regional office. The Batak have become accustomed to having insult added to injury. Not only has the Certificate of Ancestral Domain Title

not been granted, but their forest land has also been given in concession to outsiders. In May 1988, Tagbanuwa gatherers in possession of a negotiated contract entered portions of the Batak territory. In Mauyon, concessionaires have hired harvesting crews from other areas. As a result, the Batak have been forced to work in competition with the more numerous groups of Tagbanuwa indigenous people and Filipino collectors. On the other hand, the DENR has been unable to enforce the contractual obligations that impose a "maximum allowable" level of harvested product. Therefore, when forest areas are given in concession, rattan resources are collected until they are totally exhausted. Hence the potential for future income from commercial gathering by indigenous peoples is greatly reduced if it is not lost altogether.

As a result of the Asian financial crisis and wide-spread poverty, last year more unauthorised Filipino gatherers penetrated the Communal Forestry Stewardship Agreement (CFSA) area of the Batak of Tanabag, taking possession of the most accessible *agathis* trees managed by the local community. The latter are now forced to extract the resin from trees growing in remote and inaccessible areas. To complicate the situation further, Community Forest Management Agreements (CFMA) leased to Filipino communities have allowed the latter to operate in portions of Batak territory. One of the co-operative's aims is to replant rattan and *Acacia mangium* in Batak swidden fields lying fallow. Furthermore, co-operative forest management activities include the cutting of climbing vines around valuable timber species. Batak fear that once swidden fields are replanted, they can no longer be used for cultivation. In addition they disagree about the cutting of vines. In fact, vines provide useful assistance when climbing trees for harvesting wild honeycombs. Some vines bear flowers during the second part of the honey season, and are thus important producers of pollen.

Between March and April 1998, the dangerous spiral set in motion by the Puerto Princesa City Government Ordinance that prohibited shifting cultivation, came full circle for both the Batak and the Tagbanuwa communities. Many households which did not have enough seeds to plant, resorted to clearing areas of shrubby bushes and weeds which will soon degrade to barren grassland. Others, fearing persecution from the law, abandoned their swiddens, which meant increasing pressure on non-timber forest products (NTFP's).

The indigenous peoples' situation is rapidly deteriorating in the southwest part of the island, which is now open to ruthless colonisation. The road linking the north to the southwest coast has been constructed without envi-

ronmental protection measures being enforced. As a result, thousands of hectares of forest have been cut down, and hundreds of settlers have entered the indigenous land. The local Palawan communities are requesting that ancestral land rights be granted before the road is extended any further.

In April 1998 the Philippines' worst ever forest fire ravaged the Palawan's ancestral land. Accurate estimates of the damage are still being produced. During that same period, municipal forest areas in Rizal that are to be incorporated in new 'barangay' settlement areas were cleared by fire, without any precautions being taken to avoid the spread of flames.

In the far south another threat to the ancestral land is coming from Rio Tuba Nickel Mining (RTN). Unexpectedly, the company has been issued an environmental compliance certificate and granted permission for further extension. Overall RTN has a total of 585 mining claims covering 5,625 hectares of traditional Palawan territory. The close relationship between the President Estrada and the Zamora brothers (owners of RTN) is well known and it is unlikely that the company will be shut down.

In spite of the pace of plundering, there is widespread optimism among local environmentalists that the Island will be saved through the prescriptions of the Republic Act 7611, also known as the Strategic Environmental Plan (SEP), which was enacted in June 1992. The centrepiece of the law is the establishment of an Environmentally Critical Areas Network (ECAN), which places most of the province under controlled development. The law establishes that core zones "shall be fully and strictly protected and maintained free of human disruption - exceptions, however, may be granted to traditional uses of tribal communities of these areas, for minimal and soft impact gathering of forest species for ceremonial and medicinal purposes". Interestingly enough, the ECAN core zone coincides with significant portions of the indigenous hunting and gathering ground. For instance, the resin of *Agathis* trees is usually extracted in commercial quantities at around 1000 metres above seal level and upwards. In addition, certain animals are also hunted at these altitudes. It is important to point out that Sec. 11 of RA 7611 includes Tribal Ancestral Lands among its categories. "These areas", it says, "traditionally occupied by cultural minorities, comprise both land and sea areas identified in consultation with the tribal communities concerned and the appropriate agencies of government". It is frustrating to learn that even Tribal Ancestral Lands "shall be treated in the same graded system of control and prohibitions - except for a stronger emphasis on cultural considerations". The SEP, demonstrating a high degree of naiveté, proposes the protection of



*Young Batak man bringing Almaciga resin to the market
(Foto: Dario Novellino).*

indigenous culture on the one side, and the implementation of western zoning criteria in tribal land on the other. So far, the law, and its promoters have been unable to provide a convincing argument as to how this will be achieved.

The proposed expansion of the St. Paul Subterranean National Park in the north also appears to be an ominous cloud on the horizon. It will certainly include areas that are part of the Batak and Tagbanuwa ancestral lands, under the Republic Act No. 8371, and this is likely to create conflicts. The local communities view the Park as a curse. They feel that they have been robbed of their land, as well as of the animals and plants they once relied on for food.

Lastly, the creation of the Brunei-Indonesian-Malaysia-Philippine East ASEAN Growth Area (BIMP-EAGA) and its possible impact on the indigenous people in Palawan should not go unnoticed. In 1998, the Asian financial crisis apparently slowed down most of the so-called 'growth opportunities' envisaged by the BIMP-EAGA, but a resurgence of the proposed activities is likely to take place in the near future. The program aims to strengthen co-operative ventures that accelerate improvements in trade and investments. This implies an intensification of extractive activities (mining, logging, oil exploration, plantations) and the expansion of the manufacturing sector (wood and wood products such as plywood, and the processing of palm oil, cocoa, fruits, copra, etc. for export). As one BIMP-EAGA report stated, "Mindanao and the Island of Palawan...remain heavily dependent on agriculture, fishery and other natural resources such as mining the world's richest nickel deposit, iron and coal reserves as well as non-metal resources of lime-stone, gypsum, nitrate, sulphur and kaolin. Therefore, the region offers a wealth of opportunities to make use of these rich resources". BIMP-EAGA priorities are clearly reflected in House Bill NO. 6414 which proposes transforming southern Palawan into a "special economic zone". The Bill proposes the construction of manufacturing industries (electronics, garments, furniture, plastics, toys, shoes, ships and boat building, etc.) and the maximum use of the available natural resources. There are already disturbing reports coming from Balabac, the southernmost island, situated between Palawan and Sabah. Balabac is now open to intensive trade and economic expansion, and the construction of a major port is on its way. Illegal logging and smuggling of timber to Sabah is rampant and the lifestyle of the local Molbog communities is now more threatened than ever before.

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EAST TIMOR

The conflict over the former Portuguese colony East Timor, which dates back to 1975, has seen a very fast development since May 1998, when Indonesia's President Suharto was forced to resign after more than 30 years as the country's dictator, however the future remains unclear.

Decisions have been made and signals have been sent out which may be interpreted in many ways. This may lead anywhere, to peace and freedom or to war and chaos, East Timor has become a land whose citizens are torn between hope and fear.

Indonesia invaded East Timor in December 1975 and annexed the territory in July 1976. Since the invasion began, at least 200,000 people, almost one-third of the population, have lost their lives as a result of war, starvation or disease.

The invasion is in violation of 12 resolutions adopted by different parts of the United Nations organization: the Security Council, the General Assembly and the Human Rights Commission in Geneva. But the UN has done nothing to enforce its decisions.

Promise or Trick?

In June 1998 Indonesia's new president B.J. Habibie announced that East Timor could have autonomy. He also promised to release Xanana Gusmao, the leader of Timor's National Resistance Council (CNRT). In return, the East Timorese and the international community were to recognize Indonesia's sovereignty over East Timor.

This proposal could be interpreted in many ways. Some saw it as a promise which should be taken seriously; others viewed it as a clever diplomatic trick which was merely meant to improve Indonesia's international reputation. At any rate, it was quite without precedent. Obviously, the new Indonesian government understood that it had to do something drastic over the question of East Timor. Nevertheless, Habibie's proposal was unacceptable. It is not possible to legalize an illegal action just by giving the conquered area some form of autonomy.

In January 1999, Habibie's government went one step further. It announced that East Timor could have its freedom, if its people rejected the proposal for autonomy. It also promised that Gusmao would soon be transferred from his cell in Jakarta's Cipinang Prison to a separate villa where he would be kept under house arrest.

Gusmao accepted the proposal on the 29th of January, the transfer took place on the 10th of February and he was moved to a villa in a Jakarta suburb. His new address was number 47 Jalan Percetakan Negara VII. The Indonesian authorities stressed that technically he was still in prison. The villa was guarded by policemen and jail wardens, but he had more space and more freedom of movement than before. He was allowed to receive visitors from the outside - this was nothing new - but now he was also given free access to world news from radio, television and newspapers.

"Asia's Nelson Mandela"

Foreign observers said they hoped he could play a "Nelson Mandela-like" role in negotiations over East Timor.

The comparison with Mandela is highly relevant. In East Timor, Gusmao has a standing which may be compared with Mandela's in South Africa and he is often referred to as "Asia's Nelson Mandela." The South African government transferred Mandela from prison to house arrest shortly before his final release in 1990. During the time before his release he took part in negotiations to end the apartheid system which had existed in the country since 1948. Mandela was elected president in 1994 during the first free elections in the history of South Africa. Many observers see Gusmao as the obvious candidate for the post as president of an independent East Timor.

Gusmao himself said he had accepted the proposal to move to house arrest because he would have more freedom of movement and because "it will also help a settlement in East Timor."

For and Against

Indonesia's transfer of the resistance leader from prison to house arrest can be interpreted in several ways. Manuel Carrascalao, who lives in Dili, and who wants independence, was positive, but also somewhat reserved: House arrest "is really just symbolic," he told a reporter from Reuters. "But it's still a good step. Indonesia is opening up a little, but we still want independence."

Stanley Roth, the U.S. Assistant Secretary of State for East Asian and Pacific Affairs, believed a solution to the problems of the disputed territory was now closer than at any time since Indonesia invaded in 1975, "I have been working on East Timorese issues for 19 years," he said after talks in Jakarta. "This is the first time in that 19 year period that I am optimistic that there is a basis for a political settlement."

Other observers suspected the new president of bluffing. He was simply trying to distract attention from opinion polls showing that the government

party Golkar could not win the parliamentary election scheduled for the 7th of June 1999. He was simply pandering to international donors, "It is for domestic political reasons - he's trying to take people's attention off the election, because he can't win," said Muhammad Hikam, from the government's Institute of Sciences. "He is also hoping he will have more latitude in bargaining with international donors," he told a reporter from Reuters.

By contrast, members of Gusmao's family, who live in exile in Australia, were very enthusiastic over his transference from prison to house arrest. His wife Emilia and his son Nito, who watched his release on Australian television in Melbourne, said that Indonesia had recognized him as a political leader, "We celebrate in our own hearts," said 28-year-old Nito, who has only met his father three times in the past nine years.

"It's a good sign that the Indonesian government has shown to get him involved in a solution for East Timor," Emilia said in Portuguese, translated by her son. Emilia, who has not met her husband in 18 years, added: "I am very happy."

The Black List

On the 10th of February, the same day that Gusmao was transferred to his new address, Indonesia's Justice Minister Muladi announced that José Ramos-Horta might be authorized to enter Indonesia, "We are not inviting him, but we are not excluding that possibility," he told the press just before a cabinet meeting. José Ramos-Horta has been the resistance leader in exile since Indonesia's invasion in 1975. Based in Australia, Mozambique and Portugal, he has traveled the world to keep the East Timor issue alive. In 1996, he and Catholic Bishop Carlos Belo were awarded the Nobel Peace Prize for their efforts to achieve a peaceful solution to the problem of East Timor. In June 1974, 18 months before Indonesia's invasion - he was in Jakarta where, the then, Foreign Minister Adam Malik promised him that Indonesia would not disturb East Timor's right to national self-determination. Obviously a promise which was worth nothing. But since the invasion in 1975, Ramos-Horta has been on the black list; a *persona non grata* who was not welcome in Indonesia.

Now, however, Muladi said that if Ramos-Horta's presence was needed at negotiations on the territory's future, his name could easily be removed from the black list of East Timorese forbidden to enter Indonesia. Ramos-Horta represents a resistance movement which the Indonesian authorities used to describe as terrorists. Therefore the government has never been inclined to enter into negotiations with him. Muladi's message is a positive sign. Obvi-

ously, it would be more constructive to invite Ramos-Horta, but it is a step forward that he is no longer excluded as a participant in negotiations about the future of the territory.

Armistice

Shortly before his transfer to house arrest Xanana Gusmao issued an order to the military wing of the resistance movement (Falintil) not to attack Indonesia's Armed Forces (ABRI) until further notice. Falintil is believed to have some 600 guerrilla troops, divided into four regional units. The guerrillas receive virtually no material support from the outside. Therefore they have to rely on weapons and equipment taken from the enemy.

However, even though Falintil declared an armistice, this did not mean that East Timor was at peace. Pro-Indonesian militias, known as *Wanra*, were terrifying the people all over the territory. *Wanra* have been established and armed by the Indonesian military. They consist of East Timorese who work with Indonesia - compelled by need or conviction - and they are determined that East Timor must remain a part of Indonesia. They are afraid an independent East Timor will take revenge and punish them as collaborators.

CNRT says it does not wish to take revenge on them. But it is the position of CNRT that the militias are a mere extension of ABRI and that a disarmament of the militias combined with a withdrawal of ABRI is a precondition for the disarmament of Falintil. CNRT also wants to see an international UN-force deployed in East Timor to ensure that everything takes place in accordance with international law.

Indonesia, after Suharto, is following a two-track policy: (1) the various hints concerning freedom and the shift to house arrest for Xanana Gusmao; (2) arming militias to terrorize the country. Whether these are two aspects of the same policy, or reflect separate tendencies within the Indonesian leadership, we do not know, both are possibilities.

Australia Changes Policy

One of the states which had expressed concern for East Timor's, as well as Indonesia's future, is Australia, and for many years was Indonesia's best friend. Suddenly, in January 1999, the Canberra government announced a major policy shift when it stated that East Timor had the right to national self-determination, but stressed its preference for autonomy.

In February Australia went one step further, when it declared that it was very likely that East Timor would eventually gain full independence from

Indonesia: "It looks very likely that at some stage there will be full independence, however we would prefer there to be a period of autonomy within the Indonesian state for a considerable period of time, and at the very least an orderly transfer," Australian Prime Minister John Howard told Australian television on the 14th of February. "That would be better because a quickly independent Timor would be very vulnerable, very weak, and it will require a lot of help and there will be a lot [of] pressure on Australia to provide a lot of that help," he said. Two days before, Australia's Foreign Minister Alexander Downer said he had received assurances from Indonesia that it would not suddenly abandon the province to chaos and civil war.

Settled by the Year 2000

The day before, Indonesia's president declared that he wanted the East Timor issue settled by the start of the next year: "From 1st January 2000, we don't want to be burdened with the East Timor problem," Habibie said in a speech to the Indonesian Chamber of Commerce and Industry. "As a friend, we will let them decide by themselves."

The president said he expected East Timor to participate in the parliamentary election scheduled for the 7th of June 1999: "For the coming election, because they are still our province, they can join the election. That is democratic. But if our autonomy proposal is rejected, we will propose to the MPR [People's Consultative Assembly, Indonesia's highest legislative assembly] to let them be independent," he said.

In spite of these statements, it was still unclear how the East Timorese were supposed to express their wishes. When Indonesia and Portugal met for UN-sponsored talks in New York earlier in February, Indonesia had consistently refused to allow a referendum, arguing that it would spark a new civil war.

The Opposition

Another factor of uncertainty is what will happen if Golkar does not win the election as usual. Questions of how the opposition will handle the issue of East Timor if it forms a new government after the election, with or without Golkar and will Habibie's promises still be valid or will they just vanish into thin air are being pondered.

Abdurrahman Wahid (Gus Dur), who is chairman of the 30 million strong Nahdlatul Ulama organisation, Indonesia's largest opposition group, is against independence for East Timor, but he has also publicly stated on numerous

occasions his support for an internationally-supervised referendum in East Timor. He hopes they will choose to stay with Indonesia.

Amien Reis, leader of the National Mandate Party, supports the idea of a referendum in East Timor at some future date. But one of the leading opposition figures, Megawati Sukarnoputri, rejects independence outright. Megawati is leader of the PDI and daughter of Indonesia's first president Sukarno.

It is interesting that a politician like Megawati, who fought for years against Suharto's undemocratic line, now seems to adopt his position with regard to East Timor. In 1996, Megawati was removed from her chairmanship of the PDI by means of a coup, clearly organised by Suharto. Indonesia's respected weekly *Tempo*, which was closed during Suharto's rule but which is now back in circulation, published a biting editorial on this matter. Suharto must have been surprised to learn that Megawati's political thinking is similar to his "integration or nothing" stance. It is a true irony that the similarity of their positions is only now being learned.

Far from Over

Maybe the East Timor conflict is really approaching its end. If so, we should be happy, but for the East Timorese the problems are far from over once the Indonesians go home. More than 23 years of occupation have caused death and destruction all over East Timor. It will take many years, maybe several generations, to surmount the economic and psychological damage Indonesia has done.

If you look at all the conflicts in the world, it is often difficult or impossible to find out who is the hero and who is the villain. A case in point is the crisis and the war in the former Yugoslavia, where almost all parties and groups are responsible for serious crimes. The East Timor conflict is quite different. Here it is quite clear who is the victim and who is the perpetrator; who is right and who is wrong. East Timor is an innocent victim of Indonesia's aggression. All actions undertaken by the East Timorese must be understood as a legitimate self-defence against an illegal attack from Indonesia.

During the crisis and the war in the Persian Gulf in 1990-91, many Western politicians explained that it was necessary to expel Iraq from Kuwait for reasons of principle: a large state cannot be allowed to invade a small neighbour with impunity. At the time, Indonesia had held East Timor in an iron grip for fifteen years, with the blessings of the very same Western politicians. The two cases were quite parallel, but the Western response was completely different: Saddam Hussein was not allowed to conquer Kuwait, while Suharto was allowed to take East Timor.

During the crisis and the war in the Persian Gulf, U.S. President George Bush introduced the concept of the "New World Order," which would follow the cold war between East and West. A world which was supposedly dominated by respect for international law and human rights.

But international law and human rights were still being violated all over the world. For East Timor at least, the "New World Order" was not so different from the old one. Whether the East Timor conflict is approaching its end or not, it will always remain a textbook example of the contrast between theory and practice in international politics, and powerful proof that money often means more than respect for international law and human rights.

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INDONESIA

On May the 21st 1998, President Suharto, the world's longest-serving head of state, was driven from office a mere 72 days after his sixth re-election as president in March of that year, abandoned by the military and civilian elite after weeks of fervent student protests. The protests that brought him down were directed at a system seen by most Indonesians as corrupt, arbitrary and unfair from top to bottom and, since the onset of the economic crisis in mid-1997, unable to deliver even the most basic goods. The government of B. J. Habibie, who was sworn in as president the same day, promised to pave the way for genuinely competitive elections which would bring into place a government mandated and trusted by the people.

Habibie and his men, and indeed the whole Indonesian nation, faced a ghastly predicament. The economy had melted down. Foreign and domestic capital - which had largely fled the country after the looting and arson that accompanied the May 1998 demonstrations in Jakarta and other cities - were loathe to return. Many ethnic Chinese shopkeepers and wholesalers had shut up shop and, as a result, much of the distribution system had broken down. Food shortages in Java and the free fall of the Rupiah resulted in price rises that a large percentage of Indonesian citizens were unable to afford. Whereas halting the slide of the economy demanded the government's concentrated attention, relentless street protests calling for radical and rapid political reforms forced it to take steps in the direction of overhauling a system of political institutions which for three decades had served only one purpose - the consolidation and celebration of the power of Suharto. Politics under Suharto's New Order had been deliberately stunted, with rivals, potential successors of the president and indeed anybody with a political vision being suppressed. The army had been allowed a large role in running the country, while civilians had no opportunity to build up a political following. When the law restricting political party participation was repealed, therefore, many among the several dozens of parties that were registered, professed either adherence to a religious creed or merely testified to the political ambitions of individual personalities. But none had a comprehensive analysis of the situation and a sane program that pointed a way out of the crisis to offer.

Expectedly perhaps, considering the monumental tasks facing the new administration, twelve months after the fall of Suharto, Indonesia's problems seem, if anything, to have grown worse. While there have been some advances in freeing political expression, the possibility of comprehensive political and economic reform has faded. Euphoria has been replaced with politicking and complacency on the part of some, and concern with Indonesia's future on the part of others. The immediate future is frankly grim, a conclusion which gives no joy to all those who want Indonesia to survive the present crisis and recover.

The movement which brought Suharto down has not, so far, transformed itself into a vehicle for continuing, comprehensive reform. The student demonstrations for "total reform" which called for an end to the pervasive military interference in public affairs, the abolition of the latter's political prerogatives and the criminal investigation of the Suharto family, have, as of now largely dispersed (at least in the capital). In the regions, however, popular anti-corruption protests against governors appointed by Jakarta, unrepresentative provincial legislatures and unpopular district chiefs have contin-

ued, forcing hundreds of local government officers throughout the archipelago to resign over the last year.

While the country is bracing itself for the first post-Suharto elections - which will also be its first free elections since 1955 - on June the 7th 1999, its foundations are being shaken by the inevitable social turbulence generated by the overthrow of an autocratic ruler and the anomie that comes with a devastating economic crisis. Neither the elite nor any of the leading opposition figures have a clear idea about the kinds of social and economic systems that should be created, about the position of the Sino-Indonesian minority within the economy and society, or about more satisfactory relations between the central government and the regions. Without a vigorous, well-informed debate on the latter issue in parliament, the press and civil society as a whole, the search for solutions to the problem of disaffected indigenous regions like Aceh, West Papua and even East Timor will prove illusory.

As the government is faced with the enormous task of creating a new political infrastructure, it has promised to rewrite in just three months all the legislation concerned with general elections, political parties and the functioning of parliament and the country's highest legislative body, the People's Consultative Assembly (MPR). Because the political class is aware of the need to quench the increasingly noisy resentment in the regions about the present centralization of decision-making powers, funds and revenues in Jakarta, last November (1998) the MPR mandated the Home Affairs Ministry to draft a law that will legislate for the "just and fair" sharing of natural resources and the equal division of revenues between the centre and the regions, along with another one concerned with administrative decentralization, or, in the government's words, "regional autonomy. The laws for which the Habibie government hopes to get parliamentary approval before the general elections, are not only supposed to allow the districts and provinces to collect and keep substantial tax revenue and to elect provincial parliaments and local officials without interference from the central government, but also to replace and improve the much-criticized New Order legislation on village government.

The laws, however, were greeted with little enthusiasm on the part of NGO's and people's organizations. In March, 16 of them (among them the environmental network WALHI and two groups representing Dayak and Moluccan people) rejected the government bills on autonomy and revenue sharing in a joint 'Statement of Opinion on Regional Autonomy'. The NGO movement is criticizing the laws' content as well as the rushed, non-participatory drafting process that led to them. Although they appear to introduce

substantial innovations like the direct popular election of village heads and checks to the latter's powers by giving village councils equal weight in the question of the disbursement of government funds, the NGO's say that, for example, the fact that provincial governments retain the right to grant mining and logging concessions, shows that the devolution of political powers is not going far enough. The NGO statement states, furthermore, that because the bills do not address the issue of indigenous and other local property rights over lands and forests claimed by the state, they violate the principle that local customary law should take precedence, and that they also fail to promote just and sustainable resource management in general. The NGO movement's main objection, however, is that the drafting process was once more an exercise in elite politics since the only consultations that took place were with Suharto-era politicians in the provinces. The NGO's suspicion that the transitional government is not serious about a genuine devolution of powers and sharing revenues fairly between the centre and the provinces, is proving sensible in the light of persistent rumours that the International Monetary Fund (IMF) or one of its co-lenders has in fact pressured the Habibie government to retain control over state earnings from the sale of natural resources in order to meet its debt repayment obligations.

Paradoxically, among those who are now making the loudest calls for loosening of the bonds between the regions and Jakarta, are some governors, heads of provincial investment boards and local party bosses of Golkar, the ex-government party, who barely 12 months ago would have considered such a position treasonable. They are pushing for local autonomy legislation, arguing that the central government could successfully defuse unrest in outlying regions by allowing them to cut their own deals with foreign investors, process their own commodities and set their own development priorities. Thus, in March 1999, even places with little history of trouble, like Riau in Sumatra, were threatening to secede unless their demands were met by Jakarta.

To many observers, foreign and domestic alike, the country appears on the verge of disintegrating into chaos. One year after the ousting of Suharto, over a thousand people have died in communal violence in at least half a dozen hot spots across the archipelago. Widespread hopes for independence on the part of ethnic groups on the outer islands are raising the spectre of a nation falling apart at the seams. The president's offer of independence for East Timor should the province vote against "wide-ranging autonomy" in a plebiscite to take place next August, stimulated a euphoric mood of near millennial proportions about impending freedom in Irian Jaya and Aceh, regions that Jakarta is very unlikely to let go considering that their mineral,

timber and agricultural resources figure prominently in its plans for economic recovery. The current civilian and military leaderships as well as the most prominent opposition politicians are deeply divided over the fate of all of these truculent provinces, and major and probably dominant factions seem to be banking on the chance that not only can they can talk separatist groups in Irian Jaya and Aceh around, but also turn the tide in East Timor itself.

While Java faces a rising tide of crime in the cities and periodic clashes between religious groups (Muslims and Christians), some of the outer islands have gained notoriety for becoming the scene of vicious anti-settler uprisings on the part of local communities. Among the local indigenous discourses emerging from the silence that the New Order regime imposed on all articulations of cultural and ethnic attachment, some have an unmistakably xenophobic hue, with migrant groups (usually relatively late arrivals) being made to pay the bill for the gradual economic and social dislocation that many local societies have experienced over the past decades. In Neither Ambon nor in West Kalimantan, the places that have lately witnessed the worst excesses against migrants (see below), the fact that the newcomers lead an existence that is just as precarious as the locals' has not been of any help in promoting ethnic tolerance.

It is becoming increasingly clear that instead of being the glue that is holding the nation together, as the New Order state would have had it, inter-island migration emerges as a form of social acid which is burning the fabric of inter-ethnic relations in Indonesia's outer islands and corroding the religious harmony on which the country has habitually prided itself. The pervasive depolitization of Indonesian society engineered by Suharto and the elimination of those institutional channels that, under his regime, addressed communal grievances, are now ensuring that such frictions take the form of uncompromising, murderous street action.

After two years of uneasy calm, in March and possibly April 1999 the north-western part of the province of *West Kalimantan* was devoured by a new round of fierce ethnic clashes between the tiny Madurese immigrant community and an alliance made up of Malay and Dayak residents. A similar showdown during the first two months of 1997 - then exclusively between Madurese and Dayak - claimed over 520 predominately Madurese lives and sent tens of thousands of terrified members of that minority to seek shelter in the province's two largest cities. The latest round of trouble goes back to January the 19th 1999, when 200 Madurese attacked a Malay village after a Madurese thief was badly beaten before being handed over to police. The incident left

three Malay dead. Then, on March the 14th, with tensions still high, a Madurese killed a Dayak who was working on a road project. When word about the killing got back to the victim's relatives, Dayak communities as well as parts of the Malay population, bristling for revenge for the assault that took place in January, went on the attack. By March the 24th, the death toll stood at 165 (almost exclusively Madurese), with 16,000 refugees crowding the capital city of Pontianak. In much of the district of Sambas which was the focus of much of the violence, Madurese habitations were abandoned. The prospects of the inhabitants ever returning to the villages seems remote, given the professed determination on the part of the Malay and Dayak populations not to let them return. The background to the conflict in this densely populated part of Kalimantan is the bitter competition for land between locals and newcomers like the Madurese, prompted in part by the erosion of the land base of the former through the establishment of large-scale plantations and government sponsored transmigration schemes. The military and local authorities repeatedly failed to defuse the combustible situation, contenting themselves with holding pompous "peace ceremonies" and reminding the parties of their civic duties after each round of conflict.

On the Moluccan island of *Ambon*, over 200 people (though police sources admitted that the number could have been as high as one thousand) were killed when fighting between Christians and Muslims broke out in mid-January, continuing until March. People were shot or hacked to death by their neighbours, burned in their homes or killed by the police or the military in street fighting. Indeed, early tactical errors on the part of the authorities who tried to put the unrest down by dispatching troops from the Muslim stronghold of South Sulawesi, and the fact that the predominantly Christian police force sided with their religious brethren, helped raise the death toll instead of containing it. The fighting quickly spread to the neighbouring islands of Haruku, Saparua, Seram and Kei Besar. At least 35,000 Muslim refugees crowded onto boats headed for Sulawesi, the place where most of the migrants to the Moluccas came from, and a food crisis threatened at least as many others who had opted to outlast the troubles. Over Easter more violence flared up in Ambon, leaving another 54 people dead. While it is likely that the erosion of central authority and a flawed conflict-management strategy on the part of the military high command, were important elements that helped fuel the conflict, the backdrop to the slaughter is the feeling on the part of Ambon's Christian majority that Muslim immigration over the past

two decades or so had slowly eaten away at their customary dominance over public affairs and administrative institutions on their island.

As if to defy the violent, nasty turn that inter-ethnic and inter-religious relations seem to have taken over the past three years at least, and to testify instead to the continuing possibility of grassroot, bottom-up organising by popular movements, 210 indigenous leaders from 121 indigenous groups in 23 provinces, adherents of four religious traditions (Muslim, Christian, Hindu and animist), met from March the 15th to the 22nd in Jakarta for the first-ever gathering of indigenous peoples from all over the Indonesian archipelago.

The week-long congress which went under the heading "Re-defining the Position of Indigenous Peoples vis-à-vis the State", was facilitated by 13 NGO networks, representing Indonesia's most important human rights and environmentalist groups and the leading advocates for indigenous peoples' rights. 210 delegates from 121 indigenous groups in 23 provinces attended, along with 50 facilitators and resource persons from NGO's and some 75 guests from inside and outside the country. Conspicuously absent were the East Timorese who are apparently seeking to mark their distance not only from the Indonesian state, but also from the Indonesian popular movements and civil society. Strongly represented, however, were groups from the similarly contested territories of Aceh and West Papua.

Among the primary aims of the congress was to improve the bargaining position of the country's indigenous peoples in the context of the ongoing reform process. This was to be achieved by the eventual formulation of a common platform and the devising of a workable organisational structure – possibly a nationwide umbrella organisation – which could secure indigenous peoples a place on the national political agenda. The congress, a high-profile event, staged not in obscure NGO premises but at Hotel Indonesia, a venue traditionally connected with high politics and business summits, was supposed to:

1. strengthen alliances with other progressive groups pressing for comprehensive social and political change in Indonesia;
2. raise public awareness about the situations and struggles of indigenous peoples in the country;
3. redefine the relationship between indigenous peoples and the state, based on the notion of self-determination, notably the claim for the devolution of decision-making powers from the centre to a more local level;
4. initiate a dialogue with the national political leadership.

Plans for holding such an event had already existed for as long as five years, but had had to be shelved mainly because of the political risks involved. However, following the demise of the dictatorship and the subsequent beginnings of a reordering of national political life, the moment was considered ripe for indigenous rights advocates and pro-democracy groups to stake a forceful claim to a place on the political stage on behalf of their constituencies.

Prior to the congress, a series of regional consultations took place during which regional agendas for the congress were formulated and delegates chosen. Great emphasis was placed on determining the needs and aspirations of major ethnic groups in each region and ensuring a balanced representation during the congress, for it was clearly recognised that the congress's mandate and legitimacy were dependent on the degree to which it reflected local sentiments. In accordance with the organisers' stated aim that the congress be run by indigenous people themselves, a number of indigenous facilitators were called to a preparatory workshop in February 1999 during which they were taught the skills needed to facilitate and chair workshops and meetings.

The first two days of the congress (the 15th and 16th of March) were spent in workshops that firstly were seeking to deepen the participants' knowledge of existing state laws which at present restrict access to land and resource ownership as well as to civil and political rights. Secondly, the workshops scrutinized and proposed amendments to current official attempts to revise legislation relevant to indigenous rights. Thirdly, those international legal instruments which establish and protect indigenous rights were surveyed, and finally the gender perspective on both the development process and the internal dynamics of *adat* societies and the indigenous movement(s) was explored.¹

Day three (the 17th of March) provided the delegations with the opportunity to outline the specific conditions and problems of their regions on behalf of the plenary. Day four (the 18th of March) attempted to group the problems that had just been articulated, and to come up with pertinent policy recommendations. Day five (the 19th of March) gave government representatives the opportunity to explain and justify existing state policies, while indigenous participants were allowed to attack the policies and underscore the lamentable consequences they continue to have for indigenous peoples. Furthermore, in one instance during a workshop, a representative of a large oil company addressed the conference in order to explain private sector enterprises' policies towards environmental protection and the safeguarding of local people's rights. Later that day, it was the turn of political party representatives - in March they were still in the run-up to their election campaigns - to prove that

their parties were aware of indigenous demands and willing and able to accommodate them in their programs. Three minor parties sent their representatives to give an account of their policies and visions.



At the Congress of the Indigenous Peoples of the Archipelago, Jakarta, March 1999 (Foto: IWGIA Archive).

Since the week's deliberations had shown overwhelming support for the idea of a nation-wide umbrella organization, day six (the 20th of March) was given over to the job of mapping out a structure, general vision and a more or less detailed work program for the emerging organization (*Aliansi Masyarakat Adat Nusantara* [AMAN], the 'Alliance of Indigenous Peoples of the Archipelago'). Day seven (the 21st of March) was devoted to the passing of the constitution and by-laws of the new alliance and to the election of members to its 54 strong board (*Dewan Adat Nusantara*) and executive secretary. On the closing day (the 22nd of March) a press conference was hosted and a (thwarted) attempt was made to take the issue to the streets by demonstrating in front of the Parliament. The conference participants were blocked by anti-

riot police, and it took a full hour until nine AMAN spokespersons were finally allowed into the building to have a brief sharing with legislators.

It was held that the Indonesian state is at present premised on the disregard of cultural diversity and customary rights and institutions. Its laws and policies consistently deprive indigenous peoples of the right – encoded in international legal documents like the ILO Convention 169 and the UN Draft Declaration on Indigenous Peoples' Rights – to control their own destinies as well as the management of their land and resources. Accordingly the conference put forward the following demands to both the outgoing government and to the parliament and administration that will be elected this coming June and August:

- The elimination of abusive government terminology characterizing indigenous peoples as primitive and backwards.
- The substantive political participation of indigenous people in state political institutions on all administrative levels.
- The restitution of the sovereignty (*kedaulatan*) of indigenous communities as it is expressed in self-governing *adat* institutions and traditional systems of resource management, to be enshrined in national legislation which is to be devised in consultation with indigenous people.
- The repeal of Suharto-era legislation vesting ownership of indigenous land and control over natural resources in the state and favoring the centre over the regions with regard to revenues from the exploitation of the country's natural wealth.
- The reversal of existing development programs and the establishment of mechanisms providing for stringent environmental and social impact assessment procedures and consultative processes which involve the indigenous peoples affected.
- The review of the policy of transmigration and the abolition of the Department of Transmigration and Forest Squatters Resettlement.
- Stronger consideration for women's rights in the future conduct of welfare and health programs by the state, notably with regards to family planning.
- The abolition of *de facto* military rule in regions like Aceh and West Papua with its attendant violation of human, political and social rights and the repeal of the "special role" (*dwitungsi*) of the Armed Forces which stifles civil society and militarizes Indonesian society.

- An official investigation into atrocities committed against indigenous communities, the rehabilitation of the victims and the judicial persecution of government and army personnel involved.
- The ratification of international covenants protecting indigenous peoples' rights, like ILO Convention 169.

Naturally, many people's eyes were on the delegations from the restive provinces of Aceh and Irian Jaya (West Papua) and wanted to see what position they would take in the deliberations over the contrasting claims for national unity and regional self-determination. During the workshops and plenary discussions it became evident that in spite of current government initiatives for "national reconciliation" (in the case of West Papua) and some discussion on calls for a referendum on the future status of Aceh, the patience of both Acehnese and Papuas with the central government is wearing thin and that calls for independence can count on substantial support among both the population and the leadership of regional popular movements. On occasions, Acehnese and West Papuan leaders were implored by fellow indigenous speakers to lay aside their claims for secession in the name of the common struggle for a just and democratic Indonesian society. But on the whole the legitimacy of the quest for separate statehood by the two regions was considered justified in the light of past experiences of the Indonesian state and military. However, the congress and the National Federation that emerged from it, stopped short of officially endorsing independence for Aceh and West Papua, mainly out of the concern for the newly-founded organisation's future profile and bargaining position. "*Kemerdekaan*", the cry for "freedom" was the banner flown by virtually all delegations at the congress. For the moment it seems, in most instances, to imply first and foremost an end to the military presence, violence and intimidation in the villages, and an end to the disenfranchisement by state laws and the social and cultural discrimination still prevalent in the day-to-day dealings of state agents with indigenous communities. And conversely, it seems to also imply a wish for the return of a measure of local self-determination in local communities.

The congress's attempt to start a dialogue with national policy makers and to probe their willingness to incorporate indigenous demands in the much heralded "reform agenda" was as sincere as the attendance of high level government officials and the substance of what they had to say was disappointing. Of the five ministers invited, only one - the Minister on Agrarian Affairs, Hasan Basri Durin - addressed the conference. He and the low level bureaucrats representing the other departments made, for the most part, a very poor

show. They did this by, for example, blaming the vagueness of indigenous concepts of land ownership for the widespread dispossession of indigenous communities and by reaffirming the benevolence of much-protested against government programs like transmigration and the resettlement of "backward tribes". Unsurprisingly perhaps, it became apparent that the indigenous movement is still far from getting the government to the point where it wants it to be, namely - as one workshop put it - to agree to a "new social contract between the state and the country's indigenous peoples".

Yet in spite of the ultimately lamentable official response to the congress and the concerns it ventilated, the new National Federation is intent to use its opportunity, however small, to influence political decision makers in their current efforts to rewrite crucial pieces of national legislation. A list of criticisms and proposed amendments was submitted to the Parliament, which in March was debating the above mentioned integrated draft bill on local and regional government, as well as the bill on the sharing of revenues between central and regional governments. Equally, during the dialogue, the Minister of Agrarian Affairs was forced to concede to the demand for a critical evaluation of the existing agrarian law in the light of basic indigenous demands.

The main achievement of this bold and well organised event was, without any doubt, that it provided indigenous people from all over Indonesia with the opportunity to tell their often sad stories of state violence, development aggression, forced acculturation and their own resulting cultural disintegration, to a wider and partially international audience. After 32 years of enforced silence, the conference provided a much-needed forum for the expression of rage, grief, and the accusation of a state whose government had for decades preached a doctrine that declared that leaders are beyond the purview of ordinary citizens and thus not accountable for their deeds. Many of the participants who had never before even been to the capital city of their home provinces, let alone Jakarta, were emboldened by the presence of large numbers of fellow indigenous peoples and by the partly fiery speeches they made, to raise their voices in a manner they would never have dreamt of doing before. Discussions in the workshops and the plenary were lively, sometimes even tumultuous, as different tempers and political cultures mixed and many people took obvious pleasure not only in openly disagreeing with government policies, but also with each other.

At the same time and at a whole different level, the participants successfully reassured each other that for them the way out of the present national crisis must lie in the revitalization of *adat* structures which were represented as embodying the very principles of democracy and equality whose absence

haunted the national political system. Voices of dissent in the face of this exercise in the "invention of tradition" came mainly from women's quarters. Indigenous women activists argued compellingly that not only state policies, but sometimes also autochthonous structures of inequality were at the root of the predicament of indigenous women. Gender issues, therefore, were a recurrent source of contention and heated arguments, with many men challenging the organisers and the women for allocating too much space and importance to women's concerns.

An ambitious program has been planned to ensure that the gains of the congress can be sustained. For May and June of this year, 33 regional/provincial level consultation meetings were planned in order to communicate the results of the Jakarta meeting to the grassroots. Many of the organisations will be busy identifying women representatives to the alliance board (*Dewan Adat Nusantara*), for the congress ruled that half of its members have to be women. Two years from now, 27 provinces are scheduled to convene provincial congresses which will develop provincial agendas and work programs. Three years from now, the second national level congress will be balloted to evaluate the performance of the set of provincial delegates to the Alliance and of the Alliance's executive secretary who were elected in March 1999. As a result of the very success of the First Congress of Indigenous Peoples of the Archipelago which has just been concluded, the new National Federation is filled with tremendous hopes and expectations on the part of the participants and the communities they represent. It is to be hoped that it will be able to fulfill at least a some of them.

