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Editorial

Indigenous Peoples and Nations of the Pacific - an Overview

The present issue of *Indigenous Affairs* deals specifically with indigenous peoples' issues in the Pacific. IWGIA wishes in this way to draw the attention to the indigenous peoples of Oceania. We have been able to produce this special issue as a result of the many valuable personal contacts. IWGIA has established over the years. The indigenous peoples of Oceania have a long experience in organizing themselves in order to struggle for their rights on local levels as well as in international fora. The articles in this *Indigenous Affairs* reflect this high level of organization and the manifold experiences gained from the ongoing struggle - experiences that will be both useful to and recognized by other indigenous peoples in the rest of the world.

Sub-regional Realities

Social scientists and colonial administrators have traditionally divided Oceania in three culture areas: Melanesia (the black islands, referring to the skin color of the peoples living there), Micronesia (the small islands) and Polynesia (the many islands). The division has a certain degree of geographic and cultural justification: most of the Micronesian islands are small; the Polynesian triangle between Hawai'i, Rapanui and Aotearoa does show surprising similarities in culture (in a broad definition); and the islands of Melanesia are the larger and mineral rich islands of the area and show an equally surprising cultural diversity, even within small distances from valley to valley.

This division has downplayed important similarities and connections between islands from different culture areas, probably distorted scientific analysis and caused hastened conclusions regarding development of social structure.

Today, however, these divisions have taken on another aspect. The resource and population rich islands of Melanesia make up

most of the independent nation states, except for Kanaky/New Caledonia. The largest Polynesian land masses, New Zealand and Hawai'i are the homelands of oppressed indigenous peoples, now minorities in the countries with the worst social and health statistics of any of the ethnic groups living in their homelands. The former Micronesian trust territories are heavily dependent on the United States and are struggling with diminishing compact payments and heavy dependency on aid and foreign investment. Their islands are being used for military strategic purposes and testing and for manufacturing by underpaid imported laborers. The Polynesian islands are except for a few still under foreign control and, except for Tonga, characterized by an extremely high rate of migration. The economy and traditional life style are often dependent on foreign aid and remittances from abroad.

The living conditions of the peoples of the Pacific are essentially determined by their former and present colonial situation. The borders of the present nation states of the Pacific are, aside from obvious geographic features of island groups, primarily the result of colonial wars and agreements. The political status, economic situation, cultural and social systems have in recent centuries developed within the limitations set by colonial powers and the global economy. The more strategic or economic importance to the outside world archipelagoes have had and have, the less likely they are to have self-determination today.

Globalization and Exploitation of Resources

The reality of many nation states today is that they are multiethnic societies which are part of a global economy controlled by international trade networks and 'multi' or rather 'supra'national corporations.

Quite a few of the Pacific Island nations and peoples are facing deep economic crises

New Director at IWGIA

From January 1998 Mr. Jens Dahl has taken up the position as director of IWGIA. Jens Dahl is an anthropologist. He is specialised in Inuit issues and he has conducted extensive fieldwork in Greenland, Canada and Alaska. Jens Dahl has been an IWGIA board member for several years, and he has also previously - from 1989 to 1993 - been the director of IWGIA.

Jens Dahl is succeeding Inger Sjørnslev who has been the director of IWGIA since 1994. Inger Sjørnslev wished to continue her research as she was offered a position as associate professor at the Institute of Anthropology, University of Copenhagen. Inger Sjørnslev will continue her work for IWGIA as a member of IWGIA's Advisory Board, which she has joined from January 1998.

by Ulla Hasager and Finn Kudsk

and trying to alleviate them through decidedly western economic frameworks: privatization of land and water, tourism (which in spite of the not very encouraging example of Hawai'i continues to be a focus for hopes), land registration, ship registration, duty free shopping, tax havens, and even animal quarantine stations.

Major factors in the economies are - besides the former colonial powers and new trade partners - the development banks, often with specific political and economic agendas which they impose on the receiving peoples.

The environmental challenges are enormous as a consequence of globalization. The island nations face threats and suffer the consequences of hazardous waste dumping, chemical burn-offs, nuclear shipments, bio-piracy, nuclear testing, deforestation stemming from infrastructure development, monocropping, mining, dam building, logging, and establishment of grazing areas and agroforestry. There are degradation and takings of lands for development of tourist resorts, malls, golf-courses and condominiums. The ocean is over-exploited from deep sea mining and over-fishing with long-liners and deep sea boats, often belonging to foreign companies which lease the fishing rights.

The issue of climate change is especially important to small island states. Logging and other causes of global warming threaten to raise the sea level and flood the low lying atolls of many island nations.

The peoples and resources of the Pacific are threatened by the new and intensified forms of colonialism and exploitation, as documented in the indigenous statements printed in this issue in connection with the article by Richard Salvador, reporting from the APIEC meeting in Vancouver in late 1997.

Dispossession and Urbanization

Urbanization creates serious problems with loss of livelihood and self-reliance, contributing to a growth in violence and drug abuse. The problems of urbanization are related to the dispossession numerous indigenous peoples world wide are facing. Peter Jull writes in his article about the political brouhaha in Australia in the wake of the High Court's decision in the Wik case, which confirmed that aboriginals' rights to native title were not necessarily extinguished by pastoral leases on their land. One of the major problems haunting aboriginal peoples in Australia today is dispossession. People end up in urban areas with no real possibilities for real jobs or good housing. The social problems that aboriginals are the victims of - and which are often used against them by white racists - can be traced back to this

dispossession, that have caused traditional ways of life to melt away without new possibilities and opportunities. The Australian government along with other governments in this part of the world ignore the causes of the social problems suffered by the indigenous peoples. The high percentage of incarcerations of indigenous peoples does not come about because they are more criminal than others but because they have been robbed of their rights (including the right to decide what is right and what is wrong) and continue to be so by governments which choose not to understand their predicament.

The dispossession of the indigenous peoples of Australia is by no means unique in the Pacific. Unfortunately it is a condition shared with most other indigenous peoples in first world countries among them the Kanaka Maoli of Hawai'i, the Chamorro of Guam, and the Maori peoples of Aotearoa, just to mention some cases in point. The dispossession of the indigenous peoples of Oceania does not only implicate lost land areas, but also access to the sea and fishing rights.

Nuclear Colonialism and Military Dispossession

The Pacific as a 'nuclear playground' for France and the US is a continuation of the strategic military importance of earlier times. It has led to dispossession of peoples, to disease and death of humans as well as whole islands from nuclear radiation. The consequences of the radiation has only recently been publicized on the basis of thorough investigations.

American Samoa became American because of the sheltered harbor of Pago Pago, which in 1899 could hold an entire fleet not visible from the ocean. The Marshall Islands are American because Bikini and other atolls were chosen as 'suitable' sites for nuclear bomb testing and because Kwajalein was considered to have a strategic important position in testing intercontinental ballistic missiles. Hawai'i has obvious strategic importance as the only major group of islands in the North Pacific and is now the home of the largest military facility of the United States. One-third of Guam's small land area is reserved for military use.

When France lost its colonial possession in Algeria, and thereby its nuclear test site, it immediately declared Moruroa and Fangataufa atolls in French Polynesia appropriate test sites. France conducted its last series of tests in 1995-96 under persistent global protests. Immediately after the tests stopped, workers started dismantling the test sites. France reinforced its pay-off to other Pacific nations in order to make up with the Pacific

community and managed to again become a Post-Forum dialogue partner with the SPF (the South Pacific Forum), in good company with other former colonial powers. One can speculate if the French Polynesian generosity in relation to the latest SPF meeting had something to do with the refusal of the Forum to discuss the request by Maohi, the people of Te Ao Maohi (French Polynesia) to work for their re-inscription on the UN List of Non-Self-Governing Territories, as the Forum had done ten years earlier for the Kanaks.

Some aboriginal peoples in Central Australia (Maralinga) are also still living with and suffering from the consequences of Great Britain's former nuclear testing in the desert areas there.

Today, dumping and storage of nuclear and other toxic waste on already polluted atolls is seriously discussed, and in spite of the Pacific Nuclear Free agreement, shipping of nuclear materials through the Pacific continues. France particularly (and strangely enough in this connection, Japan) 'buys' permission to let shipments pass through the territorial zones of Pacific nations by negotiating 'development aid' and trade agreements with governments, who hardly can afford to say no to these deals.

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

Aid can be seen as continuing the exploitation and control over not only land and ocean resources, but also over how Pacific Islanders govern themselves and shape cultural, social and economic development. This is the exact opposite of self-determination, according to international standards. It not only reinforces the material dependency but also strengthens the psychological dependency.

Self-determination, Decolonization and Regional International Alliances

The Pacific Islanders are identifying with sub-regional identities such as 'the Melanesian Way' and 'Polynesian' traditions, at the same time as the 'Pacific Way' is much more than just an empty phrase. There is a strong Pacific solidarity, reinforced 'at the teeth of First World Aggression' (Trask in IWGIA Document 76, 1994:263). The regional awareness, supported by voyaging traditions and modern means of communication, electronically as well as easy movement of peoples,

makes it clear that Oceania is not a collection of small helpless islands spread out in an immense ocean covering one third of the surface of the world. It is a tightly connected region.

Regional and international cooperation among indigenous peoples is beginning to break down the web of colonial exploitation and mind sets through a strategy for decolonization, beginning with education (decolonizing the mind), use of native languages and increased importance attached to sustainable living -for which the Pacific Islanders have the models readily at hand. Land bases are crucial for sustaining a living and as we saw above, struggles for land and territory are prevalent in the Pacific movements for indigenous rights today.

Self-determination and decolonization are seen as the most basic rights of indigenous peoples, preconditioning fulfilling all their other human rights (see Trask, this issue). Without self-determination, the environmental degradation and exploitation of land and peoples will continue, because the Pacific Islanders will not be able to protect their environment and culture.

1998 is the year of the Kanaky referendum, but it is also the year of commemoration of US open demonstration of imperialism in the Pacific. A hundred years ago, the US took over several Pacific and Caribbean independent nations as part of strategic build-up. Besides educating themselves through 'rethinking US in the Pacific', many islanders are planning activities, especially in Hawai'i and Guam, for educating the governments and general public about the significance of 1898 for the present Pacific conditions.

It is IWGIA's experience that the exchange of information between indigenous peoples in different parts of the world is very important in order to strengthen the struggle for indigenous rights. The different international fora for assessing such a right to put pressure on national governments are by no means easy accessible. It is perhaps only through the support of other indigenous peoples, friendly governments and an attentive international audience and constituency that the indigenous peoples' voice will be taken seriously.

The contributors to this issue of *Indigenous Affairs* give evidence of the great and hard work that the indigenous peoples of the Pacific have been engaged in, supporting other peoples' struggles as well as their own. It is IWGIA's goal that this Pacific voice will be heard in the rest of the world.

In this issue of *Indigenous Affairs*, Mililani Trask discusses the first Pacific regional hosted global consultation on the United Nations Draft Declaration on the Rights of Indigenous Peoples. The conference included, among others, rapporteurs of the UN Working Group on Indigenous Populations, representatives from the indigenous peoples of the Pacific and state representatives from some of the Pacific governments. The work-

shop unanimously approved a 'Resolution on Decolonization for Indigenous Peoples of the Pacific', which also is printed in this issue.

Decolonisation is far from a completed process in the Pacific. Nic Maclellan describes the present situation in Kanaky. 1998 is the year of the referendum on the future status of Kanaky. French settlers have increasingly migrated to Kanaky, and together with immigrants from Asian countries and other territories possessed by the French in the Pacific, they now outnumber the kanaks in their own country. Stop to immigration, disputes over nickel mining as well as over land are among the central questions in Kanaky.

Mining was also the background for the brutal and bloody conflict in Bougainville between the Papua New Guinean (PNG) government and the people of Bougainville. The PNG Army has in a brutal way taken the lives of many Bougainvilleans. A plebiscite has now been agreed upon, and peace negotiations are being conducted. Martin Miriori discusses the ongoing peace process in his article.

José Morín in his article on both the historic oppression and the present situation in Hawai'i discusses self-determination and rights of Kanaka Maoli. The passing of the Apology Law (PL103-150) in 1993 by the US Congress, apologizing to the Kanaka Maoli for the American support of the take over of the Hawaiian government in 1893 has neither meant self-determination nor better conditions for the Kanaka Maoli. On the contrary, recent Supreme Court rulings supporting traditional and customary rights have intensified efforts by the establishment to limit those rights.

There are, thus, important reasons for supporting the struggle for indigenous rights Pacific wide. Last year, the Pacific Island Association of NGOs (PIANGO) therefore established a Working Group for Indigenous Rights headed by Kanaka Maoli, Dr. Kekuni Blaisdell. He introduces the history of the indigenous struggles of the Pacific and the new working group to the readers of the *Indigenous Affairs*. His article furthermore includes reports from recent indigenous Pacific meetings, not least the joint meeting of the Nuclear Free and Independent Pacific and PIANGO in the Cook Islands in September 1997. This meeting focused on self-determination, decolonization, land rights and environmental concerns, some of the most important topics which will be discussed in the following articles. □

Political Situations

The Pacific is home for a disproportional share of the world's colonized peoples and nations - in traditional as well as new forms. Among the Pacific Island peoples this is clearly the situation for the peoples who live in nation states still listed on the United Nations List of Non-Self-Governing Territories. Included here are the indigenous peoples of Tokelau (a New Zealand territory, population c. 1,600 in Tokelau and 4-5,000 in New Zealand), Guam (an unincorporated territory of the United States with a population of 160,000, and a hastily dwindling native percentage hereof, 1997: 42%, due to continued immigration from the Philippines and other Asian countries), Amerika Samoa (an unincorporated, unorganized territory of the United States, where Samoans constitute 80% of a population of 40,000 - with 65,000 in the US and 20,000 in Hawai'i), Pitcairn (a colony of United Kingdom populated by a few descendants of Maohi and the famous Mutineers of the Bounty), East Timor (occupied by Indonesia since 1975, in which period an estimated one-third of the population of 600,000 has disappeared or have been killed) and Kanaky/New Caledonia (French overseas territory, where 43% of a population of 155,000 are indigenous Kanaks). Kanaky is one of the few colonized nations in the world which has succeeded in becoming reinscribed on the List on Non-Self-Governing Territories. It was a hard and violent struggle for the Kanaks. Important was the support which they received from the South Pacific Forum (SPF) and especially from the Melanesian Spearhead Group (MSG). The MSG consist of Vanuatu, Solomon Islands and Papua New Guinea. Kanaky/New Caledonia forms a natural part of this group of countries and share many geographical and cultural similarities with them - not least the rich mineral deposits (primarily nickel) which are both a reason for their colonial situation and the hope for economic survival as an independent country.

Other nations, which by political scientists are considered incorporated in other nation states and therefore not permitted political self-determination, are Hawai'i (a state within the United States, c 20% Kanaka Maoli of a population of 1.15 million people), The Northern Marianas (a US Commonwealth - which is an arrangement different from UK Commonwealth status - 20,000 are Chamorro), and Midway, Wake, Johnston (Kalama) and a list of other islands, which are unincorporated territories administered by the US Department of Interior.

French Polynesia, which consists of several peoples and the distinct island groups of Tahiti, Marquesas, Gambier, Austral and Tuamotu Islands, as well as Wallis and Fu-

tuna is considered part of France - and of the European Union. Seventy percent of the population of 180,000 are Maohi and two-thirds of them live in Tahiti.

Rapanui (Easter Island) is under Chilean provincial administration. The population of 2,700 are almost all Rapanuians, but their indigenous rights are framed according to certain indigenous laws set up for large Mapuche groups on the continent and not fit for a small Pacific Island nation. Norfolk Island is considered part of Australia. West Papua, with a population of 1.8 million of which the Indonesian transmigration has left only 60% indigenous, is considered an Indonesian province by the colonial government.

The former British colonies of New Zealand and Australia are now independent nation states with UN status, with colonial possessions of their own and with indigenous peoples within their borders: the Maori of Aotearoa (c 15% of a total population of 3.1 million) and the many Aboriginal peoples of Australia and the Torres Strait Islands, respectively (less than two percent of 17 million peoples).

The Cook Islands (since 1964) and Niue (since 1974) are self-governing nation states in free association with New Zealand, their former colonial administrator. Each nation can sever the political relationship, if they so wish by changing their constitution. This is not the case with the Marshall Islands and the Federated States of Micronesia (FSM), both of which are freely associated with the United States. They may withdraw from the benefits of their Compacts of Free Associations, but the US military can forever deny any third party interest in the archipelagoes. Ironically, the Marshall Islands and FSM are members of the UN, whereas Cook Islands and Niue are not seen to be sufficiently independent to be allotted membership.

There are 18,000 Cook Islanders (Maori) at home, but the majority live in New Zealand. Niue has a population of 2,500, and three times as many in New Zealand. The population of FSM has until recently been about 93,000 Micronesians, but now other ethnic groups are being imported as a labor force. Marshall Islands has a population of 44,000. Not many non-Marshall Islanders live there.

Most former British colonies are now politically independent nation states (it is said, because Britain could not afford the colonies), some of them members of the UN's family of nations: Tonga (which continued as a kingdom as well under colonial rule as after decolonization in 1970; 100,000 in Tonga, 40,000 emigrated), Fiji (independent republic since 1970, ruled by the indigenous minority of 46% of 732,000), Tuvalu (republic since 1978 with 9,000 inhabitants), Solomon Islands (286,000 Solomon Islanders divided in approx. 90 different ethnic groups - republic since 1978) and Kiribati (republic



since 1979 with a population of almost only 1-Kiribati: 67,000).

Vanuatu was a shared possession, a condominium, of France and Great Britain until its independence in 1980. This fact was an important factor in the success of the independence movement. Vanuatu's government is based on traditional land and legal systems, and ni-Vanuatu's successes and failures are important learning experiences for other indigenous peoples in the process of establishing themselves with their own governments in a world of 'helpful' and controlling old nation states and powerful multinational corporations. The 150,000 ni-Vanuatu is divided into more than hundred different ethnic groups.

Former Australian colonies Nauru and Papua New Guinea (PNG) became independent in 1968 and 1975, respectively. Four-fifths of the surface and top soils of Nauru, however is destroyed by phosphate mining which profited the former colonial power.

PNG consists of the eastern half of New Guinea Island and many archipelagoes around its coast line. Within the nation state, which is struggling to create national identity for its 3.5 million citizens, there are more than seven hundred different peoples with different languages. Both PNG and the Solomon Islands have retained customary land rights to a certain degree.

Colonial ruffles draw the border between PNG and the Solomon Islands so that the big, mineral rich island of Bougainville, geographically and culturally part of the Solomon Island chain, became PNG's 'North Solomon Province'. This truism has been a vital reason for nine years of war and suffering on Bougainville, which can be characterized as an example of neo-colonialism.

Western Samoa became independent from New Zealand in 1962 as the first of the Pacific nations after the world commitment to decolonization in 1946 as codified in the UN

Charter. In 1997 the nation changed its name to Samoa, which caused some resentment in American Samoa. The Samoans have established a combination of traditional and modern government. The chiefs, *matai*, are the only ones who vote in elections and they also administer the lands on behalf of their extended families who collectively own the land. However, the number of *matai* has increased tremendously over the years and lands are now also registered with the nuclear families. The Samoans still put strong emphasis on living according to *fa'a Samoa*, the traditional Samoan way.

Belau (former Palau) was the last of the US administered UN Trust Territories of Micronesia to be released from that status and is the newest UN member state, member number 185. Fourteen thousand Belauans live in Belau, 5,000 in Guam and elsewhere.

In 1979, Belau created the first nuclear free constitution in the world. Belau is traditionally a matriarchal society, and women had a prominent role in creating and defending this constitution which has been consistently contested by the US. Its nuclear free provision was a hindrance for the strategic plans of the US who wanted to use Belau as a back-up in case the US should be forced to close its bases in Okinawa (which is presently being urged by the people of Okinawa, who feel doubly oppressed; their lands taken by the US military with the consent of Japanese authorities). Finally, after fourteen votes, a supreme court case, and much unrest, bribery and intimidation, the constitution was changed to allow US presence of nuclear materials on Belauan soil. The US has reserved rights to lands for future use and secured two generations (50 years) of 'strategic denial' of presence of third-parties.

DECOLONIZATION AND SELF-DETERMINATION IN THE PACIFIC

The UN Draft Declaration on the Rights of Indigenous Peoples



Mililani Trask - Photo: Ed Greevy

by Mililani B. Trask

The Pacific region is the largest region in the world. It spans thousands of nautical miles and encompasses hundreds of Pacific Island peoples who reside in culturally distinct and unique archipelagoes. Throughout the Pacific there are common links which bind the Pacific indigenous peoples including language similarities, ceremonial and religious practices, oral traditions and a history of colonization by Western Europeans and Americans.

Despite these facts, the international community and nation states continue to marginalize the Pacific region, preferring to ignore political and cultural similarities in favor of the neo-colonial view that the Pacific belongs to Western states. France continues to contend that French Polynesia is French, and the United States contends that American Samoa is American. In reality the Maohi (in Tahiti) and Samoan peoples are culturally distinct from France and the US and are historically colonies of Western nations. In similar fashion, the government of Australia continues to assert direct control over the lands and lives of the indigenous peoples of the Australian continent and the Torres Strait Islands, and America continues to claim Hawai'i as a state, although the US Congress passed a law in 1993 acknowledging the illegality of the overthrow of the Hawaiian Kingdom in violation of international legal standards (See Public Law 103-150 Nov. 23, 1993).

Pacific Islanders now organize regionally as well as internationally to further our own and other indigenous peoples inherent right to self-determination.

Rights of Indigenous Peoples of the Pacific - A Regional Response

In September 1996, the first regional global consultation on the United Nations Draft Declaration on the Rights of Indigenous Peoples was held. It is significant that this great accomplishment was achieved by indigenous peoples of the Pacific, working in concert with the Government of Fiji and United Nations bodies, including Rapporteurs of the UN Working Group on Indigenous Populations (UNWGIP).

At this meeting Dr. Erica-Irene Daes, the chair of the UNWGIP, presented a

precise historical overview of the Draft Declaration; Dr. Miguel Alfonso Martinez, the UN Special Rapporteur on Treaties of the UNWGIP, provided information on the UN issues of the Declaration and the definition of the term indigenous peoples; and Dr. Julian Burger, Secretary to the UNWGIP, reviewed the UN process for achieving passage of the Declaration. Indigenous Pacific leaders included cultural perspectives on relevant issues in their analyses. Moana Jackson and Aroha Mead of Aotearoa (New Zealand) addressed self-determination and intellectual and cultural property rights; Dr. Ahmed Ali of Fiji discussed individual versus collective rights; and Mr. Leiataua Vaiaio Alaçilima of Western Samoa addressed collective human rights in relation to Samoan culture.

The Pacific consultation was remarkable in that this was not only the first global regional consultation on the Draft Declaration but it was sponsored in part by one of the states in the UN General Assembly, which supported the rights of indigenous peoples embodied in the Draft Declaration and agreed to champion these rights in the UN Human Rights Commission.

Fiji's Prime Minister, Sitiveni Rabuka, in his opening speech of welcome stated: *'Foreign disruption and foreign domination of the original inhabitants [...] are now part of the history of those we call indigenous peoples. Any declaration for future security must acknowledge these realities, for they have influenced the course of our march through time and space in this universe.*

It is for this reason that self-determination must feature high on our agenda so that we can frame our destiny and bequeath this freedom to our children and their descendants who follow them. As victims of what continues to be described as imperialism and colonialism we cannot in our quest for our freedom allow the vestiges of foreign domination to encroach upon us either through internal machinations or external collusion. Self-determination does not mean separation or isolation, it means being able to influence meaningfully the framing of our destiny; and it is best

done in accordance with our values and our wishes.

Towards this essential goal, I draw your attention to Article 3 of the Draft Declaration; it reads, 'Indigenous peoples have the right of self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development'. There can be no compromise on this article; it is the essence of our whole struggle for recognition. Without this article the rest would be meaningless. I therefore ask that you be most emphatic on ensuring its incorporation and retention in the Draft Declaration. Nothing in these words constitute a threat to anyone. Indeed its acceptance will allow us to live in states where people of several races, religions and cultures must interact for survival and success. In fact, this article will be the basis for the development and consolidation of inter-racial, inter-religious, and inter-cultural relationships which create the environment for the respect of differences but also for harmonious interaction necessary for economic growth, social exchange and political stability.' (Quoted from Report of the Inaugural Indigenous Peoples of the Pacific Workshop on the United Nations Draft Declaration on the Rights of the Indigenous Peoples, 02-06 September, 1996, Suva, Fiji p.8, 1997).

Eventually, all participants, including state representatives, unanimously approved a 'Resolution on Decolonization for Indigenous Peoples of the Pacific' (see p.10), which stresses that indigenous peoples as with all other peoples in the world have the right to self-determination, that we have been and are subjugated and exploited by colonial governments and multinational corporations, and that our existence as peoples is threatened. The resolution recommends that the international community supports the intensification of the decolonization of Pacific peoples.

After several days of discussion and reviewing the draft declaration, the Pacific Island representatives attending the session voted to endorse it in its present

form, without changes, alterations or amendments. The position of adopting the Draft Declaration without changes has generally been supported by the indigenous peoples' representatives participating in the UN work with the Declaration. But the governments want to change the text and especially 'qualify' the right of self-determination.

Self-Determination

Australia, the US and France are all signatories to the International Covenant on Civil and Political Rights which states that all peoples shall have the right of self-determination and by virtue of this right shall freely determine their political status and economic, social and cultural development. These nations, through their internal policies and international interventions with the UNCHR Open-ended Intersessional Working Group on the Draft Declaration on the Rights of Indigenous Peoples, have taken positions which directly contravene their obligations under the International Covenant. While indigenous leaders are endorsing the passing of the Draft Declaration without changes - although there is some hesitations to certain limitations - France, Australia, US and other governments are currently saying in the UN fora that the Indigenous peoples of the world should not be provided the right of self-determination. The justifications advanced by these states border to the absurd.

At the October 27 to November 7, 1997, session of the Intersessional Working Group in Geneva, the US argued that if indigenous peoples were granted the right of self-determination, Mormons would seize the state of Utah and secede from the Union! France argued that it had consulted with 'its' indigenous Maohi and that there was no need to provide the Maohi with the right of self-determination since France was already providing them with this right. The representative of France did not respond to indigenous Pacific statements relating to the rioting in Tahiti following the Moruroa nuclear 'incident' when France resumed nuclear testing there in 1995. Australia's ambassador spoke about 'recent significant' changes in Australia relating to the status and land rights of Aboriginal Australians. Mick Dodson of the

Australian Aboriginal Human Rights Commission, responded by noting that these changes did not protect Aboriginal land rights but were being proposed by the Australian Prime Minister to eradicate aboriginal land rights that were gained through the Mabo and Wik High Court rulings. Australia, whose policies for a while looked promising for a reconciliation between an indigenous peoples and a Western nation, has now returned to the dark ages of its racist past. Is there any other way to interpret the proposed amendments to the Native Title Act, to the Ten-Point Wik proposal or to the refusal to apologize to the thousands of aboriginal children that were taken away from their families?

The US is using the Native American model of 'internal autonomy' as sovereignty for indigenous peoples' right to self-determination. This position was clearly stated on the fourth day of the meeting in the US intervention on Article 3 regarding self-determination:

'From the first days of our republic, the United States has recognized American Indian Tribes as political entities with powers of self-government. In the domestic United States context, the term 'self-determination' means recognizing tribal self-government and autonomy over a broad range of issues. [...]

The 'peoples' entitled to self-determination and sovereignty over natural resources has been understood to be the entire peoples of a state, [...] and not particular groups within an existing state. To date, international law and practice has not applied the term 'self-determination' to 'sub-national' groups nor has the term been interpreted to mean the right to redraw existing international borders.

Thus, while we have no problem with the concept of self-determination and the accompanying right as it is understood and used in our domestic context and law, we do have concerns about the implications of stating that all indigenous peoples everywhere have an absolute right to be sovereign independent states. [...]

The United States is willing to explore whether the sort of internal autonomy that is termed 'self-determi-

nation' under the United States domestic law could be recognized as a fundamental principle of this Declaration.'

At the same meeting, Indonesia and Brazil made it clear that they wanted to delete Article 3 on self-determination. And as with France, Brazil again opened the discussion on the concept of 'indigenous peoples', challenging the plural 's' which expresses the collective rights of indigenous peoples. Thus they were defeating the whole purpose of a special declaration for the rights of indigenous peoples, who are not covered by the existing human rights mechanisms, which protect individual human rights. Brazil suggested to 'bracket' the 's' - and France suggested to use the term 'populations' instead of 'peoples'.

In the context of international law, the 's' in the term indigenous peoples implies and refers to collective rights. For indigenous peoples the notion of collective rights has always been the traditional view. Denial of our collective rights strikes at the heart of our collective survival and cohesion. In our interventions on behalf of Na Koa Ikaika O Ka Lahui Hawai'i ('The Strongest Warriors of the Nation of Hawai'i, a coalition of Hawaiian representatives present in Geneva) we underscored that the Draft Declaration must be viewed as a whole and fundamentally rely on Article 3:

'Article 3 of the Draft Declaration [...] is the single most important provision of the document. Self-determination is a fundamental right which is reflected in virtually every provision of the Declaration. This right guarantees that all peoples are free to determine their political status and to pursue their economic, social and cultural development. It is the position of our delegation that the rights currently guaranteed in the Declaration are meaningless without the unqualified right of self-determination.

The Hawai'ian peoples are currently denied this right by the policies of the United States of America, which in 1959 imposed upon our peoples political status of permanent wardship. Our economic, social and cul-

tural development is considered to be the jurisdiction of the State of Hawai'i.

History verifies that our peoples' right to self-determination has been violated since 1893.

[Our sovereignty has been suppressed, as the PL 103-150 states, apologizing on behalf of the US Congress for] the deprivation of the rights of Native Hawaiians to self-determination. [...]

Indigenous peoples' cultural world view integrally ties them to their lands and territories, their social and religious structures, and their economic pursuits. In order for us to insure our cultural survival we as peoples must be free to exercise our unqualified right to self-determination. [...] Article 3 [must] be debated first, in order to insure that the dialogue on the Declaration will be meaningful (Statements by Mililani Trask, October 29, 1997).'

