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Editorial

Indigenous Peoples win Prize on Oil Issue

On 13 March, 1997, the Peruvian indigenous organisation, the Native Federation of the Madre de Dios (FENAMAD), received the Bartolomé de las Casas award from the Spanish Prince, Felipe of Asturias, in Madrid. FENAMAD's President, Antonio Iviche and Harakmbut representative, Hector Sueyo, accepted the prize on behalf of the indigenous peoples of Madre de Dios, particularly those who live in voluntary isolation: the Yora, Amahuaca and Masheo-Piro.

'Voluntary isolation' refers to indigenous peoples who avoid dealings with the national society because they fear the consequences of permanent contact. The Yora, Amahuaca and Masheo-Piro currently face threats from outside interests, particularly from the oil company Mobil, which has been exploring in the area of the river Las Piedras. FENAMAD has been at the forefront of the defence of the local peoples.

The Bartolomé de las Casas award is a prestigious prize for those defending the rights of indigenous peoples throughout Iberian America. The recipients are frequently academics and indigenists, and so it was great news to hear that an indigenous organisation had received the award.

The national organisation Inter-ethnic Association for the Development of the Peruvian Rainforest (AIDESEP) had proposed FENAMAD for the prize in recognition of their position in the vanguard of the struggle against Mobil in Madre de Dios. AIDESEP took their proposal to the indigenous organised meeting of the Inter-governmental Panel on Forests in Leticia, Colombia, in December, 1996, where it was fully endorsed by representatives from over fifty indigenous peoples and non-indigenous organisations.

FENAMAD is a local organisation based in one of the most ethnically diverse parts of lowland South America - the region contains over 19 different indigenous peoples belonging to four language families. FENAMAD also has an ethnic sub-organisation, the Harakmbut Council (COHAR) which reflects the needs and desires of the indigenous peoples of the upper part of Madre de Dios. As other indigenous organisations, FE-NAMAD consists of a Congress, made up of community representatives, which elects a leadership every few years.

The history of FENAMAD has been dedicated to the defence of indigenous peoples in the Madre de Dios. It was founded in 1982 at the height of a gold rush which was seriously threatening the future of the Harakmbut peoples. The fear for their future was well-founded - the area had been devastated in the time of the rubber boom at the turn of the century where some peoples, such as the Toyeri, lost up to 95 per cent of their population.

FENAMAD has consistently denounced the abuses in the gold rush which affected the Madre de Dios region throughout the 1980s. Regular reports from the area describe the extreme exploitation of gold workers, child labour and slave-like practices. Community

Cover: *The Prince of Asturias presents the Bartolomé de las Casas Award to the President of the Federation of Natives of Madre de Dios. Photo: Casa Daldo, Madrid*

by Andrew Gray

leaders regularly receive death threats and in recent years several have been killed. The result is the colonisation of indigenous peoples' territories and the plundering of their resources.

FENAMAD has consistently taken a strong position to defend the rights of the communities, and against much opposition from local and national authorities, has managed to title 80 per cent of the indigenous communities in the region. The main task has been to defend these lands and, with recent support from IWGIA/DANIDA, FENAMAD and the Harakmbut people have, in January, 1997, begun a self-development project covering territorial consolidation and sustainable production methods.

However, FENAMAD came into international prominence last year through its spirited defence of indigenous communities and the rights of uncontacted Yora, Amahuaca and Mashco-Piro peoples facing the incursions of the oil company Mobil. Mobil explored the area of Las Piedras during summer 1996 against the advice of the Environmental Impact Assessment. FENAMAD denounced the risks Mobil caused the local peoples and an international campaign rapidly took effect.

FENAMAD was the first to release the information that there had been encounters of various kinds between those involved in the oil exploration activities and the isolated peoples of Las Piedras and have single-handedly stood out against the denials. While other NGOs have been seduced by Mobil's financial offers, FENAMAD has remained firm, prepared to discuss but not compromise the rights of these peoples.

Apart from the area where voluntarily isolated indigenous peoples live, Mobil is preparing to explore throughout the homeland of the Harakmbut people in the Karene area between the Manu National Park and the Tambopata Candamo reserved zone. In 1991, FENAMAD managed to demarcate and complete the studies for an Amarakaeri Communal Reserve covering this homeland and its sacred areas. The Peruvian government has however, refused to approve the reserve, creating obstacles, which coincide with Mobil's interest in exploring for oil in the same area.

The Bartolomé de las Casas award is a great achievement because it recognises the struggle FENAMAD is waging and, as Antonio Iviche says, it also recognises the struggle of all indigenous peoples of the Amazon who are standing up for their rights in the face of multinational companies, colonists and authorities. The award is also a message to FENAMAD and others in their position that they are not alone.

However, FENAMAD is already facing a backlash to the award. Mobil is currently moving into the established communities of the Karene area, trying to extract agreements to allow oil exploration, which could be used against FENAMAD. Even though communities are united in their opposition to oil exploitation on their homelands, Mobil has visited the communities of the area three times since January, offering goods, employment and cash incentives in return for a contract. Furthermore, sectors of the local and national media have insinuated that there are no uncontacted peoples in Las Piedras and that the award will corrupt and be misused. In fact, FENAMAD is already using the money (about US$20,000) for the demarcation of the area where the isolated indigenous peoples live in order to create a 'territorial reserve', recognised and protected by Peruvian law.

IWGIA is delighted that FENAMAD has received the Bartolomé de las Casas award. It illustrates the solidarity between organisations in the North with the indigenous peoples of the Amazon. We wish FENAMAD well in the future and express our solidarity and support in their struggle for the rights of the indigenous peoples of the Madre de Dios Peru. ❑

PERU
Indigenous People and Oil in the region of Madre de Dios

by Alfredo García Altamirano

Background

Historically, the Madre de Dios River basin has been the traditional territory of various indigenous peoples including the *Harakmbut* (*Harakmbut* linguistic family), *Matsigu-enka* (*Arawak*) and *Ese eja* (*Tacana*) peoples.

The 'rubber rush' at the end of the nineteenth century scattered these tribes causing a demographic crisis between various indigenous groups as forays into their land, contagious diseases, massacres and confrontations with rubber tappers became more and more common.

Dominican missions arrived in the basin, seeking to Christianise the population while at the same time teaching them trade and transactions based on market principals meant to promote a mercantile relationship between indigenous people and local merchants.

The rubber tappers, for their part, introduced other indigenous peoples into the region such as the *Shipibo-conibo* and *Kichwa runa* peoples. These peoples remained in the region after the end of 'rubber fever' in the late 1920s.

The mining cycle

The region was barely accessible to the rest of the country until the 1970s when a new economic cycle developed based on gold mining. A main road from Cusco to Mazuko and Puerto Maldonado aided the massive migration of individuals from the upper Andean communities and urban centres of the Peruvian southern sierra looking for a quick and easy fortune in the Madre de Dios basin.

The gold mining zone of Madre de Dios coincides with traditional territory of the Arkmbut, *Araseri*, *Pukirieri* and other Harakmbut groups. Harakmbut villages have been invaded by miners since the start of the gold mining boom.

The territorial problem, FENAMAD and COHAR

Faced with this situation, the Federation of Natives of Madre de Dios (FENAMAD) was founded in 1992 on the initiative of the Harakmbut people in order to defend their territorial rights and demand that local and national authorities resolve their claims. In later congresses, FENAMAD progressively incorporated other villages into the organisation, seeking to build an alliance

of indigenous peoples of the region in order to address the problems created by the most recent wave of colonisation.

In 1992, before the creation of FENAMAD, eight indigenous towns had obtained, on their own, official recognition as native communities, but only four had received title-deeds.

On the basis of their efforts, congresses and the work of their leaders, as well as support from private and public institutions, principally Centro Eori, the Corporación Departamental de Desarrollo and the Ministry of Agriculture, FENAMAD won official recognition for 19 more indigenous towns and the titling of 15 of them in 1995. In 1997 titling of two more communities was achieved, bringing the total to 27 recognised native communities and 21 titled native communities.

Moreover, in 1993, the Harakmbut Council (COHAR) was founded. It represents an intermediate organisational level between the Harakmbut communities and FENAMAD. Since its creation, COHAR has participated in several joint actions with FENAMAD.

The oil front

During those years, the conflicts between indigenous peoples in voluntary isolation and oil and lumber companies in the Urubamba River basin, west of the Manu National Park, resulted in a whooping cough epidemic which wiped out more than half of the population of the *Yura* people (*Pano* linguistic family) located along the Chaspajali River, Alto Manu, in the Manu National Park.

Indigenous people in voluntary isolation who live at the sources of the De los Amigos and Tacuatimanu Rivers or the De las Piedras, Tahuamanu, Chanlesa and Yacu Rivers, to the north of the department of Madre de Dios, bordering the Urubamba River basin (Ucayali region) respond to the pressures of the lumber industry, colonisers and oil companies.

Since its foundation, FENAMAD has also taken action to defend other indigenous peoples living in voluntary isolation. Together with other indigenous and private organisations, they supported the creation of the Nahua-Kugapakori State Reserve in 1990. Located to the west of Manu National Park, the establishment of this reserve marks an important precedent in the Peruvian Amazon

Territorial arrangement in the basin

In their struggle for the recognition of indigenous territorial rights, FENAMAD has also attempted to obtain legal possession of other parts of territories traditionally used for subsistence needs such as hunting, fishing and gathering of natural resources, because existing title-deeds do not correspond to the actual size of the area utilised by indigenous peoples.

In a 1991 agreement with the Ministry of Agriculture, FENAMAD succeeded in gaining approval for a study regarding the establishment of the Amarakaeri Communal Reserve. This study was presented to the Ministry of Agriculture in 1992. This case served as an example for other actions involving territorial organisation in central Ucayali-a region in which new communal reserves have been created. However, in Madre de Dios, the Amarakaeri Communal Reserve has yet to be legalised due to pressure from powerful local groups who are seeking to earmark this area for commercial purposes, ie. land and natural resource speculation. For example, they have recently requested the right to drill there.

Mobil Corporation in Madre de Dios

Mobil possesses concessions to Lots 77 and 78. Lot 77 affects the northern portion of the department of Madre de Dios and the Manu National Park where the *Pano* (*Yora*) speaking groups live as well as the 'Mashco piro' (*Arawak* linguistic family) as they are called locally.

Lot 78 affects the central area of the Tambopata Candamo Reserve Zone (1990), the traditional territory of the Ebe eja people. And, to the northeast, it affects part of the traditional Harakmbut territory, including the proposed Amarakaeri Communal Reserve.

The seismic exploration phase of the oil exploitation process began in March 1996 and will continue until September of this year. In January, 1997, Mobil Corporation concluded its seismic work on Lot 77, but still has realignment of 400 km of seismic lines in Lot 78 pending. Work is planned to resume in April.

FENAMAD and Mobil

In its ninth congress, held in the community of Santa Rosa in December 1995, FENAMAD proposed that Mobil Corporation support the creation of the Amarakaeri Communal Reserve in order to avoid problems arising from further seismic exploration activities. However, Mobil does not have any influence on the decisions of the central government in this case.

Together with another local organisation, the Agricultural Federation of Madre de Dios (FADEMAD) and the Tambapta Provincial Municipality (MPT), FENAMAD organised a forum in Puerto Maldonado, on the theme of 'Sustainable Development in Madre de Dios: Protected Areas, Local Peoples and Energy Resources' (August 1996). Among their main conclusions were the demands, again, that the central government immediately create the Amarakaeri Communal Reserve as well as the necessity of FENAMAD and FADEMAD's participation in Mobil's work in the department through local monitoring activities.

In conjunction with this, FENAMAD contacted the subcontractor, Grant Geophysical, when this company contracted the *Yiné* indigenous people from the village of Monte Salvado. The village is located midway along the Tacuatimanu or De las Piedras River as a result of th eYine people's recent migration from their community of origin, Miaría, Urubamba. The Yine people were asked to serve as guides. In September, 1996, FENAMAD supplied Mobil with information from reports the guides had made. Mobil responded by acknowledging the presence of indigenous people in voluntary isolation in the area.

With the success of these initiatives, FENAMAD gained support for its claims. Since then, various efforts have continued to unfold.

Mobil has also sought direct negotiations with certain communities. This is the case with the *Kotsimba* people, in the Tambopata Candamo Reserve Zone, and the *Diamante* people, in Manu. Mobil negotiated with both peoples for the right to use their airport as a base for Mobil's operations. Mobil has likewise lobbied heavily both nationally and locally to gain support for their presence in the area and has even sought to co-operate with victims of the heavy February rains in the Peruvian Amazon.

Furthermore, between January and March, 1997, FENAMAD and COHAR have participated in Mobil Corporation's discussions with the Puerto Luz Harakmbut community which includes the San José del Karene, Barranco Chico, Boca del Inambari, Boca Isiri, Shiringayee and Shintuya Harakmbut communities. The central issue is that indigenous territory would be crossed by one of the seismic exploration lines belonging to Mobil. The laying of seismic lines across the territory designed as the future Amarakaeri Communal Reserve is also on the agenda for discussion.

FENAMAD's immediate demands

In addition to insisting on the need to create the Amarakaeri Communal Reserve, the native communities most directly affected and their spokesorganisation, FENAMAD, are demanding that Mobil Corporation also establish a reserve benefiting indigenous peoples in voluntary isola-

tion in the area of the upper course of the Tacuatimanu or De las Piedras and other adjacent rivers.

On the national and local level, some social actors, among them Dominican missionaries, have sought to reduce the importance of or raise doubts about the existence of these indigenous peoples. FENAMAD and COHAR's response to this has, in part, been to make their own points of view known in Lima, Pucalpa and Puerto Maldonado. On 26 March in Puerto Maldonado, shortly after the Bartolomé de las Casas awards ceremony, FENAMAD and COHAR organised a conference around the theme where they stated, in front of the media and local authorities, their demands for the immediate creation of the Amarakaeri Communal Reserve and a reserve at the De las Piedras River. Their demands were well received by those in attendance.

Perspectives

In their work, both Mobil Corporation and the central government should focus on harmonsing national interests (obtaining earnings through hydrocarbon production) with local interests. The ultimated goal should be the resolution of the population's basic needs, both those of the Amazonian indigenous people and non-local inhabitants.

Unfortunately, this is not now the case. The Mobil Corporation only prioritises its commercialagenda, neglecting the fact that biological and cultural diversity are increasingly important questions affecting the future of humankind. Furthermore, these themes are of interest to a worldwide social movement which has begun to respond to these questions.

In short, this region has attracted greater local and national attention thanks to the initiatives launched by FENAMAD as well as others. These initiatives are an attempt to call attention to the problems of the region's indigenous people.

FENAMAD faces many demanding challenges in the future, not only in relation to the issue of oil but also mining in general, an activity which continue to be a significant problem for the Harakmbut peoples. Therefore, it is important to lay plans, and, with this region as a base, we can co-operate with other indigenous peoples on local, national and global levels. We can and must exchange experiences and work together in solidarity.

Alfredo García Altamirano is co-ordinator of FENAMAD's integral development programme for the region of Madre de Dios, 'Plan Karene'.

Speech by the president of FENAMAD at the Sixth Awards Ceremony of the Bartolomé de las Casas Award

My name is Antonio Iviche Quique, president of FENAMAD. I come from the *Harakmbut* people who for 3-5,000 years were the most numerous nation inhabiting the region of Madre de Dios. Our people have lived in harmony with all of the forest's species, conserving, respecting and taking care of nature. Today, these lands are recognised as the capital of biodiversity in Peru and one of the most biodiverse areas on the planet.

70 years ago, when our grandparents first came into contact with national society, all of the indigenous peoples in Madre de Dios had suffered from a severe population reduction. The Harakmbut people were reduced to five per cent of their former number and other peoples were completely wiped out.

Colonisation increasingly marginalised us, reducing our lands. Gold exploitation contaminated our rivers and the banks were reduced to stones and infertile soil. As a result of a law passed in October last year, our communities' land has been divided into plots and to top it off, in December it will be handed over to gold miners.

Felling of timber is turning our forests into deserts and consequently food, medicine and resources to build houses are becoming scarce. Ultimately, the space inhabited by all the species and the spirit of our ancestors is being irreparably destroyed.

Moreover, at the same time as resources are being exploited, our culture is scorned. Our wealth of traditional knowledge is deteriorating, new illnesses are being introduced, new needs are continuously being imposed and poverty not previously known in the region has become widespread. And when we defend ourselves, we are threatened and imprisoned. In the face of all this,

Speech by his Royal Highness the Prince of Asturias at the Sixth Awards Ceremony of the Bartolomé de las Casas Award

Madrid, 13 March 1997

It is with great pleasure that I once again help the Casa de América in presenting the Bartolomé de las Casas Award. This award was created to honour those individuals or institutions which have distinguished themselves in the struggle for understanding and harmony with America's indigenous peoples, in protection of their rights and with respect for their values. Since it was first awarded in 1991, this Award has been a clear testimony of our active participation in the safeguarding of Amerindians.

In 1996 the jury for the Award decided to award it *ex aequo* to FENAMAD for their ongoing work in defence of brother 'non-contacted' or 'voluntarily isolated' indigenous peoples and to Guillermo Céspedes del Castillo, Professor of History of Geographical Discoveries, for having dedicated his life to historical research. His work has made a significant contribution to the creation of understanding and harmony with American indigenous peoples.

'The Federation of Natives of Madre de Dios' was founded in 1982 to respond to the needs of indigenous peoples of the Peruvian Amazon and to confront different threats to their livelihood: the land and resources they have been given.

Since 1986 FENAMAD has done an exemplary job not only in the securing and defending of the rights of the Nahua and Manu peoples who inhabit those territories but also in the promotion of health and education policies aimed at strengthening the cultural identity of the Nahua and Manu peoples.

FENAMAD's most recent achievement has been the legal recognition of the Federation as the legitimate representative of the Nahua and Manu peoples in the wake of indiscriminate oil-related activities on their lands. FENAMAD has obtained assurances that these activities will be monitored and that economic compensation will be awarded for damages incurred.

in 1982 we formed FENAMAD to represent and defend all of the indigenous peoples in Madre de Dios. Today, after having formed indigenous communities, we represent all forty-seven communities found in the region of Madre de Dios.

Since its establishment, FENAMAD has worked to protect our peoples' rights:
- helping indigenous people to recover lands belonging to communities invaded by miners;
- negotiating for an end to illegal contracts held by timber merchants in our communal territories;
- bringing an end to timber merchants' abuse of the 'non-contacted' peoples.

We have also promoted numerous programmes:
- land recognition and titling;
- development of a draft law on mining issues for indigenous communities;
- preparation of documentation needed for the establishment of the Amarakaeri Communal Reserve;
- reassessment of indigenous doctors and traditional medicine;
- scholarships for secondary school and university students.

In the midst of this process to protect our rights and progress in our work to carry out our own development, a new threat has arisen. In March, 1996, three million hectares of Madre de Dios, inhabited by indigenous peoples, were handed over for oil exploitation to Mobil, Exxon and ELF oil companies. The *Yora*, *Aminahua* and *Mashco piro* indigenous peoples who live in voluntary isolation live in this so-called Lot 77. They fled to the headwaters of the most remote rivers in the zone after having survived the vicious rubber rush which resulted in the worst known period of death, violence and slavery of our peoples.

Their little or no contact with the rest of society means that they are especially vulnerable in the face of previously unknown illnesses which have already caused the extermination of other peoples in similar conditions. The presence of oil companies on their lands constitutes a significant threat to their survival. Therefore, FENAMAD and all of the peoples we represent feel the urgent need to inform the government and companies of this situation in order to protect our brothers and sisters' well-being. We have also recently experienced the severe effects of contact with the national society. That is why we have worked so hard to avoid a repetition of these irreparable situations.

The Bartolomé de las Casas Award, recognising our efforts, is a message which tells us that we are not alone and that in addition to those only interested in oil exploitation, there are broad sectors of society who are aware of the threats to life, liberty and healthy development of indigenous peoples living in forests.

It is an important message for us because it encourages us and signals that our concerns are taken seriously. But it is also important for other indigenous peoples in Peru who, in most cases, are affected by the presence of oil companies which can definitively alter the future of their children and their children's children. These peoples were never consulted about the exploitation of oil on their lands.

Finally, I believe that the Prize is also important for Peruvian society because it draws attention to the importance of protecting the cultural and human richness brought to the country by indigenous peoples. ❑

Although these results are significant in and of themselves they are not enough to satisfy FENAMAD. This is why I want to highlight those of their undertakings which are orientated towards the future and the development of peoples and communities to whom their work is dedicated.

'Voluntarily isolated' peoples are the best protectors and guardians of the environment and ecosystems they inhabit and where they take care of their ancestral territories. For this reason they must be protected.

Over the centuries these peoples have developed a great number of strategies allowing them to adapt to their environment as well as to various production systems able to adapt to change and to maintain that which we would call 'sustainable development' in modern terminology. This is another cause for our support.

Moreover, we can learn many things from them - the admirable economy with which they optimise necessary resources rather than destroying them; their ingenious and efficient adaptation to the environment; and their patience in daily life as they search for the most suitable means of ensuring a better future.

The indigenous peoples of the Americas are our fellow countrymen in the Latin American community, and they fill us with pride. They form an integral part of our past and our present and they possess their own rights which we are obligated to respect.

That is what the doctrine of Bartolomé de las Casas signifies. It is alive and strong in our own time and able to overcome the misuse it has been subjected to in the past.

Don Guillermo Céspedes del Castillo, Professor of History of Geographical Discoveries at the Universidad Complutense in Madrid, has dedicated the majority of hisprofessional life to a study of understanding and harmony throughout the whole of Spain and America's history.

As head of Publications and editor of the *Annual of American Studies*, member of the Royal Academy of History and corresponding member of the academies in Mexico, Peru, El Salvador, Ecuador, Panama, Uruguay, Bolivia, Puerto Rico, Guatemala, Santo Domingo and Salzburg, he has shared his knowledge with others thereby contributing to the strengthening of this relationship through numerous books, essays and articles. Furthermore, he has collaborated on such eminent works as 'The Social and Economic History of Spain and America', under the direction of Professor Vicens Vives. In this series he was in charge of the volumes covering America in the time of the reign of the Catholic Monarchs as well as the state of the situation in the West Indies during the XVI and XVII centuries.

In the figure of Professor Céspedes we clearly see the qualities of all persons dedicated to the examination of our common history and to its illumination with the aid of the latest knowledge and the most current historiographic techniques.

Professor Céspedes teaches us the vital lessons of our past. He illustrates the errors of our ways so that we might avoid their recurrence in the future and he opens a new door to coexistence - a sense of solidarity that leads us to build a joint community based on convictions and emotion; an energetic and fearless community able to build the Latin America which should be one of the leading forces of the third millennium.

I extend my heartfelt congratulations to all of those who have been honoured with this Award today. I am confident that their spirit and the spirit of the Award will live on and bear the fruit we require to strengthen our union and better fulfill the task before us. From this day onwards I offer you my co-operation and support. ❑

BRASIL

Cut up in Raposa

by the Instituto Socioambiental

A Ministry of Justice Resolution legalising *garimpeiro* (gold prospector) enclaves and ranches as well as their access roads, could reduce the indigenous land of Raposa-Serra do Sol by more than 300 thousand hectares, dividing up a once-unified area of land and threatening to exclude more than twenty small villages and other indigenous sites from the new boundary to be demarcated.

1. Description of the Raposa-Serra do Sol indigenous land

The indigenous land of Raposa-Serra do Sol is located in the northeast part of the State of Roraima in the interfluvial region formed by the Surumd, Mad and Tacutd Rivers. To the north this land stretches to the Brazilian border with Venezuela and to the east, Guyana. On the other side of the Surumd River (to the west) lies the Sno Marcos indigenous land, already demarcated by official sanction. Raposa-Serra do Sol has been inhabited since time immemorial by the *Macuxi*, *Ingarikó*, *Waixana*, *Taurepang* and *Patamona* peoples. There are records of other ethnic groups who inhabited the area in the past but emigrated north or were assimilated by the Macuxi. The current population of the area is estimated to be 12,000 indigenous people spread among 100 small villages. There are also non-indigenous settlers and garimpeiros living illegally in the interior. Their number fluctuates but is estimated to be about 2,000 persons.

Colonisation and occupation strategies were implemented in the region until its emancipation in 1988. These strategies were undertaken during different historical periods, on the initiative of the Portuguese crown, by central governments of post-independent Brazil and governments of the State of Amazonas while the Raposa-Serra do Sol region was incorporated as a part of the current State of Roraima and by the governments of the Federal Territory of Roraima. The greatest flow of non-indigenous settlers took place in 1990 after the first major withdrawal of garimpeiros from the interior of the Yanomami Territory. The garimpeiros, backed by political leaders of the emerging State of Roraima, relocated in Raposa Serra do Sol where they established living quarters and brothels.

Nevertheless, colonial strategies have always been of limited effectiveness due to the unpredictable farming conditions in the region. Part of the indigenous territory reaches the so-called 'lavrado', a grass plain susceptible to flooding, though it offers natural pastures for grazing. Here, large-scale cattle breeding is carried out on ranches which have generally been poorly constructed (wooden rooms, etc.). Another part of the Raposa-Serra do Sol indigenous region is formed by the sierras of the Macizo de las Guayanas where colonial occupation is a recent occurrence and whose economy is based on *garimpo* (prospecting) activity. Although this entire area has been permanently inhabited by indigenous peoples, colonial enclaves remain in the interior, inserted between small villages and other indigenous sites.

The indigenous peoples of Raposa-Serra do Sol continue to practise their traditional economic activities: hunting, fishing and the gathering of fruit and other products necessary for construction of their houses and for their general survival. They have begun to pursue some economic activities typical of the region such as cattle breeding, and their herds often exceed those of non-indigenous in-habitants. There are also indigenous groups who currently practise gold and diamond *garimpo* by hand.

Attempts towards the official recognition of the area as an indigenous territory go back to the beginning of the century when governmental demarcation efforts were first initiated. As early as 1917 the Government of Amazonas published State Law No. 941 earmarking the lands between the Surumd and Cotingo Rivers for the Macuxi and *Jaricuna* indigenous peoples. Nevertheless, the land was never officially demarcated and has always been the site of hostilities between competing economic interests and regional politicians.

Even though the region's indigenous people were contacted following the start of the occupation of the Branco River valley, Funai first took precautionary measures regarding recognition of their territory in 1977. That same year, the Interministerial Work Group was created to formally demarcate the area. However, a conclusive

report of its work was never presented. In 1979 a new Work Group barely identified part of the territory to be demarcated. In 1984 another Work Group failed to obtain conclusive results. In 1988, during resistance to the Calha Norte Project, more than one Interministerial Work Group returned to the issue of land appropriation and how to map the area without arriving at any agreement about how to address the area as a whole. In fact, demands for official recognition of the area grew, resulting in the proposal for the area's delimitation approved by Funai and sent to the Ministry of Justice for official approval in 1993. Since then, the proposal has been further secured via ministerial decrees calling for Funai to determine the extent of the area to be demarcated. The size of the identified area is approximately 1,678,800 ha.

The process leading to the demarcation of the indigenous land of Raposa-Serra do Sol has not progressed since the start of the current government and this process was challenged last year by Decree 1775/96. Challenges to the boundaries were presented by non-indigenous occupants and the government of Roraima. At the end of the deadline to review the challenges, the Minister of Justice asked Funai for new information on this and seven other demarcation processes to be submitted within 90 days. At the end of this period the Minister of Justice visited the area, met with indigenous people and left the impression that the government would take favourable action on their behalf. Nevertheless, two months later, Resolution No. 80 was released which, although it rejected previous challenges, ended by proposing a significant reduction in the size of the area suggested by Funai. This was the first time in the 1990s that the Federal government has formulated a proposal reducing the size of indigenous land.

Resolution No. 80

The resolution issued by the Minister of Justice regarding the indigenous land of Raposa-Serra do Sol, approved on 20/12/96 and published on Christmas Eve, contains numerous errors and distortions which will lead to the violation of indigenous territorial rights established in the Constitution of Brazil. These errors and distortions are discussed below.

2.1. Regarding the process of identification of the indigenous area

Resolution No. 80 begins by tracing the history of attempts to identify the indigenous area. The resolution gives three pieces of incorrect information here:

(a) In remitting the analysis of the first acts of the Public Authority recognising the area as indigenous, acts put into practice by the State of Amazonas from 1917 on. The Minister of Justice reports the fulfilment of a first demarcation action through Law No. 941 which had been annulled and later reconfirmed by the drawing up of a concessionary title. This first case of demarcation was clearly not taken into consideration as the Minister concluded that 'in spite of this new piece of information (the reinstatement of Law No. 941) not only was the aforementioned concessionary title not found, no information exists even about the drawing up of the title'. Below is a copy, in full, of the title the Minister was unable to locate:

STATE OF AMAZONAS
GOVERNMENTAL PALACE

Section No. 252

The Federal Inspector of the State of Amazonas, making use of the legal powers invested in the position and Article 1 of Law No. 941, from 16 October, 1917, which recognised as valid the process of mediation and demarcation of the lot encompassing lands found between the Surumd and Cotingo Rivers and the Imairary-ipim and ConopRa-ipim sierras, in the municipality of Bõa Vista de Rio Branco, placing the area under the authority of the Macuchy and Jaricuna indigenous peoples, including the right to exploit the land, as called for in Articles 1 and 5 of Law 941, from 16 October 1917, seeks the execution of the act on 11 February of the current year and thus resolves to declare that the referred to lot encompassing land found between the Surumd and Cotingo Rivers and the Imairary-ipim and ConopRa-ipim sierras, in the municipality of Bõa Vista de Rio Branco, in this State, is reserved as the location, place of residence and for the use of the Macuchy and Jaricuna indigenous peoples.

Let it be observed.

Governmental Palace, Manaos
17 March 1925

Alfredo Sá

As can be seen above, the 1917 demarcation law was reinstated in 1925. Therefore, it may not legally be overlooked by the Minister of Justice, and no other type of titling or occupation of the area in question is allowed.

(b) Referring to Funai's recent attempt to identify the indigenous area for demarcation purposes, the Minster of Justice, makes mention of 'studies from 1981 which arrived at 1,347,810 ha for the area'. At the end of the resolution, he suggests that the definitive boundaries to be demarcated observe, 'In principle the dividing line called for in the 1981 decision'. The referred to studies were inconclusive, uncharacteristic of a 'finding'. Moreover, no anthropologist signed the studies, and they never received Funai's approval nor were they submitted for a binding political decision. This being the case, the Minister should not be able to use them as a reference, substituting them for the proposal sent by Funai in 1993 and undermining the express competency of the anthropologist involved in the identification process outlined in the Funai proposal.