Notes

1. More concretely, the topics included, amongst others, human rights and politics, access to genetic resources, the sharing of academic knowledge on indigenous peoples, regional autonomy and other forms of political self-determination, indigenous land, forests, marine and sub-surface resources, the plight and demands of indigenous women and a survey of relevant international declarations and conventions.

MALAYSIA

The Orang Asli of Peninsular Malaysia

1998 was a year of setbacks for the Orang Asli of Peninsular Malaysia, especially with regard to their claim to traditional territories. Perhaps at no other time in their recent history has it been more important that the Orang Asli assert their rights to their lands, and to do this by all available means.

For example, yet another dam is to be built that will cause Orang Asli to lose their traditional territories. The proposed Sungei Selangor Dam about 50 km north of Kuala Lumpur is supposed to meet the federal capital's anticipated water demand by the year 2003, when the dam is expected to be operational. If built, this 110 metre high dam with a reservoir area of 600 hectares, will be no less than the seventh dam in Peninsular Malaysia constructed in Orang Asli traditional territories.

There were two potential sites for the dam, both fairly close to each other. However, one of the reasons the Sungei Selangor site was chosen was that the project there would affect less privately owned land, thus greatly reducing the government's legal burden in its attempt to acquire these lands. In the eyes of the authorities, the reservoir and surrounding land (totalling 900 hectares) affected mainly "state land", which included the two Orang Asli villages and a government Youth Training Institute.

The 351 Temuans of the villages of Gerachi and Peretak do not take kindly to the fact that their traditional territories are to be flooded, and that they are to be resettled elsewhere. They are mostly rubber smallholders although they also rely on the forest for their subsistence needs and on the sale of minor forest products for cash incomes. Petai and durian orchards also provide them with substantial revenue during the fruit season.

In exchange for being resettled, the Orang Asli are being promised 2.4 hectares per family (for a house plot and an oil palm grove). This comes to a total of 180 hectares in the new resettlement area. Today, however, their traditional territories cover 595 hectares. This was recognised by the government in 1965 when, according to data from the Department of Orang Asli Affairs (JHEOA), approval was given for the land to be gazetted as an Orang Asli reserve. However, the Department is now asserting that the said land is actually part of the state-owned forest reserves! Realising that the resettlement deal requires the Temuans to give up 70 per cent of their traditional territories - which they are not willing to do - the Temuans have enlisted the help of volunteer lawyers to pursue their legal claim to the land.

Even while the Sungei Selangor Dam issue is being hotly debated by environmentalists and opposed by those Temuans it affects, another dam is being planned just across the border in the state of Pahang. The first phase of a Pahang-Selangor interstate water transfer project will flood 3,000 hectares of mostly "state land and forest reserves". Directly affected is the 102 hectare Sungei Temir Orang Asli Reserve, the homeland of 80 Temuan families. The Temuans have been asked to move, but the only acceptable site for them is the Sungei Teris area in the Krau Wildlife Reserve (this also encroaches upon the Che Wong people's traditional territories). Again, the Temuans here have sought legal representation for their case.

Legal recourse now seems to be the Orang Asli's last resort in their battle to assert their rights to their land. The case of the Bukit Tampoi Temuans, also in Selangor state, has already started being heard in court. The Orang Asli are claiming that the state government encroached on their traditional territories when they forcibly destroyed houses, oil palms and fruit trees in order to construct a highway for the new international airport. The state government is claiming that the land is state land and that the Temuans no longer practice their *adat* or customary law. The Temuans are denying both assertions and have sought a declaration on the matter from the court.

This case follows on from the Sungei Linggiu case in Johore in 1997 when the court ruled that the Orang Laut were entitled to compensation for loss of livelihood (to the tune of RM26.5 million - approximately \$7 million US - over the next 25 years) as a result of a dam being built on their traditional territory. However, the Bukit Tampoi case differs significantly from that of the Sungei Linggiu, in that the Temuans are not only demanding the right to enjoy a livelihood from the land, but are also asking for a declaration to be made regarding their right to the land.

Nevertheless, the Orang Asli are finding out that, in spite of the fact that they have sought legal recourse, the authorities have no qualms when it comes to getting their own way. The case of Bukit Lanjan, just outside Kuala Lumpur, is a testimony to just how fragile Orang Asli rights are.

On the 9th of May 1998, a "demolition team" from the local government council of Petaling Jaya (including police, JHEOA officials, district officials and workers, and contractors armed with smash-and-clear heavy machinery) descended without warning on two houses in Kampung Bukit Lanjan on the grounds that they were obstructing the construction the new Puchong-Damansara Highway. In spite of protests from the occupants that their case (for equitable and fair compensation) was being pursued through their law-

yers, the demolition team went ahead and demolished the houses without further ado.

Six months earlier, about 100 families had agreed to move to temporary wooden long-houses as part of a JHEOA assisted negotiation to alienate Orang Asli land to a private developer for a housing and commercial complex. The compensation deal is supposed to include a replacement bungalow plus a terraced house or an apartment for each of the affected families. But as one of the aggrieved Orang Asli said, "There's nothing in black and white so far. This already proves that they are not sincere."

Eleven other families however did not agree to move as they were not happy with the compensation deal foisted on them (as it was well below what other non-Orang Asli were then getting). Consequently they engaged lawyers to seek legal redress. "What makes my heart burn is that the demolition was done in my absence," said one of the Orang Asli house owners. This act particularly irked the Peninsular Malaysia Orang Asli Association (POASM). Its Deputy President, Arif Embing, told reporters at the scene of the demolition, "If illegal immigrants are sent back to their home country in a civilised manner, why should the Orang Asli, the real children of this country, be sent off like this?" He added: "We don't oppose development, but let us be in touch with its course and be compensated for all the loss and destruction of property at the normal rate."

Following this, about 80 members of POASM peacefully gathered in front of the Prime Minister's Office on the 13th of May 1998 to protest against the demolition of the two Orang Asli houses, and to hand over a memorandum to the Prime Minister. Apart from the Kampung Bukit Lanjan Orang Asli, Orang Asli from other areas also came to show their solidarity.

The Orang Asli in Bukit Lanjan appear justified in fearing that the promises in the compensation deal, however incommensurate with what is required by law, may never actually be delivered. Already there are too many examples of Orang Asli being cheated or short-changed by such promises. The most recent example of such a practice is the case of the Jakuns in the villages of Bekok, Kudong, Selai, Lenek, Tamok and Kemidak in Segamat, Johor.

As reported in the previous edition of *The Indigenous World*, the state government took over 1,420 hectares of the Orang Asli Reserve in 1996, with the promise that the 187 families affected would be offered better housing, an improved infrastructure and a higher standard of living. They were to be resettled in an area totalling 425 hectares (including land for oil palm plantations). This alone reflects a loss of 70 per cent of their traditional territories.

For this and other reasons, the affected Jakuns were against the project, but they were forced to comply by the pressure brought to bear on them by the authorities.



Peaceful demonstration of POASM in front of the Prime Minister's Office on the 13th of May 1998 (Foto: Colin Nicolas).

The area in question is rich in timber, and revenue from this source was to pay for the promised infrastructure and oil palm plantations for the Jakuns. The project was privatised, since when the company in charge has logged more than 1,000 hectares of timber. However, 18 months later, there is still no sign of any development project for the Orang Asli. To make matters worse, the company itself has absconded, and the state government is now only talking about conducting a "probe" into the matter.

These and other experiences suffered by the Orang Asli, especially those concerning threats to their traditional territories, have had the effect of unifying the 105,000 Orang Asli from 19 different socio-cultural and linguistic backgrounds in their struggle. They are now engaged in the fight to prevent any further erosion of Orang Asli rights to their lands.

THAILAND

As in all of the countries of South East Asia Thailand has a complex and diverse cultural heritage. The social fabric of the upper northern provinces is particularly rich in tribal history, with indigenous groups and migratory peoples spread throughout the area. Thirteen of these peoples are officially recognised as ethnic minorities by the government, the governmental term being "hill-tribes". During the course of 1998 and 1999 these peoples have been subjected to ever increasing harassment and threats, culminating in the use of force to dispel a peaceful demonstration in the early hours of the 19th of May 1999.

However throughout the last year developments in Thailand have been distinguished by both triumphs and setbacks for the indigenous and tribal peoples of the northern provinces. The great optimism felt at the end of 1997 with the Cabinet's resolutions of that year to begin the delineation of the highland communities' lands, proved to be premature, since the resolutions were cancelled on the 30th of June 1998. This move has had and will continue to have far reaching effects, not only for what it implicitly states, but also because of the mentality and viewpoint that the move embodies. It was a move aimed directly against the process of decentralisation of authority in Thailand, the very same process that was enshrined in the new Constitution.

This step back towards central power and authority was strongly condemned by a number of organisations and networks in northern Thailand, organisations that represent not only the recognised "hill-tribes"¹ but also the lowland Thai communities and rural poor. The Northern Farmers Network (NFN) and the Assembly of the Poor (AOP) have, on behalf of all northern forest dwelling communities, been vocal in denouncing the cancellation². The new Assembly of Thai Indigenous and Tribal Peoples³ (ATITP) was formed in response to the decision. The clear reaction by these different segments of society shows that there is some ground for hope and optimism, and the strength of networking and alliancing between different groups is increasing, at regional, national and international levels.

The recent alliance between these networks has been driven by two main areas of shared concern. The first is the serious citizenship problems which ethnic minorities in Thailand face, with many people who were born in Thailand, or were otherwise eligible for citizenship, being denied it as a result of confusing and contradictory laws and corruption at local government level. The second affects all forest dwelling communities, and is the confusing and

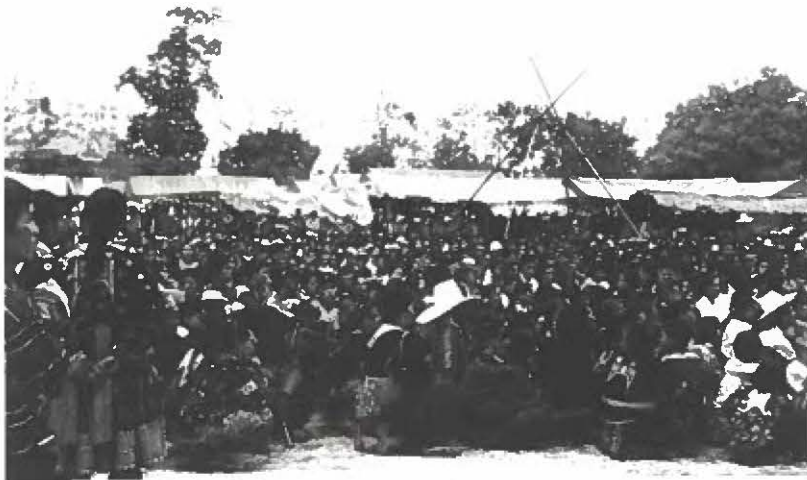
morally unacceptable refusal of land rights for long established communities. According to the new Constitution of Thailand, the people have the right to participate in the management and conservation of their natural resources. However since the establishment of the Royal Forestry Department at the turn of the century all land without previously issued land documents was considered to be state land and is officially designated as "forest". Four laws of the RFD directly contravene the Constitution and local officials, acting under these laws, continue to harass and intimidate villages.

These intimidatory and threatening tactics being used by local government officials are now being employed by members of some conservation organisations who are determined to push for a western isolationist conservation policy over the Asian concept of compatibility between human settlements and forested areas. There have been instances of members of the Karen and Lua communities being arrested or detained for continuing to use rotational farming as their primary cultivation method. This traditional form of farming has been outlawed in many areas in the north of Thailand, leaving many communities without an effective substitute, and without the strong cultural bond which is expressed in the traditional agricultural methods. The move to outlaw rotational farming was and remains in direct contradiction of the customary laws and community patterns of the Karen and Lua whom it most affects, the two tribes widely accepted to be indigenous to Thailand.⁴

These issues and the serious effects they have on the every day lives of communities in Thailand led to the formation of a "Rally for Rights" led by the three networks mentioned earlier. This rally began on the 25th of April this year when representatives of the rural poor and of tribal communities gathered at the front of the City Hall in Chiang Mai to peacefully demonstrate and present a list of demands to the government. Over the next three weeks the number of people gathered swelled dramatically with 40,000 different representatives of communities throughout the north registering as participants. In addition to villagers there were a number of supportive bodies, ranging from NGO staff, to academics and students from Chiang Mai University.

This rally was an outcry against the return to central authority and away from the empowerment of local communities. It was a cry on behalf of all communities in Thailand, especially those in the northern provinces who are not represented by powerful business interests in Bangkok. Given the reason for the rally and the peaceful way in which it was conducted the events of the 18th and 19th of May are deeply shocking. Not since 1992 have the authorities used force to disperse a peaceful demonstration, and luckily then, as now, the

actions of those leading the rally were able to prevent further violence. In another twist the 400 strong police force summoned to disperse the peaceful protesters was supported and strengthened by an additional force of Royal Forestry Department Officials, swelling the number of officers present to 1200.



"Rally for Rights". Chiang Mai, April/May 1999 (Foto: Phongpan Panasantikul).

This is an interesting point, and one which is being examined now in the aftermath of the Rally, since these officials were completely outside their jurisdiction and area of authority. An explanation as to why there had been RFD Officials and employees involved was demanded from the Chief of the Chiang Mai Provincial Forestry Office, Mr Chaiwat Phongsa the following day. However he was unable to answer, stuttering and finally mumbling that he "was not sure".

In the aftermath of the dispersal of the rally and its forced removal to the grounds of Chiang Mai University, the groups aligned in opposition to the protesters continued their attacks on the protesters. Racist and nationalistic leaflets were distributed, attacking both the people who had gathered and those groups supporting them. In a display of fear and hatred, the effigies of

prominent academics who had spoken out in support of the rally were burnt in front of Chiang Mai City Hall on the 26th of May.

As we approach the middle of 1999 the outlook for indigenous and tribal peoples in Thailand is complex. As the most vulnerable members of Thai society they are facing an array of powerful and influential forces within Thai society. Self-empowerment through networks such as the ATITP and through increasing local strength is encouraging. It strengthens not only the communities themselves but also the entire Thai nation as it works towards realising the vision of civil society expressed in the Constitution.

Notes

1. The official term used by the Royal Thai Government to distinguish between refugee minority groups and the established tribal peoples.
2. See The Bangkok Post throughout 1998.
3. The Assembly of Thai Indigenous and Tribal Peoples, or Samacha Chonpao Hang Prates Thai, is representative of five ethnic minority groups or "hill-tribes" - the Pgakenyaw (Karen), Lisu, Hmong, Lahu and Mien.
4. Wanut Pruksasri, Tribal Resource Institute, Chiangmai University (Lecture notes).

BURMA

In November 1997 the Burmese military dictatorship renamed itself from "SLORC" to "The State Peace and Development Council" (SPDC). Instead of bringing about "a flourishing, disciplined, democratic system," as announced, the regime that came to power through a coup in 1988, continues its dirty war against its own people. The junta's way to forge national unity in multi-ethnic Burma is to force a single national identity on all ethnic nationalities. To realise this the junta continues its brutal war against the indigenous peoples in an attempt to suppress all demands for self-determination and to crush their movements. Indigenous peoples' lands are being invaded and occupied, the people uprooted, forcefully relocated or killed.

Although a National League for Democracy's (NLD) party conference was allowed to be held in September 1997 on Aung San Suu Kyi's estate in Yangon, where she is still being kept under house arrest, her demand in June 1998 for a convention of the parliament legally elected in 1990 was not heeded by the military junta. Instead, it had arrested a great number of elected parliament members and other NLD members to prevent a convocation. Nearly a 1,000 of them were detained by the SPDC in so-called "guest-houses" and denied leave to return home until they had signed "voluntary resignation"

letters from the NLD. Therefore, in September 1998, Aung San Suu Kyi announced the formation of a "Committee Representing the People's Parliament (CRPP), consisting of 10 members, to take over the legal tasks of the MPs detained.

The military junta has published "declarations" of a number of ethnic minority organisations against NLD's policy of calling in the parliament and the 10-member committee of representatives (CRPP). According to the junta, the only larger ethnic minority organisation supporting the NLD and Aung San Suu Kyi was the Karen National Union (KNU). The junta also maintains that KNU has urged her to convoke the parliament and negotiated with the NLD for power sharing, if the latter comes to power.

This contradicts the Mae Tha Raw Hta Agreement which was reached at an Ethnic Nationalities Seminar in January 1997. Leaders of the Arakanese, Chin, Kachin, Karenni, Kayan (Karen), Mon, Pa-O, Palaung, Lahu, Shan and Wa agreed "[to] dismantle the military dictatorship and establish peace in the country,...to establish a genuine federal union composed of national states having the full rights of national equality and self-determination",...to "accept the tri-partite dialogue [between the NDF, UNLD, PDF and other ethnic nationalities, Aung San Suu Kyi's NLD and the SLORC military clique] agreed to by Daw Aung San Suu Kyi, and called for by the resolutions of the UN and international organisations." The ethnic nationalities' leaders agreed further "to practice market economic system and invite foreign investments". As these are, however, at present "benefiting the SLORC military dictatorship...we strongly object them." And they continue by stating: "...we acknowledge the ...NLD, led by Daw Aung San Suu Kyi as the winner of 1990 general election..." and "support all acts of opposition against SLORC, by it." "We, the Ethnic Nationalities Seminar, agree unanimously to help develop the National Democratic Front (NDF), the nation-wide alliance body of the ethnic nationalities, into a politically, militarily and organisationally more solid entity."

Continued Resistance

Since 1989, the SLORC/SPDC has agreed to a cease-fire with 16 of the armed minority groups. However, the cease-fires have often been short-lived. In March 1995 a cease-fire agreement between the Karenni National Progress Party (KNPP) and the SLORC broke down after three months. In January 1996, the SLORC signed a cease-fire agreement with the Muang Tai Army

(MTA) led by Khun Sa in Shan State. Nevertheless other Shan opposition groups have continued their armed struggle against the SLORC/SPDC.

The Karen National Union (KNU) remains one of the few major groups who have not agreed to a cease-fire. At the end of January 1997, cease-fire talks between the SLORC and the KNU broke down for the fourth time. In early 1997, SLORC troops launched a large offensive against remaining KNU positions.

Many indigenous peoples who have entered into agreements with the junta are frustrated as the SPDC have repeatedly broken them. And many are unhappy with the SPDC's "local development projects" where funding money is disappearing into the military's own pockets. As a result they have to provide for infrastructure and the construction of schools and hospitals themselves.

Area Reports of Human Rights Violations

Tenasserim Division

Tenasserim Division comprises 10 townships, where farming and fishing are the main livelihoods. The majority of people live in rural areas, a large part of which are so-called Black Areas, treated as free-fire zones by the Burmese military. The *Tavoyan* and *Merguian* people form the majority of the population in Tenasserim Division. They speak a different dialect of Burman and are counted as Burmese officially; practically however, they are treated in the same racist and brutal fashion by the Burmese army as the other ethnic minorities. There are also smaller numbers of Mon, Karen and ethnic Burman (mostly concentrated in the more urban areas).

In the coastal region of Tenasserim Division, there are three ethnic armed opposition groups operating: the New Mon State Party (NMSP), the Karen National Union (KNU) and the 500-strong Myeik-Dawei United Front (MDUF) of the Tavoyan. Of these, only the NMSP entered into a bilateral cease-fire agreement with the military regime in 1995, but now there is a 50-strong NMSP splinter group in Ye and Yebyu townships who have begun to fight the Burmese army (tatmadaw). To defeat these uprising groups, the ruling military regime is holding the rural and civilian populations of Tenasserim, Karen State and Mon State's Ye township as 'semi' hostages by abusing their human rights through forced labour and portage, relocation of villages, arbitrary executions, rape, torture, confiscation and destruction of property, extortion and illegal taxation.

More than 3,000 *Karen* and *Tavoyan* families living in 30 villages from Taung Byauk, Taung Zin, Pea and Kyauk Hse village tracts in Thayet Chaung

township have twice been subjected to forced relocation by the tatmadaw since September 1997, when 5 villages were burnt down. The relocation areas being reportedly very arid with serious water scarcity and hundreds of children, women and older people died from diarrhoea, dysentery, chicken-pox and other diseases. At the same time, relocated villagers of all ages were abused as porters for military offensives and as labourers for the construction of army buildings. They were used as working slaves collecting firewood and water, cooking meals, washing, growing vegetables, supplying food and doing whatever else at the whim of the SPDC soldiers and officers.

In December 1997 these 3,000 Karen and Tavoyan families were allowed to return home to their respective villages, only to be relocated again in July 1998 to the previous strategic army locations officially known as "gathered villages." This time all of the 14 Buddhist monasteries and 12 Christian churches of the villages were destroyed. The civilian population is again serving as the labour pool for the SPDC offensive against KNU and MDUF forces.

Forced Portering and Human Mine-Sweepers

One consistent form of abuse by the SPDC military is the indiscriminate conscription of portering labour from the relocation camps for regular patrols and counter-insurgency offensives. Many of the conscripted (from the 1997 and 1998 resettlements) were sick and elderly and have since been reported dead from exhaustion and illness. The forced porters have not been provided with either adequate food nor rest by the SPDC troops. Female conscripts are reported to have been gang-raped by them.

Maung Ni Toot, a young Tavoyan man, conscripted as front-line porter by the local #25 battalion in a 1998 offensive against the MDUF was one of several civilians to go in front of the SPDC troops as human shields and mine-sweepers. When he stepped on a guerrilla-planted land mine, he lost his right leg. While denying him medical treatment or compensation, the military even threatened him with death if he told the story.

Forced Watch Duty and Abuse of Women

A "normal" practice of SPDC personnel is to conscript those unfit for portering labour as round-the-clock watch persons to guard military camps and military-owned plantations. Young women are frequently chosen and often are sexually abused by the military.

Members of the SPDC army perpetuate such sexual abuses in the rural ethnic areas against non-Burman women with impunity. Indeed, it has been suggested and documented that such abuse of women is part of the suppres-

sion system - an additional component to the "Four Cuts" campaign of ethnic cleansing. (The Four Cuts Campaign is the Burmes army's strategy to suppress the resistance movement across the country by terminating their source of 1. food, 2. money, 3. recruits and 4. information.) Not only going unpunished, it is with the SPDC generals' very connivance and the local commanders' encouragement and involvement that such acts are committed. Interviews with deserters from the Tatmadaw by Earth First International suggest that sexual abuse is part of a large scale SPDC effort to burmanise the outlying ethnic, so-called "Black Areas", to assimilate the ethnic minorities by "thinning their blood".

The practice of conscripting women into watch duty has been systematised by the Coastal Region Command since May 1997. About 270 villages in Tavoy, Thayet Chaung and Launglon townships are seriously affected, depriving their inhabitants of time and access to their means of subsistence. The villagers are required by the military to report any information concerning guerrilla activities in the area. If any activities do occur and go unreported, the conscript watchers are dealt with as guerrilla supporters. Based on household numbers the villages have to provide between 12 to 36 people per day for watch duty in a rotating system. Households unable to provide guards are fined 300 - 500 Kyat per day or 3 - 5 days of hard labour.

Forced Labour for Government Projects

The SLORC/SPDC regime has continued the state-owned rubber projects in Thayet Chaung township with massive use of unpaid forced labour from several surrounding villages. The Chauk Chaung Rubber Project was started in 1987 by the former Burma Socialist Programme Party (BSPP) on 7,000 acres of confiscated, uncompensated farmland with a reported loan of \$47 million from the World Bank. The project was established with the daily use of 1,000 to 1,200 forced labourers from more than 70 villages.

In 1997 the SPDC extended the project by confiscating another 400 acres of farmland without compensation. In Tenasserim Division, the rubber project between Moe Shwe Gu and Kin Sheih has made constant use of some 200 to 300 unpaid conscripted labourers from several local Tavoyan and Karen villages.

The SPDC has also realised a 200 acre rice project near Thea Chaung Galay again with unpaid labour from surrounding villages. When the 4 million Kyat budget project failed in the 1997-98 harvesting season due to natural disasters, the SPDC project management required the local inhabitants to contrib-

ute a total of 9,000 baskets of paddy (at the rate of 600 Kyat per basket) to please their superiors with a nevertheless "successful" rice harvest. The 4 million Kyat budget appears to have been pocketed by the corruption-ridden SPDC management and involved local military officials as no wages were paid to the forced labourers.

The present military regime continued the prawn-raising project at Kyauk Nimaw and Kanyawbyin villages started by the BSPP administration after it came to power in 1988. Local prawn businessmen are required to contribute young prawns according to quotas set by SPDC project officials, while surrounding villages are required to contribute labour for the construction of buildings and ponds. Moreover, the villagers are required to perform round-the-clock guard at the prawn-raising sites.

Island-lease to China Displaces Indigenous Salon People

The SPDC regime has reportedly leased the island of Lan Pi in Boak Pyin township, Kawthaung district, to China on a 40 year contract from February 1997. In March the SPDC forcibly removed all the 400 Salon families who were living in 7 small villages on the island. Men from villages on surrounding islands are said to have been required to join a militia unit to guard Lan Pi and newly constructed facilities. While local SPDC authorities claim the island to be used by China will be a "refreshing camp" or "a base for environmental projects," a hidden military agenda on the island between the SPDC and China is suspected.

Treacherous Cease-Fire to the Tavoyan Guerrilla

The 500 strong Tavoyan Myeik Dawei United Front (MDUF) fell victim to the Burmese military in September 1997, losing 32 members including its Secretary General U Tin Tun, according to official MDUF sources. Cease-fire negotiations were inaugurated between the SPDC Coastal Region Command in Tenasserim and the MDUF in May 1996. The Military Intelligence Unit #19 from Mergui accepted the three demands of MDUF in January 1997 namely: 1. to keep their arms 2. to move freely with arms in its area of influence 3. to jointly develop the Tavoyan area. Finally, on September 17th 1997, the day for concluding cease-fire negotiations between high-ranking SPDC and MDUF officials suddenly many SPDC troops from #267 battalion arrived at Yebu, where MDUF Secretary U Tin Tun and his personnel were staying waiting for the SPDC delegation under Maj Thura Myint Oo. The newly arrived troops, in a brief exchange of fire, wounded U Tin Tun and 2

bodyguards and captured 6 more guards and 23 local MDUF militiamen, along with family members: 5 women and 2 children.

After cruelly torturing them, the SPDC military executed 30 of the 32 captive MDUF members, including Secretary U Tin Tun, by tying them to trees and beating them to death in front of the Tavoyan villagers. The five women, three Tavoyan and two Buddhist Karen, were gang-raped and then locked up in Tavoy prison, where they remain. Strangely enough, the SPDC intelligence unit in Tavoy expressed sorrow for the loss of MDUF lives and blamed it on dissenting army combat units.

Mon State

Beginning with an ambush on the SPDC occupation forces in May 1998 a new insurgent Mon splinter group has begun military resistance. Despite the present cease-fire between the SPDC and the NMSP, the Burmese military has subjected tens of thousands of Mon villagers of Ye and Yebyu townships to the litany of abuses accompanying the Four Cuts strategy. They face constant accusations from SPDC officers of sympathising with and harbouring the 50-strong Mon splinter group.

In the beginning of June 1998 a number of villagers and headmen of Danikya, Kyon Kanya, Khawza Chaung Wa, Baraung and Kawh Hlaing villages were interrogated about the Mon splinter-group by SPDC troops, detained up to several days, beaten and tortured and several women raped. Between 10,00 to 30,000 Kyat per village or person was extorted by the military for their release.

The headmen and secretaries of more than a dozen Mon villages in the area have been threatened with execution if they fail to inform SPDC authorities about the Mon splinter group. Each of the villages has been forced to dig two fresh graves for their leaders. Since the splinter group's attack in May 1998 the SPDC military has forbidden local Mon farmers and fishermen to pursue their livelihoods on a regular basis, curtailing their ability to provide for their families. Many farm huts in the rice fields and fruit plots have been burned down.

After the 23rd of July 1998 ambush of the armed Mon resistance group, the SPDC troops renewed their arrests and torture of a number of innocent Mon village headmen and villagers in Magyi, Kyon Kanya and Khawza Chaung Wa in southern Ye township, accusing them of supporting the Mon faction. 10,000 Kyat from each of the villages were extorted for the military's food supplies that was lost in the ambush.

In Kawh Hlaing and Taw Baung Mon villages headmen and some villagers were again accused of collaboration with the Mon splinter group after the 4th of July 1998 ambush and of not serving their 24 hour standby as porters for the military and were beaten and tortured. Ransom up to 30,000 Kyat per person was extorted by the SPDC military.

In Kywethalin village, Yebyu township, eight, reportedly, Mon men were arrested by #408 battalion on November 27th 1998, allegedly for being collaborators of the Mon splinter group operating in the area, and tortured. While two victims have already died, and two were freed for a ransom of 20,000 Kyat, the last four were put into detention in Yebyu town.

In Khawza Mon village a nightly curfew was suddenly announced by the local #273 battalion on December 24th 1998, barring farmers from their farmland at night-time, under the threat of being collaborators of the insurgent Mon group. The same night, three farmers from a neighbouring village, not having been warned, were seized by the SPDC troops in a farm hut west of Khawza on the unjust accusation of belonging to the insurgent group. They were interrogated, beaten and tortured and finally bought freedom after two days by the family's mother and the abbot of Yinye monastery for 300,000 Kyat.

Following a sea skirmish between the #402 battalion and the Mon splinter group on October 19th 1998, the SPDC military tightened restrictions on local Mon farmers and increased extortion. Villagers from Magyi, Mitawhla Gyi, Mitawhla Gale, Kyon Kanya, Taw Baung (Min Lin Taing), Kyauk Aing, Thabyawa, and Khawza Chaung Wa now have to obtain permits at 20 to 50 Kyat each, valid for 3 days, from their headmen before leaving the village which is restraining their quest for food.

Local fishermen have to acquire a "fishing licence" for 250 Kyat per boat from the SPDC military and pay 200 Kyat every time they go out fishing. Also, the number and identity of the boat's crew has to be reported in advance and on return. They must then hand over a share of the catch. Even more extortion is demanded of Mon fishermen by SPDC marine units. They extort both cash and fish, when intercepting local boats. Besides the "fishing licence" from land-based units, they also have to buy one from sea-based SPDC units at 2,000 Kyat per boat. A total of 200 boats from 5 villages are affected.

Forced Labour on Ye-Tavoy and Ye-Magyi Road

The SPDC military regime has conscripted unpaid forced labour from the adjoining Mon, Karen and Tavoyan villages to repair and widen the Ye-Tavoy

road since November 1998. While a few work sites with army workers get paid 200,000 per mile, the indigenous households have to fulfil a quota of 66 feet length each, provide their own food, tools and stone material.

Likewise, the SPDC military has started constructing a range of dikes for their rice projects in coastal Yebyu township from October 1998 with the daily use of 200 to 300 labourers, conscripted from 10 Mon villages. The quota is 700 feet of dike per village and they have to work on the Ye-Tavoy road at the same time, depriving the inhabitants from livelihood activities. After the dike is completed, the Mon villagers will certainly be abused as slave workers on the military rice fields, some families have fled the area already.

Construction of the remaining 5 mile section of the Ye-Magyi road between Khawza and Magyi was started in mid 1996, for widening the road, rice farmland was confiscated without compensation. Since early 1997 the local #304 battalion has conscripted unpaid labour from several Mon villages such as Hangan, Khawza, Yinye, Yindein, Thabya, Kyonkanya, Mitawhlagyi, Mitawhlagale, Magyi, Taungkhon, Kyauktayan, etc. From each of these 30-50 villagers have been working on the road embankment at least one week in a month. By the end of 1997 most of the embankment of the whole length of Ye-Magyi road was completed.

Karen State

After several years of resultless peace talks (from 1992-97) between the KNU and the Burmese SLORC Government, from the 11th of February the Tatmadaw resumed "cleansing operations" against the Karen guerrilla, accusing it of acts of terror (a.o. a bomb explosion in a Yangon-Mandalay train). A KNU spokesman estimated the SLORC/SPDC troops operating in KNU controlled territory in spring 1997 to be about 30,000 while the KNU composed of only 5,000.

According to KNU informants the military actions led to the flight of about 20,000 civilians to Thailand. In March 1997 the Thai and Burmese military High Commanders, Generals Chetta Thanajaro and Maung Aye, met to discuss the later repatriation of - mostly Karen - refugees to Burma. Thailand announced they would assist the SLORC in crushing the KNU insurrection. An arms depot, ascribed to the KNU, in Thi O-Khoo was seized by the Thai Border Patrol. Because of recent losses the KNU does not dispose of larger military bases any more. Instead their fighters operate in small, mobile units of 5 to 60.

During its 1997-98 dry-season offensive against the KNU guerrilla, the SPDC army has displaced or relocated tens of thousands of Karen villagers in the southern Karen State. This was accompanied by the usual atrocities such as, indiscriminate shooting and killing, conscription of porters, summary and arbitrary executions, torture, rape, looting, extortion and so forth. While many Karen managed to flee to the Burma-Thai border refugee camps, more than 3,000 families (about 20,000 people) living in the outer rural areas of Kyar in Hseikkyi and Kawkareik townships were forcibly relocated into strategic concentration camps before the harvest season.

In order to cut the KNU rebels off from their food supplies, the Karen farmers were only allowed to harvest their crops when these were brought under the control of the SPDC. The military then distributed meager daily rice rations to queuing villagers from the encampment storehouses. The larger part of the crops were sold by the corrupt SPDC officials in the open market leaving the 20,000 relocated Karen people, mostly women and children, to suffer from inadequate food supplies. Only after all the rice in the camp was used up, were selected Karen allowed to return to their old villages to work for their sustenance. Fleeing from starvation in the concentration camps and having paid "farm-going permits" of 50 Kyat per person and for the trip, the farmers on the way to their former villages were nevertheless intercepted by other rivalling SPDC units. The #206 battalion did not accept the "permits" issued by #223 Tactical Command, beat up and seriously injured seven Karen farmers on accusing them of collaborating with the KNU. Such inconsistency, rivalry for revenue and power, is common between different local SPDC military units, leaving the already abused ethnic population further at the whim of local commanders.

From February to May 1998, in Kyar, Hseikkyi and Kawkareik townships the following Karen villages were displaced by SPDC troops: Shwe Poha and villages near Zami river, Kyon Kwe, Thein Kwe, Ka Toe Hta, Aung Laing, Sekkawet, Myoh Haung, and Lay-wa-hpa-loe. This was done with indiscriminate shooting, conscription of porters, looting and destruction of houses, etc.

Mass Flight to Thailand

The atrocities perpetrated by the Burmese military against the people in the so-called "Black Areas" in southern Karen State has forced most of the villagers to flee to refugee camps on the Burma-Thai border or to jungle hiding places inside the country. To prevent further exodus, the local SPDC command in June 1998 guaranteed them the right to work on their farm lands,

asking them to pay permits of 50 Kyat per person and one basket of rice and the extorted rice had to be carried to the SPDC encampment by forced porters.

The Four Cuts strategy, depopulating the Black Areas, puts the SPDC commands in a dilemma: while it probably makes operating more difficult for the ethnic guerrilla forces, it also has a similar effect on their own troops. Indeed, SPDC battalions have long depended on the local rural/ethnic population, all the while considering it as a quasi-enemy, not only for conscripted labour to assist their military operations, but also for their very income and means of sustenance.

While steadily enlarging their standing army, the Burmese government has increasing difficulties in paying the already minimal salaries. "With an ever decreasing pool of assets from which to loot, local SPDC units are increasingly coming into near conflict with each other as they fight like mad dogs for the remaining bits," as one American volunteer put it.

Attacks on Refugee Camps

In March 1998 several attacks on refugee-camps were carried out, apparently by the "Democratic Karen Buddhist Army," a splinter group of the KNU. On March 13th 1998, Huay Ko Lo camp was attacked by between 70 and 250 men and burnt down. At least two refugees were killed, 33 injured. Thai guards had left the camp before the attack. On March 23rd 1998 Maw Ker refugee camp with approximately 8,700 inmates was attacked by armed men. 14 refugees were injured, 50 lodgings burnt down.

Thai military fired shells in the direction of Burma. While the SPDC denies any participation in these incidents, they are probably not unwelcome. According to different sources, including Thai officials, the refugee camps inside Thailand form a base of operation for the KNU against SPDC troops.

The KNU's military arm, the Karen National Liberation Army (KNLA) retaliated by destroying the DKBA headquarters on March 24th plus the base camps Kokko, Thehbon and Kanuta.

Forced Relocation in Northern Karen State and Pegu Division

In February and March of 1997 SLORC/SPDC troops began a campaign to forcibly relocate or obliterate all villages in the hills of Papun district and eastern Nyaungglaybin district, straddling the border of Northern Karen State and Pegu Division. This hilly area of close to 10,000 sq.kms., dotted with small Karen villages averaging 10-20 families each, had always been difficult if not impossible for the Burmese military to control, because the villag-

ers managed to flee before their arrival. Those villages already close to their bases were relocated, all others obliterated without warning, hunting and killing on sight any villager to be found. In three waves, from March to November 1997, all ten SPDC battalions carried out this destruction: columns of 100 to 300 men moved from village to village. The army shell villages with mortars from adjacent hills, then entering, fire at anything that moves, proceed to burn every house, farm hut or shelter. Schools, churches and paddy storage barns are especially targeted, to deprive the villagers of their food. Those able to flee survive in leaf shelters or small huts that they build in the jungle, from where they try to continue tending their fields.

In the region, 105 villages averaging about 100 people each were ordered to relocate, 18 were completely burnt and 10 partially burnt down. 62 civilians were reported killed, the true number probably being twice that. Many more have also died of disease and starvation while in hiding. In 1997 at least 1,500 villagers from the area managed to flee to Thailand.

At least 36 villages have been ordered to move to Meh Way, a village of approximately 200 households in the Bilin River valley and a major relocation site. 3 military camps were built around Meh Way and maintained by forced labour and several thousand relocated peoples ordered to build their huts between these camps. People in Meh Way and newcomers were then abused as porters and human mine sweepers with the search and destroy columns.

Shan State

In April 1998 the "Shan Human Rights Foundation" (SHRF) edited a report accusing the Burmese military regime of having carried out extensive forced relocations since March 1996 in order to create "Free-fire" zones. Many people were reported to have been killed.

The background to this was the capitulation of the "Mong Tai Army" (MTA) under Khun Sa, known as the "opium king" in January 1996 to the SLORC military. Large numbers of ex-MTA troops however refused to surrender and moved north to join the Shan State Army (SSA) and the Shan State National Army (SSNA), who had cease-fire agreements with the SLORC. The former MTA soldiers regrouped themselves into the new Shan United Revolutionary Army (SURA) and by February had penetrated central Shan State and begun operating as a guerrilla force. In September 1997 the SURA fused with the SSA and SSNA to the "Shan States Army" (SSA).

The SLORC responded with drastic measures in early March 1996, embarking upon a systematic program to relocate all villages in suspected rebel

areas to towns or sites along main roads and near army bases. Thus, the villagers should be prevented from providing any support to the Shan rebels and thereby forcing them to surrender. From March onward the military ordered village after village in eight townships - Lamng Kher, Murng Nai, Nam Zarnng, Lai Kha, Murng Kerng, Kun Hing, Kee See and Murng Su - to move, turning once thriving farming communities into depopulated free-fire zones. Altogether in 1996 21,993 households in 605 villages, an estimated total of over 100,000 people were forcibly relocated from an area of about 8,000 sq. km. Unless they had relatives in the area they could stay with, they had to build their own huts. In most cases the land at the relocation sites is too arid for farming, or already claimed by area residents. People survive by selling their possessions and finding work as day labourers. Many children are seen begging.

Some people decided to hide in the jungle near their villages, especially the poor and elderly people, because they are afraid of not surviving in the relocation sites. They build makeshift huts out of sight, from where they can tend their old fields. Others, also afraid of the relocation sites and the SLORC, move to other parts of Shan State, but most seek refuge in Thailand.

In March 1997 the SLORC began relocating previously untouched villages in seven out of eight Shan townships already affected in 1996. Even previously relocated sites were moved again closer to towns, to bring villagers under further control. In May, following SURA operations, the relocation program spread south-east to the township of Murng Pan. Then in December 1997 relocations began to the east of the Salween to Murng Paeng, and from January and February 1998 spread to western townships of Loi Lem and Ho Pong. The SPDC still does not provide for relocated villagers, and continues to use them for forced labour: portage for road construction and construction work on nearby army camps.

From these areas in Shan State 33,964 households from 873 villages were relocated during 1997. With each household containing an average of 5 people, this means approximately 170,000 persons. The affected area now totals about 11,200 sq. km.

According to the SHRF report from April 1998 more than 300,000 inhabitants of more than 1,400 villages in 11 townships have been relocated since March 1996. In one township alone more than 300 persons were killed. Approximately 80,000 Shan are reported to have fled to Thailand.

A sharp increase in extra judicial killings of villagers at relocation sites has been reported since 1997. The SLORC/SPDC troops often kill those try-

ing to return to their former villages/fields for food. In 1997 alone 664 killings of Shan have been documented. But as most people are killed out in the jungle, the real number is probably higher.

