The first months of 1996 have been dominated by devastation facing the indigenous peoples of Brazil. Justice Minister Nelson Joubim, in December 1975, has opened up 344 reserves (57 percent of all indigenous territories in the country) to claims by any company, local authority or individual. This not only threatens already demarcated lands and territories, but also the indigenous peoples affected no right of appeal. The indigenous peoples living in the states of Amazonas, Rondonia, Para, Mato Grosso and Roraima are being invaded by loggers, gold-miners and agricultural settlers who are using the decree to back their spurious claims. To make matters even worse, reports say that Joubim is promoting these claims and has listed 673 areas susceptible to take-over by colonists from Para and Amazonas.

The indigenous peoples of Brazil have expressed their horror at these events in this edition of Indigenous Affairs. IWGIA joins in solidarity with them, as well as the indigenous leaders currently gathering in Brasilia, to protest at this destructive decree. IWGIA also joins with the many organizations which are calling for the G7 countries and the World Bank to stop all funding of Amazonian projects until December 1975 is repealed.

The struggle of indigenous peoples is never-ending. In neighbouring Peru the government unilaterally repealed the constitution in 1993 and imposed a new Land Law in 1995 taking away inalienable rights of indigenous peoples to their territories. Pressures from multilateral institutions such as the InterAmerican Monetary Fund have pushed the government into carrying out a wave of neoliberal reforms that cast a shadow over the enormous advance achieved by the indigenous peoples of the country. The indigenous organisation of the region of Atalaia (CRIA) in the central Peruvian rainforest, for example, has practically eliminated slaves and demarcated nearly two hundred communities over the last seven years.

But the forest is still under threat from loggers: particularly problematic have been the international pressures which have promoted logging in Guyana and Surinam. This extraction threatens the basic forest resources of the indigenous peoples of these countries. Nevertheless, a strong campaign in support of the indigenous peoples of the area is having some positive effect.

Threats do not only come from resource extraction, they can also come in the guise of conservation. The Van Guajars in India are struggling to ensure their rights to the forest where they have lived and which they have conserved for centuries. They face relocation from the Rajaji National Park. At the same time, the Bushmen of the Kalahari have received remedied pressure from the government of Botswana to leave the Central Kalahari Game Reserve. This is their ancestral territory and they do not wish to move. These indigenous peoples are being threatened in the name of conservation. IWGIA vehemently supports the rights of indigenous peoples to live in their territories and urges both the government of India and Botswana to respect the Van Guajars and Bushmen whose ecological understanding over the centuries has ensured that these protected areas have survived until now. Furthermore, IWGIA calls on environmental organisations such as the IUCN and the WWF to state clearly in their policies that they oppose any threat to indigenous peoples in the name of conservation.
Although the situation in Guatemala has substantially improved, violence and massacre constantly seem to break out in other parts of the world on a regular basis. The Philippines is the latest example and demonstrates that, in spite of the recognition of indigenous rights in law, practice is very often markedly different. Indeed, the articles from the USA and Alaska show that indigenous peoples also suffer enormous problems from threats to their lands, cultures and livelihoods in the wealthier countries of the North.

The global aspect of indigenous rights is currently one of the most important features of IWGIA's indigenous work in 1996. The UN Commission on Human Rights is currently discussing the draft Declaration of the Rights of Indigenous Peoples. A brief report is included here of last November's meeting of the Commission's Working Group in Geneva, where governments, such as Brazil, the United States, Peru and India continued to resist a strong recognition of indigenous rights while, in response, the indigenous lobby put up a powerful defence.

This Indigenous Affairs is the first edition of 1996 and covers a comprehensive view of the indigenous world. Throughout the year, IWGIA publications will continue to keep you, our readership, up to date with the principal events. Developments at the United Nations in human rights and the environment are of particular importance; indigenous peoples are under discussion at the Intergovernmental Panel of Forests of the Commission on Sustainable Development in September and at the Conference of the Parties of Convention on Biodiversity in November. The UN is producing several key reports on indigenous peoples for these meetings. IWGIA will also focus on mining activities in the light of a major consultation of indigenous peoples taking place in London in May. We will be keeping abreast of these events and regularly publishing on developments in the indigenous world.

For news, opinion and analysis, IWGIA's Indigenous Affairs is the basic resource for information. Furthermore, the detailed year book, "Indigenous World", and several documents on subjects ranging from the indigenous peoples of Russia and a report on the conference Indigenous Peoples in Asia to the voices of the Elders of Treaty Six in Canada, will be published during 1996. In order to ensure that you receive these publications, please be sure to fill in the accompanying form. We are looking forward to hearing from you.

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I. The suffering of the slaves

On the 5th of January 1986, an Ashaninka elder with a humble and direct demeanor, appeared before the leaders of the national organization of indigenous peoples of the Amazon, AIDESEP. He said that he had just escaped death from a beating he had received from a timber patron while trying to defend the last areas of land on which he and all his people’s families struggled to eke out a living. Both his eyes and other parts of his body bore the clear evidence of the cruel aggression.

Sr. Marinero from Talaman ti, gave incredible accounts of a land hitherto unknown to any leader of the modern Peruvian indigenous movement. The Atalaya region, where the rivers Tambu and Yahuaruma unite to form the Ucayali, was the accuses region where the Se pa prison was built, a prison without walls, whose very name terrified any convict. No one returned from there alive and few knew anything about these forgotten lawless lands.

Nevertheless, most of the timber which was melted in Pucallpa, the main timber town in Peru, came from Atalaya. AIDESEP was quick to testify to the conditions in which the wealth was produced, a wealth which enabled the “timber barons” to turn Pucallpa into a centre where they amused themselves throughout the night under bright moon lights to the music of “Huanaco and his band”.

The then president of AIDESEP, Mi quero Machari, organised the first visit to the region. He arrived unannounced and, as Marinero had suggested, was wrapped in his cumina (traditional Ashaninka wrap). And Marinero was right. The visit of a “dignitary” from Lima to investigate denunciations made by the indigenous people was received with such hostility that since that first visit, Mishari’s head has had a price on it by the foremen of the large patrons. The reports from this first visit were so surprising that emergency work was immediately made a priority in order to, in the first instance, make an inventory and apply the breaks to the serious violations of human rights against the Ashaninka, Yanesh, Yamunautos and other indigenous peoples of the region.

AIDESEP organised short expeditions of one week’s duration, initially, as they overcame their terror of possible punishment, the indigenous people began to make denunciations. The situation was overwhelming for the AIDESE SP legal team. The indigenous population was being subjected to atrocities such as were only known from tales of times long passed. But in the 20th century, Atalaya was an abject region where racist perversion was seen as a natural consequence of a natural inferiority. The police, judges and local functionaries of the Ministry of Agriculture, the “authorities”, collaborated to facilitate the inhuman exploitation of the indigenous population by the patrons and their foremen, secure in the knowledge that this was considered just in terms of local development.

AIDESEP personnel set up an improved office in an Ashaninka house on the outskirts of the town of Atalaya where, after dark, the families of the aggrieved appeared wary. They wanted only to express their suffering, never thinking that after 100 years of being trampled underfoot their situation could change.

In the AIDESEP archives and on the authorities’ desks the heart-rending denunciations began to accumulate.

Children were abducted by forces from the age of five and, once baptised, passed into the brutal service of their padrinos (“godfathers”). The local judiciary claimed that it was all for their benefit because their godparents were Christian while their mothers were Indians.

Entire families and communities with only one name between them (Marinero was the name of more than 50 people in Talaman ti) were assigned to different patrons. They were shut away in shacks under guard and they were used for felling, felling, and transporting the wood. They received neither payment, nor even the slightest humane treatment. Women were raped in front of their husbands in the forest and the husbands were “given the iron” (flows from the butt of the foreman’s rifle). They worked from dawn to dusk, in rain or sun, and sometimes
there received rations of yuca flour too meager to feed the whole family. Some said they had lived this kind of life for more than 30 years.

The AIDEP personnel, together with other carefully selected volunteers, witnessed with astonishment the postural appearance of a whole "reincarnation of miracles"; mutilated children, fathers whose children had been finished off like horses in the forest after an accident of seven years sleep. She has been beaten by her paternal uncle in the knowledge that she would be given her liberty. Nevertheless, the Atalaya population and the other indigenous peoples of the region continued to be fortified by these small victories and began to show their faces, the consequent alarm of the authorities and patrons.

In the middle of the same year, AIDESEP tried to break out of the dead

at work; mothers with heads shaved for trying to rescue their daughters; workers with their cheeks branded with fire for trying to escape the patron's estate; youth blinded for life by a machete blow.

In Lima no one could believe that the political and judicial denunciations were taken no further than Pucallpa, if they even managed to get beyond the jurisdiction of the local police. Nevertheless, the persistence of the accusations began to disturb the atmosphere of Atalaya.

was tried on when travelling in a boat on the Ucayali river.

In 1987 they began to rescue some girls from the houses of their patrons. However, they uncovered heart-breaking scenes. The AIDESEP archives contain a photograph which expresses all the despair of these nocturnal sessions which lasted almost two and a half years; the AIDESEP official is writing denunciations on an old typewriter by the light of a candle where in the same table, a child...
Through the recommendations of some ILO officials in Lima, the Peruvian Indigenous Institute carried out an investigation, the results of which alarmed the central government: among other evidence, members of the commission defined the situation in the region as one of slavery to the detriment of the indigenous population. In October 1988, in an unprecedented decree, the government accepted the existence of grave violations of human rights in Atalaya and the urgent need to create a High Level Commission to make corrective recommendations.

II The spectre of the invisible citizens

On the 5th of March 1996, exactly 10 years after Sr. Marincon’s incredible journey to Lima, the Peruvian official organ published a resolution by the National Election Panel which put an end to a long month of doubt. In spite of the desperate efforts by the patrons of Atalaya to exercise their political pressure (and their economic persuasion) on the Panel, they were not able to keep the situation under their control. The slaves of ten years before had fairly and squarely beaten their old patrons in the municipal elections. The Municipality of the Province of Atalaya, one of the largest in Peru, and a good number of its Districts had been won by the electoral movement organised by the indigenous people. And the same thing happened in several Districts in other Provinces of the Huánuco-Canta region.

In 1986, the local officials had denied the existence of indigenous communities in the region (“no more than six or seven”). An unofficial census (Atalaya) did not even figure in the 1981 census, numbering eight thousand inhabitants, the majority of whom were mestizos. How could such an insignificant indigenous minority win the elections? How was it possible that they had even dared to present candidates in a humble list of candidates with the inexplicable number 13 as their only means of identification in the face of the alternative, traditional patronage?

Over the last decade a lot has happened. The main thing is that the majority of the indigenous population has been liberated from the patrons and the indigenous people have rediscovered the dignity of communal life within their ancestral territories. In fact, one of the first steps AIDESEP took was to apply to central government for the titling of the territories which had been the traditional homelands of the indigenous population of the region. They had the support of the Danish government and, through IWGIA, secured the funding for demarcating, demarcation, legal recognition, legalisation and inscription of their territories. Almost 1.5 million hectares were recovered. More than 130 communities were “discovered” and legally recognised.

These have been ten extremely difficult years. The patrons and local authorities did not give up their corruption when faced with the “imposition of justice” by the central government; the indigenous peoples have had to confront Senduro Luminoso’s lack of comprehension and their aggression; many of Sendero’s cadres were comprised of sons of patrons who had been dispossessed by the legal decisions in favour of the indigenous peoples. But now times have changed and the indigenous peoples have discovered their strength. Through OJRA (Indigenous Organisation of the Atalaya Region) they organised a series of peaceful strategies to conclude the rehabilitation process. The unrest in other regions of Peru did not have the same impact here and many poor colonists were helped to relocate outside of the communal lands and receive just compensation.

Over time, OJRA trained its base organisations and with continued Danish support, began a programmatic registration and documentation of all the indigenous people with no names and who had lost their citizenship. The 1993 Census states that Atalaya has more than 206,000 inhabitants and its indigenous population comprises 75% of the majority. The invisible indigenous peoples have taken up their citizenship by force.

In the first week of November 1995, when the former AIDESEP personnel (those who were there during the most dangerous period) were called to give a course on the new and pernicious Land Law (Ley de Territorios), the spectacle was
almost unreal. Atalaya was a festival of pre-electoral post- ers, with one detail in common: all the candidates lists mentioned the indigenous peoples (“Atalaya and its indigenous communities” shouted the poster of one ex-employee of a static body which had insisted that the indigenous people were incapable of leading a free life: “the indigenous peoples come first” intoned the slogan of a former slates holder).

But quietly, with neither posters or slogans, striking at all the offers, the indigenous peoples prepared their own campaign in whispers. On the morning of the 12th of November the Atalayan candidates did not know what to do with their cattle butchered to tempt the voters at extreme, no one wanted the baskets of bread, the crates of beer grew warm in the sun. The indigenous people, electoral cards in hand, came out from their hidden centres with great dignity and voted for their brothers. This 12th of November has passed into history.