Nevertheless, it should be emphasised that the ministerial resolution's proposal for a fixed border fully restricts the area from being definitively demarcated as otherwise. Villages and paths are a part of indigenous land in all boundaries already studied, including that of 1981. Making use of old proposals, formulated in special political contexts to justify the contents of his own Resolution, the Minister picks and chooses at his own discretion. In the end he formulates his own proposal reducing indigenous land much more radically than the others. In trying to mediate existing border studies, the Minister appears to be seeking a compromise between the 1993 demarcation and the government of Roraima's proposal to demarcate just a few small sites (or islands) near indigenous enclaves in order to clear the rest for settlers and garimpeiros. The proposal was expressly rejected by the very same Minister's office on the grounds of unconstitutionality.

(c) In another part of the same resolution the Minister alleges that anthropological findings providing the basis for the 1993 Funai proposal are 'absolutely soundless' and Ado not contain a single specific point showing' indigenous occupation of the part of the area excluded in the 1981 study. Nevertheless, this part of the area, situated in the plains to the south of the area identified in 1993, where, in addition to the existence of several small villages, there is a concentration of perennial rivers and lakes, is referred to more than once in the anthropological findings as well as in additional information provided by the Directora de Asuntos concerning Funai land - information gathered at the request of the Ministry of Justice. The following quota-

tions from the anthropological finding will serve as examples:

To the south the interfluvial area Surumd-Mad (Ireng) and the main tributaries of the Branco River encompass extensive plains known as natural fields. These fields are covered by birdlime grass and small sparse bushes and to the north...

During the short transition period between seasons the vegetation on these fields, previously submerged, turns green again. The animals, isolated in the sierras and once again ready to range the more extensive habitat, emerge from their refuges in the areas of the plains not affected by flooding,. The indigenous peoples who live dispersed in small domestic groups reunite, unifying their extensive families in small villages, going on hunting expeditions and participating in other related economic activities.

During the summer months the fields' vegetation shrivels and the green foliage is limited to the margins of the rivers and canals which are now mostly dry or in the process of drying out. The indigenous people are forced to turn to the wells in the dried-out river bed and those lakes which still have water. In the process they manage to surprise animals seeking watering holes in the same places and continue their principle activity, fishing. Such activities should be understood as an integrated part of larger exploitation and production methods practised by all local groups throughout the entire area in question. These activities constitutes a long-term system for the circulation and distribution of resources, indispensable for the physical and cultural survival of indigenous peoples.

In effect, the borders referred to in the 1981 studies, wrongfully adopted by the Minister as the boundary line for the definitive delimitation, exclude, in addition to some small villages, the *buriti* palms area, the pastures and perennial lakes used by indigenous people for fishing. Their exclusion from the area to be demarcated seriously compromises indigenous peoples' subsistence activities.

2.2 Regarding the future of the indigenous land

The ministerial resolution contains various references concerning the validity of the findings behind the 1993 Funai proposal. Below are a few of these references:

In recognition of the anthropological findings demonstrating traditional indigenous occupation of the area in question, enjoying a presumption of accepted juris tantum status of their veracity,...

The proposal outlining demarcation of the area in question, in order to preserve the cultural unity of the indigenous peoples who inhabit the area, corresponds, as such, to the constitutional points established in Article 231,1 of the Republican Charter.

However, the resolution affirms that 'although Funai's proposal for demarcation, in its broad outline, is in accordance with the constitutional paradigm, this fact will not impede some small adjustments, dictated by public interest, to preserve already consolidated non-indigenous settlements in order to safeguard legal situations established by the Federal Public Authority itself'. It continues by claiming that Funai would remove parts of the identified area, which implies a reduction and segmentation of the unified area. It is worth analysing each of the two 'small adjustments' sought by the Minister of Justice in its own proposal.

2.3 Regarding exclusion of villages

The Minister calls the so-called Uiramutã, Surumd, Mutum, Socó and Agua Fría fenced in areas 'populated, consolidated settlements'. And he considers the mishandling of the areas containing the settlements a matter of 'public interest', excluding them from the perimeter to be demarcated. However, the ministerial text at no point reveals that the settlements referred to are in fact centres for garimpeiros and brothels.

In effect, the government of the State of Roraima, which historically opposes the demarcation of indigenous areas, supports any invasion of indigenous land and invests in an infrastructure supporting *garimpo* villages. This includes the establishment of main roads in areas not considered as 'Populated, consolidated settlements'. Various illegal activities are carried out in these settlements, among these, pillaging minerals, cattle rustling, contraband and prostitution. However, a significant decrease in the population of these centres has been observed in later years due to a reduction in mineral resource deposits. In order to impede demarcation of the area a local governmental initiative aimed at hiring part of the population in order to encourage them to remain there, including concocting a story about an impending social crisis, was implemented.

Also included in the government of Roraima's strategy of colonisation is the creation of municipalities with their seat in the interior of indigenous lands. This is the case of the Uiramutã municipality, recently established on the indigenous land of Raposa-Serra do Sol. This is a characteristic example of the absurd proliferation of municipalities without the budget to sustain them. The country would like to see this rectified on the occasion of the announced political reforms.

There are at least five good reasons that 'Public interest' cannot be used to argue for the exclusion of the area referred to from the perimeter to be demarcated: (a) systematic violation of the law and customs by the invading settlements; (b) illegal appropriation of natural resources; (c) deliberate and widespread concealment of taxes owed to the Public Authorities in connection with mineral extraction; (d) destruction of vegetation; destruction and pollution of rivers and canals on indigenous land; and (e) a series of conflicts between indigenous and non-indigenous individuals resulting in the death of at least 11 indigenous persons over the last eight years.

The Minister of Justice alleges in his resolution that the decision to exclude invaded areas is founded on the Federal Supreme Court decision rejecting recognition of the legal recourse presented by the Federal Government via the Federal Public Ministry, against the holding of elections for the establishment of the Municipality of Uiramutn. However, the Supreme Court decision was a decision limited to considering the process adopted in the case as inadequate. It did not mean the exclusion of villages, considered an integral part of indigenous land, from the areas.

In spite of the weight of the official considerations of the judgement, these considerations are relative in that the Supreme Court decision signified that the proof that indigenous land was the central issue would only be able to be produced via a common legal procedure aided by technical, anthropological expertise. This is impossible in the context of the proposed action. Therefore, the legal argument used by the Ministry consists of a sophism and is the result of an apparently deliberate attempt to dis-

tort the meaning of the Supreme Court decision.

Due to the Supreme Court decision, the demarcation act itself would evidently be unable to render the already created municipality invalid and would have to exist alongside it. This creates an absurd situation in which a municipality whose seat operates on indigenous land continues to exist while the legal authorities involved decide how to handle the issue. Or until the good sense of political elites leads to the taking of steps against the proliferation of municipalities already recognised as non-viable, by force of political-electoral interests of the regional leadership.

Furthermore, the Minister of Justice argues that the areas in which the villages are situated meet none of the four components of the constitutional definition of indigenous lands. But the resolution omits crucial information specifying that the small indigenous villages (Uiramutn, Socó, Surumd, Agua FrRa), in addition to several others located nearby, exist hemmed in by four of the five previously mentioned settlements. Now, if the component of indigenous habitation is met, how can inapplicability of the constitutional definition be alleged? In reality, the pending exclusion of these areas implies a flagrant constitutional violation.

Added to this is the fact that illegal activities carried out by garimpeiros are not limited to the settlements where they live but also involve the rivers and canals crossing indigenous territory, polluting their water. Prospecting also causes other damage, including the reduction of flora and fauna resources as well as the creation of frequent and direct conflicts with indigenous people.

2.4. Regarding incidental title and the Guanabara hacienda

The previously indicated ministerial errors of not taking the 1917 demarcation into consideration nor the attributes of indigenous habitation of the southern part of the area identified in 1993, as well as considering the '1981 decision' as a reference for defining borders, evidences the absurd conclusion to validate titles illegally issued by the Incra since 1981. However, paragraph 60 of Article 231 of the Constitution clearly considers as 'null and void, without legal effect, acts whose objective is occupation, domain or possession of lands referred to by this Article...'. Now, if the Federal Public Authority practised unconstitutional acts, the Minister would not be able to endeavour to rectify its effects at the cost of a part of indigenous territory. If the Minister considers that the individuals deserve compensation as a consequence of these acts, it should focus on indemnifying them and resettling them.

Nevertheless, by seeking to adopt the borders described in 1981 as a way to legitimate later titles, the Minister threatens to exclude areas where eight other small indigenous villages (Urubu, Preguicinha, Vista Alegre, Patativa, Jauari, Laje, Nativi and Matiri) are located, from being demarcated. Additionally, secluded areas used for cattle breeding, burí palm forests and lakes used for fishing and gathering by tens of indigenous communities are also threatened with exclusion. In the case that the reference to the 1981 borders was also adopted for the northeastern part of the area, which is not mentioned in the ministerial resolution, another two small villages, Canauapai and Canã would also be excluded from demarcation. In as far as the first criteria of the constitutional definition of traditional lands occupied by indigenous people is small villages, as far as they have permanent inhabitants, located in areas which the resolution seeks to exclude from the borders to be demarcated, then the rest of the criteria is accepted as true.

Even though, absurdly enough, it was sought to exclude titled areas from the borders to be demarcated, it would not be able to adopt the dividing line called for in the 1981 studies. First, because some of these titles affect land within these borders. But, principally, because the size of the area called for to be excluded would be greater than the area titled, including the small villages and other sites mentioned.

Even more ridiculous is the ministerial resolution's intention to exclude the area known as Guanabara hacienda, allegedly belonging to Mr Newton Tavares who was the target of investigations by the Human Defence Council of the Ministry of Justice for violations carried out against indigenous communities inhabiting the area he claims as his. The Minister argued in favour of exclusion, noting the existence of the discriminatory sentence pronounced against Incra concerning this land. However, Incra lost the alluded to action for not having made a motion within the legal time limit. Moreover, the legal process of the discrimination lawsuit does not discuss indigenous possession of the land. Even more serious, the Minister omitted another legal sentence, issued by the Federal Justice in an action sponsored by the Federal Public Ministry, which specifically had the land in question as its object of focus. It concluded by recognising indigenous habitation of the land. Below is a transcription of the conclusion arrived at in the sentence:

> *Documents evidence and the expert finding confirm that the area has traditionally been inhabited by indigenous people.*
>
> *It is of little importance that the opponent has exercised a peaceable and mild possession of the property over the years.'*
>
> ...
>
> *It is of little importance that the opponent, Newton Tavares, has occupied the area for decades. Such an argument does not justify his continuation on lands under Union domain, destined to the permanent usufruct of the indigenous community there.*
>
> ...
>
> *This being affirmed, I JUDGE THE OPPONENT ACCORDINGLY and REINTEGRATE POSSESSION OF THE PROPERTY INTO THE UNION. Funai is ordered to take corresponding measures regarding possession and usufruct of the lands and for the forests found there.*

Add to this that in the area claimed by Mr Newton Tavares there are four small indigenous villages: Jibóia, Santa Cruz, Macaco and Amalia. To recognise this illegal occupation would mean the removal of these small villages, in violation of paragraph 50 of Article 231, prohibiting the removal of indigenous groups from their land, except in limited situations. The same constitutional measure was mentioned in the resolution to reject the government of Roraima's challenge to the area's demarcation.

As can be seen, with the pretext of legitimising Federal Public Authority acts which attributed self-styled rights to property to private occupants of indigenous land, the Minister opted to substitute a reference to borders lacking scientific grounding for an anthropological finding. The reference was adopted without proper knowledge of the existence of indigenous occupation of excluded areas as well as omitting and distorting, more than once, the meaning of legal decisions taken in relation to the area. At a minimum, the long length of the oc-

cupation and titling of these parts of the areas could be argued. As concerns the area already recognised by the resolution itself as belonging to indigenous people, there are older occupations and titles, although just as illegal.

2.5. Regarding state roads

Furthermore, the ministerial resolution seeks to remove the main roads crossing the area from the demarcated area's zones of control. It does not contain, however, a clear indication of which main roads would be included in this process nor the size of the area to be excluded from the indigenous land's borders under the pretext of zones of control.

It is worth remembering that existing precedents concerning transport roads crossing indigenous lands exclusively refer to rivers and roads which link Brazil to neighbouring countries such as in the case of the Negro and Solimões Rivers and the BR-174 (Manaos-Caracas route). In the current case existing main roads are state or municipal. Not one of them falls under federal jurisdiction (except the access road to the city of Normandia). They serve to connect garimpo and indigenous villages with the city of Normandia and the rest of the state. The guarantee of the right to come and go at will is confused with the supposed right to invade.

In the case of the BR-174, the zone to be controlled corresponds to 50 m on each side of the road. If this zoning is put into effect (and even if they decide to reduce the size of the zone), three harmful consequences would affect the well-being of the indigenous territory: (a) the segmentation of the unified area into at least five separate areas due to control zones; (b) the threat that various small villages bordering the roads would remain partially or fully outside of the area demarcated as indigenous; and (c) the possibility that new centres will be established for a non-indigenous population along the roads.

The village of Preguicinha, for example, is situated on a curve on RR-319 and would therefore be totally outside of the area to be demarcated. The same would occur for several houses in the village of Raposa I, one of the most populated. Or, there are even cases such as the village of Xuminá, located 50 metres from RR-202, but whose crops are located along the edge of the road. At least 11 villages would be affected or even threatened with exclusion due to the changes instituted for the already existing roads. In addition to the three already mentioned, Morro, Lilás, Tucumã, Guariba, Olha D'Agua, Cantagalo, Maracaná and Santo Antônio would also be affected. Add to this that the local government's colonial project continues to be advanced and they are planning new roads, some of which are already under construction. This only worsens the negative implications of this decision.

3. Conclusion

In light of the stated arguments and information, the Minister of Justice's Resolution No. 80, if put into effect, would imply a reduction which could exceed the figure of 300,000 ha from the tract identified as indigenous land of Raposa-Serra do Sol, dividing it into five parts, making permanent the existing garimpeiro enclaves in the interior, formally making viable access by new non-indigenous persons and excluding more than 20 small villages from the perimeter(s) to be demarcated. This would also be the case for dozens of other sites including secluded areas and natural resource reserves indispensable for the survival of indigenous people. This being the case, the damaging and unconstitutional character of the ministerial resolution is evident.

The sought after reduction and division of the territory put forth in the form of a ministerial decree on delimitation would legitimise existing invasions and make possible new invasions, deepening current conflicts that have existed in the region for many years. It would further constitute a precedent in which the size of indigenous land is reduced with the result that it could lead to future reductions of indigenous land being or to be identified by Funai.

With rectifying the aforementioned errors as its aim, the Instituto Socioambiental, in accordance with the indigenous peoples who traditionally occupy the area in question, proposes that: (a) Resolution No. 80 not be put into effect; (b) the Minister of Justice issue a decree recognising indigenous occupation of the whole of the area identified by Funai since 1993, which would also determine the area's physical demarcation; and (c) expulsion of outsiders in the area belonging to indigenous people be effected taking into consideration, when necessary, rights to indemnity and the resettlement of the affected non-indigenous occupants.

ECUADOR The Indigenous Challenge

by Carlos Viteri Gualinga

The bell tower struck six that cold morning of 29 January, 1997. The time-worn front doors of the cathedral suddenly closed. Inside, parishioners and the priest, surprised and frightened, looked up in astonishment. A group of 120 people suddenly burst into the more than one hundred year old Catholic place of worship which stands as an architectural relic of a Spanish, colonial past. The intruders were mainly indigenous people from the Andes. They had rucksacks, blankets, banners, drinks, bread, rope and jars of paint with them. The also carried the 'Wypla' (in the colours of the rainbow) as a flag or scarf.

The occupation of the Metropolitan Cathedral in Quito was the beginning of protest activities initiated by the Co-ordinating Body of Social Movements in Ecuador which is a part of CONAIE, the Indigenous National Confederation of Ecuador. The event was associated with the street demonstrations led by the Federation of Ecuadorean Secondary Schools.

Earlier, on 11 January 1997, after signing a declaration called the 'popular mandate' the three largest social organisations in Ecuador: the Co-ordinating Body of Social Movements, the Popular Front and the United Workers' Front, had founded the 'Patriotic Front' while calling for 'civic strike' on 5 February. This declaration's objective was to remove Abdalá Bucaram from the corridors of power and to change the political and economic system in place in Ecuador since 1979, the year marking the return of democracy.

On Sunday, 2 February, the indigenous people, in a surprise move, began to blockade highways, and on Monday, the 3rd. CONAIE announced a national indigenous uprising. This was the beginning of a national mobilisation, and the Patriotic Front quickly announced that the civic strike would last for two days.

'Out with Bucaram' was the cry of the people in popular plebiscites, demonstrations, on banners, cars and T-shirts throughout Ecuador's cities. Two million people mobilised to take part in a protest without precedent in the history of this South American country.

On 5-7 February Ecuadoreans toppled the government of Abdalá Bucaram, considered the most corrupt, by means of a peaceful uprising. On Friday 7 February at 18.00, after 11 intense days of occupation, the members of the Co-ordinating Body left the Metropolitan Cathedral, and the indigenous uprising came to an end.

During the civic strike, the Coordinating body of Social Movements took the initiative and assumed a role usually played by the United Workers' Front (FUT). This was an historic event because for the first time in 30 years, a national strike was led by an organisation other than FUT, whose leaders were closely connected to the Bucaram administration.

CONAIE, an organisation uniting an indigenous population constituting 40% of Ecuador's population, participates in the Co-ordinating Body of Social Movements. But why was it that Ecuador's indigenous people were co-authors of the removal of Bucaram from office?

Since the beginning of his electoral campaign, Abdalá Bucaram, knowing of CONAIE's extensive representation and ability to summon its members, initiated an unwonted flirtation with indigenous people, offering them a ministry should he be elected president. A part of the indigenous leadership from the Ecuadorean Amazon region fell for the bait. Over the last four years they had been in the forefront of indigenous organisations, utilising this space to promote themselves and work towards electoral aspirations not necessarily foreseen by the organisations.

Once elected president, Bucaram executed his plan founded on a policy of control over the organisations, utilising a system of patronage which had as its goal creation of divisions among indigenous people.

In fact, after his failed electoral attempt to the prefecture of the Amazonian province of Napo in the second round of voting, Valerio Grefa, leader of the 'Pachakútik' political movement-as well as the Co-ordinating Body of Indigenous Organisations of the Amazon Basin (COICA)-announced with great pomp and circumstance the signing of a curious 'Accord for Political, Scientific and Technological Co-operation' with presidential candidate Abdalá Bucaram.

This signified a rupture between Amazonian and Andean indigenous candidates. The Amazonian candidates gained the reputation of being government supporters. Later, disagreements spread to and came to affect indigenous organisations. Thus, Pachakútik made its unfortunate debut in the electoral arena by giving in to a clear act of patronage while their activists declared themselves to be 'alternative and redeemers of poor Indians and mestizos'.

Despite the tight secrecy of the terms around the agreement, it was widely known that the agreement involved the creation of an ethnic ministry in addition to several administrative posts.

The electoral offer damaged some Amazonian indigenous organisations including CONFENAIE (the Confederation of Indigenous Nationalities of the Ecuadorean Amazon) who, confronted by the promise of power and its 'advantages', did not hesitate to make use of member organisations' resources, infrastructure and even their activities in order to carry out a hasty electoral campaign lacking objectives, divorced of any social project and obviously guided by personal interests.

At the same time, the candidates maintained their leadership responsibilities. These candidates were, among others, Valerio Grefa (COICA), Héctor Villamil (OPIP) and Edmundo Vargas (CONFENAIE). They utilised, at their convenience, their position as leader or candidate, intentionally obscuring the division between the organisation and the political movement.

Although electoral participation in the Andean Region was equally hasty, it had a different dynamic. The leaders' ideology led to participation with greater autonomy.

Curiously enough, this improvised electoral participation and the positions won, including the ministry for indigenous affairs, were considered an 'exemplary advance' for the indigenous peoples of Ecuador. But, it is clear that offers of political patronage can in no way be considered conquests, and, as concerns elected representatives, in a Congress like the one found in Ecuador, where anachronistic and corrupt politics dominate, the Indians are either assimilated or go unnoticed. Ultimately, they side with the decisions of the majority blocs.

As soon as Bucaram was installed in power, the pre-electoral rupture worsened, spreading to the organisations themselves. The Amazonian organisations, with their reputation as government supporters, openly confronted the organisations of the sierra and CONAIE's leadership. The former defended the establishment of an ethnic ministry, and the latter opposed them. Some accepted the 'good will' of the government while others saw it as 'institutionalisation of racial segregation'.

In the political arena the two Amazonian indigenous Representatives, Villamil and Avilés, joined with the government early on while the Andean representatives, Luis Macas and Miguel Lluco, maintained a critical stance towards the government in accord with CONAIE's leadership.

Once the ministry was created with the first indigenous minister, Rafael Pandam, a *Shuar* dissident from the evangelist ranks who was interim president of CONAIE until he was removed from the position in mid-1996, the government's objective was to manipulate the indigenous congress in order to enable their sympathisers to obtain positions in the leadership and hence control the largest indigenous organisation in Ecuador, CONAIE.

Faced with a strategy seeking to control indigenous organisations, one implemented from the brand-new ethnic ministry itself, the only organisation in the Amazon which publicly dissented was OPIP, the Organisation of Indigenous Peoples from Pastaza. This action won OPIP the honour of being excommunicated for being divisive (?) by other *Quichua* organisations aligned with Grefa-in an internal dispute in the ethnic ministry-and Shuar and *Achuar* organisations aligned with Pandam. The indigenous Amazon became a true madhouse.

Those indigenous peoples considered 'small', such as the *Siona*, *Secoya*, *Cofán* and *Huaornai* peoples, stayed on the sidelines during this political-bureaucratic dispute which became an issue among indigenous organisations thanks, in large part, to the opportunism of Amazonian leaders and politicians.

Bucaram led a new verbal war against CONAIE's leadership, presided over by José María Cabascango. The leadership was branded 'scoundrels'. The confrontation between CONAIE and the government reached its climax in December, 1996, when the government, through the ethnic ministry, openly intervened in CONAIE's fifth Congress, endeavouring to force the election of individuals sympathetic to their ends. CONFENAIE was accused of taking money to achieve this end, and this was never denied.

Subsequently, CONAIE's offices were forcibly taken over by individuals from the military group 'ARUTAM' (composed of Shuar and Quichua indigenous people from the Amazon in response to conflicts with Peru). This military group was led by a leadership primarily made up of Shuar indigenous people and *campesinos* from the coast, sympathetic to the government. Antonio Vargas, a Quichua indigenous person from Pastaza and a member of OPIP, was supposed to preside over this leadership. However, he rejected to do so because of the lack of recognition by Andean indigenous people of the largest regional organisation, ECUARUNARI. At the same time, he sought an outcome based on consensus.

An extraordinary congress held in January of the present year permitted CONAIE to name an officially-approved leadership, one maintaining Antonio Vargas as president. This lessens the possibility that CONAIE will be submissive to Bucaram, while the bitter pill of the decision will have to be swallowed by the group aligned with the ethnic ministry and primarily composed of Amazonian leaders, with the exception of those pointed out.

Bucaram assumed a policy similar to that adopted concerning indigenous peoples with other social organisations (women, unions, teachers and students), journalist guilds and all those who assumed a critical stance towards the regime.

The corruption, abuse of power and farce-turned-state policy provoked the events of 5-7 February, 1997, events which deposed the Bucaram government.

At the present time, Ecuador is preparing for what has been named the 'moral bath'.

All of the deposed government's actions are under investigation. CONAIE has been one of the organisations which has called for the most detailed investigation of all acts of corruption in which indigenous people might be implicated.

In fact, the indigenous Representatives (now expelled from the Pachakútik movement) connected to Bucaram, Héctor Villamil and José Avilés, are among the principal figures accused of corruption for having received money from secret funds in exchange for voting in favour of Bucaram. This affair has meant

that they face imminent dismissal from the national congress, a congress which is prepared to abolish their parliamentary immunity as well as that of other 'honourable' representatives, as they have called themselves.

The accounts that will have to be handed over by all of the former functionaries of the former indigenous ministry, led by Rafael Pandam and Valerio Grefa, can be added to this.

The corruption appears to have contaminated CONFENAIE itself. Their current president, Domingo Tranquila, is under investigation by the Supreme Court of Justice and the State's treasury inspector's office for having received money from the former government for ends yet to be determined.

These events signal even greater cause for worry now that the ex-functionaries of the ethnic ministry, in alliance with the Representatives, and in response to the accusation facing them and the possibility of a judgement against them, are attempting to put together 'public backing' regarding their questionable behaviour. The result is that they end up being harming the same organisations they are indebted to.

On 21 March, 1997, Representative Villamil backed the assault on OPIP's offices in attempt to remove the current leadership, presided over by César Cerda, from office for having publicly withdrawn its support for the Representative and called for his removal from office on grounds of corruption. These actions fit into the context of a regional and national strategy seeking to divide CONFENAIE and CONAIE. The objective is to conceal the corruption from the base communities in order to keep their leadership intact and their personal and group political perspectives alive.

These matters affecting the indigenous people of Ecuador are, ultimately, instructive for the communities, leaders and non-governmental organisations themselves. They provide instruction in discerning the nature of true vs. false collective projects. They show how to stimulate and support processes conceived of in the context of a community project benefiting society and to reject future welfare; to improve communication between local actors, leaders and NGOs; and to eliminate mistaken conceptions of power. Power does not lie in winning seats in congress nor in the imitation of ritual bureaucratic whitewashing, and, least of all, holding some insignificant position in a government. In indigenous societies the true power lies in community participation and action.

This experience should serve once and for all to wipe out corruption. To achieve this, indigenous organisations must re-define concepts of social and political organisation, create efficient monitoring agencies and widen the forum for internal debate. Indigenous strength and knowledge lies in local and family initiatives. The fundamental task is understanding that new concepts of power should recognise that indigenous organisations are not homogenous. In fact, the opposite is true. These organisations are the meeting place of socio-diversity and biodiversity.

The future challenge facing indigenous society is to make indigenous organisations centres of operations for diverse ways of thinking.

Carlos Vitelli Gualinga is a Quichua indigenous person, anthropologist and journalist at the daily newspaper Hoy *in Ecuador*

Wi will continue the debate on the indigenous movement in Ecuador in the next number of Indigenous Affairs with an article on Valerio Grefa, the former president of COICA

Indigenous Peoples and Conservation:

Declaration of WWF's Principles

WWF

Principles for partnership between WWF and indigenous peoples' organisations in conserving biodiversity within indigenous peoples' lands and territories, and in promoting sustainable use of natural resources

Preamble

1. Most of the remaining significant areas of high natural value on earth are inhabited by indigenous peoples. This testifies to the efficacy of indigenous resource management systems. Indigenous peoples and conservation organisations should be natural allies in the struggle to conserve both a healthy natural world and healthy human societies. Regrettably, the goals of conserving biodiversity and protecting and securing indigenous cultures and livelihoods have sometimes been perceived as contradictory rather than mutually reinforcing.

2. The principles for partnership, outlined in this statement, arise from WWF's mission to conserve biodiversity, combined with a recognition that indigenous peoples have often been stewards and protectors of nature. Their knowledge, social, and livelihood systems - their cultures - are closely attuned to the natural laws operating in local ecosystems. Unfortunately, such nature-attuned cultures have become highly vulnerable to destructive forces related to unsustainable use of resources, population expansion and the global economy.

3. WWF recognises that industrialised societies bear a heavy responsibility for the creation of these destructive forces. WWF believes that environmental and other non-governmental organisations, together with other institutions worldwide, should adopt strategies with indigenous peoples, both to correct the national and international political, economic, social and legal imbalances giving rise to these destructive forces, and to address their local effects. The following principles aim to provide guidance in formulating and implementing such strategies.

I. Rights and Interests of Indigenous Peoples

4. WWF acknowledges that without recognition of the rights of indigenous peoples no constructive agreements can be drawn up between conservation organisations and indigenous peoples'groups.

5. Since indigenous peoples are often discriminated against and politically marginalised, WWF is committed to make special efforts to respect, protect, and comply with their basic human rights and customary as well as resource rights, in the context of conservation initiatives. This includes, but is not limited to, those set out in national and international law, as well as in other international instruments.

In particular, WWF fully endorses the provisions about indigenous peoples contained in the following international instruments:
- *Agenda 21*
- Convention on Biological Diversity
- *ILO Convention 169 (Convention Concerning Indigenous and Tribal Peoples in Independent Countries)*[2]
- *Draft UN Declaration on the Rights of Indigenous Peoples*[3]

6. WWF appreciates the enormous contributions indigenous peoples have made to the maintenance of many of the earth's most fragile ecosystems. It recognises the importance of indigenous resource rights and knowledge for the conservation of these areas in the future.

7. WWF recognises indigenous peoples as rightful architects of and partners for conservation and development strategies that affect their territories.

8. WWF recognises that indigenous peoples have the right to the lands, territories, and resources that they have traditionally owned or otherwise occupied or used, and that those rights must be recognised and effectively protected, as laid out in ILO Convention 169.

9. WWF recognises the right of indigenous peoples to exert control over their

lands, territories and resources, and establish on them the management and governance systems that best suit their cultures and social needs, whilst respecting national sovereignty and conforming to national conservation and development objectives.

10. WWF recognises, respects and promotes the collective rights of indigenous peoples to maintain and enjoy their cultural and intellectual heritage.

11. Consistent with Article 7 of ILO Convention 169, WWF recognises indigenous peoples' rights to decide on issues such as technologies and management systems to be used on their lands, and supports their application insofar as they are environmentally sustainable and contribute to the conservation of nature.

12. WWF recognises that indigenous peoples have the right to determine priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that States obtain their free and informed consent prior to the approval of any project affecting those lands, territories, and resources.

13. WWF recognises and supports the rights of indigenous peoples to improve the quality of their lives, and to benefit directly and equitably from the conservation and sustainable use of natural resources within their territories.

14. In instances where multiple local groups claim rights to resources in indigenous territories, WWF recognises the primary rights of indigenous peoples based on historical claims and long-term presence, with due regard for the rights and welfare of other legitimate stakeholders.

15. WWF respects the rights of indigenous peoples to enjoy an equitable share in any economic or other benefits realised from their intellectual property and traditional knowledge, building on the provisions of the Convention on Biological Diversity.