Karenni State

In a massive relocation campaign 75,000 of the 200,000-300,000 state population were relocated by the SLORC in 1996. Only the areas in southern and central Karenni State, where the Karen Nationalities People's Liberation Front (KNPLF) operates, were exempted. In 1994 the KNPLF signed a cease-fire agreement with the SLORC which still holds. The primary intention of this mass relocation was to cut off all possible civilian support for the Karenni National Progressive Party (KNPP), whose cease-fire agreement was broken by the SLORC in June 1995. (See "The Indigenous World 1995-96", p.145-146). Some villagers were marched at gun point to relocation sites without warning, but most were issued written orders to move within 7 days or be "considered enemies", i.e. shot on sight without warning. While most went to the relocation sites, some further away from the military camps fled into the jungle and over 3,000 went into refugee camps in Thailand.

A similar operation was mounted again in January 1997. Of the 98 villages between the Pon and Salween rivers that were ordered to move in 1996, 60-70 were burnt down. In other villages only the best houses and rice barns were burnt and the livestock shot. Yet other villages were mined, killing several villagers in Baw Ghu Der Township. Crops grown at relocation sites to feed the inhabitants can be taken away by the military, likewise Catholic Church aid of rice, medicines and blankets may be confiscated.

The SLORC/SPDC has not provided any assistance to the expelled Karenni, nor allowed them to resettle in their home villages. According to witnesses the situation in Karenni State has never been so terrible. Even inhabitants of other settlements face severe restrictions; every town is now surrounded by checkpoints, many modes of transport have been cut and people need military permission to go anywhere.

Thousands of Karenni villagers now live at SPDC designated relocation sites, where nothing was prepared for them, even the ground was not cleared when they arrived. The sites are Shadaw, Ywathit, Daw Tama Gyi, Baw La Keh, Daw Tama, Tee Po Kloh, Kay Lia, Mar Kraw She, Maw Chee, Phasaung, and Nwa La Bo among others. As water supplies and sanitary conditions are absent, many inhabitants, mostly children, have died from malaria, dysentery and respiratory diseases. The camps have no clinics, or even if they do, medicines are not available.

In most sites, the soldiers force people to work for them: to cut building material and build barracks and fences, even around some relocation sites. The expellees also have to work at road construction, dig trenches or work as sentries. The relocation camps are virtual concentration camps. Their inmates have to obtain passing permits to go in and out. Landmines have been laid around the camps. Military posts have even been built inside relocation sites.

Forced Labour

Hundreds of people from Mawchee township in Karenni State and prisoners from different parts of Burma have been forced into unpaid portering. About a hundred villagers from Dee Maw So town were seized, tied and freighted to Phasaung town, from where they were forced to carry supplies and ammunition to an area where the military was operating against Karenni people.

Conditions of the porters are often harsh, often amounting to cruel, inhuman treatment. Their food is inadequate, only one meal per day, while they have to carry heavy loads through rocky and mountainous areas. Even the sick are forced to carry their loads, otherwise they might be shot, likewise those who try to escape. Other seriously sick were left to die beside the roadside.

Chin State

Of today's about one million Chin, most live in western Burma, but some also across the border in India and Bangladesh. The Chin National Front (CNF) which is not one of the bigger resistance movements, has so far, refused to start cease-fire negotiations with the SLORC/SPDC regime. According to CNF, the regime has offered negotiations via Chin Christian priests four times since 1994. They set the following prerequisites for the peace-talks proper: political questions may not be discussed, only those of rural development, the CNF should hand over their arms (although cease-fire usually means that both sides may keep their weapons). Furthermore the CNF may not negotiate as a member of the "Democratic Alliance of Burma" or the "National Democratic Front". After an armistice has been signed, the CNF may not keep up relations with other opposition groups.

The Chin National Front, however, sees a country-wide armistice as a precondition for political talks, where present political problems should be solved by the tri-partite dialogue, as demanded by the UN and Aung San Suu Kyi.

The military junta has massively increased its military deployment in Chinland, creating an atmosphere for the systematic abuse of human rights. Forced portering for the Burmese army in the border areas is especially rampant. Other human rights violations reported are: forced labour, relocation, extortion, rape, arbitrary arrest and killings. In 1998 at Lungzarh Village for example a woman was gang-raped by Burmese soldiers and afterwards killed.

Since 1997 the planting of Chinese land mines, abundantly provided to the Burmese army, has extended from the border areas to all over Chinland. This has a tremendous impact on villagers whom the land mines prevent from farming and who thus might even face starvation.

Excessive forced labour was used in the SPDC's construction of the Kale-Phalam motor road in 1997 and a stadium in Hakha, which was completed in 1998 and left many Chin families in permanent poverty. Cynically, the military regime circumscribes the systematic use of forced labour as an important part of Burma's cultural heritage for the good of the community.

Since 1962 the Chin indigenous people have sought refuge in neighbouring India and Bangladesh, to escape from human rights violations committed by successive Burmese military regimes. Presently, there are 50,000 Chin refugees in India and 3,000 in Bangladesh. Even more are hiding and living in the jungle in fear of abuses.

Religious Persecution

The Burmese military rulers who have adopted a xenophobic, crypto-Marxist philosophy, consider it a threat that about 90% of the Chin have embraced the Christian faith. On the other hand, Christianity helps the Chin to maintain a separate cultural identity from the Burman Buddhist majority. In every way possible the military dictatorship has hampered the growth of the Chin Christian Church, sometimes with open intimidation and deception. In 1994-95, Chin children were lured away from their parents with promises of a better education in Yangon. But later it was found out, that they were placed into Buddhist monasteries in an attempt to assimilate them into Buddhism (and burmanize them). The parents were denied information about their children and threatened with imprisonment if they inquired further.

With the centenary of Christianity in Chinland approaching the present SPDC regime has also increased its suppression of religious freedom. Recently six pastors were arrested in Thantlang for their refusal to remove crosses erected on mountain tops to welcome the centenary of Christianity.

The decline of good education for all of the country already began when the military came to power through a coup in 1962. It is worse in remote areas where communication to big cities is difficult. In certain remote areas of Chinland, because of lack of government support, villages used to run their own schools at their own expense. But now the SPDC has banned all independently run schools. While villagers at first thought the regime would operate schools under its own administration they still remain closed and children without instruction.

Economic Hardship and Poppy Cultivation

The economic ruin of the country can not be felt more than where army battalions are stationed in disproportion to the local population. Burmese army officers, who have taken over the local administration, are corrupt and easy to bribe because of economic hardship. Therefore Chin have started to cultivate poppy and sell the opium to the local authorities. In 1998 it was estimated that there were 540 acres (about 218 hectares) of poppy fields in Chin State.

Wa State

Government representatives and the "United Wa State Army" (UWSA) had agreed upon a new deadline, the end of 1998, for the UWSA's withdrawal from Doi Lang area. In 1996 SLORC General Maung Aye had ordered the UWSA to withdraw from their bases at Doi Samsao and Doi Laem or to surrender. During the last months of 1997 the Burmese army built up its troop presence in Doi Lang area to 10 battalions in order to make the UWSA retreat to their main base camp Pang Sang at the Chinese border. Tensions close to military action eased off again by the prolonged time-limit agreement.

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NAGALAND

For nearly two years now, India and the National Socialist Council of Nagaland (NSCN) have managed to keep alive the cease-fire agreement they signed in July 1997 to pave the way to a peaceful resolution of their age-old conflict. The agreement determined the following points:

1. that there be a total suspension of armed conflict between the two sides for three months, beginning on August the 1st 1997;
2. that peace talks begin with no preconditions;
3. that the peace talks shall be conducted at the highest level (i.e., with the Prime Minister);
4. that the talks shall be held in a neutral third country.

The Paris meeting between the Indian Prime Minister and the Chairman of the NSCN in October 1998 extended the cease-fire period by 12 months. Thus, unless further progress is made, the cease-fire will expire on October the 30th 1999.

In this context, this article, rather than giving a historical background to the events of this year, will examine what needs to happen for there to be a just and lasting peace in the region. Therefore we will begin with a brief update on the implementation of the cease-fire and then move on to examine more fully the social and cultural forces that have affected the progress of the cease-fire thus far. Finally, we will explore what changes are necessary to ensure steady progress towards a true and lasting peace in the region.¹

The Implementation of the Cease-fire

With the exception of one major attack on a Naga village, (Nungleiband, on October the 15th 1997 when Indian soldiers from the 1st JAKLI killed nine women and children) these 22 months of cease-fire have been free of any major armed clash between the two armies. Over 20 NSCN soldiers were also killed in various isolated incidents as a result of misinterpretations of the *Ground Rules of Cease-fires*, of excesses by Indian army units, and because of misinterpretations of the demarcation of the cease-fire area. These outbreaks were immediately controlled, however, by the *Cease-fire Monitoring Mechanism* (composed of representatives from both the Indian Government and the NSCN).

This demarcation of the cease-fire area continues to be one of the most important issues threatening the breakdown of the cease-fire. Some senior bureaucrats in the Indian Home Ministry inadvertently interpreted the Agreement as applying only to Nagaland State. Atal Bihari Vajpayee, at the Paris meeting, clarified that the cease-fire is between India and NSCN, and applies to wherever they had been fighting. Due to the frequent change of government in India, it has not been possible to begin serious negotiations for a peaceful resolution of this 50 year old conflict.²

Social and Cultural Factors

The social and cultural beliefs behind the politics of a cease-fire will determine the success of the agreement in the long term. The cease-fire marks a turnaround in the traditional practice of the Indian establishment's "first kiss my big toe, only then can we talk" style of negotiating. However, the large and lasting impact that the casteism that pervades Indian culture has on the success of the cease-fire and the subsequent peace negotiations, should not be underestimated. It is abundantly clear, as we follow peace negotiations in other parts of the world, that true and lasting peace can only come through the will of the population. Furthermore, negotiations can only be successful if those coming to the table are viewed as equals, and shown the tolerance and respect that each deserves. The public in India has not yet reached this stage, despite movements taken in that direction by their leaders.

Intellectuals in India, more specifically liberal intellectuals in India, are in a strong position to influence the mindset of the people. However, despite their acceptance of the Naga movement as an independence movement, their understanding of the social and cultural underpinnings of the Naga movement falls short. The fact that it is not an attempt to recreate a state - modeled on either the hierarchical Indian version or on any other state - is one which escapes even the most liberal mind. The perception of the Indian state, in Naga society, is intrinsically associated with casteism. The independence movement therefore, is an attempt to break out from the oppression of the caste system. It is much more than merely a desire for self-government. The Indian state is illegitimate and oppressive, politically, socially and culturally, and at all levels of society. This belief is at the core of the Naga drive for independence and must be recognized by intellectuals if they are to have any hope of leading the Indian people towards a new era of tolerance and understanding.

Negotiations

In the light of these cultural factors, the negotiations must take place in earnest on two levels, the level of government - the Indian Government and the NSCN - and on a 'people to people' basis. The official dialogue must include a process of confidence building which can be achieved by really listening to each side, and by moving away from exchanges hidebound by bureaucracy and towards discussing the issues as people. These parties must lead by strong example, and show the public that they can progress beyond casteism and cultural prejudice, and deal with one another as equals.

The 'people to people' negotiations will occur on a more subtle basis, and must have the proactive support of two key elements of society - the media, and intellectuals. As mentioned above, the media has thus far been a part of the problem, rather than a part of the solution to the peace process in the region. Prejudice and misunderstanding about the Naga situation persists in India. Coverage of the issues tends to be biased and destructive, rather than constructive. A clear example of this is the media's use of contemptuous and derogatory terminology, such as 'outfit' or 'extremist', when referring to the Nagas. It is important to note that the only public response to the issue thus far has been from the RSS and VHP Hindu extremist organisations. Both received wide press coverage when they issued unfounded statements that were intended to brand Nagas as Christian extremists who were specifically targeting Hindus.

This is a disturbing reality in the context of the peace process. As T.N. Seshan stated during a recent appearance in Bangkok, the media, which was created to be the "fourth estate [of society] has often become a fifth column [of government]".³ Without honest, impartial reporting, a culture of understanding cannot develop between the two sides in any meaningful way. Without this mutual understanding there can be little prospect of a sustainable peace.

Intellectuals also possess great power to persuade and to foster understanding rather than animosity. Education is a powerful tool in constructing cultural and social ideas. Intellectuals can serve as guides where politicians who, as a result of their own prejudices and the rigidity of political culture, fail. The idea of a 'strong leading politician' has become too closely associated with upholding the 'official line' on issues. This concept is moth-eaten, and out of date. A truly strong politician must not be afraid to right past wrongs and see beyond cultural prejudice. It is in these matters that intellectuals must guide politicians.

It is clear that peace can only come with the true confidence and understanding of the people. The leaders of the NSCN, Isak Chishi Swu and Thuingaleng Muivah, were, at the time of writing, engaged in open and closed-door consultations with the people in Nagaland. The leaders have met with tens of thousands of people during their visit who represent various tribal bodies, churches, non-governmental organisations, along with any concerned members of the communities in Nagaland. This tour by the leaders represents a belief in democracy that supersedes the grave dangers involved in holding these meetings.

In addition to these popular meetings, Naga movement leaders have convened meetings with the consultative body. This consultative body, made up of tribal representatives, serves an important role in linking popular opinion with the peace negotiations. The function of this body is to ensure that there is genuine support for and understanding of the issues and the negotiations. It is through organs such as this that a lasting peace can be achieved. Clearly the Naga leaders understand that Naga society believes deeply in the importance of dialogue and understanding at a popular level. Hopefully India will learn from their example.

Conclusions

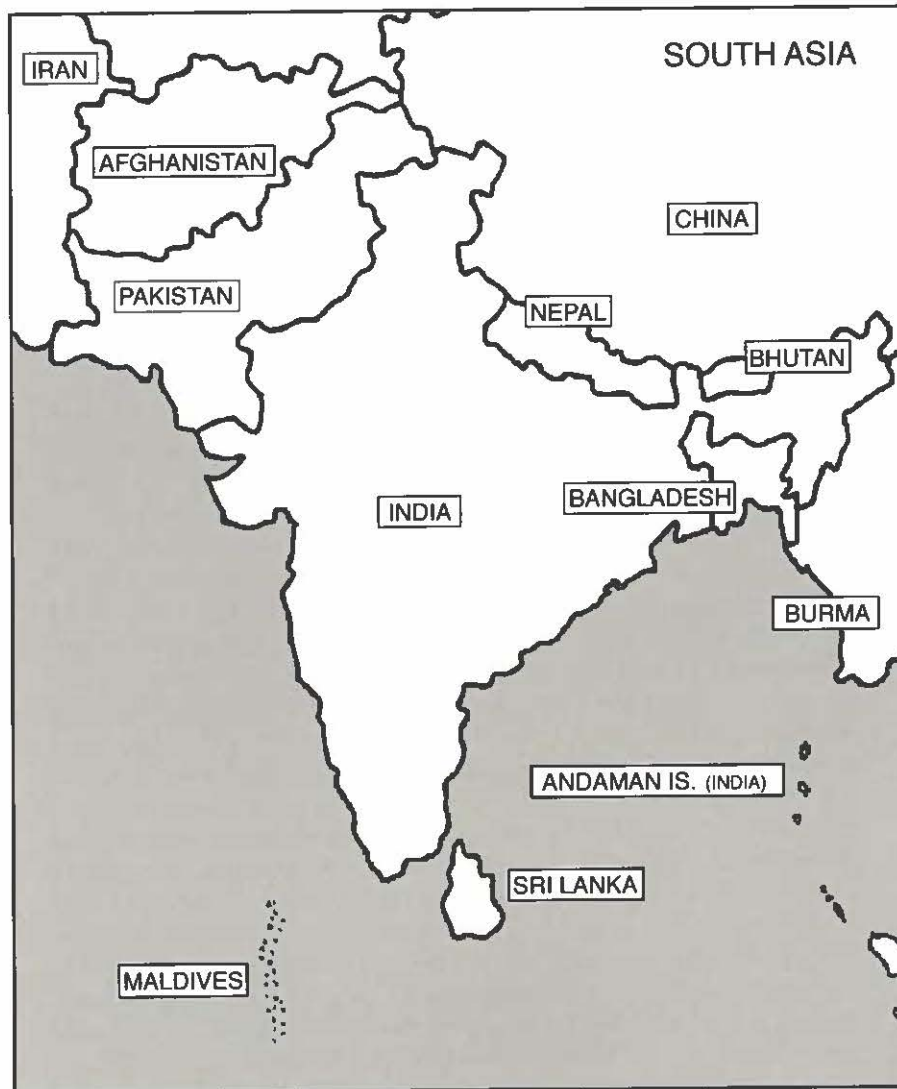
It is clear that the road to peace and stability in the region is a long one, and the cease-fire only serves to place both parties on that road. How far they will get depends on the people, as well as on the governments. In last year's issue of this publication, the following question was raised regarding the cease-fire. Would India "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?" This question has yet to be answered. However, without clear changes in social awareness and attitudes towards the issue, a positive, just, and sustainable solution cannot be reached.

Thus it is fitting to once again put the above question to the Indian government and to Indian society in general, and in so doing challenge them to prove the true nature of the democracy they profess to hold so dear. "Democracy is a difficult mistress", Seshan stated.⁴ It is time to show how willing India is to master her.

Notes

1. For a more thorough description of the historical background to the cease-fire, see *The Indigenous World 1997-1998*, pp252-53.

2. It should be noted that no political party or group in India has expressed opposition to or criticism of the terms of the cease-fire agreement. Narasimha Rao, Prime Minister of India under the Congress Party, initiated the peace process in February 1995. This was followed up in great earnest by his successor, Prime Minister Deve Goda, who led the coalition government of the 'left of centre parties'. During Goda's time, India and the NSCN had reached a clear understanding. This paved the way for Inder Gujral, who succeeded Goda and signed the cease-fire agreement with the NSCN on July the 25th 1997.
3. T.N. Seshan, speaking at the Foreign Correspondents Club of Thailand (FCCT), May the 12th 1999.
4. T.N.Seshan, Ibid.



Countries covered in this issue: Bangladesh, Nepal, India, Sri Lanka

SOUTH ASIA

BANGLADESH

Chittagong Hill Tracts

On the 2nd of December 1997, an agreement was signed in the Chittagong Hill Tracts (CHT) which promised a new relationship in Bangladesh between the State and the indigenous peoples living in the CHT region. However the accord, which was the result of many years of intense negotiations that often involved acrimonious debate between the government and the Jana Samhati Samati (the United People's Party of the CHT) has not yet been fully implemented. As a result the situation in the CHT remains unsettled and fragile.

For centuries the indigenous peoples of the Chittagong Hill Tracts have lived peacefully together in the south-eastern region of present day Bangladesh. The area comprises 13,295 sq.kms. (5,089 sq. miles) of hilly riverine land that was once densely wooded. Today many parts of the region have been stripped of their forest cover. The area is home to a number of different peoples - the Bawn, Chak, Chakma, Khyang, Khumi, Lushai, Marma, Mro, Pankho, Tangchangya and Tripura. Because of their system of swidden or rotational agriculture (*jum*) they are commonly known as Jummas. From the ethnical, cultural, traditional and religious points of view, Jummas differ from the majority of Bengalis.

The present situation is best understood by placing it in an historical context. The CHT began life as an independent territory. When the British colonized India, they incorporated the CHT into their Indian colony whilst recognizing - in the CHT Regulation of 1900 - its special status as an indigenous area. Under Pakistani rule, which lasted from 1947 to 1971, the Kaptai dam was built. For locals the construction of the dam during the years 1959 to 1961, was a major disaster, flooding over 40% of the region's agricultural land and displacing over 100,000 people. Those affected received little or nothing by way of compensation or resettlement assistance.

The creation of Bangladesh in 1971 coincided with the attempt to integrate and assimilate the indigenous people of the CHT into the new state. The coercive methods used included rape, torture, mass killings and violence which were part of a more general state policy of ethnocide. The illegal government sponsored migration of over 450,000 plains people into the Hill Tracts was an integral part of this policy. At no point was the indigenous population, which numbers some 600,000, consulted about this mass immigration into

their territory. The newcomers were given lands seized from indigenous peoples, many of whom were in turn thrown into camps or killed. At the same time, the army presence in the CHT increased dramatically, and fearful for their lives, over 60,000 indigenous people fled to India and Myanmar. The 1994 census bears witness to the results of this policy. From a total of 974,445 people in the CHT, only 536,231 were classified as being indigenous.

The Peace Agreement

The signing of the December 1997 Peace Accord between the Government and the JSS, led to renewed hopes for peace and prosperity in the Hill Tracts. Yet 17 months on, few of the Agreement's key points have been implemented. Even though the situation is much improved, it cannot be said to have reached a stage that is conducive either to sustained economic development, political stability or any progression towards social equity.

The *Regional Council* which, under The Agreement, was to have been the principal body responsible for indigenous self-rule, has yet to be set up. In July 1998, the government appointed a 22 member interim Council, chaired by Bodhipriyo Larma (Shantu Larma). Mr Larma however, has signalled that he is reluctant to take part in this Council before certain issues have been resolved. These include amending the three Hill District Council Acts of 1998 in order that they conform with the Peace Accord (discrepancies remain despite some amendments to the Rangamati HDC Act in November 1998), and implementing the as yet unimplemented oral and written terms of the Peace Agreement, as they were decided during the peace negotiations between the JSS and the Government.

In April 1999 the JSS, in an attempt to resolve this impasse, initiated a series of consultations with the indigenous peoples. These sought to determine their wishes vis a vis the establishment of the Regional Council. Reports indicate that a majority are in favour of establishing the Council without further delay so that it can begin to play its central part in realizing the goal of indigenous autonomy.

The *District Councils*, which were already in existence prior to the Agreement, continue to function. However their powers and responsibilities have not been substantially strengthened or expanded as envisaged under the Agreement. Control of important matters relating to issues such as land [management / distribution?], jum cultivation, agriculture and forestry, has not yet been transferred to the Councils.

The Agreement also provides for a *Ministry* for CHT affairs. This has not been created although the Member of Parliament from the Khagrachari Dis-

trict, Mr. Kalpa Ranjan Chakma was appointed Minister for CHT Affairs in 1998. Another important component of the Agreement is the establishment of a *Land Commission* to resolve land claims. As in all indigenous regions, the question of land in the Hill Tracts is of central importance. For such land issues cannot be considered in economic terms alone, but must also take into account the broader cultural issues that are at stake. Accordingly there is a paramount need for adjudication in thousands of cases where people have been dispossessed of their land. A year and a half after the Accord, not one single step has been taken towards the creation of any such Land Commission.

Militarization

One positive result of the Agreement has been the opening up of the CHT, entry to which, until July 1998, necessitated a special permit. Today travel in and out of the region is unrestricted. However, the military remains in the Hill Tracts, and no noticeable steps have been taken to diminish its presence in the area. Although ten temporary army camps were withdrawn, a further 450 remain in place. According to the provisions of the Peace Accord, these too should be withdrawn.

Anti-Peace Accord Demonstrations

However it is by no means the case that everyone has accepted the Peace Agreement. Dissenting voices are to be heard both amongst the indigenous Jummas as well as in the main national political parties. The Bangladesh Nationalist Party (BNP), currently the opposition party in Parliament, together with the Jamaat-e-Islami and other political parties have demonstrated publicly against the CHT Agreement that was signed by the Awami League Government. In June 1998 they organized a "long march" from Dhaka to the Chittagong Hill Tracts to underline their opposition to the Agreement.

Although the majority of indigenous peoples support the Agreement, and see it as an opportunity to achieve a lasting peace, certain factions of the Hill Students' Council, the Hill Women's Federation and the Hill Peoples' Council oppose it since they do not believe that it meets their demands for self-determination. In December 1998, these splinter groups formed the United Peoples Democratic Front, which has been engaged in anti-Peace Accord demonstrations. In April 1999 two people were killed and more than a 150 were injured in such demonstrations in Khagrachari (The Daily Star, Dhaka, 23/4/99).

In various parts of the region numerous confrontations have arisen between the indigenous peoples and the non-indigenous settlers, and between supporters of the opposition parties and the police, during which a number of people have been injured, and even killed. Reports of robberies and other financially motivated crimes are also on the increase as law and order breaks down across the CHT.

Refugees and the Internally Displaced

Between 1994 and 1998 some 64,250 refugees returned to the region under the terms of a 20 point repatriation agreement and within the context of the Peace Accord. Although an integral part of the repatriation agreement stipulates that land will be restituted to returnees, only a few returning families have had their lands restored to them. Those returning to land now occupied by settler families or by the military have met with little success. The military, police and civil authorities have been reluctant to take any measures to facilitate the restitution of the refugees' lands despite requests and written submissions to do so. Most of the Jumma refugees are forced either to seek help from family and friends, many of whom are not very well off themselves, or to remain in the temporary camps where they are dependent on meagre rations, have few employment prospects and little hope of starting life afresh. Needless to say, morale amongst the refugees is very low.

A task force formed for the rehabilitation of the refugees and the people who were internally displaced in the CHT between 1975-1992, has met on a number of occasions, but no effective solution to the issue of land restitution has been found, in spite of repeated requests by the Jumma Refugee Welfare Association. A major hurdle has been the issue of the non-indigenous people - most of whom were transferred to the CHT through the unlawful Government-sponsored migration program mentioned earlier - and where they should be resettled. At the last meeting of the Task Force in April 1999, this issue was raised as was the urgent need to prioritize the issue of the indigenous refugees and internally displaced Jummas. Addressing this latter question was highlighted as a necessary first step if the situation is to be resolved. The Task Force is expected to make its report with recommendations for action shortly.

The European Commission has offered to financially assist the resettlement of non-indigenous people outside CHT, so the cost of such an undertaking should not stand in the way of the recognition of indigenous land rights. In April and May 1998, there were reports of extreme food shortages and starvation amongst internally displaced persons in some of the remote areas

of the CHT, notably in the Sajek valley of Baghaichari Thana in the Rangamati Hill District. Some assistance was provided to these areas by several organizations including the Canadian International Development Agency (CIDA) and the World Food Programme (WFP). However, the situation remains grave and there are acute shortages of food and medicine. These were reported in a seminar on internally displaced persons in Bangladesh that took place in February 1999.

Land

Largely as a result of the state sponsored population transfer program, illegal land grabbing and the acquisition and leasing of large tracts of territory for military purposes (such as camps, military installations and training grounds), thousands of indigenous people have lost their land. In addition large parts of the region which have been legally declared to be indigenous are currently designated as state owned. The Betbunia Satellite Station, the Kaptai Hydro-electric Power Project, various industrial sites and areas of Reserved and Protected Forests are just some of the locales affected. The result of this is that only about 10% of land in the CHT remains in private hands, and it is only this land which comes under the jurisdiction of the District Councils as outlined in the Agreement. However, during this interim period, the protective clause stipulating that all land transfers must have the prior approval of the District Council is not being applied in practice, and many indigenous people have lost even the small amount of their ancestral lands that remained to them, as a result of coercion and other unfair procedures. The erosion of the indigenous peoples' land rights continues unabated.

In an effort to address this issue, a conference on "Development in the Chittagong Hill Tracts" was held on the 18th and 19th of December 1998 in Rangamati, in the CHT. Participants included representatives from the JSS, the Hill Students Council, the Hill Women's Federation, and from the Bawm, Mro, Tripura and Tangchangya peoples. Various political parties - the Awami League, the BNP and the Communist Party of Bangladesh - were also in attendance, as were delegates from the local administration, NGOs, the World Bank and CARE. Other members of parliament and representatives from the non-indigenous settler communities also took part. This was the first such conference in the CHT and the meeting unanimously endorsed the Rangamati Declaration, and drew up a 79 point statement calling for a speedy implementation of the Peace Agreement.

The Declaration also stresses the need for all development projects, programs and processes to be implemented only once the local situation on the

ground has been assessed, and only then with the full, prior and informed consent of the people concerned. It demands that the Forest Act of 1927 be amended, in order to institute a total ban on logging and on the trade in endangered species. The amendment also calls for the indigenous peoples to be involved in the management, administration and utilization of natural resources. Moreover it emphasizes the need to recognize the common and collective lands of the indigenous peoples.

With regard to the above information it should be noted that in June 1998, the Prime Minister, Sheikh Hasina launched an afforestation plan for the Hill Tracts, simultaneously admitting that during the last two decades the destruction of the forests had adversely affected the region's inhabitants, ecology and wildlife.

Development

Since the signing of the Accord in December 1997, the Government of Bangladesh (GOB) has been actively seeking financial and technical assistance for the CHT from international donors. In February 1998, a joint GOB donor working group was established. Its goal was to agree on the parameters of and work out what development assistance was needed in the CHT, with the United Nations Development Program (UNDP) as the co-ordinating agency. In April 1998, a UNDP team of experts visited the Hill Tracts and prepared a report (Findings and Recommendations of a UNDP Sponsored Mission, Dhaka, 14/5/98). This report was presented at a two day international conference on the CHT held in Dhaka in June 1999 which was attended by, amongst others, the Government and members of the international donor community. The conference identified agriculture, primary education, technical and vocational education, health-care facilities and regional infrastructure and communication networks as six areas requiring priority attention.

The main objective of this meeting was to mobilize resources for the Hill Tracts. However, international donors have indicated that until the Regional Council is established, they are reluctant to provide development assistance to the region. In February 1999, after a fact finding mission to the CHT, the European Union Governments and the European Commission stressed the need for the Peace Accord to be fully implemented. Then in March 1999, the EU clarified their stance further, insisting that, although they were committed to the development of the Hill Tracts, they would only lend assistance once the Regional Council and the three District Councils that included "representatives of the region's people", had been established. In the meantime, non-CHT NGOs have been suspended from working in the Hill Tracts.

Conclusion

With the Awami League and the BNP at loggerheads, the situation in Bangladesh has been unstable for some time now. The BNP has stated that once it regains power it will annul the Agreement. Conversely, because of her efforts to bring peace to the Hill Tracts, Prime Minister Sheikh Hasina of the Awami League, was recently awarded the UNESCO Peace Prize. The CHT Agreement serves as the foundation for a new partnership between the government of Bangladesh and the indigenous peoples of the Chittagong Hill Tracts. In the past their relationship has been stormy and even violent at times. But it is to be hoped that international recognition of the Accord will lead to its full and effective implementation, marking both the end of 25 years of violence and the beginning of a new peaceful, democratic era of political and economic stability.

NEPAL

Nepal is a multi-ethnic, multi-lingual, multi-religious and multi-cultural country. Racially, the Nepali People are divided into four groups, Mongoloids, Dravidians, Austroloids and Caucasoids. The first three groups are regarded as Aadibasi and/or Janajati Peoples of Nepal. Before the so-called unification of the Kingdom of Nepal, the Aadibasi/Janajati peoples were sovereign in their ancestral domains and were organised into simple communal societies that maintained their own Jatiya (national) autonomy. By the latter half of the 18th century, the Gorkhali Conquests brought them under the control of the autocratic Hindu Nation State and all these racially and culturally diverse groups were put into a melting pot in order to homogenise them and create a uniform social structure according to the principles of Hindu social law. Thus the 230 year history of Hindu Hill Brahmins and *chhetris* rule is nothing but the history of internal colonisation, militarisation, hinduisation, displacement from ancestral lands and marginalisation of Nepalese indigenous peoples. Unfortunately, the nature of this suppression did not change even after the restoration of democracy in Nepal in 1990. As a consequence of this, the free and independent organisations of indigenous peoples organised themselves into a federation in 1991. Since then they have consolidated their efforts to promote indigenous movements. In respect to this endeavour, 1998 has been a year of stiff resistance against mainstream domination and aggression for the indigenous peoples of Nepal.

Politics of Definition

The Aadibasi/Janajati peoples of Nepal hold strongly to the position that their identity as indigenous peoples is part and parcel of their struggle for self-determination. They see no need for definitions by outsiders. In 1990 the Nepal Federation of Nationalities (NEFEN) and in 1993 the National Committee for the International Year of the World's Indigenous Peoples (NCIYWIP) each gave definitions of the Aadibasi/Janajati peoples for their own organisational purposes only. On behalf of the indigenous peoples of Nepal, they have submitted a number of demands to the Prime Minister of Nepal.

In 1995 His Majesty's Government of Nepal (HMGN) formed a "Task Force" that was to submit a "Report" and a "Draft Bill" which would lead to the establishment of the "Rastriya Janajati Utthan Pratisthan" (National Committee for the Upliftment of Nationalities). The Task Force submitted its report and draft bill to HMGN in 1995. In a positive move, the Task Force adopted the definition of the Aadibasi/Janajati, based on the definition arrived at by the Nepal Federation of Nationalities (NEFEN) and the National Committee for the International Year of the World's Indigenous Peoples (NCIYWIP). During the last five years, the five coalition governments which, when they were formed, each promised to create the "Rastriya Janajati Uthan Pratisthan", all collapsed without doing any such thing. They neither approved the list of Janajati Peoples nor did they present the Bill before the parliament for its approval. Mainstream academics, bureaucrats, conservative politicians, Hindu fundamentalists and the pro-Hindu media are continuously blocking the bill by raising the issue of definition. For them the definition of the Aadibasi/Janajati is not acceptable. They allege that the Janajati Movement is a separatist movement. Thus the Janajati Movement is going through a process of resisting all these activities that run counter to its interests. While writing this report, it was announced that HMGN's cabinet of ministers approved the list of the 61 Janajati peoples on the 16th of April 1999.

Continuous Struggle for Language Rights

The Constitution of the Kingdom of Nepal 2047 (1991) recognises Janajati languages as national languages and also recognises the right to a primary education in one's mother tongue. Accordingly and in response to the demands of Janajati, the municipalities of Kathmandu Metropolitan, Bhaktapur, Thimi, and Lalitpur as well as the Rajbiraj Town Development Committee and the Janakpur District Development Committee (local political bodies),

decided to use the different indigenous languages, alongside the Nepali language, in their respective offices. But the conservative ruling class elite filed a writ against the decisions of the local political bodies. On the 18th of March 1998 the single (Bahun judge) bench of the Supreme Court of Nepal issued an interim order stopping the use of those languages in local political bodies. NEFEN and other minority language groups formed a "Joint Action Committee for Language Rights". The action committee is mounting a legal challenge against the interim order of the Supreme Court, as well as running a nation-wide campaign by organising mass meetings, talk programs, banner shows, mass rallies, and corner meetings, etc. After a long hearing, the court will give its final decision on May the 31st 1998

Destruction of Crematorium

A historic crematorium site of the Kirat people, an indigenous group of Nepal, was destroyed by the Pashupati Development Trust (PDT), a trust for the development of Pashupati Nath (the temple of a Hindu God) in the month of Jestha 2055 (June 1998). A coalition of four Janajati organisations with the co-operation of all of the members of the Nepal Federation of Nationalities, launched a joint movement against the destruction of the crematorium and the cultural aggression of the PDT. After three months of struggle, the HMGN and the PDT agreed to fulfil the Action Committee's demands that the PDT itself repair the destroyed crematorium. In addition the crematorium will be preserved and the Kirat people will have the right to use it in future until both parties find suitable land for replacement.

Ninth Plan and Aadibasi/Janajati Peoples

HMGN presented the ninth five year plan in 1998. For the first time, the government's policy and program for the Aadibasi/Janajati peoples are being promulgated and made public, even though there are inconsistencies and much is lacking. It was welcomed by The National Consultation of Indigenous Organisations that NEFEN organised in Kathmandu in 1998. The consultation urged HMGN to revise the policy and programs in accordance with the aspiration of the indigenous peoples, and proposed that they be implemented in partnership with NEFEN and its member organisations.

Indigenous Women Organised

The indigenous movement of Nepal added a new dimension to its activities by organising indigenous women. This is the first indigenous women's or-

ganisation of its kind. Their organisational strategy, policy and programs were formulated at two prior conferences and now they are preparing for their First Convention. The national committee of Indigenous Women's Organisations of Nepal (IWON) was formed under the chairmanship of Mrs. Stella Tamang. The other executives are the Vice-Chair Ms Bom Kumari Buda, the General Secretary Dr Chunda Bajracharya, the Treasurer Mrs Yasokanti Bhattachan and members Mrs Kiram Thami, Mrs Narayani Devi Shrestha, Mrs Soma Rai, Ms Mira Ghale Gurung, Mrs Bishnu Maya Dura amongst others. This will also complement the national women's movements of Nepal where there is a lack of indigenous participation and perspective.

Issue of Autonomy and Self-determination

The issue of autonomy and the right to self-determination has become a matter of hot discussion in national politics. Mr Pari Thapa, the Member of Parliament for Rastriya Janatantric Morcha, registered a *sankalpa prastap* (a commitment proposal) in Parliament asking for autonomy to be established in the country in 1998. Equally, the Nepal Tamang Ghedung, a Tamang People's National Organisation announced its demand for "Autonomy and Self-rule" at its fourth National convention which was attended by 20,000 Tamang. Consequently, a political party called the National Tamang Liberation Front (NTLF) emerged with the aim of founding the "Tamang Autonomous Region". Similarly, NEFEN, the Nationalities Liberation Movement of Nepal, the All Nepal Nationalities Organisation, the All Nepal Ethnic Conference, the Newar Liberation Front, the Khambuwan Liberation Front, the Limbuwan Liberation Front, the Karnali Liberation Front, the Magarat Liberation Front, the Tamu Liberation Front and The Communist Party of Nepal (CPN/MLM), CPN(Masal), CPM (M.L.), CPN (Maoist) have all committed themselves to "Jatiya Autonomy". Even the CPN (Maoist), which is an armed group, has adopted the policy of autonomy and self-determination that includes the right to secede.

Save the Democratic Rights Movements

Before the people's movement of 1990, human rights were only a dream for all Nepalese people. The Panchayat Regime enforced different kinds of coercive laws such as the "Public Safety Act" and the "Crime against State and Punishment Act". After the peoples' movement of 1990 and the promulgation of the constitution of Nepal in 1991, these autocratic and dictatorial acts were rendered inactive and ineffective. But also during this period there were many instances of human rights violations by the state and the police forces.

Instead of democratising police forces and law making, the democratically elected government recently revived the autocratic "Public Safety Act" and prepared a "new bill", the "Terrorist and Disruptive Activities Crime and Punishment Act" in 1998, which revives the "State Crime and Punishment Act" in a revised form. In order to abolish the "Public Safety Act" and to stop the bill from passing through parliament, a number of committed intellectuals, human rights activists and law practitioners formed the "Save the Democratic Rights Movement" under the chairmanship of Padmaratna Tuladhar, who is a Member of Parliament, an ex-minister and a human rights activist. The other members of the movement are Dr Mathura Prasad Shrestha (a human rights activist and an ex-Health Minister), Daman Nath Dhungana (an ex-Speaker of House of Representatives), Parshu Ram Tamang (a social critic and indigenous activist), Kalyan Dev Bhattarai (an intellectual), Deepak Gyawali (an environmentalist), Kapil Shrestha, Gauri Pradhan and Gopal Shivakoti Chintan (human rights activists), Sushil Chandra Amatya and Nanda Kumar Thapa (educational activists), Suresha Ale Magar (a social activist) and Shyam Shrestha and Khagendra Sangraula (journalists). Both the "proposed bill" and "Public Safety Act" contravened the spirit and ideals of the 1990 people's movement as well as of the constitution of Nepal of 2047. The nation-wide campaigns against this government action forced the government to drop the bill until, finally, the bill could not become law.

INDIA

Tripura

India's independence brought about the integration of innumerable independent princely states into the Indian Union. Tripura was one such princely state which joined the Union on the 15th of October 1949. Tripura was once ruled by the indigenous Maharajahs for an uninterrupted period of about 1300 years. The merger brought about many significant changes, the most important being the influx of foreign nationals, mainly from the region which today is the country Bangladesh. Between 1949 and 1991 about 1.1 million immigrants entered the state. The influx changed the demographic situation to such an extent that the Borok, the indigenous peoples of Tripura, were outnumbered in their own land. Today the indigenous peoples are a minority of only 30% of the total population, according to the 1991 Indian government census. The administration, the judiciary and the political scenario were transformed to suit the foreigners, allowing them to encroach on and subsequently acquire

lands and resources. In the process the existing age-old land tenure, social, cultural and economic systems of the indigenous peoples were destroyed or heavily disrupted. At present immigrants dominate the economic and political affairs of the state. Since India is a democratic country and numbers are therefore important, the indigenous peoples have only 20 out of a total of 88 seats reserved in the Legislative Assembly of the State. Thus politically, the indigenous peoples have little to say. And the Tripura Tribal Areas Autonomous District Council (TTADC), set up under the 6th Schedule of the Indian Constitution to protect the indigenous peoples and grant them a degree of self-determination, is in fact only a mockery of what it pretends to be, since all TTADC affairs are controlled by the state government.