In the end only two of the 45 articles of the declaration could be agreed upon at the 1997 UNCHR Intersessional Working Group meeting. None of the articles regarding collective rights were passed.

Linking the Struggle Regionally and Globally

It is evident that the colonial behavior towards indigenous peoples is continued in the present position of the UN member states. It is apparent in protocol and agendas of UN meetings as well as in the various ways state governments avoid addressing the real issue of self-determination, which is not charity or something that colonial powers can grant or deny their colonies. It is an inherent right 'to govern ourselves in a manner we choose, without interference', as Hawaiian sovereignty activist Kawaipuna Prejean stated in 1991.

The proceedings of the meetings of the Intersessional Working Group in 1996 and 1997 were posted to the World Wide Web - for the first time in UN history. This made it possible for Pacific peoples and others to participate in the debates. While indigenous delegates were discussing the draft declaration with the world's most powerful nations-member states of the UN family of nations - the access to the



Kanaka Maoli Sculpture at Ka'u. Photo: Ulla Hasager

website allowed the global community to monitor the debates and respond to them. Every day, we would post the community's reactions on 'the wall board' inside the UN building for the representatives of member states to face every time they would enter and leave the meeting room.

The central distribution of the information occurred thousands of miles from the UNmeeting site, in the middle of the Pacific, where the indigenous Hawaiian Kekula Bray-Crawford, transferred e-mail messages into postings on the Netwarriors' website dedicated to direct front-line political action through the Internet on issues that directly affect the lives and rights of indigenous peoples. The information for the website was gathered by an Indigenous Peoples Media Committee and by supporting NGOs. This facility, for instance, allowed us to immediately compare the conflicting statements

and actions by the US government regarding the proposed Commonwealth status of Guam, which happened to be discussed almost simultaneously in the US Congress and at the UN Intersessional Working Group. Our website was frequently visited by peoples who were unable to send representatives to the meeting, not to mention the close to two thousand 'hits' by military and other state government agencies.

Governments are busy defining and delimiting self-determination. Our independent as well as dependent Pacific nations need to address this issue. Many legal and academic scholars agree that the violence and political upheaval in the Pacific in locations such as Tahiti, Papua New Guinea, New Caledonia and Fiji all stem from the imposition of colonial structures of Western Nations on the indigenous cultures of the archipelagos and the

resistance of the native peoples to these oppressive political and economic Western policies. The struggle of Pacific indigenous peoples to achieve self-determination and develop self-government remains a primary issue in the region.

Mililani Trask is indigenous Hawaiian attorney-at-law, elected Kia'aina for Ka Lahui Hawai'i (Governor for the Nation of Hawai'i), and a strong advocate for indigenous rights working closely with several international organizations, among others UNPO and IWGIA.

*Netwarriors' website:
<http://hookele.com/netwarriors/DoCip>, Indigenous Peoples' Center for Documentaion, Research and Information
 website: <http://www.docip.org/>*



Resolution on Decolonization for Indigenous Peoples of the Pacific

Indigenous Peoples of the Pacific Workshop 02-06 September 1996, Suva, Fiji

We, the Indigenous Peoples participating in the Indigenous Peoples of the Pacific Workshop, 02-06 September 1996, Suva, Fiji,

Understanding that Indigenous Peoples, as all other peoples of the world, have the right to self-determination and by virtue of that right to freely determine our political status and freely pursue our economic, social and cultural development;

Understanding that decolonization, as embodied in U.N. General Assembly Resolution 1514 (XV) of 1960, is a means by which peoples can free themselves of colonial subjugation, domination and exploitation through the exercise of free and full rights to self-determination;

Acknowledging that U.N. General Assembly Resolution 1514 (XV) of 1960 requires the immediate withdrawal of the colonizing government and military to provide for the effective exercise of the right to self-determination of colonized and dependent peoples;

Recognizing that Indigenous Peoples of the Pacific have been and continue to be subjected to colonial subjugation, domination and exploitation by colonial governments in violation of our fundamental human rights as part of the universal condemnation of colonialism by the world community and in specific violation of the mandate of the United Nations to eradicate colonialism;

Noting that colonialism in the Pacific has and continues to have devastating political, economic, social, cultural, and environmental consequences for Indigenous Peoples of the Pacific, threatening our very existence as peoples;

Understanding that during the U.N. Decade for Indigenous Peoples, the GATT, NAFTA, the Convention on Biological Diversity, the Human Genome Diversity Project and other policies and practices of global economic integration, represent an intensification of colonialism, compounding further genocide against Indigenous Peoples;

Acknowledging that Indigenous Peoples have a timeless history as free and independent nations and have existed in our lands prior to the arrival of colonizers in a natural state of dynamic social, cultural and political evolution which has been obstructed by colonialism;

Recognizing that prior to subjugation, Indigenous Peoples were in a natural state of self-determination which was disrupted by colonization and were in a free and independent state of full self-governing through cultural process and practices which were subverted through superimposed power structures that diminished our identity as peoples;

Acknowledging that Indigenous Peoples of the Pacific, historically and into the present, have served as protectors of the oceans and other natural resources of the Pacific and that colonialism and militarism by colonial governments have brought environmen-

tal destruction of indigenous lands and natural resources, toxic waste dumping, nuclear testing and contamination, degrading mining and deforestation programs, privatization of water, and the degradation of health and conditions of life;

Acknowledging that Indigenous Peoples understand that the right to self-determination in Article 3 of the United Nations Draft Declaration on the Rights of Indigenous Peoples as submitted to the Commission on Human Rights in 1994 carries the identical meaning and significance of full rights to self-determination, which includes the right to be decolonized and the right to choose to be independent as all peoples of the world have under international law;

Understanding that the U.N. Draft Declaration on the Rights of Indigenous Peoples seeks to protect and enforce the collective rights of Indigenous Peoples and nations which are the foundation of our cultures;

BE IT RESOLVED THAT we, the Indigenous Peoples participating in the Indigenous Peoples of the Pacific Workshop,

Condemn all manifestations of colonialism;

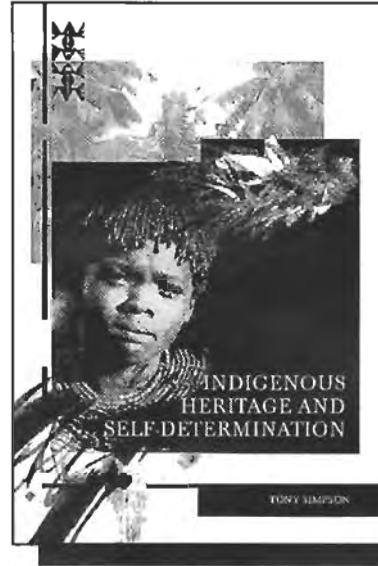
Affirm that decolonization for Indigenous Peoples will advance the rights of self-determination for all peoples by correcting inequalities and injustices, broadening human rights, addressing concerns and violations of peoples previously excluded from such a process, ending racism on a global level and securing the rights of all Indigenous

Peoples of the world to be known by their own names, languages, values, cultures, histories, economies, social and political systems, bringing dignity to the meaning of **all peoples**;

Affirm strongly that Indigenous Peoples have the full right to self-determination that all other **peoples** of the world have under international law, including all rights to decolonization and permanent sovereignty, as expressed in U.N. General assembly Resolution 1514 (XV) of 1960; and

Recommend that the international community support the vigorous intensification of decolonization of Indigenous Pacific Island Peoples and Nations from colonial governments and endorse the development of a process by which all Indigenous Peoples can realize consent-based remedies for the historical and continuing denial of basic rights and meaningful choices, including the right to self-determination. Existing mechanisms of international law should be applied to end discrimination against all Indigenous Peoples who make up the majority of colonized and dependent peoples for whom decolonization was intended.

Submit this resolution to the South Pacific Forum and the appropriate entities within the United Nations to urge their support of our position for self-determination and decolonization of Indigenous Peoples in the Pacific consistent with the right of all peoples under international law. □



IWGIA
document No.87

INDIGENOUS HERITAGE AND SELF-DETERMINATION

Tony Simpson

The Cultural and Intellectual
Property Rights of Indigenous Peoples

New IWGIA document No. 89

EAST TIMOR: OCCUPATION AND RESISTANCE

The book is a sequel to *East Timor, Indonesia and the Western Democracies*, which was published in 1980 as IWGIA Document no. 40, and *East Timor: The Struggle Continues*, which was published four years later as IWGIA Document no. 50. The earlier reports covered the conflict from the Indonesian invasion in 1975 until 1984, whereas this new report concentrates largely on developments since then.

Edited by Torben Retbøll

Recent Developments in KANAKY

(New Caledonia)

By Nic Maclellan - Pacific Concerns Resource Center

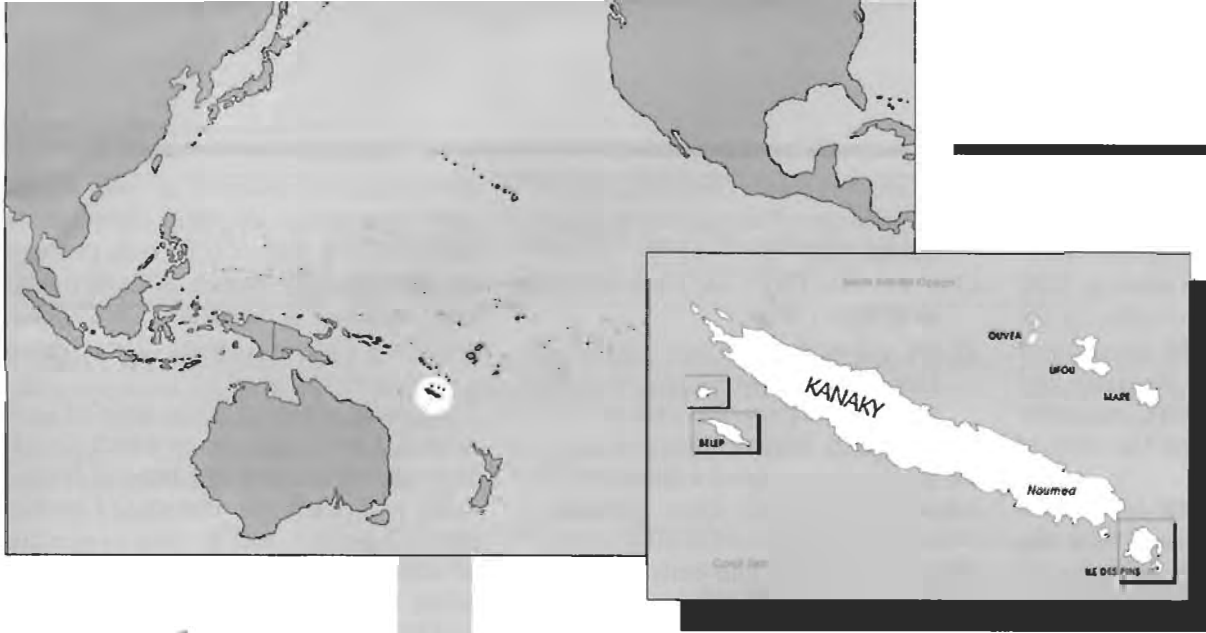


As we move into 1998, there are serious debates within the Kanak independence movement Front de Libération Nationale Kanak et Socialiste (FLNKS) about the way forward in the struggle for independence. The conflict between the indigenous Kanak community, the Caldoche settlers, and the French State will come to a head in the coming months. Between March and December 1998, a referendum is scheduled to be held to vote on the future of New Caledonia after ten years of the Matignon Accords. But preparations for this referendum have been delayed by a long running dispute over the future of the nickel industry, which makes up over 90 per cent of New Caledonia's exports.

The initial Matignon agreement was signed on 26 June 1988 by French Prime Minister Michel Rocard, the then FLNKS President Jean-Marie Tjibaou, and Jacques Lafleur, leader of the conservative settler party Rassemblement Pour la Calédonie dans la République (RPCR). The agreement was elaborated in further meetings, resulting in the 'Oudinot Accord', signed on 20 August 1988 by a range of groups: leaders of the FLNKS and RPCR; the French government; and other pro-independence groups (the trade union confederation USTKE and the political party LKS). Together, these agreements are known as the Matignon Accords.

The stated aim of the Matignon process was to end the violence of the mid-1980s, with an amnesty for prisoners, and create a ten year transition to a vote in 1998 on the future of the country.





This was combined with a program of economic and social development to 're-balance' the economy between the south of New Caledonia (including the capital Nouméa) and the outer islands and rural areas of the country where the bulk of the indigenous Kanak population reside. Most of the territory's major infrastructure - Nouméa's port, Tontouta international airport, tourist hotels, the Yate hydro electricity scheme - is located in the southern region.

After a year of direct rule from Paris, some administrative powers were to be decentralised, with elections for provincial councils in June 1989. Under the Matignon Accords, New Caledonia was divided into three provinces (Southern, Northern and Loyalty Islands), with certain powers devolved from the French State, including responsibility for sectors such as primary education and health services. Development funds are provided to improve infrastructure and establish programs for the population of New Caledonia through scholarships and the 400 cadres scheme (a training program to send 400 people to France).

The Accords were subsequently ratified by a national referendum in France and its overseas departments and territories, on 6 November 1988 (only 37 per cent of the French population voted, of which 80 per cent voted in favour of the proposal). In New Caledonia itself, the participation rate was 63 per cent, but much of the settler population refused to rally behind Jacques Lafleur, casting a No vote (43 per cent of the population, mainly in the settler dominated South, opposed the accords). Amongst the Kanak

population, there were also doubts, although most rallied behind the plan and participated in the June 1989 elections for the new provincial councils.

The FLNKS won, as predicted, a majority in the Northern and Islands Provinces, while the RPCR won a majority in the South (though narrowly failing to gain a majority on the Territorial Congress which links the councillors from the largely autonomous provinces). As much out of fidelity to their dead leaders Jean Marie Tjibaou and Yeiwene Yeiwene as through conviction, the pro-independence forces continued in the path of the accords. This was the instrument which the FLNKS had chosen, with the prospect of a referendum on independence in 1998.

However, negotiations between the FLNKS and the French government over the content and form of the referendum have been delayed for nearly two years, due to a dispute in the nickel industry. The Kanak-controlled Northern Province has been negotiating to establish a new nickel smelter in the north of the country, to break the monopoly of Société Le Nickel (SLN). SLN controls the only smelter in the country, located in the capital Nouméa in the Southern Province. The Northern Province's mining company Société Minière Du Sud Pacifique (SMSP) has negotiated an agreement with the Canadian transnational corporation Falconbridge to build the new smelter in the north, starting construction in 2005. As part of the project, worth \$1 billion, there has been a proposal to swap major reserves of nickel between SMSP and SLN, at Poux in the



north and Koniambo in the Southern province. The decision on this transfer of resources has been delayed by ERAMET, the holding company which controls SLN. ERAMET is 55 per cent controlled by the French government, but the government doesn't have a majority on the board, and from 1996 until January 1998, no agreement could be reached over the swap of nickel reserves.

Leaders of the FLNKS refused to resume formal negotiations with the French government until the issue was resolved. This 'préalable minière' (the mining pre-condition), has caused debate in the broad independence movement: while some agree on the importance of breaking the French monopoly over the nickel industry, others feel that there must be immediate negotiations and widespread discussions over the form and content of the 1998 referendum on the future of the country. Some New Caledonian leaders however, have been talking of a consensus decision that would avoid a win/lose vote, or a referendum on self-determination in line with UN principles and practice. Instead of full independence, key leaders are proposing some form of independence-in-association with France, and a period of transition with the gradual transfer of powers from Paris.

In October and December 1997, FLNKS activists placed pickets on four of the five SLN mine sites in New Caledonia, bringing many SLN operations to a halt. ERAMET finally accepted the proposed swap of nickel reserves, and an agreement was signed in early 1998. France's Overseas Territories Minister Jean Jacques Queyranne immediately stated that negotiations on the 1998 referendum should recommence.

FLNKS members are debating elements of a proposal for the way forward into 1998, made up of a number of elements:

- a) drafting a document to serve as a text for the 'colonial pre-condition' (some FLNKS leaders have proposed that a pre-requisite of the decolonisation process be a formal apology from France for the colonial past, similar to statements such as the 1993 Congressional apology signed by President Clinton to the Kanaka Maoli of Hawaii).
- b) a meeting of all parties to the Matignon Accords, to search for a common

framework for the future (eg. the sharing of powers, development of institutions etc).

- c) a debate in New Caledonia involving all political parties
- d) the organisation of meetings ('Etats Generaux') involving people outside the political parties to look at health, education, finances, housing etc.
- e) the development of a consensus referendum, to ratify these agreements.

In late November and early December 1997, various political parties and community groups held meetings to discuss their positions on the self-determination process, in the lead up to the FLNKS attention focuses on the political parties, the weakened state of the FLNKS and the lead up to the 1998 referendum, significant change is also happening on the social, cultural and economic front for the indigenous population.

The post-Matignon period has seen a cultural renaissance, increasingly connected to the regional networks through exchanges, exhibitions and participation in the South Pacific Festival of the Arts. Young artists and musicians form kaneka bands in the rural towns and tribes, as well as the suburbs of Nouméa. The cultural and political mobilisation of the 1980s has sparked a new interest in exhibitions of poetry, painting and sculpture by Kanak artists. The National Council of Melanesian Women and other non-government women's organisations address a range of issues on education, women's health and culture. Initiatives in the health sector try to develop culturally appropriate community health programs for the indigenous community (such as the Maternal Child Health and HIV/AIDS education programs of Opération Phare). New Caledonia has the second highest rate of HIV infection in the Pacific islands, at 69 cases per 100,000 people, with the highest rate found in the other French Pacific territory, French Polynesia.

Transcending party political boundaries, there are ongoing discussions on the place of the indigenous community in the future process of self-determination. On 22 June 1996, a major meeting at the offices of the South Pacific Commission brought together Kanak customary leaders, members of the three main

churches, representatives of trade unions and women from the three provinces, as well as Kanak leaders from both pro- and anti-independence parties. A further gathering in Lifou in September 1997 began work on a Charter outlining Kanak rights and aspirations.

A crucial question is the issue of land reform, and the process by which Kanak clans can transcend the judicial framework of French law introduced by the colonial process, and develop new ways of utilising custom land for community needs. Kanak customary leaders have visited Fiji, Vanuatu and Wallis and Futuna, to study land tenure systems.

Immigration has become a key issue, with migrants increasing the European population in New Caledonia by over 10,000 people in the ten years of the Matignon Accords - a significant number in a country of only 197,000 people, (the issue was also highlighted with the arrival in November of 110 Chinese boat people in New Caledonia). The indigenous Kanak population is a minority, making up only 44% of New Caledonia's population, due to migration from France, Wallis and Futuna, and some Asian countries. With major concerns over employment for the Kanak population, and political mobilisation by anti-independence immigrants, the Stop à L'immigration collective organised a protest rally in Nouméa's central square Place des Cocotiers in December 1997.

The main party in the FLNKS, Union Calédonienne (UC) continues to discuss its policy on the 1998 referendum. Serious differences remain between the '1977 generation' (leaders like former UC President François Burek and Northern Province President Leopold Joredie), and the current UC leadership, including FLNKS President Rock Wamytan and UC President Bernard Lepeu. The new UC leadership, elected after the April 1996 breakdown of negotiations with France, is strongly behind the resolution of the nickel dispute before negotiations can resume. However a committee of pro-independence individuals have formed a group to enter formal discussions about the referendum with Jacques Lafleur, of the Right-wing RPCR.

Lafleur, who has long been opposed to independence, has been playing on any divisions between the pro-independence parties. In December, he threatened to



A young kanak in 1983. This year - 15 years later she will have voting right in the plebiscite on the future status of Kanaky. Photo: Diana Vinding.

delay passage of tax bills through the Territorial Assembly, which would have affected the budgets of the Kanak-controlled Northern and Loyalty Islands provinces. Laffleur also announced that the Southern Province will not contribute 20 million CFP (Pacific francs) in funding for activities of the Kanak Cultural Development Agency (ADCK), because of budgetary constraints.

As we move into 1998, the resolution of the Kanak independence struggle, and the future of French policy in the region, takes on new importance. The 1997 South Pacific Forum Communique referred to the 'rights of the people of New Caledonia to self-determination'. Fifteen years ago, the Kanak movement agreed that the vote on self-determination should be taken not only by the colonised indigenous population, but also by the 'vic-

tims of history' - the descendants of convicts, settlers and immigrants to the country. (this was codified in the Matignon Accords, which state that all those resident in New Caledonia in 1988, and their children of voting age, can vote in the 1998 referendum). Since the Matignon Accords, leaders of all major parties have agreed there must be a search for a consensus solution. But in the rush for a consensus, it is vital that the international community does not forget the fundamental rights of the indigenous Kanak population, and the desire for independence that is the heart of their struggle.

A decade ago, the United Nations General Assembly resolution on New Caledonia stated 'an act of self-determination, in which all options should be made available, should be preceded by a comprehensive program of political educa-

tion in which all options are impartially presented and consequences fully explained'. As the independence movement and the French State enter negotiations in the coming months, it is vital that the international community monitor the process, to ensure any 1998 referendum is in line with United Nations principles and practice on self-determination for indigenous and colonised peoples.

Further information on current French policies in the Pacific, and Kanak and Maohi campaigns for independence, are detailed in 'After Moruroa - France in the South Pacific' by Nic Maclellan and Jean Chesneaux (Ocean Press, PO Box 3279, Melbourne, Victoria 3001, Australia). □

AUSTRALIA



by Peter Jull

Australia's Stolen Children & Lost Conscience

At Christmas 1996, Australian political leaders correctly predicted that 1997 would be dominated by the politics of *Wik*, a High Court decision of December 1996 named for a people of western Cape York Peninsula (the north-eastern point of Australia). The court found that indigenous 'native title' rights could, in principle, continue to exist on the vast grazing lands of Australia where governments had leased large tracts of land to white settlers and foreign corporations.

Such indigenous rights could not prevail over white rights **on these** lands, the court found, but only where there was no actual conflict. For instance, Aboriginal traditional hunting or ceremonies or fishing could continue in places where these would not interfere with cattle-grazing or the other necessary work of the vast 'cattle stations', some as large as Belgium. In practical terms this meant very little, but some hysterical white rural groups, strongly supported by federal, state, and territory governments who are using race prejudice and white fears to try to maintain their political ascendancy over Labor, have misrepresented the situation. Labor is now out of power in all parts of the country except the state of New South Wales, and the Liberal and National party leaders like to claim that support for Aborigines and Torres Strait Islanders was just a silly fashion, now discredited, of former Labor leaders. They neither recognise nor understand the development of world opinion

and standards in indigenous rights of recent decades.

Although *Wik* was front-page news throughout 1997, another indigenous issue erupted most powerfully in the last week of May. At that time two events coincided. One was the release of the report on generations of indigenous children taken from their families: the Stolen Children. The other event was the Australian Reconciliation Convention, a gathering of over 2000 black and white Australians, plus a few overseas observers, in Melbourne, a gathering long planned to help move Australia towards better relations between indigenous and non-indigenous Australians.

These two events blended into one. The Convention, which was televised in part and reported fully in all print and broadcast media around the country, became the focus for demands that government in particular and white Australians in general apologise to indigenous peoples for stealing their children for generation after generation during the 20th Century. The Convention became, in fact, the meeting of the consciences of black and white Australia, the one demanding that wrongs be acknowledged and righted, and the other looking with shame and horror at what its own society had done. The Convention was full of ancient cultural performances, music and dance, and in the great dark auditorium with only parts of the stage lit, it took on the quality of a national ceremony in which we were all

inextricably and inevitably participants through television.

The passion and moods of the Convention were so powerful that writing at the time, a piece which appeared later in an Australian journal, I likened this national phenomenon to the Dionysian festivals of theatre in Ancient Greece, and especially the **trilogy of Aeschylus** on the House of **Atreus**. That **trilogy** begins in dark and **bloody deeds** and ends with the goddess **Athena**, a rather dull Apollo, and the **Furies** brokering in Athens a new social, moral, and legal order which Europeans ever since have regarded as the standard for their civilisation, however much they have failed to meet that standard in most places, most of the time, ever since.

Watching around the country or abroad on the news, we shared or formed a new community, a silent, dull, extended chorus. The rituals of dance, closeness to myth, performers counterpointing tragic themes — they and we were all part of it. Communities razed, peoples displaced from ancient territory, removal and forced assimilation of generations of children from their homes — yes, this was classical, indeed. Greek tragedy, pure Aeschylus....

The audience in the hall were wonderful, part demos, part chorus. It was their assembly, that soon became clear. They swayed with feelings - fickle, even irresponsible at times. They mischievously urged on troublemakers or the



angry, but were easily moved to tears; quick to welcome the Prime Minister's apparent regrets, and jeering when his real intent revealed itself. They were black and white and other, a living community. Speakers trying old audience-manipulation crafts were repulsed; others could articulate a mood and were approved. This was a primary Australia, elemental democracy, a proto-nation, a national society coming into being. Like the Athens of Pericles or Aeschylus, civilisation was taking form. It carried ideals and tears openly, without shame. It wanted a new and better world, dismissive of rank, favouring moral standing and authenticity, disdainful of legalism and formal evasions. It may have been the birth of a new Australia, a moral commonwealth. ('Terror and Pity', Arena Magazine, August-September 1997)

'Legalism' in this sense means the details of law used to deny justice or common sense, not respect for the rule of law, I should add. At any rate, the Convention was very powerful, and at its heart was the question of white Australians taking black children from their homes for much of this century, removing them in order to hasten the extinction of Aboriginal culture and peoples, as the report found. Despite these clear findings, however, too many white political leaders found excuses for not offering their regrets, thereby committing a new offence. They were also personally insulting and humiliating the country's indigenous leaders, most of whom had been children taken from their families. In other words, white politicians were not only failing to respond appropriately to a national political issue but were creating a new source of visceral distrust and dislike among indigenous political leaders.

'*Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*', was prepared by the national Human Rights and Equal Opportunity Commission (HREOC). Indeed, many people believe that this powerful report and the passions which its hearings had already aroused and the media reported for two years were large factors in the government's new measures to diminish HREOC, cut its funds,



Bringing them home

National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families

and not replace retiring commissioners. At the time of writing (January 1998) the government is arguing defensively, in part because of news reports of Canada's apology to abused and removed indigenous children, that the national government was not responsible for the removal of children: that the policy was carried out by the States and churches. However, this overlooks the facts that since a constitutional referendum in 1967 the national government has paramount power in indigenous affairs; that the national government is the government answerable to the international community for human rights standards in Australia; and that in a 1937 conference with the states the national government launched the Stolen Children policy. Indeed, that conference passed the resolution 'That this conference believes that the destiny of the natives of Aboriginal origin, but not of the full blood, lies in their ultimate absorption by the people of the Commonwealth [i.e., Australia] and it therefore recommends that all efforts be directed to that end.' (quoted by Dr P Wolfe, History, University of Melbourne, Letters, *The Australian*, 13-1-98)

Bringing Them Home recounts countless heart-breaking stories of how government officials tricked, bullied, and used other means to take children away, while 'full blood' families would hide, or use shoe polish to darken, any lighter-skinned children in the hope that they could be saved from removal. The children were not going away to school for a term; they were being taken away forever to become servants and other menial persons in white society. Families were often told their babies had died, when in fact they were taken as soon as born, before their mothers had even seen or held them! Many were placed in cold institutions or private homes where they were physically, sexually and psychologically abused; almost all suffered emotional and other problems later in life, problems they have now passed on to yet another generation. The wrongs of the removal policy are a big factor in the social problems which are tearing apart indigenous Australia today, of course.

The comment of the report which received most public attention, apart from the call for an official national apol-

ogy, was the inquiry's conclusion that Australia was guilty of 'genocide', not surprisingly.

The policy of forcible removal of children from Indigenous Australians to other groups for the purpose of raising them separately from and ignorant of their culture and people could properly be labelled 'genocidal' in breach of binding International law from at least 11 December 1946.... The practice was continued for almost another quarter of a century. (p. 275)

No accurate figure for the number of children removed from their Aboriginal world is offered, although 70,000 is an estimate heard frequently.

A further complicating factor is that although forcible removal affected every region of Australia it seems to have been more or less intense according to the period, the available resources and the 'visibility' of, in particular, children of 'mixed descent'. Nationally we can conclude with confidence that between one in three and one in ten indigenous children were forcibly removed from their families and communities in the period from approximately 1910 until 1970. In certain regions and in certain periods the figure was undoubtedly much greater than one in ten. In that time not one indigenous family has escaped the effects of forcible removal (confirmed by representatives of the Queensland and Western Australia Governments in evidence to the Inquiry). Most families have been affected, in one or more generations, by the forcible removal of one or more children. (p. 37)

If it is hard for outsiders to understand the mentality in which the Stolen Children phenomenon has arisen, two recent books are a help. The outstanding Australian novelist, Thea Astley, in *The Multiple Effects of Rainshadow* (Penguin, 1996), who has specialised in the social culture of tropical Australia and the South Seas, and has lived the world of which she writes, depicts the world of North Queensland in the 1930-1950 period and some of the daily horrors of white-black relations, including the *de facto* slavery practised by the Queensland state government in its indigenous policies. Aboriginal children and others were simply moved around at the

whim of administrators in defiance of family feelings or unity.

A second book, *The Way We Civilise: Aboriginal Affairs* — the untold story, by Rosalind Kidd (University of Queensland Press, 1997), uses the Queensland state government's own files to write the history of Aboriginal and Torres Strait Islander policy from first white settlement in the 19th century to the present. The book depicts a regime which, until very recently, consisted of systemic and systematic abuse of rights, near-slavery, lack of minimal nutrition and care for health and safety, and a complete lack of regard for human rights on a scale more appropriate to the incarceration regimes of Stalin's gulag or Hitler's Germany than a pleasant suburban and rural world of Anglo-Australia. (Not surprisingly, the Jewish community of Australia have been particularly sympathetic and supportive to the Stolen Children, and strong in their demands for proper recognition and redress by governments.)

White self-image is a major problem. Most Queenslanders and Australians cannot imagine themselves living in such a country as the one which carried out such brutal policies, and did so until very recently. Many simply wish to deny it. Meanwhile, there have been press reports that the Queensland government is tampering with the files now so that Aborigines cannot claim wages long due to them after several persons using Dr Kidd's research successfully won a legal action.