16. In conformity with the provisions in ILO Convention 169, WWF recognises the right of indigenous peoples not to be removed from the territories they occupy. Where their relocation is considered necessary as an exceptional measure, it shall take place only with their free, prior informed consent.

II. Conservation Objectives

17. At the heart of WWF's work is the belief that the earth's natural systems, resources, and life forms should be conserved for their intrinsic value and for the benefit of future generations.

WWF bases all of its conservation work on the principles contained in its Mission statement.
In addition, WWF fully endorses the provisions about biodiversity conservation and sustainable development contained in the following documents:
- Agenda 21
- Convention on Biological Diversity
- Convention on Trade in Endangered Species of Flora and Fauna (CITES)
- Convention on Wetlands of International Importance (Ramsar Convention)
- Caring for the Earth

18. WWF encourages and supports ecologically sound development activities, particularly those that link conservation and human needs. WWF may choose not to support, and may actively oppose, activities it judges unsustainable from the standpoint of species or ecosystems, or which are inconsistent with WWF policies on endangered or threatened species or with international agreements protecting wildlife and other natural resources, even if those activities are carried out by indigenous communities.

19. WWF seeks out partnerships with local communities, grass roots groups, non-governmental organisations, governments, corporations, international funding institutions, and other groups, including indigenous communities and indigenous peoples' organisations, who share WWF's commitment to the following conservation objectives:
i) Conservation of biodiversity: to conserve biological diversity at the genetic, species and ecosystem levels; to improve knowledge and understanding of species and ecosystems; to protect endangered species of animals and plants; to maintain ecosystem functions; to maintain protected areas and improve their management.

ii) Sustainable use of resources: to ensure that any harvest of natural resources is sustainable; to support community management of renewable resources according to subsistence and cultural needs; to use recycling methods where appropriate; to use resource-efficient methods and technologies; and to substitute non-renewable with renewable resources wherever possible.

iii) Pollution prevention: to prevent, wherever possible, discharges of environmentally damaging substances, and ensure that products and processes are non-polluting.

III. Principles of Partnership

20. The following principles will govern: (i) WWF conservation activities within indigenous peoples' lands and territories; (ii) WWF partnerships with indigenous peoples' organisations; (iii) WWF partnerships with other organisations whose activities may impact upon indigenous peoples.

21. Whenever it promotes conservation activities affecting indigenous peoples' lands and territories, WWF will encourage governments to 'take steps as necessary ... to guarantee effective protection of [indigenous peoples'] rights of ownership and possession' of those lands and territories, as determined by ILO Convention 169 (Art. 14).

22. Prior to initiating conservation activities in an area, WWF will exercise due diligence to:
- seek out information about the historic claims and current exercise of customary rights of indigenous peoples in that area; and
- inform itself about relevant constitutional provisions, legislation and administrative practices affecting such rights and claims in the national context.

23. When WWF conservation activities impinge on areas where historic claims and/or current exercise of customary resource rights of indigenous peoples are present, WWF will assume an obligation to:

- identify, seek out and consult with legitimate representatives of relevant indigenous peoples' organisations at the earliest stages of programme development; and
- provide fora for consultation between WWF and affected peoples, so that information can be shared on an ongoing basis, and problems, grievances and disputes related to the partnership can be resolved in a timely manner.

In addition, consistent with the relevance and significance of the proposed activities to the achievement of conservation objectives, WWF will be ready to:
- assist indigenous peoples' organisations in the design, implementation, monitoring and evaluation of conservation activities, and to invest in strengthening such organisations and in developing relevant human resources in the respective indigenous communities; and
- assist them in gaining access to other sources of technical and financial support to advance those development objectives that fall outside WWF's mission.

24. In instances where states or other stakeholders, including long-term residents, contest the rights of indigenous peoples, WWF will be ready to assist indigenous peoples to protect, through legally accepted mechanisms, their natural resource base, consistent with the achievement of WWF's Mission and subject to availability of resources.

25. Where the resource rights of indigenous peoples are challenged by national governments, private corporations and/or other groups, and the defence of those rights are deemed relevant and significant to the achievement of its Mission, WWF will, in coordination and consultation with indigenous peoples' organisations and subject to availability of resources:
- seek out and/or invest in the development of legitimate and transparent mechanisms to resolve conflicts at local, regional, national and international levels, as appropriate;
- seek to ensure that the primary rights and interests of indigenous peoples are well represented in such fora, including investment to inform and prepare indigenous peoples' representatives to take part in negotiations.

26. Consistent with WWF conservation priorities, WWF will promote and advocate for the implementation of Article 7 of ILO Convention 169: 'Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit'.

27. WWF will not promote or support, and may actively oppose, interventions which have not received the prior free and informed consent of affected indigenous communities, and/or would adversely impact - directly or indirectly - on the environment of indigenous peoples' territories and/or would affect their rights. This includes:
- economic or other development activities;
- natural resources exploitation;
- commercially oriented or academic research;
- resettlement of indigenous communities;
- creation of protected areas or imposition of restrictions on subsistence resource use;
- colonisation within indigenous territories.

28. With respect to the existing knowledge of indigenous communities, prior to starting work in a particular area, WWF will establish agreements with the indigenous organisations representing local communities, to ensure that they are able to fully participate in decisions about the use of knowledge acquired in or about the area they inhabit, and equitably benefit from it. These agreements will explicitly determine the ways and conditions under which WWF will be allowed to use such knowledge.

29. In the context of its partnerships with organisations other than those specifically representing the interests of indigenous peoples (including national governments, donor agencies, private corporations, and non-governmental organisations), WWF will:
- ensure that such partnerships do not undermine, and if possible serve to actively promote, the basic human rights and customary resource rights of indigenous peoples;
- ensure that all relevant information developed through such partnerships and accessible to WWF, is shared with the appropriate representatives of indigenous peoples;
- ensure that any national or international advocacy or fundraising activity related to indigenous peoples will be undertaken in consultation with representatives of relevant indigenous peoples' organisations.

30. WWF recognises that the resolution of problems related to indigenous peoples may require action in international fora, in addition to national interventions. In pursuit of the foregoing principles, and in order to enhance its own understanding of indigenous peoples' issues, and when consistent and relevant to its conservation objectives, WWF will:
- actively seek inclusion and engagement in relevant international as well as national fora.
- initiate an ongoing process of dialogue with indigenous peoples' groups on the principles for partnership proposed herein.

31. WWF commits itself to promoting nationally and internationally, whenever possible and appropriate, the implementation of all of these principles in the context of conservation actions within indigenous peoples' lands and territories.

32. WWF is committed to upholding the above principles, and the spirit that informs them, to the best of its abilities.

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[1] In this position statement, as well as in other institutional documents, WWF refers to indigenous and tribal peoples using the definition of ILO Convention 169. Unless explicitly said otherwise, the term 'indigenous peoples' includes both concepts, 'indigenous' and 'tribal'.

[2] Adopted by the General Conference of the International Labour Organisation on 27 June 1989.

[3] As adopted by the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the UN Commission on Human Rights, at its eleventh session (UN document E/CN.4/Sub.2/1993/29, Annex I). ❑

Notes for a proposal on indigenous peoples and protected areas

By Gonzalo Oviedo Carrillo
(WWF International)

Summary

In these notes some ideas are proposed about how to reconcile indigenous peoples' interests and protected area objectives. The central concept is that under agreed national standards and legal frameworks for biodiversity conservation and protected areas management, indigenous peoples should be recognised as the legitimate owners and managers of protected areas existing within their territories; and that this model has the potential to strengthen the role of indigenous peoples in conservation, thus leading to a more effective management of protected areas for conserving biodiversity and resources. Several practical steps are suggested in this direction.

WWF and Indigenous Peoples

1. In May 1996 WWF adopted a Statement of Principles on Indigenous Peoples and Conservation as a result of a process of consultation within the organisation and with indigenous peoples organisations. The ideas in this paper are based on this Statement and on WWF's exchanges with several indigenous organisations, in the search for a solution to the long list of conflicts between indigenous peoples and protected areas worldwide

2. For WWF, recognition of indigenous peoples' rights to lands and resources is the basis to ensure their effective contribution to the conservation of biological diversity. It is also a precondition for appropriately addressing the issue of protected areas in indigenous peoples' territories.

3. Two other complementary, fundamental rights of indigenous peoples have to be acknowledged in developing and implementing the CBD, particularly in developing and implementing policies on protected areas in indigenous peoples' territories: the right they have to determine development priorities for the territories they traditionally occupy or use, and their free, prior informed consent for any conservation or development action to take place in those territories.

What do indigenous peoples want regarding protected areas?

4. It has been said sometimes that indigenous peoples are opposed to protected areas because these have deeply affected their fundamental rights. This statement can be true in specific circumstances where no solution has been found or envisaged to existing conflicts. But indigenous peoples are apparently not, in general, opposed to protected areas; what they want is fundamental changes in the way protected areas are designated and managed. Moreover, in some cases indigenous peoples see protected areas as a real option to help protect their lands and resources from encroachment, unsustainable development projects, and other threats to their lives, cultures and environment.[1]

5. Indigenous peoples basically want to ensure that protected areas:
- do not deprive them from their land and resource rights;
-recognise and support their right to self-determination, which includes the concepts of territorial control and empowerment of traditional institutions;
- recognise and support their right to self-development;
- are established on basis of their free, prior informed consent;
-incorporate traditional conservation and use patterns, and strengthen local institutions;
- provide tangible benefits to them;
-effectively protect lands, resources and the people themselves, from external threats.

6. The above-mentioned claims of indigenous peoples do not contradict the objectives of protected areas but demand fundamental changes in the existing policies on the matter, because the problem currently is that in most countries protected area policies do not allow for the inclusion of these types of conditions for designation and management of protected areas within indigenous peoples' territories.

The IUCN system of categories of protected areas and indigenous peoples

7. The existing system of international categories for protected area management proposed by IUCN in 1994 does not address these specific claims and views of indigenous peoples and the particular characteristics that protected areas should have in their territories.

8. An International Conference on Indigenous Peoples, Environment and Development held in Zurich in 1995, concluded that 'none of the categories (of the IUCN system) are defined to guarantee the recognition of indigenous peoples' rights to self-determination and self-development'. The Conference recommended that 'at the next IUCN General Assembly a new category based on the principle of self-determination should be promoted'.

9. Hence, this is one option that has been suggested: to include a Category VII called Indigenous Territory. The International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests, for example, stated in its Charter (Article 43) that 'environmental policies and legisla-

tion should recognise indigenous territories as effective 'protected areas', and give priority to their legal establishment as indigenous territories'. In its submission to the CBD, the Alliance warned that, until the notion of 'indigenous territory' is officially considered as a protected area, indigenous peoples will be very cautious about the provision contained in Article 8 (a) of the CBD.

10. However, a closer examination of categories V and VI of the IUCN system shows that although currently insufficient in their actual wording, they could offer room to develop the concept of indigenous territory, either as a protected landscape/seascape or as a multiple use area. The condition for this to happen, is that any further development of the concept of indigenous territory as part of categories V and VI needs to be based on the conditions and demands expressed in paragraph 5.

11. Whatever the selected option is at the international level, one conclusion is clear: countries all over the world need to specially include at the national level a category of protected areas based on the concept of *protected indigenous territory*.

12. In accordance with this idea the objectives of this paper are:
-to suggest a number of steps that governments could take to implement new policies on *protected indigenous territories*, either as part of categories V or VI or as a result of the application of an entirely new category; and
-to explore the option to include a specific sub-category for *protected landscapes/seascapes in indigenous territories* and *managed resource protected areas in indigenous territories* in existing categories V and VI.

13. There is a great diversity of situations with regard to this issue and the ideas presented here are only very general. Each national and even local situation will require the formulation of specific strategies, itineraries and tools.

Possible steps for the establishment of protected indigenous territories

14. It seems to be necessary first to identify in which cases an indigenous territory can become a protected area because it appears that not all indigenous lands can be considered as such.

The IV World Congress on National Parks and Protected Areas (Caracas, 1992) adopted this definition of protected area:

> *'An area of land and/or sea especially dedicated to the protection and maintenance of biological diversity and of natural and associated cultural resources, and managed through legal or other effective means' (IUCN, Guidelines for Protected Area Management Categories, 1994:7).*

15. The application of this definition shows that indigenous territories can become a protected area when:
a) a major objective of this management is protection and maintenance of biological and associated natural and cultural resources;
b) it has been legally designated and/or is managed by effective means.

16. In addition to these requirements, protected indigenous territories should be:
c) based on legal recognition of collective rights of indigenous communities living on them to the lands and resources they have traditionally owned, occupied or otherwise used;
d) designated by legal means on the basis of an agreement between the representatives of the indigenous people and the local, provincial, regional, national or federal government, as appropriate;[3] or established by other non-legislative, 'effective' measures;[3]
e) managed totally or partially by the respective indigenous people on the basis of a management agreement with the respective governmental authorities and of a jointly devised management plan.[4]

17. The establishment of new protected areas in indigenous peoples' territories should follow appropriate steps so as to meet these conditions, in short, these include:
- identify the lands to be protected jointly with the peoples concerned or at their request;
- adopt measures for legal recognition of land and resource rights where this has not been done beforehand, or at least initiate a formal process in this direction;
- establish an agreement for designation and management involving the relevant governmental agencies and indigenous organisations concerned;
- proceed to legal designation (or non-legal, but through other equally effective means);
- develop a management plan between the respective governmental agencies and the peoples concerned with the support and participation of other parties as necessary;
- adopt the respective technical, institutional, financial and other measures to ensure proper implementation of the management plan.

18. In relation to protected areas already established on indigenous territories, similar steps should be taken to solve the existing conflicts and comply with indigenous peoples' claims, but there would be some specificities depending on whether the areas under protection overlap totally or partially with indigenous territories.

19. In the case of total overlap between a protected area and an indigenous territory some of the steps could be:
a) to legally recognise collective rights to lands and resources in the entire area, preceded by a conflict resolution process whenever necessary or at least initiate a formal process in this direction;
b) to reclassify the area as a protected indigenous territory in accordance with guidelines to be developed within the framework of the international system of protected area categories and with the relevant national policies;
c) to establish a management agreement between the concerned people and park authorities aimed at transferring control and management powers to the respective indigenous institutions;
d) to identify the mechanisms for monitoring and reporting on the implementation of the management plan to the respective national authorities, the country and the international community;

The Amazon rainforest continues to be deforested at an ever increasing rate. Photo: Alejandro Parellada

c) to ensure that the respective authorities and the peoples concerned jointly prepare a new management plan;
f) to identify the local indigenous institutions involved in the protected area management, their respective roles, their capacity building needs and the way they relate to the broader institutional structure for protected areas
management in the country;
g) in case the process leads to major changes in the protected area (which may include definition of new elements like borders, category, objectives, name, etc.), the area could be re-designated through legal means.

20. In the case of partial overlap between the designated protected area and the indigenous territory, the following steps could replace/complement the steps above when appropriate:
b) a new zonation could be put in place, as part of the preparation of a joint management plan. The new zonation should address the indigenous communities' needs, interests, and objectives;
c) a co-management agreement could be established to ensure consistency among the roles of all the different actors in the protected area;
f) to reform the institutional structure of the protected area so as to include relevant indigenous institutions on the board in charge of direction and management of the entire area and/or the protected areas of the region.

Protected indigenous territories in categories V and VI

21. The proposal here, as mentioned before, is to explore the option to develop specific sub-categories in categories V and VI for *protected indigenous territories*. Only a general concept for each category is offered here, and further work is necessary to develop it in detail.

22. Category V is Protected Landscape/ Seascape. It stresses the value of interactions between people and nature over time, a relevant feature in indigenous territories, and includes important specific objectives related to conserving cultural heritage. It also aims at bringing 'benefits to, and (contributing) to the welfare of, the local community through the provision of natural products... and services'. The area allows for private ownership which gives room to recognising indigenous land rights.

This category could be applied to protecting indigenous territories with a particular scenic value (therefore where tourism, recreation and education are or could be important objectives for public use), either natural (mountains, shores, islands, etc.) or cultural (remains of ancient civilisations).

23. Category VI is Managed Resource Protected Area. It aims mainly at ensuring the sustainable use of natural ecosys-

tems and embraces the concept of *multiple use area.* It also allows for communal ownership of the land and specifically considers the option of management by local institutions or co-management by public bodies and local communities.

This category could be applied to protecting indigenous territories where 'at least two-thirds' of the area is in a 'natural condition', as required by the definition of Category VI. Here, the concept of 'natural condition' has to be interpreted basically as 'non-converted natural ecosystems', not as 'untouched ecosystems'. In many indigenous territories, for example those in tropical forest regions, traditional use of natural resources by indigenous peoples has not led to conversion or destruction of natural ecosystems, even if it has implied interventions on nature. The basis for the designation of a protected area under Category VI would be then the desire of the people involved to maintain at least two-thirds of their land under regulated use which does not lead to conversion or destruction of natural ecosystems - whereas the rest of the land may include modified ecosystems for human use including traditional agricultural lands and small settlements.

24. What is interesting to note is that although neither of these two categories specifically includes the notion of indigenous territory, both offer room to develop it, without contradicting any of the objectives and main elements of the categories.

A potential role for the cbd

25. The problem, as stated initially, is that the existing legal and political framework in most countries clashes with the notion of a protected indigenous territory. To proceed in the suggested direction countries need first to reform their legal and political instruments for protected areas. The most important reforms that are needed relate to communal ownership of lands within protected areas and control and management responsibilities. In addition, new legal and policy instruments have to include incentive/disincentive measures, benefit sharing provisions and tools for capacity building. Last, but not least, a number of new technical solutions and instruments have to be devised for implementation.

26. To advance this work internationally the CBD could present a series of recommendations to party countries in order to facilitate the development and establishment of policy and legislative tools oriented in this direction. Such recommendations could be based on an analysis of:

a) The ways protected areas within indigenous territories, managed or co-managed by indigenous communities under agreed standards and methods can contribute to *in situ* conservation of biodiversity;

b) The ways in which indigenous rights and interests can be matched with conservation objectives in such areas, in terms of aspects like policing powers and control over lands, management methods, ownership regulations, benefit sharing, etc.

c) The measures that some countries have already taken or are planning to take to reconcile conservation objectives with indigenous interests and rights.

27. The CBD could also request the support of IUCN's CNPPA to develop, in consultation with indigenous organisations, a proposal for an international policy framework on the matter, based on the inclusion of the notion of *protected indigenous territories* in the international system of protected areas through either a new category or a sub-category of categories V and VI.

28. In developing such analyses and recommendations the CBD bodies should ensure that all the necessary consultations are made and that indigenous peoples organisations in particular have the opportunity to fully and openly express their wishes, concerns and proposals in relation to protected areas.

Notes

[1] This summary is based on several cases of claims and proposals of indigenous groups on protected areas established in their lands and on statements from organisations like the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests, COICA (Coordinating Body of Indigenous Organisations of the Amazonian Basin), and the Maori Congress of New Zealand.

[2] This would be the expresseion of the principle of free, prior informed consent. If there were no agreement, there would be no designation. It also relates to the principle of self-development. The Australian Agency for Nature Conservation has developed a new model in agreement with indigenous peoples by which protected areas are self-declared by them as an expression of the principle of self-determination. Vid. *Self-declaration for self-determination. Indigenous protected areas: A new approach to the use of IUCN Categories V and VI in Australia,* by Peter Bridgewater and Ian Cresswell, GBF, Montreal, 1996.

[3] In this case, however, some sort of official recognition would be also needed.

[4] This would be part of the recognition of the right to self-determination, particularly with regard to control and management powers, and the strengthening of local institutions in charge of exerting them.

INTERGOVERNMENTAL PANEL ON FORESTS

Leticia, Colombia, 9-13 December 1996

DECLARATION AND PROPOSAL FOR ACTION

All peoples are descendants of the forest. When the fores dies we die. We are given responsibility to maintain balance within the natural world. When any part is destroyed, all balance is cast into chaos. When the last tree is gone, and the last river is dead, then people will learn that we cannot eat gold and silver. To nurture the land is our obligation to our ancestors, who passed this to us for future generations.

PREAMBLE

We, participants of the International Meeting of Indigenous Peoples and Other Forest- Dependent Peoples on the Management, Conservation and Sustainable Development of All Types or Forests,

Recognising that Indigenous Peoples enjoy the right of self-determination and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development;

Recognising that forests are the homes of many Indigenous Peoples and other forest- dependent peoples and are fundamental to their survival as distinct peoples, forming the basis for their livelihoods, cultures and spirituality;

Recognising that nearly all forests are inhabited;

Recognising that the maintenance of cultural diversity and the welfare of Indigenous Peoples and fores. dependent peoples is a fundamental aspect of sustainable forest management;

Recognising that secure and long-term gua-rantees to lands and territories is essential to sustainable forest management;

Recognising that human rights, sustainable forest management and peace are interdependent and indivisible;

Recognising, therefore, that the interests of Indigenous Peoples and other forest- dependent peoples should have priority in any decisions about forests:

Therefore this meeting calls upon Governments, Intergovernmental Organisations, Non-Governmental Organisations and Major Groups involved in implementing Agenda 21) to support the following principles, conclusions and proposals for action:

GENERAL PRINCIPLES

That the rights, welfare, viewpoints and interests of Indigenous Peoples and other fores-dependent peoples should be central to all decision-making about forests at local, national, regional and international levels;

That their rights to their lands, territories, forests and other natural resources should be recognised, secured, respected and protected;

That they should have full control over the management, use and conservation of these resources;

That the representative institutions of Indigenous Peoples and other forest-dependent peoples should be fully recognised and respected;

That Indigenous Peoples and other forest dependent peoples need strong and autonomous organisations and support for the consolidation of indigenous systems and cultural institutions;

That new mechanisms should be established to ensure the equal participation of Indigenous Peoples and other forest-dependent peoples in decision making on forests at all levels;

That Indigenous Peoples and other forest peoples constitute an important crosscutting theme in the forest agenda, affecting many other issues;

The United Nations bodies, when dealing with Indigenous issues, should not narrowly work on sectoral themes but continue to engage in dialogue to enhance mutually enriching discussions, and to strengthen co-ordination;

That there should be wholehearted support for the current Draft United Nations Declaration on the Rights of Indigenous Peoples being discussed by the United Nations Commission on Human Rights, and its relevance for the goals of sustainable development and sustainable forest management;

That these principles shall be applied in the management, conservation and sustainable development of all types of forests.

NATIONAL FOREST AND LAND USE PROGRAMMES:

National Forest And Land Use Programmes should promote broad participation and be decentralised to ensure a wide involvement in implementation;

Indigenous Peoples and other forest-dependent peoples must play an integral part in national forest and land use planning;

Rights to and respect for Indigenous Peoples and other forest-dependent peoples´ lands and territories and tenure systems must guaranteed in forms appropriate to them;

Within the framework of national and regional planning, decisions on land use must be devolved to the local level so that Indigenous Peoples and other fores-dependent peoples can assert effective customary systems of sustainable forest management;

Indigenous Peoples and other forest-dependent peoples´rights to rotational farming, hunting, gathering, fishing, grazing and other land use should be respected and secured within national land use and forest programmes;

All forest and land use planning activities that affect Indigenous Peoples and other forest-dependent peoples must fully respect their customary systems of dispute settlement;

National land use and forest programmes should uphold international standards on the rights of indigenous peoples, with due consideration for the wishes of the Peoples concerned, including appropriate national legislation and implementation.

National governments are urged to respect indigenous communities and cultures across national frontiers and not continue with practices which divide Indigenous Peoples.

Proposals for Action

1. The IPF should acknowledge the importance of indigenous land use and resource rights, as well as customary law and indigenous legal systems, as inherently related to the forest issue.
2. To establish participatory mechanisms for national forest and land use planning which include the following elements:

Equal access and fully participation by Indigenous Peoples and other forest dependent peoples in national land use planning and forest programmes, at all stages of planning, implementation, monitoring, assessment and evaluation.

Initiatives, programmes and projects must take into account customary land use and tenure systems of Indigenous and other forest dependent peoples, including rotational farming, hunting, gathering, fishing, grazing and others.

No activities must take place on Indigenous Peoples´ territories without their full and informed consent through their representative institutions, including the power of veto

No activities for resource utilisation or conservation, including the establishment of protected areas, must be initiated on lands of Indigenous Peoples and other forest dependent peoples without security and full respect for their territorial rights.

Indigenous Peoples and other forest dependent peoples must be included in the decision making process at all levels in all areas which affect them, including policy decisions of international development agencies, multilateral development banks and all trans-national corporations.

Any benefits from territories of Indigenous Peoples and other forest dependent Peoples must primarily be for their own local use and in accordance with principles of benefit-sharing established by them.

Underlying Causes of Deforestation and Forest Degradation:

Deforestation and forest degradation is exacerbated by a lack of understanding of the holistic worldviews and ways of life of Indigenous Peoples and other forest dependent peoples;

The underlying causes of deforestation and forest degradation which urgently need to be addressed include the following:

The failure of governments and other institutions to recognise and respect the rights of Indigenous Peoples and other forest dependent Peoples to their territorial lands, forests and other resources;

The increasing problem of landlessness among impoverished peasants who are denied access to land outside forests areas due to inequitable land ownership patterns, and who also have no alternate economic opportunities;

Government policies and those of private sector industry are geared to exploit forests and mineral resources to the fullest extent for purely economic gain. These policies are often incompatible with other existing forest conservation policies. Such policies include substituting forests with industrial tree plantation for the pulp industry; oil and gas exploration by transnational corporations; uncontrolled mining operations and establishing nuclear waste storage sites on indigenous territories.

Proposals for Action

1. Genuine participatory mechanisms need to be developed which allow Indigenous Peoples and other forest dependent peoples a decisive voice in evaluations of deforestation processes and the evolution of appropriate policy responses.
2. Governments and other institutions are urged to pursue measures which can reduce pressure from industrial societies on forests by, inter alia, reducing consumption, reusing, recycling and substituting forests products as appropriate.

Traditional Forest Related Knowledge:

Traditional forest-related knowledge is essential to sustainable forest management practices;

Traditional forest-related Knowledge is intimately bound up with Indigenous Peoples and other forest dependent peoples´ ownership and control of their lands and territories and their continued management, use and conservation of all types of forests.

The contributions of women in the development, promotion and protection of indigenous knowledge must be acknowledge and supported;

The ownership of Indigenous Peoples and other forest-dependent peoples of their forest related traditional knowledge and contemporary innovations should be recognised and secured;

Traditional knowledge must remain alive, cultures must continue to develop, and indigenous contemporary knowledge and technologies must also be respected;

Use of this knowledge should not be made without the prior informed consent of the Peoples concerned;

Indigenous Peoples oppose the patenting of life forms, sacred plants and the Human Genome Diversity Project and the imposition of private intellectual property rights on collective indigenous knowledge and resources.

Proposal for Action

1. New legislative frameworks and sui generis systems that recognise and effectively protect the cultural heritage and tradi-

Photo: IWGIA

tional forest related knowledge of Indigenous Peoples and other forest dependent peoples must be established. These must be based on customary law and governance structures.

2. To note and support the actions and recommendations agreed by the Conference of Parties to the Convention on Biological Diversity during its third meeting relating to the implementation of Article 8j and other related areas.

3. To establish in the Amazon region a world university of Indigenous Peoples with the support of the international community. This University shall function under the direct administration of the Indigenous Peoples with the purpose to study, promote and protect Indigenous cultures, cosmo-vision and traditional knowledge. It shall be open to all peoples and cultures.

4. IPF4 should support the Principles and Guidelines for the Protection of the Heritage of Indigenous Peoples contained in the Final Report of the Special Rapporteur, Mrs. Erica Irene Daes (E/CN.4/Sub.2/1995/26) covering definitions, transmission of heritage, recovery and restitution of heritage, national programmes and legislation, researchers and scholarly institutions, business and industry, artists, writers and performers, public information and education and international organisations.

5. To undertake a series of expert meetings under the auspices of the CSD on sustainable development and territorial management and the related issues of partnerships, agreements and legal framework for cultural heritage protection.

6. National governments and the international community are urged to support education programmes which promote the sustainable forest management practices of Indigenous Peoples and other fores-dependent Peoples.

7. To implement broad technical capacity-building programmes on sustainable land use and forest management, giving special attention to settlers.

8. To support information exchange programmes between Indigenous Peoples and local communities on issues of intellectual and cultural rights, knowledge, innovations and practices.

9. To develop association agreements on sustainable forest management between Indigenous Peoples, other forest-dependent Peoples and groups living in the forest.

10. To establish an information centre and dissemination system to enable Indigenous Peoples and other forest dependent peoples to access all relevant information. Efforts should be made to make this information freely and widely available in languages and forms accessible to Indigenous Peoples.

FINANCIAL ASSISTANCE AND TECHNOLOGY TRANSFER:

Proposals for Action

1. Financial assistance and mechanise must be publicly accountable, transparent and unconditional. The IPF must also create possibilities for Indigenous Peoples and other forest dependent Peoples to design their own financial mechanisms.

2. Indigenous Peoples and forest dependent peoples should directly access and receive technical assistance and support upon their own request. When such assistance is proposed by government agencies and other bodies it should only proceed with the approval of the Indigenous Peoples and forest dependent peoples.

3. Donor criteria should go beyond project financing, and also support the capacity- and institution-building of Indigenous Peoples and other forest-dependent Peoples.

4. To set up an independent fund to enable Indigenous Peoples and other forest dependent peoples to enjoy full participation in the international forest policy debate. The funding mechanism must ensure independent, fair and equitable participation from all regions and all types of forests. Indigenous Peoples must be part of the administration of this fund.

CRITERIA AND INDICATORS FOR SUSTAINABLE FOREST MANAGEMENT:

All criteria and indicators for sustainable forest management and certification principles must secure the spiritual, cultural, social and material well-being of Indigenous Peoples and other forest-dependent peoples.

Proposal for Action

1. Indigenous Peoples and other forest-dependent peoples should be supported to carry out their own inventory of forest resources, and to define locally appropriate criteria and indicators for sustainable forest management.

INTERNATIONAL INSTRUMENTS AND MECHANISMS:

All future international instruments and mechanisms dealing with forests should involve Indigenous Peoples and other forest dependent peoples in all stages of decision-making as equal partners.

The key areas that need to be addressed are participation and representation at the international level, access to relevant information and funding. In order to effectively participate in decision making processes, governments and other institutions must provide necessary support to help strengthen organisations of Indigenous Peoples and other forest dependent peoples.