On all fronts the condition of the indigenous peoples is miserable. Educationally they are the most backward, and very few of them occupy good positions in the government services. The dropout rate at the primary level of education is, at 75 to 80%, alarmingly high. Bengali, the language of the migrants, is the medium of instruction in all the educational institutions and it is the official language of the state. Thus the indigenous peoples are forced to learn Bengali. The health services have not been able to bring about any significant changes in the lives of the indigenous peoples, and every day many are dying due to lack of medical facilities. Most alarming are the deaths caused by starvation. Most of the indigenous peoples live in the remote areas of the state where there are no proper roads and communication facilities, and the occurrence of such incidents goes unnoticed. Any such incident, if brought to public attention, is denied by the state government, no matter who is in power, as such incidents are taken to be a disgrace to the ruling government. The indigenous peoples, who once had everything in abundance, are today the worst off, are ill fed and often have no proper clothing or shelter.

The laws and acts of the state concerning the land and forest are also slanted against the interests of the indigenous peoples. The Tripura Land Revenue and Land Reforms Act of 1960 and the subsequent amendment in 1974 totally ignored the indigenous peoples' traditional rights over land. The Alien Act made many indigenous people landless. The right to land was granted only on the basis of documentation. But the indigenous peoples have traditionally not felt the need to document their land ownership. And as the indigenous peoples were not aware of the need to procure such documents, land was simply taken over by the government. Large tracts of the indigenous peoples' land holdings were taken away from them in such a manner, and

many became landless in their own ancestral land. The land was used by the government for the rehabilitation of the Bengali refugees from former East Bengal (now Bangladesh). It is very interesting to note here that the Maharajah had kept large tracts of land covering an area of 2,170 square miles reserved solely for the future use of the indigenous peoples. But that land was later dereserved and also used for the rehabilitation of Bengali refugees. Virtually the whole of Tripura was opened for such rehabilitations. Rehabilitation colonies were established almost everywhere, and the demographic unity and social cohesion of the indigenous peoples was thereby broken up.

The forest is everything to the indigenous peoples of Tripura. Even today, removing the indigenous peoples from the forest is like taking fish out of water. But the forest laws and the Acts of the State also stand against the interest of the indigenous peoples. The close association of the indigenous peoples and the forest was not recognised in the respective laws and Acts. Indigenous settlements in forests were declared illegal and the people were forced to move out. Again, they were made landless by the state government laws and Acts. As they were dependent on *huk* (shifting cultivation) for their economy, being resettled meant poverty and often outright starvation.

The conflict between the indigenous peoples and the migrants existed right from the beginning. Sporadic violence and clashes are almost an everyday affair. In 1980 there was a large-scale outbreak of violence and thousands lost their lives and many more thousands lost their homes. The response of the State government was heavily biased against the indigenous peoples. For example, the indigenous police officers in the police department were not given arms for duty while the migrants in the service of the department were armed during the 1980 clashes. The indigenous peoples were held solely responsible for the clashes and false accusations were raised against them. They were arrested, intimidated, tortured, and many died in the process. The media was also biased as it is controlled solely by the migrants. Any attempt by the indigenous peoples to improve or protest against their conditions is branded by the government as communist, anti-social and anti-national. And the migrants use these opportunities to further their own interests.

Most of the time the development projects carried out by the government do more harm than good to the indigenous peoples. The Dungur Valley, for example, was once a very rich fertile area watered by two rivers, the Raima and the Sarma. These two rivers are considered to be sisters and many legendary folk tales about them are part of the history and identity of the Borok people.

The term "Dungur" means "where two rivers meet". And their confluence in the Dungur Valley is followed by a waterfall. Thus Dungur was very suitable for a hydroelectric project. In the early seventies, in response to the increasing need for electricity to light up towns, the government constructed the dam. No factors other than the generation of electricity were taken into account. And with the "Dumbur" (instead of Dungur, since the migrants cannot pronounce the name properly) hydroelectric project, over 17,375 hectares of the fertile valley, formerly self-sufficient in food production and home to more than 25,472 families, were flooded. And with the land the valley's rich flora and fauna were also destroyed.

The indigenous peoples protested and fought tooth and nail against the construction of the dams but the government turned a deaf ear. The indigenous peoples refused to leave, but the government used all its power to evict the people. Government security forces went on the rampage and even elephants were used to destroy their belongings. Thus the indigenous peoples were completely uprooted from their ancestral lands, and the government did not provide any compensation worthy of the name. Whatever was given was only on paper. When the land was submerged, so was the people's history, identity, their wealth and livelihoods as well as the valley's rich flora and fauna, and all for a mere nine megawatts of electric power for the towns. Today the expelled and uprooted people live in utter poverty. They are ill fed, illiterate, have no proper clothing or shelter. Many are still forced to wander from place to place in search of an income. And both the government and the general public have already forgotten them.

In the wake of the rise of the indigenous peoples' resistance - or so-called "insurgency" - movement, violations of the indigenous peoples' human rights are an everyday affair in Tripura. The violations are directed against them by both the armed forces and the migrants. The indigenous civilians ended up being caught between the government armed forces and the resistance movement. To counter the resistance movement, special Acts and laws have been imposed. In the "counter-insurgency" innocent indigenous peoples are being branded as insurgents and are being tortured, sexually abused and killed. Last year, on the 22nd March, 332 houses and markets with 86 shops belonging to indigenous peoples, were torched in Ampura. This most recent incident is just a continuation of the atrocities and human rights violations that have been perpetrated against indigenous peoples in the name of the "counter-insurgency". Similar operations were conducted by the security forces (the Tripura State Rifles) in June 1995, when 130 houses were burned, or on the

6th of November 1996, when 361 houses were burned in Kutna kami and three people died in the flames. The government remains silent over these violations of the indigenous peoples' basic human rights, or even tends towards justifying them. Thus the violators remain unpunished to this day.

Uttar Pradesh

Indian Human Rights Commission uphold Customary Rights of Van Gujjar

The indigenous semi-nomadic Van Gujjar tribes inhabiting the forests of the Shiwalik range of the Himalayan foothills in north-western India in the state of Uttar Pradesh have finally won a decades-long battle to seek recognition for their customary right of lopping, grazing and collecting minor forest produce inside the proposed Rajaji National Park near Dehra Dun where they have resided since centuries. The triumph was made possible by the NGO Rural Litigation and Entitlement Kendra (RLEK) after an eight-year intervention.

In March 1999, the Indian Human Rights Commission acting on a complaint of RLEK filed in December 1997 that forest authorities were using force and coercion to evict tribal Van Gujjar families from their traditional *deras* (hamlets) inside the park, ordered that the tribals cannot be forced out of their centuries old forest homes and that they would continue to enjoy traditional rights to lop and graze their buffaloes till their rights are first determined as per law. The Commission also held that before rehabilitating them the government of U.P. will first have to ascertain the wishes of the tribals to relocate through an independent judicial body headed by a retired district judge.

The U.P. government appears to be dragging its foot over implementation of the NHRC order. RLEK however continues to bring to bear pressure on the state government. In May 1999 RLEK sent in an application to the NHRC bringing to its attention the recalcitrant attitude of the U.P. government initiating the exercise to ascertain the views of the Van Gujjars for relocation. The NHRC has now issued notice to the state Chief Secretary to file an Action Taken Report (ATR) within thirty days.

The NHRC order is significant as it is the first ever attempt by a national body to delineate the rights of indigenous forest dwelling communities in India. A close study of the order indicates that the Commission may have relied on certain articles of the UN Draft Declaration on the Rights of Indigenous Peoples and almost granted recognition to these rights as Human Rights.

Of particular significance in the case are Articles 26, 28, 30 and 33. In fact the NHRC has characterized the Van Gujjar issue as a "human problem".

More importantly the order is pregnant with implications for the lot of indigenous and forest-dwelling communities spread over the length and breadth of India who are either being threatened with eviction from forests or have already been evicted and are still waiting to be rehabilitated.

Some of the salient features of the NHRC order in the Van Gujjar case are reproduced below:

1. The Government of UP should expeditiously appoint a retired District Judge to ascertain the willingness of any Van Gujjar families to leave the forest to settle outside according to the resettlement plan. Only those families which the District Judge identifies as willing families would be moved out under the rehabilitation scheme.
2. The Van Gujjars can not be coerced to leave their forest habitat by the proposed park authorities to settle outside. Forests officials can not oust Gujjars from their forest homes.
3. Forest authorities should allow any ambulance that is needed for providing medical assistance subject to the condition that one of the forest officials nominated for the purpose is taken in the ambulance. In order to avoid delay for purpose of granting permission to take the ambulance inside the forest the official at the entry point itself could be authorised to give permission immediately. Permission should not be declined except by a written order given immediately, recording the reasons for the same.
4. The forest authorities should not deny the grazing rights in respect of the existing cattle which are around 11.000. The existing permits which were granted for about 4.300 cattle should be extended to 11.000 permits. No coercive steps should be taken to remove any of the existing cattle from the forest area.
5. When permission is sought by any Van Gujjar family to ferry food for themselves or supplementary feed for their cattle such permission should be given expeditiously by the proposed park director.
6. Van Gujjars living inside the forest area cannot be denied the rights which they have been enjoying since time immemorial viz. right to lop and right to graze their cattle. The forest authorities are not entitled to coerce the Van Gujjar families to move out of their habitation until their rights are legally determined in accordance with the law. Until the Van Gujjar

families move out on their own volition as ascertained by the District Judge nominated by the Uttar Pradesh Government or until their rights are determined in accordance with law thereby rendering them liable to move out of the forest their rights have to be protected. They should not be subjected to any difficulty or harassment by the forest authorities in the enjoyment of their legitimate rights and be allowed to lead their normal life as before.

It is clear as per directions contained in the NHRC order that "the forest authorities are not entitled to coerce the Van Gujjar families to move out of their habitation until their rights are legally determined in accordance with law". The Commission has further made it clear that in case the authorities want to use honest means of persuading the families to move out the willingness of the Van Gujjar families to move out has to be ascertained by an impartial body and that body should be a retired District Judge to be appointed by the Uttar Pradesh government. It is only those families which the District Judge identifies as "willing families" would be moved out by giving each family two acres of land and other facilities as per the rehabilitation scheme.



*Remaining in the forest: Van Gujjar hamlet (dera), Uttar Pradesh
(Foto: Christian Erni).*

The Commission has made it amply clear in its order that it was "necessary to protect the interests of the innocent families that have not yet moved out" in view of the allegations of threat and coercion levelled against the forest authorities and that it was in the light of these concerns that the Commission had held discussions with the parties with a view to ensure that "these people are not forced or cheated".

The NHRC order also comes in the midst of a snow-balling social ferment within the forest dwelling communities in the country. Reports are rife that forest authorities in other states are using brute police force to evict tribals who have occupied forest land meant for their rehabilitation after a frustrating wait of several years. These tribals from Karnataka state's Nagarhole National Park allege that some 630 families have been waiting for 15 years for the land promised by the government. They finally took over the land only to be evicted in a brutal midnight operation. (Source: Hindustan Times June 16, 1999 New Delhi edition under the caption "When Law-keepers Turn Law-breakers").

The NHRC order has inadvertently given a boost to RLEK in pursuing Van Gujjars/RLEK plan for Community Forest Management of the Rajaji National Park. Undaunted by the Government of India's decision to deny permission to international funding agencies like the GEF, UNEP and UNDP to financially support the Community Forest Management project, RLEK has gone ahead with the training of the tribals in forest management. Over 100 wireles sets have so far been distributed among them and are being put to use to prevent forest fires, poaching and illegal tree-felling.

RLEK is determined as ever before to ensure that the Community Forest Management plan succeeds in Rajaji and that the national park becomes the first people's park in India. This would not only be in consonance with the provisions of the Indian Constitution which ensures the individual's fundamental right to, life and use of land but would also be adhering to the Rio declaration on sustainability.

Jharkhand

It will be appropriate at the outset of this article to remind the readers of "The Indigenous World" as to what the Jharkhand movement is. The Jharkhand movement is a movement for a separate multilingual multiethnic/multi-peoples state (province) in the Indian Union comprising the Chotanagpur plateau and the Santhal Pargana regions in Bihar and geographically and culturally related adjoining areas in West Bengal, Orissa and Madhya Pradesh. It's pro-

posed area includes Chotanagpur, Santhal Parganas, Midnapur, Bankura, Purulia, Mayurbhanj, Keonjhar, Sundargarh, Sambalpur, Raigarh and Surguja districts distributed in four states.

For more than fifty years the Jharkhand movement, articulated by the regional parties of the area has had to do with a proposed state or province. Nevertheless, it has also been concerned with the religions, culture, language, lands and territories, resources and self-governing aspects of the indigenous peoples or the Adivasis of this region.

Traditional Government

In earlier times, the Adivasi peoples of the Jharkhand had vibrant self-governing structures for the welfare and sustenance of their peoples. The self-governing systems normally functioned in a village, then a group of villages often numbering 10 to 12 villages and then at a level covering a larger area. This three-tier hierarchy rested in functionaries like the Manjhi, Desh Manjhi and Parganait amongst the Santhals, the Munda, the Manki and the three Mankis amongst the Hos. Other Adivasi peoples in the Jharkhand region had similar hierarchies, though most of the work was done at the village level and the upper levels were contacted or activated only to face larger issues, such as an external threat. The assault on the traditional and customary self-governing institutions of the Adivasis began during the times of the British. While some recognition was given to the customary institutions and the chiefs in the laws that the colonisers formulated, the major assault came with independence in 1947 when the traditional systems were totally marginalised with the imposition of government structures on the Adivasis. The Adivasi customary laws and institutions were confined to merely cultural and religious functions.

Some life was expected to be breathed into the traditional institutions with the passing of "The Provisions of the Panchayats Extension to the Scheduled Areas Act, 1996" No 40 of 1996 by the Indian Parliament. This law amongst other things says that "(a) a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices, of community resources", and that "(d) every Gram Sabha 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".

Despite these legal provisions, both dominant society and the state have shown a cold or opposing attitude. The local daily from Ranchi, the Ranchi Express of 15/4/98 had a news item entitled: "Demand for withdrawing of

the Recommendations of the Bhuria committee" that resulted in the 1996 Central Act. A small section of the non-indigenous, often led by urban leaders are making such demands. The state of Bihar, meanwhile still continues to sleep and has not enacted legal measures for the implementation of the Central Act. On the other hand the states of Orissa and Madhya Pradesh have gone ahead with enacting measures for the implementation of the 1996 central legislation.

Education

In last year's *The Indigenous World 1997-98*, we had brought to your notice the utter neglect of the languages of the indigenous peoples in the educational system at the primary level inspite of constitutional norms and legislated laws that offer indigenous languages for primary school. Now recent events have shown how the school teachers in this region have been continuously and enmasse playing truant opposed to the children who sometimes do so. The local daily Ranchi Express of the 22/2/ 98 reported that due to the negligent and impractical policies of the higher authorities of the Education Department, in the Kara and Lapung blocks, many primary schools have been closed for months and in dozens of primary schools due to the presence of only one teacher teaching has been severely effected. In the primary schools in Chhata, Sirka, Mutpa, Tilmi, Suwari etc., inspite of the number of pupils being around 200 to 250, only one teacher has been employed in the schools. In Lapung block also, in the schools in Jhiki, Vigra, Balundu, Malgo, Tilaiya, Sakarpur, Devgoan, Pandu and Kathing, only one teacher is engaged in each school .

Moreover, in Lapung block due to the lack of teachers at a. o. Kakaria Koysra Dara and Tetra, the schools are closed. Then on 30/12/98 the Ranchi Express claimed that in most schools there are no teachers and where there are teachers, there are more than required. The teachers are transferred according to the convenience of the teachers and not according to the needs of the students. Normally teachers like to remain in the District capital. According to the Education Department, there is a provision of one teacher for every thirty students. But in some schools the student teacher ratio is less than 10 while in others this ratio is at more than 400. Due to the desire of teachers to stay in urban areas, rural schools have children, but no teachers, and being closed. The result being that in these schools the education of 3.5 million students are not being conducted properly, children are not being given teaching while 55,000 teachers are drawing their salaries by merely warming their seats.

Women

There however appeared to be a silver line in this depressing scenario in Jharkhand. And this was with the emergence and continuing consolidation of the Adivasi Mahila Manch (AMM), the "Indigenous Women Forum". The AMM was conceived in reaction to a national level women's conference held in Ranchi in the end of December 1998.

More on the Adivasi Mahila Manch see section on Indigenous Women's Issues.

Andhra Pradesh

Altogether there are 33 tribal communities in Andhra Pradesh numbering about 3.1 million people. They live mainly in nine districts, Srikakulam, Vizianagram, Vishakapatnam, East and West Godavari, Khammam, Warangal, Adilabad and Mahabubnagar. After the Constitution of India came into being, these regions came to be known as scheduled areas under a special order in 1953. Out of the state's total area of 276,814 square km the scheduled area comprises 30,028 square km.

The Koya Tribe is the largest by population followed by the Lambadas, the Rajgonds, the Yanadhi and a few other tribes. The numbers of the tribal population in the State rose slowly from 1971 to 1981 and again in 1991. This is due to the inclusion of the Lambada Community in the category of Scheduled Tribes in 1977. The inclusion of the Lambada Tribe was a serious factor of confrontation amongst the tribal communities in the later years.

Apart from the tribals in scheduled areas there is a sizeable population of tribals in non-scheduled areas. Several villages adjoining scheduled areas where tribals are in a majority, were overlooked at the time when the Scheduled Area Order was issued in 1950 by the President of India. This has resulted in several tribal dominated areas being non-scheduled and hence these areas have no access to the special administrative outreach and protective laws that cover scheduled areas. Not much information on the non-scheduled tribal areas is available. It appears that 834 villages are yet to be scheduled. So the administrative organisation of the state has led to further divisions amongst the tribals.

Land Transfer and Restoration in Scheduled Areas

A closer look at the contemporary situation of the tribal communities of Andhra Pradesh (AP) paints a disturbing picture. Above all this is connected to the government's stand on the issue of land transfer and restoration. The state's

policy on land restoration has created a new controversy as the state government wanted to scrap the 1970 Land Transfer Regulation sometime ago. Scrapping this regulation once for all will remove the tribals' rights to land which were guaranteed in the earlier Land Transfer Regulations of 1959 in the Andhra Region and of 1963 in the Telangana Region.

The Government of Andhra Pradesh issued the AP (Scheduled Areas) Land Transfer Regulation, 1959 in order to protect tribal land rights in the scheduled area of the Telangana region. It was subsequently extended to the Scheduled Area of the Coastal Andhra region. Its extension was brought about through the AP Scheduled Area (Extension Amendment) Regulations, 1963. Subsequently, the amendment of the 1970 Act was mooted mainly to plug the loopholes of the 1959 Regulation.

This regulation had generated a considerable amount of land restoration activity in the tribal areas of the state up until 1979, especially in the districts of Khammam, Warangal and Adilabad. This was the result of a few committed officials, who were the Special Deputy Collectors for Tribal Welfare (an Agency which was created by the government for land restoration in the tribal area of each district in the state). These officials traced out all the details of land ownership and prepared lists of alienated tribes and issued suo moto notices to non-tribal occupants. However, these notices were issued only to non-tribal cultivators, especially those who were declared to be purchasers of "tribal owned land" after 1963. 1963 was considered the cut-off year for all sales and purchases of land transactions in these regions. Consequently, those who were said to have "purchased" the lands prior to 1963 were exempted from the purview of the Land Transfer Regulations. On this point, those landlords who were given "land ownership" over large chunks of forest lands long ago during the period of Nizam of Telangana (Telangana was a protectorate in British India), were not affected by this regulation. In the case of coastal Andhra Pradesh, the cut-off year was 1970.

According to official figures there are 81,241 acres of restored land. This is obviously a case of clear manipulation or a miscalculation of numbers. The real extent of the land acreage restored to tribes is only 61,599 acres. Furthermore, even the said restored land (61,599 or 81,241 acres) very rarely exists in reality because of the powerful influence of the non-tribal rich and other classes of immigrant peasantry.

Apart from the failure to effectively implement land transfer regulations and the increasing differences between the immigrant peasantry and the native tribes, the polarisation between exploited classes within the tribal as well as the non-tribal communities was accentuated in the process of the forma-

tion of new tribal groups (Rao, 1996). The influential classes are often supported by the various sections of political parties. These factors resulting in increased landlessness have accentuated the class and community conflicts in the tribal areas of Andhra Pradesh.

Death of Gonds in Adilabad: A Designed Disaster

About 20% of the population of the Adilabad District are Adivasis, belonging to five scheduled tribal communities (the Gonds being the most numerous). The Godavari, the major river with its two tributaries and another 12 major rivulets, provides abundant water resources and plentiful ground water. The District stands second in the State in terms of supplying raw materials such as coal, cement, water etc. to its urban-industrial complex. Politically, the District has a tradition of political assertion as shown by the Komuram Bhini Revolt of 1939 against the Nizam and by the Naxalite movement that has been going on since 1979. The District has also, at times, been administered by efficient administrators.



*Huge Rally of Gonds on January 29, 1998 at Utnoor, Adilabad
(Foto: Janardhan Rao).*

In spite of this, the District is backward and underdeveloped. Only 17% of ground water has been tapped. It has the lowest literacy rate amongst tribals in the State. Despite laws and special independent constitutional obligations and the responsibility of the Governor for good governance under the V Schedule, an estimated 60% of Adivasi lands have been alienated. Since the 1920's, the District experienced migration from adjacent Maharashtra, coastal Andhra (primarily to the industrial areas and to Kadam, amongst others) and by non-tribal populations from neighbouring Districts. The forests, the primary source of survival for the Adivasis, were looted by the politician-contractor *mahas*, who have depleted the forests by more than half. Vast stretches of cultivable lands were converted to cash crops, such as cotton, in a systematic manner as part of the State policy and plan. The destruction of the traditional food security system and the planned underdevelopment through neglect, have each systematically engineered impoverishment and malnutrition, and this has been aided and abetted by an irresponsible and insensitive police-administrative machinery.

It is within this context that the systematic genocide over the years of the Adivasi populations through epidemics and hunger, which have this year erupted on an unprecedented scale, needs to be understood.

The Killing Fields

Gastro-enteritis (GE) and cholera are endemic and malaria is hyper-endemic to the Adilabad region. In spite of the obvious facts of inaccessibility, under reporting and under recording, the political and administrative machinery was clearly aware of the potential health hazards of GE, cholera, malaria (including the cerebral variety), encephalitis etc., diseases which, through the effective implementation of public health measures, are wholly preventable. But in 1998 tragedy struck as never before. Up until up the end of November, official figures put the number of cases at 15,706 and the number of deaths at 398. But press reports and fact finding reports of the APCLC, Thudumb Dhebha, Congress, CPM and Telangana Aikya Vedike estimate that the true death toll ranges between 1,000 to 3,000 people. The administration and health authorities underplay the seriousness of the emergency by pointing out that the figures for the number of dead are exaggerated and also include non-GE/cholera related deaths. But the fact remains that a massive number of deaths has occurred due to a combination of factors - those of disease and malnutrition.

Furthermore, 1997 experienced very low rainfall causing crop failures. Many farmers committed suicide out of sheer desperation. The mid-1998 hot

spell led to deaths from sunstroke. With the onset of the rains, deaths due to GE, cholera and encephalitis occurred from May until about August. Now malaria has struck almost all households. The tragedy has led to people abandoning villages to avoid contamination by the fatal diarrhoea. The health care system, though understaffed, has been in place. But regular public health service activities have reportedly not been undertaken. This includes a chlorination program that did not take place in May and June of 1998 when it was predicted that it would be necessary. Even in previous years, chlorination has only seldom been undertaken. Reports of cases of death were promptly denied by the authorities. But as the scale of the tragedy emerged and public protests began, political leaders woke up. The mobilization of resources and the pressing of the administration to function at an emergency level, took place only after the tragedy had struck and only after the number of deaths had risen to an unprecedented level. The attempt to shirk accountability and responsibility within the administration, continued with the debate over the figures for the number of dead.

Besides a lack of access to medical services and the poor functioning of the health administration in the district, the recent devastating spell of epidemics can be put down to other factors as well, factors are rooted in the socio-political environment of tribal administration. The problem is essentially one of a social malady caused by the neglect and underdevelopment of the Adivasis and their areas. A lack of proper nourishment and an attendant poor immune system, coupled with a financial inability to buy food to supplement the medicines during treatment, seems to be a major factor leading to death according to the doctors who have been acquainted with these Adivasis for the past several years. This was true in most of the cases during the recent epidemics.

Safe drinking water is not available in most of the Adivasi settlements in the agency areas of Adilabad. In the absence of access to potable water, the Adivasis have been depending on nearby *kuntas*, streams and open wells. During the summer there were several deaths due to gastro-enteritis, as the tribals drank residual waters from wells and *kuntas* which had dried up, or were stagnant and had gathered bacteria.

In many villages the conditions of bore wells have also been found to be unfit for human consumption. Tests have revealed that they are contaminated with E-coli and klepsella. Tests by the Regional Public Health Laboratory in Warangal disclosed that 80 out of 120 samples of bore well water collected in August and September were found to be unfit for human consumption.

Strangely, the authorities have not stopped water from contaminated bore wells being used, even a month after receiving the reports from the labs.

Chenchus: Threatened with Extinction

Another region known as the Nallamala hills which covers five districts - Mahaboobnagar, Nalgonda, Prakasham, Karnool and Guntur - is home to a much scattered hunting and gathering tribe, the Chenchus. In all areas the whole population of the Chenchus comprises 35,000 people. The Chenchus are believed to be the oldest tribe strongly rooted in the Dravidian culture and language. The close association of their language to Dravid languages confirms this fact. This tribe is now under serious threat as their livelihood, i.e., the forest, has been totally taken under the control of the forestry department in order to establish the Rajiv Gandhi Wild Life Sanctuary (Tiger Reserve). This sanctuary is one of the largest Tiger Reserves in the country. It used to be called the Nagarajun Sagar Srishylam Tiger sanctuary. It was founded in 1973 and elevated to Tiger Reserve status in 1993. The establishment of the Tiger Reserve affects 131 Chenchus settlements. 36 settlements are mainly affected. Since the area was declared as protected, the troubles for the tribals began. They were asked to move out of the forest under the pretext that they were endangering the tigers. Using the pretext of the sanctuary, their movements are restricted, their rights are denied and their pleas are rejected. Minimum educational and health facilities are not extensively provided. As a result, between May and December of 1998, around 400 Chenchus were killed by gastro-enteritis. Furthermore, the infant mortality rate among the Chenchus is amongst the highest recorded. 250 in every thousand male children die. Among females this figure is even higher at 350 per thousand. Unable to practice settled agriculture and with no guaranteed sources of income, the Chenchus lose land, forest and minor forest produce to exploiters from non-tribal communities. Although the government initiated a special project for the development of the Chenchus, it does not seem to be yielding results. This has been amply proved by the demonstrations held by the Chenchus on January the 8th of this year.

Orissa

Orissa tribal peoples face the worst of the destructive side of the development process. Orissa is one of the states where 'Governance' asserts itself as a most 'alien political order', suppressing the genuine rights of the tribes guaranteed under the constitution. The agreement of the Swadeshi (National) and Videshi (International) forces to extract the resources and plunder the

natural wealth of tribal societies is seen in a brazen fashion in Orissa. The extraction and transfer of the tribals' wealth to the centers of power in Orissa takes place whilst the tribes are denied their share of the proceedings.

Orissa has a total land area of 155,707 square km. It has a tropical climate with an uneven distribution of rainfall, recurrent droughts and floods, all of which have an adverse impact on the State's Domestic Product. About 40% of the land in Orissa is agricultural, 39% is forested and 21% is given over to other uses. Out of the 60,000 square km of forest area, the majority is degraded and denuded. Most of the state's forests are under the dual management of the Revenue and the Forest Departments. Large-scale deforestation for non-forestry uses and a ban on shifting cultivation are the two main reasons for the substantial decline of the status of tribes in the state.

With about six million people Orissa has the second largest tribal population in India, next to Madhya Pradesh. The 62 major tribal communities constitute about 30% of the state's total population. But according to records 83% of the tribal people live below the poverty line.

Dispossession

The tribals in Orissa have been the victims of unfavourable land transfer regulations promulgated by the Government. The state legislation makes it easy for the non-tribal landholder to sell his holdings to another non-tribal person. This is not the case in Andhra Pradesh. Orissa, having been historically heavily represented through the feudal chiefs and Rajas, had always controlled huge chunks of lands in the tribal areas. Brahmins or Kayasthas, a caste associated with revenue accounts and records, acted as the source of the huge transfer of the tribal lands to these Rajas. This historical background turned out to be very handy, as land transfer regulations in Orissa recognised all the Rajas' holdings as legitimate. The Rajas ended up with free land in the tribal regions that they could sell. Because this land was settled by tribal peoples it led to their marginalisation both in terms of territory and population. As a result almost 70% of the tribal lands that are fertile and suitable for growing crops, went to the outsiders. On top of this land alienation which was actively sponsored by the Governance, the ban on shifting cultivation rendered the tribes not only landless but also resourceless. An increase in the extent of land sales in the tribal areas prompted waves of migration of outsiders, who latterly have become active supporters of so-called industrial development, whose indirect benefits in the locations in which they are set up, always find their way to the non-tribal communities.

This kind of processed land alienation has been dominated by national and international capital interests, with the large-scale promotion of dams, industries and sanctuaries. Vast areas of the districts where the tribes live have been inundated by a wide range of diverse industries and various production units. A total of 1236 of them have been set up in the region largely populated by tribals.

Struggles against Sanctuaries

The tribals in the state have experienced large-scale displacement that is not only due to industrial development and large dam projects. Because of the abundance of forests, nine out of sixteen wildlife sanctuaries in the State are in its tribal areas. In 1989 there were two national parks and 15 sanctuaries. They covered an area of 6171,25 square km which amounted to 3.96% of the State's geographical area and 10.36% of its forest area. But according to the data supplied to us by the Ministry of Forests and Environment in September 1992 (Table 2.5), the State has 16 sanctuaries, with two of them being a combination of parks and sanctuaries. They cover a total of 7395,44 square km. We take for granted that the data given to us by the Ministry in 1992 is the latest available, and take that as the basis for this study.

The more important of these parks and sanctuaries are predominantly in the tribal areas. They include the Similipal Park and Sanctuary, Satkosia in the tribal area of Dhenkanal and Puri, Sunabeda in Kalahandi, and others like Hadgarh, Debrigarh, Khalasuni and Ushakhoti. Together the sanctuaries and parks in the tribal areas cover 5827.5 square km which is 78.8% of all the reserves in the State.

At the Similipal sanctuary project, inhabitants of four villages have been protesting for over two decades and the government has yet to evacuate them. Now the government is targeting more tribals for several proposed sanctuary projects in the state. The Kotagada sanctuary situated in the tribal dominated Kandhamal district is being opposed by its resident tribals.

Kandhamal is one of the tribal dominated districts in Orissa. Nearly 53% of the people are tribals. The government of India announced its proposal to set up a sanctuary in the district that would spread over three blocks of Kotagada, Tumudibandha and Daringibadi in 1981. Subsequently, notice for hearing objections was issued in December 1981, but it was not served. The same procedure was repeated in 1985 when the notice was issued but not served until the Supreme Court directive came in 1996 and the administration kept people ignorant of it. But when in the same year the district admin-

istration all of a sudden banned shifting cultivation and cattle grazing and imposed restrictions on firewood collection in the proposed sanctuary, that started the local inhabitants off. Nearly 32,000 people living in these three blocks will be displaced for the proposed sanctuary.

Kondh tribal communities of the Kotagada range have also begun their opposition since they heard about the proposed sanctuary. Pahadi Sangrami Mancha, under whose banner the struggle is being spearheaded, was formed in response to the district magistrate's promulgation of the ban. The people's protest gained momentum after the announcement of parliamentary elections. On the eve of the election, February the 14th 1998, people gathered in large numbers near Subarnagiri, carrying their traditional weapons and promising not to cast their vote since they did not expect anything from the "welfare state". Nearly 32 ballot boxes on the election day arrived at district headquarters without a ballot paper in them.

Time and again the government is issuing notices for public hearings. People officially came to hear about the sanctuary for the first time as a result of a notice served on January the 9th 1998. Subsequently, two notices have been served for public hearings on April the 19th and on July the 10th 1998, respectively. In the last notice people have been told to bring *pattas* (certificates) in support of their land right. The Wild Animal Sanctuary Act says that those who have *patta* land would not be displaced. In tribal society, where *patta* is of no use, people would hardly have *pattas* to prove their ownership of land. A few people actually have *patta* land to protect their rights. The large number of tribals who do not have *patta* land would definitely be forcibly displaced. This is a ploy to divide people over the issue of *patta*. People in the region are not allowing revenue officials to conduct surveys to ascertain the number of *patta* and non-*patta* holders.

Besides the Kotagada sanctuary, the government has also constituted another sanctuary in the new district of Gajapati, and resentment from the tribals going under the banner of Lakhari Loka Surakshya Manch is in the offing. People of the Lakhari area, where 15,000 tribals from 11 *panchayats* would be displaced, are opposing the sanctuary project tooth and nail. In a congregation of tribals at Luhagudi they took a vow not to leave their land and also to oppose the entry of the local MP and MLA's in that area.

Nine further sanctuaries are reportedly in the offing. Although the chief conservator of forests (wildlife) said that no tribals would be displaced due to a "paucity of funds", notices have been issued in almost every case. There are voices of protest being raised in other areas, such as the Padia sanctuary in

the Koraput district and the Athamallick in the Cuttack district. The formation of an alliance of such protests is now under way to challenge the state's arbitrary decision.

The debate centres on whether the tribals are responsible for either the decrease in animal numbers or the depletion of the forest or both. But for generations, tribals have been living side by side with animals in the forest, whilst the state is now declaring that these areas are sanctuaries - a move which will displace the tribals as though they were the culprits.

Bauxite Industry Violates Indigenous Rights in Rayagada

The Kashipur block in the Rayagada district of Orissa is being eyed by three companies, two of them multinational giants. These companies, including Utkal Alumina International Limited (a collaboration of Indal, Tata, Hydro and Alcan), Larsen and Toubro (seeking to enter into a tie-up with the French company Pechinney) and the Aditya Birla group, plan to mine and process bauxite in the region.

The project envisages mining bauxite ore from the Baphlimali Parbat which has one of the largest bauxite deposits in India. Way back in 1994, a study team (including the author) warned of the devastating impact of the plant on the tribal communities. The study team estimated that about 100 villages inhabited by 60,000 people will be directly or indirectly displaced by the proposed project. This in addition to the ecological destruction that will be caused.

The local administration has tried to resolve the conflict and tension by favouring the companies and taking several repressive measures against the tribal people of the region. On January the 5th of this year, the police charged women, men and children in the village of Kucheipadar while they were attempting to lift a roadblock erected by the people. As the people resisted, their leaders were booked on false charges. Also implicated along with them, were a number of Oriya youths, who work for tribal development as members of a local voluntary organisation, Agragamee, which is over 17 years old.

Earlier on, as the companies instigated a conflict between local *goondas* and the tribal people. 47 innocent tribal and *harijan* ("untouchable") youths were rounded up by the police in the middle of the night, taken to the lock-up in Kashipur and subjected to severe beatings. They were then remanded to the district jail in Rayagadae, where they were kept in custody for 13 days before they could get bail. Two months later, 13 of these 47 people were again jailed in Bhawanipatna. On the other hand, the *goondas* who beat people up, abused women and, because of their aggression and threats, made it

difficult for Agragamee to carry out its work, have, apart from a brief interrogation by the local administration, been roaming free, despite the fact that they have been booked on a number of charges.

On June the 16th 1998, police entered campuses in Kashipur and Malijharam, rounded up several people for interrogation, and arrested five workers. More than six months after the incident on January the 5th, these youths, including Nigamanada an agricultural engineer, Nimai Champatiray a social analyst and K.C. Martha a sericulture specialist were charged with abetting violence during the incident. The witnesses to these charges are two *goondas* from outside the region, who have been accused of several cases of violence against the people and against Agragamee.

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Southern Region

The Kerala Restriction on Transfer by and Restoration of Lands to Scheduled Tribes Bill, 1999 was passed by the Kerala Assembly as Bill No.163 on 23 February 1999. This Bill repeals the Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act of 1975. This new Bill is the response of the State Government to the returning of the Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Amendment Bill, 1996 passed by the Assembly on 23 September 1996 which sparked off intense agitation by the Adivasis (see *Indigenous World 1996-97 and 1997-98*). The High Court (where a case has been pending since 1988 for the implementation of the 1975 Act) had come down heavily against the Government of Kerala for "the lack of will" to implement the 1975 Act, has repeatedly given extended time to the Government acceding to the Government's request for more time and for bringing in a new Act.

As per the 1999 Act, only land in excess of 2 hectares will be restored, while alternate land would be given elsewhere in lieu of alienated land of up to 2 hectares. This is clearly not acceptable to the Adivasis who are insisting that they be restored the original lands and non-Adivasis be rehabilitated instead. Of the over 8,000 applicants for restoration of alienated land over 3,000 applications have been rejected for want of adequate proof of ownership of land by Adivasis. What remains is only a question of 7,640 acres claimed by 4,524 applicants. The number of applicants claiming land in excess of 2 hectares would be extremely small. In other words, the new Act will ensure that only a negligible portion of lands will need to be restored. The 1999 Act, in addition, has brought into its ambit the provision to provide land of up to 40 acres (or 10 acres) to the landless Adivasis in the district they reside in, within a period of 2 years. The Government estimate that there are about 11,000 such families. In essence, by bringing in a new set of beneficiaries, the Government hopes to divide the Adivasis between the beneficiaries of the 1975 Act and the new set of beneficiaries to further complicate the matter. By enacting the law under "agricultural lands" which is a State subject, the Government need not refer the 1999 Act to the President of India. The Governor of the State, it is hoped would sign the Act into law. However,

rules and regulations have to be framed to put into operation this new Act which, from past experience, is going to take another long wait. Even if all these are carried out, there is the question whether the Government would finally implement this new Act, as it clearly lacks the will which was also pointed out by the High Court earlier. Meanwhile, the legality of this new Act will also be questioned. All these would mean that restoration of alienated lands would continue to remain in the statute book while the crisis of survival intensifies.

The \$28 million International Development Agency (IDA) and \$20 million Global Environment Facility (GEF) India Ecodevelopment Project was approved on September 5 1996 by the International Development Agency of the World Bank. Claiming to improve Park management and village eco-development in 7 areas, including the 64,389 sq. km of Nagarhole (Rajiv Gandhi) National Park (see *Indigenous World 1996-97*) of the adjoining state of Karnataka. The credit became effective on December 27th 1996. On the 3rd of April 1998 the Inspection Panel of IDA received a request from Nagarhole Budakattu Janara Hakkusthapana Samithy (Nagarhole Indigenous Peoples Rights Restoration Committee). The Panel also considered information obtained from Jim MacNeill (Inspector) who visited Delhi and Nagarhole from August 30 to September 4 1998. There are 6,145 Adivasis in 58 settlements inside the Park belonging to different communities like the *Jenu Kurubas*, *Betta Kurubas*, *Yeravas* and *Soligas*. On the 5th of May 1998 the IDA Management's response was obtained by the Panel. The official protest by the Samity against the World Bank was filed on September 26th 1996 without any results.

The Inspection Panel found that the Bank had failed to observe its policy on Indigenous Peoples in the design and appraisal phases. The Panel recommended that the Executive Directors of the Bank authorise an investigation into this case. This clearly substantiates a wide range of violations of the World Bank Operational Directive (O.D.) 4.20, 4.30 and 4.36. The WB management has been aware of the paucity of information and research at the appraisal stage and the IDA allowed the project on predetermined and unsubstantiated data and with the absence of scientific studies on potential conflicts of the project. It was recognised that there exists a "historical mistrust between the tribal people and the government" and "identification of local preferences through direct consultation was not carried out" hence foregoing GEF guidelines. There was no detailed consultation with the resident Adivasis in the appraisal stage, neither on the traditional rights of the Adivasis nor

their role in the future management of the Park. No separate Indigenous People's Development Plan, as required under O.D. 4.30, was prepared. The overwhelming majority of the Adivasis opted to stay. On December 15th, the Board of Directors of the Bank, in total disregard of the recommendation for a full scale investigation of the Inspection Panel, instead ordered for corrective measures within a period of 6 months. All along the agitation against the World Bank project has been continuing. Meanwhile, the Taj Group of Hotels appealed against the judgement of the Karnataka High Court, which had found their tourism project sanctioned by the Karnataka Government inside the Park to be in violation of various laws (see *Indigenous World 1996-97*). The Supreme Court has asked the Karnataka Government to take cognisance of the observations of the High Court.