Meanwhile, conditions in Queensland and other Australian indigenous communities remain deplorable. Grim inquiry reports and period outbursts of violence and rioting appear in the news from time to time, and then are forgotten again. One of the most important national reports, *Racist Violence: Report of the National Inquiry into Racist Violence in Australia* (Human Rights and Equal Opportunity Commission, 1991), has been ignored since its appearance, thanks in large part to angry opposition from police unions. An Australian tradition of firm white control of blacks, deep-dyed white discrimination against blacks (and lack of white political leadership on racial reconciliation), and the profound socio-economic disadvan-

tage of indigenous communities are the basic problems.

'*Bringing Them Home*' has many recommendations for a program of healing the wounds of the forcible removal of children in the past, proposals which are now getting more attention in Australia since the January 1998 apology, statement, and negotiations for such programs in Canada. The main symbolic recommendation is:

5a. *That all Australian Parliaments*

1. *officially acknowledge the responsibility of their predecessors for the laws, policies and practices of forcible removal,*
2. *negotiate with the Aboriginal and Torres Strait Islander Commission a form of words for official apologies to Indigenous individuals, families and communities and extend those apologies with wide and culturally appropriate publicity, and*
3. *make appropriate reparation as detailed in following recommendations.*

Ministers of the present government have tried to trivialise the problem by saying that Aborigines had been fortunate to be removed from their families; that they had gained better education and opportunities in life in the white world. However, the detailed research carried out for the inquiry show that there is no difference between the educational and employment outcomes of those removed and those not removed.

On the other hand, those removed were much more likely to be unable to cope with personal relationships, had more social problems, and were much more likely to be jailed. (pp. 12-15) It must be stressed that these children were not removed because they had 'bad' families, but only because they had black families.

Government resistance to a formal apology is hard to explain except in terms of racial feelings. After all, the Prime Minister and his government were elected and like to present themselves as defenders of the family, of family unity, of keeping families together. As for saying the events were past, that may be, but their effects are too much with us. Besides, the same politicians have not been content to change the government of Japan, hang Japanese leaders, occupy Japan and rewrite its constitution, keep Japan out of international affairs for decades, etc., but continue to demand endless apologies for World War II from Japanese leaders. Most certainly Australian men and women suffered terribly in Japanese prison camps, but surely that should make us more sensitive to the sufferings of others such as the Stolen Children.

1998 will be a most interesting year for the Stolen Children and Wik issues, and for black-white relations in general. The government has threatened to have a national election whose main issue will be the refusal of the Senate to pass the Prime Minister's legislation abolishing in all but name the native title rights recognised in the court cases *Mabo* (1992) and *Wik* (1996). As 1997 ended, the Prime Minister and senior ministers, and some

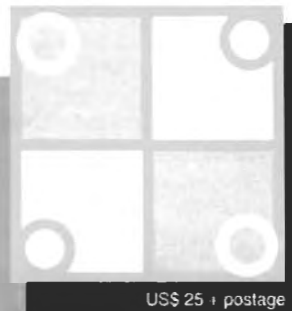
state Premiers and other leading politicians, were using such intense tactics to promote the notion that Aborigines and Torres Strait Islanders were threatening the land rights and national development of all Australians that the churches and others united against them, issuing strong public statements condemning such racial politics. The Queensland state election is also likely to be full of venom and exaggeration on racial issues.

Recent Aboriginal visitors to Europe have told me that many European politicians and others do not believe what they tell them about what Australian politicians are saying and doing in indigenous policy. Such Europeans say that no politician in a developed country today would talk and act thus. They are wrong. It is happening. It is as if Australia, having recently joined the world of social and human rights progress which was the country's pride a century earlier in labour standards, was now withdrawing from the modern world. The rhetoric of some politicians has aroused the churches, editors, and others to oppose strongly the new Australian racism, but they will need all the support which the rest of the world can give them if they are to turn public policy to positive paths.

Peter Jull, a Canadian, has been a consultant to Aboriginal, Torres Strait Islander and Arctic people's organisations; he is Associate Professor. He is member of IWGIA's Advisory Board. □

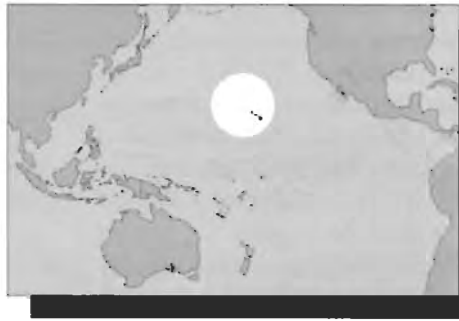
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RISING ABOVE THE WAVES OF DISPOSSESSION

By Kalamaoka'aina Niheu

In November 1997, the young Kanaoka Maoli (Hawaiian) Kalamakaoka'aina Niheu participated in two Indigenous Youth Health Conferences taking place in Australia. She here reports from the conferences and shares a list of recommendations which might be helpful for local indigenous communities in their daily work to improve the living conditions for their peoples. Worldwide, social and health problems are escalating for indigenous youth and threatening the future of their peoples.

Indigenous peoples throughout the world face the effects of colonialism, either suffering from ongoing colonization or its heir, the global capital economy. As a direct result, the health of our indigenous communities has suffered.

The health of indigenous youth was the focus of a conference convened in early November 1997, in Cooktown, a small town in northern Australia on the Cape York Peninsula. The conference was a precursor to the 2nd International Association of Adolescent Health Conference held in Sydney later that month. The Apunipima Cape York Health Council hosted an inspiring international gathering of indigenous peoples for the three-day conference entitled 'Bama Wudu Wudu Mara Mara-Rising Above the Waves of Dispossession, Pacific Rim Indigenous Adolescent Health Conference'. Apunipima is an organization dedicated to identifying the deficiencies in health service on the Cape York Peninsula and providing solutions to these deficiencies.

Delegates from Aotearoa (New Zealand) Ka Pa'e Aina (Hawaii), the Dene Nation (Canada), Fiji, and the Philippines, joined Aboriginal youth from throughout Australia at Cooktown to share experiences, goals, and successful health strategies used in indigenous communities throughout the Pacific. There were over three hundred delegates, all of whom brought valuable insights. One of the conference's primary goals was to create links between health care givers throughout the Pacific, and this was achieved, often in surprisingly moving ways. Though the struggles we have faced and continue to face cause great sorrow, our communities utilize effective and uplifting strategies to better the life situation for our peoples, often with few resources at their disposal.

*Dancer, protesting
the Hawaiian
Autonomy Act,
Sovereign Sunday,
January 18, 1998.
Photo: Ulla Hasager*



The stories told by the participants reflected an astonishing similarity. Most have experienced loss of autonomy, land, and lives while facing the incursions of the colonial power. In addition, our communities suffer from a high incidence of social illnesses: substance abuse, sexual abuse, imprisonment, homelessness, and suicide as well as infant mortality, death, and diabetes. The settler population, contrarily, has vastly lower levels. The conference participants agreed that the continued outside control of our ancestral lands is the primary cause of these and other ills. Barbara Flick, Executive Director of Apunipima stated that the Council supported and encouraged the return of Aboriginal people to their homeland as a primary health policy. *'In their own country, away from the old missions and reserves, there is less overcrowding, less social problems, less refined food and a sense of well-being is returned as children grow up speaking the language and learning the songs, dances, and stories of their country.'*

Several other delegates at the conference also made the connection between the control of lands and indigenous health. Maile Meligro of Ka Pae'Aina (Hawai'i) spoke of the importance of the traditional Kanaka Maoli (Native Hawaiian) diet which is becoming increasingly difficult to preserve given the destruction of the native ecosystems and loss of land and water. Though the spiritual significance was known to the Native peoples of Ka Pae'Aina for millennia, West come to understand that traditional foods help combat illnesses such as cancer, diabetes, and hypertension.

Potaka Maipi of Aotearoa (New Zealand) spoke of the excellent health care system that has been established for and by the Taenui people, one of the many Maori tribes. The success of this health care system is largely due to the reclamation of traditional Taenui lands. Though the health of Maori people is still the worst in the nation, Maipi stated that once they gain control of the lands and health care, the health of the people could only improve. *'We have put the brakes on four*

decline in health]. It can only go up from here.'

Throughout the conference, local Aboriginal community members and health service providers criticized recent actions of the Australian government, saying that the administration has created a hostile environment in which Aboriginal health could only suffer. Two issues, in particular, were credited with creating this environment: the Wik 10-Point Plan and the history of generations of Stolen Children.

Land, health and dispossession

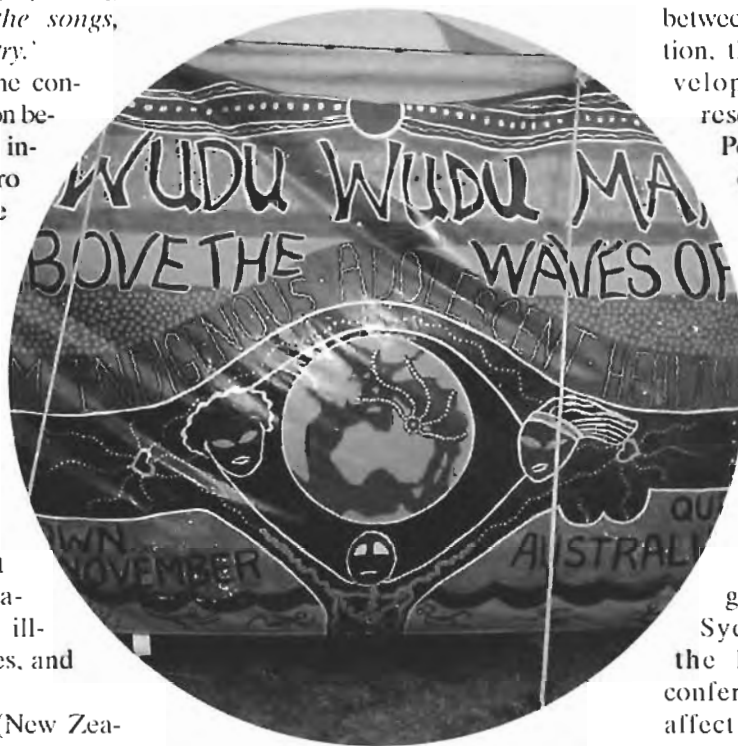
In December of 1996, the Wik people, a nation of Aboriginals, won a High Court decision which stated that native rights could coexist with the rights of pastoral leaseholders. In other words, Aboriginals have the right to access lands for traditional practices at the same time as pastoralists, such as cattle ranchers, are utilizing said areas. Though the decision placed priority

liament and the Sultan of Brunei, currently one of the wealthiest individuals in the world. Since the conference, the Wik 10-Point Plan has entered Parliament where the government will decide whether or not to implement the plan.

The Wik case has many parallels for Indigenous Peoples throughout the world. One case in point, in Hawai'i there was a landmark decision known as 'Public Access Shoreline Hawai'i (PASH). It stated that if Kanaka Maoli (Native Hawaiians) can show that an area has been used traditionally for gathering or religious practices, they have the right to challenge any development upon that land that may damage or endanger their traditional practices. As stated earlier, the traditional diet of the Kanaka Maoli has been shown to have beneficial effects upon health. Replacing a traditional diet with a Western one has likewise been shown to have a serious negative impact on physical health. In these two cases, the connection between land and health is clear. In addition, the negative consequences of development on formerly accessible resources has also become apparent.

People throughout the world, especially those living in relatively undeveloped areas, must be cautious of the increasing global privatization of lands which continues to have significant effects upon the future of our peoples and traditions.

The Wik decision is so important for Aboriginal health that the International Association of Adolescent Health (IAAH) made their first statement ever to the public. IAAH organized the second conference in Sydney, held from the 12th to the 15th of November. Though the conference covered many issues that affect youth around the world, the strongest statement came from delegates of the Cape York Youth Council. Damien Harrigan, Jeannie Lyall, Tracey Callegari, and Gregory Phillips presented a resolution at a plenary session that called for the Australian government to withdraw the 'Wik 10-point Plan'. When asked to pass the resolution, there was no hesitation as the health and service providers, approximately 300, stood to show their support. The ensuing statement made



*Banner from the conference in Cooktown.
Photo: Kalamaoka'aina Niheu*

upon the use of pastoralists, the Australian government responded by creating the Wik 10-Point Plan for extinguishment of native rights. Some people who stand to benefit directly from the extinguishment of native rights are members of the Par-

the important connection between the issues of health and colonization.

A second major issue was an Australian government program designed to 'assimilate' the Aboriginal peoples into European society. For several decades into the early 1970's, the government forcibly removed thousands of Aboriginal children from their families. They are now known as the 'Stolen Generations' or 'Stolen Children'. They were placed in missions and with white families – far removed from their own communities. Though Australia's own Human Rights Commission condemned these acts, the Australian government has not granted the Stolen Generations any form of reparation and has even refused to apologize for its crimes. Not surprisingly, the victims suffer from high rates of depression and substance abuse.

Important lessons

Out of the conference came a list of recommendations that will be utilized by Apunipima in the creation and implementation of community programs and is full of inspiration for other communities. The following is a list of recommendations which arose out of my participation in the two conferences and visits with various organizations, such as the Redfern Aboriginal Medical Services, Redfern Aboriginal Corporation, Cleveland Street High School, Tranby

Aboriginal College, Koori Radio (an Aboriginal controlled and operated radio station), New South Wales Land Council, and other organizations dedicated to providing services for Aboriginal peoples.

1. We must create and maintain global networks for Indigenous peoples involved with health in their communities.
2. Health agencies that service Indigenous communities need to support access and control of traditional lands and resources.
3. Traditional talents, resources, and knowledge must be utilized in the prevention and treatment of our illnesses. This includes using our songs and dances to teach our children pride in self rather than punishing them in institutional correctional facilities. Works by artists and leaders from the community can be very effective in our educational materials.
4. We must create and encourage creation of Birthing Places that are culturally appropriate. I have heard testimonies of suffering from Aboriginal and Kanaka Maoli women who have been prevented from giving birth where they belong because they live in areas that have inadequate birthing facilities. Some even have refrained from reporting onset of labor because of a desire to give birth in a specific

place.

5. We must locate services and gatherings, such as conferences, within the service community, staffed and organized by people within that community. This not only makes services and information more readily available to the people, but it also makes it possible for community members to directly participate in sharing and networking.
6. AIDS is a threatening factor in all young peoples' life today, but we should celebrate our sexuality instead of spreading fear. All health services should distribute free condoms and for instance create envelopes that can be used to distribute condoms in a humorous and cultural appropriate way.

Though the Bama Wudu Wudu Mara Mara conference centered on workshops that discussed such issues as 'Old Ways, New Ways', 'Sexual Health', 'Substance Abuse', and the relationship of health to 'Land, Sea and Development', sharing spilled over to all aspects of our stay. Differences and similarities in struggles, sexuality, and traditions were shared in our songs, over breakfast, and in our jokes. The most important lesson we learned was that for indigenous peoples, issues of health are not isolated from issues of land. It is important for us to remember that a crime has been committed against our peoples and that crime is called colonization. The illnesses that we



*Participants in the conference.
Photo: Kalamaoka'aina Niheu*

are faced with are the direct evidence of that crime. For too long we have faced the West hoping to find the cure for the diseases that they have given us. The gathering in Cooktown showed that we must look towards one another for inspiration, knowledge, and strength. Our communities themselves have the resources, ability, and visions to address our concerns.

***Kalamaoka'aina Niheu** is a young Kanaka Maoli woman. She is a member of 'Ohana Koa (Warrior Family) and the Hawaiian Chapter of Nuclear Free and Independent Pacific (NFIP), an international Indigenous organization struggling for the rights for the peoples of the Pacific and their nations to be nuclear free and independent from colonial powers. 'Ohana Koa-NFIP is a group of several families who have been united by their great love for the Earth Mother, Pāpāhānaumoku: 'We are bound by our solemn duty to care for our sacred land and defend her people.'*

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Kalamaoka'aina Niheu speaking at Sovereign Sunday, January 18, 1998 protest in Hawai'i. Photo: Ed Greevy





by Martin Miriori

AND THE RELUCTANT STATE OF PAPUA NEW GUINEA

Bougainville first became known to the West when it was sighted by the French explorer Louise de Bougainville in 1768. It is just to the north-east of Australia at the western tip of the Solomon Islands. About 160,000 people live on the island.

Bougainville is mountainous, rugged and covered with dense rainforest. It is very rich in mineral deposits. Until the war broke out in 1988 Bougainville, largely through one of the largest open-cut mines in the world, accounted for almost 45% of all of Papua New Guinea's export earnings. Total export earnings from this mine over the 17-year-period from 1972-1989 amounted to about US\$ 6 billion.

The current problems arise from the fact that Bougainville was separated from the rest of the Solomon Islands in an agreement between Germany and Great Britain in a land deal which involved parts of Western Samoa and West Africa in 1896. Bougainvilleans at the time had no say in this demarcation.

Following the First World War in 1918, Bougainville and her peoples fell under a League of Nations mandate and were administered by Australia, along with the other territories known as Papua and New Guinea.

In the Second World War Bougainville was occupied first by the Japanese and then by the Americans.

In 1947 Bougainville became a United Nations Trust Territory still administered by Australia. Since 1947 Bougainvilleans have strongly objected to this forced alignment with what is known today as the Independent State of Papua New Guinea. Bougainvilleans are, ethnically, culturally and geographically a Solomon Island people with no traditional connections to Papua New Guinea.

In 1960 there was a discovery of rich mineral deposits, namely copper, gold and silver, on the island which led to the forced eviction of the indigenous resource owners from their traditional land by the colonial Australian administrators.

In 1962 the special United Nations visiting mission came to Bougainville and was petitioned by the people to transfer Bougainville's mandate as a trust territory from Australia to the United States of America. This was rejected.

In 1966 Bougainvilleans were forced to accept the opening of the Con-Zinc Rio Tinto (CRA) mine in the heart of the island in Central Bougainville. At this time self-government for Papua New Guinea was advanced, and again Bougainvilleans reiterated their right to self-determination as separate from Papua New Guinea (PNG), either to return to the Solomon Islands or to stand alone.

On 1 September, 1975, Bougainvilleans for the first time openly expressed their desire for self-rule, separate from PNG with the first unilateral declaration of independence. This was two weeks before PNG was given its independence by Australia on 16 September 1975.

Today, Bougainville has been the scene of the most violent armed conflict in the

Pacific since the Second World War. More than 12,000 people have died since 1988 when the Papua New Guinea government (with the help of Australia) and other countries decided to declare war on the indigenous people of Bougainville.

The present struggle by Bougainvilleans is to simply protect their basic rights including land, environment, culture and their peoples' political right to self-determination, given its roots and the past history of the conflict. Indigenous landowners, mainly women, laid down with their babies in front of the bulldozers in the 1960s in an attempt to stop mining on their land. They were abused and beaten with long batons and gassed by Australian colonial police.

So far, since 1990, a total of six attempts have been made to reach a political settlement with the government of Papua New Guinea by Bougainvilleans through negotiations. The latest agreement from a history of these failed peace accords between Papua New Guinea and Bougainville is the Burnham Declaration negotiated in New Zealand on 18 July 1997.

The Burnham Declaration contains a commitment towards ending the war and sets out nine clauses on the road to lasting peace on Bougainville:

1. Unity and reconciliation between the divided Bougainville people;
2. The setting up of a process for negotiation between Bougainville leaders with the Papua New Guinea government to bring about an end to the war;
3. A declaration of cease-fire to take effect with the arrival of the first contingent of the peacekeeping forces;

4. A United Nations peacekeeping force to be invited to Bougainville at the beginning of the peace process for no longer than three years with the agreement of the Bougainville Interim Government (BIG) and the Bougainville Revolutionary Army (BRA);
5. A call for the demilitarisation of Bougainville as an essential part of the peace process including the complete withdrawal of PNG Defence Forces (PNGDF) within an agreed time frame. As part of this militarisation process, all Bougainvilleans will lay down their arms under the supervision of the peacekeepers;
6. A lifting of the blockade and removal of restrictions to allow access throughout Bougainville to relevant donor organisations and other humanitarian agencies;
7. An undertaking to ensure that the people of Bougainville freely and democratically, as a people, exercise their right to determine their political future;
8. A move to have the first meeting of Bougainville leaders with the PNG Government no later than September;
9. The meeting is to be held on neutral territory outside PNG and Bougainville

As agreed under Clause 9, the process has since led to the current stage where the Papua New Guinea government represented by their senior officials have joined the Bougainvilleans in this peace process during the recent Burnham II Talks, which further re-affirmed the principles of the Burnham Declaration reached amongst the Bougainvilleans in July.

A ninety-day temporary Bougainville truce after nine years of fighting was endorsed unanimously by delegates at the end of the second round of peace talks at Burnham on 10 October 1997. The truce will be in place until the next leaders' talks at the highest political level are held, desirably no later than 31 January 1998.

The points of the truce are:

- To respect and promote basic human rights and fundamental freedoms;
- To refrain from all acts of intimidation and armed confrontation;
- To promote peace and reconciliation in the community;
- To lift all restrictions on Bougainville;
- Field commanders of the respective fighting forces on Bougainville as well as the traditional chiefs will meet regularly to implement and monitor the truce;
- Recommend immediately a neutral regional group to be invited to monitor the agreement.

This significant breakthrough has been achieved partly as a result of intensive work and continuous efforts by the representatives of the Bougainville Interim Government at various international venues, including the United Nations Commission on Human Rights and its Sub-Commissions from 1991-97, and ACP-EU Joint Assembly where a series of resolutions have been adopted by these bodies regarding the ongoing serious human rights situation in Bougainville.

The Bougainville Interim Government has committed itself, as a leadership and as representatives of the people, to the process of peace and reconciliation - no confrontation. This position has been

made clear and has been accepted by the international community. The Bougainville leadership have exhibited tremendous flexibility in trying to deal with the peace process.

The Bougainvillean people feel that any process towards political reconciliation has to be based on the recognition of human rights, the foremost of which is the right to self-determination. This principle has to be acknowledged, while the implementation can be negotiated.

Bougainvilleans have accepted that the basic role for the United Nations is to generate momentum for peace, and finally implement that peace. Papua New Guinea only looks to the United Nations for protection of its sovereignty without recognising the other items contained in the Charter, which are specifically for the protection of individual human rights.

The Bougainville Interim Government is not interested in the process as a motion for its own sake. It has to be a motion in the right direction, clearly guided by a serious and responsible political will to ensure its success. The substance of this progress must be implementation of resolutions, which must clearly reflect the implementation of the will of the people.

For any future negotiations to succeed, the impartiality of rights, the right to self-determination as enshrined in the United Nations Charter and other UN instruments must be recognised. It is not something that is invented by the Bougainvilleans, it is not an outrageous demand. It is something that people enjoy. It is not something subject to negotiation, only the manner of its implementation can be negotiated. The right itself is non-negotiable.

The Papua New Guinea government must therefore respect the will of the Bougainville people. The problem is that some people do not like BIG/BRA politics or some BIG/BRA faithfuls, or the way some people speak. There are many

leaders who are not liked, but at the same time these are not the grounds for trying to delegitimise them. The process of political blackmail and vindictiveness has to end if there is to be clear co-ordination within the region, to allow the meaningful process to move forward.

Once the immediate issues are dealt with, a further step can then be taken to move on to other farsighted issues including the three 'Ds': demilitarisation, development and democracy. They are all part of the peace process, but will not happen before peace. They are not confidence building measures. They have to happen simultaneously after the establishment of real peace: democracy and human rights are serious issues.

The fact of life is that the United Nations is the only real body which can resolve the current regional conflict in Bougainville, and their involvement in an active capacity is vital for a lasting and enduring result. If the UN decisions and resolutions are arrived at in a democratic fashion, it will become the model of hope for future generations to live in peace and therefore must be called upon to fulfil its mandates.

As long as there is a deadlock concerning the political process, elements of Bougainvilleans will continue to express their strong resistance to the current Papua New Guinea military occupation. Such resistance will continue until the rights and self-determination that belong to their people under international law are seriously addressed, and despite the violation of all other human rights on Bougainville, the right to self-determination is the one right that cannot be destroyed unless the heart of every Bougainvillean is cut out from their breast.

Bougainville is a real and tragic situation. To save human lives, the real causes have to be dealt with. The occupation of the Papua New Guinea gov-

ernment is a real and continuous cause of violence and instability. To resolve this conflict, Bougainvilleans must look forward. Any dialogue must foster the spirit of mutual co-operation. Without it, there can be no settlement of problems.

Australia and New Zealand, as major powers in the region, should be part of the peace process. Their role should be to assist parties that are seeking peace. They are also important in seeing that peace prevails. They are strong, powerful and rich and must do their part in establishing peace. It should also be recognised that nobody else in the world has the degree of influence that Australia has with Papua New Guinea. This is the key to any Australian led efforts in the field of peace on Bougainville.

In looking ahead, Bougainvilleans can also learn from history. In Europe, for instance, there was a time in 1945 when France and Germany were not particularly friendly, and yet now they work well together. The depth of bitterness was no less than what exists now between the Bougainvilleans and Papua New Guineans. What is needed is visions that are compelling for Papua New Guinea, Bougainville and the South Pacific region, that make it clear that it is better to live in peace.

The Bougainville Interim Government has demonstrated that its leadership is willing to go to the ends of the earth to seek peace. All Papua New Guinea has to do, is to join them.

Martin Miriori is secretary and leader of the BIG/BRA delegation, and participated in the Burnham Talks in New Zealand.

Globalization and the APEC Peoples' Summit

By Richard Salvador

The Asia Pacific Economic Cooperation (APEC) Peoples' Summit are NGO forum meetings parallel to the APEC Summit of the Pacific Rim Nations. In November 1997 it took place in Vancouver, British Columbia, Canada. There were initially problems with getting sufficient funding to maintain official presence of Indigenous Peoples at the APEC Peoples' Summit, but during the last minutes leading up to the Vancouver meetings, the Union of British Columbia Indian Chiefs, an NGO Aboriginal/First Nation group in Vancouver was able to sponsor an 'unofficial' Indigenous Caucus. It was here that four Pacific Islanders indigenous peoples representatives, including myself, exerted our voices in the Asia-Pacific civil societies deliberations surrounding the increasing regional economic integration currently taking shape in the form of APEC as well as other economic forums around the Pacific.

Makere Harawira, a PhD candidate at the University of Auckland, Aotearoa/New Zealand, a Maori woman herself, who currently does research regarding the impact of globalization on the Maori; Ngese Sasa, a community activist from Lou Island, Manus Province, in Papua New Guinea and his colleague Poilep Nokos participated in the Indigenous Caucus trying to voice the concerns of Pacific indigenous peoples who are concerned about the intense economic globalization activities of transnational corporations in the Pacific. All four of us also played active roles in the drafting of what became the Indigenous Peoples' Statement on APEC.

The statement acknowledged the continuing work on the draft Declaration on the Rights of Indigenous Peoples, and called for more support of indigenous rights.

A press conference called by the Indigenous Caucus in Vancouver attempted to bring attention to economic globalization issues seriously impacting indigenous peoples throughout the Asia Pacific. The Statement was read in the final closing plenary of the Peoples Summit, and many in the Asia Pacific NGO community expressed interest in facilitating more inclusion of the Pacific NGO community in the next APEC Peoples' Summit in Malaysia.

Globalization

The 1997 Pacific Networking Conference 'The Big Squeeze: Islands in the New Asia-Pacific' which took place in Victoria, British Columbia, Canada, November 14-16, 1997, aimed at exploring 'alternative (economic development) approaches that are fairer to Pacific Islanders.' This was a daunting task, considering that we are faced with the tangible consequences of globalization. It is disheartening in the light of the continuing impact of the growing international integration of markets for goods, services, and capital. Many Pacific nations are be-

ing compelled to integrate their economies into the global economy with promises of brighter economic futures. But when small, vulnerable communities are asked to remove all internal barriers to international trade, what will be left to replace the little dignity that we have stubbornly refused to acquiesce through several centuries of foreign colonialism that have permanently disfigured our communal, collective selves?

Indeed, what is left at all when we have sold away the prospect of being the protagonists of our own destinies? Our unwillingness to let go of such vital elements of our sovereignty during colonialism has become the foundation of our continued survival. It would seem ludicrous that we might simply let go now, only because our political leaders are so invested in maximizing a short-term economic advantage. Beyond the immediate pressures being brought to bear on our political leaders, we are all being coerced to integrate ourselves with the globalized economy. If colonialism is taken to mean the pursuit of the metropolises' goals by means of various forms of coercion, political and economic, then we might correctly perceive a literal 'return to colonialism,' inherent in the nature of politics of the global economy (*Return to Colonialism: The New Orientation of European Development Assistance DSA European Development Policy Study Group, DP6, Brussels: ACP Secretariat, May 1997*).

According to the World Bank, globalization 'is altering the economic landscape in fundamental ways. It is driven by a widespread push toward the liberalization of trade and capital markets, increasing internationalization of corporate production and distribution strategies, and technological change that is rapidly dismantling barriers to the international tradability of goods and services and the mobility of capital' (Zia Qureshi in *World Bank Quarterly, Finance and Development* March 1996). The World Bank economist, Brian Levy compares the emerging global economy to the 19th century Wild West economy (in *World Bank Development Report 1997: The State of the Changing World*, September 1997). Even the proponents of a single world economy are telling us to brace ourselves for what is coming...

At a recent Lomé Convention conference in Vienna, European researchers concluded that 'the balance sheet of globalization is mixed,' and that it has 'coincided with growing socio-economic inequities between and within countries, and [actual] reversals in human development' (*Lomé 2000* No. 3, October 1996). The Lomé Convention is an economic agreement between the European Union and select African, Caribbean and Pacific (ACP) countries which has been in force since 1970 and is scheduled to expire in the year 2000.