Proposals for Action:

1. Indigenous Peoples and other forest dependent peoples must continue to have improved representation at all upcoming UN forums in the immediate future including IPF4, CSD 5 and the Special Session of the UN General Assembly in June 1997. All these meetings should register our participation as 'Indigenous Peoples', a recognised Major Group in the implementation of Agenda 21.

2. Full support should be given to establishing a UN Permanent Forum for Indigenous Peoples during the UN Decade for Indigenous Peoples which will draw together human rights, environment and development issues.

3. Agenda 21 and the Forest Principles should be interpreted to harmonise with the UN Draft Declaration on the Rights of Indigenous Peoples, with particular emphasis on the use of the term 'peoples' in its documentation.

ACTION COMMITMENTS

The participants committed themselves to undertake concrete plan of action including the following:

- Identification of concrete participatory mechanisms for Indigenous Peoples and other forest dependent peoples to ensure full and equal participation in any post IPF forest processes and also the Convention on Biological Diversity;
- Creation of a global, regional and local network for the flow of appropriate information and proposals for action;
- Plan and seek support for a programme of action to facilitate Indigenous Peoples and forest dependent peoples;
- Identification of locally appropriate criteria and indicators for sustainable forest management;
- Preparation of proposals for the inclusion of traditional forest-related knowledge by Indigenous Peoples and other forest-dependent peoples into tertiary education and professional training programmes within all nations;
- Prepare proposals at the national level for the education of all peoples, especially the young people about forest destruction and degradation and the role of Indigenous Peoples and forest dependent peoples in managing and protecting our forest resources;
- Prepare proposals for regional meetings between Indigenous Peoples and other forest dependent peoples and UN-agencies and other bodies to explore the implications of international instruments and agreements at the national and local level;
- National Indigenous Peoples organisations should consider forming alliances with universities to create national forums for research, study and action.

CONCLUSIONS

The meeting requests the IPF to incorporate these principles and proposals for action in the final IPF Report during its fourth session.

The meeting also requested that the Leticia Declaration and Proposals for Action also be considered by the UN Commission on Sustainable Development during the 5th Session, the General Assembly Special Session and all other international forest policy deliberations.

The meeting requested the broadest dissemination of the Leticia Declaration and Proposals for Action to all relevant bodies.

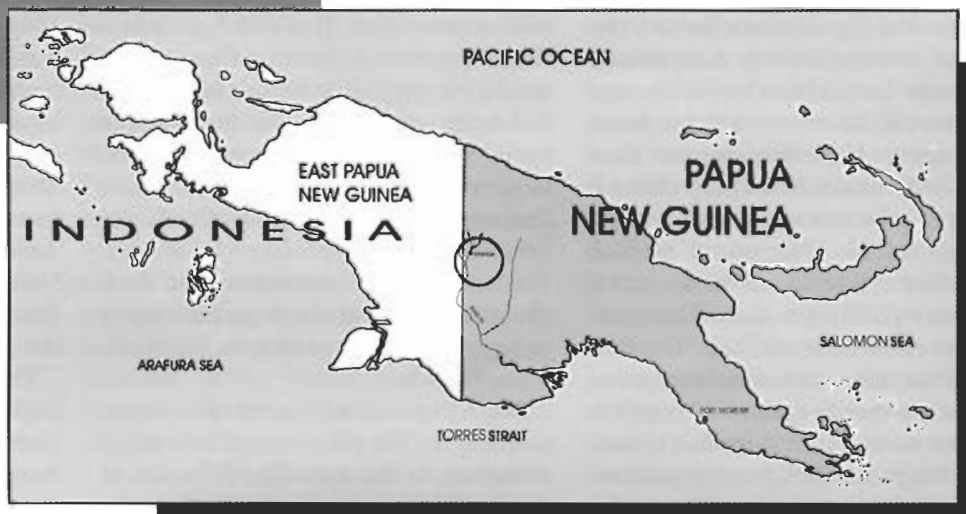
A full Co-Chairpersons' Report on the Leticia Meeting will be made available to all participants of IPF4.

All relevant documents are also available online electronically at: ia.indig-tribal (conference documentation in Greennet), or http://www.gn.apc.org/iaip/leticia, and from :

the International Technical Secretariat of the International Alliance of Indigenous-Tribal Peoples of the Tropical Forests
14 Rudolf Place
Miles Street
London SW8 1RP
Tel. +44 171 587 3737, Fax +44 171 793 8686
E-mail: morbeb@gn.apc.org
http://www.gn.apc.org/iaip

PAPUA NEW GUINEA

The environmental impact of Ok Tedi mine



by Patricia K. Townsend and William H. Townsend

The Ok Tedi mine is a large open-pit mine located in Western Province of Papua New Guinea near the border with Indonesia. It began production of gold in 1984, copper in 1987, and now produces concentrate containing both copper and gold that is shipped overseas for smelting. The mining company Ok Tedi Mining Limited (OTML) was formed by a consortium of transnational companies and the government of Papua New Guinea (PNG).[1] Their failure to build a planned tailings dam has led to environmental damage, legal action and international notoriety that will be discussed in later papers in this session.

Anthropologists and geographers have played a prominent role in conducting social and environmental impact studies prior to mining and in documenting subsequent events through local level research.[2] My own involvement has been rather different: I come to the project without extensive ethnographic research in Western Provnce. (My own field work has been primarily in East Sepik Province.) I made only one brief visit to Western Province, jumping from airstrip to airstrip collecting health centre statistics (Townsend 1984) and visiting a graduate student in the field.

From 1981 through 1984 while I worked as a medical anthropologist for the Papua New Guinea government research institute (IASER), my husband was employed as a civil engineer representing the Papua New Guinea government's interests during the construction phase of the Ok Tedi mine. His job title was Assistant Technical Manager, Mineral Resources Development Company.[3] He was based in the Department of Minerals and Energy. In his paper 'Giving Away the River' (1988) he has documented the history of the construction phase of the mine, venting some of his frustrations in attempting to attain some kind of protection for Papua New Guinea's economic and environmental interests.

We are dependent on published sources for events subsequent to December 1984, when we left Papua New Guinea. This is not necessarily a disadvantage because our primary intention is to see how what we knew (and what we did not know) throughout the construction stage has born fruit in later developments. This may help to alert others to comparable dangers at early stages in other mining projects such as the Frieda-Nena mine in the Sepik watershed.[4]

Impact on the Fly River: A brief literature review

Given the limitations of time, I would like to set aside the obvious severe impact on the people and environment in the immediate vicinity of either the mine or its facilities at the river port of Kiunga. I will also not attempt here to talk about potential impact in the Lower Fly or the Torres Strait. Here I will only deal with the downstream impact of mining on the Ok Tedi south from Ningerum to its

junction with the Fly, and the Middle Fly down to Obo, just above the junction with the Strickland. (See overheadmap.)

The Fly is one of the world's great tropical rivers. Though not impressive in length, at just over 1000 km, it ranks equivalent in total outflow to the Danube, Zambezi and Niger (Smith and Bakowa 1994). Because of the high rainfall in its catchment area, the Fly ranks first among the world's rivers in runoff per unit of catchment area. After the river leaves the mountains it meanders through flat terrain flanked by lakes and swamps. Biologically, the Fly is unique in both the numbers of fish species and their unusually large size. Until recently, the Fly was little known, but 'more research has been done on this tropical river system than any other in the world' (Mowbray 1995:4).

Two years prior to the commencement of mining, the Environmental Impact Study (EIS) was completed by Maunsell and Partners (1982), an Australian consulting firm retained by OTML. The EIS predicted that increases of suspended solids and heavy metals (primarily copper) would have severe effects on fish downstream to Ningerum and possibly farther. These predictions were based on the agreed construction of a tailings dam, limits to the dumping of waste rock and overburden,[5] and mining at a daily rate of 45,000 tonnes. None of these conditions have, in fact, held. The tailings dam was never built; dumping waste rock into the river system was accepted; and the rate of mining was dramatically increased.[6]

Data collected by OTML's own scientists have documented more than a decade of damage to water quality and fish populations gradually extending downstream from Ningerum to the lower Ok Tedi and into the middle Fly River. Of the heavy metals entering the river system, copper has been given the most attention. While not so dangerous to humans as the other heavy metals, dissolved copper presents a serous threat to fish and to aquatic invertebrates. In the stretch of the Ok Tedi and Middle Fly we are discussing, average levels of dissolved copper (as measured by OTML's routine monitoring in 1991/92) were between 11 and 13 ìg/l, approximately fifty times as high as background levels in parts of the river unaffected by mining wastes (Apte et al. 1995:72). Water samples taken from swampy locations by an outside researcher showed copper values up to 50 ìg/l (Hettler and Lehmann 1995:1). Any of these levels are in the range harmful to sensitive fish and aquatic invertebrates. Other trace metals that have been measured in river water have not prompted as much concern from the environmental scientists working in the area.[7]

Moving from the chemical impact on the river system to the physical impact, waste rock from mining has physically altered the river in ways both predicted and unpredicted. The EIS had tentatively predicted that sedimentation would be negligible below Ningerum. Below Ningerum, on the meandering lower Ok Tedi, it was predicted that temporary deposits of sand-sized particles would reach a mean depth of only .05 m in the first few years of mining. The maximum increasee in the bed, about 0.1 m, would not occur until many years after mining ceases, as the waste dumps erode.

The EIS predicted that all mine waste reaching the Fly River would be washed downriver to the delta. The only part of the Fly River to be altered by deposits of sediment would be the lower middle Fly, a very meandering stretch just above the junction of the Strickland River. This would occur at times when there was high water on the Strickland, backing up the waters of the Fly. Because the maximum deposition in this part of the Fly was predicted to be 0.3 m, flooding was not considered to be a problem (Maunsell & Partners 1982, Vol. 1, p. 64).

It should be noted that the computer modelling on which the EIS made its predictions about the fate of the Fly River was based on an optimistic set of assumptions. Starting with slightly different assumptions, consultants working for the Department of Minerals and Energy (Pickup and Higgins 1979, cited in Maunsell & Partners 1982, Vol 3, Working Paper 5) had made more pessimistic predictions about the extent of sedimentation, even in the presence of the planned taillings dam.

By the early 1990s the level of the river bed was substantially higher than predicted before mining began. Figures released by the company indicated an increase in bed level by 1993 at Kuambit, on the Middle Fly River, of more than one metre above 1984 levels (OTML 1993, cited in Hettler and Lehmann 1995:25). By then OTML was predicting that bed level would aggrade to 2.2 meters above baseline at Kuambit during the life of the mine (Eagle andHiggins 1991:236).[8]

The study by the Starnberg Institute (1991), commisioned by the Department of World Mission of the Evangelical Church of Bavaria (Germany), while very thin in data and greeted with much skepticism by many (e.g. Jackson 1993:155-156), served to bring international attention to Ok Tedi environmental issues. Sedimentation and dying forests on the lower Ok Tedi were shown in its photographs (1991:36, 46). The internationalizsing of concern was continued by the International Water Tribunal and by the Australian Conservation Foundation. Neither of these added substantial new data but both were effective in reaching the international media.

The best evidence available to us of the impact of mine sediments on the flood plain comes from two sources: the anthropologist who has documented the Yonggom people's observations and concerns, Stuart Kirsch (1993), and environmental scientists Jörg Hettler and Bernd Lehmann (1995), whose work was funded by the United Nations Environmental Programme and provided the first major independent set of data on water quality and sedimentation.

Kirsch has shown that by 1988 mine wastes were flooding over the banks of the lower Ok Tedi after a heavy rain in the mountains and destroying alluvial garden land. Heavy deposits of mud along the banks began to back up into the feeder streams. By the early 1990s trees were dead not only along the banks of the river but in some spots as far as 4 km away from the Ok Tedi. Deposits of the so-called 'slimes' are comprised of fine particles all of similar size rather than the wide variation of particle sizes normally found in soil. They present a particular problem as they do not allow for the formation of proper drainage and soil aeration that would allow vegetation to thrive.

After mining began the channel of the Ok Tedi became shallower and wider and nearly impassable with sandbars at

low water and dangerous strong currents at high water, making canoe travel (the usual form of local transportation) dangerous. Some riverside village sites were flooded, including the large Yonggom village of Atkamba. Although most of Kirsch's work had been on the Ok Tedi, in 1992 he also visited Yonggom villages in the upper part of the middle Fly, from Kiunga to just below the junction of the Ok Tedi with the Fly, to document the impact of mining.

Hettler worked primarily in the lower Middle Fly, collecting 117 water samples and 156 sediment samples from the flood plain in 1993. The results of the analysis of the sediment cores, collected in Plexiglas tubes 1 to 1.5 meters long, are especially relevant to our interests. Hettler collected these sediment cores from a wide range of sites, including the two types of lakes found in the flood plain: blocked valley lakes and oxbow lakes, or cut-off meanders formerly part of the river itself, showed deep (up to 70 cm) deposits of copper-rich sediment accumulated since mining began in 1984. The drowned valley lakes are shallow lakes with much slower rates of sedimentation. In these ancient lakes carbon-14 dating shows that natural deposition was less than 1 mm/year prior to mining. Deposition has increased because of flooding since mining began: the cores show that a significant layer of copper-rich sediment derived from mining has been deposited in the lakes and swamps adjacent to the Fly (Hettler and Lehmann 1993:20).

Hettler and Lehmann concluded, like other scientists before them, that copper was the trace metal most likely to damage the aquatic environment. Their most disturbing conclusion was that the sediments deposited in the alluvial plain and swamps may take centuries to return to normal. After the cessation of mining natural erosion will clear out the metal-rich sediments from the river banks and channel, but there is no comparable way to 'detoxify' (remove heavy metals from) the alluvial plain.

Impact of mining on subsistence crops

The impact of the mine on the lands of the floodplain has been relatively neglected. The EISposition was that there would be no terrestrial impacts throughout the river valleys of the lower Ok Tedi and the Middle Fly, other than the impact of earthmoving for roads, for example. Only the terrestrial fauna and flora of the Wopkaimin and the Ningerum, the people in the immediate vicinity of the mine, would be affected. The tailings would be contained and competent waste rock piled in stable dumps near the mine. Only through gradual erosion would mine wastes gradually enter the river system and be flushed down the river to the delta, where effects would be minimal. In this view, mining represents only a slight acceleration of processes of erosion that are always going on throughout the river's catchment area. Now, of course, all of this is changed and we know that sedimentation has raised the level of the river bed beyond the predictions. Sediments have covered alluvial garden lands and altered patterns of drainage of swamps. The long term impact of this on conditions for growing food crops is understudied and likely to be significant.

For all people downstream from the mine, sago is a staple food. Sago palms (Metroxlyon sp.) grow in alluvial plains and backswamps throughout lowland PNG, growing best in 'shallow swamps where there is a regular flooding season.' (Pajimans 1980:9, see also Townsend 1974). Too much water, water that is too brackish or extended drought all can stress sago palms and cause permanent stunting and low productivity. In our Sepik research we noted that the most productive sago grew in the better drained areas of the swamp, along the base of the foothills on which the Saniyo built their hamlets. Deeper in the swamp, the palms grew densely, suckered strongly, were stunted and did not come to maturity, though they remained a suitable source of palm cabbage (the growing tip of the palm and undeveloped leaves) and leaves for thatching roofs.

As sedimentation has altered the flooding and drainage patterns of the sago swamps of the Ok Tedi impact area, it is not surprising that sago productivity has been affected, and much longer term impact may be anticipated. Observations of the Yonggam, as quoted by Kirsch (1993), echo comments about reduced sago productivity that I heard in the East Sepik village of Mapisi, where drainage patterns in an adjacent sago swamp were altered to build a small airstrip, a project of very much smaller scope. Reduced starch yields were noticed within a few years after the changed drainage pattern in Mapisi.

Overbank flooding of the Ok Tedi has also damaged the alluvial garden sites in which bananas are the main crop, forcing Yonggom to clear inland sites that are both less fertile and more distant from their villages.

Aside from the physical impact of sedimentation on sago and gardens, are heavy metals likely to be a problem for subsistence crops? It is difficult to say if this is a realistic concern. No one even dreamed of monitoring food crops in the EIS. We do know that heavy metals can present a health risk in food. An unsettling parallel is provided by cadmium toxicity in Japan. Japanese rice contains higher levels of cadmium than rice from elsewhere in Asia, a result of irrigating fields with cadmium-polluted water. Long-term exposure (over fifty years) to elevated levels of cadmium in rice in the most affected river valley led to an epidemic of atai-atai disease, literally 'ouch!--ouch!' disease. 'Ouch! ouch!' refers to the severe bone pain that is one of the symptoms of the disease, in addition to heart and kidney damage.

The fact that cadmium pollution in rice can threaten human health does not necessarily imply that sago or bananas grown in alluvial gardens are similarly vulnerable. Neither is a cereal grain as neither are irrigated. On the other hand, both sago and bananas are slow-maturing crops with potentially long exposures to taking up heavy metals into plant tissues. Fortunately, cadmium does not occur in Ok Tedi deposits at levels as high as some copper ores. The point we are making is that the potential impact of the mine was defined so narrowly as to exclude from the start the collection of data relevant to these concerns.

Controlling the flow of information

The larger question that we need to ask is, who controls the production and flow of knowledge? In relation to Ok Tedi, we would like to look at some ways that OTML (the mining consortium) and more specifically BHP (the multinational corporation within the consortium that had

the most direct access to technical data) were able to control the flow of information to their advantage, not only to the disadvantage of landowners downstream from the mine, but also to the disadvantage of the PNG government as shareholder in the mine.[9] The multinational corporation was able to control
(1) what data was collected
(2) what data was released and when it was released and
(3) the channels by which information was released.

1) The most glaring instance of the 'failure to collect informations' was not agricultural but geotechnical data. From the first trip he made to the mine site in April 1981, Bill, as a broadly trained civil engineer, came back with one overwhelming impression: the scars of former landslides indicated the importance of geotechnical studies to the construction of the dam for hydropower, the tailings dam and the mine itself. He recommended to the government that they hire a world-class consultant to do this evaluation. The government deemed the cost of some US$ 50,000 to be excessive and argued that such studies were the responsibility of OTML. OTML continued site preparation for both dams without significant study until both sites were lost to landslides. Even after the Ok Menga dam site was abandoned because of land movement, OTML did not do the customary site mapping of the Ok Ma site before beginning construction. The total cost of beginning work on these two dams that were never built exceeded US$ 150,000,000. Some of this cost was recovered through construction insurance in an out-of-court settlement for an undisclosed amount that was reached just prior to going to trial in the PNG Supreme Court in 1989. (The PNG government was part owner of the insurance company as well as of the mine, so they were the loser on both sides.)

Proper geotechnical mapping and evaluation in the vicinity of the mine was not commissioned by OTML until after a huge rock avalanche, the Vancouver Ridge Landslide of August 1989, threatened the process plant. At that time extensive geological risk assessment was done. The consulting geologist commented drily (Hearn 1995:51): 'In this way the study differed from most other hazard mapping exercises...in that it was undertaken on a fairly intensive basis partway into an established project rather than at the feasibility or planning stages, as is usually the case.'

2) The timing of information flow was (and remains) an even more strategic necessity for the company, in its desire to control all phases of the project. Once it had been agreed that water quality monitoring data would be collected and analysed by OTML, the corporate management controlled the release of that data. The first report, for the last half of 1982, was not made available to the government until December 1983, after the first submission requesting approval of the Interim Tailings Scheme. When they were finally released those first reports, dealing with a period of heavy construction but prior to any mining, already showed very high levels of heavy metal pollution. Management certainly had at least preliminary data on which to base its negotiations. If the government had had this data they would have evaluated the Interim Tailings Scheme in a different way, with much more emphasis on heavy metals, perhaps even insisting on delaying the project until the construction of a proper tailings dam was back on track.

The delay in releasing environmental reports became a consistent pattern. Geographer Richard Jackson, who is not an unfriendly critic of the mining operation, gently chides the company for keeping environmental data under wraps (Jackson 1993:161). Jackson cites 1990 environmental data that should have been in the public domain but that he was able to obtain only surreptitiously. There is no reason to suspect that the company's laboratories have falsified data, he concludes. They are simply reluctant to publicise embarassing date that they have collected that indicate that they have not even been able to adhere to environmental standards that they themselves were allowed to write, well in excess of standards in other countries.

Some decisions were forced at OTML Board meetings on the basis of partial information, with key pieces withheld from government representatives to the Board. One instance of this was the Wahler Associates' report, a consultancy on the siting of the proposed tailings dam. The Board considered only the ill-fated lower Ok Ma site. Only *after* this meeting was the Wahler report made available for the government's technical staff to review. This review indicated that the upper Ok Ma site had several clear advantages over the lower Ok Ma site (W.H. Townsend memo of 29 April 1983).

3) Just as the transnational company was able to control the timing of information flow, it succeeded in controlling the channels for the flow of economic and environmental information. By cultivating direct access to political leaders, an access that was denied to public servants working on the project within the PNG bureaucracy, management was often able to gain concessions that might otherwise have undergone more careful scrutiny.

For researchers like ourselves scientific publications in journals and conference proceedings are the main channel for information about the mine. We do not have access to the considerable 'gray literature' that includes OTML's Environmental Investigations and Environmental Monitoring Programme 6 Monthly Reports.[10] Reading the many publications coming from the OTML scientific staff, as well as publications by non-OTML scientists who have been given logistic support and data by OTML, I have been struck by unaccountable gaps. One gap of special interest to me is the apparent absence of published data on heavy metals in fish tissues.[11] The Environmental Impact Study proposed procedures for monitoring fish for heavy metals. At the Torres Strait Baseline Study conference, Ross E. W. Smith (1991) of OTML reviewed the entire programme of biological monitoring. He refers to tissue samples being taken from the most abundant species and being analysed for copper, zinc, cadmium and lead, but he cites no references to results, nor does he mention this work continuing after 1985.

Conclusions

By titling this paper, 'Giving Away the River, cont.,' we initially had intended to suggest that we were taking up a project

that we had left for several years. Unfortunately, our study at a distance of developments over the past decade reveals multiple meanings for our title. An added meaning is that the PNG government has continued to 'give away the river,' in the sense of accepting costly environmental damage while receiving very little economic gain in taxes and profits, gain that was to have been directed to development of the country and its people.[12] Another sense in which 'giving away the river' has continued is that because no tailings dam was built, the environmental impact of sediments and heavy metals has spread beyond the river channel into lakes and wetlands, where the effects are likely to persist for a very long time. A final metaphorical sense in which a river is being given away is that the transnational company has been permitted to take control of the flow of information and use it in its own narrowest interest.

Notes

[1] During the early 1980s the owners of the mine were the Australian company BHP (30%), the American company AMOCO Minerals (30%), a group of German companies (20%) and the PNG government (20%). Due to a series of changes of ownership and mergers that will not be discussed here, current ownership is BHP (52%), Inmet Mining Corp of Canada (18%) and the PNG government (30%). Early this year BHP became the world's largest copper mining company by acquiring the American mining company Magma.

[2] A few who have been particularly visible are David Hyndman (1994), Richard Jackson (1993), Robert Welsch (Jackson, et al. 1980), Stuart Kirsch (1993), David King, Nicole Polier, Frederick Barth (Barth and Wikan n.d.), Pamela Swadling (1983) and Mark Busse(1991).

[3] There was no Manager, except briefly, but that is another story.

[4] This paper is also a piece of a larger work in progress, a textbook in which we develop a case study for teaching engineers about the social context of their profession while teaching social scientists something about engineering. At my most optimistic, I hope that we might accomplish something similar to what is being done in medical anthropology (McElroy and Townsend 1996, Townsend and McElroy 1992), using a shared ecological perspective to bridge engineering and anthropological disciplinary barriers, just as medical anthropology bridges biomedical and anthropological approaches to disease and illness.

[5] A limit of 60 million tonnes of incompetent waste rock in the Southern Dumps was part of the original Ok Tedi Agreement.

[6] The daily mining rate was raised from 45,000 tonnes to 70,000 tonnes in negotiations for the copper phase (Jackson 1993:159). The actual amount of material produced necessarily varies from day to day but on average has been about 180,000 tonnes per day, comprised of 80,000 t of ore sent through the mill and 100,000 t of waste rock (Eagle and Higgins 1991:233). This is roughly equivalent to drilling, blasting and moving 75,000 cubic meters of rock each day.

[7] But Lutz Castell, the scientist who contributed to the Starnberg Institute report (1991:49-51), was particularly concerned about arsenic, zinc, cadmium and lead, in addition to copper. The Australian Conservation Foundation expressed concern about OTML abandoning the monitoring of zinc, cadmium and lead in water, sediment and biota despite elevated copper, lead and cadmium in crabs (Rosenbaum and Krockenberger 1993: 11-12).

[8] This would imply even higher aggradation of the river bed in the lower part of the Middle Fly, due to backwater effects of the Strickland (Hettler and Lehmann 1995:25). Furthermore, even higher levels may come from erosion after the closing of the mine.

[9] As a shareholder in the mine, the PNG government has an interest in the profitability of the mine that is similar but not identical to that of the other shareholders. For example, in the case of tailings disposal, PNG has much more of a long-term interest in what happens after the closing of the mine, both with respect to long-term damage and to the possibility of future reprocessing of the old tailings by new technology.

[10] Hyndman (1994:99-100) discusses his difficulties surrounding access to such data.

[11] Smith and Bokowa (1994:194) allude to elevated levels of copper in the liver and kidney of catfish in one of the oxbow lakes of the Middle Fly. The Australian Conservation Foundation also had access to 1993 OTML reports of elevated heavy metals in crab tissues (see endnote 6, above).

[12] While Ok Tedi represented 47.1% of exports in 1990, it contributed only 2.5% of government internal revenues, largely from income taxes on salaries, customs and duties, and road use fees (Anere 1993:221). Company income taxes were not scheduled to come into effect until 1998, after the investment recovery phase ends. Though PNG holds 30% equity in OTML no dividends had yet been paid to shareholders by the end of 1990 (Jackson 1993:50).

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Jum (swidden) Cultivation in the Chittagong Hill Tracts

Bangladesh Indigenous and Hill People's Association for Advancement (BIHPAA) Dhaka, Bangladesh

By Raja Devasish Roy

Abstract

Swidden cultivation, otherwise known as 'slash-and burn' cultivation, has been practised in the Chittagong Hill Tracts (CHT) region in southeast Bangladesh since time immemorial. Even about three decades ago, swidden cultivation was the mainstay of the economy of the CHT. Although this is no longer the case, swidden cultivation still plays an important role in the economy of the indigenous people of the CHT. Unfortunately, development planners in recent years have not only ignored the important role of swidden cultivation in the CHT, but have been blaming it for the endemic deforestation and soil erosion in the region.[1]

Since the last century a significant percentage of the indigenous population has given up swidden farming in favour of plough cultivation. More recently, since the 1960s and 70s, a large number of indigenous farmers have taken to market-oriented horticulture and tree farming, largely because of the constantly diminishing yields from over-cropped swidden lands. Nevertheless, swidden cultivation is still practised by a significant percentage of the indigenous population of the region, especially in combination with other modes of cultivation. In this paper, I shall describe the practice of swidden cultivation in the CHT from a historical and current perspective and discuss some of the current issues which have come to be related with swidden cultivation such as the issues of deforestation and soil erosion. In addition, I shall consider the cultural heritage of swidden cultivation in the CHT and the likely future of this ancient mode of cultivation.

Introduction

2.1. The Indigenous Peoples of the Chittagong Hill Tracts

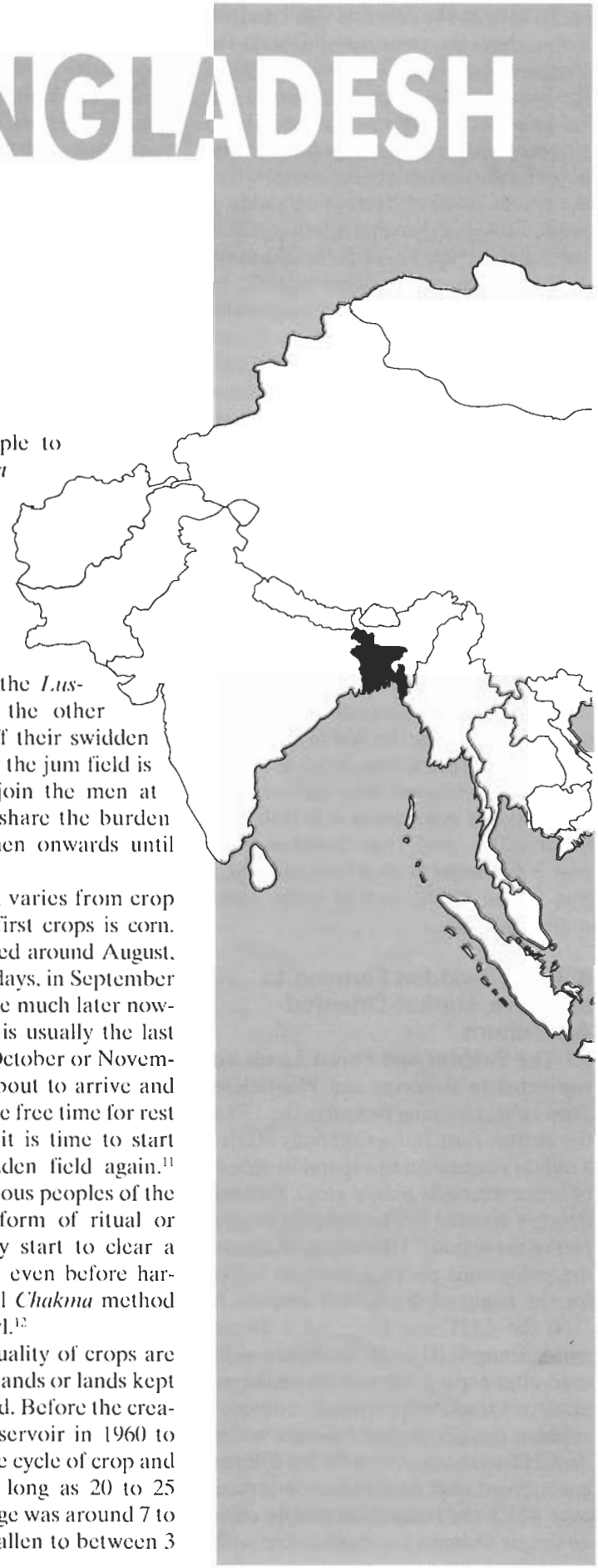
The hilly tropical region of the Chittagong Hill tracts shares borders with Burma (Myanmar) and India and consists of the three districts of Rangamati Hill Tracts, Bandarban Hill Tracts and Khagrachari Hill Tracts.[2] It is the ancestral home of the *Bawm, Chak, Chakma, Khyang, Khumi, Lushai (Mizo), Pankhua (Pankho), Tanchangya and Tipra (Tripura)* who were traditionally all swidden cultivators, although some of them also used to, and still occasionally do, engage in hunting, fishing, gathering and herding activities. The *Chak, Khyang, Khumi and Mru*, who live mostly on the ridge-tops, are still largely swidden cultivators. The *Chakma, Marma, Tanchangya* and *Tipra* who live on the gentler slopes and river valleys engage in both swidden cultivation and in plough agriculture which involves irrigation, unlike swidden farming, although the *Chakma* are also involved in market-oriented tree farming and horticulture, in addition to swidden and plough cultivation. The *Bawm, Lushai and Pankhua*, who are also traditionally mountain-dwellers, are engaged in both swidden cultivation and in market-oriented fruit farming, but not in plough agriculture. With the spread of formal education and the gradual integration of the CHT economy with the market economy of the nearby plains, a process which still continues today, more and more indigenous people are engaged in private and public service, but only a very small number of them are engaged in business and commerce, which too is largely restricted to the *Chakma, Marma* and *Tipra* who together make up more than four-fifths of the indigenous population of the region.[3]

Swidden cultivation is also still practised in South and Central America, Africa and China, in almost every country of Southeast Asia except Brunei and Singapore, and in Sri Lanka and India. The Chakma word for swidden is *jum*. In northeast India and in Bangladesh it is generally known as jum cultivation. Because of this common heritage of jum or swidden cultivation, the indigenous peoples of the CHT are also collectively called *Jumma*.[4] Then again, since the indigenous peoples of the CHT live in hill country, in contrast to the rest of Bangladesh which for the most part consists of deltaic plains, they are also referred to as *Pahari* ('hill people' or 'hillpeople')

2.2 The *Jum* or Swidden Method of Cultivation

In the CHT the most common method of swidden or jum cultivation involves the clearing of wooded land or bamboo brakes, usually forests of secondary growth, around February, which may continue until April[6] but is usually completed by March. The method of choosing a swidden field may vary from people to people. For example, in the case of the *Chakma*, the choice of the field usually depends on individual initiative. In the case of the *Pankhua*, the usual manner of choosing a site involves a collective decision of the swiddeners of the village who sometimes even draw lots to decide on the choice of plots with the luckier ones getting the choicer plots.[7] The average size of a plot is about one hectare.