In the Begur Jungle (falling within the Nilgiri Biosphere Reserve in the State of Karnataka) the *Kadukurubas*, *Jenukurubas*, *Yeravas* and *Soligas* used to farm on the banks of Kabini river. In the late 1960s, the Government initiated a multipurpose reservoir across the Kabini River, uprooting them from their homelands. The 10,000 acres of lands released by the Government for the tribal and non-tribal oustees did not benefit most Adivasis as they were cornered by influential people aided by the corrupt officials. The oustees settled in another patch of the forest. In less than a decade, that area was declared as the Bandipur National Park and a Project Tiger area. Many were once again evicted. The government notification ironically claims that these people have been rehabilitated twice! 673 families in H.D. Kote Taluk of Mysore district have been reduced to becoming labourers collecting some minor forest produce. In 1997, the people identified about 300 acres of revenue land in Ainapura. On May 20th, the officials torched three of the five huts of the Adivasis, but they refused to budge. Since June 1998, 250 families forcefully occupied the area. In early August 1998, the National Human Rights Commission (NHRC) responded to a petition. The NHRC stated that the Adivasis were evicted by the Government with total disregard of the law and asked the Director General of Police to enquire into the atrocities carried out by the police and forest officials. The government has also been asked to determine the rights of the people. In the adjoining 21,776 hectare Mudumalai Wild Life Sanctuary, the Government of Tamilnadu issued a notification extending the Sanctuary by another 24,000 hectares. In August 1998, the Adivasis of Mudumalai under the banner of Tamilnadu Front for Adivasi Self-rule launched a protest against this as this would mean further restriction of their rights to the forest. It would also mean that with the restriction of entry for the Adivasis,

the Sanctuary would become a haven for poachers. Mudumalai has also been identified and targeted to be a major tourism centre with the proliferation of numerous resorts. Though the officials, including the police, and the elected representative belonging to the ruling party attempted to break the protest, this failed. The Government has, for the time being, desisted from implementation of the notification. Though Adivasi habitations have not been declared as a Scheduled Area in Tamilnadu, but a Tribal Advisory Council was constituted, though it is inactive at present. This Council was reconstituted during the later part of 1998 and has been activated because of the growing unrest amongst Adivasis, especially centering around land rights.

SRI LANKA

The Wanniyala-Aetto ("Veddahs"), the indigenous hunter-gatherers cum swidden-fallow cultivators of Sri Lanka, have long struggled for survival. Ironically, it is modern nature conservation policy in Sri Lanka that is finally driving the surviving 2000 Wanniyala-Aetto to the brink of extinction.

The last patch of tropical dry zone forest used by the Wanniyala-Aetto in their traditional economy was denied them on November the 9th 1983, when Sri Lanka set aside the Maduru Oya National Park. This action removed the Wanniyala-Aetto (whose name means "forest dwellers") from their traditional hunting and gathering grounds, and made it illegal for anyone to enter the park without a permit. No hunting and/or gathering of food or resources for tools, clothing and shelter was allowed. The Wanniyala-Aetto were to assimilate into mainstream Sinhalese society, learn the "right" religion (Buddhism), speak the "right" language (Sinhalese) and dress in "proper" clothes. To achieve this goal, the forest people were relocated to Rehabilitation Villages in the Accelerated Mahaweli Development Project. With this objective realised and the "destructive" native people removed, the forest itself could be used as a commodity for tourists. This government policy, which was made with good intentions toward the Wanniyala-Aetto but which was based on a misunderstanding of the relationship between the indigenous people and the forest, will result in the total annihilation of aboriginal Wanniyala-Aetto culture. It will also change the very nature of the forest that Sri Lanka is attempting to preserve.

The WGIP 1996

The Wanniyala-Aetto have persistently tried to revoke the government's policy. Unable to get a commitment from Sri Lanka's three previous presidents, prime ministers and other ministers, a Wanniyala-Aetto delegation flew to attend the 1996 UN Working Group on Indigenous Peoples (WGIP) in Geneva. They had tried, in 1985, to attend this meeting once before but at the time were stopped by the Sri Lankan Government. In 1996, by presenting their situation to the UN, they finally succeeded in sharing their grievances with other indigenous peoples and with state authorities and NGO's. The WGIP participants forwarded a Resolution to the government of Sri Lanka expressing their support for the Wanniyala-Aetto petition to return to their former hunting grounds. To strengthen the Resolution, the document cited several international UN conventions and treaties pertinent to the Wanniyala-Aetto issue that had previously been signed and ratified by Sri Lanka.

At the WGIP meeting, a tripartite dialogue began between the Wanniyala-Aetto, the Sri Lankan Ambassador in Geneva and the nature conservation organisations the World Wildlife Fund (WWF) and the International Union of Conservation of Nature (IUCN). The parties agreed to find an expeditious solution to the issues.

The 1997 Census

In June of the following year, just one month prior to the 1997 WGIP meeting, a government delegation headed by the First Secretary to the President of Sri Lanka journeyed to the dry zone tropical forest in the eastern part of the country to consult with the Wanniyala-Aetto. They inquired about the grievance presented to the UN the previous summer, and asked how many people wished to return to live in Maduru Oya National Park. The Wanniyala-Aetto could not provide precise numbers, and did not know how to obtain them. Nevertheless, at the UN WGIP-meeting of 1997, the Sri Lankan Ambassador stated that the land was being given back to the indigenous people of Sri Lanka. No Wanniyala-Aetto representative was at that meeting to confirm or deny this statement.

In November 1997, the figures that had been requested were presented to the President's First Secretary. The Wanniyala-Aetto were then assured that the President would grant land to them during the last week of December 1997. The government was prepared to accede to the Wanniyala-Aetto's request that they receive identity cards to allow them exclusive access to the protected area. Sri Lanka's President also established a Committee on Implementation to look into various aspects of the project.

The President's Declaration

Seven months went by and nothing happened. The ancient, legendary Wanniyala-Aetto chief Uru Warige Tissahamy died in May 1998, without seeing his "Promised Land". Many old friends, politicians, and ministers came to bid the old chief a last farewell - all carefully documented by the government media. The government pledges that a stone will be raised to his memory.

Just one month before the annual WGIP conference of 1998, just as in 1997, the Wanniyala-Aetto were again invited to a meeting with the government. They were told that their claim had been reconsidered, and that the government had approved the Principles and Rules for Wanniyala-Aetto Conduct within the Maduru Oya National Park which they themselves had written. The logistics of the 1997 census cum survey had been studied, and on this basis the first eight ID cards permitting access to the Park could now be delivered. Deeming it best to move forward gradually, the government would issue fifty cards in the first batch. If the government's experience of these first returnees was positive, another fifty ID cards would be produced six months later. The leader of the Wanniyala-Aetto community and the Government Agent for the area would jointly evaluate the project. Only the Wanniyala-Aetto people, however, would determine the rate and ratio of resettlement.

On August the 7th 1998, Her Excellency Bandaranaike Kumaratunga, the President of Sri Lanka publicly declared that the Wanniyala-Aetto were now allowed to "continue their traditional way of life (if they like to do so) and to make progress of their civilisation" (Bandaranaike Kumaratunga 1998). Two further points were made by the President: (1) the possibility of Wanniyala-Aetto participation in the protection of flora and fauna of the Maduru Oya National Park, and (2) the President's assurance she would take action to promote the social and economic health of their community (*ibid.*).

The Persecution Continues

The holders of the new ID cards, secure in the protection afforded by the permits, returned to their former jungle villages to construct the traditional wattle and daub or bark houses for their families. Yet once again the national park guards came to chase them away. It seems the local authorities had not yet received orders from their superiors regarding the change in park management. Therefore they must abide by the previous regulations, which impose a fine of 10,000 Rupees on each "poacher". The only way the Wanniyala-Aetto could procure that amount of cash is to hunt game and gather honey and sell it. If caught again, the meat and the muzzleloader would be confiscated and the fine doubled.



*Still no return to their ancestral land: Wanniyala-aetto
(Foto: Wiveca Stegeborn).*

There was a Twilight Time in the park between October and December 1998, during which time the local guards left their posts to await clarification from the Department of Wildlife Conservation in Colombo. The park, while it had been publicly returned to the Wanniyala-Aetto, was not yet legally theirs. Private commercial entrepreneurs, taking advantage of this hiatus in official policy implementation, used tractors and lorries to help them loot the park of precious timber, game, ivory, leopard skins, teeth and claws. Soldiers from a Sinhalese army training camp, which is located inside the park, machine-gunned the animals for sport. These three months were an environmental disaster.

Despite the depredations of others during this time, the Wanniyala-Aetto were able to forage in the forest. And, after too many years of silence, hunting stories were once again being told in their huts and around the campfires, this time by the younger generation - a joy for the elders.

A Tragic Incident

On the night of December the 23rd 1998, Uru Warige Punchi Banda and two other Wanniyala-Aetto men were hunting deer inside the Maduru Oya National Park. Suddenly Punchi Banda was shot in the back by a park guard. Fearing for their lives, the other men escaped, but Punchi Banda fell and was taken prisoner.

Days and weeks passed without a trace of him. Finally, Punchi Banda's wife and children went to the local Director of Wildlife to ask about their missing husband and father. They were told that he had been taken to the nearby hospital. The local hospital, however after assessing the complexity of Punchi Banda's condition, had soon sent him to the hospital in the regional capital, Badulla. When they inquired there, the family learned that already he had been transferred to Colombo. One month later, still not knowing if he was dead or alive, they learned he was in one of the worst prisons in Sri Lanka. Again the family travelled to see him, but were not allowed any contact. They were told that they must apply for a special permit, which could be issued, only by a special police office. It would all take time.

In late January 1999, more than a month after the shooting, Punchi Banda surfaced. He had been transferred again, this time to the General Hospital. He was handcuffed to his bed and two jailers guarded him. The bullet had penetrated his spine. He was paralysed from the waist down. Hoping for a public reaction, Punchi Banda's case was brought to the attention of the media. Shortly thereafter, he was sent back to prison. This time, however, the conditions were worse. He was brought to the Prison Hospital, where he lay on the floor on a mattress stained by previous patients and wet with urine from the drainage in his stomach. On April the 30th, after months of suffering, Punchi Banda died.

In spite of the tragic consequences of the government's action, Punchi Banda's wife was ordered to pay the required fine to the Department of Wildlife for her husband's "trespassing" in the park.

Conclusion

The principal obstacle to the Wanniyala-Aetto recovering their land and traditional subsistence economy, and thus their cultural heritage, is the general dearth of knowledge exhibited by Sri Lankans about the indigenous minority. In the politically charged context of the Sri Lankan civil war between the Sinhalese and Tamils, the Sri Lankan government is reluctant to make decisions which might set precedents for other ethnic minorities. There is also a legitimate distrust of the Tamil guerrillas, known as the Liberation Tamil Ti-

gers (LTT). If the jungle were opened to the Wanniyala-Aetto, the government fears that the LTT would annex the territory, since the eastern boundary of Maduru Oya National Park borders Tamil Eelam.

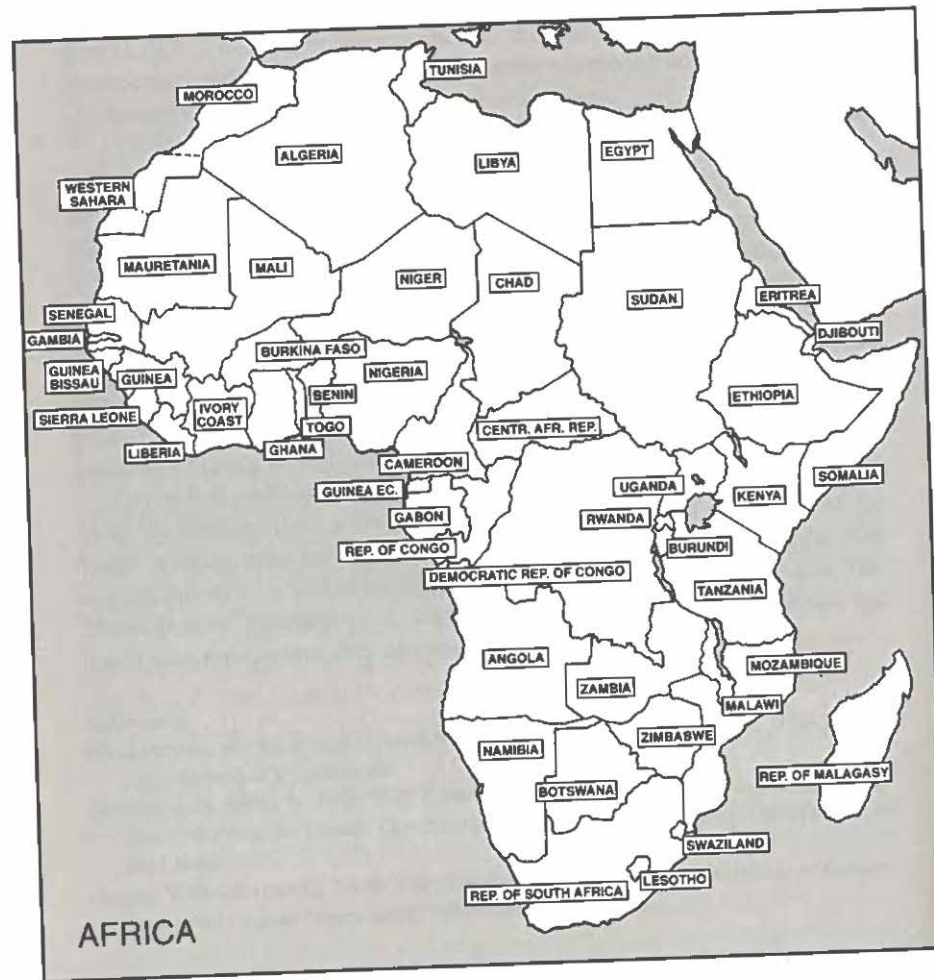
Civilians, whether Sinhalese or Tamil, are tired of the 17 year-old civil war. Almost every family has lost someone in the fighting. The Sri Lankan government, therefore, is striving to turn the country into a unified Sri Lanka regardless of ethnicity, creed, or social affiliation. No single group can be given special consideration since such action would be viewed as discriminatory and undemocratic. Consequently, the Wanniyala-Aetto cannot forage in the forest unless other people are also permitted to do so.

It is also important to take the average Sri Lankan citizen's opinion of the indigenous people into account. Some see them as "backward", "uncivilised" people who do not recognise their own best interests. Others pity their low standard of living and give them money.

Given this attitude, the future of Wanniyala-Aetto culture is not bright. Most Sri Lankans have a low, almost non-existent level of awareness of the value of indigenous people, of respect for their knowledge and skills. Not one organisation in Sri Lanka defends the rights of the Wanniyala-Aetto. The "forest people" themselves are learning how to speak up for themselves, but it will take time before they can speak, read, and write in English.

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Countries covered in this issue: Rwanda, Democratic Republic of Congo, Burundi, Cameroon, Central African Republic, Botswana, Namibia, South Africa

AFRICA

EQUATORIAL AFRICA

Over the year Central African “Pygmy” peoples have succeeded in raising awareness of their situation at both the regional and international level. Two Twa representatives, Zéphyrin Kalimba from the Communauté des Autochtones Rwandais (CAURWA, Rwanda) and Kapupu Diwa Mutimanwa of the Programme d’Intégration et du Développement du Peuple Pygmée au Kivu (PIDP, Democratic Republic of Congo) attended the 2nd Conference on Central African Moist Forest Ecosystems (CEFDHAC) in Bata, Equatorial Guinea in May 1998. The CEFDHAC is an inter-ministerial process aimed at harmonising forest policies in the Central African region, which hitherto had focussed on technical forestry issues and had paid little attention to the interests of forest dwelling and indigenous communities in the region. The Bata meeting was the first time indigenous representatives had participated in the CEFDHAC process. They were able to make useful ministerial contacts and issued a declaration setting out indigenous concerns.

Twa representatives from Rwanda and DR Congo also raised Twa/Central Africa issues at the First African Conference on Indigenous Peoples and Forest Dependent Communities, Traditional Knowledge and Biodiversity held in Accra, September 1998, which was organised by the International Alliance of Indigenous and Tribal Peoples of the Tropical Forests.

Twa representatives from Rwanda and DR Congo attended the UN Working Group on Indigenous Peoples in Geneva July 1998 and made presentations on the situation of the Twa in the Great Lakes region and the problems of education and language.

Jacques Ngoun, of the Bagyeli organisation CODEBABIK, based at Bipindi, Cameroon presented a paper on the impact of logging on the Bagyeli “Pygmies” of southern Cameroon, at an International Conference on Conservation of Forest Ecosystems and Development in the South and East of Cameroon, held in Yaounde in February 1999. It was the first time a Cameroon “Pygmy” representative had spoken at a forestry conference.

Also Central African indigenous peoples from Rwanda, DR Congo and Uganda attended the IWGIA/Pingos meeting in Arusha in January 1999.

The UK Government’s International Development Committee sent a party of MPs to Kenya, Rwanda and Uganda to carry out an enquiry into post-conflict reconstruction, trade and development issues in the region. As a re-

sult of a submission by the UK NGO Forest Peoples Programme informing the Committee of the situation of the Twa people, the delegation visited Twa communities in Byumba. A report is expected in 1999.

Great Lakes Region

The Twa people of the Great Lakes region (Rwanda, Burundi, Uganda and eastern Democratic Republic of Congo) are the 'poorest of the poor'. To a large extent their poverty is due to their low status in society (as a result of their indigenous identity) and the prejudices of the rest of society. Spokespersons of the existing Twa organisations have expressed the wish that the Twa people should become 'integrated' into civil society, while retaining their cultural identity. To achieve this the Twa organisations are developing a 'twin track' approach: 1) projects to alleviate poverty in Twa communities, and 2) advocacy/public awareness work to try to change social attitudes towards Twa people, highlight issues of discrimination and work for policy changes at the national and international level.

At present autonomous Twa organisations exist only in Rwanda and DR Congo. In Rwanda these include local or community-based groups affiliated to the 'national' organisation. In Uganda, Twa peoples' interests are represented by academics and researchers, while in Burundi the two organisations set up to promote Twa interests are run by non-Twa people. If Twa people are to determine their own future, they need their own representatives. The existing Twa groups are beginning to contact other Twa in the region, and want to help the Burundi Twa to organise themselves.

The main needs in the region are to develop Twa representation, to build up the skills of the Twa organisations, meet community development needs – education/literacy, income generation, health care, housing and land, influence national policies and tackle human rights issues.

RWANDA

In Rwanda CAURWA is co-ordinating small-scale community development projects carried out by its member organisations. These include; tile and brick making, goat 'banks', adult literacy schemes and the support to enable Twa children to attend school (uniforms, school fees etc.). Seeds, agricultural tools and other necessities are distributed to rural communities. Funds have been raised to build houses for destitute Twa families at Kanzenze, near Kigali. CAURWA organised a Twa pottery exhibition at the National Trade Fair in Kigali, and has set up a small pottery shop in central Kigali, providing a

much-needed permanent sales outlet for Twa potters. A comprehensive survey of Twa communities in half of Rwanda's prefectures, carried out by the Association pour la Promotion Batwa (APB), showed that overall 98.7% of Twa families have no land at all and only 13.8% of Twa children go to primary school.

CAURWA is establishing dialogues with Rwandese ministries to find ways of improving Twa peoples' access to government assistance programmes. A major stumbling block is that, following the genocide, the authorities wish to avoid all reference to ethnic origin and are reluctant to work with organisations supporting only one ethnic group. However the Twas' problems are a result of discrimination against them *because* they are "Pygmies", so refusal to acknowledge their ethnic identity makes it very difficult to tackle the root causes of their poverty.

CAURWA is organising the Twa in contacting people in the different prefectures and supporting community self-help and women's organisations to strengthen the grass roots. A seminar was organised with donors and government officials to discuss ways of increasing support to the Twa. Of continuing concern is the situation of an estimated 3,000 Twa prisoners accused of participating in the 1994 genocide. CAURWA has so far been unable to get access to prisoners to find out their details and conditions. Funds are also lacking to follow up their cases. However, the African Human Rights Commissioner based in South Africa has promised to contact the Rwandese authorities to try to resolve this impasse.

CAURWA organises training courses for its staff and its member organisations to help them function more effectively. This year training was given in financial management and management of micro-projects.

Funds have been raised for CAURWA and PIDP (see DR Congo below) to carry out a networking trip in the Great Lakes region, to make contact with Twa communities, encourage the formation of autonomous Twa organisations and raise Twa issues with the national authorities.

DEMOCRATIC REPUBLIC OF CONGO

The Kivu-based Twa organisation, PIDP, has managed to continue its projects in agriculture and animal husbandry, although much damage was done during the rebellion of the Rassemblement Congolais pour la Democratie (RCD) against President Laurent Kabila, which started in Kivu in August 1998. Many Twa communities fled the fighting, and their homes and livestock were pillaged. Farming activities were interrupted and many families suffered from hunger. A communal farm set up by PIDP is still inaccessible as it lies next to

the Kahuzi-Biega national park - a stronghold of various armed factions which have carried out violent attacks on the surrounding villages.

There are eight armies and at least 12 other armed groups active in DRC, mostly in the eastern part, where there is a persistent climate of fear. More than 50,000 Interahamwe (the militia that spearheaded the 1994 genocide in Rwanda) and former armed forces of Rwanda (ex-FAR) are said to be based in the forests and bush north of the rebel stronghold of Goma. Having converged on DRC after the August 1998 uprising, where they have benefited from the shifting alliances of the past months. The UN International Commission of Inquiry on the arms flow to Rwanda concluded that "the ex-FAR/Interahamwe, once a defeated and dispersed remnant, have now become a significant component of the international alliance against the Congolese rebels and their presumed sponsors, Rwanda and Uganda".

Hundreds of civilians are also reported to have been killed by RCD forces and their backers; massacres have occurred at a number of locations including Kalehe-Kabare where many Twa live. The civil war has had severe effects on the rural populations, the mortality rate near Bukavu is two and a half times the normal baseline for sub-Saharan Africa and children are suffering from malaria, measles and diarrhoea. Despite the difficulties, PIDP's field workers have managed to visit most of the villages and are trying to re-start projects. There is an urgent need for seeds and agricultural tools, as well as veterinary products for the livestock.

PIDP's co-ordinator Kapupu Diwa Mutimanwa was in Geneva attending the UN Working Group when the rebellion broke out in Kivu and he was unable to return due to the closure of DRC's international airports. He is currently carrying out a one-year course in development studies in Geneva, and is using the opportunity of being in Europe to raise Twa issues with European NGOs and agencies and at the EU and is making contacts with potential funders..

A study of the legal rights of the Twa communities evicted from the Kahuzi-Biega National Park during the 1980s is being carried out by a Congolese lawyer with the Kivu-based NGO Heritiers de la Justice. It is intended that the study will be published by the Forest Peoples Programme and IWGIA in 1999.

BURUNDI

The Twa of Burundi are extremely impoverished and marginalised. There are no autonomous Twa organisations, the two existing organisations working for the Twa are run by non-Twa. However in contrast to Rwanda, the Burundi

authorities acknowledge the ethnic issues which underlie the Twas' problems. There is even a Twa MP, a woman who is concerned to assist the Twa, and who has high level support for her activities from the Council of Churches and the Vice Presidency. Links are being established with CAURWA in Rwanda and PIDP in Kivu, to provide support and advice to Burundi Twa communities.

CAMEROON

Cameroon's Baka people living in the south east of the country are threatened by logging activities. While new forestry laws have been passed to regulate forestry operations and a new community forest law permits up to 5,000 ha to be managed by local communities, the implementation of these laws is very slow. 5,000 ha is in any case too small an area to support the hunter-gatherer activities of the Baka communities. Logging roads deep into the forest have stimulated a huge increase in hunting of bush meat to supply



Baka villagers, Cameroon (Foto: Dorothy Jackson).

commercial centres as far away as Douala on the coast. Many species of wild game are being hunted at unsustainable levels, and the forest resource base of the Baka is being depleted.

The 2,000 Bagyeli or Bakola people of the south of Cameroon are also affected by logging. In addition, they live along the route of the proposed oil pipeline which is to transport oil mined by Exxon, Elf and Shell from the Doba fields of southern Chad to Kribi on the Cameroon coastline. The oil consortium and the Cameroonian government are seeking World Bank finance for their investment in the project and to provide the necessary political support. The project has been heavily criticised by Chadian, Cameroonian and northern NGOs, by Dutch and German government-commissioned committees and international agencies. Friends of the Earth Netherlands has criticised Exxon's 1998 report on the Bakola Pygmy populations in the oil pipeline corridor, as claiming to represent a consultation with the Bakola, but in fact failing to provide objective information or solicit the views of affected groups in the area. In response to NGO pressure for the project to comply with the World Bank's Operational Directive on Indigenous Peoples (OD 4.20), Exxon has now commissioned the preparation of an Indigenous Peoples Plan, which is meant to ensure that indigenous people benefit from development projects and that adverse effects on them are avoided or mitigated.

CENTRAL AFRICAN REPUBLIC

The BaAka Pygmies

The northern part of the Congo river basin between the rivers Oubangui and Sangha, covering an area of about 100,000 km² within northern Congo and southern CAR regions, is the area of the BaAka Pygmies.¹ Neighbouring Pygmy groups are the Baka of southwestern Cameroon and the BaTwa of the region south of the Congo river (former Zaire, now Democratic Republic of Congo), the distinction being basically made by the use of different languages and by closer social relations within the groups. The BaAka form a group of several tens of thousands speaking Aka, a unique Bantu language.² While obviously borrowed from a now disappeared Bantu group with which the ancient BaAka used to live in close economic relations, the Aka language is now autonomous, a result of its long evolution from the source language. The whole region is covered with rain forest whose features vary between north to south latitude (from 3°N to the equator) and according to relief. While the BaAka are present nearly everywhere, several other ethnic groups, speaking

different languages, are living in the same region, mostly along the big rivers (Oubangui, Sangha, Likouala, Motaba, Ibenga and Lobaye). Beginning with colonial exploration (for ivory, wild rubber) a hundred years ago but increasing considerably over the last few decades, immigration of different ethnic groups has taken place, mostly due to industrial forest exploitation and mining. These populations also use the forest for their living, by slash and burn cultivation as well as by hunting and gathering. Throughout the area the BaAka are in contact with these other groups, their relationship is one of economic dependence, characterised by exchange of village goods (e.g. tools, alcohol, cultivated starches) for game and other forest produce (e.g. honey, and medicinal items) and they also provide cheap labour mainly in plantations.

The area of the BaAka of the CAR is confined to the Lobaye and Dzanga-Sangha forest area, with some settlements even in adjacent savannah regions. The total Aka population may be around 10,000 to 15,000 in Lobaye and 5,000 in Dzanga-Sangha and its northern periphery. Both forest regions are actually partly covered by protected areas and so-called integrated conservation and development projects, established by the CAR Ministry of Environment and Forests. Lobaye is supported by the regional program ECOFAC (Conservation et Utilisation Rationnelle des Ecosystèmes de l'Afrique Centrale) financed by the EU, and Dzanga-Sangha is assisted by the WWF and the German Technical Cooperation (GTZ). Besides the issue of conservation of ecosystems, these initiatives claim as well the protection of at least part of the Aka home range in order to sustain their cultural heritage. That is why the Dzanga-Sangha protected area includes not only wholly protected sectors of national parks, Dzanga and Ndoki (accessible for research and ecotourism only), but also a zone where communal hunting and gathering activities are allowed for local people according to rules of sustainability. This signifies for example, the use of traditional net or fibre snare technology and the ban of metal cable snares and unregistered guns.

The continuous immigration of the outnumbering savannah people into forest areas in search of job opportunities (depending basically on logging operations) has led to a disruption of the traditional exchange relationships between the BaAka and their former 'patrons', certain agriculturists or fishing groups. This fact can be viewed with various options: on one hand, there is indeed a certain potential for 'liberation' from ancient patron-client relationships with their former masters. But on the other hand, the breaking down of the traditional village authority has as well resulted in a deteriorating status of the BaAka. Whereas, within the former, more stable and often inherited

relationships between the BaAka and their 'patrons' there used to be a sense of exchange *and* social security, relations between BaAka and others have nowadays become very individualised. The BaAka are therefore more vulnerable to economic exploitation and violence.

Within the context of economic pressure and change, the BaAka are themselves participating in the destruction of their livelihood basis. Assuming new job opportunities as tree finders for logging companies (who are mainly interested in cutting *Entandophragma species*), they contribute to the fact that honey or caterpillar trees are disappearing. Another problem is their involvement in the villagers' illegal cable snare or gun poaching, from which they obviously do not get any benefits except for some little payment or tobacco and alcohol.³ It is only very recently that some BaAka seem to have become aware of the contradictions they are involved in but it is difficult to observe a change in certain habits.

In order to try to establish links between environmental protection and economic benefits the Dzanga-Sangha project offers different kinds of jobs to local people, including the BaAka. Due to their great forest knowledge, BaAka men are mainly employed as trackers and informants for conservation patrols, tourist guides and research. Some are involved in a health program as basic extension workers. Some BaAka women are engaged temporarily in tourism activities, such as dancing or gathering. Being aware of increasing social problems, catholic and Protestant church initiatives started in the 1970's to implement so-called Pygmy projects, in the CAR as well as in the whole Central African region. With the idea to allow the Pygmies a life of equality and self-determination, specific Pygmy villages were founded. Apart from Christian mission work, priorities lie within social domains, such as health and education, but also in bringing the BaAka to cultivate their own fields in order to disrupt dependence on manioc from the villagers. Obviously, these villages attracted Aka groups from different forest and savannah areas, sometimes even from the neighbouring Baka of Cameroon, so that these villages now are composed of highly heterogeneous communities. But the BaAka, who are used to living traditionally in small egalitarian kin groups without formal authorities, have not yet learned to organise themselves in bigger residence circumstances. After 30 years of experience, one has to ascertain that most of the created Pygmy villages have acquired some social organisation only by the strong hand of the missionaries. Numerous social conflicts within the groups are nowadays provoking a strong tendency to disrupt villages into smaller social units, also causing spatial separation. The Pygmy projects in the CAR, even region wide, are estab-

lishing their networks in order to exchange experiences and improve approaches.

One of the most important and successful activities of the Pygmy projects network is the fight for civil rights for the BaAka. Whereas in the 1993 political elections, they were not yet considered as full citizens of the CAR, BaAka could finally participate in the 1998 legislative vote. A long-standing initiative to provide BaAka with necessary identity cards and other legal documents is still going on, although in the end this proved to be unnecessary, as all inhabitants of the CAR got voting cards based on a general population census.

Aka culture is definitely changing at a rather high speed. Children going to school are no longer able to learn their parents' or ancestors' knowledge. Settlements along the roads, interference of outside authority (like missions), administration and projects, all lead to confusing social options. The former rather equal status of men and women within the traditional society is changing in a way that men are more likely to conceive of themselves as 'money earners', whereas women are being considered as more backward. But it is still a long way for the BaAka men to be eventually able and accepted to do more responsible work in 'development' terms. And perhaps, this might not even be their true wish, as the BaAka in general love the freedom to spend their lives according to spontaneous rhythms, necessities and opportunities. Regular work as an employee seems to be contradictory to their cultural identity. It seems rather uncertain which way they will go in the future as both individuals as well as communities.

Notes

1. Bahuchet, 1982, 1988, 1991a, 1991b, 1996
2. Cloarec-Heiss and Thomas, 1978
3. Noss, 1995, 1997 ; Sarno, 1998

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BOTSWANA

The development challenges facing the San/Basarwa population in Botswana include cultural, social, legal and economic issues. However, at a time when the strength and concentration of the San people should be directed towards the development of organisations that may assist in improving their day-to-day situation, and towards addressing the country-wide problem of securing a viable land base, interest and energy is very much focused on the controversy over the Central Kalahari Game Reserve. The questions of access and control over this large Reserve, that makes up the central part of Botswana, are taken up by the people affected as a matter of self-defence. It has also become an issue of considerable symbolic significance, and has attracted much attention, particularly from the international media.

This presentation will give an update on this issue, but will start with an overview of some other, less dramatic, but certainly very significant activities.

WIMSA/Botswana

The Windhoek based umbrella organisation, the Working Group for Indigenous Peoples in Southern Africa (WIMSA), branched out in 1998 when its Botswana office, WIMSA/BOT, was officially registered. Mathambo

Ngakaeaja has been recruited as the local office co-ordinator, and Aaron Johannes as its fieldworker. Both have previously worked with the Kuru Development Trust, and Johannes has also worked with First People of the Kalahari (FPK). The office is shared with the Kuru Development Trust, but there are plans to secure office facilities in Ghanzi and to work alongside the FPK to help with networking amongst the San.

Kuru and the Shakawe Field Office

Following the reorganisation of the D'Kar based Kuru Development Trust and the inauguration of a 'Community Owned Rural Development Support Programme', Kuru has continued its work as a development organisation, assisting marginalised communities in Botswana to establish and develop self-sustaining community self-help organisations. The Kuru Development Trust is led by a national Board. It consists of 15 representatives from the village organisations with which Kuru is working, and employs approximately 70 staff members. Agriculture, income generation, training, pre-school programs, art and culture are amongst the activities they have helped initiate with a particular emphasis on training, extension, organisational strengthening and support for economic activities.

A new field office has been established in Shakawe, in North-West Botswana. Land mapping of traditional territories has been completed in the Dobe area, and development plans will be drawn up with the communities. In September 1998 a consultation conference was held in Shakawe, and participating were representatives from Botswana, Namibia, South Africa, the Saami of Norway, the Maasai of Kenya and the Aborigines of Australia. The theme of the conference was "Indigenous Peoples' Consultation on Empowerment, Culture and Spirituality in Community Development".

University of Botswana: Language Development

One common problem encountered by Khoesan speakers who live in mostly Bantu speaking areas, is the precarious status of Khoesan languages. The five characteristic click sounds with their accompanying articulation make Khoesan languages phonetically extremely complex. Until about two thousand years ago, southern Africa was Khoesan speaking territory, and the number of languages and major dialects may well have been over one hundred. Today less than two dozen distinct languages remain. A few of them (6-8) have been transcribed into written languages, in other cases the work has just started. Their phonetic complexity has been made all the more difficult because of the lack of standardisation in Khoesan languages and this, combined with the

generally marginalised position of Khoesan speakers, has created the common impression amongst their neighbours that their languages consist of an unlimited and unidentifiable multitude of sounds.

A language workshop at the University of Botswana in January 1999 tried to address this broad range of problems. Its strategy was to assess the present level of knowledge about the number of Khoesan languages, where they were spoken and to what extent they had been documented. It also developed plans to prepare orthographies and dictionaries, and to investigate patterns of language use along with those factors which determine language shift and how a language dies. The workshop was attended by scholars from Botswana, Namibia, South Africa and Europe.

Amongst the topics discussed, a question of great interest was whether International Phonetic Association (IPA) symbols or Roman letters should be used to denote clicks. Of the four languages with the most advanced recording of vocabulary and grammar (Nama, Ju/'hoan, !Xóo and Naro), the first three are transcribed using IPA symbols, while Naro is transcribed using Roman letters to indicate the clicks. The reasons for the choice made for Naro were many, the main one being to minimise the distance between Bantu and European languages as far as writing is concerned.

Whilst from a 'purist' linguistic point of view it might be desirable that all Khoesan languages be written in the same format, it was noted that as far as practical, daily use of Naro is concerned, this difference from other Khoesan languages does not present any particular problems. Moreover, as Naro probably has the least complex sound pattern of all the Khoesan languages, this is the language most amenable to being transcribed without IPA symbols. The consensus amongst the linguists present was, however, to develop orthographies for new languages using IPA symbols. The workshop ended by setting up an International Resource Committee that will form a network for communication and that will identify research priorities and strategies.

First People of the Kalahari and the Negotiation Team for the Central Kalahari Game Reserve (CKGR)

In 1997 a Negotiating Team was formed, with the assistance from the First People of the Kalahari and other supporting NGO's, that consisted of elected representatives from the communities both inside and those resettled outside the reserve. A letter was sent to the Minister of Local Government, Land and Housing, outlining a mandate from the people and requesting a meeting to discuss how a dialogue could be established with regard to the question of land rights.

The Ministry in question ignored the letter and continued its policy of coercing people to leave the CKGR. In February 1998 a workshop was held to reassess the situation for the CKGR land claim. The workshop discussed new strategies for reaching a dialogue with the Botswanan government. After having issued a press statement voicing their concerns, and thanks to the mediation of the Botswana Centre for Human Rights, a meeting was set up with the outgoing President Masire in March. The most tangible outcome was that the Ministry of Local Government apologised for having ignored previous communications, and a proper meeting with the Ministry was promised.

Subsequently two meetings were held with the Minister of Local Government Mr. Kwelagobe, in June and September 1998. The Government of Botswana reiterated its position, namely that it wanted to:

- a. relocate the Basarwa out of the CKGR into two resettlement villages, Kaudwane and New Xade;
- b. set aside the CKGR for wildlife and tourism development.

The position of the CKGR residents was set out to be that they, their descendants and the descendants of their ancestors claim right of ownership, land use and the right to enjoy the fruits of development of the land that has been proclaimed the CKGR, as well as the right to be afforded equal status with other tribal and ethnic peoples of Botswana as regards the land which they and their ancestors have occupied.

At both meetings the Minister reserved the right to challenge the mandate of the Negotiating Team. At both meetings, and also in correspondence, the procedures that were followed in establishing the Negotiating Team were explained. The Minister, however, refused to recognise the Team as representing the residents of CKGR. He stated that the GOB would only recognise structures created by itself, namely village chiefs/headmen and Village Development Committees. The Minister stated that he personally intended to visit each village in order to ascertain for himself whether the people supported the mandate given to the team.

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 recognising such organisations. The fact that the legitimacy of the Negotiating Team and its support

organisation, the First People of the Kalahari, has been questioned, means that developing communication links between the people inside and outside the CKGR and continuing to document patterns of traditional land use, kinship ties and the affinity which connects people to the land of their ancestors, must take priority over other tasks. For this work, the recent recruitment of a new office manager/co-ordinator for FPK, Mama Rampedi, is a valuable contribution.



Khwe women of Molapo community, Central Kalahari Game Reserve (Foto: Christian Erni).

Some General Trends

In the process surrounding the CKGR two trends can be discerned that are almost universally found in the relationships between nation states and their indigenous minorities at the early stages of their attempts to enter into a dialogue.

The first, and still the most dominant trend in Botswana, is the refusal to acknowledge representative structures other than those established by the government. In this case, even when a letter submitted through proper channels went unanswered for eight months, the Negotiation Team was reprimanded for not following 'the proper channels'. The Government of Botswana is not yet recognising that the issue at stake is the recognition of minority delegations as legitimate and equal partners in dialogue. This should not necessarily be seen as a zero-sum situation where the gains for the minority would mean a loss for the majority. There are many areas where a more liberal concept of co-existence would be of mutual benefit.

However, in Botswana, as in other democratic countries, the Government should not be considered to be one uniform block. There are many indications that there are differences of opinion within the government and administrative structure, and that the old entrenched paternalistic attitudes to the Basarwa probably do not reign unchallenged. So far at least the authorities have turned a blind eye to the quiet return of some hundred of those who were initially relocated. De Beers, the large diamond consortium that has been prospecting inside the Game Reserve for some time is emphatic in stating that the modest settlement of Bushmen in no way interferes with their activities. (It was long assumed that the prospect of finding diamonds was a reason for evicting the San people). And the European Commission, which is funding the development of Management Plans for national parks, an activity undertaken by the Botswana Department of Wildlife and National Parks, is adamant that the Management Plans should allow for sustainable coexistence between people and wildlife.

NAMIBIA

In 1996, at the behest of the San in Namibia, a regional non-governmental organisation called the Working Group of Indigenous Minorities in Southern Africa (WIMSA) joined the body of well-established Namibian NGOs working with Namibian San communities – the Nyae Nyae Development Foundation and the Ombili Foundation. The Integrated Rural Development and Nature Conservation (IRDNC) Programme being the most prominent of these.

A WIMSA office was established in Windhoek, Namibia, and shortly thereafter a second office was established in D'Kar, Botswana. The Windhoek office is referred to as "the regional WIMSA" and the D'Kar office as "WIMSA Botswana".

WIMSA is mandated by the San to operate as a networking NGO, its essential purpose being to provide a platform for San communities to express their needs and concerns at the local, national, regional and international levels. The WIMSA mission statement – prepared by the San delegates at a

board meeting in May 1997 – focuses on the assistance that WIMSA should give the San to enable them to gain political recognition, to secure access to natural and financial resources, to raise human rights awareness among their communities, to become self-sustainable through development projects and to regain their identity and pride in their culture, thereby improving their self-esteem. To these ends the San delegates at the San Conference of 1997 hosted by WIMSA in Gross Barmen, Namibia, requested WIMSA's support for education and training, development planning, gaining control in the tourism industry, securing rights of access to land and natural resources, obtaining project funding, procuring legal advice and co-ordinating San affairs across the regional boundaries.