The Danish government’s strategies of cooperation are designed to strengthen the potential for the underprivileged populations to acquire democratic influence and progressive control over their quality of life. However, there is no doubt that the support given to the communities in the Ucayali has had a very impressive result in itself.

But this story is not over. The resources allocated to Atalaya will probably be very limited and certainly lead to unrest and corruption. We must also be aware that administering the Municipal- ity was not part of the agenda learned and passed on by the old Ashaninka fighters.

Notes
1 The case of Grimaldo Santos Throntom, a 16-year-old youth, came before the authorities in Lima after doctors re- jected the possibility of a cure for complete blindness from bruises/contusions. 2 In Peru is possible to present candid- autes independent of the political parties. The Indigenous Movement of the Peruvian Amazon was created not as a party but as a platform exclusively for the election by the indigenous organiza- tions of the Ucayali area.
The government of Fernando Henrique Cardoso began 1996 by announcing Decree 1775/96 which establishes new administrative procedures for the demarcation of indigenous lands. His first administration authorized only eight indigenous areas.

This decree, among other things, sets down the conditions so that "from the beginning of the demarcation procedure, States and Municipalities... and other interests..." can challenge claim compensation and identify "defects in the official notification which identifies, outlines and describes indigenous territory to be demarcated." That is, the new decree establishes the principle of "congestation" or "wide-ranging protection" which works in favor of large landowners, mining and timber companies, the military, regional oligarchies, politically powerful groups and transnational interests, among others. It converts the "legal process", which was previously no more than a simple procedure whereby the federal public administration made reference to the fact that there had been traditional indigenous occupation. However, the new decree opens up the way for dispute, that is litigation, which amounts to the legitimization of third parties' title and occupation of indigenous lands.

"The decree is a gift, a stimulus to the invaders," said the renowned lawyer, Dário de Abreu Dallari, law professor at the University of Sao Paulo. For him, "the decree invents a challenge to an administrative process of demarcation in which there are no litigants because, in this process, the 'title' is simply confirming the fact of indigenous occupation", in keeping with the current Constitution.

However, Decree 1775/96 oversteps original and constitutional rights and threatens the redaction of indigenous territories or the introduction of obstacles to their legal recognition. In Article 231, the Federal Constitution recognizes the indigenous peoples and their "social organization, customs, languages, beliefs and traditions, their original rights to the lands which they have traditionally occupied and the Union's responsibility to demarcate and protect them and respect all their property."

"These are lands traditionally occupied by the Indians... and are vital for the preservation of the necessary environmental resources for their welfare and their physical and cultural reproductive needs, in accordance with their own customs and traditions,". The indigenous lands "are inalienable and cannot be disposed of; rights to them cannot be superseded."

But, the Constitution invalidates any title to land occupied by indigenous peoples in the following terms: "They are null and void, and the deeds of occupation, ownership and possession of the indigenous lands, or the exploitation of the natural resources of the soil, rivers and lakes which exist on them have no legal status, thus safeguarding relevant public interest within the Indian...?"

In spite of being guaranteed by the Constitution, these rights are annulled by Decree 1775/96, which was announced in March 1995 and replaces Decree 2291. Although the latter had its limitations, it is more in harmony with the Constitution.

At one point, a spokesperson for the Ministry of Justice admitted that they were delaying the publication of the new decree because of the pressure from indigenous organizations, support organizations and NGOs allied with the indigenous peoples both inside and outside the country. In this period, the Forum for the Defense of Indigenous Rights comprising parliamentarians, CIMI, the Pro-Indian Commission (CPM), among others, was reconstituted and the action it took has been key, as has been the mobilization led by the Council for the Articulation of the Indigenous Peoples and Organizations of Brazil (CAPIOB).

Nevertheless, on the 8th of January the government announced the new decree in full, of this strong current of opposition founded on democratic principles. For the indigenous leaders, who brought together more than 100 indigenous organizations throughout the country, and who met at the end of January in Brasilia, this means confirmed that "the present government has strong commitments to anti-indigenous political and economic groups." This is confirmed in...
the letter sent by Minister of Justice Nelson Jobim, a few days prior to the publication of the decree to the governors of various States, encouraging them and instructing them to contest the indigenous lands. The newspaper Folha de São Paulo denounced this act on the 29th of January.

In the letter to the governor of the State of Pará, Nelson Jobim provided details of the time needed to respond to FUNAI (National Indian Foundation), the official indigenous body, and to claim compensation from the Federal Union or demand the revision of indigenous lands. In the letter, the Minister listed 14 indigenous areas which could be contested. Among these are five of the 127 areas planned for standardization and demarcation as part of the "Indigenous Territories Project" agreed between the governments of Brazil and Germany and the World Bank.

Interestingly, the State of Pará has 26 indigenous areas and the 14 areas which the Minister of Justice noted in his letter appear to have been selected not according to technical criteria but according to political criteria in order to gain allies for the government. Ivan Valencio, a Deputy for the Workers Party, recently denounced the move claiming that "the decree could have been formulated in order to coopt the necessary votes for the approval of the constitutional reform in the Congress". Moreover, when Nelson Jobim was a Federal Deputy in September 1993, he ruled in favour of the State of Pará and signed legal statements requested by the then governor Jader Barbosa, against indigenous areas demarcated by the State. Although the Supreme Federal Tribunal did not declare decree 22/91 unconstitutional, the Deputy did not comply and now, in time, as Minister he has changed everything – overturning decree 22/91 and formulating 1775 which guarantees the principle of contestation in the demarcation procedure.

It is quite clear that the new decree simply permits "States, Municipalities and other interests" to intervene for the revision of all the demarcations work being carried out, including lands which are already identified, delimited and demarcated by FUNAI and authorised, that is recognized by the President of the Republic but which have not yet been inscribed in the Property Register or in the Secretary of the Patronage of the Union. Consequently, according to data published by FUNAI on the 31st of January 1996, of the 553 indigenous areas which exist in the country, only 218 are registered. This means that they can be contested, including 17 which were authorised by the President of the Republic three days before the publication of the decree. The authorised lands are situated in the States of Amazonas, Acre, Bahia, Pernambuco, Roraima, Pará, Mato Grosso and Rio de Janeiro. This last minute authorisation was interpreted by the indigenous organisations and their allies as a political game designed to rally public, national and international opinion and contain the waves of protest which had broken out when the decree was being formulated. But the decree had been rejected even before its publication. Bishop Pedro Cardalíga, for example, has called it a "genocidal" decree because it will have disastrous results for the indigenous peoples. For him, "the decree is a negation of democracy, because real democracy is measured by its capacity to respect minorities, and this is not happening."

In fact, instead of insisting that it is a "democratic" decree, the government of Fernando Henrique Cardoso and his Minister of Justice have given no consideration to the demands of the indigenous leaders and the organisations which demonstrated their total opposition to any change in decree 22/91 throughout 1995, which then regulated the demarcation procedure for indigenous lands. Neither the Minister, Nelson Jobim, nor the President kept their word. For example, on various occasions the Minister said that the areas which were part of the Indigenous Lands Project would not be threatened by the new decree and he guaranteed that they would not be reduced or contested by third parties. Nevertheless, he himself took the initiative to send the list of 14 areas under demarcation to the governors of the State of Pará so that they could be contested and revised. For his part, the President of the Republic granted the leaders of the Council for the Articulation of the Indigenous Peoples and Organisations of Brazil (CAPOIR) an audience on the 15th of
August 1995 and guaranteed not to alter Decree 2291 without full discussion with the indigenous leaders. But quite the contrary, as Dr. Dalmiro Dallari said, "the government of the Republic, which ought to be the main defender of the Constitution, has passed an unconstitutional decree, atexting indigenous rights." The leaders of CAPIBIRI rightly stated in a communique at the end of January that "in Brazil the sentence of death still continues for the Indians, now under the sponsorship of a sociologist."

Over and above facilitating challenges, Decree 1775/96 also:

- excludes the possibility of revision or extension of insufficient lands for the "physical and cultural reproduction" of specific indigenous peoples, such as the Guarani-Kaiowá people who have experienced several violent incidents ranging from killings to suicides because of lack of land;
- on the issue of ensuring indigenous possession of the demarcation, does not water down the glorification of rural Alessas who occupy indigenous areas as long as they are defined in the new void decree, which permits access and freedom of movement to third parties to lands inhabited by uncontacted peoples and does not guarantee the protection of these peoples by the official indigenous body, FUNAI, as was also foreseen in 2291. Worse still, the new decree concedes maximum power to the Minister of Justice to finalise the whole process by declaring the limits of the indigenous land and determining their demarcation," that is, the decision as to whether the territory is or is not indigenous depends exclusively on the Minister of State. He can decide to shelve the demarcation process by ensuring that the final notification does not include traditional indigenous occupation as well as other unspecified means.

In this way the government is rejecting the steps which have been taken towards the recognition of indigenous rights over the last ten years, steps forward which the same government has paraded at international fora and meetings where these rights have been debated. The government is also ignoring the administrative steps taken by its predecessors, and condemning to oblivion all the human and financial investment made over the years. Similarly, it lacks all respect for the same who have given their lives in defence of indigenous leaders, missionaries and others - so that the rights of the indigenous peoples of the country would be recognised and respected.

Challenges and more invasions of indigenous territories

As soon as Decree 1775/96 became known, indigenous territories were battered by waves of challenges and violent incidents against the indigenous peoples. According to the magazine Veja on the 24th of January 1996, in the space of 15 days 16 invasions of indigenous lands had already been reported, among them Bomã de Antonina, belonging to the Kaingang people in the State of Paraná as well as Cointa de Laranjal, belonging to the Munduruku people in the State of Amazonas. Among the challenges was one by the State of Bahia on the 10th of January to throw the Patuó people off their area Verrumelha Indigenous Area in the extreme south of the state. The agricultural company Sattin de Serra Geraldo do Sul, in the State of Santa Catarina, has already registered a similar challenge against the Guarani-Kaiowá people's land. Even the area belonging to the Yawatani people runs the risk of challenges by political powers in the State of Roraima despite being already registered. According to information from the newspaper Folha de Ada Vista on the 2nd of February 1996, the Legislative Assembly of Roraima had already contracted legal advisors "to draw up the contestation against the demarcation of indigenous lands in Roraima." It will mainly affect the indigenous areas of San Marcos and Rupual Serra de Sol, belonging to the Macuxi and Wapiapana peoples in the north and north east of the state respectively. The former has already been demarcated and authorized but not inscribed in the Register of Property by the President of the Republic. CAPIBIRI, angry and worried by this situation which is a "threat against our original rights to our lands", sent a press release on the 31st of January 1996 asking for "support from the national and international society and sensitivity from the authorities so that Decree 1775 be repealed and that the Federal Constitution not be contradicted again in the 500 years of massacre of the first peoples of this land, the indigenous peoples, be continued."

Another of the measures taken by the indigenous leaders, over and above protest, is to continue the occupation of the presidential palace and in the National Congress on the 17th of January to demand the repeal of the decree, has been to send a letter to the ambassadors of the G-7 countries, to the European Community and to the representatives of the World Bank in Brazil after announcing the effects of the decree; the leaders ask for the immediate publication of the suspension of the funding for the Indigenous Lands Project of the Brazil-Germany World Bank agreement because they fear that it will be used to revamp and reduce their lands. Furthermore, the indigenous leaders stated that they will take their denunciations to the United Nations as well as meet with representatives of the G-7 countries and NGOs.

Concerned about the increase in pressure, the Minister of Justice, Nelson Jobim, has pledged to put forward his own justice bill. On the 23rd of January, he met with the ambassadors of the G-7 countries in the Ministry of Exterior Relations and has already announced talks to European in order to explain the implications of Decree 1775/96 to NGOs.

Not even the supposedly conservative governments have had the audacity to attack the rights of the indigenous peoples and communities of Brazil as this government has. Perhaps for this reason, when protesting outside the Governmental Palace, the indigenous peoples carried a poster which in the Guarani language said: "Aí naí, rama, tobrína" which means "contemptible, treacherous, traitorous man." And so, it is hoped that good judgement will prevail, that the situation will be reversed, that this proclaimed "death sentence" will not be implemented, in accordance with the hopes and demands of the indigenous peoples and organisations of Brazil and their supporters.

Brazil, 6th February 1996

CMH - Indigenous Missionary Organisation, affiliate of the National Conference of Bishops of Brazil (CNBB).
The Coordination of Indigenous Organisations of the Brazilian Amazon - COIAB, publicly committed to immediate Federal Government for signing Decree 1755 of the 08.01.96. In signing this decree, President Fernando Henrique Cardoso once again confirmed his commitment to the dominant elites and reaffirmed his alliance with the gestureious, landowners and other national and foreign economic groups, regaining over any commitment to the sectors which are excluded from Brazilian society.