BANGLADESH



Sunny east-facing plots are preferred because they are good for rice as are plain lands and valley bottoms because of the richness of the soils. Sites with very large trees will be avoided because they will involve unusually hard labour to fell the trees. Then again, places with too little vegetation, e.g., lands that have only, or largely, grasses like *Sunngrass (Imperata arundinacea)* and *Khagra (Saceftram spontaneum)* or weeds growing, will also be avoided as they are likely to have too little humus, and hence, soil that is of poor quantity . Bamboo brakes of certain species may be ideal choices. In most cases, gentler slopes are preferred over steeper ones. Once the field is chosen, all vegetation, except for the larger trees, will be chopped down. In the case of the latter, only the lower branches are lopped off.[8]

With the clearing of the jum field one of the most arduous tasks - in which only the men are usually involved - is over. After a month or so after the field is cleared, when the vegetation is considered to have dried enough in the sun,[9] the jum field is set afire. This is usuallly done in April. Occasionally, a second fire may be necessary. The ash acts as fertiliser[10] and normally, no other fertilisers are used. With the onset of the first rains, around April or May, small holes are dibbled into the ground by a specially shaped knife, into which varieties of seeds, from rice, maize, pumpkin, gourd, sesame, yam and other vegetables, to such other crops as cotton, are put. When the seeds germinate, the time gradually comes to tend to the crops, weed them, and to keep wild animals and birds off the field. The methods, again vary from people to people. The *Chakma* use scare-crows, catapults and even guns, and usually post a guard to frighten away birds and other unwanted animals from their jum field. The *Pankhua*, along with the *Lushai* and *Bawm*, on the other land, usually fence off their swidden fields. Normally, after the jum field is cleared, the women join the men at work and both sexes share the burden of the work from then onwards until after harvesting.

The time of harvest varies from crop to crop. One of the first crops is corn. Rice is usually harvested around August, or more usually, nowadays, in September because the rains come much later nowadays. Cotton, which is usually the last crop, is harvested in October or November, when winter is about to arrive and the swiddener will have free time for rest and recreation, until it is time to start clearing a fresh swidden field again.[11] Almost all the indigenous peoples of the CHT observe some form of ritual or ceremony before they start to clear a field for swidden and even before harvesting. The traditional *Chakma* method was to sacrifice a fowl.[12]

The quantity and quality of crops are usually best on virgin lands or lands kept fallow for a long period. Before the creation of the Kaptai reservoir in 1960 to produce electricity, the cycle of crop and fallow used to be as long as 20 to 25 years,[13] and the average was around 7 to 10 years.[14] This had fallen to between 3

to 5 years in the 60s and 70s[15] and remains about the same now.[16] Due to the shortage of swidden lands and the rise of the local population, which in turn has led to a much shorter fallow period, the harvest from swidden lands has become poorer and poorer over the years. Given the recent trend of decreasing yields, it is not difficult to see that a futher reduction of the cropping cycle would make swidden cultivation hardly worth the labour input that is necessary to produce even a very modest harvest. A British district officer named Lewin had estimated in 1869 that the average yield of rice in a jum field was around 750 kilograms per acre.[17] A very similar estimate was made by one of Lewin's successors-in-office named Hutchinson in 1906.[18] However, in 1963 Khisa had estimated that the average yield of rice per acre had come down to around 225 kilograms, to almost one-third of the previously mentioned yield![19] A very similar situation prevails in the case of almost all the other crops as well. Needless to mention, whereas jum farmers were considered well-to-do in the last century,[20] by the 1960s farmers who lived solely of swidden cultivation were indeed quite impoverished in comparison to their forefathers. The yield from swidden farms now is estimated at about the same as it was in the 1960s, and in some cases, somewhat poorer.[21]

3. From Swidden Farming to Intensive Market-Oriented Agriculture

3.1 The Swidden and Forest Lands are converted to Reserves and Plantations

Soon after colonising Bengal in the 1760s, the British East India Company started a military campaign to expand its sphere of influence eastwards, a move that was strongly resisted by the indigenous peoples of the region.[22] Ultimately, of course, the indigenous peoples were no match for the might of the British empire. In 1860 the CHT was declared a district within Bengal. In the1870s, hardly a decade after formal annexation of the region, vast tracts of previously-cultivated swidden lands and virgin forests within the CHT were taken over by the colonial government and declared as 'reserves', over which the indigenous people could no longer exercise any right to live within it, or cultivate it, or use its resources, as they hitherto used to, on threat of imprisonment. The larger part of these lands were kept as natural forests. The remaining lands were cleared of their vegetation and the cleared lands were converted to mono-plantations of teak trees by importing saplings from nearby Burma, in which country the plant grew naturally.Thus, overnight, the common lands of the indigenous peoples of the CHT became a category of land over which the British government alone was said to have any right.[23]

Unfortunately enough this instance of unjustly depriving the indigenous peoples of their ancestral lands has not been righted to date. As recently as in November, 1996 the government of Bangladesh has continued its attempts to take over more indigenous lands - including privately registered lands - to convert them into forest reserves.[24] It may be mentioned here that the continuing policy of denying any sort of benefits from the income from these lands to the indigenous people of the region is contrary to provisions of the Convention on Biological Diversity which has been ratified by the government of Bangladesh.[25] In the same vein, the continued refusal of the government of Bangladesh to provide full formal recognition to the collective land rights of the indigenous peoples of the CHT is also a violation of the International Labour Organisation's (ILO) Convention on Indigenous and Tribal Populations of 1957 (Convention No. 107) which it has ratified.

3.2 The Swiddeners turn to Plough Agriculture

Although the earliest recorded case of plough agriculture in the CHT was in 1798,[26] the plough method did not really take off in a significant manner until two decades later under strong encouragement from the British government. The primary objectives were twofold. On the one hand, the colonial government sought to increase its revenue earnings from plough cultivation, and on the other hand, it sought to 'sedentarise' the dispersed indigenous population. Because swidden cultivation involved a rotational cycle of crop and fallow, the swidden farmers were highly mobile, if not exactly, 'migratory', and this was not very conducive to easy administration from the point of view of the British administrators. The transition from swidden farming to irrigated plough agriculture did eventually take place, at least in the case of the valley dwelling peoples, but the process was slower than was anticipated by the British government because of various factors. Firstly, the transition tended to disrupt the clan-oriented systems.[27] Secondly, the yield from the once-a-year-cropped plough fields with little or no fertilisers was not that much higher, whereas it *was* higher, than the swidden fields fed by ash on near-virgin soil.[28] Thirdly, the drudgery and monotony involved in wet-rice cultivation in mosquito-infested fields in comparison to the varied and versatile labour involved in upland swidden cultivation in healthier and more hygienic surroundings was quite irksome, to say the least. Fourthly, the plough-cultivation in villages were in those days a more highly prized target for marauding *Lushai (Mizo)* raiders from Mizoram than the more dispersed and sparsely populated villages dependent on swidden cultivation.[29] Lastly, the cattle needed for the ploughs were extremely vulnerable to tigers and leopards, among other things.[30]

Despite the above odds, thousands of indigenous farmers, especially from the valley-dwelling peoples such as the *Chakma, Marma, Tanchangya* and *Tipra* eventually took to plough cultivation, and by the 1920s, had totally abandoned swidden cultivation. However, despite their willingness, large sections of the above-named peoples could not become plough cultivators for the very simple reason that the terrain for the greater part of the CHT was too rugged and undulating to be used for plough cultivation. This phenomenon did not escape the notice of an astute British civil servant called Ascoli who rightly estimated in 1918 that hillside farming would continue to play a vital role in the CHT economy for many more years to come.[31] The scarcity of lands within the CHT with good soil conditions was demonstrated again in the 1960s, this time through extensive graphs, charts and tables, as a result of a two-year long survey by a reputed Vancouver-based Canadian firm of soil scientists called Forestal

Forestry and Engineering International Limited who did extensive studies on the variety of soils of the CHT terrain.[32] Even Khisa came to very similar conclusions, independently of the above.[33] Thus it is easy to see that where a large section of the indigenous population living in the valleys and on the gentler hill slopes had no real opportunity to become plough cultivators, the question of the traditionally ridge-dwelling peoples like the *Bawm, Chak, Khumi, Khyang, Mru and Pankhua*, becoming plough cultivators does not arise at all. Yet the myth that the peoples living in the CHT are averse to plough cultivation lives on in the plains of Bangladesh.

3.3 The Swiddeners become Horticulturists

We have seen from the above that even as early as in 1918, the population of the CHT had far exceeded the number that could be comfortably absorbed in plough agriculture, and consequently, the bulk of the CHT population had to depend on the only form of cultivation which it knew to be suitable on sloping land, namely, swidden or jum cultivation. If we then consider the situation about four decades later, in 1960, the picture becomes even gloomier because in this fateful year the construction of a dam on the river Karnaphuli within the CHT was completed and a huge reservoir of some 1,400 square kilometres was created. The reservoir displaced nearly 100,000 people - largely *Chakma* - including about 10,000 families of plough cultivators and 8,000 families of swiddeners, who made up almost one-third of the then population of the CHT.[34] About 22,000 hectares of plough lands were permanently inundated. The plough cultivators at least received some monetary compensation and *some* alternative lands, but the swidden cultivators did not receive any compensation at all as their rights over the swidden commons was not recognised officially as a right worthy of monetary or other compensation.[35]

Hardly four years later, in 1964, just about the time that the Canadian soil scientists of the Forestal company were starting their survey in the CHT, an exodus of tens of thousands of impoverished and landless Chakma evacuees of the Dam took place. These refugees were at first sheltered in Mizoram State of India but were eventually taken to Arunachal Pradesh, near the border between India and China, by the Government of India. These people and their descendants, currently numbering about 80,000, still remain in this northeastern Indian province as stateless refugees.[36] It was in this backdrop that the thousands of erstwhile swidden farmers and plough cultivators who remained within the country were forced by circumstances to try their hands at horticulture under the patronage of the provincial government.

It may be recalled that one of the major findings of the Forestal Report, as mentioned earlier was that the bulk of the CHT lands was suitable only for afforestation and horticulture. Since the forest wealth of the CHT was then still considered to be rich, the government of East Pakistan concentrated its efforts in the latter half of the 1960s in supporting local initiatives in fruit gardening by helping indigenous farmers displaced by the Dam - especially *Chakma* - to obtain leases of land for horticulture and easy-term loans from the government-owned Agriculture Development Bank[37] The first generation of *Chakma* horticulturists did not do very badly as far as their produce was concerned - which included pine-apple, banana, citrus fruit, jack fruit etc. - but problems related to marketing caused by the lack of storage and preservation facilities, exploitation of the fragile and unstable market by cartels, and transportation difficulties, among other things, stood as major obstacles towards fruit gardening becoming a stable source of income for the land-based economy of the CHT.[38] Nevertheless, thousands of land-pressed swidden farmers had no alternative but to continue to grow fruits to sell in the market in addition to cultivating swiddens. It is worth mentioning here that although from macroeconomic considerations market-oriented fruit gardening only really took off on a significant scale in the CHT in the 1960s and 70s, especially in the *Chakma* heartland, the *Bawm, Lushai* and *Pankhua* peoples had actually taken to orange farming as a cash crop as early as the 1950s[39] but the scale of production was, and still is, small because of natural constraints and marketing difficulties.

3.4 The Swiddener turn to tree Farming

Ever since the 1870s, the government department in charge of the CHT forests, the Forest Department ('BFD'), had started creating teak plantations on erstwhile forest and swidden lands. The most common method in which this was done was by employing swidden farmers and allowing them one harvest of swidden crops on the land earmarked for plantations with the express condition that they should plant teak saplings alongside their usual crops. This came to be known as the *taungya* method from the Burmese\Arakanese word 'taung' meaning hill, referring to jum or swidden cultivation, the most popular mode of hillside cultivation in these parts.[40] Not unsurprisingly, many of the indigenous people employed by the BFD in these plantations later created their own tree plantations of teak and indigenous species through the *taungya* method when they had no other viable means of livelihood to fall back upon, especially after problems related to marketing of durable fruits like pineapple started getting acute. This practice caught on in a big way especially in the *Chakma* country around the Karnaphuli reservoir area - where marine transportation of logs was cheap and relatively easy. In fact, many of the fruit gardeners of the 1960s and 70s switched over to tree farming in the 1980s and 90s. Tree farming is probably now the fastest growing type of land-related economic activity among the indigenous people of the CHT.[41]

3.5 Why Juming (Swidden Farming) Continues in the CHT

We have seen above that due to the drastic rise of the CHT population and the constantly shrinking area of lands that was available for swidden cultivation, swidden cultivation came to be less and less productive. The question that may arise is, why then did swidden cultivation still continue in the CHT, or for that matter, why does its practice still continue, given its huge decline in terms of productivity.

The major factor behind the continuance of swidden cultivation in the CHT is economic, rather than cultural. From the point of view of cultivation, lands which are not level enough for plough cultivation can only be utilised for fruit

gardening or tree farming, but even then, only if they are located within easy distance of roads, highways or navigable waterways, without which the fruits and trees cannot be marketed. Naturally enough, a very large extent of the CHT is not reached by either motorable roads or navigable highways. Consequently, these lands can only be utilised for swidden farming. Then again, even in the relatively accessible areas, problems related to lack of credit or tenurial security, difficulties in storing and marketing, among other reasons, have also seriously limited the option of market-oriented farming in the CHT.[42]

Thus it is seen that in many areas within the CHT indigenous farmers have been forced to combine swidden farming on the steeper slopes with plough agriculture on the gentler slopes nearby. In the areas which are situated relatively near roads and riverways, banana is the favourite choice. In the more remote areas such crops as banana are too heavy to be transported on foot to the nearest market. In such places, turmeric and ginger are favoured since dried ginger and turmeric are light in weight and fetch a relatively good price for even a moderately light load.[43]

4. Swiddens, Forests and Soil Erosion

4.1 Swidden Farming and Soil Erosion

Historically, we see that the indigenous farmers of the CHT have had to adapt their farming methods, and consequently their life-styles, at an amazingly fast pace due to demographic and economic pressures. Within a generation many predominantly subsistence-oriented swidden farmers had to become market-oriented fruit gardeners and tree farmers. Traditionally, swiddeners were used to planting seeds by making a small hole on the ground, sometimes called 'dibbling', and not by ploughing or hoeing. In fact, only a few generations ago many indigenous farmers were extremely reluctant to take up plough cultivation because they considered it a sin to overturn mother earth with a plough.[44] Thus, here is a very clear example of economic necessities overriding spiritual beliefs and traditional values. Ironically enough, from the standpoint of soil erosion, such a belief is far from irrational where cultivation of hillslopes is concerned. Yet, on the other hand, government authorities in the CHT have held swidden cultivation and soil erosion. Similarly, the debate on the relationship between swidden cultivation and soil erosion is alive in India as well. Writing about the relationship between swidden cultivation and soil erosion, an Indian anthropologist named P.K. Bhowmik, who has done extensive research on swidden cultivation in northeast India, wrote: 'Those who subscribe to the opinion that shifting cultivation results in soil erosion will find it disquieting that shifting cultivation is a response of the tribal people of the hill areas to the problem of erosion of fertile topsoil of steep slopes.' As M.S. Shivaraman, Adviser to the Programme Administration of the Planning Commission observed in 1957: 'It is a mistake to assume that shifting cultivation in itself is unscientific land use. Actually, it is a practical approach to certain inherent difficulties in preparing a proper seedbed in steep slopes where any disturbance of the surface by hoeing or ploughing will result in washing away of the fertile top soil. The tribal people, therefore, take care not to plough or disturb the soil before sowing'.[45]

In another study on swidden cultivation by Tej Partap and Herold R. Watson very similar views have been expressed. I quote: "Shifting cultivation represented an extremely successful human adaptation to the rigours and constraints of the humid tropics. In an environment of fragile forests and soils, the integrated swiddeners have developed an agro-ecosystem that is diverse and is able to respond to environmental uncertainties (FAO 1991)."The swiddener used his knowledge of the natural environment not only to make swiddens but also to successfully gather, hunt and fish to provide food, fibre and medicine for the household, and even for the external market. Knowledge of both the tropical environment and the needs of the tropical crop repertoire is used to develop and manage micro-sites of his fields. Specific crop needs are matched to specific soils - a diversity of crops meshed with a diversity of micro-environments.' [46]

Now, this is of course not to say that swidden cultivation is *never* responsible for soil erosion. The point that I wish to emphasise here is that swidden or jum cultivation is not *per se* a method of cultivation that leads to soil erosion, although irresponsible juming - for example, juming on sloping land left fallow for less than 3 to 5 years, or juming on very steep slopes - can and does lead to soil erosion as has been experienced in India.[47] There are many instances of overcropping in the CHT which have reduced many good swidden lands into infertile and virtually useless grasslands.[48] Similarly, there are other undesirable practices which have come to be connected with swidden cultivation in the CHT such as setting fire to a larger area of land than is actually jumed, or setting fire to land that has insufficient vegetation, resulting in the destruction of the humus, as the soil itself gets burnt to an undesirable depth, and consequently, the fertility of the land is greatly reduced. These wasteful and unsustainable practices should, and can, be controlled and minimised. But swidden cultivation itself should not be stopped because of the wasteful practices mentioned above since they certainly do not form an integral part of the traditional practice itself and are largely the result of lazy or selfish conduct on the part of individual swiddeners. Undeniably, there is a strong need to discourage such practices.

4.2 Swiddeners and Forests

In the Chittagong Hill Tracts official records have constantly held that jum cultivation is the primary agent of deforestation.[49] Although it cannot be denied that irresponsible juming has resulted in some deforestation, jum cultivation is not only not the *only* agent of deforestation in the CHT, it is certainly not also the *primary* agent of deforestation either. So-called 'security' measures resulting in wanton clearing of forests through 'jungle-clearing' projects aided by foreign governments have been held to be far more destructive of forests than any other single cause.[50] In addition, the smuggling of teak and other valuable stolen timber by logging gangs and cartels based in Chittagong city, who are impelled by pure profit backed by an almost limitless demand in the market, pales into insignificance the extent of deforestation caused by swidden farmers in the reserved forests, for example.[51]

It is true that the creation of settlements of swidden farmers within the areas of the Kassalong, and especially the Reingkhyong Reserves over the past few decades has led to deforestation,[52] but this mass movement of indigenous people was caused overwhelmingly by the sheer economic necessity of landless farmers having to find alternative lands to cultivate, and in some cases by plough cultivators and other settled farmers who were displaced by government-sponsored non-indigenous settlers from the plains regions, especially in the 1980s.[53] Therefore, it is the short-sighted land and population policies of the government which has led to such a movement of people, and it is certainly neither accurate nor morally acceptable to blame the landless and dispossessed indigenous people for this unfortunate development. Therefore, it is important that any long-term forest conservation plan for the CHT forests take proper cognisance of the problem of land scarcity and economic crisis in the CHT.

On the other side of the ledger the positive contribution to forestry in the CHT through the swidden or *taungya* method, whereby most of the government-controlled plantations in the CHT were created since the 19th century, cannot be overlooked.[54] In addition, it should be born in mind that the creation of plantations of timber-producing trees by indigenous farmers on privately-owned lands - through the *taungya* or jum method - is perhaps the fastest-growing economic activity in the CHT today. In addition, the longstanding tradition of swidden farmers to keep aside a portion of their common swidden lands as a forest for the villagers' use should also be acknowledged. A few decades ago, almost every village had such a commonly owned forest.[55] This is unfortunately no longer the case, but the extent of these forest commons is still significant and would probably not amount to far less than the total area of natural forests directly controlled by the BFD. Many of these forest commons also contain the village herbaria maintained by shamans and village medicine men. This tradition and practice needs to be revived and strengthened, if necessary through the grant of title-deeds, because these forests are far more likely to be protected - because the cultural and economic interest of the villagers is connected to the survival of these forests - than the forests controlled directly by the government which seem to have many masters but few protectors.

5. The Jum Heritage of the Chittagong Hill Tracts

The above discussion has shown that jum cultivation may in fact have a positive rather than a negative relationship with forestry and soil conservation. In fact, experience in the CHT shows that on sloping land it is a far more soil-friendly and 'sustainable' method of cultivation than cultivation by ploughing and hoeing. For example, the ash from the burned vegetation in the swidden fields acts as the main fertilising and pest-controlling agent, avoiding the use of potentially toxic non-indigenous fertilisers and pesticides.[56] The other main nitrogen-fixing agent in swidden farms in the CHT, which also doubles as a pest-repellent, is the widespread culture of Marigold flowers, between, among and around swidden seed-beds.[57]

Another very positive side of jum cultivation is that with this method of cultivation the ecological ills 'caused by narrow genetic bases and monoculture'[58] can be avoided. The vast diversity of the type of crops in a swidden field, and the numerous species of every type of crop, is one of the most desirable aspects of jum cultivation. The biologically diverse crop repertoire in jum fields has, among other positive functions, the function of enriching the soil and minimising soil erosion which is visibly common wherever cultivation involves only one crop or few crops.

Quite apart from its contribution to the economy and ecology of the CHT, and of Bangladesh as a whole, it ought not to be forgotten that without jum cultivation there would have been no cotton tributes to feed the world famous muslin industry of 18th and 19th century Bengal.[59] The heritage of jum or swidden cultivation in the CHT has played, and will most certainly continue to play, an important role in affecting the lives of indigenous society in the CHT for many more years to come. However, of all its legacies, perhaps the legacy of cooperation and egalitarianism will survive the longest and be of the greatest value to the indigenous peoples of the CHT in the distant future. An indigenous writer from the CHT had held that the common practice of swidden farmers with surplus produce in giving away their surplus to swiddeners with poorer harvests in any given year had prevented the accumulation of capital in swidden-oriented indigenous societies.[60] This may well be true. The absence of very many wealthy people among the indigenous peoples of the CHT is probably also at least partly a result of this practice of communal asssistance to the needy and poor. But then, it is probably equally true that in the absence of that practice and tradition of sharing and helping others, indigenous society in the CHT would have been far more divided, disunited, demoralised and marginalised today. Despite their differences, the indigenous peoples in the CHT do have a strong collective sense of unity, identity and oneness. This is in large part due to the tradition of cooperation and community service which is deeply imbedded in the culture of swidden-oriented societies in the CHT. However, it is to be hoped that such a spirit will outlast swidden cultivation itself, if the latter does eventually cease to be practised in the CHT, as it most certainly will, given current trends.

6. Conclusion

Swidden or jum cultivation is, as stated earlier, an innovation that has survived for sloping lands in tropical regions where other forms of cultivation were not found to be as suitable because of natural factors or market forces. Perhaps it is due again to these factors that in relatively inaccessible and remote regions anything other than swidden farming is not economically and geologically feasible. Therefore, swidden farming is likely to continue in these relatively remote regions within the CHT for many more years to come. Let me now raise here two important questions regarding the future of swidden cultivation in the CHT. In the first place, if jum or swidden cultivation does continue to be practised in the CHT, should we not try to avoid the ecological ills which may accompany unwise applications of this method. And secondly, if the situation is such that the practices are sure to cease altogether in the distant future, as is more than likely

given present trends, should we not seek to preserve and protect this age-old practice as a knowledge system and heritage of value not just to the indigenous peoples of the region but to all of humanity? I would answer both questions with a firm yes.

As regards some of the wasteful practices of selfish and lazy swidden farmers mentioned above, I would suggest the following three steps: (i) to maintain a fallow period of no less than 5 years; this would also minimise the harm done to the earth by jum fires in fields with sparse vegetation where the very shallow topsoil gets burnt easily and thereby loses its humus and fertility; (ii) to totally avoid cultivation of steep slopes or to take erosion-control measures by constructing small barriers and terraces to prevent soil run-off where the soil conditions so permit it; and (iii) to prevent fires spreading beyond the limits of the area to be cultivated. I am sure that there are many more such positive steps that may be taken to avoid the ills that have come to be connected with swidden cultivation, although they do not necessarily go with the traditional practice of swidden cultivation in the CHT. The above-measures can be undertaken by the local authorities, but ultimately, for its success, there are no real alternatives to self-regulation by the swidden farmers themselves.

As regards the continuance of the jum method itself, since it is market interventions which are leading to its decline, and perhaps its ultimate demise, it is again market-related interventions which may be the the most effective way to prevent its decline and demise. A rise in the market demand for produce from the jums, e.g. rice, cotton, vegetables etc., may be good for any particular crop itself in the short run, but it might narrow down the crop repertoire and ultimately lead to monoculture, which will undermine the very basis for its sustenance. I can only think of subsidies to continue with the system itself and not for any crop or crops. Perhaps others will come up with better ideas. However, some intervention will be necessary to prevent the demise of this age-old practice. For otherwise, a great source of knowledge related to not just a form of cultivation, but one that is related to the conservation of forests and wildlife, and to indigenous medicine, will be lost to humanity forever. Closely related to the practice of jum cultivation is the practice of maintaining and conserving the forest commons of the indigenous people and of the wildlife in these forests and other forests within the CHT, including the sustainable methods of rearing of part-domestic and part-wild animals, injunctions on hunting practices, and so forth. If the traditional knowledge, practices and innovations of the indigenous peoples of the CHT related to forests is to be protected, these forests too must be protected. This can best be done by fully recognising indigenous title to these forests and by helping the indigenous peoples in their development initiatives. The emphasis should be on helping the indigenous people's own initiatives rather than to seek to involve them in centrally planned initiatives in the formation of which the indigenous peoples have had no important role.

Notes

[1] See for example, Muhammad Ishaq (ed), *Bangladesh District Gazetteers: Chittagong Hill Tracts*, Ministry of Cabinet Affairs, Establishment Division, Dhaka (1975), p. 104.

[2] Prior to its annexation to the British Indian Empire in 1860 the CHT did not form a part of any empire or nation state and was composed of small chieftaincies and other non-formalised indigenous polities. In 1947 it became a part of East Pakistan and in 1971 it became one of the districts within Bangladesh. The CHT was trifurcated in the 1980s. It has an area of about 13,189 square kilometres.

[3] According to the official census of 1991 the population of the CHT was 974,445. 51.4% (501,144) was indigenous. It is unlikely that this census accounted for the approximately 50,000 indigenous refugees from the CHT who have been sheltered in Tripura State, India since 1986. Even otherwise, the indigenous people of the CHT, as elsewhere in Bangladesh, feel that their population is far larger than is officially estimated.

[4] For a discussion of the concept of the Jumma people as a social entity and as an emerging political entity, see William van Schendel, *The Invention of the Jummas: Ethnicity and State Formation in Southeastern Bangladesh* in Sekhar Bandyopadhyay et al (eds.), 'Bengal: Communities, Development and States', University Press Limited, Dhaka (1995), pp. 135-173.

[5] For a view which holds that the concept of 'hill people' is a colonial construct which hinders national integration, see Prashanta Tripura, *Colonialist Barriers to National Integration: Modern Bangladesh and the Problem of 'Hill People'* in Imtiaz Ahmed and Megna Guhatha kurata (eds.), 'SAARC: Beyond State-Centric Cooperation', Centre for Social Studies, Dhaka (1992), pp. 92-104.

[6] Amarendra Lal Khisa, *Shifting Cultivation in the Chittagong Hill Tracts* (unpublished Master's Thesis), Department of Geography, University of Dhaka (1963), p. 50.

[7] This section is based upon discussions with *Pankhua* swiddeners. Correspondences on ways to improve swidden cultivation available in the Chakma Raja's Archives at Rangamati have also been consulted.

[8] Khisa, op. cit., p. 50.

[9] Ibid., p. 51

[10] Ibid.

[11] For a more detailed discussion on the harvesting cycle, see Khisa, op. cit., pp. 56-60 and Ishaq, op. cit., p. 82.

[12] Khisa, op. cit., p. 60.

[13] Forestal Forestry and Engineering International Limited in *Chittagong Hill Tracts Soil and Land Use Survey Report (1964-66)* (9 volumes), as cited in CHT Gazetteer, op. cit., p. 88. Khisa (op. cit., at p. 106) on the other hand, estimates the fallow period of about a century ago to have been around 12 to 15 years.

[14] CHT Gazetteer, op. cit., p. 88.

[15] Khisa, op. cit., p. 106. CHT Gazetteer, op. cit., p. 88.

[16] Author's discussions with indigenous swidden cultivators in the CHT.