Corporate globalization have progressively come to dominate the lives of peoples all over the world, and have, according to Joshua Karliner (*The Corporate Planet: Ecology and Politics in the Age of Globalization*, Sierra Club Books), caused

massive environmental destruction and impoverishment as well as undermined democracy. Transnational corporations are now the most powerful economic and political entities in the world, many have more power than nation states. A few examples:

- The combined sales of Japan's top six trading companies are nearly equivalent to the GDP (Gross Domestic Product) for all of South America.
- Transnational corporations hold ninety percent of all technology and product patents world wide.
- The number of transnational corporations world wide has jumped from 7,000 in 1970 to 40,000 in 1995. A mere three hundred of these corporations account for one-quarter of the world's productive assets.
- Ninety percent of all transnational corporations have the home base in the Northern industrialized nations, and more than half of them come from just five nations: France, Germany, the Netherlands, Japan and the United States.

What is the logic of the 'typical' politics of economic globalization? Transnational corporations are moving to circumvent the governments of nation states which themselves are only recent innovations in the history of mankind (dating back to the 1648 Treaty of Westphalia that codified the principle of territorial integrity of nation states) and are delineated by arbitrary political boundaries. These nation states are now caving in to the New World Order of globalization, allowing corporations to assume an ever more stateless quality, leaving them less and less accountable to any governments anywhere.

These corporations, together with their host governments, are reorganizing world economic structures - and thus the balance of political power - through a series of intergovernmental trade and investment accords. These treaties serve as the frameworks within which globalization is evolving, allowing international corporate investment and trade to flourish and to circumvent the power and authority of national governments and local communities, endangering worker's rights, the environment and democratic political processes. They include:

GATT: The Uruguay Round Table of the General Agreement on Tariffs and Trade.

WTO: The World Trade Organization, created to enforce GATT's rules.

MAI: Multilateral Agreement on Investment, currently being established. 'We are writing the constitution of a single global economy' said the WTO Director General, Renato Ruggiero in December 1996 about MAI.

NAFTA: The North American Free Trade Agreement.

EU: The European Union.

APEC: The Asia Pacific Economic Corporation (of Pacific Rim Countries). APEC has an agenda of creating unrestricted foreign investments un-

der minimal control, privatization is likely to change the Pacific Rim and well as the Basin, the latter, except for Papua New Guinea, not even represented in APEC.

To remove all impediments to the free flow of money will become the biggest economic typhoon which ever hit the Pacific. Amidst such depressing conditions, Pacific islanders are caught between sea-level rise caused by global climatic change and enormous amounts of global capital seeking to establish or exacerbate new dependencies. The global integration of national economies is only the latest phase of the 'imperialist pillage' of global processes of militarism, nuclearism, economic globalization. Globalization is a 'neo-liberal program of opening up the whole world for imperialist pillage, opening up the global market further for transnational penetration and control, restructuring third world economies further and increasing the power and role of the market to serve the demand for more raw materials and cheap labor' and markets (as expressed by Antonio Tujan at 1996 NGO parallel meeting to the APEC summit in the Philippines). It seeks to erase human creativity and imagination, which according to the Director of the Brazilian Institute for Social and Economic Analysis, Candido Grzybowski is slavery: 'Globalization is more than a process in human his-

tory; it seems to be and to act as a prison for hearts and minds, thoughts and movements. [...] We must rebel against this way of thinking. Planetary citizenship requires nonconformist thought and action. The first response to globalization is to acknowledge that it was produced by us, by human beings. It is not a monster to rule over us, but a human invention, with its limitations and possibilities like our own life conditions' ('Civil Society's Response to Globalization,' Rio de Janeiro, Corporate Watch Action Alert Site)

In contemplating the nature of the myriad processes of globalization, and of the proper responses to them, it should be useful to seek to 'globalize the theory while localizing the effects' - i.e. efficiently manage local efforts to ameliorate the monotonous, impoverished conditions produced by corporate take-over of the local, national and/or regional authorities (Johan Galtung: 'In Search of Self-Reliance' in *The Living Economy: A New Economy in the Making*, Paul Ekins ed. New York 1986). The fate of humanity, even the planet itself, cannot be left to the transnational technocrats who demand that we sell bits and pieces of ourselves and the dignity of our communities so that they might more fully enjoy their leisure.

We need to develop politics of action that transcends the distinguishing features of our nations,

as transnational corporations employ these features to divide and conquer our communities. I would like to stress that the objectives of such politics must be those that are aimed at reaffirming, as well as reestablishing, our rights to survival against these colonial-like efforts to consolidate massive economic and political power. One way we can employ the tools of globalization against itself, is through proliferation of essential information over the Internet, which also gives us, the indigenous peoples and other exploited groups, endless opportunities for collaboration to bring about a world liberated from forces that disempower peoples and communities in the process of enriching a select few.

Even the staunch supporters of globalization are increasingly questioning the way the myriad processes of globalization are leaving countless communities and workplaces in economic ruin, with greater pressures to depress minimum wages, human rights, worker rights and environmental rights.

In concert with Bob Aldridge and Ched Myers (authors of *Resisting the Serpent: Palau's Struggle for Self-Determination* Baltimore 1990), I will quote William Appleman Williams powerful statement: 'Now is the time to learn from them [the countless indigenous peoples all over the Earth who became collateral damage to 'Western progress']'. What happens if we simply say 'no' to empire?

Final statement of the Pacific Networking Conference held in Saanich, Victoria, British Columbia on November 14-16, delivered to the Plenary meeting of the 1997 APEC Peoples' Summit

The Pacific Peoples Declaration on APEC

Eighty delegates from the Pacific Islands, Asia and the Americas gathered together at the 14th annual Pacific Networking Conference, which took place at the Lau Welnew Tribal School in Saanich, British Columbia, Canada, November 14-16, 1997. Twelve nation states, sixteen First Nations and over fifty organisations were represented, including Indigenous Peoples, taro-roots activists, human rights activists, environmentalists, members of local and international non-governmental organisations (NGOs), educators, professionals, academics and others.

The conference participants wish to express their warm appreciation for the welcome and hospitality provided to them by the Tsartlip First Nation during the course of the conference.

We, the participants of the 14th annual Pacific Networking Conference, reject the Asia-Pacific Economic Cooperation (APEC) process for regional trade liberalisation and other mechanisms for economic globalisation.

These processes put corporate profits as the overriding priority, while marginalizing or even neglecting peoples needs and the environment. We note with concern that the development debates focused around APEC and the Multilateral Agreement on Investment (MAI) have been dominated by a narrow range of voices, primarily those from corporate bodies and governments, while the voices of the people that need to be heard are restricted to the periphery. We call for a widening of the debate on globalisation to involve the people who are already being disadvantaged by the undemocratic processes being pursued in establishing the trade and investment agreements and treaties.

We reaffirm the work of the United Nations as they develop international agreements that protect the rights of peoples and the environment, such as the Convention for the Elimination of all forms of Discrimination Against Women (CEDAW) and the UN Convention on Biodiversity (CBD). We oppose the tendency of governments to adopt trade and investment agreements that seriously undermine these important social and environmental commitments.

We support the following principles:

- to promote and fully guarantee respect for the rights of peoples, especially the rights of Indigenous Peoples;
- to promote and fully guarantee the rights of women, youth, and children;
- to ensure the preservation, protection and sustainable use of our environment; and
- to support global structures that promote sustainable and equitable human development as embedded in our cultural values.

APEC is not viable for Pacific Peoples. APEC is a process which increases corporate control of peoples lives, resulting in massive dislocation of peoples, especially women and children. The health of our communities, land, water, and other resources is seriously compromised. As an example, the Pacific Teal will sail from France to Japan via the Tasman Sea, and Solomon Islands and Federated States of Micronesia waters in late 1997 or early 1998. Pacific Teal will carry plutonium and high level radioactive waste which could severely threaten our environment.

*Or do we have either the imagination or the courage to say 'no' to empire? It is now our responsibility. It has to do with how we live and die. We as a culture have run out of imperial games to play (read: APEC, GATT, WTO, MAI) (from W.A. Williams' *Empire as a Way of Life* Oxford 1980).*

We must transgress our independent spaces for political action and take our struggle, movements, networks and organizations to the international level. We must shape a politics of space that will help us in asserting our sovereignty from the global reaches of the transnational corporations which conspire to dis-empower the indigenous peoples. Only through vigilance and activism inspired by a politics of resistance and confrontation against the spatially diffused power, can we continue to assert and retain control of our communities.

Richard Salvador is a Belauan and is currently a PhD candidate in Political Science at University of Hawai'i at Manoa.

The article is based on the paper 'From Politics of Place to a Politics of Space: Organizing for Resistance and Community Control' presented at the 1997 Pacific Networking Conference in Victoria, British Columbia, November 14-16, 1997 □

We assert our support for the struggles for self-determination by the peoples of East Timor, West Papua, Kanaky, French-occupied Polynesia, Rapa Nui, Aotearoa, the Aboriginal Peoples of Australia and the Torres Strait Islands, and Hawaii.

We want to promote alternative trading networks based on our own traditional values and principles. As an example, the production of eco-timber for an environmentally conscious and expanding market in Europe is providing a solid alternative to thousands of resource- and land-owning communities throughout the Pacific. In one case, whereas a 20 foot log would have fetched forty dollars from a Malaysian logging company, it is now fetching four hundred dollars when marketed as eco-timber. The profits available to the resource- and land-owning communities have therefore increased by 900 percent.

Pacific Islanders, many of whom still own their lands and resources, are in a position to promote alternative systems of trade. Pacific peoples are choosing models of sustainable development that can remind communities in other parts of the world that there are viable alternatives to APEC. □

Statement of the Indigenous Peoples' Caucus at the 1997 APEC Peoples' Summit in Vancouver

In the Name of our Creator, of Mother Earth and in honour of our all ancestors we met together here in British Columbia.

We the indigenous peoples representing the regions of South, Central and North America, Asia, South East Asia and the Pacific Islands begin by acknowledging the considerable work in the arena of the rights of indigenous peoples over a long period of time preceding this caucus. We have gathered here at Vancouver to express our deep concerns over a wide range of issues that continue to impact on indigenous peoples.

1. The indigenous peoples represented at this caucus unequivocally oppose the APEC processes that are represented at the APEC Leaders Conference here in Vancouver. We declare that the APEC agenda acts to further endanger and undermine indigenous peoples power over their lands, their ancestral territories and natural resources. In this regard we vehemently oppose the agenda of the current APEC Leaders Meeting for fast-tracking the removal of tariffs for fisheries and forestry.

2. The indigenous peoples caucus calls on the governments represented at the APEC Leaders Meeting in Vancouver to withdraw from negotiations regarding the Multilateral Agreement on Investment. The Multilateral Agreement on Investment seeks to create legislation which will over-ride international agreements in the arenas of indigenous peoples rights, labour conventions, environmental agreements and regulations and human rights issues and which will license the plunder and pillage of resources in the name of open economies and trade liberalisation.

3. We call on the governments represented at the APEC Leaders Meeting to immediately adopt the Draft Declaration of the Rights of Indigenous Peoples without further change or amendment inasmuch as it reflects the minimum standards for the protection of indigenous peoples rights.

4. We also call on the governments of Canada, the United States, Chile, Australia and Aotearoa/New Zealand to ratify the ILO Convention 169 regarding indigenous and tribal peoples rights in independent countries. The ratification of these two documents expresses the desires and aspirations of the indigenous peoples of the world and we seek the support of the APEC Peoples Summit in requesting the ratification of these documents by the APEC governments.

5. The indigenous peoples caucus at this Summit calls for the establishment of a permanent indigenous peoples forum at the United Nations, to continue to support and protect indigenous peoples rights to self-determination.

6. The caucus seeks for support in efforts for the protection of indigenous peoples cultural and

intellectual knowledge and properties which are at this moment being plundered by transnational pharmaceutical and manufacturing companies as well as by genetic scientists.

7. The indigenous peoples caucus deplores the devastating impact on the social, economic and cultural structures of indigenous peoples by mega-projects involving, for example, clear cut logging and mining operations, the establishment of unsustainable fisheries practices and the planned construction of a huge highway in the La Costa area of Chile which will involve the massive dislocation of the indigenous MAPUCHI people and the total disruption of their lives and livelihood.

8. We also deplore the amoral actions of the World Bank and the International Monetary Fund which bankrupt indigenous peoples in the name of aid and development. These practices include attempt at land mobilisation in Papua New Guinea as a means of accessing indigenous peoples lands, the imposition of aid monies in the Pacific which functions to create enormous indebtedness, and the continued occupation of indigenous communities by military regimes in the name of industrial development.

9. The indigenous peoples caucus deplores the co-option of state-appointed indigenous elites in efforts to gain the consensus of indigenous peoples to practices which function to benefit the elite minority, to further marginalise the many, and which are in opposition to fundamental indigenous cultural and spiritual values and practices.

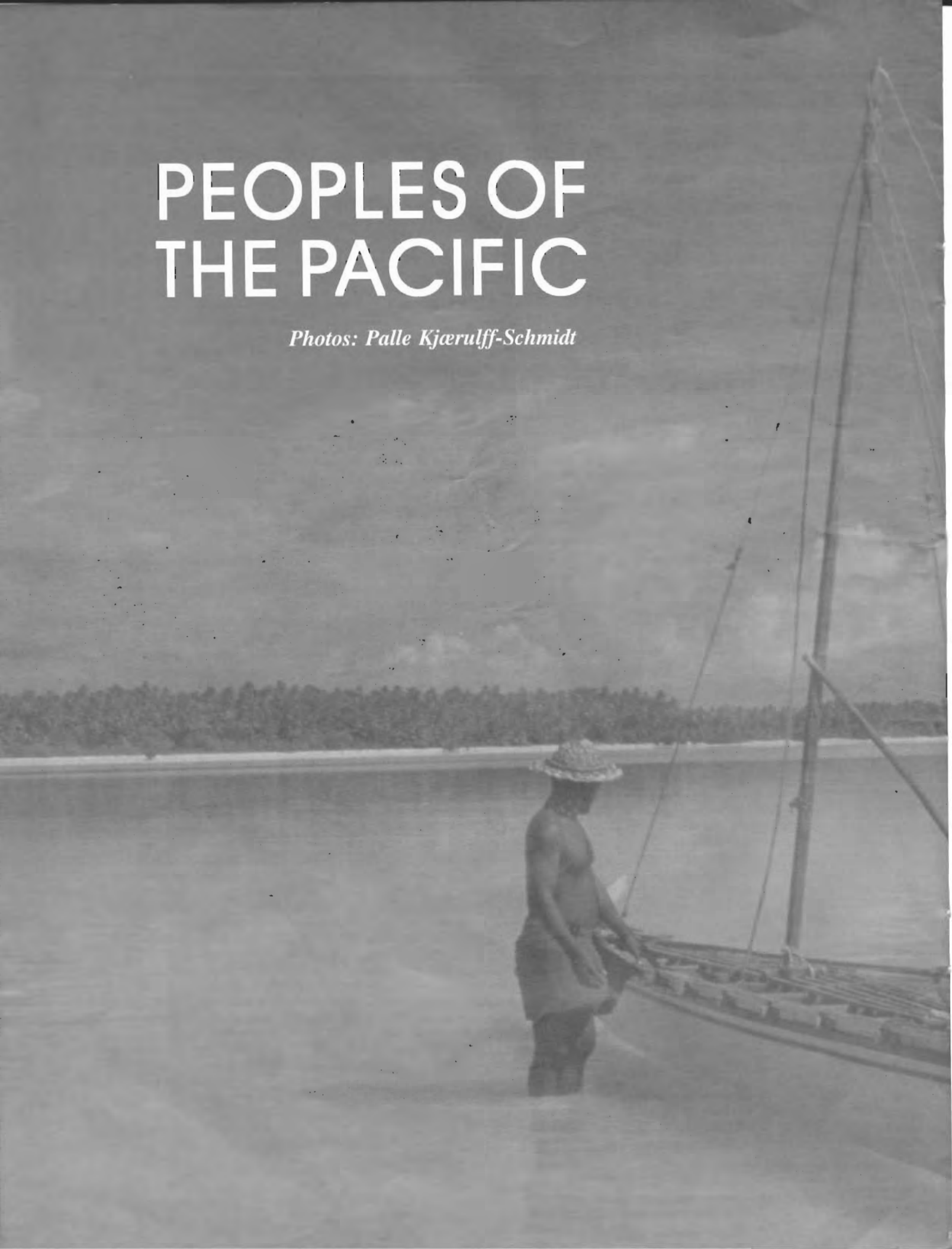
10. The indigenous peoples caucus is committed to the promotion and development of alternative global networks and strategies for sustainable and equitable development practices which are embedded in our shared indigenous cultural values of collectivity and co-operativeness, of guardianship for the land, and of traditionally-based methods of husbandry. To that end we are attempting to network with other groups who are also committed to alternative trade and economic development strategies and alliances.

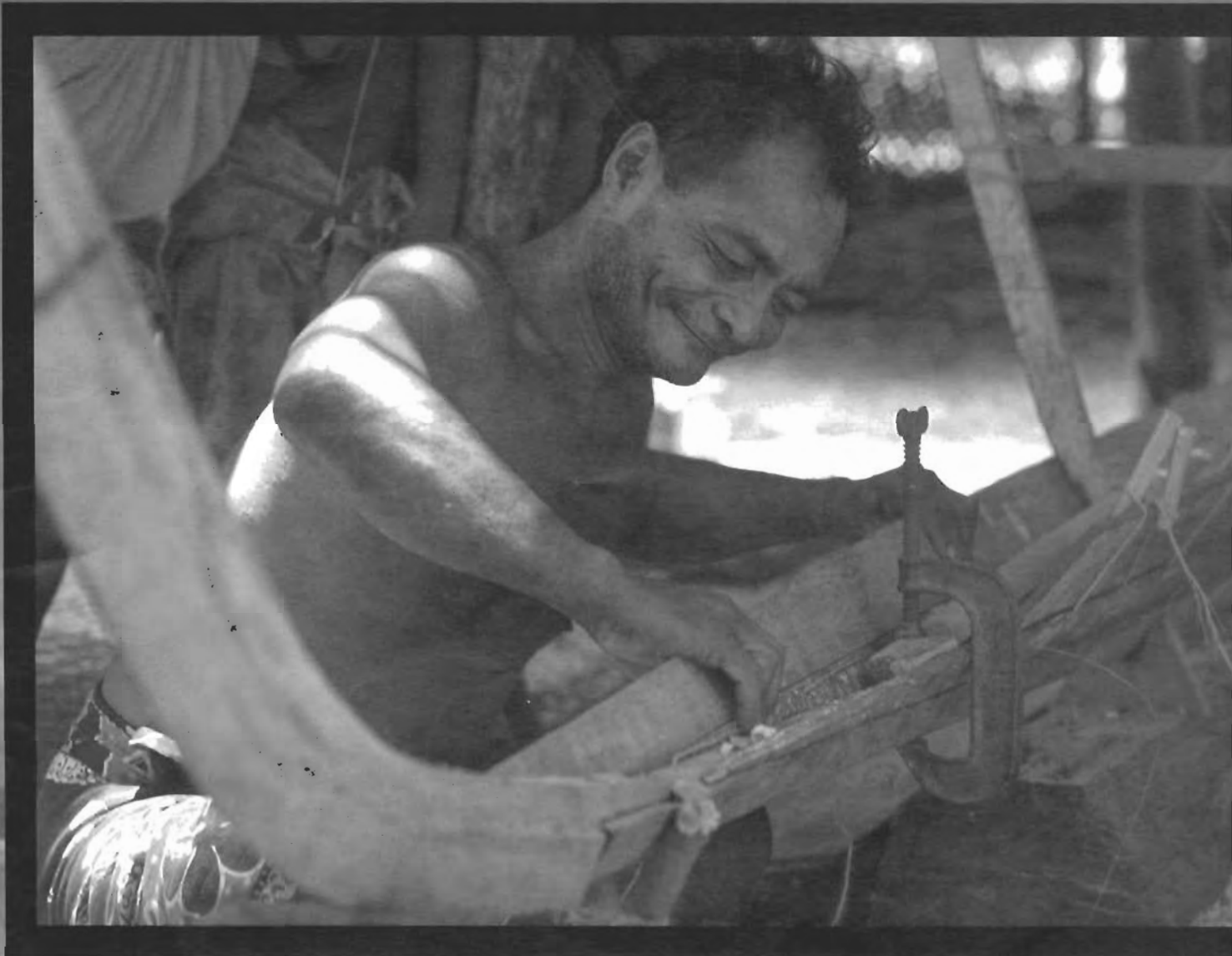
11. We of the indigenous peoples caucus have determined the continuing existence of an Indigenous Peoples Forum on a culturally-appropriate and self-determined basis at future APEC Peoples Summits beginning with that in Malaysia in 1998.

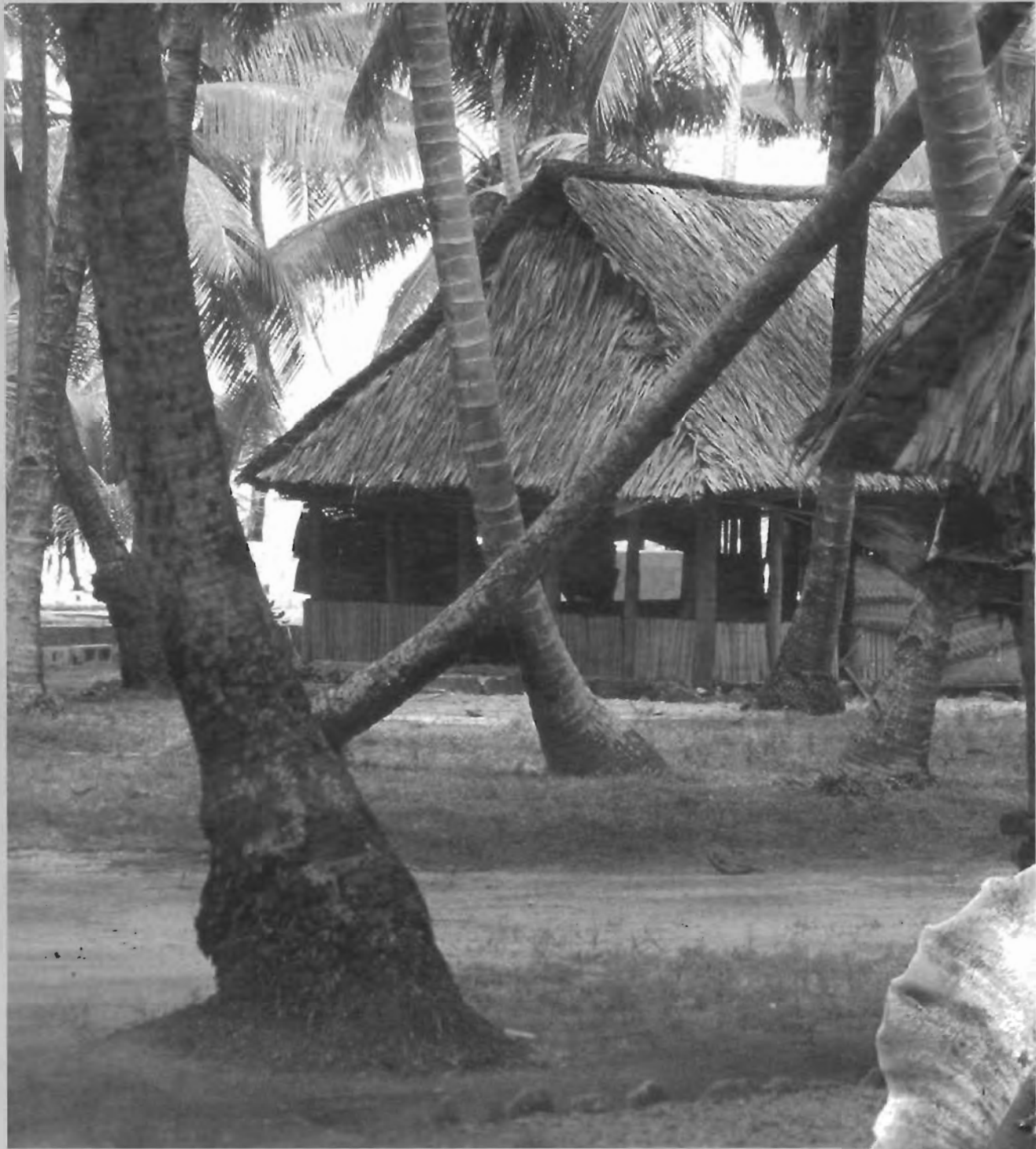
12. The indigenous peoples caucus honours and uplifts the efforts of our women and youth in renewing and preserving the holistic way of indigenous peoples spiritual life. In particular we support and uphold the political and economic power of indigenous women whose political voice is vital in these times. □