The signing of Decree 1755 is more than a setback: it is a death warrant for many indigenous peoples. According to the document, States, Municipalities and 'other interested' civil interests intervene to stop the demarcation of more than 300 indigenous areas, including ones which are already demarcated and authorised. It is quite incredible that, in order to impose the will of the dominant elites, President Fidelitas Fructus Cardoso has no examples in giving preference to a Decree over the Constitution. In fact, the notion of 'restoration' has been inspired a rapacious defended by military and political groups and entrepreneurs, especially in the northern region where the majority of the indigenous lands are and where the indigenous peoples live.

Armed with the right to challenge, groups and individuals who recently supported rape, invasions, expropriations and other forms of violence such as the sides of the Guanambi natives, Yanomami, Ticuna and other peoples, are now identified and prepared to return to criminal practices, affected by the State through the most cynical and vile trap with impunity.

The threat institutionalised by Decree 1755 is equally serious because the definition of lands depends on the goodwill of the Minister of Justice. This Minister, Nilton Jobim, has on various occasions shown his indifference and opposition to the indigenous peoples' claims. What can we expect from this Minister and this government? What hope do we have from a President of the Republic who possesses the interests of a North American company above those of the Brazilian people? What can we hope for of a government which supports financial institutions and readily washes its hands of rural workers, pensioners, among other sectors of society?

COIAB has taken the opportunity to publicise its concern about the future of the resources opposed by the German government and the C&G group for the demarcation of indigenous lands. The signing of Decree 1755 postpones the settlemens and also the honesty of the Federal Government. Because the money which should be earmarked for meeting the indigenous peoples' claims would be used in the opposite end, that is, to defend foreign interests against those of the communities.

Furthermore, COIAB wants to alert Brazilian society to the fact that this bias in indigenous peoples' rights is not an isolated incident but, on the contrary, it is another instance aimed at aligning the Brazilian state with the interests of large foreign capital, although to reach this goal all the desires and interests of the peoples are oppressed by unjust, illegal and immoral acts.

Maracás-AM, 11th January 1996
André dos Céus

Indigenous Council of Roraima (CIR)

The meeting of the General Assembly of the Tunas of the Indigenous Council of Roraima-CIR took place on the 8th January 1996, in the Circuit house, Raposa Serra do Sol Indigenous Land. 100 Tunas and other Macuxi, Wapixana, Inagural, Yanomami and Wohu participated and publicly announced their repudiation of the new decree which sets the procedure for demarcating indigenous lands.

On the 9th of January, Decree 1755 of the 09.01.96 was passed which revokes Decree 2230. The new decree introduces what the Minister of Justice considers a 'right to浏览' which eliminates the state government, municipalities and other interests the right to challenge the administrative procedures for the demarcation of indigenous lands.

The CIR has always considered the Minister of Justice's legal authorization of the right to contest to interested parties to the null, primarily because the new decree permits a revision of the boundaries of areas already demarcated. The State of Roraima has one of the highest rates of institutionalised violence against indigenous peoples. In Raposa Serra do Sol 82 indigenous peoples have been killed over the last 7 years in land-related conflicts while only two people accused have been tried and both acquitted. Killing, brutality in Roraima is not a crime.

The CIR considers the President of the Republic, Fernando Henrique Cardoso, responsible for the new conflicts and outbreaks of violence against indigenous people's lives and their struggle in Roraima since the announcement of the new decree.

On 21.03.93, Raposa Serra do Sol's land was officially registered by FUNAI. This forced many hacendado owners to acquire land and look for collect productive activities outside the indigenous territory. The CIR fears that, in the light of the decision by the Minister of Justice, the new decree will encourage the tenure of these hacendado owners and the return to violence.

With the exception of Yanomami lands, the indigenous lands registered in the CIR and the DIP were demarcated in the 1980s through agreements with hacendado owners stipulating the boundary of indigenous occupation. The CIR will draw attention to the new decree so that it does not become a legal instrument that authorises the occupation of land such as in Raposa Serra do Sol.

The government favours the demarcation of indigenous lands on the pretext that Decree 2391 needed to be revised. With the publication of the new decree, the CIR will continue to demand the demarcation of indigenous lands, as guaranteed by the 1988 Federal Constitution.

Mário Broemke-Beirama, 11th January 1996
Nelson Galdino
CIR Coordinator
Brazil

After maintaining a holding pattern for a long time, the administration of President Fernando Henrique Cardoso has started off its indigenous policy with a package of measures whose flagship is the controversial Decree 1775, a Trojan horse that may wreck the gains made through the 1988 Constitution. By changing the procedures for demarcation of indigenous land and introducing the possibility that “states, municipalities and other interested parties” that are opposed to it may express themselves “in order to demand indemnification for any errors” in the identification and delimitation of indigenous land, President Cardoso opens the season for retaliation against indigenous areas.

If it is not cancelled by court decision or by federal government review, the new decree will create an enormous bureaucratic and political entanglement. The damage to indigenous rights will be, in the short term, invasions and the reopening or sharpening of conflicts. Within three months, there will be an avalanche of demands by those opposed to identification, current demarcation work and even registration of ratified land. For six months, decisions taken by the Minister of Justice and President Cardoso on the first lot of contested land will be closely observed. In the long run, new demarcations will be hostage to indemnities that the federal government can rarely come to a decision on, as has been the case with environment conservation units.

Opponents have always had the right to defend their interests in court against any damages and obviously that will continue to be the case. Now, with the same long legal deadlines, they will also dog
CARDOZO RIGHTS THE BRAZILIAN ANTI-INDIAN BRUSH FIRE
by Beto Ricardo and Carlos Marés

up administrative channels. And, worse still, according to the new decree, all demarcation underway is subject to this kind of questioning, as long as “the rati-
fying decree has not been registered in a deeds of fice or the Secretariat of Federal Property”. What makes matters worse is that a large amount of land is immedi-
ately affected by the measure. The Fed-
eral Indigenous Affairs Agency (Funai), responsible for processing the expected avalanche of opposition, is known to be ran down. Although the decree provides in general terms for the participation of Indians in all phases, it does not include procedures by which indigenous com-
unities can defend their rights.

Based on questionable legal principles, the new decrees did not surprise anyone. It had been announced at the beginning of the Cardoso administration and drafted before Mário Santilli took office as pres-
ident of Funai in September of 1998. Nelson Jobim, the Minister of Justice, who is a lawyer and former federal de-
puty (PMDB from Rio Grande do Sul), has long been obsessed with the idea that Decree 22, which has regulated the de-
marcation of indigenous land since Fe-
bruary 4, 1992, is unconstitutional because it does not provide for the right of con-
testing. In spite of the fact that the Bar Association has rules against such activ-
ity, Jobim acted as a lawyer against the government in September 1993 while still a deput-
y: he signed a legal opinion com-
missioned by the then governor of the state of Pará, Senator Jader Barbalho (PMDH-Pará), who was bothered by the dimensions of indigenous land in his state, in support of a Direct Suit of unconstitutionality of Decree 22. With this precedent, Jobim’s arguments on

the matter are subject to question on ethical grounds.

Although the Federal Supreme Court ruled against it, on December 17, 1993, the idea was revived by Agropecuário Satin S.A. in an injunction to cancel the demarcation of Guarani of Sede Cerrros in Mato Grosso do Sul. Jobim sustained and drafted the decree signed by Presi-
dent Cardoso with the argument that, if the Supreme Court changes its mind and rules Decree 22 unconstitutional, all de-
marcations carried out under its shield would be cancelled with a single stroke of a pen; the decree would “resolve the [al-
leged] original distortion of Decree 22”.

However, the government’s new meas-
ures—stimulate anti-indigenous interest to question even the land that has al-
ready been ratified and registered and that, theoretically, would be protected by the new decree. This is certainly the most irresponsible aspect of the Cardoso administration’s supposed solution.

With the support of eminent jurists and a dossier of documents prepared by ISA (Instituto Socioambiental), indige-
nous and indigist organizations have claimed that the minister’s reasons for pro-
posing the new decree were un-
formed and that the introduction of legal opposition, especially retroactively, is actually a mechanism for reviewing and decreasing indigenous land. The sus-
picion is sustained by experience; his-
torically, every time the State has re-
vised the limits of indigenous land, it has taken some away. This historical curve of progressively pushing the Indians back to the “frontiers” and confining those remaining on shrinking land has begun to be reversed in the last 25 years, and has coincided with the surprising demo-

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environmentalists received a scare last month, when Presi-
dent Cheddi Jagan of Guyana announced to the local press that the
multilateral development banks had
given him the green light to hand out
more logging concessions to foreign com-
panies. And agency officials panicked —
Guyana already has some 8.7 million
hectares under concession, far more
than the over-stretched forestry commission
handle — and new concessions would
be against agreements that the Govern-
ment has signed with them. Telephone
lines from Washington and London
hummed with anxiety while the truth
was disentangled. Was it coincidence

that the announcement was made while the head of the national forestry commis-
sion— a known supporter of the conces-
sion freeze — was out of the country, at-
tending the International Tropical Tim-
er Confer meeting?

The reality is somewhat more reassuring. Malaysia’s sixth largest conglomerate, the Berijaya Group, has through part-
nership with a local company called Can Timbers, gained rights to an existing 217,000 hectare concession between the Up-
er Berbice and the Essequibo, previ-
ously held but not exploited by the local
firm UNAMCO. Berijaya has promised to inject some US$35 million into ex-
tracting and processing the timber. Just
to the north, the Singapore-based Prime
Group, masterminded by Alex Ling Lee
Soon, of Prime Resources Management,
has taken over Hemerata Timbers Ltd.,
which has the neighboring 800,000 hec-
tare concession. In exchange the Prime
group has been persuaded to relinquish
its rights to some 600,000 hectares on the
Middle Marowari, to which it had an anomalous “exploratory” timber permit
(no such permit exists in Guyanese law).
The Prime Group has accepted the con-
tinuing presence of the Dutch forestry
research programme, Trorhino, within
its concession.

The question remains: why was Jagan’s
press announcement so inaccurate? En-
vironmentalists and aid agency officials
believe he was testing world reaction to see whether anyone really cares what
happens in the interior. He can rest as-
sured the world is watching and the aid
agencies seem serious about getting con-
trol of the run-away timber industry.

Meanwhile, some gains have been made
by the Amerindians. Can Timbers has had
its concession in the Upper Baramita re-
tracted — it overlapped half the Carib In-
dians’ reserve, created in 1977. The Baramita
Company Limited has also agreed to ex-
cise the other half of the Carib reserve
from its concession. The Caribs only prob-
lem is that their reserve is still covered
by a gold prospecting licence issued by

News Reports
the Geology and Mines Commission to the Canadian transnational CANARC, which also has prospects and mines in Venezuela, on the Upper Guyan, and on the Sara Creek in Suriname. In Guyana, CANARC is using the local consultancy firm STMICO to broker a deal with the local Caribs, whose own gold mines are thus threatened with closure.

**ROAD GOES AHEAD**

The controversial Bou Vista to Georgetown road is under construction again. With minor funding from the Guyana government, a tentative trail is about to be constructed by the Guyana Defence Force to link the road system of Demerara Timber Limited, which constructs to Georgetown through Mahdia Hill, to the existing road up from Brazil which terminates on the Essequibo. Karupukari, NGOs have long called for an environmental impact study on the road, to be published and subject to national debate, before the road be completed — a demand heeded by the World Bank, which last year financed the assessment. However, although the study was completed in April 1995, by the British company Environmental Resource Management (ERM), the document has never been made public. In this context, however, the elimination measures advised by the ERM, which includes titling Amerindian lands, are viewed as insufficient. Brazil has now offered to build a bridge across the Takara river on the border. An all-weather road for four-wheel drive vehicles will thus be open by the end of next year if Government plans succeed.

**IWOKRAMA RAINFOREST PROJECT MAKING SLOW PROGRESS?**

A legal bill is soon to be set before the National Assembly to formalise the establishment of the 360,000 hectare experimental tropical forest project in southern Guyana. The officially named “IWOKRAMA International Rain Forest Programme” was announced by President Desmond Hoyte in 1989 and received preliminary support from the Commonwealth Secretariat, the Global Environmental Facility and Britain’s ODA. But delays in formalising the project and establishing its research programme have led to donor fatigue.

When it was first announced, the project was perceived as a diversification from the main environmental aerosols in the country, which were runaways mining and logging, unplanned road construction and lack of recognition of Amerindian rights. The project was also conceived for having been developed without any kind of consultation with the Amerindian communities and no provisions to secure their “intellectual property rights” — their knowledge yet to be subject of much-dreaded but promising legislation. The project has responded to some of these criticisms, while nationally some progress has now been made in getting logging and road-building under control. Under the new Bill establishing the programme, existing Amerindian legal and traditional rights are fully protected and the programme is obligated to adopt procedures for recognizing the contributions of local communities and the intellectual knowledge.