[17] CHT Gazetteer, op. cit., p. 118.

[18] Ibid., p. 119.

[19] Khisa, op. cit., p. 76.

[20] CHT Gazetteer, op. cit., at 118, citing Captain T. H. Lewin.

[21] Writer's discussions with swidden farmers in the CHT.

[22] For the British Militarisation of the CHT and the indigenous peoples' resistance, see Dr. A. M. Serajuddin, *The Origin of the Rajas of the Chittagong Hill*

Tracts and their relations with the Rajas of the Chittagong Hill Tracts and their relations with the Mughals and the East India Company in 'Journal of the Pakistan Historical Society', Vol. XIX, part 1, Karachi (January, 1991), pp. 51-60; Ratan Lal Chakraborty, *Chakma Resistance to Early British Rule* in 'Bangladesh Historical Studies; Journal of Bangladesh Ithihaas Samiti', Vol. II (1977), pp.-133-156. Willen Van Schendel (ed.), Francis Buchanan in Southeast Bengal (1798), University Press Limited, Dhaka (1992), p. 101 (hereafter, van Schendel (1992)).

[23] For more details about the manner of appropriation of the lands of the indigenous peoples of the CHT by the British colonial government, see: (i) Raja Devasish Roy, *Forests, Forestry and Indigenous Peoples in the Chittagong Hill Tracts, Bangladesh* (hereafter Roy (Forests) (1996)), paper presented at a workshop on the Rights of Indigenous and Tribal Peoples organised by the Minority Rights Group, London and the Commonwealth Human Rights Initiative, New Delhi, at New Delhi, India on 23-25 February, 1996, p. 2; (ii) Raja Devasish Roy, *Colonization, Marginalization and Disempowerment of Indigenous Peoples in the Chittagong Hill Tracts, Bangladesh: Will there be a reversal of the trend?;* paper presented at an international conference on 'Bangladesh (1971-1996): Peoples' Struggles', organized by CERAS Alternatives at Dawson College, Montreal, Canada on 18-20 October 1996, pp. 3-5.

[24] See, for example, Kabita Chakma and Glen Hill, *Thwarting the Indigenous Custodies of Biodiversity* in Philip Gain (ed.), 'Bangladesh: Land, Forest and Forest People', Dhaka (1995), p. 128. See also, the Bengali newspapers, 'Bhorer Kagaj', Dhaka of 18 January 1996 and 3 December 1996 and the 'Daily Purkakone', Chittagong, of 28 November 1996.

[25] For a general discussion on biodiversity loss in the CHT, see Raja Devasish Roy, *Deforestation, Biodiversity Loss and Erosion of Land Rights of Indigenous Peoples in the Chittagong Hill Tracts, Bangladesh* (unpublished, Dhaka 1993), hereafter Roy (Biodiversity) (1993).

[26] Van Schendel (1992), op. cit., p. 84.

[27] CHT Gazetteer, op. cit., p. 84.

[28] The author is indebted for this information to Arunendu Tripura of Rangamati who had extensive discussions on the subject with Tipra farmers in the northern CHT.

[29] CHT Gazetteer, op. cit., p. 83. See also Tripura, op. cit., pp. 99, 100.

[30] CHT Gazetteer, op. cit., p. 83.

[31] F. D. Ascoil (officer on Special Duty), *Report on the Administration of the Chittagong Hill Tracts* (1918), Chakma Raja's Archives, Rangamati, p. 14.

[32] Forestal Forestry and Engineering International Limited, *Chittagong Hill Tracts: Soil and Land Use Survey, 1964-66,* Vancouver, Canada (1966) (9 volumes), hereafter cited as 'Forestal'.

[33] Khisa, op. cit., p. 106.

[34] CHT Gazetteer, op. cit., p. 126.

[35] For the extent of the loss and damage inflicted by the Kaptai Dam, see: (i) David E. Sopher, *Population Dislocation in the Chittagong Hills* in 'The Geographical Review (New York)', Vol. LIII, No. 3, 1963; (ii) CHT Gazetteer, op. cit., pp. 42, 43; (iii) Hari Kisohre Chakma et al, Bar Parang, Dhaka, 1996.

[36] See for example the Indian dailies *The Statesman, The Telegraph, The Hindustan Times* and *The Times of India* of 11 January 1996.

[37] For details of the EPADC/BADC programme, see Raja Devasish Roy, *Land Rights, Land Use and Indigenous Peoples in the Chittagong Hill Tracts* in Philip Gain (ed.), 'Bangladesh: Land, Forest and Forest People', Society for Environment and Human Development, Dhaka (1995) (hereafter, Roy '(Land Rights, Land Use) (1995)', pp. 84, 85.

[38] See, Roy (Land Rights, Land Use) (1995), op. cit., pp. 84-89 for more details of their problems connected to market oriented horticulture in the CHT. See also Lorenz Loffler, Economy and Human Rights: Report on a short visit to Bangladesh and Rangamati (Chittagong Hill Tracts, Bangladesh), Zurich (1991), pp. 6, 7.

[39] The writer regrets that he has failed, despite his efforts, to identify the source of this information.

[40] For the *taungya* system of creating plantations, see CHT Gazetteer, op. cit., pp. 106, 107 and Webb and Reports, op. cit., p. 15.

[41] For further discussion on the tree farming practice in the CHT, see Roy (Land Rights, Land Use) (1995), op. cit., pp. 89-93.

[42] For the problems faced by fruit gardeners in the CHT, see Roy (Land Rights, Land Use) (1995), op. cit., pp. 84-89.

[43] This section is based on on-site visits by the writer and discussion with indigenous farmers in the CHT.

[44] Khisa, op. cit., p. 69.

[45] P. K. Bhowmick, *Shifting Cultivation: A Plea for New Strategies* in Majumdar, op. cit., p. 83.

[46] Tej Partap and Herold R. Watson, *ICIMOD Occasional Paper No. 23,* International Centre for Integrated Mountain Development, Katmandu, Nepal (1994), p. 11.

[47] R. N. Rai, *Management of Land and Water Resources of Jhum Affected of North Eastern Region,* in Mahajan, op. cit., pp. 127, 128; R. N. Prasad, A. Singh & Arun Varma, *Shifting Cultivation and Land Degradation* in Mahajan, op. cit., pp. 145-147.

[48] Sopher, op. cit., p. 339; Khisa op. cit., pp. 12, 13.

[49] See, for example, CHT Gazetteer, op. cit., p. 104.

[50] Loffler, op. cit., p. 2.

[51] Roy (Forests) (1996), p. 7.

[52] See, for example, Webb and Reports, op. cit., p. 19.

[53] For the problem of dispossession of indigenous people's lands by government-sponsored non-indigenous settlers in the 1980s, see Raja Devasish Roy, *The Problem of Lands of Indigenous People in the Chittagong Hill Tracts by Government- Sponsored Migrants: In Search of a Solution;* paper presented at an Open Dialogue and Seminar on the 'Chittagong Hill Tracts Problem and its Solution', organised by the national Committee for the Protection of Fundamental Rights in the CHT, at the German Cultural Centre, Dhaka on 2 June 1995. See also Rajkumari Chandra Kalindi Roy, *Land Rights of the Indigenous Peoples of the Chittagong Hill Tracts, Bangladesh,* Jumma Peoples' Network in Europe (JUPNET), 1996 for the land dispossession problem and generally. This report on the land rights situation in the CHT is probably the most extensive study on the land rights of the indigenous peoples of the CHT to date.

[54] See, p. 7, supra.

[55] These village forests under common ownership are recognised, and encouraged, under rule 41A of the CHT Regula-

tion of 1900 although the villagers' title to them are not formally acknowledged.

[56] Kabita Chakma and Glen Hill, *Thwarting the Indigenous Custodians of Biodiversity* in Gain, op. cit., p. 127.

[57] The author is grateful to Tuku Talukder of Rangamati for the above information. Although the consistent presence of these flowers in jum fields was well-known to the writer, he was not aware of the nitrogen-fixing qualities of these flowers as is the case with even some swidden farmers themselves, who plant them nowadays largely out of aesthetic considerations and tradition.

[58] Chakma and Hill in Gain, op. cit., p. 127.

[59] The author is indebted to Loffler (op. cit., p. 9) for the information on the contribution of the swidden cultivators of the CHT to the muslin inheritage of Bengal. Unfortunately this contribution is not acknowledged in popular versions of the history of Bengal and Bangladesh.

[60] Chakma Salil Roy, *The Economic Problems in the Chittagong Hill Tracts and their Solution* (in Bengali) in Sushamoy Chakma (ed.), 'Bijhu', Dhaka (1979), pp. 7-24. ❑

Lessons from the Canadian experience

By Peter Jull

'Regional agreements' are talked about in Australia as a possible approach to native title, but few people know what they are.

Regional agreements have emerged in outlying parts of North America similar to northern and outback Australia through negotiation between indigenous peoples and government. They are a package of land and sea rights, including full ownership of some areas and substantial management of, and benefits from, the larger area traditionally occupied or used seasonally by indigenous people.

In the package are statutory bodies composed of indigenous and official delegates who decide development and planing issues, including land sea species management and environmental protection. Also included are assistance and funds for indigenous development, plus training and employment opportunities and powers for indigenous people to run their own affairs in health, education, social assistance, community infrastructure, etc.

The most important outcome is that government legislates agreements into national law to provide real security for indigenous people. Security allows them to participate as equals in the white man's world, something official social programmes and anti-discrimination law did not achieve.

The 1975 James Bay and Northern Quebec Agreement was Canada's first. It had many problems in practice, requiring improvements later. Australians often assume Canadian indigenous law is more developed. However, indigenous rights were ignored or trampled in Canada by governments until the 1960s. In Canada, as in Australia, changing public attitudes, international pressure, indigenous activism and surprise decisions by the highest court brought change.

Fears about native title in Australia today are familiar to Canadians, who had the same debate after the 1973 Calder decision which, like Mabo, gave new legal recognition to old concepts of indigenous rights. As Canadian historians and Australian's Henry Reynolds have shown, British governments and sometimes our settler ancestors acknowledged more indigenous rights than we now remember.

Canadian regional agreements are not a gift from kind governments. They result from many conflicts between those wishing to develop oil and gas, hydroelectric power, mines, shipping routes over land or sea and other projects and indigenous peoples who use the same areas for food and livelihoods.

In the 1970s battles between indigenous peoples and industry raged across northern Canada, with provincial and territory governments siding with developers and the federal government now on one side, now the other. Over time Canadians wanted solutions.

Australians have been looking at the Canadian experience and drawing their own conclusions in the books like *Regional Agreements* by Richardson, Craig and Boer, published by the North Australia Research Unit in Darwin, or in *Indigenous Social Justice*, published by Aboriginal Social Justice Commissioner Mick Dodson in Sydney, both published in 1995. Two conferences in Cairns produced important material published as *A good idea waiting to happen* edited by Harris (1995), and *ATSIC Regional Agreements Seminar, 29-31 May 1995.*

The first modern regional agreements were inspired in part by the failure of Canadian and American Indian treaties of the past. The new agreements are now often called 'treaties', or 'modern treaties'. These are so successful that the Royal Commission on Aboriginal Peoples, in its marathon work concluded late last year, recommends all Canadian indigenous programmes and policy be turned into regional agreements enabling ancient peoples to be again self-governing peoples within the Canadian federation.

As Quebec Inuit leader Charlie Watt, who led the signing of the first regional agreement in 1975, often says, there have been many practical problems, but at least his people had gained the tools to work out their own solutions to problems. Indigenous people are no longer forgotten or marginal, but real participants in Canadian society. Presumably all this is what Australians mean by 'reconciliation'.

There is some irony in the Canadian agreements. Inuit and Indians were accused of trying to divide the country or separate in their native title struggle. Now the 1975 Quebec agreement is a key negotiating issue in keeping Canada together. The Inuit and Cree do not want their territories, more than half of Quebec, taken out of Canada. They have shamed many passive Anglo-Canadians.

Tropical and Arctic coasts are similar. Around Cape York, Torres Strait, the Gulf and across northern Australia, like the north coasts of North America, Europe and Russia, indigenous peoples are defending their way of life against governments and industry.

If Australian grazing in indigenous territory, has been the main problem, Canada has the opposite. Seasonally migrating caribou (reindeer) are essential food for Indians and Inuit, but that animal is easily upset by noisy people working or travelling in planes or other vehicles.

Canadian battles over native title and development often involve suited ranks of expensive lawyers and red faced tycoons sitting grimly while an ancient hunter on his first and only trip south describes through interpreters to the judges how caribou or narwhals react to various nuisances of human and technological kind.

Most immediately, however, regional agreements are a means for indigenous people to begin to solve community problems which white police and paternalism will not and cannot solve.

Peter Jull is a member of IWGIA's advisory board. ❑

THE COLD WAR IS NOT OVER

NATOs Low-level Flying over Nitassinan

by Andreas Knudsen

The Innu Nation - Introduction

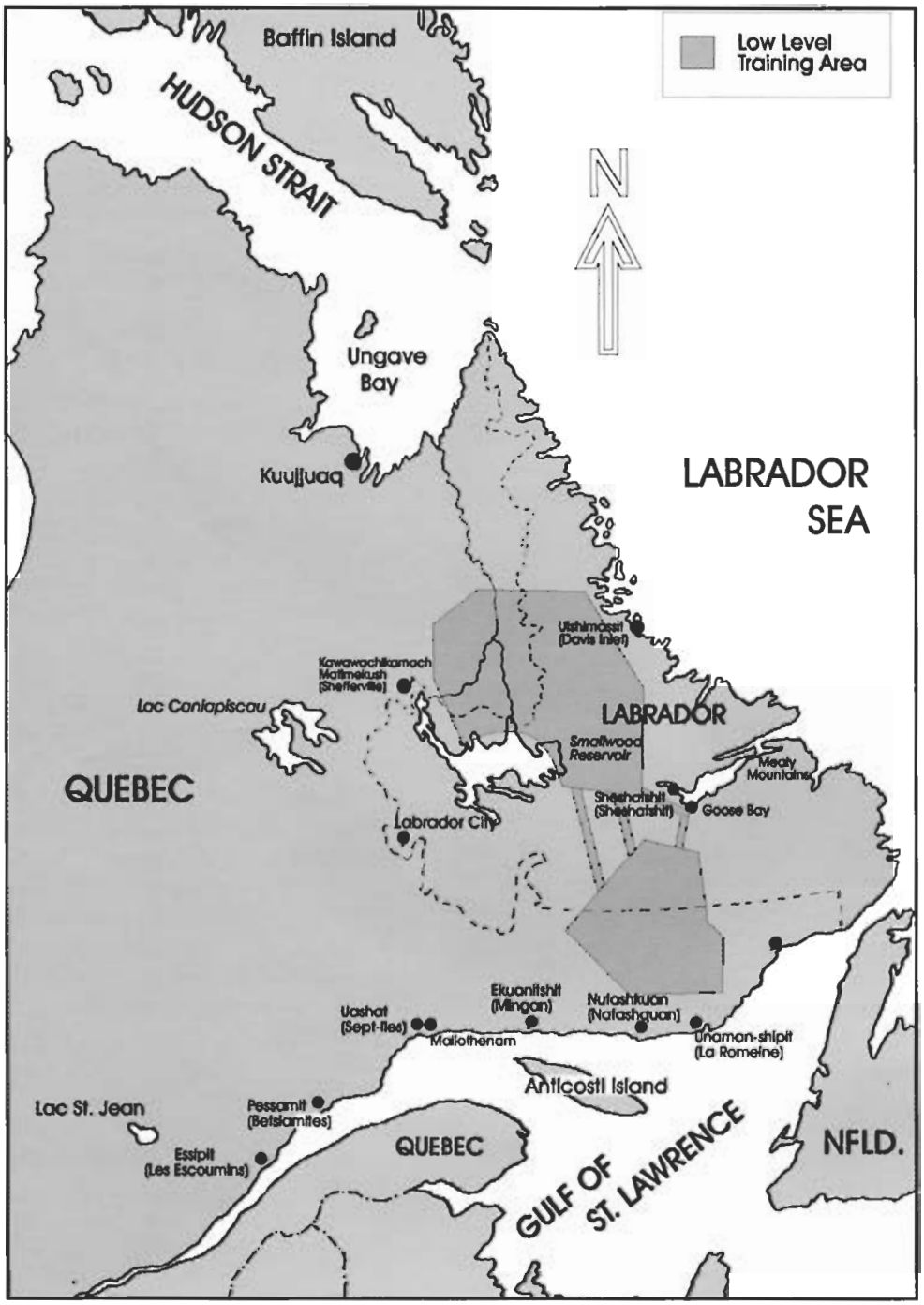
The Innu people have lived in the interior in what is now called northern Quebec and Labrador for more than 8,000 years. Innu means 'human being'. They are part of the Algonquin language family and closely associated with the Cree. There is often confusion between the Innu and the Inuit (Eskimo). The Innu are very distinct from the Inuit who inhabit the more northern, coastal regions of Labrador and Quebec, surviving on the maritime environment. Until recently, anthropologists called the Innu the Montagnais-Naskapi.

The nomadic life of the Innu people requires large grounds for hunting and trapping. A culture of hunters and trappers cannot be restricted to reserves. Innu history is encoded in the land around them. Every lake, river and mountain on the Quebec-Labrador peninsula has a name in the Innu language. Personal memories and tales connected with the religion and origins of the Innu people are linked to the land.

Compared to other First Nations in Canada, neither the Federal government nor companies showed great interest in the Innu's traditional land until the 1960s. Since then, Canadian and multinational companies' interest in timber, mineral resources, water power reserves and use of the area for military exercises has steadily been growing.

Review of the military activities

Although the Canadian, US and British Air Forces have been represented at Goose Bay since 1941, this article deals only with the period since 1980 because of the massive increase in number of military flights threatening the Innu's way of life since then. Furthermore, it must be stres-



sed that the sorties and exercises are not NATO flights, but flights by NATO countries based on bilateral agreements with Canada.

Since 1980, the focus of the flight training shifted to specifically offensive low-level flight manoeuvres frequently bringing the jets, and their noisy engines, to within 100 ft (30 metres) of the ground. The low-level flight exercises stem directly from the modernisation of air armaments and the matching radar technology. Scattered over the land are two bombing ranges and 68 camera targets. The manoeuvres include ground-level combat practice, forward firing weapons and the dropping of thousand-pound dummy bombs. As a sad result, the original bombing range is now covered with moon-like craters and littered with bomb casings. These exercises were held above the surrounding area, a vast, thinly populated taiga landscape, inhabited by a traditional hunter and gatherer society: the Innu people.

In 1980 the scale of training increased dramatically, so that by 1990 the Netherlands, Germany, and the UK, were combining to fly 6,000 to 7,000 sorties from the base over traditional Innu territory during the annual seven month flight season. The sheer number of sorties turned out to be an environmental problem and warranted the project be subject to environmental review.

In 1986, bilateral agreements, signed between the governments of Canada, the United States, the UK, Germany and The Netherlands laid the formal legal basis for the use of unceded traditional Innu territory for the following ten years. Other countries such as the US (stopped), France (only 1996), Belgium (since 1996) and Italy (stopped), have also used the base for training from time to time.

According to NATO's military strategy, pilots need training in order to be able to fly below a potential enemy's radar system. Therefore, most low-level flying occurs in a 'Low-Level Training Flight Area' located in Labrador and Quebec, north and south of Goose Bay. However, the flight training does not take place in a 'helter-skelter' manner but is concentrated in lake areas, marshes and river valleys and overlaps extensively with important Innu hunting territory. In addition to that, the exercises are quite dangerous not only for the environment but also for the pilots. Several accidents happened, e.g., two Dutch jets crashed as a result of a mid-air collision in May 1990.

On 1 May, 1995, Canada conditionally approved an increase in the number of annual military training sorties from 7,000 to 18,000, including 15,000 low-level sorties. In addition to that, the flying area is due to be enlarged from the original 100,000 to 130,000 square kilometres with additional bombing ranges. In February 1996 a new ten-year MMOU (Multinational Memorandum of Understanding) between Canada, The Netherlands, Germany, and the UK was signed. The Innu president Peter Penashue commented on the signing with the words, 'It's a sad day for the Innu and Canada.'

The Netherlands signed a new agreement on 24 December, 1996, but the Dutch low-level flying exercises will be discontinued until Parliament signs the MMOU. This is expected to take place in spring 1997.

The Canadian government regards the leasing out of the airspace to other NATO

countries as its contribution to the common defence policy. At the same time the incoming European leasing payments saved the Canadian taxpayers a part of the money necessary to run Goose Bay. In this way the cancellation of a planned NATO Tactical Fighter and Weapons Training Centre ([N] TFWTC) because of a change of NATO strategy and the end of the Cold War was a blow to both the Canadian Federal government and the Province of Newfoundland's governments common strategy of creating more jobs by militarising an underdeveloped area.

Negative impacts on the environment

This article can only provide very basic information concerning the evidence of negative impact on wildlife that may result from exposure to military aviation.

The Labrador peninsula is full of breeding grounds for caribou, beaver, ducks, geese and other migratory waterfowl. Low-flying aircraft can cause injuries or death to such animals due to stampeding causing broken limbs, abortions of pregnant animals, smothering of intensive poultry caused by panic in broiler and laying sheds, loss of milk yield, loss of egg yield, broken eggs and blood in eggs, and the provocation of stress-induced diseases such as Mareks disease in poultry.

However, even in locations where low-flying activities are common, there are particularly sensitive times of the year when caribous are most vulnerable. This is particularly true during calving seasons when both the pregnant animals and newborn animals are more easily frightened by sudden noise and movement. In the following some examples will be mentioned as to how low-level flights impact on wildlife.

In 1981 the biologist of the Canadian Wildlife Service (CWS) estimated that a population of approximately 500 black ducks had congregated at Snegamook Lake in 1980. But their banding efforts coincided with the beginning of intensive low-level flying by the West German Air Force using F-4 aircraft. An average of two flights took place each day. In 1981 the black ducks virtually abandoned the Snegamook delta site. The requests from the biologists resulted in a reduced number of flights in 1982-83 and the use of the site by black ducks increased to 200-300 in 1982 and 1983 but did not attain the higher levels observed in 1980.

CWS biologist Goudie conducted a series of aerial surveys of harlequin ducks in northern Labrador in 1987. The responses of female harlequin ducks to helicopter passes over the centre of waterways at an altitutde of 15-25m and at speeds of 110 kph were recorded. Goudie (87:3) noted that 'females without broods were found to flush readily on close approach by helicopter whereas hens with broods generally exhibited distraction behaviour.'

The impact on snow geese by aircraft was also studied during 1973 on the Yukon, Alaska, North Slope (Davis and Wiseley 1974). This study documented that

Flight over Canada (official postcard of the Royal Dutch Air Force)

while feeding to gain fat reserves for the winter, snow geese were disrupted by aircraft flights over the area. The authors concluded that this loss of feeding time could not be compensated for and could result in a large reduction (approx. 20%) in energy reserves.

In 1987 and 1988 Dr Fred Harrington of Mount Saint Vincent University and Alasdair Veitch of the University of Alberta conducted a study of the impact of low-level military flight training on caribou from the Red Wine Herd. They pointed out that the calving period is a critical one in the caribou's life circle and disturbance during this period may result in still births, injuries, or cow-calf separations.

Reduction in feeding rates, movement to insect relief habitat at the expense of forage quality, the energetic costs of insect avoidance behaviour and simple loss of blood may increase the calf's susceptibility to other stress factors during the summer insect period.

Harrington and Veitch concluded that calf survival is negatively correlated with exposure to low-level flying, which indicates that already the level of training activity of the 1980s may have reached a height where negative impact on calf survival will become noticeable. 'Together, the impacts of predators and disturbance from low-level training activity may be preventing the recovery of the Red Wine population, despite over 15 years of protection from human hunting' (Harrington and Veitch 1992).

Innu hunters have observed changes in caribou migration patterns, ptarmigan and fish that die for no apparent reason and a lower beaver birth rate. They speculate that military aircraft may somehow be responsible for these changes.

The case of a fox farmer from Chatham, New Brunswick, supports those speculations. The Canadian Department of National Defence (DND) had to pay a $45,000 settlement to compensate for damage caused by military aircraft. According to the farmer's claim the flight of a CF5 jet aircraft on a training mission in March 1988 disturbed his foxes to such a degree that the females ate their newborn kits and pregnant foxes aborted their fetuses.

In 1986, as a result of public pressure, the DND agreed to subject the flight training to the federal Environmental Assessment Review Process. Up until then no research into the impacts of military aviation on people and wildlife in Quebec-Labrador had been conducted by the Department. In October 1989 the DND submitted a $6 million environmental impact statement (EIS) to the Environmental Assessment Panel. During the next few months technical advisors to the panel, interveners and independent experts strongly criticized the EIS, and it quickly earned the reputation of being the worst EIS in the history of Canadian environmental review. In May 1990 the environmental assessment panel issued a hefty 38 point deficiency statement requiring the DND to return to the drawing board to correct the serious problems in its EIS.

Since the late 1980s the DND's Avoidance Mitigation Strategy for low-level exercises over noise sensitive areas were launched. This programme entails flying over areas with Innu, Inuit, settler and sportfishing camps as well as nesting, moulting and staging areas for migratory waterfowl, caribou and moose concentration and trapping areas at an avoidance radius of 2.5 nm. The avoidance radius provides Innu women and children who rarely travel more than that distance from the base camps with some protection form flights, but it does nothing to protect either hunters who in general travel far greater distances away from their camps or the animals that live elsewhere.

It quickly turned out that the huge number of 'hot spots' would it make impossible or at least very difficult for the allied air forces to fulfil their exercise programmes. Even with the minimal avoidance restrictions in place, the allied air forces are complaining. For example, in December 1991 RAF Wing Commander Erskine told Happy Valley-Goose Bay newspaper, The Labradorian, that there could come a time when the restrictions may outweigh the positive aspect of Goose Bay. 'We've got to see how things pan out. Obviously, if more and more restrictions are placed on us, there comes a point when there is no sense - we can't do what we want to, so there is no sense in being here.'

On 1 May, 1995, Canada conditionally approved an increase in the number of annual military training sorties from 7,000 to 18,000, including 15,000 low-level sorties. This decision was based on the February 1995 recommendations of an Environmental Assessment Panel that was commissioned to report on the impact of the low-level military flying. Despite the $10 million spent by the DND to study the impact, the Panel reported that there was uncertainty with respect to both the environmental and health effects of low-level flying and the effectiveness of the DND's avoidance programme.

The Panel also pointed out that these uncertainties, along with the social tension and polarisation around the project were such that a first reaction might be that the project should not proceed. Nevertheless, the Panel said that the economic benefits of the project to the largely non-Aboriginal community of 8,600 people in Happy Valley, Goose Bay, outweighed the rights of the Innu people and environmental protection. At another occasion Daniel Ashini, Director of Innu Rights and Environment, explained his point of view on economy: 'We find it very hard to understand a system which considers fully functioning forests to be 'wasted' and clearcuts to be good for the economy. Economies are just small parts of cultures, and even when they deny it, cultures are ultimately just small parts of ecosystems. The biggest mistake that human beings can make is to believe that they can reverse this natural order and make everything and everyone subordinate to 'the economy'.' (For economic interference between the DND and the local non-aboriginal population please also see the Chronology, 1986.)

During the hearing process of Environmental Assessment Review in 1995 various problems occurred which led the Innu Nation to withdraw from the process because they did not wish to become a fig-leaf for a priori found testimony to the sustainability of low-flying exercises. In the following a few examples will serve to illustrate how the hearing process was timed.

- The Panel conducted the hearings in extreme haste, starting on 19 September and ending on 29 October. This forced the Panel members to assimilate and understand a large quantity of extremely technical data and analyses. A question mark regarding their capability to do it well remains.
- The Panel scheduled public hearings in Innu communities when most Innu affected by the training were at their country camps hunting, trapping and fishing. Therefore, e.g., no one appeared before the Panel in St Augustin because the Panel had chosen the one time of the year when the men most interested in the training were away moose hunting.
- Innu groups were denied the ability to cross-examine DND officials and technical experts so as to properly discover underlying assumptions and data gaps in the DND's arguments.
- The Panel chopped its roster of technical experts from 22 to 7, thereby depriving itself of independent technical expertise in many crucial areas. Some of them, e.g. Ms Carol Brice-Bennett, were censored by the Panel chairperson when they tried to refer to deficiencies in the DND's EIS and the review process.

Based on this background it is hard to believe that all those circumstances are pure coincidences.

> *The DND would like the world to believe that the environmental review process that gave the green light to expanded training was fair and objective, but we have shown the process to be stacked in favour of the DND. The Innu withdrew from the process when it became clear that the Environmental Assessment Panel would not give them a fair hearing.*
> *Innu Nation president Peter Penashue in refence to environmental impact of the low-level flying exercises on 20 February 1996.*

Because of the environmental uncertainties, the Panel recommended and the Canadian Cabinet approved the establishment of an institute to monitor the military flight training and to gather more information about the environment including Aboriginal land use. The institute does not make decisions but only recommendations to the DND and the Minister of Environment regarding these matters. The Innu do not oppose the existence and work of the institute but have several demands for its function and responsibilities. First, the institute must be a regulatory agency with the power to make decisions instead of the DND 'which is the unabashed proponent and self-serving international sales agent for ever increasing levels of low-level flying.'[1] Second, the institute should not work according to the philosophy 'of let's see what happens' because this adaptive management runs contrary to protection of the environment. Third, the Innu want to have an important decision-making role in the Institute according to their rights protected by Section 35 of the Canadian Constitution. Fourth, the low-level flying level must be frozen at the level of the first MMOU. Finally, the increase of the level of sorties must be connected with a comprehensive rights agreement between Canada and the Innu Nation. Although the institute's current

working method is far from satisfying the Innu's demands, the Mamit Innuat and Innu Nation participate in its work on a trial basis for six months. Considering the fact that without their participation they would leave the environmental mitigation of the flying training entirely to the DND, they had no real choice and decided that it would be better to be inside than outside.

Changes in the social and cultural life of the Innu

In the 1950s and '60s, both the Federal government and the provincial governments carried out a policy of assimilation of the indigenous peoples. At that time most Innu still lived as hunters and trappers like their ancestors. By the end of the 1960s Innu from Labrador were forcibly settled into the communities of Sheshatshiu and Uthimassit. Innu parents were threatened with the committal of their children into a school board far away from home and punished when they did not put their children into local schools and instead of attending school went into the bush. The settlements were accomplished by Catholic priests, who had a great deal of influence over many Innu. After the Innu settled peremanently in villages, they became 'projects' for the work of well-being, but misguided authorities which were not aware of the needs of a hunter's life and the consequences of changing the way of life from independent hunter to settled, dependent client.