San Community Organisations in Namibia

WIMSA's 15 member organisations in Namibia, Botswana and South Africa constitute the backbone of the network. These are San organisations which have the right to participate in formulating WIMSA policies and work programmes, to receive the appropriate WIMSA services, to delegate representa-



Board members of WIMSA Namibia (Foto: Magdalena Brörmann).

tives to the WIMSA annual general assembly and to nominate candidates for election to the WIMSA board of trustees. Four of the member organisations are based in Namibia: the West Caprivi Development Trust, the Nyae Nyae Conservancy (formerly Nyae Nyae Farmers' Co-operative), the Omatako Valley Rest Camp Committee and the Sonneblom/Donkerbos Committee.

Namibia's Hai//om Development Trust resigned from WIMSA after its chairperson, who is also the Hai//om community's chief, failed to comply with the network's generally accepted conditions regarding accountability. However, the WIMSA board decided not to withdraw or withhold assistance to the entire community, but rather to support the efforts of a large group of community members (at their request) to resolve the leadership problems that the Hai//om are experiencing.

A number of San communities scattered around the eastern and far northern regions of Namibia have not yet managed to build the capacity necessary to form their own community-based organisations, thus they have not yet joined WIMSA on a formal basis. However, WIMSA has been assisting those communities to identify their problems, their capacity-building needs and their income-generating options. This assistance has often been given in conjunction with Namibia's Windhoek-based Centre for Applied Social Sciences (CASS), and the Centre for Research-Information-Action for Development in Africa (CRIAA), a French organisation which has an office in Windhoek.

San Programmes and Projects in Namibia

The San programmes and projects thus far implemented in Namibia focus on education and training, natural resource management, involvement in the tourism industry, institutional capacity-building and development planning, and human rights issues generally.

Education and Training

Three well-known private but government-subsidised schools in Namibia accommodate San children predominantly: the Gqaina School, the Ombili School and the Nyae Nyae Village Schools Project. All three schools have achieved remarkable results since being established in the past couple of years. The Gqaina School (Grades 1-5) has an attendance rate of 98% and has implemented a Ju/'hoan language project; the Ombili School (Grades 1-7) has integrated pre-primary education into its curriculum and set up a children's fund for those seeking education to enhance their formal education; and the Nyae Nyae Village School (Grades 1-3) focuses on training San teachers to provide mother-tongue education.

Namibia's National Institute of Education Development, in collaboration with South Africa's Molteno Project, facilitated the first Grade 1 Ju/'hoan materials development workshop, in which a socio-linguist helped the Ju/'hoan-speaking participants to scrutinise the cultural appropriateness of the initial literacy training series entitled *Breakthrough to Ju/'hoan*. The socio-linguist, who represented WIMSA and the South African San Institute at the workshop, prepared a most valuable report on the workshop which discusses matters needing attention and offers practical recommendations.

Namibia's Intersectoral Task Force for Educationally Marginalised Children plays an important role in advocating the plight of the San within the Ministry of Basic Education and Culture. The task force recently endorsed a highly significant document entitled "*National Policy Options for Educationally Marginalised Children*". It has also approved a documentary film-making project aimed at motivating the San to encourage their children to complete their formal schooling, and at raising awareness among school principals, teachers, student educationalists and ministry officials of the needs of San learners. The title of the film-making project is "*Challenges Facing San Children in Education*", and UNICEF has contracted the project to WIMSA.

An increasing need for pre-schools in San communities has become evident. Several San community members have established pre-schools, with concerned individuals and WIMSA helping to fulfil their training and infrastructural requirements. The pre-school curriculum is mainly determined by the San School Committee and student teachers who have been assigned to the pre-schools, some of whom have received initial training with the Bokamoso Pre-School Training Programme based in Botswana.

A number of young San from the Tsumkwe West and East Districts (in the area formerly known as "Bushmanland", now "Otjozondjupa Region") have taken the opportunity to upgrade their formal educational levels by enrolling in the Namibian College of Open Learning (NAMCOL). This institution offers courses for learners in Grade 10 (the compulsory minimum that a Namibian learner should attain) and Grade 12. Unfortunately, about 60% of the San learners did not possess sufficient self-confidence to take on the system of tutorial workshops and correspondence assignments, and thus did not sit for the end-of-year examinations.

A series of practical training workshops (which will run into 1999) is being conducted for secretaries serving the traditional leaders of the six broader San communities in Namibia. The workshops focus on equipping the secretaries with office and basic bookkeeping skills.

Another skills-training initiative is undertaken each year at the regional WIMSA office for young San selected from the candidates who apply in response to an invitation for training issued regionally. In 1998 a Namibian woman, a Namibian man and two South African men received this administrative and development-oriented training. The training themes are embedded in the day-to-day running of the WIMSA office, so there is ample opportunity for the trainees to practice the skills they acquire.

Tourism and Natural Resource Management

According to the Namibian Economic Policy Research Unit (NEPRU), the number of tourists who visited Namibia in 1997 increased by 9% to total half a million in 1998.¹ The itinerary of a high number of these tourists has included excursions to observe San cultural life in various communities. These excursions are offered by tour operators or lodge owners who derive high profits, whereas the rewards for the San communities themselves are extremely limited. To alter this inequitable situation, several communities have developed income-generating alternatives in the form of simple community-based camp sites or contracts negotiated with lodge owners with a view to achieving a balance of rewards.

Personnel of the IRDNC, a well-known Namibian NGO above-mentioned, assisted the Kxoe community in establishing the N//goava camp site situated close to the scenic Popa Falls in northern Namibia. The camp site has already generated considerable income, but the community still fears that the project may be jeopardised by the Namibian government's plan to expand the adjacent Divundu Prison and Rehabilitation Centre. The Legal Assistance Centre, a Windhoek-based public-interest law firm, took up the case on behalf of the Kxoe community and launched a High Court action against the Namibian government. The notice of motion focuses on the ownership of the disputed land, the evacuation of the community-based camp site and the rightful leader of the Kxoe. The case is still pending.

Another community-based camp site, the Omatako Valley Rest Camp, has been established by !Kung community members in the Tsumkwe West District (formerly West Bushmanland). Following a visit to projects supported by the Kuru Development Trust in Botswana, the !Kung felt encouraged to initiate an income-generating tourism project of their own. The objectives of the project – in addition to providing income-earning opportunities and creating jobs – are to acquire various skills, assist the San leaders of the area financially and demystify tourists' perceptions of the San by informing them about San tradition and contemporary culture.

In 1996 members of the !Xoo community agreed to give cultural performances for tourists staying at the Intu Afrika Lodge situated 60 km north of Mariental in southern Namibia. They requested WIMSA to facilitate negotiations for a contract that refers to a rotational employment system (vis-à-vis their positions and salaries as game trackers and guides, traditional village co-ordinators, camp-site managers and technical maintenance workers), the accommodation of livestock and the involvement of the !Xoo Community Trust which was set up with this project in mind. The agreement reached was that the !Xoo Community Trust will be paid a levy of 5% of the gross amount charged from each tourist visiting Intu Afrika, less whatever sum is rendered to the tour operators responsible for bringing tourists to the lodge. The contract was signed in August 1998 to become applicable as from January 1999.

Regarding natural resource management, the granting of a conservancy to the Ju/'hoan communities in Nyae Nyae in north-eastern Namibia was a huge achievement. The conservancy entitles the San to control hunting and tourism in the relevant area. In March 1998 the communities decided to enter into a contract with a private hunting company, in terms of which the company must pay a fixed amount for hunting a stipulated quota of specified animals. The contract guarantees the company the right to erect a luxurious tented camp in the area, and it affirms that some Ju/'hoan community members will be trained as game trackers, cooks and waiters at the camp.

In 1997 the neighbouring !Kung communities of the Tsumkwe West District began to develop a keen interest in the conservancy idea, and are in the process of applying for one of their own, which they have named the "N=a Jagna Conservancy". In 1998 the !Kung chief and traditional councillors (and later the Conservancy Committee members) became the driving forces behind the conservancy plan. They successfully involved all 16 !Kung communities in a series of information-sharing sessions and general discussions concerning the format, responsibilities and benefits of the conservancy. During the subsequent formal planning process – which was facilitated by a committed University of Cologne Ethnology student contracted by WIMSA – each community mapped out its natural resources. It was a time-consuming planning process because it also entailed fulfilling all government requirements: setting up a conservancy committee, drafting a conservancy constitution, registering the conservancy members, deciding on the precise conservancy boundaries and submitting the official conservancy application form. Informal talks have been held between representatives of the two conservancy areas with a view to co-ordinating their activities in future.

The sustainable management of a specific natural resource, namely the healing plant known as "Devil's Claw" (*Harpagophytum procumbens*) was facilitated by CRIAA with WIMSA's support. CRIAA commenced with the project among pilot communities (predominantly San) residing in eastern Namibia. This project emphasises training for the sustainable harvesting of Devil's Claw, quality processing and fair prices for the sale of the product, as well as income generation for marginalised communities on a long-term basis. The San communities are delighted with this project, which they say provides valuable training, facilitates community-based activities and enables them to sidestep "middle-persons" who in the past paid unacceptably low amounts to the harvesters of the plant. The project also ensures "fair-trade" exports – an inestimable bonus. Other San communities in Namibia have requested WIMSA to encourage CRIAA to include them in the Devil's Claw project.

Institutional Capacity-building and Development Planning

Representatives of most San communities in Namibia have had the opportunity to participate in capacity-building exercises at the local, national, regional and international levels. Most NGOs working with Namibian San have incorporated capacity-building sessions into their programmes.

At the national level, the programme entitled *Learning Leadership and Co-operation*, which is jointly facilitated by CASS and WIMSA, aims to foster co-operation between the San traditional authorities and those of neighbouring communities. In some regions of Namibia this programme has presented the first opportunity for San community representatives to discuss their concerns with their counterparts representing other ethnic groups, and to reach consensus on a few issues, such as respect for minority rights. A significant goal was attained in late 1998 when the Ju/'hoan and !Kung traditional authorities based in the Tsumkwe East and West Districts respectively, gained official political recognition and were acknowledged by the Namibian government as members of the Council of Traditional Leaders.

At the regional level, the WIMSA board meetings and annual general assembly provide opportunities for the San to meet, evaluate WIMSA's performance, make decisions regarding mutual assistance and direction, and plan for the future.

At the international level, the attendance of San representatives at a number of conferences has served to stimulate an intensive exchange of views, experiences and knowledge. Each international conference, with its specific theme, has helped the San to make new friends, learn about other indigenous peo-

ples, gain new insights, become familiar with new environments, initiate new projects and increase their self-confidence. The San representatives made presentations on each of these occasions, thus they were not present merely in an observational capacity but actually fed into the body of emerging knowledge. These conferences include the following: the First African Indigenous Women's Conference; the Workshop on Land and Spirituality in the African Context; the 16th Session of the UN Working Group on Indigenous Populations; the Conference on Human Rights for Indigenous Peoples of Africa and Ethnicity, Migration and Multiculturalism; and the Indigenous Peoples' Consultation on Empowerment, Culture and Spirituality in Community Development.

Concluding Remarks

The major achievements of the San in 1998 include the attainment of conservancy rights for one community, and the attainment of political recognition for the traditional leaders of two communities. Many smaller achievements cannot be quantitatively measured – as yet or at all – but it has become apparent that the various training exercises undertaken have engendered self-esteem among a high number of San representatives, that is, apart from the hard skills they have acquired which will ultimately serve to raise the quality of life of their historically marginalised communities.

On the other hand, several negative tendencies among San communities still have to be addressed. These are connected to the generation gap, a high level of alcohol abuse, the widespread prevalence of individual advantage over collective interests, and the conspicuous passivity of most San women regarding developmental and political matters. To a very large extent these negative tendencies are attributable to the region's long history of racial discrimination and exclusionary socio-cultural and political leanings, which have placed millions at a severe disadvantage in the modern world. Undoing the damage done is likely to be a long and arduous struggle, but the process for the San has at least begun.

Notes

1. *NEPRU Viewpoint: Quarterly Economic Review*, No. 19, Windhoek, December 1998.

SOUTH AFRICA

The Indigenous Peoples of Africa Co-ordinating Committee (IPACC) has identified South Africa as the continent's key country regarding lobbying for the acceptance of the concept of indigenous rights, and also the endorsement of the UN Draft Declaration on the Rights of Indigenous Peoples and the ILO Convention 169.

South Africa has the most progressive and democratic constitution on the continent. The Deputy President, Thabo Mbeki has made it clear that he wants South Africa to use its human rights' reputation to increase its standing at the United Nations, with an eye on a seat on the Security Council in mind. Should South Africa champion the indigenous rights issue as part of its human rights and development agenda, it would likely influence other African states. This in turn would substantially influence the General Assembly vote on the Draft Declaration, where Africa holds the largest block of votes.

After lobbying by the Griqua National Conference (GNC) and the ILO, the Cabinet gave the Minister of Constitutional Development (DCD), Mohammed Valli Moosa, a mandate to negotiate for the recognition and accommodation of indigenous peoples and their rights in the South African constitution. The first meeting took place on the 23rd and 24th of May 1998, in the Northern Cape town of Upington. That meeting was the first occasion where San, Nama and Griqua representatives came together to negotiate with the government. The next round of negotiations is due to take place on the 8th and 9th of March 1999, and will include discussions on how to create an Indigenous Council that will represent the three population groups, and on how to put in place mechanisms that will recognise traditional leaders where they exist. Each of these representative structures would link directly to the government itself.

The Current Constitutional Situation

The issue of indigenous peoples and their rights only emerged as a coherent topic in South Africa after the disbanding of the African National Congress in 1990 and the commencement of the transformation to majority democratic rule under a human rights based constitution. Self-identification started when the Griqua population sought legal and constitutional recognition of their identity and leadership, and when the San began participating in the regional WIMSA council and the UNWGIP. Not only has the UN and ILO concept of indigenous identity been introduced into South African political discourse,

but the government has relaxed its vigilance towards any discussion of collective ethnic bargaining with the state.

At the time when the ANC drafted its constitution, it was deeply committed to both the Western tradition of individual human and civil rights, and also the principle of South Africa being a unitary state, with a government elected on the basis of one person one vote. The subtle shift in language evident during the Uppington conference suggests that the government no longer sees collective rights as being outside the existing and preferred constitutional set up.

In South Africa at present, there is no accepted definition of the term 'indigenous'. The word is used only twice in the 1996 Constitution and is nowhere defined. Article 6(2) of the constitution makes reference to "the historically diminished use and status of the *indigenous* languages of our people" and requires the state to take positive measures to "elevate the status and advance the use of these languages" (SA Constitution, 1996: 4). [Emphasis added]. However, this Article and the other sub-clause appear to make reference to the nine official Bantu languages. In a separate clause, the state is held to protect and promote the languages of Nama and San people.

There is a further reference to traditional indigenous laws. Familiarity with South African political discourse suggests that 'indigenous' in this sense is meant to distinguish between the languages and legal customs of majority Bantu language speakers and those of the minority European settler populations. This meaning is the norm in Southern Africa where both Botswana and Zimbabwe regularly use the term 'indigenous' to distinguish between the black majority and the European and Asian settler minorities.

The current negotiations between the Department of Constitutional Affairs and the Griqua, Nama and San communities suggest that the government is willing to review the legal meaning of the term 'indigenous' to fit more precisely with UN and ILO definitions, i.e., one which refers to aboriginal populations. The boundaries of this emerging definition have yet to be agreed. There may be claims by both Coloured and Xhosa communities who will wish to be covered by this term. There may also be resistance from majority traditional leaders who see the move as one which is unnecessary and which will diminish the status of hereditary tribal chieftaincies that date back to colonial times.

Who is Claiming Indigenous Status?

The San

The major concerns of San groups are cultural and linguistic survival, as well as land, water and intellectual property rights including benefits arising from nationalised rock art monuments. The San are supported by a specialised non-government organisation, the South African San Institute (SASI). NGO support appears to have a significant impact on the organisational capacity of the San.

!Xu and Khwe

The two largest San groups in South Africa are immigrants from Angola via Namibia. These are the !Xu and the Khwe, currently living at Schmidtsdrift, 80 km outside the provincial capital Kimberley. The !Xu's and Khwe's land problems seem to have been settled with the government, although the resettlement to the new farms of the four thousand people currently living in tents has been slow and difficult. Current concerns are about economic development, housing, cultural and language rights, and systems of governance and representation.

=Khomani and /'Auni

The =Khomani constitute some of the very few surviving aboriginal South African San. Approximately 500 adults are spread over an area of more than 1000 km in the Northern Cape province. For two years they have been engaged in a land claim against the Kalahari Gemsbok National Park (KGNP). With strong government support, the claim has settled. The community is to receive 40,000 hectares outside the Park and 25,000 hectares inside the Park. The settlement was signed in the Kalahari on the 21st of March 1999 and was attended by the soon to be President of South Africa, Thabo Mbeki. Mbeki was visibly moved by the event and stated that this restitution demonstrates his government's commitment to the UN Decade of Indigenous Peoples. Mbeki and the San exchanged gifts including a traditional Xhosa pipe and tobacco bag from the Deputy President, and a carved ostrich egg full of water (the Kalahari's most valuable resource) from the San.

The =Khomani and South African National Parks must still negotiate what natural resource rights and settlement rights will be available in the San section of the Park. The San will be pushing for full restitution of hunting and gathering rights, whilst maintaining the whole area as a nature conservation site. KGNP is strategically important as it is a transfrontier park shared by

Botswana. Any decision over resource rights would also set a precedent for other hunter-gatherers in Africa.

Approximately 30 elders in this community speak the last surviving language of the Southern San family. The =Khomani are struggling to get government support to research their dying language, and also to promote Nama, the common language of the community. As these are constitutionally guaranteed rights that are not being implemented, the =Khomani may take the government to court over the death of their language.

!Xu, Khwe and =Khomani representatives have been actively involved in the negotiations with the DCD. The Khwe and =Khomani are also represented on the Working Group of Indigenous Minorities of Southern Africa (WIMSA) Board.

//Xegwi

A small pocket of aboriginal South African San lives on farms in the Mpumalanga province. Their numbers are not known, although estimates run between 30 and 100 adults. These //Xegwi San are descendants of a displaced group of Drakensberg San, famous for the rock paintings made by their ancestors up until the middle of the last century. Though weakly organised they are likely to join in negotiations with the DCD during 1999.

!Kung

There is a group of about 70 adult !Kung San living across the border from South Africa in Botswana. These people originally lived next to the =Khomani in what became the Kalahari Gemsbok National Park. They were displaced by the KGNP and driven into Botswana. They have lodged a land claim in South Africa although they have yet to resolve the issue of their citizenship.

Griqua

During the 19th century a significant group of Khoe descendants clustered around the identity of Griqua. The Griquas are explicit that their heritage is African and Khoe. Their institutions are based on European ones, particularly the church. They lost their original languages and many of their cultural practices and traditional knowledge.

The Griqua formed the earliest indigenous civil society structures in South Africa and have been a leading force in the recognition of indigenous rights in the democratic era. In 1998, the six main Griqua organisations formed an alliance, the Griqua National Forum, to negotiate with the South African government for recognition of their indigenous status. The Griqua National Con-

ference (GNC) is the largest and most influential member of the Forum. Cecil LeFleur, spokesperson for the GNC, is also the Deputy Chairperson of Indigenous Peoples of Africa Co-ordinating Committee (IPACC).

Nama (Khoekhoen)

The Nama are an aboriginal pastoralist society, who continue to speak a Khoesan language, Khoekhoegowap. Under apartheid legislation all Khoe and San people were re-classified as Coloured. There was an aggressive campaign by both Church and State to assimilate all surviving indigenous people into an Afrikaans, Christian and Coloured identity.

Only people in the remotest regions were able to maintain their language and identity. Up until 1994, the government of South Africa was not aware of the presence of Nama-speaking people inside the Republic. Current estimates on the number of Nama-speakers range from five to ten thousand people.

The fate of the Nama language and cultural traditions is a source of great anxiety both to older Nama people and, increasingly, to young activists as well. The Nama are lobbying the government to introduce their language into schools and to accept the correct spelling of their place names. The Nama have struggled to participate effectively in negotiations with the Department of Constitutional Development. Nama communities are challenged by poverty, weak leadership, and a lack of supporting resources.

The Namas of the Richtersveld have enjoyed the highest profile of any Nama group owing to the establishment of the Richtersveld National Park (RNP), a unique and ground-breaking arrangement whereby the SA National Parks have a rental agreement with the Nama people who were displaced by the Park. Some Nama pastoralists have grazing rights in the RNP. The Namas of Riemvasmaak are striving for similar rights in Au-grabies Falls National Park.

Coloured and Baster Groups

In the Western and Eastern Cape there have been moves by former Coloured South Africans to reclaim their historical identity. These moves have revived ethnic identities that died out in earlier centuries and those involved are re-inventing cultural practices which allow them to identify themselves as indigenous. The response by Nama and San people to these moves is ambivalent. The Baster organisations in South Africa, which also represent people of mixed ancestry, have chosen not to become involved in the indigenous movement.

PART II

INDIGENOUS WOMEN'S ISSUES

THE AMERICAS

THE PRESENCE OF INDIGENOUS WOMEN ON THE AMERICAN CONTINENT

The indigenous women of the American continent have undergone a long process of organisation in order to obtain recognition of their rights. These are rights such as: the right to representation and to be elected, the right to political equality with men and the right to occupy posts of public office and community responsibility. These are some of the factors relevant to this sector's organisational process today.

This rebirth of indigenous women has arisen out of our ethnic identity, recognising that we live under a triple oppression: that of being a woman, being indigenous and being poor. This puts us in a marginalised and undervalued position by virtue of the fact that we are women. In seeking to reverse this reality, we have been led to consider the possibility of building a new image of *womanhood* and of being recognised as individuals with rights within the emancipatory processes of liberty and autonomy that indigenous peoples are currently experiencing. This organisational process has taken several years to initiate and has caused a number of problems within our own peoples, as Blanca Chancoso says:

“When indigenous women began to organise, it was not because it was fashionable but because we sat down and considered our actual situation as women, as a community and as indigenous people.”¹

We learnt that when we were united “our hearts felt strong”; if there was no organisation or involvement it was as if, “your eyes were closed”; “if we don't listen we don't know how to defend ourselves and this is why we are suffering”. These were the reasons which led us to participate as women, in the home and the community and even in positions of community authority and within international bodies.

We are convinced that we are travelling along a path of change, that we are searching for new referents which come from the body, our sexuality and the family and which are found in both private and public spheres, such as the political space within the movement in which we have been participating.

When we began to organise we had no face of our own, it was always hidden within the fight of our peoples and brothers. Our voices could hardly

be heard - they were no more than a whisper - but now our voices are becoming strong and we can see that organising has helped us to mature and move forward and to gain the space we occupy today.

Each one of the different events we have been involved in as women has led us to reflect on the fact that within our communities we are experiencing new and different problems. This has made indigenous women embark upon an organisational process which helps us to understand these cultural changes, which enables us to progress and thus be in a position to help strengthen our culture, our identity and our thinking.

Building our Spaces

Once we had arrived at these conclusions we were able to recognise that we needed a space for ourselves which would enable us - as women and with women - to discuss, to plan strategies which would create mechanisms, to develop our own initiatives, to think about ourselves and thus to be able to improve our situation and strengthen ourselves as a community, an organisation and peoples.

In this respect, at a continental level we have devoted ourselves to the task of organising a series of regional workshops in Central, North and South America and we have held two continental meetings in which we sat down and discussed our situation as sisters from different peoples but with the same problems. This helped us to unite and identify ourselves as indigenous women.

This organisational process has not only occurred within women's spaces. It started from participation in mixed organisations alongside our brothers, in the communities, because we are a part of our peoples. It was there that we learnt to organise ourselves.

Defending the rights of indigenous peoples, looking for joint alternatives, defending our territory and culture - women have been involved in the struggle for all of these things too. We may not often be visible but we are there.

The path has been a difficult one. We have had successes, difficulties and obstacles but every different action has attempted to break the dynamic of *being invisible* and has tried to put forward our needs, demands and actions.

Where We Are and How We Got Here

From 31st July to 4th August 1995, the first Continental Meeting of Indigenous Women of the First Nations of Abya-Ayala was held in Quito, Ecuador. This event had the objectives of achieving an initial rapprochement between women from all over the continent in order to formulate a "Road to Beijing" proposal and to "plan our strategies in the best possible way and to coordi-

nate the different proposals being developed by indigenous women". One of the conclusions of this meeting was that a second Continental Meeting should be held, with Mexico as the venue.

Prior to this meeting, a number of workshops were held to deal with the formulation of proposals and initiatives by indigenous women. The activities were the following:

II Continental Meeting of the First Nations of Abya-Ayala.

This event was held in Mexico City and enabled more than a hundred indigenous women to come together, representing 25 indigenous peoples of the first nations of Abya-Ayala and from 17 countries of the American continent. Meeting from the 4th-7th December in what was the political heart of Mexico-Tenochtitlan, we analysed problems common to the women of our peoples over a period of four days.

The aims of this meeting could be classified as follows:

1. To search for alternatives, to share experiences and to encourage the involvement of women in the social, economic, cultural and political processes which take place within indigenous peoples.
2. To promote indigenous women's proposals so that they may be incorporated into the platforms for action of indigenous peoples, governments and any other ethnic or racial initiative.
3. To submit a position to the UNO as indigenous women with regard to the Decade of Indigenous Peoples.
4. To find out about the existence of indigenous women's organisations all over the continent, enabling the individual and collective processes of each one to be strengthened.
5. To strengthen indigenous women's leadership from a gender perspective, starting from the basis of our cultural identity.

The issues the meeting dealt with focussed on analysing the problems which today affect our lives as women and as indigenous peoples and of considering our position, as women, with regard to the Decade of Indigenous Peoples. We tried to deal with issues which currently affect our peoples, such as the process of marketing our handicrafts and intellectual property in the face of the process of globalisation in some depth. We also tackled the issue of how women can train and educate themselves as part of this organisational process of participation in order to build a stronger leadership which has an im-

pact on forms of organisation and improved participation: we drew up a balance sheet of the indigenous women's movement and our participation in international bodies such as the UNO and the Permanent Forum.

For each one of the agenda points discussed, we came to conclusions which are enabling the women's movement from all over the continent to move forward in an organised manner in its search for joint alternatives.

In this meeting we concluded that we have had highs and lows at a continental level, but that the most important thing was that our processes are being strengthened and used every day, thus overcoming our difficulties and growing organisationally.

We encountered the following difficulties in this process of continental organisation:

- There was no permanently operational Continental or Regional Coordinating Body.
- There is no training committee to provide follow up to leadership training.
- There was a lack of permanent communication between countries and committees.
- No new links and/or ties with indigenous women in new countries were created.
- The majority of women's organisations either do not have their own headquarters and/or means of communication which would enable them to gather information and make the most use of it, or they do not have significant access to such things.
- The organisational process of women is slower in mixed organisations.
- There was a lack of autonomy in the handling and management of funds provided for the women.
- As women, we are overloaded with organisational, community and family tasks.
- There was a lack of clear solidarity as indigenous women.
- There was little or no participation on the part of women in international spaces.

We recognise that initiating a process is not easy, because of the difficulties which will be encountered. However this process also bore some fruits and we have had successes which enable us to advance in greater security and strength.

Achievements

- Coordination between the Regional Workshops and the First Continental Meeting (held in Ecuador).
- It was our first attempt at continental level coordination.
- The Continental Workshop was held, which provided follow up to the regional Workshops and where a common work plan was outlined on specific issues and work committees were established.
- The progress of the work committee on production and marketing of handicrafts and intellectual property.
- A space which enabled us to think about our needs was generated, and this is something which has motivated a large number of women from around the continent.
- Information relating to indigenous organisations was gained at a continental level.
- Good exchanges were held between indigenous women's organisations.
- The second Continental Meeting was held.²

Building Leadership

Having a space in which to meet and reflect has enabled us to analyse our successes and difficulties and also to build up our leadership. We have been organising everywhere since the 1980s, playing a leadership or support role in many indigenous people's processes. However, we recognise that a process of development at an international level has been missing. We do nevertheless feel that in recent years we have begun to achieve this, with participation in the UNO and in international conferences.

It is important for us to strengthen the different levels of leadership: national, regional and continental, with proposals formulated from an indigenous woman's perspective and to progressively incorporate our proposals into the promotion of issues of indigenous health and women's rights.

Another challenge facing indigenous women is that of maintaining continuity in the development of leadership capacity, not participating individually but through broader organisational processes.

At another level we have to work on training and education: in this respect attempts have been made by some countries to train leaders. In Ecuador, a training school for women leaders was opened in 1995. This was divided into three levels: grass roots women, women who have been involved in organisations and women who have been involved in leadership training.

As Elvia Dagua, Women's Secretary for CONAIE, says:

*"In Ecuador, women participate actively in all spheres but they are not appreciated, so we have to appreciate ourselves in our involvement and work, the space women have acquired within CONAIE is very important, we just have to make it more consistent and get more women involved."*³

In Guatemala, the incorporation of women's issues into the Peace Agreement was achieved through the involvement of indigenous women in their people's struggle, although they themselves say:

"We know that there is a long way to go before we are recognised as leaders".⁴

In the case of Mexico, since 1996 and to date, the National Coordinating Body of Indigenous Women has been working on training human rights promoters from a gender perspective and in reproductive rights. This has been a national level process, the result being a huge accumulation of experiences for each of the participants.

In some of the continental workshops and meetings, there was a felt need for leadership teams of professional women who understand women's and indigenous people's issues in order to participate in the different national and international events. This would imply special measures being undertaken within each of the national organisations and the need to ensure there is no loss of continuity when there are changes in the women leaders.

We know that any type of leadership which is developed must be based on an indigenous world view and on the political practices of our peoples, seeking a methodology which is grounded in our reality so that we can gradually work at each level of leadership.

We, the indigenous women's organisations, can see the progress we are making in combining the desire to help and share resources with the organisational dynamics each country has shown in forming this continental coordination.

By Way of Conclusion

The organisation we are seeking as indigenous women implies and confronts power, both within the boundaries of the State and the prevailing legal system, and within our own indigenous communities because it demands our own specificity and it questions certain *ways and customs* which violate our human rights. The other aspect which should be highlighted is the asymmetries

which manifest themselves in gender and power relations within the communities. In the face of such evidence, we cannot remain silent.

The demands we are making as women seek to restore our culture and certain customs, but not on the basis of an uncritical vision of the customs which are today violating our integrity. Quite the contrary, we are questioning them and seeking new images and reference points with which to build us as women. The clamorous voice of Tomasa Sandoval, an indigenous woman from Mexico, can clearly be heard throughout virtually the whole continent saying:

"Indigenous women are the majority of the population of our peoples and we no longer want to continue to remain in the shadow of the men's actions."

We are thus convinced that our rights have to be resolved through recognition of our people's autonomy so that citizenship, with all its inherent rights and duties, will not be denied us and may be exercised by indigenous peoples.

We have encountered opposition to this process of organisation from our brother leaders, who see this struggle of "women's liberation" as attempts at *acculturation*; others do not support us, giving as an example the fight of the women Zapatistas who live by a revolutionary Law; some sisters also suggest that "the struggle is not against our menfolk, but against the economic, political, social and cultural system imposed by neoliberalism"⁵ and we agree with them, but we cannot unquestioningly put aside the fact that many brothers in the communities and in households violate the dignity of women, beating them, whipping them, punishing them.

We cannot tell only one part of the story, for now the situation of oppression which we women experience is being forgotten and importance is being given only to the social or economic struggle, thus creating dilemmas between the demands of gender and those of ethnicity such as have already manifested themselves in a number of mixed organisations.

It is, however, important to mention that the experience of indigenous women's groups has taught them not to divide the struggle but to take on the demands of their peoples, for recognition as indigenous peoples has to go hand in hand with the demands they have as indigenous women.

Women's organisations are thus a space which they value and which they want to build, where they are constructing an identity which marks out and defines the gender condition and enables an interactive flow between men and women. It also enables the establishment of a dialogue of rediscovery

with their own people and their customs and the forming of alliances and actions with women in general, demanding recognition as indigenous women within their villages and non-indigenous society.

In the new millennium which is approaching, new horizons for indigenous peoples - and for women in general - are being heralded.

Indigenous women will continue to move forward and strengthen, their indigenous identity and their womanhood developing and growing. The challenge is a huge one in the long term, many are clear that even when the rights of their peoples are recognised in the Constitution and laws of each country of the American continent, they may be "dead letter" laws if there is no change in the attitude and mentality of non-indigenous society, and amongst indigenous peoples with regard to women. It is not sufficient to recognise and mention indigenous people's contributions in the history books or museums, concrete action is required.

The challenge which is today being put to non-indigenous society by indigenous peoples so that they may be recognised as subjects with political rights is the same as that which indigenous women are now putting to their ethnic and class brothers. The question I ask is the following: will we come to the end of this millennium without the rights of indigenous peoples and women being recognised?

The Declaration of Mexico-Tenochtitlan

Indigenous women, representatives of 25 indigenous peoples of the first nations of Abya-Ayala and of 17 countries of the American continent, meeting from 4th to 7th December 1997 in the political heart of what was Mexico-Tenochtitlan, one of the 56 indigenous cultures which lived the length and breadth of the Mexican territory, considered our common problems as women members of our peoples, and came to the following conclusions:

Indigenous women are a fundamental part of the reproduction and permanence of our thousand year old cultures and we thus today once more acknowledge our responsibility to reinforce, build and strengthen our presence and participation in all fields and at all levels, both within and outside our peoples.

As women we will continue to watch over recognition of our rights and the need for us to strengthen, as indigenous women, the struggle

of our peoples, political and territorial recovery and strengthening being the only way of guaranteeing our influence, the only way of guaranteeing our existence as a people and as the original inhabitants of this continent.

We women who meet at this time have taken serious responsibilities and commitments with regard to life and the struggle which we are experiencing as indigenous peoples. Each one of us has come with different responsibilities, from different places and organisations; during this time we have had the opportunity of learning, of defining where we are going, where we want to direct our struggle, where to put our strength as women without diverting from the path being trodden as indigenous peoples.

Thus at the end of the II Continental Meeting we demand

1. Faced with the constant aggressive and violent response to demands for our fundamental rights, such as the right to control and exploit our natural resources, we demand that states recognise and respect the territorial and political rights of indigenous peoples and that they adapt their laws to the undeniable pluricultural reality which exists in the countries of the continent where we continue to exist as peoples.
 2. We demand approval of the draft bill put forward by COCOPA and the immediate demilitarisation of Chiapas and all indigenous regions of Mexico, as minimum conditions with which to resume the San Andres dialogue.
 3. We demand that countries ratify, establish regulations for and implement ILO Convention No. 169 regarding indigenous people's rights in every country.
 4. Within the framework of the Indigenous Decade declared by the ONU, we demand that sufficient resources be guaranteed for the strengthening of the work of indigenous people's organisations.
- We demand that states, international bodies, research institutes and transnational companies respect the knowledge and life of our peoples.

We reject all attempts at plant, animal and human research and genetic piracy such as the Human Genome, which all indigenous peoples are victims of.

5 We declare ourselves to be against all the policies of neo-liberal transnationals which attack the dignity of indigenous peoples, such as the projects being promoted in many regions of Latin America. Indigenous peoples are the only people responsible for maintaining, for monitoring, and for presenting ourselves as such; to safeguard the knowledge which exists within each of the cultures and to monitor each of the areas within our territories.

To control knowledge gained from astronomy, medicine, biodiversity, from the different lives and forces which exist in the area, both in the soil and subsoil.

These are the first steps we are taking as women, firm and sure steps; even if we do not have the financial resources to guarantee our systematic work as women, we sisters have nevertheless been working to strengthen our own political space.

The work began in Ecuador and was continued in Guatemala, and this second Continental Meeting marks an historic and very important event in the life of our peoples because indigenous women have determined, on the basis of this event, that we have to learn to walk alone, without further intermediaries. We want a new relationship with non-indigenous society, we want a new relationship with every one of the solidarity organisations which have been supporting us in these processes.

We would like to thank all of the organisations which have supported us in this event, but we believe that from now on it is necessary for us, as indigenous women, to define our own strategy for action and political line.

We are many, our presence cannot be denied, quiet but not speechless, oboes and drums beat out our rhythms, our fiestas, our traditions, they are voice and cradle of our existence.

Mexico DF, December 1997.

Notes

- 1 Blanco Chancoso, II Continental Meeting of Indigenous Women, Mexico, 1997
- 2 II Continental Meeting of Indigenous Women of the First Nations of Abya-Ayala, Mexico, December 1997, K'injal Antsetik, May 1999
- 3 Intervention by Elvia Dagua, member of CONAIE, December 1997, Mexico DF
- 4 Intervention by Clotilde in the continental workshop of indigenous women, Guatemala, July 1996
- 5 Declaration of the National Indigenous Forum

ASIA

THE ASIAN INDIGENOUS WOMEN'S NETWORK

We established the Asian Indigenous Women's Network (AIWN) during the First Asian Indigenous Women's Conference held at the lone Cordillera city of Baguio, Philippines in January 1993. The conference brought together 150 women from 13 Asian countries and a few from Europe and the Americas. Understandably, the bulk of participants were from local organisations in the Cordillera. The theme of the conference was "Sharing Commonalities and Diversities, Forging Unity Towards Indigenous Women's Empowerment".

We found that with all the diversity among us, we have many commonalities. A common thread that binds us is the nature of our relationship with our ancestral lands/territories. Our identity as peoples is closely linked with our ancestral territory, and our productivity as food producers is directly linked to how the ecological balance is maintained in that territory.

We all experience how our rights as women and as indigenous peoples are violated. Karen women told how they have been used as sex slaves, human mine sweepers and human shields under the SLORC regime in Burma. Naga women related how the Special Powers' Act of the Indian government led to them being raped, harassed and widowed. Jumma women from the Chittagong Hill Tracts in Bangladesh experienced cases of state violence perpetrated by military forces like gang rape, the cutting of women's breasts, and forced marriages and sterilisation.

We are all confronted with issues of development and the environment. We are affected by the mainstream development models of industrialised and consumerist countries. Some of the worst cases are a result of the effects of logging, mining, dams and tourism. With the drive towards globalisation being embraced enthusiastically by many of our nation-states, these cases will increase in number and their effects worsen.

During the conference we shared our traditional songs and dances. This aspect of our lives as indigenous women is increasingly being destroyed by all the different influences brought into our communities. Thus the network is also an attempt to ensure that indigenous traditions and cultures which contribute to the bio-cultural diversity of this world should be protected.

Asian indigenous peoples comprise the bulk of the world population of indigenous peoples. Out of 200 million, about 150 million indigenous people are found in Asia alone. Approximately half of them are women. Many of us are not organised. Others are, but their concerns are limited to the traditional or stereotypical role of women. Some have developed dynamic women's movements in their communities. It is time we project our own situations and articulate our issues and concerns at local, national, regional and international levels.

As a contribution to the world-wide indigenous women's movement, the AIWN's main objective is to support, sustain and help consolidate various efforts of indigenous women in Asia. The AIWN aims to help them critically understand the roots of their marginalised situation and thereby enable them to empower themselves by becoming aware of their rights as women and as indigenous peoples, and help them develop their own organisations or structures for empowerment.

Towards achieving these aims, the AIWN is undertaking the following activities:

1. Networking and Information Work

Members of the network and advocates keep each other updated about activities and their situation. They link Asian indigenous women's groups to others all over the world. Our 'concrete support activity' was the participation of the Convenor (upon the invitation of Rigoberta Menchu Tum) in the fact-finding mission to Chiapas following the uprising of the EZLN in Mexico on January the 1st 1994.

As a means for keeping in touch, the AIWN now publishes the AIWN Newsletter three times a year. The contents of the newsletter are basically updates on the situation of indigenous women, current campaigns, organisational profiles and activities, and news on developments at the international level. Writers come from the organisations themselves.

2. Lobbying and Advocacy

The AIWN is actively involved in lobbying and advocacy work for indigenous peoples' issues and concerns in general, with a specific focus on indigenous women's issues and concerns. The AIWN is actively advocating for stronger representation of women in the UN Working Group for Indigenous Populations, and for a more women-sensitive program for the International Decade for the World's Indigenous People. As a way of creating a more 'indigenous peoples-sensitive' policy and instrument, the AIWN is participating in several forums, such as UN conferences, meetings, sessions, as well as in the forums of those bodies and institutions whose operations impact on indigenous peoples in general, and indigenous women in particular.

3. Capacity-building

The AIWN aims to help enhance the capacity of Asian indigenous women to articulate their own issues and demands by providing training that helps them analyse their situation in a more comprehensive way, linking gender, class and their indigeness.

Since its formation in 1993, the member organisations of the network continued implementing their individual plans. 1994 saw a lot of developments in preparation for the Beijing Conference. Kabita Chakma represented the AIWN in the First Inter-governmental Committee Meeting on Biodiversity. The AIWN facilitated the Indigenous Women's Workshop in the ESCAP Women in Development Forum held in Manila where efforts were made to bring in participants from other country. The following year saw the AIWN hosting the Indigenous Women's Tent at the NGO Forum which saw the announcement of the Beijing Declaration of Indigenous Women. Aside from that, the AIWN also facilitated the workshop on Women's Resistance Strategies. Moreover, individuals looked upon the AIWN as their organisation and represented it in various international forums, speaking on its behalf. In most cases, the Convenor acted as the AIWN's spokesperson.