However, other communities in Guyana have complained that the draft Bill, which is interpreted as giving the land to the programme in perpetuity, establishes a “State within a State”, to be run by international civil servants on tax-free salaries and a board of trustees who have absolute authority over the programme area. Clear mechanisms to ensure that Guyanese citizens benefit from the programme and that it is accountable to parliament are thus being advocated, while the term of the lease may now be restricted to 50 years. Other Guyanese have welcomed the presence of the programme as it may help control traffic along the near-completed Bou Vista-Great Georgetown road. Although the Bill excludes the road built from the authority of the programme, some kind of collaborative regime between the government and the programme is envisaged for regulating traffic. To this end, the Government has already announced that it will establish a 50-man customs, army and police post at Karupukari.

The project site overlaps the territories of a number of Amerindian communities who use the area to hunt, fish and gather forest products, as well as for small-scale mining. One community of some 20 people, Fairview, across the river from Karupukari, falls right within the reserve and presently lacks title to its land. The challenge for the staff is now to find an effective way of recognising these peoples’ rights and ensuring they benefit from, and have a say in, the running of the programme.
MINING DISPUTE STILL UNRESOLVED

The conflict between Golden Star Resources Ltd (GSRL) and the Surinamese Maroons who live near the Gron Reschel gold-mining prospect remains tense. After the small-scale mines near Koolhoven were closed in January, when the Maroons were threatened with air strikes if they refused to leave, attention has shifted to the Nieuw Koffiehamp area. A heavy military presence has been put in place to patrol the prospecting zones and the local people complain of being shot at and prevented from accessing their forests and small-scale mines.

The community of Nieuw Koffiehamp has already experienced forced relocation to make way for SURALCO's dam at Brokopondo in the 1970s. They fear they will now be evicted again to make way for "Suriname's Orin". It is a joint venture between GSRL and Cambior Inc, is being negotiated.

Under pressure from the Suramakas, therefore, the Government has set up a commission brokered by the Organisation of American States to listen to their complaints and try to find an amicable solution to the land conflict. In the course of these discussions the Government has offered alternative land—in the form of an "economic zone"—to the people of Nieuw Koffiehamp, if they will agree to move.

Suramak chief Sengho Abokomi notes that the problem that the Suramakas face at Nieuw Koffiehamp is the same as that faced by all the interior peoples of Suriname: they have no legally recognised land rights and the government is seeking to impose logging and mining concessions without their consent. "We need title to our lands and our "economic zones" first before the Government invites in foreign companies," he said, noting that his people wanted the support of foreign governments in their struggle and that they fear a repeat of their experience with the Brokopondo dam. "The Government doesn't pay attention to these things," he said, "that's why we held the Gran Kratu (the first General Assembly in Suriname bringing together all the Maroons and Indigenous peoples of the interior held in August this year) to seek a solution to these problems. But the Government just got angry with us as a result of the Gran Kratu, they see us as the cause of a lot of trouble. The Government needs to understand that now that we have schools and education in the interior we are able to express ourselves to them. The Government should not be angry now that the people of the interior are up for themselves."

Local GSRL head Peter Doughlin refused to meet with a World Rainforest Movement representative visiting Paramaribo, referring him to GSRL's head office in Denver. On the telephone, Mr. Arjindarnath of GSRL told the company that the company has not yet decided whether the mine should go ahead or not. The negotiations with the Suramakas had been demanded by the people, he noted, and had the aim of ensuring that whatever happens the people will not suffer. GSRL has pointed out previously that it is the Government of Suriname which has legal responsibility for the welfare of the Suramakas and issues such as land rights and compensation.

However, legal controls on mining in Suriname are very weak. Under the 1986 Mining Decree companies are required to use "appropriate technologies" having "due regard to...the need to protect eco-systems" and to clean up or restore mined areas "to the satisfaction of the Minister" when they finish. Under the act, a working plan to restore mined lands should be filed with a mining application. Going beyond the legal requirements, the two bauxite companies, SURALCO and Billion (GENCOR) do now carry out Environmental Impact Assessments (EIAs) of new developments but these are not made public. More seriously, the Government entirely lacks the capacity to monitor compliance with mining agreement independently.

Despite the weakness of the law, the Government has recently had some new incentives to carry on EIA's, an obligation they imposed on GSRL, which last year contracted RUMIN of Canada to carry out a baseline study. GSRL says that a further EIA will be carried out once they have decided that the prospect is worth developing.

SURALCO TO MINE WANE CREEK NATURE RESERVE

Two beautiful low hills in eastern Suriname near the MUNO mine area were declared a nature reserve a few years ago after mining giant SURALCO, which had rights to the area, decided mining the hills on either side of the Wane Creek would be uneconomic. Changing currency supplies have now forced SURALCO to re-visit its position and the reserve now faces obliteration through SURALCO's ceaseless quest for bauxite. Such is SURALCO's haste that it is now driving roads through the area without even waiting for the results of the EIA that it has commissioned.

NEW DAKHUIS BAUXITE MINE UNDER STUDY

Plans to develop the bauxite deposit at Baldovil in western Suriname are again under study. The mines were to have been the centre piece for a "development pole", commenced by the Dutch in 1972, the goal being to create a new town and major port at Apura on the Courantyne, connected by railway to the Hakirins deposit. The plan was dropped after independence; as a result of which the railroad has fallen into disrepair, being occasionally used to ship gravel down to the port at Apura. A team from international consultants MacKay and Schleicher is now carrying out a feasibility study in order to look into the possibilities of reviving the programme, with Knight Piesold is carrying out a preliminary environmental impact sur-
very, if it goes ahead, seems certain to affect some indigenous communities and will require the clearance of substantial areas of rainforest.

LOGGING CONCESSIONS STILL IMMENENT?

Uncertainty surrounds the three million-hectare concessions promised to Asian companies by the Venetian government. Faced with dissent from the interior peoples, who have demanded that their own land rights be recognised first before foreigners get logging rights and under heavy pressure from environmentalists and aid agencies, the government is hesitating. President Enrique Iglesias of the Inter-American Development Bank has offered a US$25 million package to reform the timber industry and inject desperately needed foreign exchange on condition that the Government freezes the hand-out of concessions—but President Venetian of Suriname has reacted dismissively: the offer, he said, was "eco-colonialism" and "meddling" in Suriname's internal affairs. What kind of colonialism and meddling he thinks foreign logging companies carry out is not so clear. According to local newspaper reports, Suriname, a front company for Indonesia's shadowy Antarg group, has grown impatient of delays and may have fumed from the running as backers look elsewhere to place their investments. Meanwhile MUSA is said to be unpopular with the government for employing opposition leader Don Bouangio in its timber-pushing operations in Central Suriname. Berijaya remains the most likely to get a concession, according to local environmentalists, but its concession is also the most contested as it overlaps the most territories of Maroon and Indigenous peoples. Local observers speculate that the government is delaying the concession handout because it cannot afford to forfeit the vote of the interior peoples in the upcoming elections, scheduled for May 1996. Ten seats in the National Assembly are decided by the interior communities: the government needs them if it is to maintain a majority.

However, in a gesture of reconciliation to Maroons and Indigenous groups, President Venetian has also been reported as saying that he will not give away forests to outsiders if the local people are opposed. He warned the communities, however, that if they reject the foreign companies they would have to fend for themselves. Any development they wanted would have to be funded from their own resources. Local Berijaya representative Paul Yoon has, according to local press, also said that the company will avoid logging areas-claimed by local communities. If the communities do not want us we will log elsewhere, he is reported to have said.

Although the Venetian Government initially nibbled the Inter-American Development Bank it has accepted a technical support project from the FAO. Working under a programme titled Strengthening National Capacity for Sustainable Development of Forests on Public Lands", the four main teams from the FAO is looking to develop a series of projects for donor funding to reform the government's capacity to regulate the timber industry. The FAO is looking seriously at the possibility of developing a legally authorised and autonomous "Forest Management and Development Authority" (previously referred to as a "Timber Institute") which would have the task of collecting revenue from logging companies and overseeing adherence to their management plans. The European Commission has already expressed an interest in supporting such a body. Unlike the IDB, the FAO has had no conditions to its support, and indeed seems to be working on the assumption that the Berijaya company will eventually get its concessions. How they expect the new authority to have the political strength to control the company's operations, if the government couldn't even prevent it getting access to over 1 million hectares of forests, remains far from clear.

The proposed deal with the Inter-American Development Bank may not be dead, moreover. Recently, President Venetian wrote a belated reply to the IDB offer. It remains to be seen whether he will accept the IDB's conditions of a freeze in the end of concessions.

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In response to the growing pressure on their lands by mining and logging companies Indigenous and Maroon leaders held a "Gran Krutu" (Great Gathering) on 19-21 August at Asinan-dorp in the interior. Declaring that they had set up a "Supreme Authority of the Interior" with the right to agree or disagree with development in the hinterland, the "Gran Krutu" demanded a freeze on Government hand-out of mining and logging concessions on their territories. The partial text of the Statement of Policy, Charter and Resolutions follows.

**Statement of Policy Foundations of our Thought Meeting of Indigenous Peoples and Maroons**

We, the Indigenous Peoples, descendants of those who have lived in Surinam since the beginning, and we, descendants of the Maroons, who fought for their freedom; we who have lived for so many centuries in Surinam, where our umbilical cord is buried; we speak now because we feel that the time has come to exercise our right to self-determination, as our ancestors did before us. The time has come for us to feel, that we want other peoples know that we are here! We want them to know that we have our own homes and places of residence, our own chiefs, our own government, our own songs, our own dances, our own stories, our own history, in short our own culture, our own wisdom, our own thought and our own customs, our own life, our own land, in particular our own forest, where we must be able to live the way we think right! This is why we are holding this large meeting, to discuss together how we will apply our right to self-determination to the development of our people. We call on our people!

**Charter of the Indigenous Peoples and Maroons in Suriname Resolved**

**Article 1**

We, the Indigenous Peoples, descendants of the original inhabitants of Surinam, and the Maroons, who have lived since the 16th century in their traditional tribal way, descendants of those who fought free of the oppression of slavery; who have lived and worked for centuries in the Interior of Surinam where our umbilical cord is buried; proclaim this Charter in response to the threat to our collective rights, our right to be recognized as respectively Indigenous and tribal people, our right to self-determination, self-government and self-development, our right to experience our culture and traditions without hindrance, our right to live on our territories and to use and exploit the natural resources on them and in them, our right to participation in policy decisions concerning our areas, our right to the preservation of a clean environment guaranteeing that we can freely continue our traditional lifestyles, our right to our intellectual properties, knowledge and experience, and as an answer to the threat to our social, economic, political and cultural civil rights.

**Article 2**

We condemn every form of discrimination, oppression and purposeful injury against our people.

**Article 3**

We affirm the intention of the Indigenous Peoples and the Maroons to work together constructively to achieve the complete recognition of our collective and individual rights as distinct Indigenous and Tribal peoples and as members of these peoples.

**The right to self-determination**

**Article 4**

As distinct peoples we have the right to self-determination. We derive from this right our right to self-government according to our own systems of law and authority and our own traditions, the right to decide ourselves our social, cultural and economic development and the right to participate in decisions which could affect our lives.

**Article 5**

Our territories are our indivisible, inalienable and non-marketable collective property. We are the rightful owners of the areas which we traditionally live in and use, and on which we rely for our survival. These territories are for us the condition for life and are essential to the maintenance of our respective social, cultural, spiritual, economic and political distinctions. We will persist in striving for complete legal recognition of this one-ness between land and people.

**Article 6**

Our territories are not necessarily limited to the national borders which were created by and during the period of colonial domination over our people. We have the right to maintain free cultural, social and economic contact with members of our peoples who live on the other side of these imposed boundaries.

**Article 7**

We have the exclusive right to effectively use the natural resources and in our territories as applicable to our own development. We have the right to determine when and how these resources will be used for the purpose of our development. The natural resources can only be exploited by persons or organisations outside our communities if they have the express and written permission of our authorities, and that such things as the form and size of fair compensation for our community are laid down in agreements.

**Article 8**

Plans and projects focused on the Interior must be vested with the express approval of the communities involved and must involve the active participation of members of these communities in every phase of the planning and execution of activities, and in the flow back of a fair share of forthcoming financial or other advantages of these activities.
Environment, Biodiversity, Culture, Intellectual Properties

The natural environment in which we live and on which we are dependent for our food sources, our traditional housing materials, our medicinal plants and our health, is a condition for our life. We regard the large-scale exploitation of our natural resources, which has a negative effect on our environment, as a limitation to our right to life and as a crime against our people and against humanity. We have the right to fair compensation for activities which damage our environment.