Today there are 10.000 Innu who live for most of the year in 11 villages along the north shore of the St. Lawrence River and in two Labrador communities.

I was one of the first generation of Innu children born in the community. When I grew up, Sheshatshiu was a place where you could find every sort of social problem such as alcoholism, family violence and sexual abuse. In school we were told that we had to become educated, become modern. We were told that the old ways were dead, and at the time, it was easy to believe them. Very few people were going into the country, but many people had paid employment in the many make-work schemes that were going on at the time.

Since then, many things have changed. Many people have returned to the country living there permanently or at least for a part of the year. It is now a real pride to be regarded as a good hunter who is able to provide for their families in this way. In the bush, or nutshimit a s the Innu call it, their health and peace of mind are restored. Many Innu are concerned about losing their culture and identity as Innu people. Furthermore, flights over Innu camps and hunters have traumatised many children and elders.

The Innu Nation's legal position

It sounds absurd that a people, whose ancestors had been living on the Quebec peninsula for generations when the earliest European explorers arrived at its shores, has to give arguments in support of its inherent, traditional rights to this land to the descendents of those explorers and to use their terms and formalities. In general the early treaties between European colonisers and the USA and Canada respectively confirms that the indigenous nations were sovereign powers, have or had transferable titles of some sort to the land in question and the acquisition of Indian lands could not be safely left to individuals, but must be controlled by governed monopoly.[2]

But the Innu Nation has never signed a treaty or the like that would give jurisdiction over its territory to the British or French Crown or Canada. In order to argue in Euro-American legal terms, the Innu Nation has to use the Royal Proclamation of 1763. This law describes indigenous nations as fully sovereign entities connected to England only by treaty. All future political relations including peace and arrangements for the sharing of land were to be accomplished by formal treaties. In principle, this position is still in power although shifting British-Canadian policies have gained more and more political and legal control over the indigenous nations. Canada, as Britain's legal successor, has taken over its obligations.

The ongoing negotiations between Canada and the Innu Nation are based on the Royal Proclamation. Furthermore, the Canadian constitution recognises under Section 35(1) the existing aboriginal and treaty rights. In addition, archeological and historical evidence and common practice of Federal and provincial authorities left no doubt that the Innu Nation has 'unextinguished land rights.' Section 35(3) of the Constitution provides that a treaty agreement between Canada and First Nations such as the Innu Nation will have constitutional protection which means that the rights acknowledged in those agreements cannot be violated by federal or provincial law or Federal actions such as entering a treaty with Nato partners.

This means that Canada is violating its own Constitution by entering into the MMOU with the UK, the Netherlands and Germany before it has concluded its negotiations with the Innu Nation which will determine whether in fact Canada has any right to give third party rights in Quebec/Nitassinan.

NATO partners are also violating the international human rights of the Innu by entering into the MMOU because they are prejudicing the outcome of the treaty negotiations between the Innu and Canada. This is a violation of many articles of the human rights convention signed by both Canada and its European partners.

Canada's partners argue that it would be interfering with the land's internal affairs if they questioned Canada's assertion that it has the right to grant permission to them to conduct the low-level flying. But, e.g., the United Nations declared at the occasion of the interventions in Somalia and Bosnia that under certain circumstances interfering in a land's internal affairs has a much higher value than national sovereignty. Furthermore, when the international community boycotted South Africa because of its internal apartheid policy, neither the Canadian nor the Western European governments questioned the legality of their decision. Provided that the international law is truly uniform, there is no difference between interfering in Canada's or Bosnia's internal affairs.

In light of available information it is shameful to observe that military exercises of questionable military benefit yet with serious consequences to the health of the Innu people and the environment have the power to destroy the cultural revival of the Innu. The stand of the Innu Nation is for the right to live in their home, free from the disturbances caused by foreign airforces. Low-level

training threatens their cultural identity by threatening their home which is the land where they live and which sustains them. They struggle for the basic human right to self-determination in one's own homeland, and seek international support in their defence.

Recommended literature:

Armitage, Peter, *The Innu*, New York: Chelsea House. ISBN: 1-55546-717-2 and 0-7910-0389-2 (paperback).
Henriksen, Georg, *Hunters in the Barrens, the Nascapi on the Edge of the White Man's World*, Memorial Univ. of NF: Institute of Social and Economic Research 1973. ISBN: 0-919666-00-0.
Wadden, Marie, *Nitassinan: The Innu Struggle to Reclaim Their Homeland*, Vancouver: Douglas and McIntyre, 1991. ISBN: 1-55054-001-7.
Edward S. Rogers and Eleanor Leacock: *Montagnais-Naskapi*: Handbook of American Indians, Volume 6, Washington: Smithsonian Institution, 1981, pp 169 - 195.

For more information please contact:

Innu Nation:PO Box 119, Sheshatshiu, Nitassinan (Labrador), A0P 1M0, tel.: (709) 497-8398, fax: (709) 497-8396, e-mail: innu@web.apc.org, Innu Nation WWW site: http://www.web.net/innu

The International Campaign for the Innu and the Earth:
148 Kerr Street, Oakville ON L6K 3A7, Canada, tel./fax: (905) 849 5501, e-mail: icie@web.apc.org

Friends of Nitassinan:P.O. Box 804 Burlington, VT 05402, phone/fax: (802) 425-3820
For Europe:*Foundation Innu Support Group*, P.O. Box 13670, 2501 ER The Hague, The Netherlands, tel.: (+31) 70 388 8553, fax: +31 70 4020943, e-mail: innusuppnl@gn.apc.org

Protest letters should be addressed to:

Jean Chretien, Prime Minister of Canada, House of Commons, Ottawa, Ontario, K1A 0A6
David Colenette, Minister of National Defence, House of Commons, Ottawa, Ontario, K1A 0A6
Sergio Marchi, Minister of the Environment, House of Commons, Ottawa, Ontario, K1A 0A6
Ron Irwin, Minister of Northern/Indian Affairs, House of Commons, Ottawa, Ontario, K1A 0A6

OVERVIEW OF MILITARY FLIGHT TRAINING ACTIVITIES OVER NITASSINAN (QUEBÉC-LABRADOR)

1941 Commencement of construction of airfield at Goose Bay

1952 20 year agreement signed with the US transforming Goose Bay into a support base for the Strategic Air Command

1957 RAF training with Vulcan Bombers commences and lasts until 1982

1978 Federal government accepts the Innu Nation for Comprehensive Claims Negotiations

1980 German Air Force training commences

Innu leader Greg Penashue opposes militarisation of Innu territory

1983 RAF training with Tornado GR1 aircraft commences

1984 October: Innu from La Romaine and Sheshatshiu start a nationwide campaign to stop military flight training over Innu territory

1985 The band councils of Schefferville, St. Augustin and Natashquan pass resolutions formally opposing military flight training

The DND builds practice bombing range near Minipi Lake

1986 Environmental Impact Study (EIS) starts:

13 February: New Multinational Memorandum of Understanding signed between the governments of Germany, the UK, the US and Canada. Belgium and The Netherlands carry out an test exercise.

13 May: Federal Justice Minister, John Crosbie, announces a federal/provincial grant of $140,000 to the town of Happy Valley-Goose Bay, Labrador North Chamber of Commerce, and Mokami Regional Development Association to establish a new organisation, the 'Mokami Project Group,' to promote military expansion. During its four years of operation, the group receives more than $754,000 to conduct public relations work for DND.

Several tours by Innu representatives throughout Europe and Canada to draw attention to their case;

November: International Human Rights Federation releases report criticising military flight training in Innu airspace

1987 Negotiations between Innu and government fails

April: Innu from Sheshatshit set up tents at the end of the Goose Bay runway to protest the resumption of low-level flying

Fall: Innu from Sheshatshit occupy the Minipi Lake bombing range, thereby halting practice bombing by the Bundesluftwaffe and RAF

1988 Protest camp established at the end of the runway of Goose Bay, Innu commence repeated civil disobedience marches on the runway, numerous arrests occur

1989 18 April: Judge James Igloliorte issues judgement dismissing charges against four Innu for civil disobedience actions at CFB Goose Bay. The judge accepts the Innu's 'colour of right' defence based on their belief of ownership of the land.

1990 February: Innu and their technical advisers hold a news conference in Toronto to critique DND's Goose Bay EIS.
March and April: In The Innu Nation's attempt to obtain a court injunction against military flight training is rejected.
Letter and fax campaign to NATO chiefs of staff and permanent military representatives, governments and opposition parties

1991 Innu commence comprehensive land claims negotiations with the governments of Newfoundland and Labrador

1992 9 January: Revised deficiency statement on the Goose Bay EIS issued to DND by the Environmental Assessment Panel, containing 29 deficiencies.
4-12 October: Four Innu travel to The Netherlands. They occupy the Volkel

Ministry of Defence, Secretariat of Air Staff 2a, Room 8245, Main Building, Whitehall, London, SW1A 2HB, UK
Dr J.J.C. Voorhoeve, Minister of Defence, P.O. Box 20701, 2500 ES, The Hague, The Netherlands
Mr Volker Rhhe, Bundesverteidigungsministerium, Postfach 1328, D-53003 Bonn, Germany

Notes

[1] Innu Nation Press Release of May 23, 1995

[2] Glenn T. Morris: The International Status of Indigenous Nations within the United States. I use Morris' definition because of similiar British-Canadian practice - the author.

Air Base to increase awareness of this issue and are arrested together with over forty Dutch supporters. Innu woman and children occupy CFB Goose Bay runway and are arrested.
Without prior discussions, DND signs exchanging of letters with the German Minister of Defence, extending military flight training in Goose Bay for ten years. The Innu learn of the extension agreement from a local radio news story.
1995 The DND announces that the Belgian, French, and Italian air forces will commence a period of trail training The Federal environmental assessment review finally releases its recommendation. Although admitting the fundamental uncertainty regarding the overall impact of the training, economic rationales prioritised and the panel comes out in favour of doubling the number of flights and substantially increasing the size of the territory to be flown over. The Innu are outraged. Establishment of an Environmental Institute to monitor the impacts is recommended.
1996 Canada, the UK, The Netherlands and Germany sign a renewed MMOU for the next ten years.
12 October: Hunting camp nearby the Dutch air base Volkel. The protest aired on CNN and makes the front page of two Dutch newspapers. ❑

Turning Adversity to Advantage: How Barabaig TANZANIA

BY CHARLES LANE

TANZANIA

Introduction

It has been more than 20 years since the Canadian International Development Agency (CIDA) funded the Tanzania Canada Wheat Programme (TCWP). In that time over Can$ 200 million has been spent on developing a wheat complex covering an area in excess of 100,000 acres of the Basotu plains of north central Tanzania. This was in response to an expected increase in demand for wheat and with a view to assisting the Tanzanian government to become more self-reliant in food grains. However, despite significant yields and the supply of over half the country's requirement for wheat, the TCWP has not been regarded as an unmitigated success. In fact, it has been criticised on a number of grounds by both indigenous inhabitants and foreigners alike.

This article[1] will outline the background to the programme giving special attention to the problems of Barabaig herders who were displaced by it. The purpose is to bring the reader up to date with events and activities surrounding what has become known as 'the Barabaig land case'. At the same time it argues that out of adversity the Barabaig have been able to salvage something positive, not least in the registration of an organisation that will represent their interests and act as a vehicle for development support in the future.

Appropriation of the land

The Tanzanian partner in the venture was the National Agriculture and Food Corporation (NAFCO). It sought authority from local government to acquire 70,000 acres for seven farms to grow wheat. Later, this was expanded to over 100,000 acres without regard to Barabaig customary rights to land, due process of law, or with reference to local authorities (See Lane 1994 & 1996 for details of alienation process).

Not surprisingly, greatest attention was directed towards the more fertile 'wetter' patches of pasture land. The inherent fertility and treeless nature of what the Barabaig call *muhajega* land made it ideal for farming, and it is this land that was appropriated for the TCWP. The land in question had already been identified as 'highly suitable for mechanised dryland farming' (Fenger et.al. 1986), and subsequent trials showed that its inherent fertility was so high that yields did not respond to the application of fertiliser.

What was not so clearly understood at the time was that this same land was regarded by the Barabaig as their land and was very much valued by them for its productive capacity. In programme assessment reports the land was described as 'idle' and this perception was used to justify its acquisition (Young 1983). For the Barabaig who used this land it was anything but 'idle'. On the contrary, it formed the most important element in their grazing rotation - providing much needed forage for animal production and health after the deprivations of the dry season.

It was possible to regard it as 'idle' because it was only used at certain times of the year, and at other times was left free of human habitation. However, it was no less Barabaig land just because it was not always being used. This is because efficient use of scarce resources in a non-equilibrium environment requires that herders must move about the range. For the Barabaig to maximise production they need to be where land is most productive. Land which is not productive at a particular time is left to regenerate based on ecologically sound strategies for sustainable use of natural resources.

Making use of resources in this way requires a communal land tenure regime in which the group of land users has joint rights to use resources while at the same time determining who has access to what, when and how within the common. Experience in this case and many others like it elsewhere in Africa shows how notoriously difficult it is to defend communal lands from alienation because of the peripatetic nature of resource use, the fact that boundaries are not always clearly defined, and few easily discernable marks are made on the landscape (Galaty et.al. 1994).

This is compounded by a failure by decision-makers in government to understand the ecological rationale behind nomadism and the under estimation of the value of pastoral production. This has encouraged development planners to think that pasture land is underutilised and better put to non-pastoral use. The TCWP was a typical example of a centralised approach to the problem of food deficit in which the needs and aspirations of local people were excluded from an assessment of the impacts of

herders have united to protect their lands and advance their interests

turning pastures into farm land largely for the benefit of urban based elites.

Land rights campaign

Much has happened to the Barabaig since the programme was first implemented. Much has also been made to happen by them. The far reaching consequences that arose from the alienation of the Barabaig from their land has been described in detail elsewhere (Lane 1996). In summary not only has the traditional Barabaig grazing pattern been transformed by the withdrawal of crucial grazing resources, indications are that this has had adverse environmental impacts and imposed economic and social costs on the Barabaig, including higher levels of infant mortality (Blystad 1992, Borgerhoff Mulder 1990), and the violation of their human rights.

Violation of human rights

The loss of access to so much *muhajega* land has not only denied the Barabaig access to their most productive resources and reduced their livelihood security, it also exposed them to gross violations of human rights. Some of those who were evicted from their homes had to endure such acts as house burning to ensure they moved out and did not come back. Where the Barabaig attempted to reassert their rights by re-entering their lands, they were regarded as 'trespassers' and harassed.

Human rights violations were acknowledged by the Commission on Violations of Human Rights in NAFCO Wheat Farms in Hanang District chaired by Justice Kisanga. The report noted that between 1970 and 1992 local people reported 149 cases of beatings, the demolition of 24 houses, the imposition of 77 summary fines, 83 rapes, and the desecration of 38 sacred sites. The Commission admitted that although they were unable to confirm the veracity of all the allegations made it was able to confirm 'there have been a number of incidents of evil acts or abuse committed by some NAFCO farm employees against some of the Barabaig who live in the neighbourhood of NAFCO farms'. According to the Barabaig these acts have been committed ever since they were first forcibly evicted from their lands and were probably inflicted with the tacit approval of some government officials and collusion of local law enforcement agents.

Legal challenge

The Barabaig first attempted to challenge the legality of land alienation for TCWP in a case brought by the residents of Mulbadaw village (*Mulbadaw Village Council & 67 Others* v. *NAFCO*—Civil Case No. 10 of 1981) claiming that neither local Barabaig nor the village council were consulted when NAFCO acquired land for Mulbadaw wheat farm - one of the seven TCWP farms. NAFCO did not deny acquisition of the land but claimed it had authority to acquire it as a parastatal body acting for the government in the 'public interest', and therefore procedures set out in the Land Acquisition Act of 1967 did not apply (Shivji 1995).

The High Court ruled in favour of the Barabaig by declaring that their customary claims were valid and proper legal procedures for acquiring the land were not followed by NAFCO. However, the decision was overturned on appeal (Civil Appeal No. 3 of 1986) because not all those Barabaig in court could successfully attest to the customary claims of those not in court, and of those in court, some were not regarded as 'natives' within the definition of the 1923 Land Ordinance and therefore unable to own land. This was a major setback to Barabaig confidencethat there was a remedy for their grievances. However, an increase in NAFCO aggression towards the Barabaig following the initial victory in the Mulbadaw case, together with the expansion of TCWP in the 1980s, particularly at Gawal, Gidagowmod and Waret farms, encouraged the Barabaig to go back to the courts in two more cases.[2]

In the first of these cases the plaintiffs sought leave from the judge for a representative suit to include all of the affected community so as to avoid the problem encountered in the Mulbadaw case. The plaint drawn up by counsel acting for the Barabaig specified that NAFCO:

> *...did without licence, lawful justification or permission of the Plaintiffs, forcefully entered upon the suit land, set on fire and or otherwise destroyed*

the homesteads of the Plaintiffs, caused destruction of crops, livestock and household chattels, and evicted the Plaintiffs from the suit land... without the mandatory procedures under the law...

The Barabaig wished to be declared lawful owners of the suit land by way of customary tenure, and the titles issued to NAFCO made null and void. They wanted an eviction order and perpetual injunction brought against NAFCO to deny entry to the land. They wanted restoration of grave sites, action to arrest soil erosion and protection of sacred locations, the restoration of traditional rights of way across the farms, the payment of damages to dislocated families, general damages and *mesne* profits of Tsh.100,000,000/- (currently only US$ 125,000, but nearer US$ 1 million at the time the plaint was lodged).

In his judgement the judge ruled that before the land was alienated it belonged to the Barabaig community, and as owners of the land they were illegally dispossessed by NAFCO because the requirements to acquire land to which customary title applied as set out in the 1967 Land Acquisition Act were not satisfied. He opined that 'a deemed right of occupancy [customary title] is as good as a granted right of occupancy [leasehold title]' which provides an important precedent for all customary rights holders in Tanzania.

However, the victory was limited by a procedural flaw. Despite leave having been granted for a representative suit under the 1966 Civil Procedure Code, the Plaintiffs' lawyers were adjudged to have failed to comply with Order 1, rule 8, sub-rule (1) to issue a public notice to *all interested parties* to the suit. Whilst a public advertisement was published in the major national newspapers, the judge ruled that it failed to address 'all interested persons', and should have included a list of all 788 names that were attached to the plaint. In addition, it was found that the list submitted to the court included people from areas other than Gawal, and some names were repeated. The judge found, therefore, that the suit could not stand, and he confined his judgement to the six Plaintiffs who appeared in court.

According to the judge, the Plaintiffs had 'suffered damage and loss as a result of the defendants trespass', and were therefore entitled to compensation. As to whether the Plaintiffs should receive back the land to which they have claim, the judge ruled that as this only represented a total of 300 acres, restoring it would result in small patches of private land being held within the farm, and as it would be difficult to provide access for livestock to come and go, he did not order restoration of the land but opted for provision of monetary compensation only.

On the basis of each Plaintiff's submission he ruled that specific monetary and cattle losses were not proven to the required standard and he therefore disallowed their claim. However, he accepted that three of the Plaintiffs were entitled to general damages relative to the size of families and the cost of relocation. This amounted to Tsh. 500,000, Tsh. 100,000, and Tsh. 50,000/- respectively. In addition an award of Tsh. 10,000 was made to the first Plaintiff as compensation for the destruction by NAFCO of his grandfather's grave.

These sums are paltry in the extreme, given the scale of losses and penalties suffered by the Barabaig from denied access to such a large area of fertile land. At the current exchange rate of approximately 800 Tanzanian shillings to the pound, the highest award of Tsh. 500,000 amounts to around US$ 1,000, and the lowest Tsh. 10,000 or only US$ 20! Although these sums are very small and the scale of tangible benefits to the Barabaig that have come from the case might seem insignificant, it must be remembered that an important legal precedent has been attained that should enable herders in Tanzania to have greater security of ownership of their communal lands that they rely on for their livelihoods.

There is conjecture that the judge took the opportunity to rest his judgement on a procedural point so as to avoid making a ruling that would severely embarrass the government and require the return to the Barabaig of the Gawal farm land. A similar predicament for the government was averted in the Mulbadaw case when the judge rested the case on the issue of nationality. Perhaps it is too much to expect a total victory in the circumstances, and perhaps it is enough that a legal precedent has been set giving recognition to customary rights to land. However, an important battle remains to ensure these rights are defendable against continued arbitrary alienation.

The first action taken by lawyers for the Barabaig on hearing the judgement was to request leave to appeal. Although at the time of writing the grounds for appeal have yet formally to be issued, it is understood that they relate to the following points:

(I) Having ruled that NAFCO had trespassed, the judge misdirected himself by not revoking the farm title-deed and granting the land back to the Barabaig. By not doing so he was in effect legalising NAFCO's trespass.

(II) The judge failed to see the gist of the Plaint for a claim of customary rights, and by reducing the issue to measurable property he was ignoring the reality of pastoral land tenure in which a community has rights to resources in common.

(III) As the damages claimed were not specific, the court must have misled itself by demanding a list of those (788 persons attached to the Plaint) who would be represented, and further general damages should have been awarded to the whole community as the losses were not sustained by an individual, but relate to the means by which a community can survive and its culture persist.

(IV) Even if the judge was correct in his ruling, the *quantum* damages were pathetically small as they failed to reflect the real value of losses to the Plaintiffs.

The state strikes back

During court proceedings an attempt was made by government to undermine the case and avoid being forced to return the farms to the Barabaig (Lane 1994). The government exercised its executive authority by trying to extinguish Barabaig customary claims to the land in dispute. This was done by issuing an amendment to Government Notice 659 (Extinction of Customary Land Rights Order of 1987) extending the extinction to include all those villages affected by the NAFCO farms. To cover the Barabaig case it was made retrospective to the date of the original Government Notice (No. 88 of 13/2/1987), thus pre-dating the lodging

of the Barabaig plaint. This gave NAFCO the opportunity to declare 'no case to answer' as the Plaintiffs would have had no rights to declare. However, the judge ruled that the Government Notice did not apply as NAFCO had acquired Certificates of Occupancy to the disputed land at a date that preceded the attempted extinction.

The Government Notices were issued under the Rural Lands (Planning & Utilisation) Act of 1973 that empowers the president to declare a 'specified area' subject to the 'extinction, cancellation or modification' of deemed rights of occupancy (customary title) by the minister for lands. However, there is no evidence that the area concerned was ever 'specified', nor that the prime minister can be regarded as the minister responsible for lands within the meaning of the Act. According to Tenga (1992), the Act itself could be challenged as being in breach of the Bill of Rights which is now part of the Constitution. Shivji (1994) suggests further that the Notices are contrary to the provisions of both the 1973 Act and of the 1923 Land Ordinance recognising customary rights to land.

With greater political liberalisation in Tanzania, a multi-party democratic system, and a burgeoning free press, it is not surprising that land holders, whose customary rights have been infringed by state appropriation, have begun to challenge the government in the courts. Indications from early cases are that the courts will rule in favour of customary title holders (Tanzania 1994). In response to this prospect, and failure of the Government Notices, the state has taken an extraordinary step to undermine this challenge.

The prospect of courts forcing the government to undo the fabric of the new village land tenure has prompted a most radical measure being taken. A quite extraordinary legislative instrument was devised setting out to extinguish all customary rights to land in all villages in the country incorporated between 1970 and 1978 (Regulation of Land Tenure (Established Villages) Act 22 of 1992). This Act extinguishes customary rights in land, prohibits the payment of compensation for such extinction, ousts the jurisdiction of the courts, terminates proceedings pending in the courts and prohibits the enforcement of any court decision or decree concerning matters in respect of which jurisdiction was ousted.

The timing of the Act provides evidence of the government's dismissive attitude towards customary rights and informed legal opinion. It was presented to the Bunge (parliament) only days before the Report of the Presidential Commission of Inquiry into Land Matters was submitted to the president. It is unlikely to be a coincidence that legislation making fundamental changes to land law would be tabled in advance of a Commission's report whose task it was to consider such matters and make recommendations to the president. Logic would suggest that under normal circumstances the findings of the Commission should inform any new legislation.

The reason for this inconsistency could lie in the disparity of view that underpins the two documents. It is probable that those who wished to continue capitalising on the chaos already created by villagisation, titling and land use planning processes to acquire customary lands for commercial purposes, wanted to pre-empt the Commission's recommendations that include recognition of customary rights to land, the involvement of traditional leaders in the registration of titles and the abolition of existing legal and administrative provisions that treat customary rights as inferior to statutory rights of occupancy.

Fortunately for the Barabaig, in the case *Hon. Attorney General* v. *Akonaay and Lohay* the judges ruled that Act 22 was in contravention of the Constitution (Civil Appeal No. 31 of 1994) on two major grounds: customary rights to land were held to be real property under Article 24 of the Constitution, and as such are protected from forfeiture without fair compensation under Sub-article (2); and under the doctrine of Separation of Powers enshrined in Article 4 of the Constitution authority of the courts cannot be ousted. However, the Appeal Court judges declined to rule that all provisions of Act 22 were null and void, leaving a statute on the books without those sections that were found unlawful. It remains to be seen how the government will react to this judgement. The choices are few; it can either leave this Act without the provisions that can ensure it achieves its original purpose, repeal it, or attempt to amend it within the constraints of the judgement. In the context of current deliberations surrounding the formulation of a new National Land Policy it is likely that a new Basic Land Law will be drafted to accommodate policy objectives and also rationalise the existing numerous and sometimes contradictory land laws.

International campaign

Despite limits to legal remedy and government efforts to thwart Barabaig land claims, there have been some positive outcomes and a number of important initiatives have arisen from the process of challenging the government in this case.

The Barabaig chose to conduct an international campaign in defence of their rights. This resulted in a wealth of printed material and a response from the Tanzanian government that has already brought tangible benefits to the community in terms of investment in social welfare (schools, provision of domestic water points etc.). Some of the main features of the campaign were:

(i) Publication of an 'Open Letter to the Canadian People' in Canadian publications (See Paavo 1989, Lane 1991).

Open letter to the Canadian people, 15 February 1989

We, the Barabaig of Tanzania, are a poor and troubled people. We are a pastoral minority dependent on our livestock for survival. Every day we strive to sustain our herds and secure a better future for ourselves and our children. We are few in number and live in scattered communities. We have little political power. We have struggled alone against great odds for many years. Few people understand our plight or are willing to help us. Our problems are great. We have failed to overcome them. We are asking for your help.

We live close to the land. It is an arid land where droughts are common. Many of our children suffer deprivation and die for want of better health care. Our livestock die also from lack of veterinary services. Our womenfolk walk many miles for

water. They grind maize by hand using stones. Many of us are illiterate. Few people visit us to hear our problems and attend to our needs. Some of our leaders have tried to help us. However, not enough is being done to support our development compared with other Tanzanians.

Traditionally, we live on the plains that surround Mount Hanang in Hanang District of Arusha Region. We have done so for well over a hundred years. Here, we build our homes, herd our livestock, cultivate our plots and live our lives. In colonial times we had our own Barabaig Native Authority and Chief. At that time we cleared the land to control the tsetse fly. Today we burn the pasture to control ticks and improve the grazing. Some of the land is sacred. Our esteemed elders are buried here in graves that are tended and visited for generations. We value and respect the land. We want to preserve it for all time.

Our herds need forage, water and salt. Our land has all these things. Without them we cannot survive. From as long ago as we can remember our land has been taken from us. People are continuously moving in to grow crops on our pastures. They take the best land which we rely on to sustain our herds. The loss of this land has resulted in the drastic reduction of our livestock and a decline in production that cause us great suffering. If our land continues to be taken we shall have to move away or perish. The choices for survival are few; either we accept the risks and hardships of migration or go and become paupers in the towns.

The largest tracts of land being taken from us are for the cultivation of crops. The government has taken more than 100,000 acres for a wheat scheme. The decision to take this land was made by non-Barabaig leaders. Official approval for this was given without our consent. We were just told the project needed the land and we would have to move. We have not been compensated for the loss of this land. A little was paid to some of us, but only for the loss of housing, which has been offered too late, to too few people. To date, no effective provision has been made for those dispossessed to go anywhere else to live.

Canada, through its aid programme (CIDA), has been involved in the Tanzania-Canada Wheat Project for twenty years. In that time Canadian aid in partnership with Tanzania's National Agriculture and Food Corporation (NAFCO) has established a vast wheat-growing complex on the Hanang plains. The original plan was to cultivate seven farms of 10,000 acres each, totalling around 70,000 acres. This is the area we were told we would have to give up. Now we find NAFCO has obtained titles to more than 100,000 acres, 30,000 acres more than we had been advised. This was prime grazing land. We can ill afford to lose such a large area of pasture.

The growing of wheat on what was once pasture is destroying the environment. By stripping away the vegetation cover with mechanised cultivation, the soil is laid bare to be carried away by flash floods, creating deep gullies and silting up water sources and our sacred Lake Basotu. The area of land we were left with is generally less fertile and too small for our needs. It is becoming denuded by overgrazing. The vegetation has changed, making pastures less productive than they were before.

Widespread human rights abuses are associated with the conduct of the project. When moving us, NAFCO have sometimes burnt us out of our homes without warning. In this way some people have lost all their possessions, including their food reserves. At other times they have ploughed around the homestead, making it impossible for us to come and go freely. When attempting to reach pasture, water or salt by following traditional routes across the farms, we are deemed trespassers and subjected to beatings and fines. We find it hard to resist this harassment as NAFCO call on the police and militia to enforce their will on us. Many of the graves of our elders have been ploughed up and are no longer recognisable. These sacred sites are very important to us as places of worship. It is there that we make offerings and call on God's blessings through the medium of our ancestors. This desecration is like the deliberate destruction of a church and graveyard in a Christian community in Canada.

Without success we have appealed in the past for help from our national leaders. We have asked the Canadian project staff and the Canadian High Commission in Dar es Salaam to help us. Despite their expressed concern, little has changed for the better. In fact, the situation has gotten worse. Cultivation of disputed land continues, beatings and fines continue. Some of the rights of way that were left open have now been closed completely. Lately, NAFCO have chosen to obtain Certificates of Title to the farms which exclude the two vital conditions for the provision of rights of way and the preservation of graves.

In 1984 the villages of Mulbadau contested the taking of our land by NAFCO. The case succeeded in the High Court, but was overturned on appeal. It was ruled that the village did not have title to the land at the time it was taken from them. Individual claims to customary rights to possession of land, as recognised in law, were also denied to those few plaintiffs who testified in court as they happened to be of Somali origin and were thus not classified as 'natives' with rights to possession of land in Tanzania.