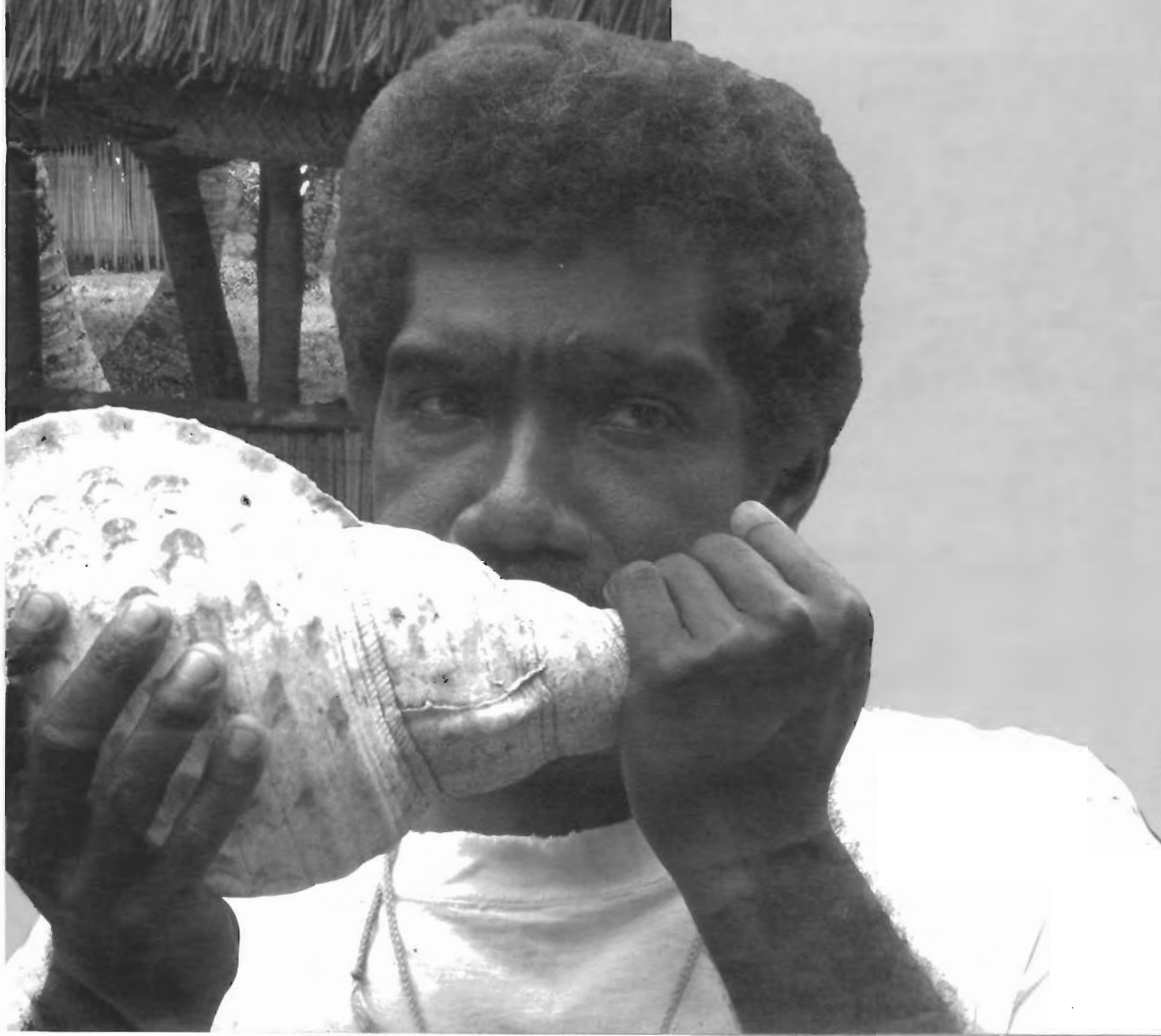
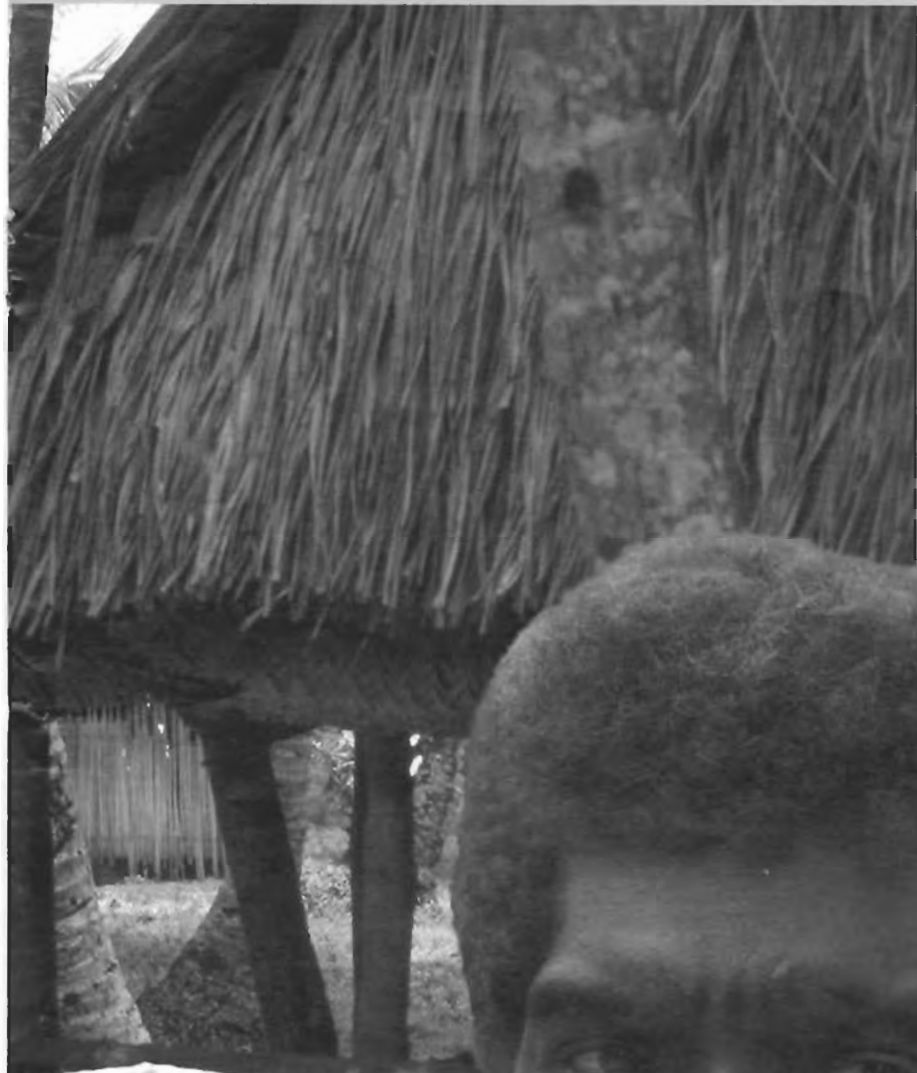
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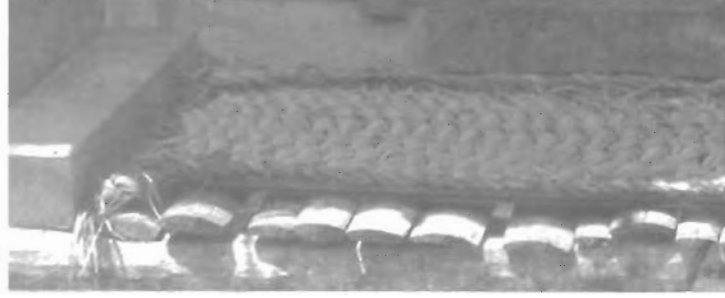
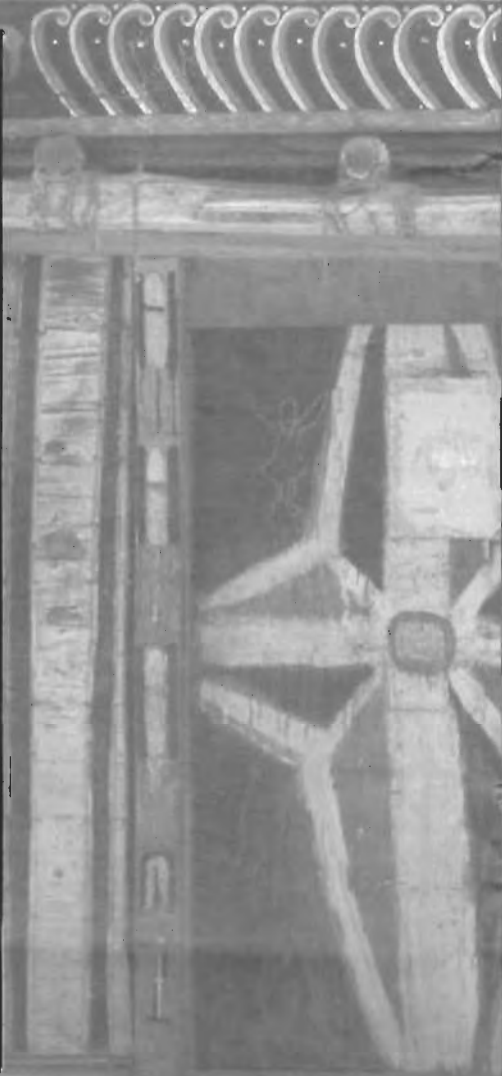
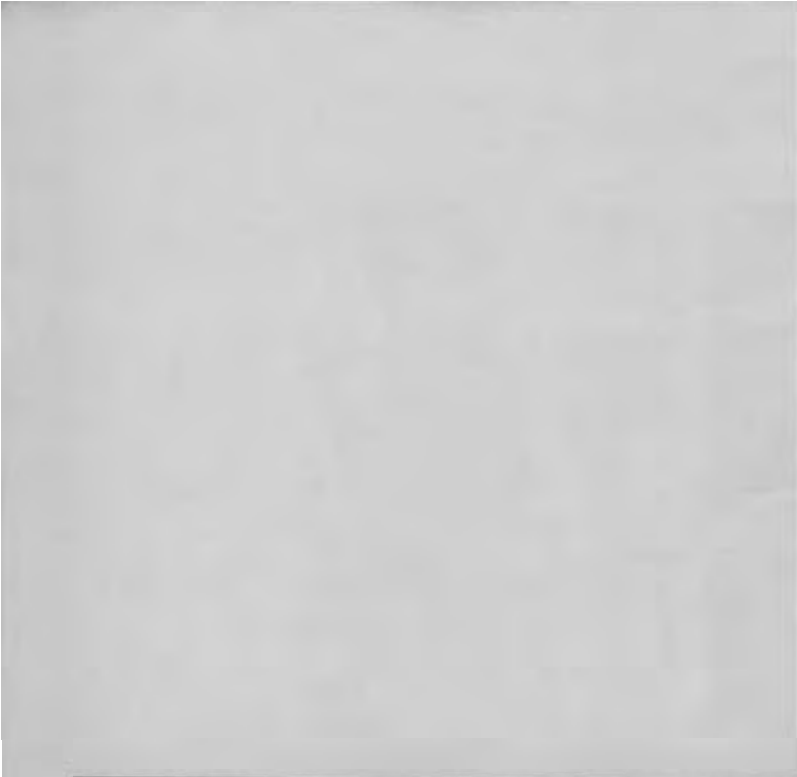
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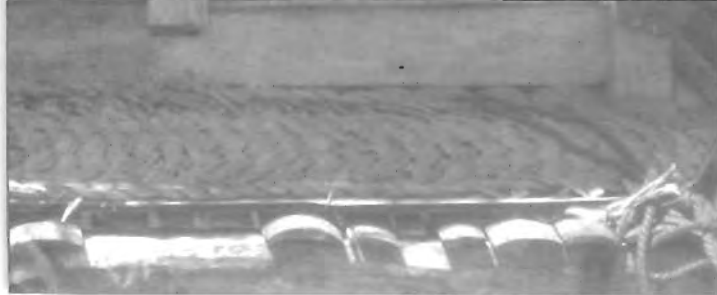
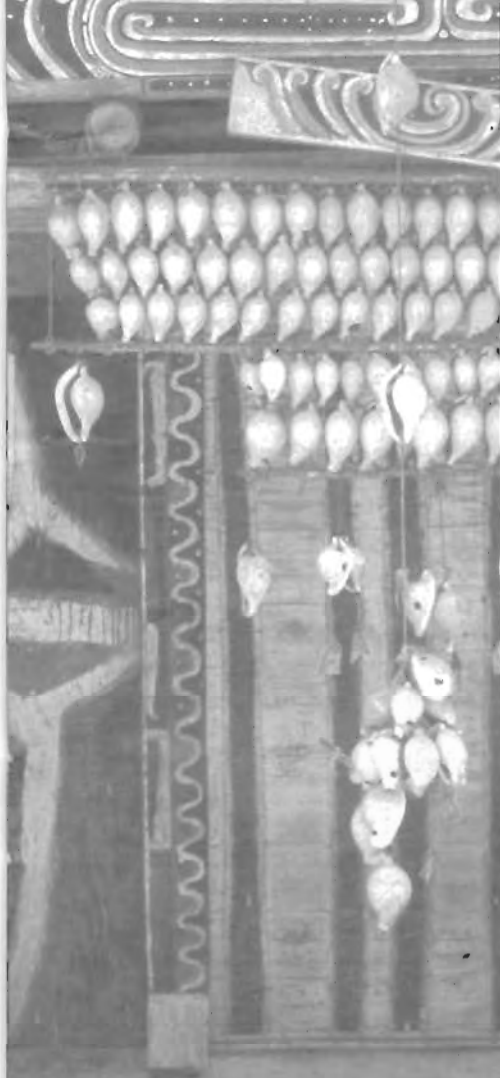
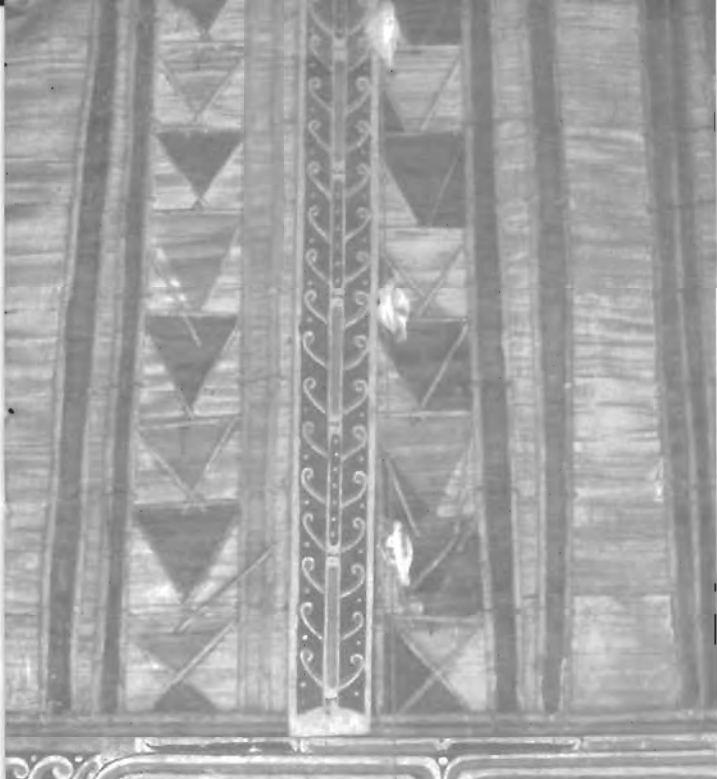












HAWAII



Indigenous Peoples' Rights and Kanaka Maoli Self-Determination in Ka Pae'aina (Hawaii)

by José Luis Morín



Introduction

'There is little question but that the United States could become a successful rival of the European nations in the race for conquest, and could create a vast military and naval power, if such is its ambition. But is such an ambition laudable?'

Queen Lili'uokalani

These were the words of the last reigning Kanaka Maoli (indigenous Hawaiian) sovereign prior to the U.S. annexation of Hawaii in 1898 that followed five years after the United States-backed coup d'état by a small band of foreign, white businessmen. Under the doctrine that espoused the racial, religious and cultural superiority of the Anglo-Saxon race known as Manifest Destiny, the United States justified the annexation of Hawaii as part of a larger scheme of global expansion, domination and exploitation that by 1898 also placed the United States in control of Puerto Rico, Cuba, the Philippines, Guam, Wake and Midway Islands (Stephanson, 1995). Annexation transformed Hawaii from an independent and internationally recognized sovereign state into a colonial territory of the United States in blatant disregard of the will of the Kanaka Maoli. Eventually, the United States maneuvered the incorporation of Hawaii as a state of the United States without complying with international rules for the protection of the right to self-determination of the Kanaka Maoli people.

Past and present acts of foreign domination, subjugation and exploitation committed against the Kanaka Maoli people underscore the colonial policies that have served to undermine Kanaka Maoli culture, identity and their right to decide their own political and economic future. In view of the severe socioeconomic condition of the Kanaka Maoli and the threat of forever losing their right to land and sovereignty, the urgency for a process for the free exercise of the right of self-determination by the Kanaka Maoli people today could not be greater. Past acknowledgement of the Kanaka Maoli people as 'peoples' with rights of sovereignty and self-determination under international law would dictate that such international standards would be applicable to the

Kanaka Maoli in their current pursuit to restore their sovereign nation. However, vehement opposition by the United States to recognizing Indigenous Peoples' use of the terms 'peoples' and the right to self-determination as understood in international law stands to thwart the aspirations of the Kanaka Maoli for a legitimate and free process of self-determination. The lesson to be drawn from the Kanaka Maoli colonial experience is that it is of paramount importance that fundamental principles, such as the right to self-determination, be applied and observed. If not, Kanaka Maoli rights to nationhood will remain threatened by forces seeking to extinguish those rights.

The Usurpation of Kanaka Maoli Self-determination

The Kanaka Maoli people had a thriving civilization and culture prior to the arrival of Capt. James Cook in 1778. The Kanaka Maoli had a society that was entirely self-determining, self-governing and self-sufficient - one that had developed a system of communal land tenure that provided for the needs of all the people. After successfully obtaining the withdrawal of the British from Hawai'i in 1843, the Kanaka Maoli found themselves in the midst of white settlers, primarily from the United States, who were intent on making Hawai'i their own.

Christian missionaries advanced U.S. business and government interests in the Hawaiian islands. U.S. missionaries who came to Hawai'i from Boston in the 1820s regarded the Kanaka Maoli as savages and embarked on a campaign of mass Christian conversion and assimilation (Kame'eleihiwa, 1994:108-12). But their ambitions did not end with the religious conversion of the indigenous peoples of the islands. They had soon undertaken the task of transforming Hawai'i into a land where foreigners could exert political and economic as well as social and cultural control.

From 1848 to 1850, U.S. missionaries executed a strategy to privatize lands in Hawai'i through a system of land division called the Mahele, overturning the native system of communal land tenure by imposing private land ownership. In the process, approximately 70 percent of the adult male native population, along with their spouses and children, were

rendered landless (Kelly, 1994:104). By 1887, missionary descendants, backed with U.S. gunboats on the shores, succeeded in forcing King Kalakaua to accept a constitution that granted white foreigners control over the legislature and cabinet while denying most Kanaka Maoli the right to vote by imposing land and wealth requirements. Although the Kanaka Maoli in 1889 revolted against the illegal imposition of this 'Bayonet Constitution,' their insurrection was suppressed by the white foreigners in the government with the assistance of U.S. military forces (Kame'eleihiwa, 1994:118; Trask, 1993:14-16). These events demonstrate the extent to which white settlers had already established themselves as a colonial authority that could rely on U.S. military power for support prior to the overthrow of the government of the Hawaiian Kingdom in 1893.

As a result of Kanaka Maoli protests since the 1970s, the U.S. government has recently conceded most of the facts concerning the illegality of the overthrow of the Hawaiian Kingdom and the acquisition of the Hawaiian Islands by the United States. On November 23, 1993 in commemoration of the one hundredth anniversary of the overthrow, the U.S. government passed into law an apology to the Kanaka Maoli people in the form of a joint resolution of the U.S. Congress signed by President William Clinton ('Apology Law') (Pub. L. No. 103-150, 107 Stat. 1510 (1993)). In the Apology Law, the U.S. government admits it illegally used military intervention in support of the overthrow of the independent and sovereign Hawaiian Kingdom in violation of the territorial integrity and political independence of the Kanaka Maoli people. The United States government also acknowledges that its participation in the overthrow of the Hawaiian government breached its international law obligation to abide by the treaty agreements with the Hawaiian Kingdom, including the treaties of Commerce of 1826; Friendship, Commerce and Navigation of 1849; and Commercial Reciprocity of 1875.

The Apology law is unequivocal in recognizing the United States' role in *'the suppression of the inherent sovereignty of the Native Hawaiian people'* and in admitting that the Kanaka Maoli *'never di-*

rectly relinquished their claims to their inherent sovereignty, either through their monarchy or through a plebiscite or referendum.' Through these acknowledgements, the United States accepts that the overthrow of 1893, annexation to the United States in 1898 and the 1959 statehood plebiscite did not provide for a valid exercise of the right of self-determination and, therefore, Kanaka Maoli sovereignty to the present day has never been lawfully abdicated.

The Apology Law also recognizes that the economic and social changes that have occurred in Hawai'i under U.S. domination *'have been devastating to the population and to the health and well-being'* of the Kanaka Maoli people. Thus, U.S. colonial policies against Kanaka Maoli extended beyond the sphere of political and economic control. The detrimental impact of forced assimilation and the imposition of western social and cultural norms, including the banning of Hawaiian language in schools and the suppression of cultural and traditional forms, such as the hula and gathering rights, are still evident today. After many years of conflict with authorities seeking to repress Kanaka Maoli culture and tradition - a struggle that continues today - the Kanaka Maoli are reclaiming and reviving their linguistic, cultural and traditional identity and practices.

Despite the many admissions made in the Apology Law, the Law makes it difficult to hold the United States responsible for its illegal acts. The Apology Law includes a disclaimer to prevent claims against the United States.

From Nation to Colonial Territory

The annexation of Hawai'i by the U.S. in 1898 officially transformed these islands into a colonial territory of the United States, severely impeding Kanaka Maoli aspirations for the return of their independent nation. The U.S. Congress annexed Hawai'i, not through a treaty between the two nations, as required under the U.S. Constitution and international law, but through a joint resolution of Congress. An 1897 annexation treaty failed to muster the necessary two-thirds vote in the U.S. Senate, but the Newlands Resolution, requiring only a simple majority in each house, was approved. This resolution decreed the annexation of

Hawai'i, despite the overwhelming evidence of the impropriety of such an action. Annexation was premised on an illegal overthrow acknowledged as such by U.S. President Grover Cleveland at the time, the Kanaka Maoli people strongly opposed annexation, no vote on the question was permitted, and the so-called 'Republic of Hawai'i' was an illegitimate entity consisting of a cluster of foreign businessmen who unlawfully seized the Hawaiian government and had no authority to cede Kanaka Maoli lands to the United States (Budnick, 1992:170-72).

The significance of the U.S. naval base at Pearl Harbor in Hawai'i played a key role in the passage of the Newlands Resolution. War with Spain in the Pacific over control of the Philippines in 1898 convinced sufficient members of Congress that the annexation of Hawai'i was critical for U.S. military strategy in the region. The U.S. military has since appropriated large tracts of land without fair compensation to the Kanaka Maoli and the military for decades has restricted access and has displaced Kanaka Maoli from their lands.

With annexation, 1,800,000 acres of Crown and government ('public') lands were 'ceded' to the United States, without the consent of, or compensation to, the Kanaka Maoli people. To placate Kanaka Maoli demands for the return of their lands and to protect the land interests of sugar plantation owners, the 1920 Hawaiian Homes Commission Act set aside 200,000 acres of the least arable lands as 'homelands' only for 'native Hawaiians' (lowercase 'n') who can prove 50% or more native blood quantum. This law, passed by the U.S. Congress for the 'rehabilitation of the Hawaiian race,' relegated the Kanaka Maoli to wardship status. It forced Kanaka Maoli to rely on the United States for their lands, their well-being, and even their 'rehabilitation' as if the Kanaka Maoli were incompetent to manage their own affairs. With Statehood in 1959, these lands were transferred to the State of Hawai'i 'in trust' to 'native Hawaiians', a trust obligation that has never been fulfilled. Today, more than 20,000 eligible Kanaka Maoli languish on a waiting list to receive a 99-year lease on a parcel of some of these least productive lands (Trask,

1993:261). The true purpose of this arbitrary, race-based native blood requirement was to insure that U.S. plantation owners could retain control over the best agricultural lands, while drastically limiting native people's access and claims to lands.

U.N. Decolonization thwarted

In adopting the United Nations Charter in 1945, the international community acknowledged the right of self-determination of peoples and prohibited violations of the territorial integrity and political independence of states. In doing so, the United Nations rejected the notion of conquest as a legitimate or acceptable method of acquiring control over other peoples and their lands (Wilmer, 1993:63). Articles 73 and 74 of the Charter delineated provisions through which Non-Self-Governing Territories or colonies could attain full self-government.

Since 1945, the United Nations has repeatedly condemned colonialism and has declared colonialism in all its forms and manifestations a crime in violation of international law (United Nations, 1970b). In furtherance of the right of peoples to be free from colonial oppression, the United Nations has established particular standards and principles that are essential for the free exercise of the right to self-determination by peoples forced into dependency by colonization.

In 1960, the United Nations General Assembly passed U.N. Resolution 1514 (XV), the Declaration on the Granting of Independence to Colonial Peoples and Territories. This resolution, considered an authoritative interpretation of U.N. Charter specifically with respect to the rights to self-determination and sovereignty, identifies colonialism as a fundamental denial of human rights. Pursuant to U.N. Resolution 1514 (XV), *'[a]ll peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.'* It also set forth specific requirements to be met in order for the dependent peoples of a colonial territory to be able to freely exercise this right.

Hawai'i's continuing status as a colonial territory of the United States caused

the United Nations to inscribe Hawai'i along with other countries and peoples in 1946 on the U.N. List of Non-Self-Governing Territories eligible for decolonization under international law. Hawai'i joined other U.S. colonies, including Alaska, American Samoa, Guam, Puerto Rico, the Virgin Islands and the Panama Canal Zone on this list. While publicly stating its support for the right to self-determination of peoples, the United States devised ways to bypass its obligations under the U.N. Charter and with U.N. resolutions to allow peoples under its domination to undergo a genuine decolonization process.

On March 18, 1959, the United States enacted a law to admit Hawai'i as a state of the United States. The United States through the 'Admission Act' predetermined statehood as the only acceptable political status for Hawai'i. In direct breach of U.N. standards, only one option - incorporation as a state within the United States - was the alternative to colonial status offered instead of several options, including independence, as required by U.N. General Assembly Resolution 742 (VIII) of 1953 (Ka Lahui, 1995:10-13). The Kanaka Maoli were not adequately prepared or informed about all the choices that should have been presented in conformity with international standards. In addition, the distinct racial and ethnic factors of the people whose right to self-determination had been violated were not considered, as required by the same international rules. Consequently, descendants of white foreigners who overthrew the independent and sovereign Hawaiian government and other non-Kanaka Maoli settlers, including U.S. military personnel residing on bases in Hawai'i for a period of one year, were eligible to vote and unfairly outnumbered Kanaka Maoli in this election on the future of the Kanaka Maoli homeland (McGregor, 1994:43-45; López, 1997b:3; Morín, 1997:13).

Successful in engineering a pro-statehood result, the United States used the 1959 plebiscite outcome to report to the United Nations that Hawai'i had 'attained a full measure of self-government.' Based on that claim, the United Nations removed Hawai'i from the U.N. List of Non-Self-Governing Territories. By doing so, the United States freed itself from itself from international scrutiny over its

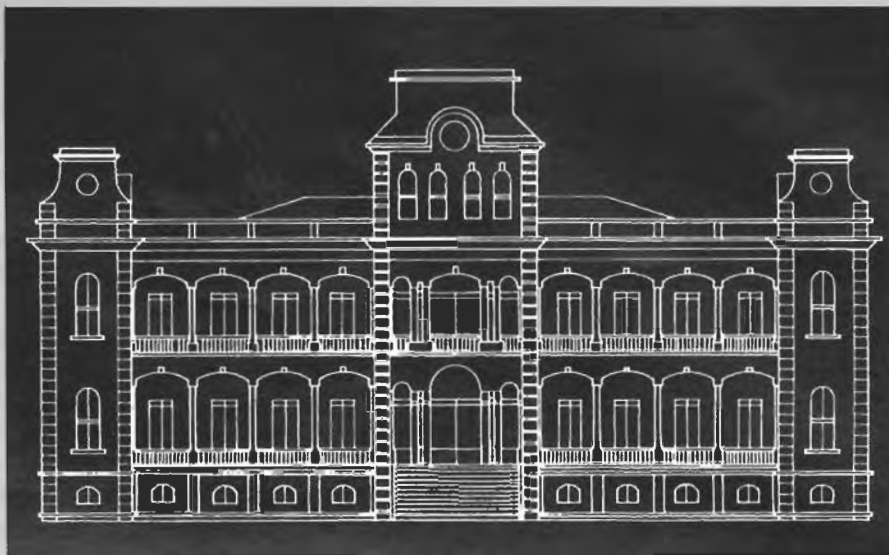
colonial control of Hawai'i and blocked the Kanaka Maoli from properly applying international standards for decolonization and self-determination to protect their rights.

The necessity for the United States to conduct the 1959 plebiscite in Hawai'i becomes apparent in view of the world's heightened attention at the time to the problem of colonialism. The increased global concern over colonialism culminated in the adoption of stronger measures to eradicate the colonialism, including the adoption of U.N. General Assembly Resolution 1514 (XV) of 1960. Had the U.S.-sponsored plebiscite not occurred in 1959 and Hawai'i not been removed from the list of countries to be decolonized, the Kanaka Maoli people might have availed themselves of the strong measures for decolonization prescribed in U.N. Resolution 1514 (XV) adopted one year later in furtherance of their right to self-determination.

Breach of Trust: State of Hawai'i's Treatment of Kanaka Maoli

With the creation of the State of Hawai'i in 1959, the United States government had created an institutional buffer between it and indigenous Hawaiians. The 1959 Admission Act not only incorporated Hawai'i into the United States, it allowed the federal government to transfer most of the remaining 1.2 million acres of illegally 'ceded' lands to the State of Hawai'i in trust for 'native Hawaiians,' as one of five purposes. The act insured that Kanaka Maoli would be relegated to a condition of wardship in which they would be forced to depend on the State of Hawai'i for the return and/or use of their lands.

Since statehood, the Kanaka Maoli have experienced the highest rates of poverty and the worst social and economic standards of any other racial group in Hawai'i. Despite increased activism in support of Kanaka Maoli sovereignty since the 1970s, Kanaka Maoli rights remain unenforced. In 1991, the Hawaii Advisory Committee to the U.S. Commission on Civil Rights released 'A Broken Trust', a report on the Hawaiian Homelands program and seventy years of failure of the federal and state governments to protect the civil rights of Kanaka Maoli. The federal government has still to implement the recommendations outlined in the report.



'Iolani Palace, Honolulu, Hawai'i



Photo: Ed Greevy

Kanaka Maoli today continue to face evictions and arrests by armed state and federal enforcement agents from their traditional and ancestral lands.

In response to increasing and persistent Kanaka Maoli demands for their lands and sovereignty, the State of Hawai'i has created its own agencies to defuse or otherwise undermine the issue of Kanaka Maoli sovereignty. In 1978, an amendment to the State of Hawai'i's Constitution formulated at the State's Constitutional Convention established the Office of Hawaiian Affairs (OHA), a State agency similar to the Bureau of Indian Affairs (BIA) that oversees issues relating to Native Americans in the continental United States. Because of its ties to the Democratic Party in Hawai'i and its dependence on the State of Hawai'i for its funds and its existence, pro-sovereignty Kanaka Maoli groups have characterized OHA as a 'collaborationist organization' that has stifled the establishment of a truly self-governing nation for the Kanaka Maoli (Trask, 1993:87-104).

Although OHA is a State agency and not a sovereign entity, it has tried for many years to become recognized as the 'Native Hawaiian government.' In 1989, OHA released its 'Blueprint' to become the Hawaiian nation. Again in 1992, OHA proposed a bill to federally recognize itself as the Native Hawaiian government. These attempts were criticized and defeated by the Kanaka Maoli who refused to have an arm of the State become their government (Trask, 1993:98).

In 1995, without notice to the Kanaka Maoli people, two Federal legislative bills, HR 671 and S 479, were introduced in the U.S. Congress to recognize Native Hawaiians as an 'Indian tribe'. Only OHA would have met the requirements as an 'Indian tribal government' As an 'Indian tribe', Kanaka Maoli would be considered a 'domestic dependent nation' under U.S. Federal Indian Law. Their sovereignty would be limited by the U.S. Congress' plenary or absolute power to expropriate their lands or to relocate, assimilate and even terminate their status as a native nation as the U.S. government has done historically with Native Americans (Churchill, 1993:33-83; Wilmer 1993:58-94). Conscious that U.S. policies toward Native Americans have been criticized as genocidal

(Jaimes, 1992), pro-sovereignty Kanaka Maoli organizations successfully opposed this attempt in the U.S. Congress to categorize Kanaka Maoli as an 'Indian tribe' and subject Kanaka Maoli to the same federal policies and treatment received by Indian tribes. The attempt was particularly offensive to Kanaka Maoli self-determination since Kanaka Maoli are not tribal, nor Indians nor Americans, but Polynesians.

In another bid to subvert Kanaka Maoli self-determination, the State of Hawai'i sponsored the 1996 'Native Hawaiian Vote', previously named a 'plebiscite'. The process was vigorously challenged by a coalition of Kanaka Maoli sovereignty organizations as a State-controlled process to form a puppet government. The coalition organized a successful boycott against the election. Sixty percent of registered voters did not participate, another 10% voted 'no', and only 27% vote 'yes' (Ka Lahui, 1996:3-6). Nevertheless, in 1997, state legislators, armed with only a 27% 'yes' vote, proposed House Bill 2065 to fund a 'convention for the purpose of proposing a native Hawaiian government'. While Kanaka Maoli sovereignty groups prevented the passage of this bill, other attempts to use the Native Hawaiian Vote results to form a government pursuant to the State's plan is anticipated.

The 1996 plebiscite/Native Hawaiian Vote, which cost the State of Hawai'i more than two million dollars to conduct, was not a legitimate or valid process for self-determination nor a step toward true Kanaka Maoli self-determination. As an election created and financed by the State of Hawai'i, a body not representative of the Kanaka Maoli people, the state determined the single question on the ballot ('Shall the Hawaiian people elect delegates to propose a Native Hawaiian government?') and all other significant aspects of the process. The state established its own agency to conduct the election, the Hawaiian Sovereignty Elections Council (HSEC), whose members were not democratically elected by the Kanaka Maoli people, but appointed by the state governor. This process reserved ultimate veto power to the State of Hawai'i under Act 200, Section 14 of the Hawai'i Revised Statutes by guaranteeing that

'[n]othing arising out of the Hawai-

ian convention provided for in this Act, or by any results of the ratification vote on proposals from the Hawaiian convention, shall be applied or interpreted to supersede, conflict, waive, alter, or affect the constitution, charters, statutes, laws, rules, regulations or ordinances of the State of Hawaii or its political subdivisions, including its respective departments, agencies, boards, and commissions.'

As with the 1959 plebiscite, the State of Hawai'i's Native Hawaiian Vote offered only one option in contravention of the well-established principle under U.N. General Assembly Resolution 742 (VIII) of 1953 that several options, including independence, be presented in a valid process for self-determination. In fact, the State of Hawai'i under the U.S. Constitution is prohibited from engaging in foreign affairs, an area reserved for the federal government. However, Kanaka Maoli were frequently misinformed by HSEC that this process could lead to the restoration of an independent nation.