Article 10
The Biodiversity of our natural environment is a measure of the health of our environment. Damage to the biodiversity is a sign of damage to our environment.

Article 11
Our intellectual and cultural knowledge, under which we understand our cultural expression such as our applied art products, symbols, designs, music, songs and dances, language, stories and rituals, authority structures and practices, approach to conflict and our legal systems, are our collective property. Commercial use of our knowledge and experience, including our traditional plants and medicines, must carry our express and written permission and must be carried out under our own, direct management and with fair compensation for the use of our inherited knowledge.

Article 12
We have the right to protection from ethnocide, including the right to preserve and further develop our cultural characteristics and respective identities. We must be safeguarded from every form of enforced assimilation and integration, and from absorption into lifestyles strange to us, and from propaganda and remarks which denigrate our dignity and distinctiveness, and from political manipulations which can promote divisions among our peoples.

Civil Rights
Article 13
As members of the Indigenous and Ma- roon peoples of Suriname, we have the right to enjoy without discrimination or inferior treatment the same human rights and freedoms as the inhabitants of this country. This involves, among other things, the same right to access to education, health care, housing, transport, telecommunications and information and social services.

Article 14
We emphasize the equal rights of our women, children and elderly, who hold a special position in the community and belong to vulnerable groups, in addition to being members of the already disadvantaged Indigenous and Maroon peoples.

Standards
Article 15
We support the following international standards which, directly or indirectly, wholly or partially, apply to the rights and freedoms of Indigenous and Tribal peoples: The Charter of the United Nations, the Universal Declaration of Human Rights, the Charter of the Organization of American States, the International Treaty on Civil and Political Rights, the International Treaty on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention concerning the Banning of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the UN-Draft International Declaration on the Rights of Indigenous Peoples, the Draft Declaration on the Rights of Indigenous Peoples of the Organization of American States, Convention 169 of the International Labour Organization concerning Indigenous and Tribal Peoples in Independent countries, the Rio Declaration concerning Environment and Development, the Biodiversity Convention, Chapter 26 of Agenda 21, the Kari-Oca Declaration concerning Territory, Environment and Development of Indigenous Peoples, the Mauataa International Declaration concerning Intellectual and Cultural Property Rights of Indigenous Peoples, the Declaration and the Resolution of the International Alliance of Indigenous and Tribal Peoples of Tropical Forests.

Article 16

Supreme Authority of the Interior
Article 17
Based on these starting points, and taking into consideration that the Indigenous Peoples and the Maroons of Suriname are in the same way victims to the non-recognition of their collective and individual rights, to environmental damage and cultural destruction, to the theft of their lands and their natural resources, and as confirmation of the cooperation between the Indigenous Peoples and the Maroons, we inaugurate the Supreme Authority of the Interior, the Consultative Body of the highest, traditional, Indigenous and Maroon authorities of the Interior of Suriname, the primary aim of which will be the protection and promotion of the rights of the Indigenous and Maroon peoples of Suriname and to stimulate sustainable development in the Interior, which is based on the adoption of the distinctive characteristics of the Indigenous and the Maroon Peoples. The Supreme Authority of the Interior will meet at least once a year, while a Granrakuta will take place at least once every two years. The structure and operation of the Supreme Authority of the Interior and the Granrakuta will be agreed on in a resolution yet to be agreed upon.

Agreed to by the Indigenous and Ma-roon representatives, and endorsed by the non-governmental organizations listed below, in Asindo-Opoe, during the First Granrakuta of Indigenous People and Maroons in Suriname, 19-24 August 1993.
Resolution - 01

The Right to Self-Determination

We, the Indigenous Peoples, the original inhabitants of Suriname and we, the Maroons, who have lived since our liberation from slavery in the 18th century in the Interior of Suriname, meeting on 19, 20 and 21 August 1995 in Grantkrut in Asindo-Opo,

1. Considering that our people have the right:
   - to self-determination, in other words to own and control the government and development of their territories;
   - to our own territories and to the exploitation of the natural resources in these territories through developing traditional and non-traditional economic activities in a traditional or non-traditional way;
   - to protect from re-location;
   - to equal participation in the development and formulation of policy and legislation concerning our people;

2. Considering that the Surinamese Government should recognize the legal systems of our peoples, our traditions and customs, systems and mechanisms of land ownership and the development and management of the natural resources, and should take measures to prevent any damage or alienation from or violation of these rights;

3. Considering that the Surinamese Government neglects to develop adequate measures and services in order to substantially improve in the short term, together with the leadership of our, the Indigenous, and our, the Maroon communities, the worsening living conditions, despite the fact that the social and economic aspects of our living conditions have reached unacceptable levels as a result of years of neglect by successive Surinamese governments;

4. Considering that the Surinamese Government moreover, without obtaining prior approval of our peoples, has given and continues to grant concession and other rights for the exploitation of resources on our Indigenous and Maroon lands to foreign companies, including Golden Star, Berjaya, MUSA and Surin-Atlantic, moreover to the exclusion of members of our communities;

5. Considering that the Surinamese Government accordingly also violates our rights, namely our right to the full enjoyment of our lands, including the total surroundings, namely air, water, flora and fauna and other resources which we traditionally own and/or use;

Acting according to the wishes of the members of our Indigenous and Maroon communities, Decide:

1. to re-affirm the right to self-determination of our Indigenous Peoples and Maroons as the basis for the creation of living conditions worthy of human beings for our peoples in Suriname;

2. to bring about the recognition of other rights flowing from the right to self-determination;

3. to determine the following measures to bring about the welfare and well-being of our peoples under our own, Indigenous and Maroon, direct responsibility, direct management and direct control:

1. the territories to which we, Indigenous Peoples and Maroons, lay claim, will be demarcated as soon as possible and where necessary exploited for the purpose of the development of our communities;

2. the sustainable development of our natural resources, the environment and the protection of our eco-system, the culture of our peoples and the sustainable development of our communities will be the subject of study in the education of and the cultivation of members of our communities;

3. financial provisions, such as hono- raria, and other provisions flowing from the dignity of the dignitaries of the Indigenous Peoples and Maroons and other members of the government of our communities will be derived from the resources and the productivity of the territories of our peoples;

4. the following policy structure will be installed:
   - The Supreme Authority of the Interior, supported by an office of experts, the Office for the Development of the Interior;
   - The Commission of the Tribe, supported by an office of experts, the Office for the Development of the Tribe;
   - The Commission of the Village, supported by an office of experts, the Office for the Development of the Village.

Resolution - 02

Landrights

We, the Indigenous Peoples, descendants of the original inhabitants of Suriname, and the Maroons, who have lived since the 18th century in their traditional tribal way, descendants of those who fought free of the oppression of slavery; meeting on 19, 20 and 21 August 1995 in Grantkrut in Asindo-Opo,

Considering,

1. that the highest traditional authorities of our people have approved the Charter of the Indigenous People and Maroons of Suriname during this Grantkrut, on the 20th of August in Asindo-Opo, in which the constructive co-operation between our peoples is confirmed, concerning our united struggle for the protection and promotion of our rights, among others, our right to self-determination and landrights, and concerning our striving for sustainable development as Indigenous and Tribal Peoples;

2. the feelings of serious concern of Indigenous peoples and Maroons about their deprived position in the Interior of Suriname;
3. the lack of legal recognition of the rights of the Indigenous and Maroon Peoples to the areas they regard as indigenous territories;

4. the want of participation of Indigenous Peoples and Maroons in policy-making concerning the Interior, such as in the decision to offer concessions to millions of hectares of the Interior for logging and mining to foreign multinational companies;

5. the alarming situation in which the Indigenous and Maroon Peoples of Suriname find themselves in relation to, among others, education, health care, water and electricity supply, transport and communication possibilities and social services;

6. the fact that Suriname has not yet ratified the ILO Convention Number 169 relating to Indigenous and Tribal Peoples, nor has it discussed the Convention, as was promised in the Agreement of Lebolder in August 1992;

Decide:

1. To push for the legal recognition of the collective rights of Indigenous Peoples and Maroons to their territories, based on scientifically structured criteria and in accordance with the principles of the Indigenous and Maroon Peoples;

2. In anticipation of this, to develop initiatives to demarcate our territories;

3. To ask the Government to re-evaluate the concessions for exploitation of natural resources on Indigenous and Maroon territories by, among others, foreign companies, which were reached without the participation of the Supreme Authority of the Interior;

4. To ask the Government to withhold granting concessions in Indigenous and Maroon areas until the question of landsrights of the Indigenous Peoples and Maroons has been resolved to their satisfaction;

5. To ask the Government for a detailed evaluation of the activities of the Commission for the Determination of Economic Zones under the leadership of Mr. Bedin;

6. To push the Government to act quickly to ratify on behalf of Suriname the ILO Convention Number 169 concerning Indigenous and Tribal Peoples.

Resolution lodged on behalf of Indigenous women

We, Indigenous women of Suriname, participating in the Groningen of 19, 20 and 21 August under the leadership of the Association of Indigenous Village Chiefs at Asindo-Opa,

Emphasise and support the importance and the need for the framework where, for the first time in history, Maroon and Indigenous leaders have come together to affirm their co-operation in the struggle for the recognition of our rights as Peoples in particular the right to self-determination and the right to our own lands;

Strongly emphasise the need to demarcate our territories and those of the Maroons, in close co-operation with the Indigenous and Maroon communities, before outsiders can be given concessions on our lands;

Consider that the right to self-determination also includes the right to make our own decisions concerning the economic, social and cultural development of our peoples; a sustainable economic, social and cultural development of our communities will only be possible if all the members of our communities can participate equally and fully; in particular Indigenous and Maroon women fulfill a special role within the development of our communities, considering their task as the producers of food, as caregivers of our children and as those who pass on our culture to our children and our grandchildren;

Indigenous and Maroon women have to date not or seldom participated in internal and external formal decision-making processes concerning the development of our communities; the equality of men and women and the prohibition of discrimination on the grounds of sex, is included in the Constitution of Suriname and is internationally accepted (among others in the Charter of the United Nations, the International Treaty concerning the Prohibition of all Forms of Discrimination against Women, the International Covenant concerning Civil and Political Rights and the American Convention concerning Human Rights); Indigenous and Maroon women have the right to fully participate in all political decision-making processes, both within and outside the communities;

Request therefore strongly of the Indigenous and Maroon leaders to:

1. insist that all forms of discrimination against Indigenous and Maroon women within and outside our communities be banned, this in accordance with international standards;

2. recognise, respect and guarantee the full rights of Indigenous and Maroon women as equal partners in the economic, cultural and social development processes of our communities;

3. guarantee and stimulate the participation of Indigenous and Maroon women in formal and informal decision-making processes within and outside our communities, in particular, but not limited to, the establishment of the demarcation of our territories;

Among others by taking measures to increase the number of women decision makers;

4. enable the free access to our food grounds and the natural resources which are of particular importance to the development of economic activities of Indigenous and Maroon women;

5. take measures to decrease the heavy work burden of Indigenous and Maroon women, through for example creating programmes which support and promote accessible drinking water supplies; the use of water driven motors by women; the access to and use of agricultural tools by women;

6. promote and ensure that special attention be given the improvement of the position of women within education and health care; the position of women within education.
The internal war which has been waged for more than 35 years in Guatemala has turned the indigenous peoples, the majority of them Maya, into the most dispossessed and marginalized people on the continent of Alta Yula. This has come about because no one on either side of the conflict has ever put forward real solutions to their misery; on the contrary, the Mayans have been caught in the crossfire and are always the victims. Because of this marginalization, the Mayans have also formed different "fronts" to resist the "integration" which some sectors of government as well as the guerrillas have utilized to maintain them in a state of semi-slavery; in the long term this has meant maintaining a war which does not belong to the Maya, Xincas or Garifunas. Once again in Ahia Yula, the "indigenous question" has been used for aggressive ends or for the genocide of these original peoples.

Given this situation, it was very significant that the Agreement on Identity and Indigenous Rights (AIDPI) was included at the negotiating table, as this recognizes the indigenous peoples' long struggle for survival. By way of background, we should note that in July 1994, when the document was already drawn up, there were few people in Guatemala talking on its approval at the negotiations in Mexico between the government of Ramiro de León Carpio and the Guatemalan National Revolutionary Unity (URNG). When the proposal of the Assembly of the Civil Society (ASC) was taken to the Aztec city, the indigenous representatives participated in those debates while their demands were left in the hands of Monsignor Rodolfo Guzmán Terrazo, who was the president of the ASC. After some delay, on the 31st of March 1994, the AIDPI was signed, and although in itself it does not solve the indigenous peoples' problem, it is a significant step forward in the recognition of the different indigenous peoples in Guatemala. These people have suffered invasions, plunder and colonisation, maintained through exploitation, oppression, discrimination and repression, and legitimized through independence from Spain, the liberal reform and the political events of 1954. When one reflects on the turbulent 20th century, the genocide of the Mayan people of Guatemala is almost on a par with the Jewish holocaust in the Second World War. One only needs to think of the massacres which have taken place over the last 35 years and the massacres of the Xamán in 1995. However, it is only fair to say that real peace cannot be achieved if the rights of the indigenous peoples are not recognised and their direct participation secured in the creation of a just, democratic and plural society.