The AIWN's Secretariat faced difficulties, since the Cordillera Women's Education and Resource Centre (CWERC) which had been assigned to do some of its work, was kept busy from 1994 to 1996 by both the lack of resources and organisational development activities. In 1997, the members were recontacted with an eye to resuming the activities for which the AIWN was formed. Some members opted out of the network and set up their own networks instead. Others were still pre-occupied with their local activities and thus did not respond to hellos. Still others were interested in continuing with

the work of the AIWN. Thus, in a meeting in Kuala Lumpur in November 1998, and with support from Mamacash in the Netherlands, it was decided that the following are the first tasks to be done:

1. to continue putting the original members in touch with one another and to reach out to new interested groups;
2. to come up with the AIWN Newsletter three times a year to keep everybody up-to-date on what is happening to the members.

There is still a lot to be done in terms of raising the awareness of the members and other unorganised indigenous women about their rights as women and as indigenous peoples, especially in the face of the many challenges posed by globalisation. In this context, the AIWN will tap the resources of other organisations and institutions by conducting capacity-building activities. Presently, the AIWN is based with the Tebtebba Foundation (Indigenous Peoples' International Centre for Policy Research and Education) as part of the latter's commitment to increasing the capacity of support networks so that they can achieve their tasks and responsibilities.

Some of the plans of the AIWN for 1999 to 2000 are as follows:

1. to participate in the "Beijing+5" review process in order to assess how the situation of Asian indigenous women has been transformed since the Fourth World Conference on Women. For this, it is necessary that the indigenous women themselves come up with their own situationers and their recommendations;
2. to conduct economic literacy training for selected indigenous women leaders in order to enhance the capacity of these leaders to articulate their analysis of their situation;
3. to continue with the information work as a forum for the exchange of ideas, experiences and analysis, for projection of situations, issues and demands, and as a medium for further strengthening links among members.

At the beginning membership of the AIWN was loose. It was assumed that all those who attended the First Conference were considered members. Some participants were there as individuals but after going back home, they formed

their own organisations. Also some participants were NGO staff representing their NGO's. At that point in time, the NGO may have been the best form of organisation possible for their situation. Since many of us indigenous women in Asia are still in the process of setting up or strengthening our local organisations, this kind of membership may go on for some while, until such a time that the membership is in a position to be more structured and formal. Part of the strengthening process the AIWN is going through is to clarify the membership status of the delegates.

BIRTH OF AN INDIGENOUS WOMEN'S NETWORK IN CAMBODIA

Ratanakiri Province is situated in the Northeast of the Kingdom of Cambodia, 600 Km from Phnom Penh. For many centuries now, Ratanakiri has been home to indigenous peoples, such as the Tumpoun, Kreung, Jarai, Prao, Kaveth, Kachak, Phnong, and Laos communities. They live in relative isolation from the Khmer population in central, lowland Cambodia and form the majority of the province's population.

An Indigenous Women's Network is Born

After two women representatives from Ratanakiri Province participated in the second Asian Indigenous Women's Conference in Kanchanaburi (see *The Indigenous World 1997-98*), an initiative to start a women's group in the Province was taken in April 1998 by a small group of local women. They wanted to join forces with other women, both indigenous and Khmer, in order to collect information about the problems and needs of indigenous women, to identify the most important issues facing indigenous women in Cambodia, and to form an Indigenous Women's Network in Ratanakiri Province.

Fifteen volunteer indigenous and Khmer women, finding themselves in agreement on a number of issues, came together to discuss their situation and what they could do about it. All members of the network know and understand each other well, and have had common experiences, especially in the area of problem solving in communities. It was decided that this group will work with and for indigenous women in the Ratanakiri Province. Eventually the Indigenous Women's Network in Ratanakiri was formally established and it has been recognised by the provincial authority. It aims to secure an equal share of development for women and, in the context of development policies, its priority is to raise the profile of women's roles and positions. The group is

open to any woman who wants to participate and who is prepared to work in accordance with the aims of the network.

Aims and Activities

This Indigenous Women's Network will focus on environmental degradation and the impact that this has on indigenous women's lives. It will also concentrate on various ways of generating income, the (non-formal) education of women and girls, and the sexual abuse of indigenous women.

The network is based in Ratanakiri and has one focal point at the national level. Through this focal point the network will be linked to the national women's forum, which will allow it to disseminate and share knowledge and the lessons learned at both local and national levels. It will also provide an opportunity for fund raising.

At the provincial and local levels, the network will work together with (1) the national rural development structure at provincial, district, communal, and village levels. At the national level, the network will have relationships with (2) the SEILA Task Force and (3) the Inter-Ministerial Committee for Highland People Development¹. As the network is an independent, indigenous women's organisation, it will need to strengthen its ability to serve the indigenous women's needs, to secure their rights, and to improve their independent lives and help them sustain their resources.

So far the network has not received any operational funds. The UN Cambodia Rehabilitation and Reintegration Programme (CARERE) and UNDP's Highland Peoples Programme have assisted it during its establishment phase. All the members of the network are volunteers, and at this stage they hold irregular meetings every one or two weeks to discuss fund raising, planning and implementation strategies.

The Indigenous Women's Network in Ratanakiri plans to co-operate with other provinces in Northeast Cambodia (Mondulakiri, Kratie, Steung Treng). It is hoped that it will develop into a network of indigenous women across the region.

Moreover, the Indigenous Women's Network in Cambodia wants to begin co-operating with international Organisations both inside and outside the province who want to support its activities in Ratanakiri and share their own experiences as well.

Notes

1. The National Rural Development Structure was established in each province by the Ministry of Rural Development. At each level of this structure, i.e., on the

provincial, district, communal and village levels, there are development committees, for example the Provincial Rural Development Committee (PRDC), the District Development Committee (DDC), etc. This structure has been strengthened by CARERE and by other Non-Governmental Organisations, especially in Ratanakiri and the other four provinces in the Northeast of Cambodia.

SEILA is a cross-sector programme of the Cambodian government, that focuses on decentralised planning and the management of development. The SEILA Task Force represents the National Rural Development Structure at national level. It consists of six ministries, the Interior Ministry, the Ministry of Planning, the Ministry of Finance, the Ministry of Women's Affairs, the Ministry of Rural Development and the Ministry of Agriculture.

The Inter-Ministerial Committee (IMC) has formulated a national policy for Highland People Development. It comprises 10 ministries: those of Rural Development, Education, Health, Public Work, the Interior, Women's Affairs, Agriculture, the Environment, Social Action and CIMAC.

INDIGENOUS WOMEN IN THAILAND

The difficulties, issues and problems facing the indigenous peoples in the upper northern provinces of Thailand over the course of 1998 have been serious. Despite the huge array of cultural diversity displayed in these peoples, from indigenous groups such as the Karen and Lua, to the historically migratory tribal peoples from throughout the Southeast Asian region, the issues they have been forced to confront have been similar. Relocation of communities of the thirteen minority groups again became a possibility, and the abuse of the legal and human rights of communities in the highlands increased. In response there has also been an increase in the strength of the communities themselves and the networks they have established to defend themselves. In the balancing act which characterises the tribal situation in Thailand there have been both gains and losses.

Legal Abuse

An incidence, which occurred this year, clearly illustrates the problems facing women ethnic minorities was the arbitrary arrest of 56 men from the tribal village of Paeng Dang in Chiang Dao district of Chaingmai Province. The detention of these men and boys left the women of the community alone to struggle with the daily life of the community. Jobs such as planting became increasingly difficult as planting time grew near and the strength and labour necessary for the working of the communities fields was not available. The situation was exacerbated by the fact that many of the women in the

Peang Dang community did not have Thai citizenship. This means that they are unable to leave their community area in order to find labour or outside work to help support their families.

It was at this stage that a number of organizations in the north of Thailand began to recognise what a blatant disregard for the constitutional rights of the individuals and community of Paeng Dang the arrests had been. The fight to have the men released from the prisons in which they were held began and the women of the community were asked to present the truth of their situation to the wider community. This opportunity for them to represent their lives to a larger audience was rare, and they made the most of it. The successful lobbying that followed saw the majority of the men and boys released from prison with acknowledgements that their arrests had been against their rights. The clear demonstration of the strength and power of women when defending their homes and families was inspiring but it remains an isolated example of the empowerment of women.

Social Conflict

Another disturbing aspect of developments in Thailand over the past year has been the increase in social conflict between different segments of Thai society. In the well-publicised case of Chomthong, where the forced relocation of a tribal community was being threatened for the first time in almost ten years, the villagers were subjected to intimidation and roadblocks on the only roads leading to their communities. These road blockades and the destruction of a temple in an indigenous community were not actions of government officials but, even more disturbingly, acts of aggression by lowland Thai communities.

The re-emergence and strengthening of the old stereotype of tribal communities as destroyers of the forest was in evidence as well as arbitrary detention, fining and imprisonment of people simply for following their traditional agricultural and social customs. These actions occurred with increasing regularity and with a complete absence of shame, guilt or even doubt on the part of the authorities. Threatening and intimidating tactics by local government officials combined with the increasing discrimination from the wider society, resulting in a situation of great tension and insecurity for members of highland communities.

Environment and Land Rights

The greatest conflicts in the North of Thailand have their roots in the twin causes of the insecurity of land rights and the accusation of environmental damage. For the women in tribal communities the prospect of relocation which has rearisen is terrifying. The outcomes of previous relocations are well known and throughout communities in the North this year fears and worries were expressed by women hearing again that relocation may be an official policy. As the traditional guardians of the culture of their peoples, and the guardians of the home and village area, the women face, not only a threat to their livelihoods and communities, but also to their very role within their societies.

The past has shown that the ones who suffer the most from relocation are the women and children of a community, the knowledge that it is again a possibility has added immeasurably to the insecurity weighing on highland women. This last point, that of the fears of women in highland communities, is a point too often overlooked. The issues facing tribal peoples are serious and are equally serious for all segments of tribal society, but the fundamental difference is that men lead and dominate the networks, organizations and movements to solve tribal problems. Simply being active and working to heal your own wounds is a salve in itself, to be denied that salve, to be forced to watch while the fabric of your life and culture are threatened is frustrating and demoralising. The increase in the incidences of stress-related mental illness in highland communities, especially for women, can be seen as a direct result of the lack of representation that they have.

Conclusion

For many in highland communities, this year was not only a year of defeats but also a year of inspiring success as the networking and coordination between communities themselves and organizations working in them increased dramatically. This has been heralded by many as a sign of greater strength within communities and the recognition of self-determination as a key to sustainable solutions to problems.

However, although some of the situations which have arisen this year have resulted in women being forced to the forefront of the fight, there is still a great gender imbalance among the community representatives and community workers. It is only in times of serious crisis that the women are allowed to speak. The different networks and organizations which represent communities in the highlands are conspicuous for their lack of strong female leadership - and for the lack of opportunity they give women to gain that leadership.

For the situation to change and for women to gain the strength, attention and rights they need a basic shift must occur. The Centre for the Coordination of Non-governmental Tribal Organizations (CONTO) in Thailand has created and supports a gender network to monitor and assess the work in its constituent organizations. Through this and other work like it there has begun a ground swell of support for women's rights and a movement among different sections of developmental organizations to ensure these rights are met.

Recommendations

For women in minority groups in the north of Thailand the future holds a wealth of opportunities. There are a number of organizations currently working within Thai society to bring attention to the fact the issues facing women need specific attention. There are also many organizations working directly with women's groups both in the highlands and in urban centres. If the focus of work with women's groups could be shown to demand capacity building a great deal could be done to alleviate the worry and insecurities which weigh so heavily now.

A joint objective must be pursued of both ensuring that education, for adults and young people, is made equally available to men and women, and that women are given the opportunity to join the ranks of community representatives and developmental workers. However this will only be achieved by recognition at all levels of work in community development and tribal rights that gender deserves, and demands a specific focus. It must become not only acceptable but essential for women to participate equally in different activities, trainings, discussion and meetings.

Gender inequality is a weakness in the struggle that faces the ethnic minorities in the highlands of Thailand. With the myriad of problems which must be addressed not only is it essential that the different peoples present a united face but also that all the human resources within the populations are utilised. Women must demand, and must be given, the opportunity and right to participate in every stage and level of the future developments which will effect their homes, communities and peoples.

WOMEN FOR PEACE: THE NAGA WOMEN'S UNION OF MANIPUR

The Naga Women's Union of Manipur (NWUM) was formed in January 1994 to uphold the rights and dignity of Naga women in particular and all women in general and to strive for the equality, strength and prosperity of everyone in society. Women from all fifteen Naga tribes in Manipur State in the north-east of India are members of the NWUM. These fifteen Naga tribes occupy the following Hill Districts of Manipur - Chandel, Senapati, Tamenglong and Ukhrul, which together cover about 80% of the land area of Manipur.

Activities of the NWUM

Since its inception the NWUM has been actively involved in efforts to foster a congenial and peaceful atmosphere amongst the different communities living in Manipur. The organisation is also working alongside the Naga Hoho Summit (the federation of the tribal Hohos, the traditional Naga tribal councils), the Naga Mothers' Association, the NWUM's counterpart in Nagaland State, students' and human rights organisations along with many of the NGO's in Nagalim, in order to bring together and reconcile different factions of the Naga nationalist movement. During the last 50 years of their struggle for self-determination, the Naga people, especially the Naga women, have gone through much human tragedy at the hands of the Indian State. They have undergone trials and tribulations, including factionalism among their nationalists, which has even led to fratricide. It is in this kind of situation that the Naga women found themselves at the forefront of the struggle for their rights, whilst at the same time they were working towards reconciling the various nationalist factions.

As part of the peace initiatives, the NWUM has organised meetings and seminars. In their recently held conference cum seminar, which was held from the 3rd to the 5th of October 1998 in Imphal (the capital of Manipur State), and which was sponsored by IWGIA, the main focus was on the role of women in the peace process. The following topics were discussed: (1) the role Naga women play in achieving peace in traditional societies; (2) the role Naga women play in achieving peace in the fast changing world and; (3) perspectives on the role women play in sustaining a lasting peace. A speech competition was also organised during the conference with its topic being, "As a woman how would you like to contribute to the peace process?"

After the presentation of the above mentioned topics several questions and important points were adopted for group discussions. And the conference came to the conclusion that Naga women have been playing an important role in conflict resolution amongst their people since time immemorial. The participants acknowledged the fact that women's roles and responsibilities towards humanity and their need to bring about or maintain peace have even increased as life too has become more complex. They also acknowledged the fact that society should recognise the contributions made by the women so that they could become more effective harbingers of peace.



Tangkhul Naga women (Foto: IWGIA Archive).

At the height of Naga-Kuki clash (see *The Indigenous World 1993-94 and 1994-95*), the NWUM initiated peace campaigns to resolve the conflict between the two communities, through dialogue and mutual understanding. The Naga-Kuki clash was an offshoot of the more than fifty years of the Naga peoples' struggle for self-determination. The Indian State had used a section of Kukis to fight their dirty war against the Nagas. The Nagas retaliated. During the period between 1992 and 1996, hundreds of Naga and Kuki houses were burnt. Hundreds of lives were lost in both communities. Many villages

were uprooted causing much human tragedy. During this period Naga and Kuki women tried to foster goodwill between the two groups, unfortunately without much success. The Union is still looking for an opportune moment to work together with their Kuki sisters to bring about peace and normality.

In its struggle for human rights, the Union takes part in on the spot fact finding investigations with other organisations involved in human rights issues. These organisations include the United Naga Council (UNC), which is an apex body of the Naga people in Manipur, the Naga Peoples' Movement for Human Rights (NPMHR), and the All Naga Students' Union of Manipur. They, along with the other teams in the fact-finding mission, have published invaluable reports on the atrocities committed by the Indian Security Forces. To some extent reaching the affected villages has worked as a healing touch for the hapless victims.

The Union also brings out a magazine called RAISUNGRIANG ('News link') to serve as a way of sharing ideas and views on various issues pertaining to the Nagas in particular and to others in general. It is also a means to encourage writing skills among Naga women. And to further promote their objectives, the Union proposed to establish a Research cum Documentation Centre in the near future, to further the study of Naga life and culture as it pertains to women.

JHARKHAND WOMEN'S ORGANISATION FOUNDED

One of the most positive recent developments among the indigenous peoples of the Jharkhand region in India (see chapter on South Asia in this and previous issues) is the foundation of the Adivasi Mahila Manch (AMM), in approximate translation the "Indigenous Women Forum".

The AMM emerged in connection with a national level women's conference held in Ranchi in the end of December 1998. Many in the current leadership of the AMM had felt that Adivasi issues, those particularly relating to Adivasi women, were being misconstrued, misrepresented and misused by non-indigenous sections, and that it would be appropriate that they speak for themselves. Hence, in response the AMM held a parallel Adivasi women's conference in Ranchi.

AMM observed the International Women's Day on the 8th of March 1998 in at least five different venues simultaneously, i.e. at Chaibasa, Khunti, Torpa, Bhagitoli, and Ranchi. In these meetings the problems of Adivasis were discussed and how they should be addressed from an Adivasi women's perspective. They also came forth with a positional statement.

The rest of 1998 was used for consolidation of the AMM. The next major meeting of the AMM was held in Calet village in the famous Koel Karo region in April 1999. The meeting had an average of 200 women participants attending the sessions. Towards late noon and early evening more participants took part in the meetings. The open sessions were attended by many people from the surrounding villages, and men were also allowed room for participation. The cultural sessions in the evenings were colourful and riotous.

In this meeting, apart from discussing the general issues and local situations, the positional statement of March 8 was endorsed. Some of the salient features of the positional statement, basically regarding land, territories and displacement are:

1. Change must never be imposed on the Adivasis.
2. Imposed change, would be an act of violence on the Adivasis and hence must be avoided.
3. Change must be by the consensual or democratic will of the concerned Adivasi people themselves.
4. Any change or development must take into account the minimum standards as evolved and adopted by the United Nations Working Group on Indigenous Populations. Moreover the indigenous peoples or Adivasis reserve the right to reject any proposed change, policy, law or imposition.

Currently the AMM has the following as members or people actively participating in its activities. Mahila Sangh, Kolhan Mahila Sanghatan, Zila Mahila Samiti - Chaibasa, Umbul Mahila Samiti, Purana Chaibasa Mahila Samiti, Munda Misi Ubar Samiti, Khurukh Kath Khora, Lok Nitritwa Nirman Samiti, Johar, Mahila Sarna Samiti - Karam Toli, Mahila Sarna Samiti - Sirom Toli, and women from Indian Confederation for Indigenous and Tribal Peoples - Ranchi, Koel Karo Jan Sanghatan, Gravis and Bihar Sikcha Pariyojana Samiti - Ranchi, and Akhil Jharkhand Adivasi Samelan. Women from a few more organisations have also shown interest. So in a rather short time the Adivasi Mahila Manch has become a rather representative organisation of the women in Jharkhand.

AFRICA

A NEW MILLENNIUM, A NEW ALLIANCE: THE AFRICAN INDIGENOUS WOMEN'S ORGANISATION (AIWO)

The African Indigenous Women's Organisation (AIWO) was founded during the First African Indigenous Women's Conference (FAIWC) held from April the 20th to April the 24th 1998 in Agadir, Morocco. The conference came about as a result of an initiative by the Netherlands Centre for Indigenous Peoples (NCIV) and was co-organised with Tamaynut, a Moroccan-based indigenous organisation. The objectives of this newly established organisation are to create a network for African indigenous women in order to strengthen their positions at the local, regional, national and international levels.

The process of establishing the actual structure of the AIWO started immediately following the FAIWC. On every occasion that the women of AIWO met they further discussed the steps needed to be taken in order to establish both a democratic and a workable structure for their organisation.

The possibility for African indigenous women to meet at the FAIWC turned out to be extremely important as, for most participants, it was the first occasion to meet and to share experiences as indigenous women with their sisters from the other regions of Africa. The participants took this opportunity to learn from each other's experiences by exchanging stories, information and strategies. Luckily, this conference had an expert team of translators which enabled the French and English speakers to communicate with each other, not only in the official sessions but also during the many informal meetings.

In fact, intra-continental communication between indigenous women seemed to be a basic issue of the FAIWC. Consequently, one of the recommendations of the conference was the promotion of communication and collaboration between the indigenous women of Africa. One way to achieve this is by enabling the indigenous women of Africa to organise and attend relevant meetings on regional, national, and international levels, such as the sessions of the United Nations Working Group on Indigenous Populations (UNWIGIP) and other United Nations meetings pertaining to indigenous peoples and/or women. So far, the indigenous peoples' movement of Africa has been represented almost exclusively by men. After the FAIWC, the interest of its participants in these meetings grew, and the attendance by indigenous

women from Africa in meetings at the international level has markedly increased.

From the FAIWC Network to the AIWO

On the fourth day of the FAIWC, the participants decided that there should be a follow-up to the conference in order to ensure that the contacts made are actively maintained and in order to work together on the implementation of the recommendation of the conference. An ad-hoc preparatory committee, consisting of five of the FAIWC participants, met in order to further discuss the issues related to the establishment of such a new organisation. At this initial meeting the name, location, composition, funding, structural and logistical issues were discussed, and the objectives of the organisation were formulated. These are:

- a) the defence and the promotion of the rights and interests of indigenous African women;
- b) the defence and the promotion of indigenous African languages and identities;
- c) the provision of assistance and support to African indigenous women, especially the victims of violence and female genital mutilation;
- d) the support of African indigenous women in the preservation of their indigenous knowledge and the management of their traditionally used resources;
- e) the prevention of all acts of genocide and ethnocide against African indigenous peoples by encouraging the African indigenous women's actions within the international community;
- f) making every effort to guarantee African indigenous women the right to private property, in order to provide them with their own basis of living within their territories;
- g) the monitoring of the economic zones inhabited by the indigenous peoples of Africa in order to ensure that they are also ecologically sustainable;
- h) the organisation of capacity-building sessions for the African indigenous women in the field of Human Rights;
- i) ensuring that every effort is made to realize the objectives of the AIWO.

With the FAIWC giving its newly established network a name, the African Indigenous Women's Organisation (AIWO) / L'Organisation Africaine des Femmes Autochtones (OFA) was born. When discussing the future struc-

ture of this network, most of the conference's participants felt that it would be important to establish regional and local groups to enable the women to meet more often. However, in order to achieve the objectives defined at the FAIWC, it was felt that the AIWO has to structure and co-ordinate the regional meetings and activities. It was therefore decided that the new organisation will focus its work on encouraging communication amongst its members and with important institutions, and on the co-ordination of activities in the struggle for the recognition of the rights of indigenous peoples and women in Africa.

The AIWO Newsletter - "The Voice of the African Indigenous Women"

AIWO's newsletter "The Voice of the African Indigenous Women / La Voix des Femmes Autochtones d'Afrique" is now the most important means of communication among the members of the network. In the newsletter women express their concerns, share their experiences and report to their sisters on their activities. The newsletter also contains information on topics like fund raising, or on important meetings like the UNWGIP, the Conference of the Parties on Biological Diversity V in Bratislava, Slovakia, and the First Pan-African Conference on Indigenous and Forest Dependent Peoples in Accra. In order to promote communication between the two major regions that are defined by the use of English and French as their respective lingua francas, the newsletter is published in both languages. The newsletter is published quarterly by the AIWO office team presently hosted by NCIV.

"Out of the Shadows" - the Proceedings of the FAIWC

In December 1998 NCIV in co-operation with International Books, published the proceedings of the FAIWC. The book entitled "Out of the Shadows / Elles sortent de l'ombre" contains the contributions made by the participants of the conference, who represented 25 organisations and 14 countries. The FAIWC proceedings play an important role in the AIWO's internal communications, and in sharing with other indigenous women's organisations, NGO's, UN bodies and other institutions.

Recent Developments within the AIWO

The AIWO is still in its incipient phase. During the meeting of the AIWO members at the UNWGIP session in Geneva in July 1998, it was emphasized that a woman's organisation like AIWO should start to organise itself bottom-up, from its base at the local level. The idea was supported at the next

meeting of four AIWO members in December in Amsterdam, the Netherlands. Another issue discussed was the question of the nature of membership and whether this should be granted on an individual or on an organisational basis. This and other questions were sent to the AIWO members for their opinion. The response clearly showed that the AIWO members preferred an organisation-based membership to ensure that there is a continuity of commitment to the AIWO. Moreover, the idea of organising regional meetings in Eastern, Western, Northern, Southern and Central Africa, amongst other places, in order to elect regional representatives to the Executive Committee (EC), also received clear support. The EC will form the head of the organisation, assisted by the AIWO office. The tasks of the EC as well as the future location of the AIWO office will still have to be discussed further.

At present, the four AIWO members who attended the meeting last December are busy preparing the first regional meetings, a task which includes contacting the AIWO members, raising funds and making the AIWO better known.

The indigenous women of Africa are the last of the indigenous women's world community to advocate their cause. But they are now moving out of the shadows, are organising themselves and taking on the responsibility to assert their rights. They are awaiting the new millennium with a new and strong alliance.

The office of the African Indigenous Women's Organisation is temporarily located in Amsterdam and can be contacted at: c/o NCIV office, P.O. Box 94098, 1090 GB, Amsterdam, The Netherlands, FAX 00-31-20-665 2818, E-mail: NCIV@antenna.nl

PART III

INDIGENOUS RIGHTS

THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES IS STILL INTACT

By Andrew Gray

History of the Open-Ended Working Group

The fourth session of the Open-Ended Working Group of the UN Commission on Human Rights met between November the 30th and December the 11th 1998, to discuss the draft Declaration on the Rights of Indigenous Peoples which is currently making its way through the UN system. The drafting of the Declaration began at the lowest level of the UN (the Working Group on Indigenous Populations) ten years previously, with the full participation of indigenous peoples. In 1993, the text was approved and sent to its parent body, the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, which is the highest UN human rights expert body. The Sub-Commission passed it in August 1994 and sent it on to its own parent body, the Commission on Human Rights.

On arrival at the Commission, the draft Declaration moved from the expert to the political bodies of the UN, which consist exclusively of governments. The Commission decided that it should be discussed further and the Open-Ended Working Group (OEWG) was established in 1995. It has met three times and the sessions have been described in detail in IWGIA's *Indigenous World 1995/6*, *1996/7* and *1997/8*. The OEWG consists of 53 governmental representatives, but any other government can attend and speak. NGO's with consultative status at the Economic and Social Council (the parent body of the Commission on Human Rights) can attend and speak at the meetings, although formally only the governments who are members of the Commission have full decision-making rights.

Indigenous participation at the Working Group has always been a matter of contention since the first meeting in 1995. The first battle was to secure attendance rights for those indigenous peoples without consultative status. A procedure was eventually drawn up consisting of a special accreditation process. Indigenous organisations have to inform the Human Rights Centre, Palais Wilson, Geneva, that they wish to attend the OEWG. The Centre then consults with the governments of the applicants, and if there is no veto, the application is passed onto the NGO Committee in New York where each proposal is discussed with most of them being accepted. Once accredited, the indigenous organisation concerned can attend all sessions of the Working Group.

Over one hundred indigenous organisations have now been accredited, although a few have been refused, mainly from Africa and Asia. However they can still obtain access to the meeting by working with NGO's who have consultative status with ECOSOC. In this way, all indigenous peoples who wish to attend the meeting can do so. Nevertheless, participation at UN meetings does not only consist of the right to attend. Once inside the meeting, indigenous peoples have had to battle for full speaking rights, and to be considered as part of the decision-making process. During the session in 1996, indigenous representatives at the meeting fought for full speaking rights. A walkout and negotiations with the Chair led to all indigenous participants being allowed to speak on their own behalf and have their opinions reflected in the report.

Although gaining attendance and full-speaking rights was an important victory for indigenous peoples, another aspect of indigenous participation remained - the decision-making procedures. Indigenous peoples were aware that at the level of the Commission on Human Rights, governments make all the decisions, and that there was a distinct possibility that hard-won aspects of the Declaration could be voted down by governments without taking into account the views of indigenous peoples. In 1997, the Chair avoided further altercations with indigenous representatives by proposing that the meeting be divided into informal and formal sessions. All discussion would take place in informal sessions, and when consensus was found between governments and indigenous peoples, the formal session would be resumed for the governments to approve the text. This agreement secured for indigenous peoples a *de facto* veto over formal decision-making.

The meeting of the Working Group covers two broad dimensions, and any progress in its activities has to be evaluated from these perspectives. The first dimension concerns the procedures of the meeting. As has been described, a considerable part of the first three years of the meeting has consisted in securing rights of attendance, speaking and being part of the decision-making consensus for indigenous peoples. Once these rights were defined, it became possible to focus more clearly on the second dimension of the meeting - how to approve and adopt articles. During the first two years of the Working Group discussion of the draft Declaration consisted of extensive general discussions on the text. These started by looking at the Declaration as a whole, then at the Chapters into which it is divided and finally at the individual articles.

The procedure agreed by the meeting in 1997 was to agree first to the principles behind the text and then to move towards adopting the specific

wording of the articles. However the level of consensus that year was disappointingly limited, and only two articles were approved - Article 5 (*Every indigenous individual has the right to a nationality*) and Article 43 (*All the rights and freedoms recognised herein are equally guaranteed to male and female indigenous individuals*). These articles deal exclusively with individuals and add nothing to the international provisions envisaged in the text for indigenous peoples as a whole.

Although governments claimed that they agreed with the texts in principle, certain governments, particularly the United States, blocked consensus over the recognition of collective rights for indigenous peoples. The situation at the end of 1997 was that the procedures were in place to start substantial dialogue, with a view to adopting the draft Declaration, but those governments obstructing the process were delaying the adoption of articles. The Working Group operates according to the principle of consensus, which the Chair has taken to mean that no party should object to a decision made by the meeting as a whole. However this has, in practice been treated as unanimity, which has made agreement on specific articles extremely difficult.

The Structure of the Meeting

The indigenous peoples who take part in the Open-Ended Working Group form a caucus. A similar caucus has operated since the 1980s in all international meetings where indigenous representatives are present. The indigenous caucus meets in a preparatory meeting for two days prior to the Working Group, which is arranged and facilitated with much patience and goodwill by the Mohawk representative Kenneth Deer, with logistical support from the World Council of Churches.

During the 1998 preparatory meeting, the indigenous caucus agreed to continue with its strategy of defending the draft Declaration. The meeting discussed the previous year's sessions of the Working Group and agreed that the Declaration should be seen as a holistic totality, interconnecting indigenous peoples' rights. Furthermore, three principles were considered to provide the underlying meaning of the text and provide a basis for a defence of the text. The articles of the Declaration are based on the principle of equality of all peoples, on the principle of non-discrimination and the prevention of racism. Those governments which want changes should be obliged to explain why they propose alterations or amendments and demonstrate how they can improve on the existing text.

The Chair of the Working Group addressed the indigenous caucus during the preparatory meeting. He emphasized the importance of trying to seek an

agreement with governments in order to be able to adopt some articles during the session. The indigenous representatives agreed that dialogue was important and decided that they would wait to hear what the position of the governments was regarding the text. In this way they would be able to see which governments agreed with the indigenous view and, to those who disagreed, provide clear and succinct arguments in defence of the text.

The governments attending the Working Group form three large geographical blocks which have undergone several shifts since the meetings began in 1995. The Western European and Other Group (WEOG) links together the Nordic countries, Europe, North America, Australia and New Zealand. Between 1996 and 1996 Canada, Australia, New Zealand and the United States formed a CANZUS group which took a conservative perspective in contrast to the more progressive Nordic countries. However, by 1998 New Zealand and Canada began to differ in orientation from the more extreme United States and Australia, thereby weakening the group.

The second block is the Grupo Latino Americano (Grula). This group is broadly separated into those who agree with the Nordic countries' defence of the existing text, such as Colombia, Bolivia and Cuba, and those who support the United States, i.e. Argentina. In between come countries such as Brazil (which adopted a more positive stance in 1998, broadly supporting the positions of Canada and New Zealand).

The third block consists of the Asian group which, although quiet, participates throughout the meeting. Whereas they take a position opposed to the United States, they are concerned enough about the definition of 'indigenous' not to be at one with the Nordic countries. Nevertheless in 1998 a major movement took place in which the Asian governments agreed not to obstruct the process on the question of definition, but to leave it up to each country to resolve problems of scope and application internally. In spite of the coherence of their general position, there is a range of views in Asia from the government of Japan, which agrees with the United States, to Fiji and Malaysia, which are broadly in favour of the declaration as it stands.

Whereas indigenous peoples have maintained a single consistent position regarding the Declaration, the government blocks are divided internally and amongst themselves. Indigenous peoples have analysed this and conclude that until governments themselves come up with a consistent position it will be impossible to do more than continue the process of dialogue which the caucus has carried out in preceding years.

The Meeting

Ambassador José Urrutia from Peru was re-elected Chair of the Open-Ended Working Group and said that the meeting would consist of general statements, a discussion of the principles behind Articles 1, 2, 12, 13, 14, 44 and 45 and an attempt to adopt articles 15, 16, 17 and 18. He also said that the meeting would look at the concept of self-determination, the definition of the term indigenous and the scope of the declaration. As in 1997, the meeting would continue to be divided into formal and informal sessions. On the final day the report would be presented and approved.

For the first two days, delegates at the meeting made general comments about the draft Declaration and the process of adoption. Indigenous peoples emphasized the importance of the principles of equality, universality, non-discrimination, anti-racism and also the principle that the text as it stands is the product of over a decade's elaboration. They argued for its immediate adoption. Governments made general statements supporting the process. Some, such as Denmark, emphasized the importance of allowing the adoption of articles to take the necessary time, and of concentrating on building up understanding and confidence.

The main debate in the general discussion centred on the United States' refusal to take the collective rights of indigenous peoples into account. Its controversial statement stood out from the other governments, as it referred to 'persons belonging to indigenous groups' rather than to 'indigenous peoples'. Indigenous representatives were quick to point out that this approach is discriminatory because it refuses to recognise indigenous peoples as equal to other peoples. This fundamental difference of perspective overshadowed the whole of the meeting.

Discussion of the Principles underlying Articles 1 and 2: Collective Rights

Articles 1 and 2 are general principles of indigenous peoples basic human rights and make up the beginning of Part I of the Declaration. The meeting looked at these two articles first. All governments agreed to these articles in principle.

Article 1: Indigenous peoples have the right to the full and effective enjoyment of all human rights and fundamental freedoms recognised in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 2: Indigenous individuals and peoples are free and equal to other individuals and peoples in dignity and rights, and have the right to be free from any kind of adverse discrimination, in particular that based on their indigenous origin or identity.

Indigenous peoples encouraged governments to provide comments and justify amendments to this article. Article 1 was supported as it stood by Finland, Norway, Denmark, Colombia, Brazil, Australia, Mexico, Peru and Bolivia. In addition Russia, Venezuela and El Salvador spoke in favour of retaining Article 2 as drafted. Other governments agreed with the principles but argued for a redrafting because they had problems with the concept of collective rights. Japan, the United States, France, and in a surprising turn of events, the Netherlands and United Kingdom expressed their lack of certainty about the implications of recognising collective rights for indigenous peoples.

In response the indigenous participants explained the importance of recognising their collective as well as their individual rights. Indigenous representatives from Canada and Australia pointed out the provisions in their constitution for collective rights. Others explained that their identity as peoples stems from their sense of being collectivities. To ignore the collective rights of indigenous peoples is to violate the non-discrimination clause set out in Article 2. Collective rights are fundamental to the draft Declaration. A question posed afterwards by several indigenous representatives is how governments can agree 'in principle' with the Articles when they question something as basic as collective rights?

Discussion of the Principles behind Articles 12, 13 and 14 - Qualifying Culture

These Articles come from Part III covering spiritual and linguistic identity.

Article 12: Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature, as well as the right to the restitution of cultural, intellectual, religious and spiritual property taken without their free and informed consent or in violation of their laws, traditions and customs.

Article 13: Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect and have access in privacy to their religious and cultural sites; the right to the use and control of ceremonial objects; and the right to the repatriation of human remains.

States shall take effective measures, in conjunction with the indigenous peoples concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected.

Article 14: Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their won names for communities, places and persons.

States shall take effective measures, whenever any right of indigenous peoples may be threatened, to ensure that 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 provisions of interpretation or by other appropriate means.

These articles were supported as they stood by many governments. Article 12 had the approval of Angola, Finland, Bangladesh, Switzerland and Denmark who could accept the text as it stood. Governments had three concerns with the article:

- 1) New Zealand, Australia, Japan, Norway, the UK and the US wanted more clarification on the scope of the term 'restitution';
- 2) Brazil and El Salvador said that in their countries, archaeological sites were considered part of the national heritage;
- 3) Canada and the UK wanted to qualify indigenous peoples' right to practice their culture by inserting the clauses 'in accordance with national legislation' or 'international law' respectively;

Indigenous peoples responded to these concerns by pointing out that the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property recognises to some extent the principle of restitution. The importance of the reference to restitu-

tion is that it recognises the ownership and control by indigenous peoples of their heritage. Furthermore, the claim by specific states for national control over indigenous archaeological sites violates the main thrust of Article 12 which recognises their rights over their material and intellectual culture. In the same way, there should be no further qualification over indigenous peoples' cultural rights in relation to international law apart from those already included in Article 45 which states that the Declaration should not be in contradiction with the UN Charter.

Article 13 had a broad support from the governments of Finland, Switzerland, Mexico, New Zealand, El Salvador, Brazil, Argentina, Chile, Bolivia, Guatemala, Venezuela and China who all supported it as it stood. Indeed for a moment the meeting wondered whether there would be a consensus. However Canada, Australia, Russia, the US and Ecuador mentioned that the article should ensure that recognising indigenous cultural rights should not prejudice other non-indigenous members of the state. Indigenous peoples explained that this was already understood in Article 33 which states specifically that *Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs, traditions, procedures and practices, in accordance with internationally recognised human rights standards.*

Article 14 was approved by El Salvador, Guatemala, China, Norway, Denmark, Colombia, Ecuador, Bolivia and New Zealand. Argentina, Mexico and Finland suggested small drafting changes but nothing of substance. The only concerns were from Brazil, Argentina and Chile who argued that recognising and ensuring translation of the indigenous languages in their countries could prove extremely difficult if not impossible. In a similar vein, Canada and Australia were not too keen on the obligations placed on the state. In response, indigenous representatives explained that people who did not speak the national languages should not be denied their human rights and emphasized the fact that it was important to recognise that indigenous people face legal problems if they do not understand what takes place in the courts.

Discussion of the Principles behind Articles 44 and 45

Articles 44 and 45 come from section IX of the draft Declaration, 'Miscellaneous Provisions'.

Article 44: Nothing in this Declaration may be construed as diminishing or extinguishing existing or future rights indigenous peoples may have or acquire.

Article 45: 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

Canada, Malaysia, New Zealand, Denmark, Finland and Switzerland were all in favour of these articles as they stand and there was a call by the indigenous representatives for their adoption. However France and Australia asked for individual rights to be included in Article 44, while the US wanted some changes in Article 45 to spell out state independence and human rights provisions in addition to the UN Charter. Indigenous peoples said that these were included in the text. The Chair ruled that Article 44 could be adopted with the inclusion of indigenous individuals in the text, while Article 45 should wait until the text as a whole had been discussed further.

Discussion of the Principles - Some Observations

Throughout these discussions, indigenous peoples tried as far as possible to get governments to speak. The main concerns of governments on each article were noted and some indigenous participants were quick to make direct responses. It became clear during the discussion that some of the comments of the governments were small technical matters of drafting which did not affect the substance of the text. However other comments (such as the insistence by the US and Japan to replace collective with individual rights) would affect the whole Declaration. The result was that whereas all the governments and indigenous peoples expressed an approval of the Articles in principle, there are still some fundamental questions pending which prevented adoption. Indeed, although one can say that the articles were adopted in principle, this was on the basis of keeping the precise nature of the principles under discussion rather vague.

The General Discussion - Self-determination and the Definition Question
For the first two days of the second week of the meeting, the Open-Ended Working Group looked at two general topics, Article 3 on self-determination and the scope and definition of the term 'indigenous'. Article 3 of the Declaration comes from the Covenants on Civil and Political and Economic, Social and Cultural Rights - *Indigenous peoples have the right of self-determi-*

nation. By virtue of that right they freely determine their political status and freely pursue their economic social and cultural development.

The discussion on self-determination took a similar direction as the previous year's debate. The Nordic countries (Norway, Denmark, Sweden and Finland), Pakistan, Bolivia, Guatemala, Canada and Switzerland continued to be in full support. Several countries were in broad support of Article 3 but wanted to ensure that the territorial integrity of the state was secure. These included New Zealand, Mexico, Argentina, the UK, Russia, Chile and China. In these cases, the indigenous representatives continued to explain that the UN Declaration on Friendly Relations (based on the UN Charter which is covered in Article 45) sets out the principle of state territorial integrity and the condition whereby states can secede. Indigenous representatives emphasized that the concerns of these governments are catered for in the Declaration.