The most recent scheme on the part of Hawai'i State legislators to undermine Kanaka Maoli self-determination comes in the form of a legislative bill (House Bill 2340) to be introduced in the 1998 legislative session that purports to grant autonomy. H.B. 2340, promoted as the Native Hawaiian Autonomy Act, creates a Native Hawaiian Trust Corporation that will be given all OHA assets, Hawaiian homelands, and certain historic and cultural sites as approved by the State and the island of Kaho'olawe, an uninhabitable island with residual live ordinance due to decades of U.S. military bombing. These resources are to be managed by the Trust for the benefit of all Kanaka Maoli. Currently, the bill is being opposed resoundingly as a State effort to derail Kanaka Maoli demands for sovereignty through a state-created trust that would not receive sufficient lands or other resources to sustain the Kanaka Maoli people.

The reason for the State of Hawai'i's relentless efforts to sidetrack the movement for native sovereignty becomes apparent in view of the State's interest in retaining control over Kanaka Maoli lands. As Marion Kelly, noted expert on land tenure at the University of Hawai'i, has concluded, approximately 95% of all lands controlled by the State of Hawai'i



Protesting attacks on Kanaka Maoli Rights and Autonomy Act Sovereign Sunday, January 18, 1998. Photo: Ed Greevy

are lands that were illegally 'ceded' to the United States with annexation in 1898 by the so-called Republic of Hawai'i which had no lawful title to the land (Kelly, 1996). As a result, the Kanaka Maoli people have retained legitimate claim over their lands, a claim that has been recognized as legitimate by the U.S. government in the Apology Law of 1993. Realizing that these Kanaka Maoli claims threaten its control over lands and its plans for commercial development in Hawai'i, the State of Hawai'i has devised various strategies to maintain Kanaka Maoli lands under the state's jurisdiction, to keep the Kanaka Maoli people from exerting their right to self-determination, and to prevent the Kanaka Maoli from reclaiming their lands.

Indigenous Peoples' Rights Versus the Rights of 'Peoples'

As the debate about the Draft Declaration on the Rights of Indigenous Peoples has intensified in the last sessions of the Open-ended Inter-sessional Working Group of the UN Human Rights Com-

mission in Geneva, the United States has maintained a strict posture in opposition to recognizing the term 'peoples' in 'Indigenous Peoples' in accordance with its meaning in international law. The debate over Article 3 of the UN Draft has become particularly contentious precisely because it mirrors the language of international law regarding the right of all peoples to self-determination as found in important human rights instruments, including the Declaration on the Granting of Independence to Colonial Peoples and Countries of 1960, the International Covenant on Civil and Political Rights of 1966 and the International Covenant on Economic, Social and Cultural Rights of 1966.

Indigenous Peoples at Geneva have pressed for a declaration of rights that provides greater protection than in the International Labor Organization (ILO) Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries, a document that does not recognize Indigenous Peoples as having the right of self-determination as 'peoples' under

international law. But the United States and other member states of the United Nations have remained staunch opponents of rights as 'peoples' in the Draft Declaration, as the term is understood in international law.

While the United States has stated publicly that it supports the principle of self-determination under international law, the United States rejects the use of the plural 'peoples' in the Draft Declaration on the Rights of Indigenous Peoples in the sense that Indigenous Peoples would have the same rights as 'peoples' under international law to self-determination and rights to an independent state, if they so choose. Instead, the United States has advocated at the U.N. Inter-sessional Working Group a narrower definition of the term 'self-determination' as the U.S. government has applied it in the domestic U.S. context of tribal self-government.

As a matter of domestic law, the U.S. government has maintained that the U.S. government's relationship with native peoples is one between a guardian and ward. As early as 1831, the U.S. Supreme Court

in *Cherokee Nation v. Georgia* declared that Indian tribes under the U.S. Constitution were 'domestic dependent nations' whose relationship with the United States 'resembles that of a ward to his guardian. They look to the U.S. government for protection; rely upon its kindness and its power; appeal to it for relief to their wants, and address the president as their great father.'

In 1995, the U.S. Attorney General's Office cited the Cherokee case and reiterated the government's policy that the U.S. Constitution vests the Congress of the United States with plenary powers over Indian tribes and that tribal sovereignty powers are subject to Congress' plenary powers. Native American analysts have condemned this U.S. government's policy for the loss of native lands in the North American and the severe social and economic deprivation suffered by native peoples in the United States (Jaimes, 1992; Churchill, 1993).

However, Kanaka Maoli were deemed 'peoples' with full rights to self-determination for the purpose of being placed on the U.N. List of Non-Self-Governing Territories in 1946 and the United States has admitted that Kanaka Maoli sovereignty as a people and over their lands was never relinquished. It would stand to reason then that Kanaka Maoli today would demand full rights as 'peoples'. A policy that diminishes or limits the choices available to a people and the manner in which a people's choice may be exercised is a restriction on a people's right to self-determination. It ceases to be a free choice of the people. A foreign entity is predetermining what a people can and cannot decide.

The limitations imposed upon native peoples in the United States by the U.S. government under its domestic law has been of concern to some Kanaka Maoli pro-sovereignty organizations because U.S. government policies have led to the development of a system of reservations and federally recognized tribal governments that predetermine where native peoples may live or be relocated to, what form of native government will be recognized by the federal government, when and where the U.S. military can use native lands, and what federal assistance could be made available to address the grave socioeconomic suffering of Native Ame-

ricans (Churchill, 1993; Wilmer, 1993, Jaimes, 1992). Under U.S. law and consistent with the U.S. Attorney General's policy statement, these critically important decisions ultimately rest with the U.S. Congress which has plenary authority over Indian affairs.

The insistence by the United States that the right of self-determination and sovereignty of Indigenous Peoples is subordinate to the U.S. government's sovereignty directly conflicts with the fact that the Kanaka Maoli people were at one time completely sovereign and independent. If subsumed under a U.S. definition of Indigenous Peoples that does not recognize the right to self-determination under international law, Kanaka Maoli may be limited to meaningless choices or choices not of their own.

The Obstruction of the Right of Self-determination among other Peoples of the World

The Kanaka Maoli people, of course, are not the only ones whose lands were seized and whose right to self-determination was denied through the acts of the U.S. government. The native peoples who lived as self-determining nations on the North American continent were the first to be forcibly removed from their lands. In the process of the United States achieving global superpower status, many other peoples, who did not consent to U.S. control, have fallen under U.S. influence and domination.

The legislation formulated in the U.S. Congress for the creation of a 'commonwealth' status for Puerto Rico in the 1950s deceptively appeared to promote a plebiscite for the exercise of the right of self-determination, but in reality was never intended to serve the goal of decolonization in accordance with international law (Maldonado-Denis, 1972:189-209). With respect to the U.S. bill to authorize the commonwealth's constitution, the U.S. Congressional record notes that it was 'made absolutely clear . . . [t]he bill under consideration would not change Puerto Rico's fundamental political, social, and economic relationship to the United States' (Fernandez, 1994:85). Thus, commonwealth would only be colonialism by another name. Pursuant to U.S. law, the government resulting from the constitutional convention had to meet the

U.S. Congress' preconditions and the results of the plebiscite could be approved or rejected by Congress. The U.S. Congress, not Puerto Ricans, had ultimate decision-making power.

Only one alternative to colonialism was offered to the Puerto Rican people on the ballot: commonwealth. Although less than fifty percent of Puerto Ricans voted in favor of commonwealth status in 1952, as the only status acceptable to the United States, commonwealth became the new political status for Puerto Rico. Therefore, the choice of 'commonwealth government' was not Puerto Rico's, but the U.S. Congress'. As such, this U.S.-contrived electoral process was not a valid plebiscite and exercise of self-determination in accordance with U.N. General Assembly Resolution 637 (VII) of 1952. Nevertheless, in 1953, the United States used the 1952 vote results to engineer the removal of Puerto Rico from the U.N. List of Non-Self-Governing Territories. The United States used a similar tactic when it manipulated a pro-statehood result in the 1959 plebiscite to enable the U.S. government to petition for the removal of Hawai'i from the U.N. List of Non-Self-Governing Territories. In both instances, the U.S. succeeded in ending international scrutiny over Puerto Rico's and Hawai'i's colonial status.

After more than forty years of commonwealth status, Puerto Rico retains all aspects of a classic colony (Maldonado-Denis, 1972:151-88). The United States maintains control over the significant areas of national sovereignty and self-government, including immigration, trade and tariff policies, citizenship, juridical appeals, communications, monetary and financial policies, labor and environmental matters, and U.S. military use of Puerto Rican lands (Lewis, 1974:14). While Puerto Rico remains officially off the U.N. List of Non-Self-Governing Territories, the question of Puerto Rico's colonial status was placed back on the U.N. Decolonization Committee's agenda and remains under consideration.

The United States successfully organized other elections for the purpose of advancing its political and economic interests even at the expense of other peoples' rights to self-determination. Among native peoples in the continental United States, the U.S. govern-

ment orchestrated the establishment of federally-recognized tribal governments to ensure continued U.S. government control over native peoples and native lands and resources. In 1923, over the objections of the Navajo people, the U.S. Department of Interior recognized 'The Navajo Grand Council' as the 'legitimate' representative of the Navajo nation and proceeded to negotiate a deal permitting Standard Oil Company to explore for oil on Navajo land. In an election to 'reorganize' the Hopi prompted by the Federal government's Indian Reorganization Act of 1934, 85% of eligible Hopi voters boycotted the election, but the Bureau of Indian Affairs nevertheless imposed its own government aligned with the U.S. government interests (Churchill, 1993:380-87).

In the Pacific, the United States prepared an elaborate plan in the 1960s to bring the Trust Territories of Micronesia into a permanent relationship with the United States to meet U.S. military demands in the region. The Solomon Report, named after the Harvard Business School professor Anthony M. Solomon who authored the report, has become known as the 'blueprint for neocolonialism', a plan to undermine self-determination and end U.N. Trusteeship through an intense campaign for the adoption of Compacts of Free Association that secure U.S. military and economic interests in the region. (Aldridge & Meyer 1990:22-33). In keeping with the Solomon plan, the United States manipulated the Northern Marianas, the Marshall Islands and the Federated States of Micronesia into approving compacts with the United States that were used to persuade the United Nations that Micronesians had achieved a measure of self-government. Belau (Palau), after 15 years of U.S. pressure and plebiscites, finally succumbed in 1994. The U.S. government achieved its goal of having Belau rescind the world's first nuclear-free constitution and enter into a Compact of Free Association that provided only a minimal form of 'independence', while insuring U.S. military and economic domination.

The indigenous Chamorro people of Guam have also been embroiled in a controversy with the United States over U.S. military bases on their lands and their right to self-determination. Along

with Hawai'i, Guam represents another island nation forcibly placed under U.S. control in 1898 and inscribed onto the U.N. List of Non-Self-Governing Territories in 1946. Although Guam retains its status on the U.N. List today, it is the U.S. Congress which is shaping the legislation that will determine the ultimate political status for Guam. The subject of legislative debate in the U.S. Congress has centered on the formulation of 'commonwealth' status for Guam, but the question remains whether the true will of the Chamorro people of Guam will be respected in the process or whether the legislation will exclusively serve U.S. interests.

Many other modern examples of U.S. interference with peoples' right to self-determination can be found. Among the examples are instances where the United States staged elections in the Dominican Republic, Vietnam and El Salvador to advance U.S. policies in those countries at the expense of human rights (Herman & Brodhead, 1984). These examples demonstrate the extent to which the United States remains a superpower willing and able to defy its own laws and international law in pursuit of its political, economic and military objectives. They also reveal the need for nations and oppressed peoples of the world to work together for the effective eradication of colonialism in all its manifestations.

Reestablishing Kanaka Maoli Self-determination

The effects of U.S. global expansionism and colonial rule on the Kanaka Maoli have been many: the overthrow of the independent Kanaka Maoli government, the alienation of Kanaka Maoli from their lands, and the near decimation of Kanaka Maoli people and their culture, language, traditions and identity. As with all other peoples of the world who have suffered under the yoke of colonialism, the Kanaka Maoli people face the arduous task of restoring their rights as a people in the midst of an entrenched and powerful colonial order. However, since the founding of the United Nations in 1945, over 100 countries and peoples of the world have undergone a process of decolonization, utilizing international principles for the protection and exercise of the right of self-determination.

The egregious and continuing viola-

tions committed against the Kanaka Maoli people form a just and legitimate basis for their pursuit of a decolonization process consistent with international principles for the free exercise of peoples' right to self-determination and sovereignty as found in many international law documents, including but not limited to U.N. General Assembly Resolutions 742 (VIII) of 1953; 1514 (XV) and 1541 (XV) of 1960; and 2625 (XXV) of 1970.

If properly implemented according to international guidelines, decolonization would offer protections for a free and fair process to exercise the right of self-determination for the Kanaka Maoli people. Consistent with U.N. General Assembly Resolution 1514 (XV), repressive measures of any kind would have to cease. In the case of the Kanaka Maoli, an immediate moratorium on the sale or transfer of illegally 'ceded' lands and an immediate halt to all evictions of Kanaka Maoli from their lands would be required to assure that state and federal authorities do not impose their will over the will of the Kanaka Maoli people. The territorial integrity of the Kanaka Maoli lands would have to be respected.

Self-determination through a decolonization process would permit the Kanaka Maoli to have a choice of all available options, including independence. It would be deemed unfair and invalid under international rules for one option or limited options chosen by state or federal authorities to be forced upon the Kanaka Maoli people. A transfer of powers to the Kanaka Maoli people would be required to enable Kanaka Maoli to organize and control the circumstances involving their decision-making process and to create a situation free of outside interference, coercion or influence. Sufficient time and educational resources so that Kanaka Maoli may become fully informed about all the political and economic alternatives could be available. As previously accomplished in other decolonization processes, financial resources and other forms of support, such as technical assistance, can be garnered from the international community, including fellow Pacific Islanders who have undergone decolonization, to assist the Kanaka Maoli in realizing their decolonization plan. Impartial supervision and monitoring of the decolonization pro-

cess can be requested and made available, as has been the practice in other cases.

In 1993, the United States conceded through the Apology Law, that Kanaka Maoli sovereignty as a people had never been relinquished through a valid exercise of the right of self-determination. Given that neither the 1893 coup, the 1898 annexation, nor the 1959 plebiscite adhered to the protection of Kanaka Maoli rights to self-determination, the Kanaka Maoli still retain rights as 'peoples' entitled to full rights to self-determination in the same manner that such a designation was acknowledged by the United Nations in 1946.

The Declaration on the Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations (U.N. General Assembly Resolution 2625 (XXV) of 1970) established that if a people of a colony or Non-Self-Governing Territory have not been allowed to exercise their right to self-determination, they retain a 'separate and distinct status' from the colonial government that has unlawfully dominated them up until such time they have been allowed to exercise their right to self-determination in accordance with the principles of international law. As a people not accorded the opportunity to exercise their right of self-determination, the Kanaka Maoli people can exert a legitimate claim for decolonization of their homeland. In recognition of Kanaka Maoli rights under international law, pro-sovereignty Kanaka Maoli groups, such as Ka Pakaukau, Ka Lahui Hawai'i and the Kanaka Maoli Tribunal Komike, have publicly endorsed the re-inscription of Hawai'i onto the U.N. List of Non-Self-Governing Territories as a legitimate means of securing the right of self-determination.

The exercise of the right of self-determination as part of a process of decolonization under international law standards would represent a clear break with wardship and state and federal efforts to control Kanaka Maoli sovereignty. Ultimately, it will be up to the Kanaka Maoli people, as a people oppressed by colonialism, to exert their rights and to call upon all peoples and nations of the world to recognize the Kanaka Maoli people's inalienable right to self-determination through a process

of decolonization in accordance with international law and the purpose and principles of the U.N. Charter.

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U.S. Colonialism in Hawai'i at a Glance

by José Luis Morin

- 1790** - U.S. sea captain and sandalwood trader Simon Metcalf orders the massacre of over 100 innocent and unsuspecting Maui natives in pursuit of his exploitative trading enterprise.
- 1820** - U.S. missionaries from Boston arrive, label the Kanaka Maoli 'savages', and embark on a campaign of mass Christian conversion and assimilation.
- 1826** - U.S. gunboat diplomacy forces King Kamehameha III to assume the sandalwood trade debts to U.S. sea merchants as part of the Sandalwood Treaty. The treaty also requires that the native government protect U.S. ships in wartime, grant U.S. citizens the right to sue, and grant most-favored-nation status to the United States.
- 1843** - U.S. President Tyler declares Hawai'i within the U.S. sphere of influence. The Tyler Doctrine becomes the Pacific counterpart to the Monroe Doctrine.
- 1845** - U.S. missionaries, Rev. Gerrit P. Judd and Rev. William Richards, develop plans to privatize lands. A Board of Commissioners to Quiet Land Titles is established for this purpose.
- 1848** - U.S. missionaries execute the privatization of lands through a land division called the Mahele, overturning the native system of communal land tenure.
- 1850** - The Kuleana Act, written by U.S. missionaries, imposes a Western legal mechanism for land privatization. White foreigners are allowed to buy purchase lands prior to the Kuleana Act coming into effect. Approximately 70 percent of the adult native male population, along with their spouses and children, are rendered landless.
- 1887** - Missionary descendant Lorrin Thurston writes the 'Bayonet Constitution', which is forced upon King Kalakaua. It gives white foreigners control over the legislature and cabinet and denies most Kanaka Maoli the right to vote by imposing land and wealth requirements.
- 1893** - White U.S. businessmen and annexationists, with the assistance of U.S. Minister to Hawai'i John L. Stevens and U.S. marines of the U.S.S. Boston, overthrow the independent and sovereign Hawaiian government. Sanford B. Dole is named the president of the illegally constituted "provisional government."
- 1894** - The provisional government declares itself the 'Republic of Hawai'i' and takes control over Kanaka Maoli lands.
- 1895** - Queen Lili'uokalani is arrested and imprisoned, following an uprising against the illegal Dole government.
- 1896** - The use of Hawaiian language in schools, previously suppressed, is officially made illegal.
- 1898** - The United States annexes Hawai'i without consent of the Kanaka Maoli people. The Dole 'Republic of Hawai'i' 'cedes' illegally-seized Kanaka Maoli lands to the United States government.
- 1900** - The U.S. Congress passes the Organic Act, establishing a territorial government for Hawai'i. Under the Act, the Territorial governor and judges are appointed by the U.S. President. A Hawai'i delegate to the U.S. Congress is not granted the power to vote. Under territorial status the ruling white oligarchy tightens its control over all political, economic, social and cultural aspects of the society.
- 1921** - Hawaiian Homes Commission Act is passed by the U.S. Congress for the 'rehabilitation of the Hawaiian race'. About 200,000 acres of 'Homelands' are provided, but only for 'native Hawaiians' (lower case 'n') who can prove they have 50% or more blood quantum, as wards of the State. To date, over 20,000 have languished on a waiting list to receive a 99-year lease on a parcel of some of the least productive lands of Hawai'i.
- 1946** - Hawai'i is placed on the U.N. List of Non-Self-Governing Territories, as a U.S. colonial possession, eligible for decolonization under international law.
- 1959** - The U.S. enacts a law for a 'plebiscite' which fails to meet international standards and is fraudulently conducted. Statehood, the only alternative to colonialism posed on the ballot, wins. The United States reports to the U.N. that Hawai'i has attained full self-government and manipulates the removal of Hawai'i from the List of Non-Self-Governing Territories.
- 1959** - The Statehood Admission Act allows the Federal government to transfer the illegally 'ceded' lands to the State of Hawai'i in trust for 'native Hawaiians', as one of five purposes, relegating the native Hawaiians once again to wardship status.
- 1978** - An amendment to the State of Hawai'i's Constitution formulated at the State's Constitutional Convention establishes the Office of Hawaiian Affairs, a State agency similar to the Bureau of Indian Affairs.
- 1991** - The Hawaiian Advisory Committee to the U.S. Commission on Civil Rights releases **A Broken Trust**, a report on the Hawaiian Homelands program and the seventy years of failure of the Federal and State governments to protect the civil rights of native Hawaiians. After seventy years, only 17.5 percent of the land has been leased to Kanaka Maoli.
- 1993** - President Clinton signs Public Law 103-150 apologizing for the U.S. overthrow of the Hawaiian Kingdom in 1893 and admitting that the inherent sovereignty of the Kanaka Maoli people has never been relinquished by the monarchy or through a plebiscite or referendum. A disclaimer is included to prevent claims against the United States.
- 1993** - The government of the State of Hawai'i passes legislation for a 'plebiscite' for 'Native Hawaiians' to be conducted by a State agency, the Hawaiian Sovereignty Elections Council (HSEC) appointed by the governor. The process is criticized by Kanaka Maoli sovereignty groups as a State controlled process to form a puppet government in violation of Kanaka Maoli self-determination.
- 1996** - State of Hawai'i's HSEC conducts the 'Native Hawaiian Vote', previously named a 'plebiscite'. 60% of registered voters do not participate. Another 10% vote 'no'. Only 27% vote 'yes'. Kanaka Maoli sovereignty groups claim victory in their boycott of the State-sponsored 'Vote'.
- 1997** - State legislators, armed with only a 27% 'yes' vote, still propose a bill (H.B. 2065, H.D. 2) to fund a 'convention for the purpose of proposing a native Hawaiian government'. The lower case 'n' in 'native' ostensibly indicates that this proposed legislation seeks to promote a government only for those of 50% or more blood quantum. Kanaka Maoli sovereignty groups protest this effort as a violation of self-determination. Supporters of the bill resolve to re-introduce this legislation next year.
- 1998** - Kanaka Maoli protest against the proposed 'Native Hawaiian Autonomy Act' (H.B. 2340) as a violation by the State government of Kanaka Maoli rights to self-determination.



The Indigenous Rights Movement in the Pacific

by Kekuni Blaisdell, Ka Pae'aina Hawai'i

In September 1997, delegates from 18 Pacific Island peoples and nations established an Indigenous Rights Working Group (IRWG) under the regional NGO umbrella organization Pacific Islands Association of Non-Government Organizations (PIANGO) at a Forum in Rarotonga, Cook Islands. In this article, the IRWG convenor introduces IRWG, summarizes the Pacific indigenous rights movement, reports on recent regional meetings and looks to the future.

Indigenous rights as perceived by ourselves are especially critical to our Pa-

cific Island peoples and nations as we approach the 21st century, called by some The Pacific Century. Political, nuclear, military, economic and environmental violations of our Pacific peoples' indigenous rights by superpowers as well as by our own governments and transnational corporations are mounting. Controversy continues over the United Nations (UN) Draft Declaration on the Rights of Indigenous Peoples (DDRIP). The United States (US) and other dominant powers threaten to shut down the UN Decolonization Committee. Agonizing struggles of our Pacific Island colonized

peoples for freedom, our cultural identities and sacred environments remain unresolved.

Against this background, the Pacific Islands Association of Non-Government Organizations (PIANGO) was founded in 1990 in Pago Pago, Samoa, to facilitate communication, provide a common voice at regional and international forums and to develop Pacific identities, unity, cultures and social action to improve the well-being of our island communities. In 1995, at the 2nd PIANGO Council meeting of delegates from 24 Pacific nations in Moorea, Te Ao Maohi (French Polynesia), four working groups were created to facilitate regional action on issues of highest priority: indigenous rights, social and economic development, environmental protection and NGO capacity building.

On September 19-23, 1997, PIANGO joined the older and prominent NGO, Pacific Concerns Resource Center (PCRC)/ Nuclear Free and Independent Pacific (NFIP) in the 3rd NGO Parallel Forum as South Pacific Forum (SPF) government leaders were adjourning their annual meeting in Rarotonga, Cook Islands. At this gathering, the PIANGO Indigenous Rights Working Group (IRWG) was constituted. Current IRWG members are: Ka Pae'aina, Aotearoa (New Zealand), Australia, Rapanui and Te Ao Maohi (French Polynesia).

IRWG coordinates collective efforts by PIANGO members and works with other Pacific NGOs, such as PCRC/NFIP, to:

- * Inform, educate and enhance awareness of indigenous peoples' rights, especially Pacific Indigenous Peoples' rights; violations of these rights; and the relationship of our Pacific Indigenous Peoples' rights issues to the global struggle of indigenous peoples against oppression and exploitation.

- * Establish indigenous rights standards unique to our Pacific region based on our peoples' spiritual, genealogical and cultural laws, as distinguished from the UN Draft Declaration of the Rights of Indigenous Peoples created by the UN nation states and based on Western law.

- * Foster and help develop mechanisms for monitoring, reporting and redressing violations of indigenous rights at local, regional and international levels. These mechanisms include supporting struggles and/or campaigns of Pacific Island Indig-

enous peoples and nations for self-determination, peaceful decolonization and independence.

IRWG's current priority activities include:

- * Support for Kanak, Maohi, Maori, Kanaka Maoli, East Timorese, West Papuan, Bougainvillean and Australian Aboriginal self-determination and resistance to colonialism.

- * Drafting a Pacific Region Charter of Indigenous Rights with unifying principles and standards unique to our Pacific region, identities and ways based on our spiritual and cultural traditions.

Origins and Highlights of the Modern Pacific Indigenous Rights Movement

The modern era in the Pacific indigenous rights movement may be considered to have begun after World War II in 1946 with two major events.

The first was the recognition of the right to self-determination for colonized peoples in the newly drafted UN Charter

under Chapter XI, Article 73. A List of 72 Non-Self-Governing Territories eligible for decolonization and a process for decolonization were created.

The second major event in 1946 was the onset of a 50-year era of Pacific nuclear testing led by the US in the Marshall Islands, followed by the United Kingdom (UK) in 1952 and France in 1966, heightening Cold War tension. Because of crescendoing protests, the US in 1962 concluded its Pacific nuclear testing with missile megaton explosions over Kiritimati (Christmas Island) and Kalama (Johnston Atoll). The cost was immeasurable human suffering and radiation injury extending to succeeding generations, the disappearance of three Pacific atolls and other extensive environmental degradation and the lasting bitterness of Pacific islanders. However, in 1959, the US military established a Pacific Missile Range Facility (PMRF) in the Marshall Islands as the impact site for nuclear intercontinental ballistic missiles (ICBM). Moreover, in 1966, France

began Pacific nuclear tests at Moruroa and Fangataufa atolls south of Tahiti which did not end until another clamor of world-wide protests 30 years later in 1996.

Thus, the Pacific indigenous rights movement was a response to the West's persistent colonial domination in violation of the UN Charter's call for decolonization at that time and the West's Cold War pretext for use of the Pacific islands for devastating nuclear testing sites.

However, the Pacific indigenous movement in the earlier years was feeble, sporadic, not regionally organized and received scant public media attention. Even the terms 'indigenous' and 'indigenous rights' were yet to gain common usage.

Persistent nuclear detonations by the US and France in 1975 spurred the first Nuclear-Free Pacific Conference held in Suva, Fiji, sponsored by a Pacific-wide network of anti-nuclear groups. A Pacific Peoples Action Front (PPAF) was organized. This alliance of indigenous

Dr. Kekuni Blaisdell and Buck Kekahi at 1998 protest in Hawai'i. Photo: Ed Greevy



activists and Western liberals was a major factor in shaping awareness and compelling Pacific governments to take stronger anti-nuclear and anti-colonial stands.

Ensuing nuclear free conferences in Pohnpei in 1978, in 1980 at Kailua, O'ahu, Ka Pae'aina Hawai'i, and in 1983 at Port Vila, Vanuatu, produced a People's Treaty which subsequently became a People's Charter for a Nuclear Free and Independent Pacific (NFIP). The Charter declared:

'We, the people of the Pacific have been victimised too long by foreign powers. The Western imperialistic and colonial powers invaded our defenseless region, they took over our lands and subjugated our people to their whims. This form of alien colonial, political and military domination unfortunately persists as an evil cancer in some of our native territories such as Tahiti-Polynesia, New Caledonia, Australia and New Zealand. Our environment continues to be despoiled by foreign powers developing nuclear weapons for a strategy of warfare that has no winners, no liberators and imperils the survival of all humankind. We ... will assert ourselves and wrest control over the destiny of our nations and our environment from foreign powers, including transnational corporations. We note in particular the recent racist roots of the world's nuclear powers and we call for an immediate end to the oppression, exploitation and subordination of the Indigenous People of the Pacific.'

NFIP concluded that a nuclear-free Pacific could be attained only by independence from colonial imperialism.

The 1983 NFIP Conference in Vanuatu declared a united front against Japan nuclear waste dumping, French nuclear testing and US Pacific Rim military exercises. NFIP announced support for Kanaky (New Caledonia) and Tahiti Nui (French Polynesia) independence from France, and issued the Port Vila Declaration for an Oppression-Free Pacific.

In the same year in Geneva, the UN Cobo Report concluded that discrimination against Indigenous Peoples was due to their lack of self-determination; that imposed assimilation was a form of discrimination; and that the right of Indig-

enous Peoples to cultural distinctiveness, political self-determination and secure land resources should be formally declared by the UN. The result was the creation of the UN Working Group on Indigenous Populations (UNWGIP) in 1982 and the UNWGIP's work on a Draft Declaration on the Rights of Indigenous Peoples (DDRIP) completed after 12 years in 1994.

Other notable Pacific indigenous rights advances were the decolonization of 16 Pacific island nations over the next 36 years from 1950 to 1986: Indonesia (1950), Western Samoa (1962), Cook Islands (1965), Nauru (1968), Fiji (1970), Tonga (1970), Niue (1974), Papua New Guinea (1975), Solomon Islands (1978), Tuvalu (1978), Kiribati (1979), Marshall Islands (1979), Federated States of Micronesia (1979), New Hebrides (1980), Belau (1981), and the Commonwealth of the Northern Marianas Islands (1986); the 1985 South Pacific Nuclear Free Zone Treaty signed by nine South Pacific Forum national leaders in Rarotonga, and later by USSR and China, but not the US, UK and France; the 1988 Matignon Accords by France in Kanaky (New Caledonia) for political amnesty and limited self-rule until a referendum on self-determination in 1998; the 1992 Australian High Court recognition of the traditional land rights of Aborigenes in the Mabo Case; the 1993 US apology to the Kanaka Maoli people for the 1893 US armed invasion of Ka Pae'aina Hawai'i and overthrow of the Hawaiian Kingdom; the 1993 Ka Ho'okolokolonui Kanaka Maoli (Peoples' International Tribunal Hawai'i); the 1993 First International Conference on the Cultural and Intellectual Property Rights of Indigenous Peoples in Aotearoa (New Zealand) producing the Mataatua Declaration which led to the 1995 Treaty for a Lifeforms Patent-Free Pacific; the 1996 Nobel Peace Award to Jose Ramos Horta and Carlos Filipe Ximenes Belo for their non-violence movement to end the 21-year war of East Timorese independence against the invading Indonesian military; and, finally, the 1998 permanent cease-fire agreement on Bougainville after 8 years of war with withdrawal of the Papua New Guinea military and a free election

for a Bougainville Reconciliation Government.