In the Guatemalan constitution of 1985, there is only one section with five articles which makes any reference to the "indigenous communities" (60, 61, 68, 69, 70), which according to the ASC are as good as "dead letters in that, in practice, they are not applied when there are conflicts with hegemonic groups nor have they been developed with the participation of the Maya people". Together with the implementation of the Agreement on the Identity and Rights of the indigenous peoples, there will have to be the necessary constitutional and legal reforms in order to address these peoples' problems.

The UN and the AIDPI

The UN has had the difficult task of verifying that the agreement was being complied with according to Chapter VII of the Final Disposition which states: "The aspects of this agreement which correspond to human rights recognised in Guatemalan legislation, including treaties, conventions and other international instruments to which Guatemala is a party, came into force and are immediately applicable. Verification of the human rights and the compliance of the commitments of the Global Agreement on Human Rights in Guatemala (MINUJUSTA) are to be sought".

This is very important because it is the first time that this international body has been approached to verify compliance with an agreement in relation to indigenous peoples. To comply with this mandate a new plan has almost had to be drawn up. For this purpose MINUJUSTA has created a Consultancy for Indigenous Affairs, predominantly composed of experts, supported by a group of UN Volunteers who have been sent to the UN's
different regional offices throughout the country to deal with the indigenous issue. However, the Mission has still not developed a well-structured plan for carrying out its work with the indigenous peoples in the short term. Nevertheless, it is beginning with the dissemination of the AIDPI by holding talks in isolated communities of ta representatives of indigenous organisations so that they can learn about the content of the agreement. Another important aspect which MINUGUA is developing is the verification of the discrimination which the AIDPI notes and the whole team of human rights observers in Guatemala are contributing to this. In this regard there is a specific commitment to draw up a law which states that discrimination is a crime and which will make it possible, in the future to sanction those who use discrimination as a means of subjugating the indigenous peoples.

The Mission Director’s Third Report (November 1995) states that: “Although the vast majority of commitments in the Agreement correspond to those of human rights, only those aspects which correspond to rights already recognised in Guatemalan legislation and do not need reforms to ensure their adequate execution can be considered in force and can be verified by the Mission. Consequently, Agreement has not been signed, the basic orientation of the verification will be towards equality of treatment and non-discrimination against the indigenous peoples. However, the Mission considers that the government ought to initiate the consultation process and/or the adoption of measures necessary to guarantee the effective application of the rights as soon as possible” (point 178).

**COPMAGUA Consultation**

The indigenous peoples have their own organisation SAJIRCHE, the Coordination of Organisations of the Maya People of Guatemala (COPMAGUA). This comprises the Mayan Unity and Consensus Agency, the Council of Mayan Organisations of Guatemala, the Academy of Mayan Languages of Guatemala, the Mayan People’s Assembly, the Guatemalan Mayan People’s Union and the Movement of Elders Taken Unam, among others.

COPMAGUA is carrying out consultation on the Agreement at the national level, focusing particularly in Mayan, Guatufuna and Xinca areas, For this purpose, they have trained their own team of promoters which is covering the whole country. The considerable expectations which the Agreement has created can be felt in the consultation meetings, where all in the knowledge that once the Agreement is implemented will it be possible to recognise Guatemala as multicultural, pluricultural and multilingual, as well as to draw up constitutional reforms in favour of the indigenous peoples. We have noticed that the Agreement is seen as an ideal weapon for liberating those people who have gradually been dried up the tears of all their suffering. For some, the AIDPI is simply a utopia, but for the vast majority it is the hope, the dream which the Maya, Guatufuna and Xinca nations have cherished for generations, but which could only become a reality in a time of peace. With this document the indigenous peoples are slowly shedding their fear. Consequently, there is an increase in denunciations of massacres which before would have led to certain death by the army or the death squads. To hear Mayan peoples’ testimonies of how they have confronted and lived through the dark years of killings by the army, is to hear a tale of horror which almost beggars belief. Moreover, one of the conditions for signing the Firm and Enduring Peace is that it be related to indigenous rights. This is landable and ought to have a place of honour, and in the future the indigenous peoples will see it as a dignified example to follow.

We believe that there is still a good distance to go before Guatemalan societies in general can live without fear, but there have been advances. The Indigenous Agreement is a concrete sign that the indigenous peoples will take other steps which in the past were “forbidden” and it should not be a surprise if in the dawn of the 21st century the Mayans propose that they lead the Guatemalan political state apparatus.

The government and the UNRH both know this very well and have accepted the Agreement which means that we are facing one of the most important historical events in the history of the indigenous people’s struggle for the recognition of their rights, not only in Guatemala but at the international level. It is a document which will have to be taken note of in the future.

*The author is Kuma and was a Human Rights Observer with MINUGUA for the AIDPI process from November 1995 to March 1996.*
While oil companies want to drill for oil in one of the last intact woodlands in the USA, the Badger-Two Medicine area in Montana, the Blackfeet Nation is fighting for definitive protection through an Environmental Act of Congress to maintain their culture and language.

The original homeland of the Blackfeet Nation contains the so-called Northern Rocky Mountain Front, the largest woodland of the USA outside of Alaska. Part of the Front is the 500 km² large Badger-Two Medicine area known to the Blackfeet as "Jerusalem" because of its religious importance for their people. Many events which are decisive for their mythology and religion have taken place in the Badger district. It borders directly on the Glacier National Park, which is part of the UNESCO International Convention for Protection of World Cultural and Natural Heritage. The region is the last area of retreat for over 270 species of animals and plants, e.g. grizzlies and grey wolves.

The Blackfoot Confederacy lost the Badger-Two Medicine area in 1805. The tribes were weakened after a smallpox epidemic and a year of famine and desperately needed governmental help. They got it, but at the cost of a new agreement under which the area in question became public property. The Blackfeet were deceived by the American negotiators, who used a misleading translation for their purposes. While the government talked about a take-over of the land, the Blackfeet meant to lease the Badger area for 50 years to Washington with an official guarantee ensuring them the right "to go across the land." This was an official euphemism for continuing their religious practices, which were forbidden. Since the United States Supreme Court denied relief to traditional California tribes (the famous "Go Road Decision") in 1980, the right of religious freedom, which is protected by the Free Exercise of Religion Clause of the First Amendment to the Constitution, has been in real danger (see DWGA Document 62).

Regardless of the key religious, cultural and environmental role of the Badger area, the US-American Chevron group and the American subsidiaries compared of Belchat Petrofina have decided to drill for oil in the area, although experts of the US Forest Service estimate the chance of finding oil at only 0.5 per cent. One wonders which effort is necessary when the prospect of finding oil is so slim. The companies want to create a precedent with this case for opening up Alaska's great oil reserves, which lie mostly in natural reserves (Alaska Natural Wildlife Refuge).

The consequences of drilling approval would be fatal. Over 7,000 acres (approximately 30 km²) of the Badger-Two Medicine area and the border territories of the northern part of the Glacier National Park is only 7 km away from the planned drill-hotel would be destroyed by deforestation, road construction, industrial noise, pollution and leaky pipelines.

In January 1993, the Bush Administration gave Vina permission to drill for oil by enacting a law. The following Clinton Administration achieved a delay because of a loophole in the legislation. The Bush Administration "forgot" to install a "contradiction right" into the already insufficient US Forest Service's report, which was unconstitutional. Because of this mistake, and the protests of a coalition of traditional Blackfeet and local environmental groups, the final decision has been postponed until June 30, 1996. The postponement has not been successful and the Bush permission. The interests of the Blackfoot Confederacy were "perceived" by the corrupt and incompetent Tribal Council which does not represent the traditional people involved. The industry and political representatives of Montana on the one hand, and environmentalists and the traditional Blackfoot on the other, have tried to carry their interests with the help of a bill in connection with the Wilderness Act. This act was passed in 1984 and protects landscapes in order to keep them in their natural conditions. According to their needs, the bills differ. The industrial companies and representatives' aim is to keep some parts of the Northern Rockies without this protection or, at least, to finish a study which will help in deciding whether permission can be granted or not and whether the
region might be used economically. The favorite Williams Bill (one of the bills supported by industrialists and repre-sentatives) ignores the need for protec-tion of the Badger-Two Medicine area on which Fina has drill permission.

OPposing this lobby are the traditional Blackfeet and the environmentalists who want all of the Northern Rocky Mountai-n Front under protection. The North-ern Rockies Ecosystem Protection Act (NRPEPA) is the only bill which guaran-ttees complete protection of the north-ern Rockies. The bill was prepared in a collaboration between scientists, bio-logists and environmentalists. It consid-ered the wishes and desires of the tradi-tional Blackfeet. The NRPEPA includes the Blackfeet in all commissions, which is based on Article 27 of the UN Interna-tional Covenant on Civil and Political Rights guaranteeing the rights and protec-tion of ethnic minorities. This part is not included in the Williams Bill. The ma-jority of Montana's population wants the NRPEPA. Having been accepted for the House of Representatives, the Williams Bill has taken the first hurdle. However, the Senate and the government are set to agree to it. The new spirit in the Sen-ate under New Gingrich's leadership is not promising for large-scaled environ-mental protection.

The danger of losing their homeland has activated the traditional Blackfeet. Under the leadership of Floyd Heavy Runner, the traditional Blackfeet Brave Dogs Society was refounded in order to organize the resistance of the traditional Blackfeet against all those who would destroy the sacred Badger-Two Medi-cine.

Originally, the Brave Dogs was a reli-gious and warrior society which also had some police functions within Blackfeet society. Under the renewed threat of losing their identity, the Brave Dogs have decided to fight against the oil companies and to preserve their language. Pikuni.

Highly respected Floyd Heavy Runner speaks both the ancient Pikuni, spoken before the tribe's language was influ-enced by whites, and the modern ver-sion. Heavy Runner's main political aim is to re-negotiate the Treaty of 1855 so that the Blackfoot Confederacy's inter-ests receive consideration and there is a fair settlement and peace. Furthermore, an official apology for the Massacre of Marias River is an important demand for traditional Blackfeet.

Under the leadership of Heavy Runner, the Blackfoot nation adopted the Pikuni Code of Education. Language and Culture, in 1994. The main aims of the code are:

- The official language of the Blackfoot Confederacy in Pikuni, English can be used for the majority of schooling.
- Blackfoot pupils are bilingual to a high degree.
- Eminent personsets write the standards of both spoken and written Pikuni.

The Blackfoot Confederacy, which consists of the Siksika, Kainai and Peigan tribes, started the Amaksiapi-Pikuni Radio in 1995. The radio was founded in order to preserve Pikuni, transfer knowledge of Blackfoot Elders, strengthen the Blackfoot Confederacy and promote Pikuni music and storytelling. The decision to establish a radio station was based on the fact that the Blackfoot nation has an 80 per cent rate of illiteracy. Pikuni is a dying language and the Pikuni-speaking Elders are iso-lated and need a way to become in-volved in contemporary Blackfoot soci-ety. The Amaksiapi-Pikuni Radio still lacks equipment, finances and promo-tion.

This Blackfoot approach to maintaining their land, culture and language is unfor-tunately given by a split between tradi-tionalists and Christians. Many tradi-tionalists complain that people of mixed blood have taken over power in the Tribal Council. Business council woman, Marlene Walter, a full-blood who grew up on the reservation, says: "Over the years, I have observed a certain amount of racism. Most of that racism comes from mixed-bloods who have adopted white ways and is directed to-ward more traditional full-bloods."

The Brave Dogs Society under Heavy Floyd Runner wants to establish a kind of Sen-ate which represents the Elders and tradi-tional chiefs and control the Tribal Council. However, relations between the two factions are not good.

In 1994, two of Heavy Floyd Runner's brothers and a sister-in-law, who worked closely with him, died in a sus-picious car accident. Heavy's tribe-owned house was confiscated and his meadows were leased without his knowl-edge. He is now homeless. A year later, his daughter's shop was set on fire and then an uncle disappeared and was found dead two months later.

Future prospects

It will be necessary for the traditional Blackfeet and environmentalists to keep close tabs in the future. The strength of their future negotiating position depends on their alliance and their ability to organise a powerful public campaign. It has already made an impression on e.g. Pe-trofina, whose Belgian parent company was prepared to talk to Heavy Floyd Runner in September 1995 while he was in Europe. Although these were not seri-ous negotiations, the traditional Blackfeet were for the first time accepted as equals.