The country with the main difficulty with self-determination was the United States, which, although admitting that the concept occurs in its national legislation, still had the problem of recognising collective rights. Unfortunately this year, Australia was inclined to agree. Indigenous representatives took strong exception to these two governments that refuse to recognise their own recognition of self-determination nationally, and, to make matters worse, obstruct the process of consensus building which, gradually, has become increasingly positive on this sensitive topic.

The discussion on definition was the area in which the Working Group was able to make the most progress. In previous years the Asian governments have insisted on some form of definition prior to approving substantive articles of the Declaration. This year, however, a fundamental breakthrough was achieved in the dialogue between the Asian indigenous peoples and the governments of the region. The Asian governments agreed that they would no longer insist on a definition but leave the application of the term to be solved within each national context. By doing this, the Asian block ensured a seismic shift in the debate, and began to take a more constructive and supportive position in the discussion, even though they were quieter than in previous years.

This general discussion was important for the gradual process of accommodation and understanding by the various governments. Even though most governments have remained consistent with their previous positions, some key players, such as Brazil, Canada and even France, have shifted their opinions in a more positive direction. The main disappointments in the discussion was Australia, which as a result of its conservative government was forced

into making embarrassing U-turns on their previously constructive and positive positions. Whereas the UK and the Netherlands had a worse position than in previous years, this was interpreted more as a matter of inexperience, and it is hoped that they will revert to the more constructive positions they have hitherto held.

Discussion on Section IV - Article 15-18 - Education, Information and Labour Rights

During the 1997 session of the Working Group, governments approved these four articles in principle although there were several areas of discrepancy over details. The Chair had hoped that in the 1998 meeting, these uncontroversial articles could perhaps have been adopted. However this was impossible. It soon became clear that some governments wanted to redraft the text, something which indigenous peoples have consistently made clear was unacceptable.

On Wednesday the 2nd of December, there was no afternoon session of the meeting. Instead the governments called together a caucus of all regions, excluding the indigenous representatives and observers, with the intention of producing a new draft of Section IV to present to the meeting as a *fait accompli*. The governments worked all afternoon and the next day trying to reach a consensus but found it impossible to do so. Some governments were intent on starting the redrafting from scratch, however the majority pushed for the existing text to act as the basis for the proposed amendments.

The governments produced two versions of their proposed changes, one on Friday the 4th of December and the other on Monday the 7th of December. These documents were kept for internal use only, but from time to time copies leaked out. However nothing was translated into Spanish, thereby depriving a substantial proportion of the indigenous representatives from understanding what the governments were up to until the second week.

The suggested changes to the text were all based on concerns raised in the previous year and varied from minor adjustments to major substantive changes. None of them were attributed and so it was impossible to see whether they reflected one government or several. Indigenous peoples and some governments (notably Denmark, Brazil and Mexico) expressed their concern about the lack of transparency demonstrated in this process. Nevertheless, it became clear after glancing at the governments' document that it was chaotic. Bold lettering from the existing text was almost completely cased in brackets and in some cases double brackets (signifying some governments' desire to change the text). Alternative wording was underlined. The effect of this exer-

cise was that the governments emerged from the experience more divided than before.

The main debate on the Articles centred around Article 15 on education:

Indigenous children have the right to all levels and forms of education of the State. All indigenous peoples also have this right and the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

Indigenous children living outside their communities have the right to be provided access to education in their own culture and language.

States shall take effective measures to provide appropriate resources for these purposes.

The United States and Japan stated that they wanted 'indigenous peoples' replaced by 'persons belonging to indigenous groups'. Other points covered two broad areas - some governments (Japan, the US, Russia, Canada and Australia, for example) wanting all indigenous education to be subject to either national or international 'minimum standards'. Some governments also shared this concern by suggesting that education be provided 'on the same basis as other members of the society'. The concern of indigenous peoples on this point was that standards are covered in other international instruments and by emphasizing this point, government inspectors would be standardizing indigenous education - creating international baccalaureates in hunting and gathering, as one representative succinctly put it.

Another concern voiced by Canada, Australia, Argentina, Brazil and the Philippines amongst others, was that the 'access' and 'effective measures' in paragraphs two and three would put too much responsibility on the state. When looking at these two points together it becomes clear that the majority of concerns about Article 15 come from those governments who want to control indigenous education without providing any resources for it.

In contrast most governments supported the article as written, with a few suggesting changes in the drafting and this for reasons of clarity rather than because they wanted to make substantive changes. Chile, Switzerland, Norway, Peru, Bolivia, Mexico, Denmark, Ecuador, Sweden and Colombia would all broadly have accepted the text without amendments. The conclusions that can be drawn from this discussion were that the majority of governments would have been prepared to accept the article, but in the interests of 'con-

sensus' they felt obliged to enter into a process which would have weakened the existing text.

Indigenous representatives made their most detailed observations about the governments' proposals on Article 15. They pointed out that whereas government delegations consistently say that their proposals are there to 'strengthen' the text, in many instances this was not the case. They repeated their charge that to deny indigenous peoples their collective rights violated the principle of equality and non-discrimination. They pointed out that the International Convention on Economic, Social and Cultural Rights and the Convention on the Rights of the Child already impose an obligation on educational institutions to conform with the minimum standards set by the state. Furthermore, all measures which the state is obliged to carry out are qualified in a general form in Article 37, which says that states 'shall take effective and appropriate measures, in consultation with the indigenous peoples concerned, to give full effect to the provisions of this Declaration'. This means that if they are not capable to implement it immediately, the understanding is that states will provide a framework for progress over time.

Article 16 says that: *Indigenous peoples have the right to have the dignity and diversity of their cultures, traditions, histories and aspirations appropriately reflected in all forms of education and public information.*

States shall take effective measures, in consultation with the indigenous peoples concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all segments of society.

Article 16 was supported by a broad number of governments (Denmark, Norway, Finland, New Zealand, Mexico, Switzerland, Peru, Bolivia, Guatemala, El Salvador and Chile). Nevertheless the document drawn up by the group of governments with suggested amendments, gave the impression that substantial changes would be necessary. Japan and Canada argued against recognising Article 16 as a right, while Colombia and the Philippines said that the article should be couched in terms of state responsibility. Argentina meanwhile wanted all of the articles to be subject to national legislation. Indigenous participants argued that the Declaration was about the rights of indigenous peoples and that state responsibility was covered in paragraph two. As an international document, the Declaration should not be dependent on exist-

ing state legislation but should instead constitute minimum standards for the universal recognition of indigenous rights.

Article 17 and 18 were dealt with together. Article 17 says: *Indigenous peoples have the right to establish their own media in their own languages. They also have the right to equal access to all forms of non-indigenous media.*

States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity.

Article 18 says: *Indigenous peoples have the right to enjoy fully all rights established under international labour law and national labour legislation.*

Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour, employment or salary.

Most governments, with the exception of the United States, approved the articles as written, although several representatives wanted the text in Article 17 to recognise the right 'on the same basis as other members of the national society' and that the right to equal access to non-indigenous media be replaced by an 'equal right of access'. Indigenous peoples felt that the first proposal precludes the possibility of positive discrimination which might be necessary in some contexts, whilst the second suggestion weakens the article by no longer guaranteeing the access on an equal basis, but instead becomes a right which is no longer specifically indigenous.

Article 18 was also supported by almost all of the governments. However a caveat by many governments was that indigenous peoples would only have labour rights applicable to and approved by each state. A response to this is that state governments should be supporting international human rights anyway, rather than trying to find ways of avoiding them.

The discussion on Articles 15 to 18 and the attempts by some governments to produce a non-attributable draft did not move the meeting very far forward. Nevertheless, the indigenous representatives found that they were able to assess the proposals and were able to respond effectively to them. What was particularly apparent, however, was that the governments were divided among themselves as to how to seek consensus. The only negative effect of the process was that some governments, which had originally showed willingness to support the text as it stood, then showed themselves willing to enter into discussions about changing the text.

The Final Report and Conclusions

The discussion of Articles 15 to 18 was completed and on the final day the draft report was presented to the meeting. Because of logistical problems, there were the usual delays in producing the final drafts in both English and Spanish. Eventually the indigenous caucus read through the report and was able to make changes to the way in which their presentations were described. Furthermore, important sections on indigenous responses to the government representatives' proposals for the amendments, were eventually included after discussions with the Chair. The general feeling after the meeting was that indigenous peoples had successfully defended the draft Declaration for another year. This was tinged with disappointment that no article had yet been adopted.

Several general conclusions can be drawn from this meeting:

I. Consensus

Almost all governments are in favour of recognising the fundamental principles behind the declaration - in particular the terms 'indigenous peoples', 'collective rights' and 'self-determination'. The two main governments opposing this are the United States and Japan. Whereas the Netherlands and UK showed signs of supporting their position, they backed off during the second week after strong indigenous protest. France started the meeting agreeing with the US and Japan but, after discussions with indigenous peoples, agreed that individual and collective rights could co-exist. France's statements towards the end of the meeting were a vast improvement on those at the beginning.

The problem with the process is that consensus building is being held back by one or two governments. In this way the meeting is not approving or adopting articles because the desired result is unanimity. As the Australian and Torres Straits Islander Commission said in one presentation, according to UN procedures consensus lies somewhere between unanimity and a majority. This means that if one or two governments are obstructing a decision to the detriment of the work as a whole, they should be called on to withdraw their objections. However within the meeting the US was speedily acting behind the scenes, and many people felt that there were several moments when the adoption of articles could have taken place but for the US insistence on indigenous peoples having only individual rights.

A successful and progressive aspect of the meeting is that in the last few years Canada, Brazil, some of the Asian countries and now France have moved away from the US position, and are now more open to accepting collective

rights. Currently the US is the key player because Britain, the Netherlands and Japan are more half-hearted in their concerns about collective rights. The situation at the end of 1998 is that the United States is becoming increasingly isolated and, furthermore, is having the effect of pushing other countries further towards the indigenous position.

An example of this has been the seismic shift among the Asian governments. Until this year, some observers considered that their position was largely obstructive because they refused to enter into substantive discussions until the question of definition was cleared up. This year it would appear that the Asian governments agreed not to continue insisting on a definition of the term 'indigenous' but would support the Declaration. This understanding with the indigenous peoples from the region has led to the removal of a major obstacle to consensus building around the Declaration text.

II. Dialogue

Another move forward has been the hard thinking which indigenous peoples have done during the meeting about how they can enter into a constructive dialogue whilst still defending the existing text of the Declaration. One of the approaches mentioned by several indigenous representatives was to look at criteria with which it is possible to evaluate the different proposals of governments. When looking at the proposals of the governments they come in several forms:

- a) proposals which undermine the whole Declaration - opposition to the concept of 'indigenous peoples', collective rights and self-determination;
- b) proposals which substantially weaken the specific articles of the text - such as insisting that all indigenous education is under state control and no measures should be provided for its support;
- c) proposals which seek to reinforce certain areas of the text, but which are dealt with in other parts of the Declaration or in other human rights instruments - placing 'men and women' in an article when there is a general article on gender which covers the entire Declaration..
- d) proposals which suggest syntactic changes to make the language flow more smoothly or have been suggested for technical reasons;
- e) proposals which are genuinely intended to strengthen the text.

The first set of proposals can be rejected on the grounds that they violate the three basic principles of equality, non-discrimination and the prohibition of

racial discrimination. The second set of proposals can also be countered on these lines, but they are also not reasonable because they oppose the logic and overall principle of the Declaration. The third set is not necessarily negative but could be countered as being unnecessary because they are redundant. In some cases their very redundancy could mean that they are not harmful to the text, but in their duplication they cover the same ground as other articles and add nothing to the substance.

The three main grounds for opposition to textual proposals by governments are that they violate equality, that they are not reasonable and that they are unnecessary.

As yet governments have concentrated on trying to promote proposals which can easily be objected to on these grounds. It remains to be seen how the dialogue would go should the governments approve the substance of the text and should the resulting proposals not violate the above principles. As yet this situation has not yet arisen because the governments are being held back from reaching a general consensus by the refusal of a few governments to recognise indigenous peoples as collectivities with the right of self-determination.

III. Government Table 1998

Each year IWGIA works with indigenous representatives to establish a table marking out the positions of governments in general terms. This year Sarah Pritchard from ATSIC and the author produced the following table and submitted it for revision to the indigenous caucus on the last day. As in previous years it is divided into four parts. Those who support the articles as written, those who want minor changes, those who want more substantial changes and those who object to the underlying issues behind the draft Declaration. A few governments remain quiet. A * indicates that the government position has improved and a # that it has deteriorated.

Government Positions

1. Those who urged flexibility and, whilst considering concrete proposals, indicated that they could live with the articles under discussion as currently drafted.

Angola, Bolivia, Colombia, Cuba, Denmark, Ecuador, El Salvador*, Estonia (quiet)*, Finland, Guatemala, Malaysia*, Norway, Pakistan, Spain (quiet)*, Sweden* and Switzerland.

2. Those who supported the principles contained in particular articles but insisted on additions, changes and deletions to the current text and submitted amendments for discussion in future sessions. The A group put forward minor changes compared to those of the B group.

A. Costa Rica (quiet), Mexico, New Zealand, Peru, Russia, Venezuela*.

B. Bangladesh (quiet), Brazil*, Canada#, Chile#, China#, France*, India (quiet)#, the Philippines#.

3. Those who raised objections to issues underlying the draft Declaration generally - in particular, to the use of language of indigenous peoples and/or the recognition of collective rights.

Argentina, Australia#, Japan, the Netherlands#, the United Kingdom#, the United States.

Other quiet states who did not indicate their position include Belgium, Indonesia, Paraguay, South Korea, Syria and Uruguay. Countries not present in 1998 who attended in 1997 include Nigeria, Germany, Nepal, Nicaragua, South Africa, Kenya, Panama, Ukraine and Fiji.

The table shows a marked increase in category 1 and some slipping from 2A to 2B although those marked with a # are on the borderline.

THE AD HOC WORKING GROUP ON THE ESTABLISHMENT OF A PERMANENT FORUM FOR INDIGENOUS PEOPLES IN THE UN SYSTEM

By Lola García-Alix

The discussion about the establishment of a Permanent Forum for indigenous peoples within the United Nations system has been going on for nearly a decade. The idea of a Permanent Forum for Indigenous Peoples within the UN was introduced by an indigenous group that participated in the UN Working Group on Indigenous Populations at the end of the 1980's. At that time the indigenous representatives presented the need to create a Permanent Forum at the highest possible level within the UN system, because the Working Group on Indigenous Populations was operating at the lowest level of the United Nations structure, where it was dealing with all issues affecting indigenous peoples such as human rights, the environment, development, the protection of their cultures, health care, education etc.

In 1993 the World Conference on Human Rights that was held in Vienna, discussed the topic of the Forum and recommended that the UN General Assembly consider the establishment of a Permanent Forum for Indigenous Peoples within the UN. The Vienna recommendation was supported by the Human Rights Commission and the Working Group for Indigenous Populations (WGIP) in 1994.

Since then the issue of the establishment of a Permanent Forum for indigenous peoples within the UN system has been the subject of many deliberations and resolutions by the Sub-commission (the Sub-commission on Discrimination and Protection of Minorities), the Commission on Human Rights, ECOSOC and the General Assembly. Two workshops of experts were organised, in Copenhagen, Denmark (June 1995) and in Santiago de Chile (June to July 1997), respectively. Moreover, since the first workshop took place, indigenous organisations have expressed the need to initiate indigenous activities focusing on information, discussion and strategy development with regard to the establishment of the Forum, between indigenous organisations themselves at regional level. Four indigenous international conferences have also been held in Temuco (Chile), Kuna Yala (Panama), Indore (India), and Arusha (Tanzania). The indigenous declarations arising from those conferences have been included both as official UN documentation and as annexes in some of the UN meetings' reports.

At its 54th session, the UN Commission on Human Rights discussed the Santiago Workshop and adopted resolution 1998/20 that opened the way for a new stage in the process towards the establishment of the Permanent Forum. This resolution decided to establish an *open-ended inter-sessional ad hoc working group to elaborate and consider further proposals for the possible establishment of a Permanent Forum*. The Commission requested that in its work the Ad Hoc Working Group take into account the reports of the two workshops (held in Copenhagen and Santiago) and any comments received from governments, United Nations Organisations and bodies, specialised agencies, indigenous organisations, the Working Group on Indigenous Populations and the High Commissioner. The Ad Hoc Working Group was requested to submit its report, including proposals to the 55th session (held in March and April 1999) of the Commission on Human Rights.

With regard to indigenous participation, the resolution stated that they would benefit from the same procedures as those established for the Working Group on the Draft Declaration.

The Working Group held its first session from February the 15th to February the 19th 1999. The session was attended by 211 people, including representatives of 55 Governments, seven specialised agencies and 117 indigenous and non-governmental organisations.

The Indigenous Preparatory Meeting

As is usually the case with other working groups, indigenous representatives held a preparatory meeting at the World Council of Churches Headquarters on Sunday the 14th of February 1999, the weekend prior to the start of the official sessions. The meeting was chaired by Kenneth Deer and Victoria Corpuz, and some 50 indigenous representatives attended.

At this meeting, the indigenous representatives present reaffirmed the need to establish a Permanent Forum as soon as possible, one with a wide mandate, an equal number of representatives of indigenous peoples and member states, and one which was placed at the highest possible level - no lower than a body reporting directly to ECOSOC. Indigenous representatives also reaffirmed that they wanted the term "possible" to be dropped from official documents and agreed to request the nomination of an indigenous co-chair or rapporteur. The Indigenous caucus, having been informed of a consensus among governments over the election of a Chairman of the Working Group, asked Mr. Richard Van Rejsen (Holland) to meet with the indigenous caucus

in order to be apprised of the work plan for the next session and to inform him of the proposals of the Indigenous caucus.

The indigenous caucus meeting took a positive view of the meeting with Mr. Van Rejsen, which established an atmosphere of trust that was sustained throughout the meeting of the Working Group.

After the meeting with the Chairman, the indigenous caucus agreed to present a joint statement under the agenda item on organisation of work, asking the members of the Working Group to consider the election of an Indigenous representative as a member of the Bureau to act as co-chair/rapporteur for the Working Group. It was also decided to ask the Chair to open the floor to a general debate during the first session and prior to entering into discussion on the proposed agenda items.

Indigenous representatives emphasised that one of their fundamental objectives during this Working Group would be to eliminate once and for all the term "possible," so as not to leave any doubt as to the actual establishment of the Permanent Forum. They also hoped that by the end of the week, the principles of the Permanent Forum could be established, and that progress could be made in elaborating

a solid proposal for the rapid establishment of the Permanent Forum.

The Meeting

The Working Group was opened by the Deputy High Commissioner for Human Rights Mr B. Ramcharan, on behalf of the High Commissioner for Human Rights who provided a brief review of the historical process pertaining to the proposed Permanent Forum

On the first day of the meeting the Working Group unanimously elected Mr Richard van Rejsen (Holland) as Chairman-Rapporteur.

Indigenous Co-Chairmanship

Before the official session started, Mr Wilton Littlechild proposed on behalf of the indigenous caucus, that an indigenous person should be elected as Co-Chairman of the Working Group. Referring to a previous consultation with governmental delegations on this question, the Chairman said that the Rules of Procedures of the functional Commissions of ECOSOC do not allow for the Working Group to elect any person who is not a representative of a Member State to this position. The indigenous speakers emphasised that one of the main principles of the Permanent Forum is the idea of partnership and equality between states and indigenous peoples, and they expressed their resent-

ment towards the unwillingness of some states to consider them as equal partners.

One of the indigenous delegates used the symbol of two parallel stripes to indicate mutual respect, with one representing a canoe and the other representing a sailing ship. The canoe was used by the Indians, and the ship by the Dutch when the latter arrived in New York in the 17th century. At that time the Indians made an agreement of mutual respect with the Dutch. But now, several hundred years later, the delegate said, "the governments are sitting up there and we are sitting down here. We have been suppressed for so many years and now You talk about a new partnership. You also want us to understand that we are bound by those rules which You have used for so long to suppress us. But how can we establish a new partnership if we do not change those rules? Even though we talk about a new partnership," he continued, "it seems to be easier for the governments to violate us indigenous peoples than for them to change their own rules. To establish a new partnership we need to change rules and procedures and the establishment of an indigenous Co-Chair is only a small step indicating a willingness to do this."

The indigenous representatives asked the chairman to seek the opinion of the UN Legal Office in New York on this matter. However, the day before the meeting ended the legal answer arrived confirming that members of the Bureau must be elected from amongst the representatives of the members of the Commission thus precluding the possibility of an indigenous Co-Chairman.

Organisation of the Work

In his opening statement the Chairman presented a draft programme of work and a provisional timetable, which were adopted by the working group. The Chairman encouraged all participants to avoid lengthy debates on general statements. During the week the working group held eight formal and two informal meetings.

In the formal meetings the following agenda items were discussed: a general debate; a mandate; and membership and participation and the United Nations body to which the proposed Forum would report.

It was agreed that the Chairman would produce a summary at the end of each main debate.

To assist the Chairman at the formal meetings, two co-facilitators (one governmental representative and one indigenous representative) were chosen for each of the following subjects:

The Mandate: Mexico and Victoria Tauli Corpuz;
Membership and participation: Denmark and Tarcila Rivera;
The UN body to which the proposed Forum would report: Bangladesh and Wilton Littlechild.

In the informal meetings the following issues were discussed: the location of the Forum; the name of the Forum; the financial and secretariat implications; the role and function of the Working Group on Indigenous Populations and other matters.

The General Debate

The official meetings started with a general debate which was opened by a number of general statements made by indigenous organisations and governmental representatives in support of the establishment of a Permanent Forum for indigenous peoples within the UN system.

Indigenous peoples emphasised that, within the UN system, it was necessary for IP's to participate on an equal footing with states, and they called for the establishment of the Permanent Forum before the end of the decade.

The Mandate and Terms of Reference

This issue which represented the core of the discussion, was discussed in two formal meetings.

The general debate showed a broad acceptance among governments for the establishment of a Permanent Forum. The main discussion focused on the issue of broadening or narrowing the mandate.

Some governments (Denmark, Spain, Finland, Norway and Sweden) and all the indigenous speakers, stated that the mandate should be as broad as possible, covering all issues affecting indigenous peoples. This meant not only human rights issues but also areas such as the environment, development, education, culture and health.

Among the different functions that the Forum would have were:

- a co-ordinating role between indigenous peoples, the governments and the UN bodies;
- an advisory role;
- a role elaborating recommendations.

Many of the indigenous delegates stressed that it was important that the Forum should not only be an advisory body limited to submitting proposals,

recommendations and reports to ECOSOC, but that it should also be a decision making body with a preventive and sanctioning role, implying among other things that the Forum should monitor the human rights of indigenous peoples.

A majority of states seemed to agree that the Forum should have an advisory role, accepting that it should be mandated to make recommendations to the UN bodies. But most states expressed their strong opposition to the Forum being a decision-making body with any jurisdictional power.

The United States' delegation made a strong statement countering the indigenous demand that the Forum should be a decision making body. Furthermore, with the support of some Asian governments, the US delegation also opposed any advisory role for the indigenous peoples within the Permanent Forum. They also totally opposed the idea that the mandate should cover conflict prevention and resolution, arguing that the maintenance of international peace and security comes under the jurisdiction of the UN Security Council. New Zealand also expressed its opposition to the idea of the Forum possessing any sanctioning power.

India, intending to either block or delay the discussion, stated that she did not have a final position in the matter of the establishment of a new body and said that the already existing bodies were sufficient to fulfil the needs of indigenous peoples. India suggested that instead of creating a new body, indigenous peoples should be given membership within UN organisations.

Asian indigenous delegates remarked that the existing UN organisations are actually limited and do not cover a variety of issues. They also drew attention to the Secretary General's report on the review of the existing mechanisms, procedures and programmes within the United Nations concerning indigenous peoples. Moreover they stressed the fact that indigenous representatives are not provided with the necessary means to be heard in all UN bodies.

The issue of the definition of indigenous peoples, which had repeatedly been used by Asian governments to block discussions in earlier meetings, was again taken up by the Indian government who demanded that there be a definition before the Permanent Forum is established. Asian indigenous representatives *seemingly* evaded this question in order to avoid any fruitless discussion at this point.

In one of the last statements Denmark remarked on the evolutionary process of the Permanent Forum.

On the whole, when this item was discussed, there seemed to be a basic agreement that the Forum could be an advisory body with a broad mandate covering not only human rights, but all the rights and issues of interest to indigenous peoples.

Membership and Participation

The working group held two formal meetings on the questions of membership and participation in the Permanent Forum (PF).

Denmark presented the first concrete proposal on the composition of the PF, which was later supported and developed by many states and statements by indigenous representatives. Denmark suggested that the composition would be made up of a "core group" rotating every three years, that consisted of 15 to 20 representatives equally divided between indigenous peoples and governments on the basis of regional distribution.

All indigenous representatives requested parity with states, stressing that IP's should have full participation rights.

Spain supported by Argentina, Peru, Ecuador, and Chile, proposed that the PF could follow the ILO model, which has a tripartite membership, where the members have equal voting rights except in financial matters. Some of the indigenous speakers expressed their opposition to this model.

The idea of the core group was supported by many indigenous delegates who emphasised that it should be composed of an equal number of states and indigenous peoples' representatives the latter having the right to vote on an equal footing with governments. Some states and indigenous representatives considered that the core group should include UN agencies in its composition. There was a general consensus that experts may be called upon for technical and or legal advice.

The proposal that the core group could meet once a year (at an annual general assembly) and that it should be open to all interested governments, indigenous peoples' representatives, intergovernmental organisations, regional organisations and non-governmental organisations, as observers with the right to intervene and submit proposals, received broad support from indigenous speakers.

Regarding the selection of members of the core group, indigenous speakers pointed out that it should be made on the basis of nominations made by governments and indigenous peoples respectively, and reflect an equitable distribution in accordance with indigenous peoples' own practices and procedures. Many of the indigenous representatives' interventions focused on the importance of an equitable geographic distribution and expressed the con-

cern that the UN's current geographical distribution was inadequate for the representation of indigenous peoples.

Among those governments opposing the parity and equal footing of indigenous peoples in the Forum, was the US which expressed the strongest opposition to this idea and said that they could not support a body within the UN system where indigenous peoples were granted the same legal status as member states. Australia supported having an equal number of indigenous peoples, but not on an equal footing. Brazil stated that any matter concerning indigenous peoples should be channelled through governments and UN bodies. Some of the South American governmental delegations stated that indigenous representatives should be included in the governmental delegation of their respective countries and referred to the ILO model.

Once again during the discussion, some Asian governments (China and Bangladesh) raised the issue of the definition of indigenous peoples. At that point, the chairman sharply cut in saying that such a discussion was not appropriate at this point.

It seemed as though a consensus was reached between the indigenous delegates and the states over having a "core group" composed of governmental and indigenous representatives as active members, and UN agencies and independent experts as observers. As far as the election of members was concerned, the majority agreed that governmental representatives should be appointed by ECOSOC, and that indigenous representatives should be selected according to criteria that they themselves define in co-ordination with the Secretary General. The members should be appointed for a period of three to four years on a rotating basis. The PF should work on the basis of consensus.

As for the number of members of the core group, figures ranging from 10 to 20 were mentioned.

The Level of the Permanent Forum within the UN System

The chairman introduced the subject of the level of the Permanent Forum, referring to the discussion of the mandate where it was generally agreed that the PF should be linked in one way or another to ECOSOC. However its exact level would depend on the final outcome of the discussion on the mandate and it will be impossible to decide this year where exactly the Forum should be established.

Indigenous representatives generally agreed that the level of ECOSOC was the lowest acceptable level for the Forum. Some of the Australian and North American indigenous delegates proposed that the PF should be directly linked to the General Assembly, or should be an advisory body to the Office

of the Secretary General. However most of the indigenous representatives and many governments requested that the Permanent Forum be a subsidiary organ of ECOSOC. Some governments suggested that the Forum should report to ECOSOC through the Commission on Human Rights, with the implicit suggestion that the already existing Working Group on Indigenous Populations would, with a changed mandate, be established as the Permanent Forum. This would keep indigenous issues being discussed at the lowest level in the UN system. This proposal was strongly opposed by many indigenous delegates. Canada, Finland, Denmark and Chile supported the idea that the PF should be directly attached to ECOSOC, as its mandate would cover issues such as the environment, education, health, and cultural and social development. New Zealand and Peru said that the level is linked to the mandate, but the new body should be attached to ECOSOC.

Supported by Spain, Norway and Mexico, Switzerland proposed that the Forum could be established as a parallel body to existing functional commissions. Brazil strongly opposed the idea of a functional commission and supported the proposal to enlarge the WGIP mandate instead.

Indigenous delegates completely rejected this idea, as it would not change the way things already stand.

The discussion of this item pointed in the direction of ECOSOC and there was a general consensus that the Forum should be "linked one way or another to the ECOSOC". Unfortunately this consensus does not clarify much as to the eventual level of the Forum, since it covers all levels, from the WGIP level to the level of functional commissions. Perhaps one of the most relevant developments in the discussion of this issue was that the number of governments supporting the idea of a Forum established directly under ECOSOC increased significantly during the meeting.

Financial and Secretariat Implications, Location and Name of the Forum

These issues were discussed in an informal meeting and no final proposals and suggestions were elaborated upon.

Denmark proposed that considering that the mandate did not match everyone's expectations, a review clause should be added in order to allow future adjustments to be made to the mandate. This suggestion was supported by several states.

Regarding the location of the Forum, Denmark suggested Geneva with rotational meetings in the five global regions to enhance accessibility to indigenous peoples.

The idea of having the Permanent Forum located in Geneva was not opposed by any states but some of the indigenous delegates proposed that the headquarters of the Permanent Forum should be located in New York.

All participants agreed that the financing of the Forum should come from the UN regular budget as well as from voluntary contributions.

Regarding the Forum's name, some governments declared that it would depend on its relation to ECOSOC. However there was a general agreement that for now, the current name "Permanent Forum" was appropriate for discussion, dialogue and flexibility.

Some of the indigenous speakers expressed their desire to use the term "indigenous peoples" instead of "indigenous people".

The discussion of the future of the WGIP was carried out mostly by governments. Not surprisingly, those governments who are more reluctant to establish the Permanent Forum (Australia, France, the UK, Venezuela, Argentina and the USA) expressed their concerns about the duplication of the work of the Permanent Forum and the WGIP, mainly for "budgetary reasons". During the discussion three main positions were expressed:

1. It is premature to decide on the future of the WGIP (Denmark, Finland, Chile, Mexico);
2. The WGIP should be replaced by the PF after a transitional period (Australia, India, Canada, Bangladesh);
3. The WGIP should be restructured instead of creating the Permanent Forum (the USA).

Follow-Up

Denmark, supported by many governments, praised the positive development of this meeting and suggested continuing the discussion the following year, over a period of eight to ten working days, in order to finalise the work.

All indigenous speakers asked for another session in order to finalise the work on the establishment of the Permanent Forum and so that the financial implications of the Forum should not be invoked to block the process.

Referring to financial implications, Asian governments and the United States expressed their opposition to another session.

Canada highlighted the need for inter-sessional work with indigenous participation, and in this regard the possibility of having regional workshops should be also considered. This suggestion was welcomed by some indigenous speakers.

Adoption of the Report

The last session was reserved for the adoption of the report that was distributed among participants the same day.

After a proposal from Brazil, the meeting was adjourned for a short government caucus to comment on the Chairman's report. The outcome of this caucus was presented by Peru, and it suggested that in order to avoid a drafting discussion on the Chairman's summaries of the debates, these should be excluded from the report. After some discussion, the Chairman said that the summaries would be included in the report in the form of an annex.

Indigenous speakers unanimously supported the Chairman's work and regretted that the process could be blocked for procedural matters by some states.

In spite of the fact that some governments (above all India and the USA) tried at the very last moment to delay the adoption of the report by entering into a procedural debate on the paragraphs relating to the mandate, the Chairman managed to finalise the adoption of the whole report in such a short time, that not many additional objections were made to the text.

Conclusions

Overall, the vast majority of indigenous participants considered the results of this Working Group to be positive; it was considered a significant step forward in the already long process of establishment of the Permanent Forum. The efforts of the Chairman, Mr. van Rejsen, to facilitate dialogue and to avoid entering into debates which might obstruct discussion of the issue, actively facilitating the search for consensus between the different proposals presented, were particularly appreciated.

Perhaps one of the most significant advances made in this session was that the idea of establishing a Permanent Forum for indigenous peoples was consolidated and progress was achieved in discussions on fundamental issues such as mandate, level and composition.

The large majority of participating governments expressed their support for the creation of a new organ within the UNO system to deal specifically with indigenous issues. In this respect, one of the objectives expressed by the indigenous caucus - that the term "possible establishment" should be eliminated once and for all - seems to have been achieved. However, governments such as those of the United States and India (supported by the Asian group) continued to express their opposition to the idea of the establishment of a Permanent Forum for indigenous peoples.

With regard to the concrete aspects of mandate, level and composition, a certain consensus seems to have been achieved around the fact that the new body would:

1. Have a broad mandate, covering not only issues of human rights but also issues relating to the environment, development, culture, education and health.
2. Be established at a high level within the UNO system, "linked" directly or indirectly to ECOSOC.
3. Be an advisory body to the UNO.
4. Be of mixed composition, made up of governments and indigenous representatives.
5. Be funded within the overall budget of the UNO.

The issue of the nature of indigenous participation in the Working Groups of the Commission on Human Rights was once again an important issue. The refusal to accept an indigenous proposal to consider the election of an indigenous representative to the Bureau once again highlighted a continuing lack of political will on the part of the large majority of governments to take the first step in establishing a new relationship with indigenous peoples on a more equal basis.

The resolution - which was adopted by the 55th Session of the Commission on Human Rights - to renew the Working Group's mandate in order to hold a second meeting to finalise its work is a step forward in the process of establishing a Permanent Forum for indigenous peoples within the UNO system once and for all. In any case, there are still many outstanding questions around which it will not be easy to reach a consensus. In this respect, the proposal made by the Canadian government to carry out inter-sessional work between governments and indigenous peoples with the aim of attempting to make progress in gaining a consensus around a proposal is an important initiative along the path to achievement of the Permanent Forum.

IWGIA PUBLICATIONS

DOCUMENTS PUBLISHED IN 1998/99

DOCUMENTS IN ENGLISH

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. Also available in Spanish (Documento IWGIA No. 23).

IWGIA Document No. 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., with maps and photographs. 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 to 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., with 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 internationally known experts, activists and politicians. The document provides a broad and in-depth picture of the consequences of the Indonesian occupation of East Timor concentrating developments in recent years.

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 East Timorese population have died as a consequence. 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 are discussed in detail: i.e. the murders of five overseas journalists in Balibo just before the invasion in 1975, the massacre at 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 are 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., with maps and photographs. ISBN 87-984110-7-1, ISSN 0105-4503, US\$ 19.- + postage

LIBERATION THROUGH LAND RIGHTS IN THE PERUVIAN AMAZON. The book is an attempt to reflect the process of implementing an ambitious project of territorial planning in the Ucayali region for the demarcation and titling of indigenous communities.

The first section of the book is written by lawyer Pedro García Hierro on the background of the project, describing the conditions of slavery to which the indigenous peoples of Ucayali were subjected. In the second article the Danish anthropologist Søren Hvalkof covers the history of the Atalya and Gran Pajonal region based on his personal experience. The third part is written by

anthropologist Andrew Gray in which he describes the implementation of the project. Also published in Spanish (Documento IWGIA No. 24).

IWGIA Document No. 90, 1998. By Pedro García Hierro, Søren Hvalkof, Andrew Gray. Paper, 220 pp., with maps and photographs. ISBN 87-90730-05-4, ISSN 0105-4503, US\$ 20.- + postage

THE PERMANENT FORUM FOR INDIGENOUS PEOPLES. THE STRUGGLE FOR A NEW PARTNERSHIP. This document is a compilation of reports and papers mostly taken from the official United Nations documentation. It also includes the background to the discussion on the establishment of a Permanent Forum for indigenous peoples and a technical description of the United Nations system. The goal of this publication is to offer a working document which will be useful in the debate on the process of creating a permanent body for indigenous peoples within the United Nations system. Also published in Spanish (Documento IWGIA No. 27).

IWGIA Document No. 91, 1999. Edited by Lola García-Alix. Paper, 111 pp. ISBN 87-90730-08-9, ISSN 0105-4503, US\$ 10.- + postage

HUMAN RIGHTS AND INDIGENOUS PEOPLES. AN HANDBOOK ON THE UN 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. Also published in Spanish (Documento IWGIA No. 21).

IWGIA Document No. 92, 1999. By Florencia Roulet. Paper, 176 pp. ISBN 87-90730-07-0, ISSN 0105-4503, US\$ 14.- + postage

DOCUMENTS IN SPANISH

DERECHOS INDÍGENAS Y CONSERVACIÓN DE LA NATURALEZA, ASUNTOS RELATIVOS A LA AUTOGESTIÓN (Indigenous Rights and Nature Conservation, Issues Relating to Self-Management). (in English published as Document No. 87 under the title "Indigenous Peoples

and Biodiversity Conservation in Latin America". For abstract in English, refer to list of English documents).

Documento IWGIA 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., with maps and photographs. Also available in English (IWGIA Document No. 87). ISBN 87-984110-4-7, ISSN 0108-9927. US\$ 24.- + postage.

LIBERACIÓN Y DERECHOS TERRITORIALES EN UCAYALI - PERÚ. (Liberation and Territorial Rights in Ucayali - Peru; in English published as Document No. 90 under the title "Liberation through Land Rights in the Peruvian Amazon). For abstract in English refer to list of English documents.

Documento IWGIA No. 24, 1998. By Pedro García Hierro, Søren Hvalkof, Andrew Gray. 224 pp., with maps and photographs. ISBN 87-90730-04-6. ISSN 0108-9927. US\$ 20.- + postage.

¡SÓLO QUEREMOS VIVIR EN PAZ! EXPERIENCIAS PETROLERAS EN TERRITORIOS INDÍGENAS DE LA AMAZONÍA PERUANA. (We Only Want to Live in Peace! Oil Exploitation Experiences in Indigenous Territories in the Peruvian Amazon). The book is one of the results of the research work carried out by Lily la Torre on the oil exploitation experiences in the indigenous territories in the Peruvian Amazon. The author is a Peruvian lawyer working with the NGO Racimos de Ungurahui and has during many years been the legal adviser of many local and national indigenous federations in Peru.

Documento IWGIA No. 25, 1998. By Lily La Torre López. Published in collaboration with the Grupo de Trabajo "Racimos de Ungurahui". 266 pp., with photographs.. ISBN 87-90730-03-9. ISSN 0108-9927. US\$ 12.- + postage.

LOS DERECHOS DE LOS PUEBLOS INDÍGENAS EN VENEZUELA (The rights of the indigenous peoples of Venezuela). Although weak and deficient, Venezuelan legislation can still provide a substantial degree of protection of indigenous rights if it is used in a determined and well-informed manner. The aim of this IWGIA document is to collaborate in this process, providing indigenous people and their supporters with a concise summary of

their legal rights and how to protect them. The author, Luis Jes(s Bello, works as a lawyer for the Office of Human Rights of Vicariato Apost(lico de Puerto Ayacucho in the Amazonas State of Venezuela and as advisor to the Regional Organisation of Indigenous Peoples of the Amazon, ORPIA.

IWGIA Document No. 26, 1999. By Luis Jes(s Bello. 81 pp., with photographs. ISBN 87-90730-06-2. ISSN 0108-9927. US\$10 + postage.

EL FORO PERMANENTE PARA LOS PUEBLOS INDÍGENAS. LA LUCHA POR UNA NUEVA RELACIÓN DENTRO DE LA COMUNIDAD INTERNACIONAL. Also published in English (IWGIA Document No. 91). For abstract in English refer to list of English documents.

Documento IWGIA No. 27, 1999. Edited by Lola García-Alix. 111 pages. ISBN 87-90730-09-7. ISSN 0108-9927. US\$ 10.- + postage.

MEXICO: EXPERIENCIAS DE AUTONOMÍA INDÍGENA (Mexico: Experiences of Indigenous Autonomy). This book recounts different experiences and makes different proposals regarding the issue of indigenous autonomy in Mexico. In the book, academics collaborate alongside leaders and spokespersons for peasant and indigenous organisations, as well as the political experts who collaborated in the different stages of the struggle for democracy and autonomy. This collective effort has been coordinated by the sociologist, Aracely Burguete.

IWGIA Document No. 28, 1999. Edited by Aracely Burguete Cal y Mayor. 330 pp., with photographs. ISBN 87-90730-10-0. ISSN 0108-9927.

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