Recent Regional Indigenous Meetings September 2-6, 1996, a Pacific Workshop on the Draft Declaration on the Rights of Indigenous Peoples (DDRIP) was hosted by the Fiji government in Suva. While the purpose of the Workshop was 'to explore the meaning of the DDRIP for the indigenous peoples of the Pacific and to formulate a Pacific position,' no unified position nor Pacific perspective emerged.

The Workshop's Indigenous Caucus requested that the Fiji government elicit support from the South Pacific Forum to urge UN member nation states to adopt the DDRIP without amendments. However, the Workshop also adopted a resolution for decolonization as a right of indigenous peoples as for all peoples. In addition, Workshop participants were divided in their public support of Te Ao Maohi's (French Polynesia's) appeal for independence from France.

Initially, the September 1997 PCRC-PIANGO/NFIP Forum in Rarotonga was to occur at the same time as the September 17-19 South Pacific Forum (SPF) annual meeting of government heads of the 16 Pacific Island nations and 10 dialog partners. It was hoped that PIANGO- PCRC/NFIP participants would have informal as well as formal access to SPF leaders and other high-ranking SPF government officials.

However, apparently because some SPF leaders and dialogue partners did not want to be confronted with protests, such as from French-colonized Kanaks, Maohi or Australian Aborigines, the Cook Islands SPF host ruled that the PIANGO-PCRC/NFIP Forum follow the September 17-19 SPF meeting. Nevertheless, on September 18, Tahitian leader Oscar Te-maru publicly appealed for SPF support for Te Ao Maohi independence outside the SPF meeting place.

The 28th South Pacific Forum of Pacific heads of governments was attended by top officials of the 16 member governments: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. The 10 Dialog Part-



Rarotonga 1997: Indigenous peoples from Cook Islands, Te Ao Maohi, Belau, Ka Pae'Aina and Aotearoa. Photo: Kekuni Blaisdell

ners, also present, represented Canada, China, European Union, France, Japan, Malaysia, South Korea, Taiwan, UK and US.

The September 22, 1997, PIANGO/PCRC Forum Communiqué criticized the SPF for not addressing the right to self-determination and independence for colonized peoples. Citing specifically the peoples of East Timor, West Papua, Te Ao Maohi (French Polynesia), Bougainville, Kanaka Maoli of Ka Pae'aina (Hawai'i), Kanaks of Kanaky (New Caledonia), Aotearoa, Aboriginal Australia, Wallis and Futuna, Rapanui, South Moluccas as being colonized by foreign powers, the Communiqué reaffirmed support for the right to self-determination, more action by the governments of the South Pacific Forum and the Forum Secretariat for the complete decolonization of the Pacific, and for extension of the UN Decolonization Committee beyond the year 2000.

The 3rd NGO Parallel Forum also endorsed the September 23, 1996, resolution from the Indigenous Peoples' Workshop in Suva, Fiji, on Decolonization for Indigenous Peoples of the Pacific. The NGO Forum opposed the Australian government's plans for theft of Aboriginal lands under the Wik 10-

point plan for extinguishment of native title.

The NGOs agreed to press for an end to the transshipment, storage and dumping of nuclear wastes in the Pacific, the clean-up and ongoing monitoring of contaminated sites and support for test site workers affected by nuclear testing especially in Te Ao Maohi, Christmas Island and the Marshall Islands. The NGO Forum supported initiatives for a Nuclear Weapons Convention by SPF governments for introduction to the UN. It opposed extension of permits for Johnston Atoll Chemical Agent Disposal System (JACADS) stating 'Our air and waters are sacred. We are not the dump site for the world.'

The NGO Forum supported economic growth and privatization only as they build community and equity and address all aspects of life - land, culture, values, environment and social well-being.

The future: 1998 and beyond

1998 marks the centennial of the US colonial expansion in the Pacific and Caribbean. In 1998 after provocation of war with Spain, the US seized the Philippines, Guam, Wake, and American Samoa and forced annexation of Ka Pae'aina

Hawai'i. In the Caribbean, the US invaded Puerto Rico and Cuba and in the Treaty of Paris took these island nations and the Philippines as colonies for the new US Empire.

The world needs to be reminded of these past wrongs a century ago and their relationship to World War II and its aftermath, the Cold War, nuclearism and continuing militarism in the Pacific. The New World Order of economic globalization is not only based in the dominant nations of Western Europe and North America, but also in a growing number of Asian countries. This neo-colonialism is directed at the 300 million surviving indigenous peoples with plundering of our natural resources to sustain the hegemony of corporate transnationalism. In the Pacific, pitted against this mammoth of insatiable capitalistic greed and materialism are we, the indigenous islanders, who are determined to survive by returning to our own traditions of spirituality, cultural identities and unity with our sacred environments.

Kekuni Blaisdell, M.D. is Convenor for the Tribunal Komike, Hawai'i, and also for the Indigenous Rights Working Group of the PIANGO. □

The Chittagong Hill Tracts' Peace Agreement

by The Chittagong Hill Tracts Commission

The peace agreement between the Government of Bangladesh and the Jana Samhati Samiti (JSS) - People's United Party - in the Chittagong Hill Tracts (CHT) is a great step forward. There are, however, a number of questions and issues which the agreement leaves unresolved. If not addressed these could lead to a breakdown of the peace, with numerous human and economic consequences.

The Chittagong Hill Tracts Commission wishes to bring the attention of the international community to four main areas of concern during this immediate post-agreement period: settlement of plains' people in the CHT, the Land Commission, election monitoring and human rights. These concerns have not been unambiguously dealt with in the agreement document or otherwise. What follows is a brief summary of our short-term concerns.

The Commission urges foreign missions and aid donors to Bangladesh to raise the following questions with the Government of Bangladesh and to encourage the Government to address these crucial issues so that a lasting peace can safeguard indigenous social and cultural values, and bring economic prosperity.

Settlement

The most contentious issue in the CHT is the government sponsored settlement of hundreds of thousands of Bengalis from the plains in the region since 1978. They have frequently been settled on Jumma owned land (owned either individually or communally). This Bengali settlement in the CHT has dramatically altered the demography of the area over a twenty year period, so that from being a small minority Bengalis are now in the majority in some areas, and equal in number with the Jumma in others. The Commission's concerns focus on the following:

- *The agreement makes no mention of the voluntary resettlement of Bengalis outside the CHT, although the European Parliament has made clear its willingness to give financial assistance for such a programme of resettlement.*

- *What is the Government's position on the voluntary resettlement of Bengalis outside the CHT?*

- *There is no mention in the agreement of whether further settlement of Bengalis from outside the CHT is now blocked. As most of the Bengali settle-*

ment in the CHT since 1978 has been officially sponsored and/or organised, this is an important issue.

- *Does the Government take the stand that the agreement legitimises the position of Bengalis who settled in the CHT since 1978?*

Land Commission

The Land Commission to be set up under the terms of the peace agreement is intended to sort out land ownership disputes - particularly those between new settlers and Jumma. It will check land titles (where they exist) and make legally binding decisions about the ownership of disputed land. Where Bengali settlers are found to have settled on Jumma land the Bengalis will be resettled on khas land. The issue of land is central to any lasting peace in the CHT. Within the next few months tens of thousands of Jumma refugees will return from Tripura to the CHT. Although fear and intimidation was the direct cause of their flight, their land was subsequently seized by new Bengali settlers. It is therefore vital that the Commission is seen to be neutral, and that it completes its work quickly and efficiently.

- *How is the Land Commission advised to make decisions in cases (probably the majority) where the Jumma either have no papers proving ownership (given the Jumma's traditional, individual or communal land use arrangements), or where such papers have been destroyed?*

- *How is the Government planning to ensure the neutrality and independence of the members of the Land Commission?*

- *Given the way in which legal cases, in particular those dealing with land, tend to drag on for years in Bangladesh how does the Government intend to ensure that the Land Commission completes its enormous task within the allotted three years?*

- *What measures is the Government taking to ensure that the Land Commission is not open to bribery and corruption?*

Election Monitoring

Hill District Council elections are to be held in the CHT. The fairness of these elections is vital to peace in the region.

- *What plans does the Government have to invite local and foreign election mon-*

itors to observe the process?

- *Will foreign and local journalists be given free access to the whole region before, during and after the elections? And at what level will that decision be taken (regional or national)?*

Human Rights

Over the past twenty years there have been numerous massacres and other human rights violations in the CHT. On occasion these have been so extreme that the Government has instituted some official inquiries. However, none of these inquiries have been published, and no individual, soldier or army officer has been publicly charged or punished.

- *Will the Government make a commitment to bringing those responsible for these crimes to book? In particular the perpetrators of the 1992 Logang massacre in which Jumma civilians were murdered.*

- *What plans does the Government have to make public the reports of official inquiries into massacres, human rights violations, disappearances and torture? In particular the official report on the 1993 Naniarchar massacre, and that concerning the disappearance of Kalpana Chakma in June 1996.*

- *Will the Government commit itself to investigating massacres which have not been investigated before, and to giving assistance to those who have been affected by human rights abuses?*

These concerns are not substantially different to those expressed in the 1991 report, 'Life Is Not Ours', Land and Human Rights in the Chittagong Hill Tracts, Bangladesh; of the Chittagong Hill Tracts Commission; further details can be found in that report and in its subsequent up-dates, or by contacting the Chittagong Hill Tracts Commission directly.

*The Chittagong Hill Tracts Commission
February 1998*

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Text of the Chittagong Hill Tracts Peace Agreement

Following is the English rendering of the peace agreement signed between the National Committee on Chittagong Hill Tracts affairs, formed by the government of Bangladesh, and Parbatya Chattagram Jana Sanghati Samity.

Keeping full and unswerved allegiance in Bangladesh's state sovereignty and territorial integrity in Bangladesh's Chittagong Hill tracts region under the jurisdiction of the Constitution of the People's Republic of Bangladesh, the National Committee on Chittagong Hill Tracts, on behalf of the government of the People's Republic of Bangladesh, and Parbatya Chattagram Jana Sanghati Samity, on behalf of the inhabitants of Chittagong Hill Tracts, reached the following agreement in four parts (namely: Ka, Kha, Ga, Gha) to uphold the political, social, cultural, educational and economic rights of all the citizens of Bangladesh and their development.

(Ka) General:

1. Both the sides recognised the need for protecting the characteristics and attaining overall development of the region considering Chittagong Hill Tracts as a tribal inhabited region.

2. Both the parties have decided to formulate, change, amend and incorporate concerned acts, regulations and practises as soon as possible in keeping with the consensus and responsibility expressed in different sections of the agreement.

3. An implementation committee will be formed to monitor the implementation process of the agreement with the following members:

Ka) A member nominated by the Prime Minister: Convener

Kha) Chairman of the task-force formed under the purview of the agreement: Member

Ga) President of Parbatya Chattagram Jana Sanghati Samity: Member.

4. The agreement will come into effect from the date of its signing and execution by both the sides. The agreement will be valid from the date of its effect until all the steps are executed as per the agreement.

(Kha) Chittagong Hill Tracts Local Government Council/Hill District Council:

Both the sides have reached agreement with regard to changing, amending, incorporating and writing off the existing Parbatya Zila Sthanio Sarkar Parishad Ain 1989 (Rangamati Parbatya Zila Sthanio Sarkar Parishad Ain 1989, Bandarban Parbatya Zila Sthyanio Sarkar Parishad Ain 1989, Khagrachhari Parbatya Zila Sthanio Sarkar Parishad 1989) and its different clauses before this agreement comes into force.

1. The word 'tribal' used in different clauses of the Parishad Ain will stay.

2. The name 'Parbatya Zila Sthanio Sarkar Parishad' will be amended and the name of the parishad will be 'Parbatya Zila Parishad'.

3. 'Non-tribal permanent residents' will mean those who are not a tribal but have legal lands and generally live in hill districts at specific addresses.

4. Ka) There will be 3 (three) seats for women in each of the Parbatya Zila Parishad. One third (1/3) of these seats will be for non-tribals.

Kha) 1,2,3 and 4 sub-clauses of clause 4 will remain in force as per the original act.

Ga) The words 'deputy commissioner' and 'deputy commissioner's' in the second line of sub-clause (5) of clause 4 will be replaced by 'circle chief' and 'circle chiefs'.

Gha) The following sub-clause will be incorporated in the clause 4: 'The concerned circle office will ascertain whether a person is non-tribal or not on the basis of submission of certificate given by concerned mouza headman/union parishad chairman/purashabba chairman and non-tribal person can become the non-tribal candidate without the certificate received from the circle officer regarding this'.

5. In the clause 7 it has been stated that the chairman or any other elected member will have to take oath or give declaration before Chittagong Divisional Commissioner before taking over office. Amending this in place of Chittagong Divisional Commissioner before taking over office,

Amending this in place of 'Chittagong Divisional Commissioner'. The members will take oath or give declaration before 'any High Court Division Judge'.

6. The words 'to Chittagong Divisional Commissioner' will be replaced by 'as per election rules' in the fourth line of clause 8.

7. The words 'three years' will be replaced by 'five years' in the second line of clause 10.

8. In clause number 14 there will be provision that tribal member elected by other members of the Parishad will chair and discharge other responsibilities if the post of chairman falls vacant or in his absence.

9. The existing clause number 17 will be replaced by the following sentences: a person will be considered eligible to be inlisted in the voters list if he/she (1) is a Bangladeshi citizen (2) he/she is not below 18 years (3) appropriate court has not declared him mentally sick (4) he/she is a permanent resident of hill district.

10. In sub-clause 2 of clause number 20 the words 'delimitations of constituencies' will be incorporated independently.

11. In sub-clause 2 of clause 25 there will be a provision that the chairman of all the meetings of the Parishad or tribal member elected by other members of the Parishad will chair meetings and discharge other responsibilities if the post of chairman falls vacant or in his absence.

12. As the entire region of Khagrachhari district is not included in the Mong circle, the words 'Khagrachhari Mong Chief' in clause number 26 of Khagrachhari Parbatya Zila Sthanio Sarkar Parishad Ain will be replaced by the words 'Mong circle chief and Chakma circle chief.' Similarly, there will be scope for the presence of Bomang chief in the meetings of Rangamati Parbatya Zila Parishad. In the same way, there will be provision that the Bomang circle chief can attend the meetings of Bandarban Parbatya Zila Parishad meetings if he wishes or invited to join.

13. In sub-clause (1) and sub-clause (2) of clause 31 there will be a provision that a chief executive officer of the status of a

deputy secretary will be there as secretary in a Parishad and the tribal officials will get priority in this post.

14. Ka) In sub-clause (1) of clause 32 there will be a provision that the Parishad will be able to create new posts for different classes of officers and employees for properly conducting the activities of the Parishad.

Kha) The sub-clause (2) of clause 32 will be amended as follows: The Parishad can, according to rules, recruit class three and four employees and can transfer, suspend, terminate or given any other punishment. But condition would be that in case of such appointments the tribal residents of the district will be given priority.

Ga) As per sub-clause (3) of clause 32, the government, in consultation with the Parishad, may appoint officers for the other posts and there will be legal provision to removed, suspend or terminate or penalise officers as per the government rules.

15. 'As per rules' will be mentioned in sub-clause (3) of Rule 33.

16. In the third line of sub-clause (1) of Rule 36, the words 'or in any way devised by the government' will be deleted.

17. Ka) The principal clause of the 'fourth' of sub-clause (One) of Clause 37 will be valid.

Kha) 'As per rules' will be included in Sub-clause (2), Gha, or Rule 37.

18. Sub-clause (3) of clause 38, will be cancelled and subclause (4) will be amended in conformity with the following text, 'a new budget can be prepared and approved, if needed, at the same time, before the completion of the previous financial year.'

19. Rules 42 will incorporate the following sub-clause: 'The parishad, with the allocated money from the government, will receive, initiate or implement any development project in the transferred subjects and all national level development programmes will be implemented through the parishad by the concerned ministries/divisions/organisations.'

20. The word 'Parishad' will replace the word 'government' in the second line of sub-clause (2) of Rule 45.

21. Rules 50, 51, and 52 will be repealed and following clauses will be introduced:

'If needed, the government, if the government receives any hard evidence that any activity or proposed activity of the Parishad is violating the aforesaid rules or is inconsistent with it, will have the authority to ask for written information along with explanation. The government will also have the authority to give advice or directives in this regard.'

22. 'Within 90 days of abolition of the Parishad' shall be read in place of 'after the expiry of defunct period' before the words 'the act' under clause 53 sub-clause (3).

23. The word 'government' will be replaced by the word 'ministry' in the third and fourth lines in clause 61.

24. (a) sub-clause (1) in clause 62 will be replaced by the following:

Whatever be the provisions in the currently prevailing laws, hill districts police subinspector and below shall be appointed by the Parishad as per the prescribed rules and the Parishad will transfer, and take action against them as per the prescribed rules.

However, the condition will be that tribals of the district will get preference in case of this appointment.

25. The words 'supports will be provided' will remain in third line in clause 63.

26. Clause 64 will be amended as follows:

a) Whatever exists in the currently prevailing laws, without prior permission of the parishad, no land, including leasable khas lands in the district, can be leased out, sold, purchased or transferred.

However, it will not be applicable in case of the reserved forest, Kaptai Hydroelectricity Project area, Betbungia Satellite Station area, state-owned industrial enterprises and lands recorded in the name of the government.

b) Whatever exists in the currently prevailing other laws, the government cannot acquire or transfer any lands, hills and forests under the jurisdictions of the Hill District Parishad without prior discussion and approval of the Parishad.

Ga) the Parishad may supervise or control the work of headmen, chairman, amin, surveyors, kanungo and assistant commissioners (land).

Gha) The fringe land of Kaptai lake will be leased out on priority basis to their original owners.

27. Clause 65 will be amended to formulate the following: For the time being, whatever law is in force, the land development tax of the district will be in the hand of the Parishad and the tax to be collected on that account will be in the fund of the Parishad.

28. Clause 67 will be amended to formulate to formulate the following: Parishad and the government will raise specific proposals if it is necessary for the co-ordination of the Parishad and the government, and co-ordination of work will be done through mutual consultations.

29. Sub-clause (1) of clause 68 will be amended to formulate the following sub-clause:

With a view to fulfilling the objectives of this law, the government will be able to prepare rules after discussion with the Parishad through gazette notification. Even after the formulation of any rule, the Parishad will have the right to appeal to the government for re-consideration of such rules.

30. Ka) In the first and second paragraphs of sub-clause (1) of Clause 69, the words 'prior approval of the government' will be dropped, and following part will be added after the words 'should be done' in the third para:

It is conditional that if the government disagrees with any part of the provision formulated then the government will be able to provide suggestions or directes regarding the provision.

Kha) In the (Ja) of sub-clause (2) of clause 69 the words 'the power of the chairman will be given to any officers of the parishad' will be dropped.

31. Clause 70 will be deleted.

32. Clause 79 will be amended to formulate the following section:

The Parishad will be able to make written appeal to the government in case it feels that a law passed by the Jatiya Snagsad or any other authority is difficult for the district or objectionable for the tribals after stating the reasons of the difficulty or objection and the government may take appropriate steps for redressal as per the appeal.

33. Ka) The word supervision will be added after 'discipline' in the schedule number one on the activities of the Parishad.

Kha) The activities of the Parishad mentioned in number three will be added with the following:

(1) Vocational education, (2) Primary education in mother tongue (3) Secondary education.

Ga) The words 'reserved' or will be dropped from the first schedule of the activities of Parishad and sub-clause 6 (Kha).

34. The following subjects will be included in the functions and responsibilities of the hill district parishads:

(Ka) Land and land management, (Kha) police (local), (Ga) Tribal law and social justice, (Gha) Youth welfare, (Uma) Environmental protection and development, (Cha) Local tourism, (Chha) improvement trust and other local government institutions. Barring paurashava and union parishads, (Ja) issue of licence to local industries and business, baring Kaptai water resources, proper use and irrigation of other rivers and canals and beels, (Jha) Preservation of statistics of birth and deaths, (Ta) Business transactions and (Tha) Jum cultivation.

35. The following subjects and sources will be included for imposition of taxes, rate, toll and fees by the Parishad stated in the second schedule:

(Ka) Registration fee of manual vehicles, (Kha) Tax on buying and selling of commodities, (Ga) Holding tax on land and buildings, (Gha) Tax on domestic animals, (Uma) Fees of social judgement, (Cha) Holding tax on government and non-government industries, (Chha) A portion of royalty on forest resources, (Ja) Supplementary tax on cinema, jatra and circus, (jha) Partial Royalty of contracts by government for search and exploration of mineral resources. (neo) Tax on business, (Ta) Tax on Lottery, (Tha) Tax on catching fish.

(Ga) Hill Tracts regional Parishad:

1. A regional council will be formed combining the three hill districts local government parishad through amending some clause of three hill districts Local Government Parishad Act 1989 with a view to strengthening and making them effective.

2. Chairman of the parishad will be indirectly elected by the elected members of

the parishad. The chairman will enjoy the status of a state minister and he must be a tribal.

3. The parishad will consist of 22 members, including its chairman. Two-thirds of the members will be elected from the tribals.

Following is the structure of the parishad:

Chairman one, Member (tribal) male 12, Member (tribal) 2, Member (non-tribal) 6, Member (non tribal) female one.

Among the total male tribal members, five will be elected from the Chakma tribe, three from Marma, two from Tripura and one from Morang and Tachonga...

Two persons will be elected from every district from the non-tribal male members. In the case of non-tribal female members, one from the Chakma tribe and one from the other tribes will be elected.

4. Three seats will be reserved from women in the council of which one-third will be non-tribal.

5. The members of the council will be elected indirectly by the elected members of the three hill district councils. Chairman of the three hill district will be the ex-officio members of the council and they will have the voting right. The eligibility and non-eligibility of the candidates for the membership of the council will be similar to that of the member of the Hill District Council.

6. The tenure of the council will be five years. Budget preparation and its approval, dissolution of council, formulation of council's regulation, appointment of and control over officers and employees and matters related to concerned subject and procedures will be similar to the subjects and procedures given in favour of and applicable for the Hill District Council.

7. A principal executive officer equivalent to the Joint Secretary of the government will be appointed in the council and the tribal candidates will be given preference in the appointment of the post.

8. a) If the Chairman's post of the council remains vacant, a chairman of the government will be elected indirectly from the other tribal members of the council by the members of the three hill district councils for an interim period.

b) If any post of the member of the council remains vacant for any reason, it will be filled by by-election.

9. a) All the development activities under the direction of three hill districts councils will be coordinated by the council, including overall supervision and coordination of the matters under the jurisdiction of the three thill districts council. The decision of the regional council will be considered final in case of any council for lack of coordination in discharging the duties vested upon the three hill district council.

b) The council will coordinate and supervise the local councils, including municipalities.

c) The regional council may coordinate and supervise the general administration, law and order matters related to the development of three hill districts.

d) The council may provide direction in the disaster management and relief programme, including coordination of the NGOs' activities.

e) Tribal rules and social justice will be under the jurisdiction of the regional council.

f) The council may provide licence for heavy industries.

10. Chittagong Hill Tracts Development Board will discharge the given duties under the general and overall supervision of the council. The government will give preference to the eligible tribal candidates in appointing the chairman of the development board.

11. If any contradiction is observed between the Chittagong Hill Tracts Administrative Rules of 1900 and other related laws, acts and ordinances and the Local Government Council Law of 1989, it will be settled as per the advice and the proposals of the regional council.

12. The government may form an interim regional council and give it the responsibilities of the council until and unless the regional council is formed on the basis of direct and indirect election.

13. The government may formulate any law regarding Chittagong Hill Tracts subject to discussion with the regional council and that will be done as per the advice of the council .

14. Fund of the council will be formed from the following sources:

- a) Finance received from the district council fund.
- b) Finance and profits from all the property which have been provided and directed by the council.
- c) Loan and grants from the government and other authorities.
- d) Grants provided by any institution or person.
- e) Profit from the financial investment of the council.
- f) Any of the finance received by the council.
- g) Finance received from other sources of the income provided to the council as per the direction of the government.

Gha) Rehabilitation, general Amnesty and other Issues:

Both sides have reached the following position and agreed to take programmes for restoring Hill Tracts area and to this end of the matters of rehabilitation, general amnesty and others related issues and activities.

1. An agreement was signed between the government and the tribal refugee leaders on March 9, 1997 at Agartala of Tripura state on bringing back the tribal refugees staying in the state of Tripura. Under this agreement, repatriation of tribal refugees began on March 28, 1997. This process will continue and the leaders of the PCJSS will extend all possible cooperation in this regard. The internal refugees of the three hill districts will be rehabilitated through their proper identification by a task force.
2. The land record and right of possession of the tribal people will be ascertained after finalisation of the ownership of land of the tribal people. And to achieve this end, the government will start land survey in Chittagong Hill Tracts and resolve all disputes relating to land through proper scrutiny and verification in consultation with the regional councils to be formed under this agreement. These steps will be taken soon after signing and implementation of this agreement between the government and PCJSS and rehabilitation of the tribal refugees.

3. The government will ensure leasing two acres of land in the respective locality subject to availability of land of the landless tribals or the tribals having less than two acres of land per family. However, groveland can be allotted in case of non-availability of necessary lands.

4. A commission (land commission) will be constituted under a retired judge for the disposal of all disputes relating to lands. Besides settlement of the land disputes of the rehabilitated tribal, this commission will have full power to annul all rights of ownership on land and hills which have so far been given illegal settlements or encroached illegally. No appeal can be made against the verdict of this commission and the decision of this commission will be treated as final. This will be implied in case of fringe land.

5. This commission will be constituted with the following members:

- Ka) Retired judge:
- Kha) Circle chief (concerned):
- Ga) Chairman representative of the regional council:
- Gha) Divisional commissioner / additional commissioner
- Uma) Chairman of the district council (concerned)

6. Ka) The tenure of the commission will be of three years. But the tenure can be extended in consultations with the regional council.

Kha) The commission will resolve disputes on the basis of existing laws, customs and systems of Chittagong Hill Tracts.

7. The loans, which were obtained by repatriated tribals from government agencies but could not be properly utilised owing to conflicting situation, will be exempted with full interest.

8. Rubber plantation and allotment of other lands: The allotments of land to non-tribals and non-residents for rubber cultivation and other purposes but not yet utilised the lands for the projects properly during the last ten years will be cancelled.

9. The government will allocate additional finance on priority basis for taking up maximum number of projects to develop Chittagong Hill Tracts. Projects will be implemented on priority basis for construction of infrastructure for the development of the region and the government will allocate necessary funds for this purpose. The government will encourage development of

tourism for local and foreign tourists, taking into consideration the environmental aspect of the region.

10. Reservation of quota and allocation of scholarships: The government will continue the quota system for the tribals in case of government jobs and higher education till they reach at par with the people of other regions of the country. With this aim in view the government will provide more scholarships for tribal boys/girls in educational institutions. The government will provide necessary scholarships for taking education abroad and research pursuit.

11. The government and the elected representatives will be active to preserve the distinctiveness of the tribal culture and heritage. The government will provide due patronisation and assistance for expansion of tribal cultural activities at par with that of the mainstream of the national life.

12. The PCJSS will submit to the government within 45 days of signing of this agreement the full list of its armed members and description and accounts of all arms and weapons under its control and possession.

13. The government and PCJSS will jointly decide the day, date and place for depositing arms by the PCJSS within 45 days of signing of this agreement. The government will ensure all kinds of security for the members of this listed members of the PCJSS and their families for coming back to normal life after declaring the day, date and place of depositing arms by the listed members of the PCJSS.

14. The government will declare amnesty for those members who will deposit arms and ammunition on the scheduled date. The government will withdraw cases lodged earlier against those persons.

15. The government will take legal action against those who will not deposit arms and ammunition within the stipulated time.

16. General amnesty will be given to all PCJSS members after they return to normal life and this amnesty will also be given to all the permanent residents who were connected with the PCJSS activities.

Ka) Each family of the repatriated members of the PCJSS will be given Taka 50,000 in cash at a time for their rehabilitation.

Kha) All cases, warrants of arrest, hulia against any armed member or general member of the PCJSS will be withdrawn and

punishment given after trial in absentia will be exempted after surrender of arms and coming back to normal life as soon as possible. The members of the PCJSS, if they are in jail, will be released.

Ga) Similarity, no cases will be filed or no punishment be given to any person for mere being the members of the PCJSS after surrendering arms and coming back to normal life.

Gha) The loans obtained by the members of the PCJSS from any government banks or other agencies but could not be utilised owing to conflicting situation would be exempted with interest.

Uma) Those members of the PCJSS who were employed in various government jobs would be absorbed in their respective posts and the eligible members of their family will be given jobs as per their qualifications. In such cases, the government principles regarding relaxation of age will be followed.

Cha) Bank loans on soft term will be given to the members of the PCJSS for cottage industry and horticulture and other such selfemployment generating activities.

Chha) Educational facilities will be provided for the children of the PCJSS and the certificates obtained from foreign abroad and educational institutions will be considered as valid.

17. Ka) Immediately with signing and executing the agreement between the government and the PCJSS and with the members of the PCJSS coming to normal life, all temporary camps, ansar and village defence force in Chittagong Hill Tracts

excepting Bangladesh Rifles (BDR) and permanent cantonments (three in three district headquarters and in Alikadam, Ruma and Dighinala) will be gradually brought back to the permanent places and a deadline for this will be fixed. The members of the armed forces can be deployed under due rules and procedures in case of deterioration of law and order situation and in times of natural calamities or like other parts of the country under the control of civil administration. The regional council may request the appropriate authorities for such help and assistances in case of such necessity and in due time.