For further reading: The Last Strong-hold by Bob Yette, available through the following two contact addresses:

Floyd Heavy Runner
Blackfeet Brave Dogs Society
P.O. Box 98
Heart Butte, MT 59448, U.S.A.


Protect letters:
President Bill Clinton, The White House, 1600 Pennsylvania Avenue, Washington, D.C. 20500,
Bruce Babbitt, Secretary of the Interior, 1849 C Street NW, Washington, D.C. 20240,
Jack Wand Thomas, Chief US Forest Service, Box 94800,
Washington, D.C. 20040.
Pozsityjna Belina, c/o Ms. François Cordoba, 52 Nijensteynlaan, B-1040 Brussels

Andreas Kudern is a member of the IWGIA Danish National Group.
M y name is Delbert J. Redford, and I am Suqiq. I am an Inupiat from Barrow, Alaska, the northernmost settlement in the United States Arctic of Alaska.

Today, I will present a paper describing the home rule form of self-government, which we incorporated as a regional form of government in 1972 under the constitutions of the United States and the State of Alaska, to the congress of the indigenous peoples and models of self-government delegates and participants.

I thank the International Work Group for Indigenous Affairs for inviting the North Slope Borough to be represented here in your NGO Forum today. I thank the Honourable Mayor George N. Ahmaogak Sr. of the North Slope Borough for allowing me the opportunity to be here. It is my pleasure and honour to stand before you to share with you our home rule form of self-government in the North Slope Borough of Alaska. It is essential to provide a historical perspective of how we, the Inupiat people of the North Slope of Alaska, came to incorporate our home rule form of government.

The great law of culture is to let one be what he was created to be. As distinct indigenous peoples of the world, we are in our rightful places living according to our cultural heritage, traditions and customs. We do not destroy what our creator has created. We live and breathe who we are, what we are, and we pass this on to our children.

Today, I will share the historical perspective of my people’s home rule government in the North Slope Borough of Alaska. In 1987, John Murdock stated in his report to the United States Congress:

“These people have no established form of government...respect for the opinions of the elders is so great that the people may be said to be practically under what is called ‘simple elder rule.’”

Since time immemorial, the Inupiat of Alaska have had a “simple elder rule” form of government. This is reaffirmed in Samuel Simmonds’s statement to the Inupiat People of the North Slope of Alaska:

“The village was governed by a village council. I happened to be one of the council. We dealt mostly with village concerns...the village council would make sure things were done. We had no public safety, no jails, if somebody did something wrong the village council would counsel them to better ways of living. The forming of the village was a real punishment.”

In March 1940, the Native Village of Barrow was created as an Indian Reorganization Act tribal government. The Native Village of Barrow IRA tribal government provided our Inupiat with a traditional form of local government, but not in a manner to provide strong tribal governmental representation.

In 1964, the Arctic Slope Native Association under the leadership of Charles “Etok” Edwardson Jr. challenged the United States and the State of Alaska for ownership rights to 88,561 square miles of aboriginal Inupiat land. The Inupiat of the Arctic Slope provided the leadership for land claims in Alaska under the leadership of “Etok.”

The late North Slope Borough Mayor, Eben Hopson, stated at the Berger Inquiry in Canada:

“...it took us 12 full years to get approval for us to connect to gas. It took a special congressional authorization in 1963 to sell us our gas for $3.50 per million cubic feet...So, our experience with the oil industry dates back to World War II. With Statehood, Alaska was entitled to 105 million acres of federally owned land...taken from Alaska’s Native people without asking or payment. We began to hear the State talking about limiting subsistence hunting and imposing other limitations on our land. This caused land claims organization to begin. When the Arctic Slope Native Association was organized in 1964, we claimed aboriginal title to 88,561 square miles within our region, and all federal land title transfers in Alaska came to a halt. Our land claim was too late to save our title to the Prudhoe Bay oil fields. The courts actually held that we owned the Prudhoe Bay oil fields until our title was extinguished by the Alaska Native Claims Settlement Act in 1971. Those who can understand that the fabulous Prudhoe Bay oil fields were taken from us without compensation can begin to understand the justice of our demands today. The Arctic is owned by us, the Inupiat. It is our land. While we worked toward a settlement, we also worked for local government. We began organizing our regional home rule municipal government under the terms of our State Constitution and the Alaska State Municipal Code, which I had a hand in drafting when I served in our State Senate. Beginning in 1965, our work for local government resulted in the creation of the North Slope Borough in 1972.”

This concludes a brief history of how the North Slope Borough Home Rule Government was created. We were forced to enter into a regional home rule govern-
RULE GOVERNMENT:

When our lives were overtaken by Western culture, we lost those councils to the preaching of missionaries and government agents who said they would make the decisions for us as though we could not be responsible for ourselves. Now, one hundred years later, we still struggle to regain control over our destiny.

On the North Slope, our leaders chose to use a form of self-government available to us through the United States Constitution and the constitution of the State of Alaska. It is the strongest form of local government available to us under that document. It has returned local control to the people most affected by it. Although we still must operate within the parameters of state and federal laws, we have tremendous latitude on a local level to institute programs and laws that specifically address local problems and needs as a home rule government.

As an example of just how powerful such a government can be in helping to handle problems created by an outside world that barely understands us or our cultural needs, let me speak for a few moments about the Alaska Eskimo Whaling Commission, the AEWG.

In the mid-seventies, just as the Borough was starting to develop, we received word that the United States government had signed an agreement to ban all whaling. This agreement included subsistence whaling. We were shocked and horrified. Whaling was, and continues to be, the heart and soul of our culture. To have it taken from us without any warning or chance to state our case was all too typical of the way we were used to being treated by the federal government. They still treat us as though we were children.

What the federal government did not take into account, however, was that in the mid-seventies we had two things going for us that we had not had in the past. We had our own local government and we had a healthy treasury thanks to the development of the Prudhoe Bay oil fields. Those two things, coupled with our determination to save our most valuable cultural and subsistence activity, led to the creation of the Alaska Eskimo Whaling Commission.

The Borough's dollars bought us the legal power we needed to mount a battle with the federal government and the international community over our right to continue our subsistence traditions. Now, almost 20 years later, the AEWG is internationally recognized as a legitimate, accountable, respected organization and is a co-manager of the bowhead whale resource with the National Oceanographic and Atmospheric Administration. The North Slope Borough, in cooperation with the AEWG, produces the best science available on the health and census of the bowhead in Arctic waters. In fact, the cooperative relationship that has developed between the AEWG and the North Slope Borough scientists studying the bowhead has become a model around the world.

None of that would have been possible with the North Slope Borough, its money and resources. As a government, we could speak to other governments as equals. We could determine and receive recognition for our people and our cultural institutions.

Local government has meant that we could create our own school district and provide programs that taught our children about their cultural heritage. It was our local school district, along with the Borough's own Inupiat History, Language and Culture Commission (HLC), that took the lead in creating an alphabet for our language and producing school books and programs to keep our language alive and taught in our schools.

In one generation, we have gone from schools where we were punished for speaking Inupiat to schools where all our children—black, white, brown or yellow—learn the Unquist language.
The Borough's Inuit History, Language and Culture Commission has worked hard to preserve many aspects of our culture. They hold regular Elders' Conferences in which we video and audio tape our elders discussing all aspects of life as they remember it. The BILC works with the Borough's TV studio to create documentaries that show everything from baleen basket weaving to the traditional use of tundra plants. The Borough's Planning Department has created Traditional Land Use documents with the help of our elders that show sites of importance to our cultural history as well as hunting patterns. Our Geographic Information Service creates maps that show everything from traditional hunting cabins to caribou migration patterns.

All this is possible because we have local government.

But there is another side to this picture. It is not all positive and bright. By creating a local form of government based on a Western model, we automatically started a chain reaction of changes in our communities and culture. In order to fill the positions created, we needed to import workers. Our people simply did not have the educational opportunities to obtain the advanced degrees needed to fill many of the jobs created by government.

With such an influx of outsiders, the complexion of our biggest community, Barrow, changed dramatically. We had to readjust our thinking to accommodate the fact that we were no longer a small Eskimo whaling village on the northern coast of Alaska. We were, in fact, a major scalpel of power with all the privileges and problems that came with that change.

One of the biggest problems is keeping our culture alive and active in the hands and hearts of our children. They are so busy trying to keep up with the latest fads that they have no time to learn the language of our ancestors. We need to teach them the secrets of the traditional ways.

Another problem that becomes very evident when your communities are opened up to outside influences on a much greater scale than they currently experience, is an increase in social problems that range from domestic violence to a class stratification that has never before existed in our culture. Those problems do not have to overwhelm the benefits of local government but they do have to be recognized and dealt with so that the same organization that is expected to protect the culture does not end up destroying it.

The experience of the North Slope with local government has shown that the more we have, the more we have to lose. Our people now have salt, modern housing. We have clean water and sewage disposal systems. Our children are educated through high school in their own villages. We have good roads, a public transportation system, an Elders' Center and modern clinics in every village. We have just completed renovations on an old, decommissioned federal facility that has now become Iliamnaq, our campus for higher education and vocational training. Now, our children can receive a college degree without ever leaving the North Slope.

All these benefits are the direct result of the same two items I mentioned at the beginning of this paper - local government combined with a healthy tax base. Our experience on the North Slope has led us to believe that this model of self-government can work. But it takes a lot of effort and it takes a lot of time. You need to maintain a constant vigilance so that your cultural integrity is not impaired. The same organization that you create to save your people and culture can destroy them if local control is not firmly maintained.

The benefits of this local control are tremendous. But the dangers are great. You need people committed to the concepts of your culture and its traditions who can move between two worlds without losing their way.

On the North Slope of Alaska we have been very lucky, very lucky indeed. Throughout our twenty year history, we have had leaders who made firm commitments to the cause of cultural preservation and integrity, while at the same time bringing modern improvements to all our villages.

As we head into the next century, we can only pray that new leaders will emerge to emerge from the next generation who will carry on the work started by our parents and grandchildren.

We know that in many ways we were lucky - lucky to have the right leaders at the right time, lucky to have the wealth of our land available to our government to provide the basic amenities in our people. But luck alone could not do what needed to be done. It also took a lot of hard work and dedication on the part of many, many people.

If we can help our brothers and sisters throughout the world to learn from our experience, and our mistakes and our triumphs - we stand committed to providing that help.

Thank you for your time and attention.

Deborah Rector is Special Assistant for North Slope Borough Mayor George N. Ahlunduk, Sr.

Presented at the U.S. World Summit for Social Development in NGO Forum.

Copenhagen, Denmark.

March 9, 1995.
Lubicon Lake Indian Nation

by Andreas Knudsen

The northern part of the Canadian province of Alberta is the traditional land of the Western Cree. This people, about 25,000 strong, is split into numerous small bands such as the Lubicon Lake Nation with about 500 members. The Wester-Cree have been living as subsistence hunters since 900AD. Archaeological surveys and excavations indicate cultural continuity and Cree occupation from about that time till the present.

Like all other northern indigenous peoples, the Lubicon worked as trappers and hunters for big game companies such as the Hudson Bay Company or the North West Company in the 18th and 19th centuries and fashioned their own account. Famous British explorers of the Interior of North America, such as Samuel Hearne, David Thompson and Alexander Mackenzie met the Cree on their travels.

Between 1877 and 1969, the Canadian Federal Government maintained a commission which examined and recognised Aboriginal land rights all over Canada. But the Lubicon Cree were bypassed by the Crown Treaty Commission in 1899 when established reserves for Northern Alberta Indians under Treaty 9. The commission was not able to reach all isolated bands in the forest-covered and sparsely populated land and the Lubicon did not hear anything through the "Treaties Telegraph". But they still retain Aboriginal land rights and authority over their traditional lands. Since 1993, the Lubicon have fought in vain for recognition as an original Indian Band, the establishment of a clearly defined reserve as well as hunting and environmental rights to their traditional lands of 4,000 square miles.

In the 1970s, gas and oil resources were discovered on Lubicon hunting and trapping grounds. A road was built from Peace River through their land, and 440 oil wells were being pumping 5 to 10 million barrels of oil daily. But none of the revenue benefited the Lubicon. As well as this, the Saskatchewan power company Diefenbaker established a pulp mill with a timber lease of 11,000 square miles including the Lubicon land. An area of several football fields is cut down every day. The Lubicon were no longer able to continue their self-sufficient lifestyle: the number of Lubicon on welfare increased from 10 per cent to 90 per cent from 1979 to 1989.

The living conditions of the Lubicon are so desperate that the United Nations Committee on Human Rights condemned Canada in the strongest possible language in March 1990 and issued an order to stop any action that would further hinder the status of the Lubicon.