Because of the continuing abuses of our rights, and the fact that the broader question of whether we have customary title to the land we occupied is still unresolved, we have decided to go back to the courts. We contend that NAFCO failed to adhere to the due process of law in acquiring this land and are thus trespassing on the extra 30,000 acres. We are demanding full compensation for the loss of the land, the destruction of our homes and the desecration of graves. We want restoration of traditional rights of way that will allow us to reach grazing areas, water and salt as before. We want to establish once and for all that the indigenous pastoral communities have customary rights to

the land they occupy so that their future livelihoods may be protected by the law of the land.

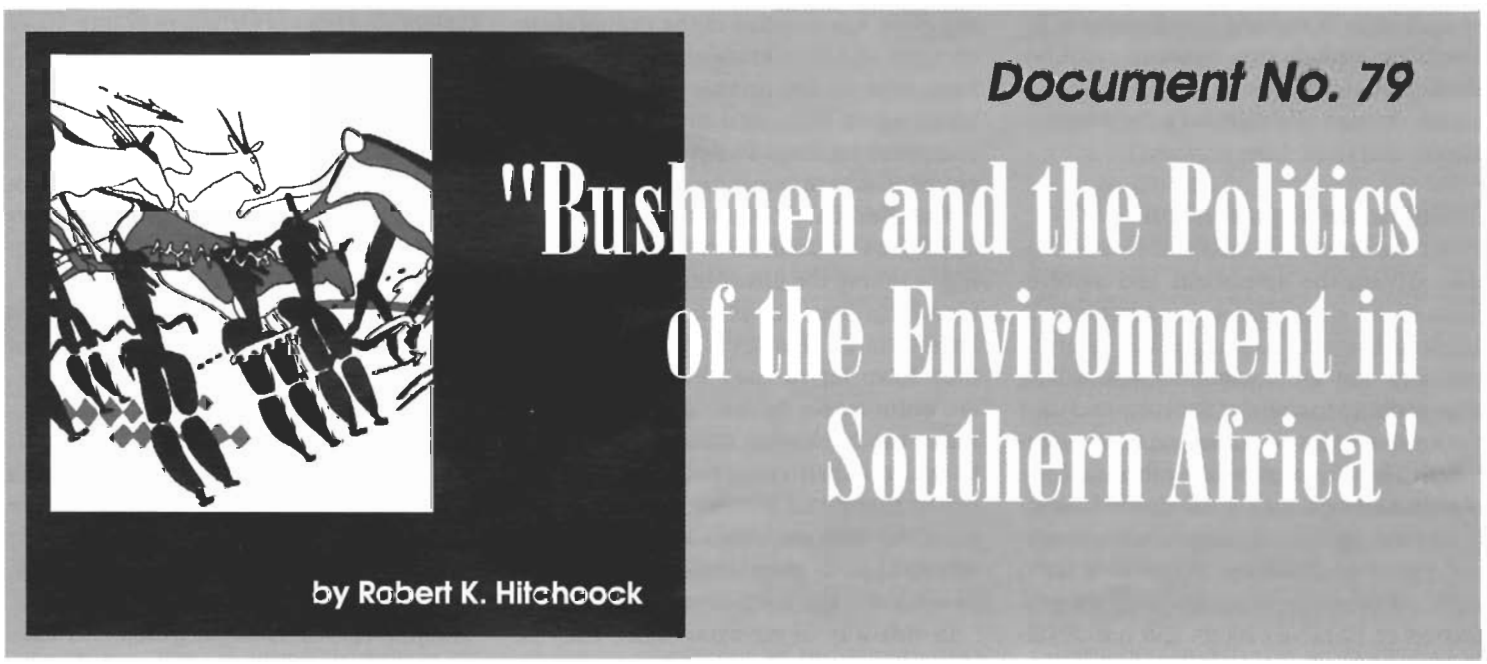
Canadian aid is as much valued by us as other Tanzanians. We are not opposed to your involvement in the development of this country. In fact, we would welcome your continued support for development in Hanang District. Our problems are with the project and its impact on our lives and land. Through this letter we want to inform you what is currently being done with your aid. You can see how you have been party to wrongs inflicted on us. With what you now know we hope you will be moved to use whatever means available to resolve the conflict in the name of justice.

We would also like you to consider how the wrongs inflicted on us might be redressed. We want our land back. We want our customary rights observed. We want no further destruction of the land. We would like a full and impartial investigation conducted into human rights abuses and those found guilty of crimes punished. Our hope is that you will be motivated to provide better human and livestock health facilities, and basic infrastructure and services would do much to overcome the underdevelopment we have endured. This is not a request for a few token projects, but a plea for a comprehensive development plan for the district. We want the opportunity to participate in our own development. In this way pastoralists can benefit as much as agriculturalists. Without your and other's support, we are destined to remain a poor and abused people without a future.

You are a rich and powerful nation. You have the means to overcome our problems. Your aid has helped others, at home and abroad. You live far from us and know little of our problems in Tanzania. We hope that this letter will make you more aware of what is happening to us. Please join us in our struggle. Without an effective and positive response from you our cause can be lost. That is why we are appealing to you now. Our cry for your help is our last resort.

Signed:
Gwauda Gidabayokt
Bada Lugod
Ako Gembul
Ng'ayda Baha
On behalf of the Barabaig people, Hanang District, Arusha Region, Tanzania

(ii) Production of public information materials by human rights organisations.
(iii) Publication of a series of papers based on research with the Barabaig that have informed the campaign (See Lane 1994).
(iv) The Barabaig case was one of four cases given special attention by the Presidential Commission of Inquiry into Lands Matters. A submission, 'The Barabaig Case: Implications for land policy in pastoral areas of Tanzania' by the author was in sympathy with the Commission's recommendations to accommodate *inter alia* the concerns of pastoralists by recognising customary rights to land in a multiple land tenure system, affirmation that land belongs to the community, shifting authority over land from the president to village assemblies and the need to provide greater transparency and accountability in the administration of land.



(v) It was not until 1994 that the prime-minister succumbed to international pressure and appointed a Commission on Violations of Human Rights in NAFCO Wheat Farms, Hanang District. The author, Barabaig leaders and supporters were called to make written submissions. Although the Commission's report was never made public, it is reliably reported that it confirms the veracity of many of the allegations and makes a number of recommendations consistent with pro-Barabaig submissions.

(vi) In March 1994 a formal submission pursuant to United Nations Resolution 1503 (XLVIII) of the Economic and Social Council was made by Barabaig elders and senior community representatives to the Commission on Human Rights under the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The Tanzanian government is now obliged to account for its actions in relation to Barabaig grievances, and this has become particularly pertinent following the appeal from the High Court judgement.

The struggle for land rights has brought the Barabaig into contact with many people and organisations that were hitherto unknown to them. Initially, contact was made with members of the research community and lawyers. Support was received from many sources and organisations which work with indigenous groups on rights and justice related issues (e.g. Human Rights Watch/Africa, Foodfirst Information and Action Network (FIAN), the International Work Group for Indigenous Affairs (IWGIA), Probe International, Survival International).

Indigenous organisation

From the outset the land cases were conducted with the agreement and involvement of the whole Barabaig community in Hanang District. Attention was given to ensuring that the community was willing to contribute to some of the costs and take responsibility for the outcome of the campaign. This experience has galvanised the community and they have formed themselves into a formally registered community-based organisation, *Bulgalda*. It has a mandate to continue campaigning for protection of Barabaig rights and has developed a wider development agenda.

As a formally registered indigenous pastoral NGO, *Bulgalda* has joined similar organisations in a coalition of Indigenous Pastoral Non-Government Organisations (PINGOs). This has enabled them to represent a wider constituency, speak with greater authority on common issues, make use of economies of scale, more easily attract support from donors, and provide a sound base for lobbying.

Until recently the Barabaig have adopted a confrontational approach to the problem of land alienation. Not surprisingly, challenging government in the courts has been perceived as a threat by the authorities and some extraordinary measures have been taken against them. Whilst confrontation has had some beneficial impact, not all of it has been good. Antagonising officialdom has at times resulted in manoeuvres by government to conceal errors, the placing of restrictions on NGO registration and operation, the suppression of information, harassment and co-option of activists. To avoid such set-backs *Bulgalda* joined with others in PINGOs to develop more sophisticated strategies that mix measured confrontation with more conciliatory approaches that involve lobbying and building a basis for dialogue with all parties to disputes (Bradbury, Fisher & Lane 1995).

Bulgalda has also joined with other pastoral NGOs in a *Pastoral Caucus* to try and influence land policy formulation and attain greater land tenure security. This has resulted in the preparation of a list of recommendations that have been sent to the minister of lands, the lobbying of MPs, and mobilising other community groups to develop their own plans of action.

The Barabaig community has developed greater confidence from succeeding in taking the government court. The long term benefits of this cannot easily be measured. However, it is clear that they have learnt they have rights that are enforceable by law, they are free to make use of existing national structures to address their concerns, they have allies at home and abroad who are interested to support them and there are advantages in participating more fully in national society.

In this way of engaging more fully in the wider world of national and international affairs and making use of institutions, people and resources, the Barabaig have been able to turn the adversity of dispossession to the advantage of becoming more participatory citizens of the Tanzanian nation-state and members of a world community. By relating to others who share their difficulties they have been able to join an international movement in the pursuit of justice by indigenous peoples who are struggling to successfully assert their rights to customary lands.

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Notes

[1] This article was first presented as a paper to the Symposium on The African Land Crisis during a meeting of the Canadian Association of African Studies, 1-5 May 1996 at McGill University, Montreal.

[2] *Yoke Gwako and 5 Others v. NAFCO & Gawal Farm* - Civil Case No.52 of 1988, and *Ako Gembul & 10 Others v. NAFCO & Waret and Gidagawmod Wheat Farms* - Civil Case No.12 of 1989. ❑

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PERU

Opposition to oil corporations on Achuar territory

The undersigned leaders of the communities constituting the Achuar people would like to inform our Government and the people of Peru that Achuar indigenous people reject oil exploration and exploitation on their territory, specifically Lots 54 and 56 located in the district of Pastaza, Alto Amazonas Province, Loreto Region.

We live in peace on our territory thanks to our respect for nature. In order to live, our children need an unspoiled land, and we are determined to leave our land this way, even if it entails great sacrifice on our part.

We are aware of and have seen with our own eyes the fate of other indigenous peoples after oil exploitation was carried out on their territories such as the cases of Rio Napo, Rio Tigre and Rio Corrientes.

Our aims include the fight for life, rights and justice. We do not want our soil, air and rivers nor our foodstuffs or current and future ways of life to be polluted, destroyed or otherwise negatively altered. We do not want to lose our identity as the Achuar indigenous people nor do we want our children to forget our customs.

Therefore, we petition the Government to suspend the oil exploration project in Lots 54 and 64 and insure the protection of Achuar indigenous communities.

For the record, as leaders conscious of our moral duties and exercising our rights as members of the Peruvian public, in order to benefit all peoples, current and future, we hereby sign this letter calling for respect for our rights and cultural, social, environmental and territorial integrity.

The Peruvian State has bestowed upon the directorate of those members of our Achuar communities who have signed this document the right to protect our territory, which was titled by the Ministry of Agriculture in the region of Loreto. Further, speaking for all of our communities, we fully reject oil exploration carried out by Arco Corporation and other corporations which seek to exploit oil on our territory in Lot 64.
Wisum, 10 December 1996.

Taish W.Kuji Nawir
Pres. org. Ati
L.E. No. 05632855
Samiruk Kachu Kantserkap
Vice-Pres. org Ati
L.E. No. 05632801
F. Antonio Fachin Tapayuri
Sec. org. Ati
L.E. No. 05627591

Note

Lots 54 and 64

Lot 54:

Lot 54 is 850,342 ha, and is located in the Pastaza and Huasaga Rivers basin, in the district of Pastaza, Alto Amazonas Province, department and region of Loreto. It was handed over to the Argentine company PLUSPETROL S.A and the Peruvian and North American subsidiary OCCIDENTAL PETROLERA DEL PERU INC., SUCURSAL DEL PERU, (OXY).

The oil exploration and exploitation contract, signed in August 1995, includes territories pertaining to the Quichua indigenous people, organised in the Quichua of Pastaza Indigenous Federation (FEDERACION INDIGENA QUICHUA DEL PASTAZA), (FEDIQUEP) and part of the Achuar indigenous people's territory, represented by the organisation ORGANIZACION ACHUAR CHAYAT, (ORACH).

FEDIQUEP's central office is located in the Christian Alliance community and its members come from 10 communities of the Quechua people in Pastaza. It was founded in 1992 and has the promotion of its people's development and values as its primary objective, as well as improving the social and productive infrastructure of the communities and education.

Lot 64:

Lot 64 is located in the hydrocarbonaceous basin of the Marañon in the subdivision of the district of Pastaza, Alto Amazonas Province, department of Loreto. This 953,790 ha lot has been granted to the North American companies ATLANTIC RICHFIELD (ARCO) and OCCIDENTAL PETROLEUM CO.

Lot 64 is adjacent to Lot 54 and the intended oil related activities also include almost the totality of the Achuar indigenous people. The Achuar are represented by two organisations:
ORGANIZACION ACHUAR CHAYAT, (ORACH) and
ACHUARTI IJUNDRAMU, (ATI).

We request that all those interested in protecting the rights of indigenous peoples write to the offices of the oil corporations and the Peruvian State's institutions and authorities so that they hear

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the just protests of the Achuar indigenous people.

ARCO Corporation:
- Head Office: 515 South Flower Street, Los Angeles, California 90071- 2256, USA. Telephone: (213) 486 3511, Telex: 677415. Fax: (213) 486 2063.
- Directors: M.R. Bowin (Chairman and Chief Executive), R.J. Armault (Chief of Finances), A.J Fernandes, W.E. Wader Jr (Executive Vice-Presidents); F. D Boren, L.M Cook, R.H. Deihl, J. Gavin, H. H. Gray, P. M. Hawley, K. Krese, D. T. McLaughlin, J. B. Slaugter, H. B. Waldron, H. Wendt.

OXY Corporation:
- Head Office: 10889 Wilshire Boulevard, Los Angeles, California 90024-4201, USA. Telephone: (310) 208-8800. Telex: 67-3389.

Oxpete LSA.
- Directors: R.R Irani (Chairman President and Chief Executive), J.R. Hirl (President and Chief Executive Occidental Chemical Corp), D.R. Laurance (Senior Oper.), J. F Riordan (President and Chief Executive, Midcon Corp.) (Executive Vice-Presidents); A. Gore Sr. A. Gronam, R. Segovia, J.W Kluge, W. Maloney, L. Nizer, G. O. Nolley, A. D. Syriani, R. Tomich.

In PERU:

Occidental Peruana Inc.
Los Nardos 1018, San Isidro. Telf. 442-8110

COMPANIA PLUSPETROL:
- Head Office: Pluspetrol Building, La Rioja 301, 1214 Buenos Aires, Argentina Telephone: (541) 935011-19. Telex: 22371. Fax: (541)972301.
- Directores: L. A. Rey (Chairman and Chief Executive), A. J. Selesco (Senior Vice-President). O. H. Secco (General Manager and Chief of Operations), H. P. Poli, O. M Setuain.

Defensoria del Pueblo (ombudsman):
Dr. Jorge Santisteban
Jr. Ucayali No. 388, Lima 1, PERU
Casilla Postal 3906 - Lima 10
fax: (511) 426-7889 ❑

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SURINAME

Indigenous Peoples and Maroons Hold a Second Gran Krutu (Great Gathering)

Indigenous and Maroon leaders in Suriname held a second Gran Krutu (Great Gathering), 20-22 November 1996 in the indigenous community of Galibi. The first Gran Krutu was held in the Maroon community of Asindon-Opo in August 1995. The main purposes of the Gran Krutu were to strengthen cooperation and unity amongst indigenous and Maroon peoples, to voice opposition to the policy of the Surinamese government to hand out their ancestral lands in concession to multinational mining and logging companies and to demand that their rights to own and control their lands and territories be recognised in Surinamese law in accordance with international human rights standards. In addition to the Surinamese delegates, the Second Gran Krutu was attended by a representative of the Amerindian Peoples Association of Guyana and by a coalition of organisations from French Guiana.

At the outset the participants reaffirmed the conclusions and results of the first Gran Krutu and asserted their fundamental right to self-determination. They stated that they do not wish to separate from Suriname, but that their rights to autonomy and self-government must be respected and recognised in the Constitution of Suriname.

The legal recognition of land rights was the most discussed issue. Suriname, in contrast to most other states in the Western Hemisphere does not recognise that indigenous peoples and Maroons have any land or other rights under law. It was pointed out that land rights for indigenous and tribal peoples are internationally recognised human rights, fundamental to their survival as culturally distinct peoples, and that the Surinamese government is in violation of international human rights treaties which it has signed. The Indigenous and Maroon leaders stressed that this failure to recognise their rights has taken on additional significance and urgency given the policy of the government to grant concessions to multinational mining and logging companies that encroach on or encompass their ancestral lands and territories. These concessions are granted without any consultation with the affected communities, in most cases even without their knowledge, and with little or no environmental controls in place.

It was noted that the contracts for the inconceivably large logging concessions, totaling between 3-5 million hectares, to Berjaya Berhard, Suri-Atlantic and MUSA of Indonesia had been suspended by the government. These concessions has been vigorously opposed by the indigenous and Maroon peoples and the international community since they were announced. The Second Gran Krutu stated that suspension of these contracts was not enough, rather they should be thrown out all together. Perhaps in response to this statement, President J. Wijdenbosch announced on 2 January 1997, that the large concession would not be granted: the largest concession that will be permitted will be 150,000 hectares. Berjaya's President, Surrendre Mungra, who is brother of the Minister of Finance and former legal counsel of Berjaya, Atta Mungra, appeared pleased that his company could officially start working in Suriname; previously they were working illegally through a front company.

However, the President's statement leaves many questions unanswered, for instance, can the same company hold more that one concession at a time? - the answer would appear to be yes, and it is also the case that the entire area proposed under the original 3-5 million hectare concessions applied for by Berjaya, MUSA and Suri-Atlantic is available for concession again. Also as the government's forestry service is still incapable of monitoring logging operations in existing concessions, how will it also monitor what presumably will be a large number of 150,000 hectare concessions?

The conclusion to be drawn from this is that the only lesson the government has drawn from the fiasco of the large timber concessions is that they were too big and that this was the only problem.

One multinational Canadian gold mining company, Golden Star Resouces (based in Denver, Colorado), was singled out by the Gran Krutu, which demanded that its activities be suspended until the implications thereof were better understood and indigenous and Maroon lands rights were legally recognised and the boundaries of their territories had been demarcated. They also questioned how

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the government found it so easy to grant hundreds of thousands of hectares of land to a mining company but refused to recognise even one hectare of their land rights. A representative of the Amerindian Peoples Association of Guyana also informed the Gran Krutu about Golden Star's activities in Guyana and the disregard of indigenous rights associated with them.

Golden Star is best known for its involvement in the OMAI mine disaster in Guyana, which released approximately 4 million cubic litres of cyanide laced effluent in the Essequibo river and for its ongoing dispute with the Maroon community of Nieuw Koffiekamp in Suriname. At Nieuw Koffiekamp, Golden Star security personnel and the police working with them have been implicated in threatening and harassing community members by using live ammunition to frighten them away from areas in which the company was exploring for gold. Villagers also complain that they have been denied access to their agricultural plots and hunting grounds by the security force and by barriers that the company has erected.

In a 26 September 1996 press release, Golden Star stated that it is 'inevitable' that the people of Nieuw Koffiekamp will be relocated to make way for their operations. This community was relocated once already in the mid-1960s to make way for a hydroelectric dam constructed to power the bauxite refining operations of another multinational mining company, US based ALCOA. The Gran Krutu expressed its solidarity with the people of Nieuw Koffiekamp and stated its opposition to any effort to relocate the community without its free and informed consent as required by international human rights law. Participants from other communities who now find themselves in a concession held by Golden Star expressed the fear that they may be subjected to the same treatment as the people of Nieuw Koffiekamp or that their rivers may one day be full of cyanide.

The indigenous community of Kwamalasemuty stated that they had been pressured into signing an agreement with Golden Star, who had gone so far as to bring ex-military dictator, Desi Bouterse (and present Chairman of the ruling National Democratic Party) to the village twice to convince them that if they did not sign the agreement they would never get 'development' in their village. The village leaders had previously said no to Golden Star's demands four times, before signing an agreement in November. The indigenous community of Casipora also indicated that Golden Star's employees had threatened them, including bringing Bouterse over to talk to them after they had objected to Golden Star's presence on their land.

At the last meeting in Kwamalasemutu the headman's translator was not present and the company used their own translator, who by some accounts painted a very rosy picture of Golden Star and the impact of its operations. Ironically, the community and its land had been part of a concession, which also includes a national park, held by Golden Star's Surinames partner, NaNa Resources, dating back to the period of military rule when it was granted by Bouterse to NaNa Resources. The community came to the Gran Krutu to repudiate the agreement and request support from other communities. The Association of Indigenous Village Leaders in Suriname (VIDS) has promised to investigate and take action on this matter.

Another important point of discussion revolved around the establishment of a governmental commission, under the Ministries of Natural Resources and Regional Development, to examine the 'problem of land rights in the interior of Suriname'. This commission takes the place of the Redan Commission which was installed a number of years previously to examine the same question - it did not submit any public conclusions and recommendations. The Gran Krutu stated that it was entirely unclear about the purpose and mandate of this commission and expressed its outrage that the government could discuss their rights without the full participation of their legitimate representatives. They said that 'this once again demonstrates a lack of respect for our human rights' and demanded that all and any future discussions relating to indigenous and Maroon lands and resources must take place with the participation and consent of representatives of the interior.

However, this Commission, which consists of first and foremost loyal members of the National Democratic Party, continues its work and has held a number of hearing. These hearing are private and to date the Association of Indigenous Village Leaders has been excluded. The second phase of the Commission's work will be to travel into the interior to hold hearings in Maroon and indigenous villages and then, presumably, to present a report with conclusions and recommendations. The prospects for meaningfull dialogue are limited and one has to question the credentials of the committee members to address the subject. Public statements indicate that they see no reason to change existing law or to recognise collective rights. Undoubtedly, this issue will become more contentious as time passes and indigenous and Marons are already mobilizing in opposition to the commission.

Full text of the resolutions of the meeting can be found on the e-mail conference: gn:conf:rainfor.general

For further information contact: Forest Peoples Programme, 1c Fosseway Business Centre, Stratford Road, Moreton-in-Marsh, GL56 9NQ, England. Tel: 01608 652893 Fax: +44 1608 652878 E-mail: wrm@gn.apc.org ❑

Available Documents

In English

No. 1: *Declaration of Barbados.* (1971) US$ 2.20

No. 6: René Fuerst: *Bibliography of the Indigenous Problems and Policy of the Brazilian Amazon Region.* 1957-1972. (1972) US$ 3.60

No. 7: Bernard Arcand: *The Urgent Situation of the Cuiva Indians of Columbia.* (1972) US$ 3.60

No. 15: Alicia Barabas and Miguel Bartolomé: *Hydraulic Development and Ethnocide: The Mazatec and Chinatec People of Oaxaca, Mexico.* (1973) US$ 2.90

No. 16: Richard Chase Smith: *The Amuesha People of Central Peru: Their Struggle to Survive.* (1974) US$ 4.30

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No. 24: Torben Morberg: *The Reaction of People of Bellona Islands towards a Mining Project.* (1976) US$ 4.60

No. 25: Felix Razon and Richard Hensman: *The oppression of the Indigenous Peoples of the Philippines.* (1976) US$ 4.60

No. 27: Peter Kloos: *The Akuriyo of Surinam: A Case of Emergence from Isolation.* (1977) US$ 3.60

No. 28: Ernesto Salazar: *An Indian Federation in Lowland Ecuador.*(1977) US$ 4.60

No. 29: Douglas E. Sanders: *The Formation of the World Council of Indigenous Peoples.* (1977) US$ 2.20

No. 30: Julio Tumiri Apaza: *The Indian Liberation and Social Rights Movement in Kollasuyu, Bolivia.* (1978) US$ US$ 4.80

No. 31: Norman Lewis: Eastern Bolivia: *The White Promised Land.* (1978) US$ 2.20

No. 32: Ernest G. Migliazza: *The Integration of the Indigenous People of the Territory of Roraima, Brazil* (1978) US$ 2.20

No. 33: *Guatemala 1978: The massacre at Panzos.*(1978) US$ 4.60

No. 36: Gerald D. Berreman: *Himachal Science, People and «Progress».* (1979) US$ 3.20

No. 39: A. Barrie Pittock: *Australian Aborigines: The Common Struggle forHumanity.* (1979) US$ 4.30

No. 40: Torben Retbøll: *East Timor, Indonesia and the Western Democracies.* (1980) US$ 7.20

No. 42: Brigitte Simón, Barbara Riester and Jürgen Riester: *I sold Mysel, I was bought.* (1980) US$ 8.70

No. 44: Paul L. Aspelin and Silvio Coelho Dos Santos: *Indian Areas Threatened by Hydroelectric Projects in Brazil.* (1981) US$ 10.10

No. 45: Robert Paine: *Dam a River, Damn a People?* (1982) US$ 7.20

No. 46: Nicolás Iñigo Carreras: *«Violence» as an Economic Force.* (1982) US$ 3.80

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No. 49: Jean Pierre Chaumeil: *Between Zoo and Slavery: The Yagua of Eastern Peru in their Present Situation.* (1984) US$ 5.80

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No. 51: Wolfgang Mey: *Genocide In the Chittagong Hill Tracts, Bangladesh.* (1984) US$ 10.10

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No. 66: *Indigenous Women on the Move.* (1990) US$ 10.00

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No. 68: Ward Churchill: *Critical Issues in Native North America* - Volume II. (1991) US$ 11.60

No. 69: IWGIA/Inuit Circumpolar Conference: *Arctic Environment: Indigenous Perspectives* (1991) US$ 7.50

No. 70: Andrew Gray: *Between The Spice of Life and the Melting Pot: Biodiversity Conservation and its Impact on Indigenous Peoples.* (1991) US$ 7.50

No. 71: Alan R. Marcus: *Out in The Cold: The Legacy of Canada's Inuit Relocation Experiment in the High Artic.* (1992) US$ 10.00

No. 72: Mauro Leonel: *Roads, Indians and Environment in the Amazon: From Central Brazil to the Pacific.* (1992) US$ 13.00

No. 73: Levita Duhaylungsod and David Hyndman: *Where T'boli bells toll: Political ecology voices behind the Tasaday Hoax.* (1993) US$ 15.00

No. 74: *«...Never drink from the same cup».* Proceedings of the conference on Indigenous Peoples in Africa. (1993) US$ 33.00 + postage.

No. 75: Ulla Hasager and Jonathan Friedman (Eds.): *Hawai'i: Return to Nationhood.* (1994) US$ 30.00 + postage.

No. 76: W.J. Assies and J.J. Hoekema (Eds.): *Indigenous Peoples' Experience with Self-Government.* (1994). US$ 16.00 + postage.

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International Secretariat, IWGIA
Fiolstraede 10, DK-1171 Copenhagen K, Denmark
Phone:+ 45 33 12 47 24; Telefax:+ 45 33 14 77 49
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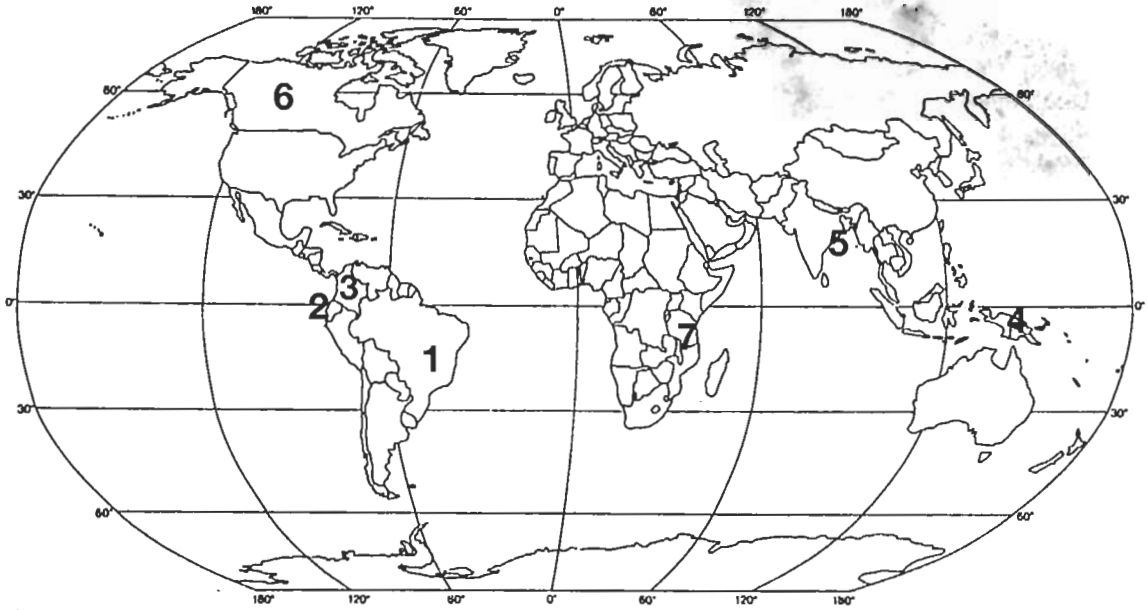

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DENMARK

Moscow:
Olga A. Murashko
117574, Odoevskogo
st. 7-5-595
Moscow, RUSSIA
e-mail:
olga@murkre.msk.ru

Zurich:
c/o Ethnologisches
Seminar der
Universität Zürich
Freiensteinstrasse 5
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SWITZERLAND

Gothemburg:
c/o
Inst. of Social Anthropology
Brogatan 4,
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SWEDEN

Lund:
c/o Miljöbiblioteket
Winstrupsgatan 3
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221 01 Lund
SWEDEN

Oslo:
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P.O. Box 1091
Blindern, 0317 Oslo
NORWAY

IWGIA INTERNATIONAL WORK GROUP FOR INDIGENOUS AFFAIRS
The International Secretariat of IWGIA, Fiolstraede 10, DK-1171 Copenhagen K, Denmark
Phone: +45 33 12 47 24, Telefax: +45 33 14 77 49
e-mail: iwgia@iwgia.org