Kha) The lands to be abandoned by military or para-military camps and cantonments will be either returned to the original owners or to the hill district councils.

18. The permanent residents of Chittagong Hill Tracts with priority to the tribals will be given appointment to all categories of officers and employees of all government, semi-government, parishad and autonomous bodies of Chittagong Hill Tracts. In case of absence of eligible persons among the permanent residents of Chittagong Hill Tracts for particular posts, the government may give appointment on lien or a definite period to such posts.

19. A ministry on Chittagong Hill Tracts Affairs will be set up appointing one minister from the tribals. The following advisory committee will be constituted to assist this:

- 1) The Minister in charge of Chittagong Hill Tracts Affairs.

- 2) Chairman/representative, regional council.
- 3) Chairman/representative, Rangamati Hill District Council.
- 4) Chairman/representative, Khagrachhari Hill District Council.
- 5) Chairman/representative, Bandarban Hill District Council.
- 6) MP, Rangamati,
- 7) MP, Khagrachhari,
- 8) MP, Bandarban,
- 9) Chakma Raja (King),
- 10) Bomang Raja,
- 11) Mong Raja and
- 12) Three non-tribal members to be nominated by the government taking one permanent non-tribal resident from each three hill districts.

This agreement is prepared in Bangla and completed and signed in Dhaka on Aghrayan 18, 1404, December 2, 1997

On behalf of the Government of the People's Republic of Bangladesh
Sd/ - Illegible
(Abul Hasnat Abdullah)
Convenor
National Committee on Chittagong Hill Tracts
Government of Bangladesh

On behalf of the residents of Chittagong Hill Tracts
Sd/ - Illegible
(Jyotirindra Bodhipriya Larma)
President
Parbatya Chattagram Jana Sanghati Samity

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Reports on French Nuclear Testing in 'Le Nouvel Observateur'

by Martine Pétrod

The reputable French weekly 'Le Nouvel Observateur' (February 5-11 1998) published an unusual report on French Nuclear Testing. It reveals that the tests were not as innocuous as the French authorities always claimed. This time, the information does not come from protesting Pacific countries or from Greenpeace, but from the French military's own archives. They show that French officials were aware of the danger of radioactive contamination from the very beginning. They contain measurements of the level of radioactivity after the first tests in Moruroa, in neighbouring inhabited islands like Mangareva, which show levels as high as those detected in Tchernobyl in the days following the accident. Although the reports show some concern as to the vulnerability of the Polynesian population, left unaware and unprotected, everybody, and even the doctors, kept silent as a tribute to 'la raison d'état' [Reasons of the State].

The article also mentions the massive surveillance the population of 'French' Polynesia was subjected to by the different French intelligence services and how the press was censored in order to protect 'le secret d'état' [Secret of State].

The latter is obviously still the case: shortly after Le Nouvel Observateur started to look at the archives, which according to the rules are available to the public after 30 years, the authorities put the lid back on and removed them from the public eye.

But this little 'slip' will hopefully prove useful to the Polynesians claiming compensation for the consequences of radioactive exposure.

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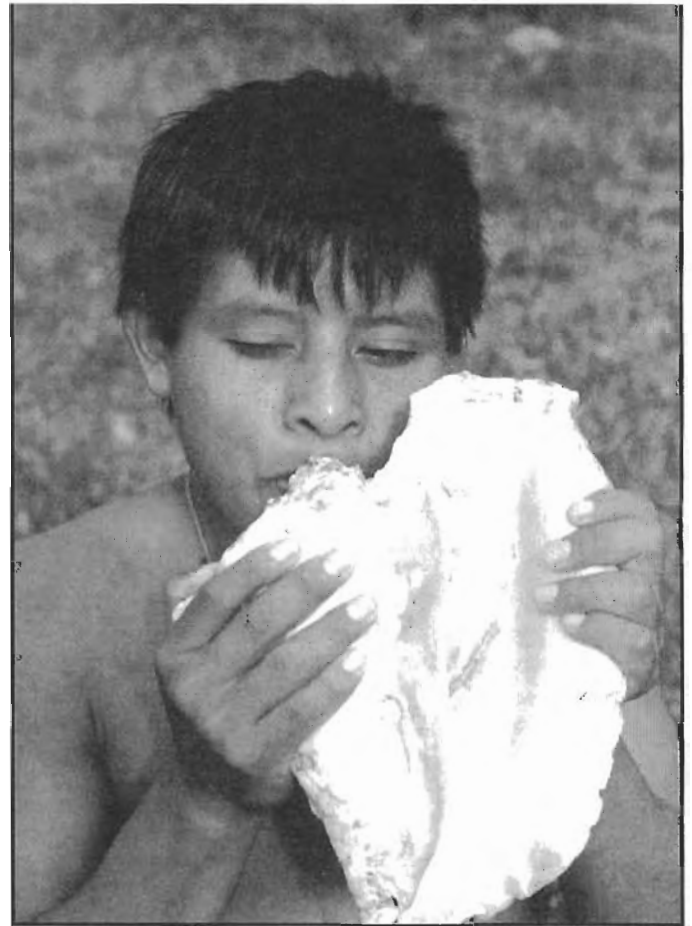
COLOMBIA



Oxy in U'wa Territory

*the Announcement
of a Possible Death*

by Mónica del Pilar Uribe Marin



The Cabildo Mayor (chief councillor) of the U'wa reiterates their position: no more useless dialogues. The only remaining option -collective suicide.

'Our law is to take no more than is necessary; we are like the Earth that feeds itself from all living beings, but that never takes too much because, if it did, all would come to an end. We must care for, not maltreat, because for us it is forbidden to kill with knives, machetes or bullets. Our weapons are thought, the word, our power is wisdom. We prefer death before seeing our sacred ancestors profaned.' *The U'wa people.*

The presence in Washington of Roberto Afanador Cobaría, president of the Association of Traditional U'wa Authorities, before different international bodies demonstrates yet another of his community's determined last-ditch efforts to fight for its right to an independent existence. In Colombia, the U'wa have a culture that is one of the most deeply-rooted in tradition: today that culture could be on the verge of extinc-

tion in the face of the imminent intrusion of a multinational petrol company on the community's territory.

The purpose of Cobaría's visits to Washington in 1997 was to ask the InterAmerican Commission on Human Rights to persuade the Colombian government to suspend the environmental licence that it had granted to Occidental of Colombia for petroleum exploration and exploitation in the U'wa zone. In addition,

in Los Angeles, he sought an interview with the president of the Occidental Oil and Gas Corporation so as to explain the reasons why the indigenous community rejected Oxy's intrusion on its territory. But, owing to the intransigence of the officials of the multinational his plea fell on deaf ears. For its part the Colombian government, ever seeking to avoid conflict, turned to the Organisation of American States to clarify the issue. Following a visit to the indigenous territory, the OAS produced a document which concluded that Oxy must suspend its explorations immediately, must make every effort to bring the two sides together, given their very different cultural backgrounds, and must obtain the U'wa's consent before any thought of proceeding.

Today, while waiting for the international tribunal to decide on the legitimacy or otherwise of the licence and for Occidental to show itself open to reason in respecting the cultural, physical and socio-economic integrity of the U'wa, the community is hanging on to its threat to commit collective suicide. Profoundly rooted to the land they occupy - land that gives them their *raison d'être* as a people - they consider that suicide would be better for them than finding themselves obliged to live on profaned lands.

But first, the U'wa have decided to exhaust every possibility to save their existence, since, after all, the danger they face today is just one more episode among many that, during the course of history, has brought for them the gradual, though relentless, loss of their lands.

Loss of land

The U'wa - now numbering some five thousand, whose name means '*intelligent people that know how to speak*' - belong to the Chibcha linguistic macrofamily. They are one of the few peoples that have managed to survive in Colombia and yet have still maintained their ances-

tral culture in a living form. Kajka (the territory) is the fundament upon which the U'wa see themselves as born: it is the heart of the world: it is a limited, biogeographical space, realising its form and structure according to their cosmological beliefs. In effect, the majority of the U'wa live among the unreachable peaks of the Sierra Nevada del Cocuy-Guicán, from where they have seen their sacred lands disappear over the years, lands which once stretched to include the current (non-U'wa) populations that are now to be found in Chinacota, Málaga, Oiba, Chima, Bucaramanga, Chiscas, Chita, Salinas de Chita, Guicán and the piedmont plains of Tamara, Tame and Morcote. Their lands once embraced the Eastern Cordillera, from the Sierra Nevada del Cocuy to the Sierra Nevada de Mérida in Venezuela.

In previous times, before the arrival of the Spaniards in the sixteenth century, the U'wa territory covered 1.4 million hectares. The slow, inexorable loss of their lands began from the time of the Spanish Conquest. Today, not even their settlements on the eastern slopes of the Sierra Nevada del Cocuy-Guicán are contiguous one with the other: In the province of Boyacá, between the River Margua and the upper reaches of the Sierra Nevada del Cocuy, they are interrupted by the municipalities of Cubará and Guicán: in Arauca, between the Rivers Cusay and Bojobá, by those of Saravena, Fortul and Tame: in the North of Santander, by the municipalities of Toledo and Chitagá: in Santander, by the jurisdiction of Cerrito and Concepción and in Casanare, along the left bank of the river that bears the same name, by the municipality of Hato Corozal.

In reality, and also because of the processes of colonization, the U'wa are confined to the '*resguardos*' (territories over which the indigenous communities have inalienable rights, at least down to the subsoil) Cobaría, Tegría, Bokota, Rinco-

nada (61,500 hectares) and the reserve, Agua Blanca, Taburetes (8,000 hectares). Given the loss of land, the community requested the Colombian Institute of Agrarian Reform (Incora) to grant that the fragments be combined into a single, combined and larger, U'wa Resguardo. Currently, the total of land in their hands comes to nearly 201,000 hectares, which still only represents some fourteen per cent of the ancestral territory. But, such hopes were crushed when at the beginning of 1998, Incora told them that it would enlarge only the Agua Blanca reserve. The U'wa have rejected that offer on the grounds that they already have the right of occupation and why should they accept something when that which they have rightfully asked for is being denied them?

Chronicle of a fight

The decisive happenings, that today have taken hold of public opinion and which have generated one of the strongest debates around indigenous territoriality, began on April 7th 1992, when Ecopetrol (the Nationalised Petroleum Company of Colombia) approved the partial fulfilling of the contract with Occidental of Colombia, which obliged it to carry out a programme for the acquisition of seismic information before the 23rd of June 1996. That aspect of the contract is known as the 'Seismic exploration of the Samoré Block'. It takes in the municipalities of Saravena, Tame and Fortul (Arauca), Cubará (Boyacá) and Toledo (North Santander) and would affect 208,934 hectares, of which 25 per cent is to be found in U'wa territory (Kajka).

In setting out to follow the correct procedures, on the 14th of May, 1992, Oxy sought from the then National Institute of Natural Resources (Inderena) the necessary papers for obtaining an environmental licence that would permit it to enter the U'wa zone. First, however, it

had to fulfill the requirement laid down by the Environment Ministry (that replaced Inderena) that it had carried out a preliminary consultation with the indigenous communities. The requirement - for a preliminary consultation with indigenous communities that might be affected by any project on their territory - is now laid down in the National Constitution of Colombia.

And, even though Oxy contests that it carried out more than thirty meetings to inform and consult with the U'wa between 1993 and 1994, the U'wa claim instead that the petroleum company had simply interviewed isolated members of the community or others who lived outside the community. The company had never explained the project, say the U'wa, but had rather discussed problems of health and education.

As it happens, such encounters had not been approved by the Ministries of the Environment and the Interior, given that such consultation had to be carried out under the direction of both ministries and the participation of the legal representatives of the U'wa. Consequently, to fulfill the requirement, the Ministry of the Interior notified the community that on the 10th and 11th of January, 1995, they would have a meeting in Arauca and so initiate the consultation process. The result was a mass demonstration in which the U'wa indicated in no uncertain terms its utter rejection of any process that would lead to the profanation of their lands. In fact, they remain radically opposed to any petroleum exploration and exploitation on lands that legally have been recognised as their property. In addition, the U'wa demanded that the consulting process be adapted to the forms of participation generally used by the U'wa people, in which a consensus is reached between the Werjayáas (the traditional authorities) and the rest of the community.

That was ignored and on the 3rd of February 1995, the Environment Ministry granted Oxy its environmental licence.

From then on the tranquil life of the U'wa was shattered: their legitimate representatives found themselves forced to become radical in their rejection of the

project. Meanwhile those within the community accepted the possibility that they would have to commit suicide, having been pushed into a fight not only to save their physical world, but also their sacred world, with its cosmology, customs, and their particular conception of life. Initially they were on their own, but with time their fight captured the national and international interest and sparked a debate, with some on the one side taking the part of the community and on the other, those who believe that development and the national interest should have priority over local issues, even though such development will inevitably lead to the complete elimination of an exclusive culture.

On the 31st March, 1993, the U'wa of Sarare publicly accused the firm of the Gran Tensor, an affiliate of Occidental, of failing to complete its promise to respect the limits of the U'wa's reserve and resguardo. From then on, the U'wa of Sarare stated, they would reject all attempts to explore for and exploit petroleum on their lands. They had no wish, they said, to repeat the experiences such as had happened at Occidental's operations at Caño Limón, or at the site of a massive open-cast coal mining operation in Guajira, nor as a result of the gold-mining operations in the Chocó, where the illusion of development had resulted in widespread environmental destruction as well as in violence and misery - and all for the sake of a fleeting bonanza. As a last resort, after failing to get the Ministries of Government, of the Environment and the Presidency to revoke the licence, the U'wa turned to the office of Public Defence and on August 10th, 1995, in the name of the community, placed a writ before the Superior Tribunal of Santafé de Bogotá in which it was stated that the decision of the government '*violated the right to territory, to self-determination, to language, to life,*' and '*threatened the indigenous community's survival, as well as its right of participation, its life and cultural integrity.*' The tribunal found in favour of the U'wa and demanded that their fundamental rights be respected, that the proper process of consultation should

take place and that until such had been fulfilled, the licence should no longer have validity.

In response Ecopetrol and Occidental challenged the tribunal's decision before the Supreme Court of Justice which revoked the decision in favour of the community. The Public Defender then took the case to the Constitutional Court, which after deliberation pronounced on February 3, 1997 that proper consultation had not been carried out with the community and that the Ministry of the Environment and Oxy had thirty days to bring that about. (At the time of writing the government has failed to comply.)

Simultaneously as the writ was issued, the Public Defender filed a lawsuit over the licence, in response to the State Council's judgement on March 4th that the licence was valid. The State Council claimed that the general interest of the Colombian peoples, as well as the dominion of the State over national territory, including the State's proprietary rights to the nation's subsoil, took precedence over any other consideration, including over the rights of indigenous peoples. Since indigenous rights are supposedly protected by the National Constitution, the ruling of the State Council makes a mockery of the legislation. In addition, the State Council validated the consultation process that had supposedly taken place and with it the right of Oxy to enter U'wa territory.

The U'wa were not scared off and on 28th April (1997) they drafted a long letter to the Executive Secretary of the Inter-American Commission on Human Rights to request the Colombian government to suspend the licence and to adopt the necessary means to avoid irreparable damage to the indigenous population.

A bloody fight

It has not been an easy fight, especially in the light of being defrauded of their land by Incora, the distributing agency, when the U'wa insisted on its territory being enlarged under the denomination of the Resguardo Unico U'wa. And even though diplomacy has prevailed between the government and the community, it is obvious that the U'wa have felt themselves

deceived by the behaviour of the government over the issue of the norms established within the Indigenous Legislation, the National Constitution and Law 99 which pertains to the Environment Ministry. Furthermore, as often occurs in such cases, mechanisms of participative democracy are invoked, such as consultations and public meetings, to give the semblance of defending people's rights, but at in the end the authorities finish up granting licences and giving their blessing to megaprojects, irrespective of the consequences and ignoring the validity of the arguments and indeed suffering of the affected communities. Proof of this is that the State has approved, promoted and defended projects like the Urrá hydroelectric project, the construction of treatment plants for the River Bogotá, roads that cut through regions of exquisite biodiversity, and the creation of industrial zones in indigenous resguardos. In all these instances the legal path has been pursued, together with collective struggles, demonstrations and protests, yet, in the end, the government finishes up by defending 'development', allowing in the multinationals and other large enterprises that extract natural resources and which, on their leaving, leave behind misery and desolation where once there had been national riches.

History repeats itself with regard to the U'wa, with decisions being taken over their heads despite all the reasoning as to why the petroleum company should not have access to the territory. Nevertheless, even though the struggle has been long and arduous, the U'wa have achieved an astonishing solidarity. On one side stands the permanent actions of the 'Colombia Committee is U'wa', created by environmentalists and journalists and which has brought together various sectors of society that identify with the U'wa cause. And, on the other, stand the Public Defender, the organisations of human rights and of environmentalists, as well as the support of international ecological and indigenous groups.

Sadly the Colombian government and Oxy appear to be unwilling to shift from their positions and public opinion has to face a constant barrage of information

that seeks to confuse and stigmatize the fight of the U'wa community. There are constant insinuations and rumours floating around that the Colombian guerrilla are behind the debate. On one occasion the very president of Oxy, Stephen T. Newton, declared in a national newspaper that they were surrounded by the guerrilla and that the traditional U'wa territory was the stomping ground of Father Pérez - head of the subversive ELN, the army of national liberation. The U'wa angrily reject such accusations: *'It's not*

the first time that the company has argued that the U'wa people, in defending their rights, are being pressured by the guerrilla. In 1994, all the members of the Main Council and the assessors of our national organisation were accused with the threat of prison of being tied to subversive activities.'

There are two delicate factors: one, the danger that some members of the community face following death threats and public denunciations, such as for instance have been made against Lorenzo Mue-



las, a Senator of the Republic, representative of the ethnic minorities of Colombia and one of the staunchest defenders of the U'wa's cause. As one member of the U'wa community, Armando Tegría Rinconada, put it: *'Just try and live corralled at the foot of mountain surrounded by guerrilla groups, the military and paramilitaries, and see what happens to you.'*

The other factor is that some indigenous individuals from the community have lost their cultural roots and welcome the exploitation of oil as a way to bring 'development' into the region. Not surprisingly, the oil company has elicited support from these 'Whitened' individuals as a means of gaining entry into the resguardo. Aware of such happenings, the U'wa Cabildo Mayor (Chief Councillor) insists that the only authorities allowed to represent the community are those legitimately associated with the ruling body for all the U'wa peoples - La Asociación Mayor de Cabildos U'wa (The Association of U'wa Councillors). Despite the association being the major authority for the U'wa, it is based on indigenous community lines, which means that it is neither autocratic nor hierarchical in structure and in fact represents the interests of everyone in the community, all of whom therefore have a voice. Hence all may participate - the different community groups, the cabildos, the priests (Werjayáas) - each giving their opinions, speaking and transmitting their desires.

Today, all is uncertain: one hope is that the environmental impact assessment will be considered null and void, given that it was carried out in a record five days, leading to inconsistencies, according to lawyers. The U'wa are also waiting the outcome of a possible lawsuit in their favour from the United Nations International Labour Office, as well as a pronouncement from the international courts that may rule in their favour and who will act accordingly. Above all, they hope that the contention, expressed by some government ministers, that the well-being of 38 million Colombians must take priority over five thousand U'wa will not prevail and instead will be replaced by the consideration that the indigenous peo-

ples, like all other communities, be allowed to opt for their own mode of development. It should go without saying that such communities be respected for their ancestral rights, for their culture and life.

The roots and thoughts of the U'wa

The U'wa have many reasons for keeping Oxy at bay, as well as any others who may wish to exploit the natural resources on their lands, whether renewable or non-renewable. One cannot deny the importance for the U'wa of the social fabric of life, the notion of collective property, their ancestral knowledge of their environment as well as respect for the natural environment, their customs, their medicines. Furthermore, their culture has roots that go back thousands of years and their traditional codes and beliefs go back to the genesis of the universe, of a time of people and before people, of both that which is opposed and at the same time complementary. U'wa culture is rich in myths, chants and poetry, all of which is recreated in the 'permanent ritual of life', according to their writings.

The U'wa oral tradition, which plays an elemental role in learning, has absorbed the changes that followed the Conquest, the colonial period and Colombia's republican life. An underlying theme has been the notion of the Riowa (the Whites) who have been anxious to possess all the riches of the world. Nevertheless the U'wa have survived the passing of centuries on account of never abandoning their chants and rituals, the two most important of which are the chanted myths of El Reowa - corresponding to the ritual of blowing and the processes of purification - and El Aya, which is celebrated after El Reowa, for the ordering of the universe and those beings that inhabit it.

In residing in the mountains and in previous times in the tropical forests, the U'wa are in permanent communication 'with the different levels of the universe and the state of balance between them. All that spiritual belief takes place within a society that is extremely flexible and without stratified classes, in

which pre-eminent respect is given to the spiritual leaders - the Werjayáa - who manage ancestral knowledge. In so doing, the priests maintain harmony between the forest, the garden, men and spirits.'

Nevertheless, some members of the community have crossed over or are in the process of crossing over that fragile frontier that separates them from western culture and customs and have abandoned much of their collective acts of ritual and live with peasants as well as having settled down in places that are far from the sacred zones. They are undoubtedly confused by exposure to the commodities offered in the world of the Riowa (Whites). Some break definitively with the bonds that bind them to the community and instead they try to live that 'new-good-other-life', with the result that they finish up betraying their own people.

Recent colonization has brought with it the loss of lands and encroachment, with the result that after the demise of the Biribirá and the Rúba that once lived in Chiscas, Güicán, El Cocuy and Chita, just three clans survive to this day: they are the Kubaruwa (Cobaría), the Kairboka (Bókota) and the Tagrinuwa (Tegría); the remainder are dispersed in families.

The cosmological beliefs of the U'wa, together with their religious, mythical and poetic knowledge has always kept them both immersed in the actual world and yet united firmly to that of the spirits. Ann Osborn, the anthropologist, explains that *'the acts of the ancestors and the gods are recreated every instant through daily practice as well as in the very special temples with the celebration of principle rites... The U'wa are equidistant from the two ancestral divinities, Kaba-Yaya and Thira (Sira), which both represent and embody the delicate balance between the lower and upper extremes of the cosmos. Their role for the most part is to maintain that equilibrium and they must propitiate in the correct and timely unravelling of the processes that take place within the universe through mediating the celebration of the chanted myths and through ensuring that one's life is governed by the rules of balance and harmony. If that equilibrium is*

broken the consequences are the very reverse of order: red moves upwards and invades the white, all of which signifies the end of the universe.'

The myths indicate that Yagshowa handed over the now-created world to the U'wa, to the traditional authorities, to the Werjayáas and chiefs, such that from then on they know what they must do in 'practice to be U'wa'. Meanwhile, the Werjayáas have been given the ability to communicate with the gods, the different worlds and the spirits and have knowledge how to recite and chant the myths; how to confront sickness and death, while always thinking on the well-being of the people. Hence, they know that the Law that was given to them is sacred and that they must maintain the correct attitude and behaviour to achieve balance in the environment around.

Petrol and the U'wa

Without doubt, the head-on opposition of the U'wa to those who 'touch' their territory emerges essentially from their cosmological beliefs and the way in which they regard petroleum. As explained in the document entitled U'w Chita, prepared by the U'wa themselves: *'One of our principle beliefs about the Earth is that it is a living being and is Mother. That belief has determined our agricultural practices, our cultural activities, such as hunting, fishing, gathering and our ritual behaviour. Under this concept, what is clear for us when we work, when we celebrate our fasts, our chants and traditional dances, is that we are taking care of this world, of the Earth, of our Mother.'* importantly: *'Petroleum Ruiría is the mother of all the sacred lakes... it is working the emeralds, the gold, the coal... All those resources should not be touched; they must be left alone; they are alive; they are working.'*

Precisely that idea that such resources 'are working' arises out of the notion that they form part of a 'tribute that should be handed over to the deities so that they will maintain equilibrium, such as it is, that neither will the Earth tremble nor dry out.'

In that way nothing good can come out of an oil company, be it Oxy or another, entering or even being allowed to enter U'wa lands, only the inevitable colonisa-

tion, incurable diseases, a wiping out of fauna and flora, the loss of identity and spiritual life, the erosion of traditional culture, the violation of their major and minor sacred places (some lakes must be left untouched and are not even accessible to the U'wa)....

In fact, the U'wa are not just thinking about a one-off battle: rather they see the struggle over the issue of oil as offering an opportunity to construct an entirely different model of development, something that is indeed essential, given the current environmental crisis in Colombia and elsewhere in the world, with all the concerns over levels of consumption and exploitation of natural resources. Indeed, their cosmological beliefs go well beyond locality in which the U'wa find themselves: instead, they need to be part of a revamping of the relationship be-

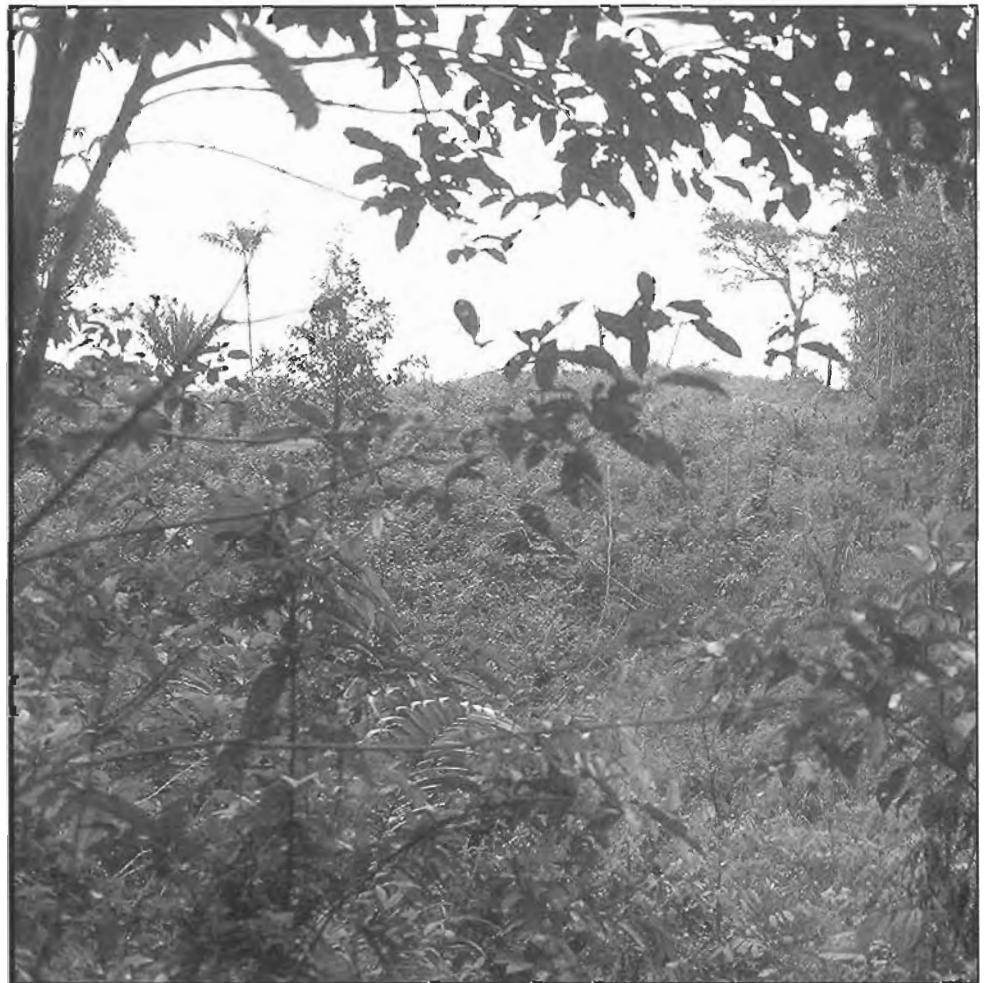
tween society and nature that has been imposed by the western world.

'We have not committed the insolence of violating the churches and temples of the Riowa: but they in turn have sullied and wiped out our lakes.' Let us hope the U'wa's struggle for the sacred in nature is not in vain.

Translation from the spanish by Peter Bunyard.

Photos provided by Peter Bunyard

Mónica del Pilar Uribe Marin is a Colombian journalist. □



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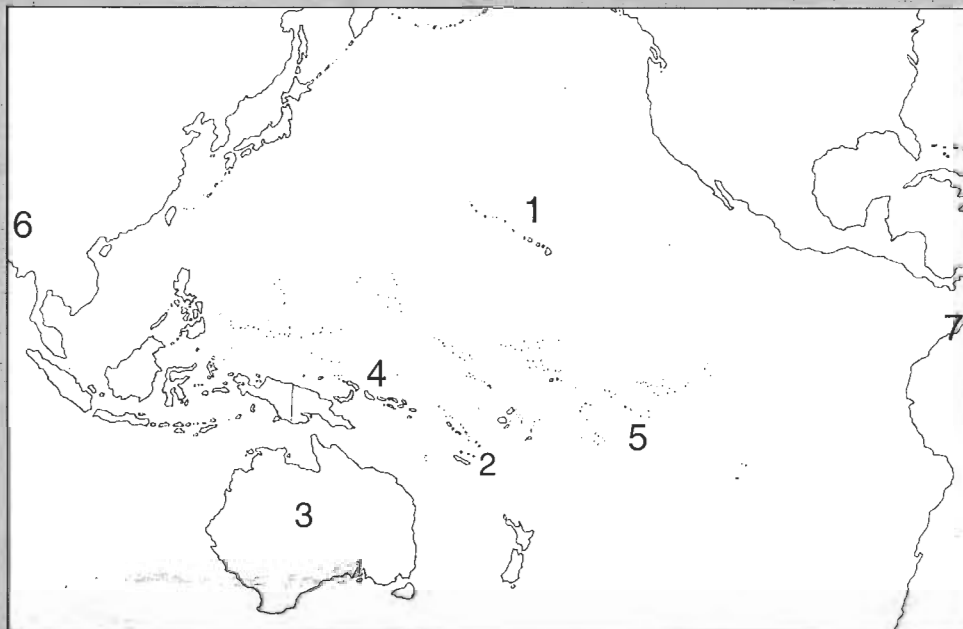
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