The Lubicon themselves have been fighting for 20 years by means of an international information campaign, road blockades and cases in the courts. The Canadian Friends of the Lubicon organized a boycott of Diefenbaker products which extended to Europe too.

Another source of sorrow is the UNOCAL oil and gas company on the Lubicon territory. Sour gas is a natural gas with poisonous hydrogen sulphide, lethal when accidentally released. The plant is located only two miles from and upwind of the proposed Lubicon reserve. The plant expansion permission did not mention processing sour gas. When this fact became known, the Lubicon immediately protested.

In the beginning of October 1995, the provincial government of Alberta withdrew the seven-year-old Osmushaw land offer (a 96 square mile reserve) to the Lubicon lake nation, unless Chief Ormasayak could prove a band membership of at least 450. This will be hard for the Tribe Council because of the splitting of the original Lubicon band. The provincial government party reached its aim by a combination of the well-known principles of divide and rule and the carrot and the stick. Furthermore, the company iscocre the Lubicon and especially Chief Bernard Ormasayak has intensified. What will be the future of the Lubicon Lake Nation? They are still fighting on...

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HUMILIATED AND CHEATED, BUT STILL FIGHTING

Photos: Gérard Pleynet
The draft Declaration on the Rights of Indigenous Peoples is slowly working its way up through the United Nations system. After 12 years of discussion in the Working Group on Indigenous Populations, the draft was completed in 1993 and approved in August of the following year by the experts of the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities.

Indigenous peoples from all over the world consider that the draft Declaration reflects their main concerns and seeks to outline their fundamental rights and freedoms better than any other international instrument. They support strongly that the draft is adopted as it stands. However, the great concern of Indigenous peoples is that since its approval by the experts of the UN, the draft has moved to the Commission on Human Rights where it is being discussed by governments, many of which are reluctant to respect their rights.

Between 29th November and 1st December 1995, the Commission on Human Rights met as a Working Group of governments to start the process of reviewing the draft Declaration. Indigenous peoples, often with great difficulty, travelled to Geneva and began the struggle to defend the document. The first problem was attending the meeting. The Commission had established a complicated bureaucratic system to register indigenous organisations, which wanted to participate. This involved approval by governments and the Non-governmental Organisation Committee in New York. By the start of the Commission Working Group, 99 applications had been received by the UN of which 79 had been approved. In the event, all the indigenous peoples present at Geneva were able to participate by joining with other delegations.

On the first day of the meeting, Jen Urrutia, the Ambassador from Peru, was elected to chair the meeting. Although the position of the government of Peru was marked and negative to the Declaration, the Chair proved to be fair and all parties at the meeting were satisfied with his enabling all participants to speak openly. His first unprecedented decision was to allow an indigenous ceremony to begin the meeting and he made a statement referring to the execution of Ken Saro-Wiwa. This set a positive tone which continued throughout the meeting.

Throughout the two week meeting, indigenous peoples fought to ensure that their basic rights were respected in the draft Declaration. The first debate took place on the definition of who are indigenous peoples. Several Asian governments (led largely by Bangladesh) wanted to discuss such a definition. Their aim was to convince the meeting that the Declaration would not be applicable in several Asian countries. An afternoon was given to the topic, but the indigenous representatives from Asia provided a detailed list of how the concept of indigenous is used by several Asian governments, including Bangladesh. The impacts fell from the debate after this and it petered out before the time allotted.

Another major debate at the beginning of the meeting centred around whether collective rights are recognised in international law and whether they should be applied to indigenous peoples. Leading the attack against indigenous collective rights was the United States. In spite of repeated critiques by eminent lawyers in the room that collective rights are recognised throughout international law, the individual emphasis was kept up for the remainder of the meeting by a group consisting of the USA, Japan, and France.

This discussion led to the reappearance of the long-running debate as to whether the term indigenous peoples should have the “s”. With the “s” indigenous peoples want their right of self-determination recognised while without the “s” only individual rights are recognised. Brazil, Bangladesh, Canada and the United States fought hard on keeping out the “s”. This argument reappeared at the very end of the meeting.

The indigenous causes met every day and discussed the tactics which the representatives would use. The atmosphere among the indigenous peoples throughout the two weeks of the meeting was one of solidarity and coordination. This
gave a strength which was particularly effective in responding to those government which were trying to weaken the declaration.

The main part of the meeting consisted of a discussion which analysed the different parts of the Declaration where governments, non-governmental organisations and indigenous representatives made their comments. In each case the indigenous peoples explained the importance of the different concepts for the recognition of their rights and preventing their violation.

A brief discussion on the preambles of the draft was followed by statements on the first part of the Declaration which emphasised the significance of self-determination for indigenous peoples. This was expressed by the indigenous representatives as the right which underpinned all of the others recognised that they should control their destinies. The second part of the declaration consisted of a discussion on collective rights where the indigenous representatives strongly affirmed their right to be recognised as collectivities. Parts 3 and 4 covered culture and education and were less controversial.

The fifth part consisted of a discussion on participation, consent and positive discrimination. Indigenous representatives made it clear that participation in any activity initiated by non-indigenous peoples had to have the prior and informed consent of those people affected. Some governments were reluctant to accept that indigenous peoples require positive discrimination, although it was explained that “special measures” would be necessary to ensure that indigenous peoples have the same opportunities as others in the national society.

The sixth part on territories, lands and resources was not as divisive as has been expected although there was no agreement from some governments. Indigenous peoples affirmed the philosophically holistic aspect of their concept of territories. They then emphasised the importance of their territories being inalienable and the need to have rights to own, develop, control and use their resources. The seventh part is about the recognition of indigenous political institutions and the importance of states respecting treaties made with indigenous peoples. The final two sections of the draft Declaration look at the implementation and general provisions which were briefly discussed.

Throughout these discussions the indigenous peoples made their positions clear in a coherent body of statements reflecting opinions from all parts of the world. Governments responded in different ways. Some, such as Australia, Colombia, Cuba, Finland, Nicaragua, Bolivia, Denmark, Fiji and Norway were broadly positive and indigenous peoples found in these representatives room for discussion and areas of common ground. In contrast, countries such as Bangladesh, Brazil, China, France, India, Japan, Peru and the USA made presentations which were largely negative to the recognition of indigenous rights in the draft Declaration. In between there were governments such as Canada, Indonesia, Malaysia, Nepal, Philippines, New Zealand, Chile, Mexico, Russia, El Salvador, Panama and Sweden, which did not endorse the Declaration as it stands but were not openly hostile. About the same number of governments did not speak or take their positions known. The net result was uncertainty as to where many of the governments stood.

The discrepancies between the governments became clear when the final report was being prepared. Throughout the meeting the Chair and Secretariat had been drafting the report and consulting with the different parties to the meeting, including the indigenous peoples. On the final day it appeared that there was a major problem as to whether the “x” should go on peoples or not. After several hours of negotiation between Australia, Fiji, Chile and the USA, a compromise was reached where the report used the terms as used without “prejudice to the position of particular delegations where divergencies of approach remain”. The Chair accepted indigenous amendments when they were referred to their own statements.

The final discussions consisted of an agreement that the next meeting would be held in Geneva in November 1986 and that the UN Voluntary Fund for Indigenous Peoples would support representatives to both the summer Sub-commission Working Group on Indigenous Populations and the winter Commission Mission Working Group.

After the meeting, many indigenous delegates felt that it had not been as negative as they had anticipated. The indigenous cause kept a unity and solidarity which meant that their defence of the Declaration had been unbreakable. The atmosphere was positive and the meeting was slow enough to provide time for discussion and lobbying with governments.

Nevertheless, most of the concepts which indigenous peoples want to see in the Declaration are not going to be accepted without considerable discussion. They want as much time as possible to be able to put their case across to governments and explain the importance of terms such as self-determination, peoples, territories, consent over development, control over resources and political institutions. There is a concern that some governments want to begin redrafting the Declaration next year and this is when the discussions will become tough.

A detailed report on the UN Commission on Human Rights Working Group which is discussing the draft Declaration on the Rights of Indigenous Peoples is to be published in IWGIA’s Indigenous World 1995-1996.
OPEN-ENDED INTERCESSIONAL WORKING GROUP

DRAFT UNITED NATIONS DECLARATION ON

Procedural Aspects of the International Law Institute

Statement by Hurst Hannum (Summary)

In the course of discussing Part VII of the Declaration, some objections have been raised to various provisions on the grounds that they contravene principles of international law. Because some of these objections seem to be based on a misunderstanding of either international law or international human rights instruments, I would like to make the following comments.

The first misunderstanding or myth is the myth of non-discrimination, which some delegations have suggested makes recognition of special rights for indigenous peoples inappropriate. This approach is incorrect for several reasons. First, of course, many laws are based upon distinctions among various groups of peoples, and not every distinction constitutes discrimination. Second, recognition of the special position and rights of indigenous people does not represent an attempt to discriminate against others but merely responds to the historical injustices and contemporary reality outlined by many indigenous speakers. In some way, non-discrimination to adopt international instruments on indigenous rights, then is not also discriminatory to adopt instruments dealing with the particular situations of minorities, women, racial groups, migrant workers, refugees, and others? Obviously, such special treatment is not only appropriate, but it is necessary, as the international community has recognised by adopting human rights instruments to deal with each of these groups. While there may still be disagreement over the content of indigenous rights, it is surely insufficient to attempt to dismiss serious discussion by referring them “discriminatory”.

The second myth is the myth of individualism, which holds that human rights are only individual and not collective in nature. Without entering fully into the discussion, I would simply note that many countries—such as Colombia and the United States—do recognize that indigenous nations have collective rights in their domestic law. All countries would at least agree on the collective nature of indigenous land ownership and use, which is fundamental to indigenous society. If the right to land can be held collectively, then there can be no philosophical or ideological objection to the possibility that other rights may have collective aspects. It may not always be better to guarantee rights collectively rather than individually, but this should depend on a right-by-right analysis and not the automatic rejection of the word “collective”.

The third and final myth is the myth of consistency, which has been invoked with respect to both international and domestic law. On the international level, consistency with existing human rights norms means only that the rights set forth in the draft Declaration shall not fall below the current minimum standard, as is made clear in the written submission of the International Labour Organization. It is the purpose of the Declaration to expand upon and clarify existing rights, not merely to repeat them. Many delegations have objected to particular provisions of the draft Declaration because they are inconsistent with existing domestic laws or constitutional provisions. First, of course, it must be recalled that no General Assembly declaration can directly create binding legal obligations, so no state would be required to amend its laws were the Declaration to be adopted. In addition, the moral and political obligation of implementing the Declaration in good faith requires only that the goals or purposes of the Declaration be met, and in many instances the means of achieving those goals can be found within existing domestic law. Finally, it may be well to recall the status of the Universal Declaration of Human Rights in 1948: not every state which voted for the Declaration met all of its standards, but this did not prevent its adoption as a set of principles to be achieved progressively.

There may be serious disagreement over specific provisions in the draft Declaration, and a continuing dialogue between indigenous and state representatives will be necessary to reach consensus. International law, however, should not be seen as an impediment to this process. Neither general principles of international law nor international human rights instruments prevent a serious and substantive examination of the draft Declaration, and it is hoped that more concrete discussions in the future will replace the sometimes overly symbolic or ideological objections that have been occasionally raised thus far.

Hurst Hannum is a Professor of International Law.
Concerning Issues Raised in Part VII

Thank you Mr Chairperson,

It is my greatest honour to be a part of this inter-sessional working group discussion and to contribute to the draft Declaration constructively.

I am Shigeru Kayano from Japan. I would like to make my statement as a member of the Ainu Association of Hokkaido which, as the largest organization of indigenous people in Japan, has been sending its delegation to the Subcommission Working Group since 1987. As a Member of Diet, the Japanese Parliament, I would also like to pass on some of my views of the present Japanese political situation to the member-state delegations and to the indigenous peoples’ NGOs. I have been a member of the Upper House since August 1994, belonging to one of the ruling coalition parties.

First of all, with regard to Part VII, we support the all provisions in this part including Article 34. The Government of Japan has already expressed that ‘collective rights’ stipulated in this Declaration (in Articles 6, 7, 7.3, 34, etc) cannot be found in international instruments drafted and adopted by the United Nations in the past. This concept is not yet firmly established. Therefore, we should be careful when introducing these rights. Moreover, the rights that can be adopted in the catalogue of human rights in declarations of UN human rights (for) are fundamental human rights for individuals. Introducing a new category of rights would be overstepping the mandates of the Commission on Human Rights by broadening the scope of the rights proclaimed.

The Government of Japan has repeatedly made statements concerning the draft Declaration by criticizing ambiguities of wording and unfamiliarity of some concepts of rights, such as “collective rights” as quoted before. As they have not made any constructive proposals, their position seems quite conservative and decidedly negative to the draft Declaration.

Here, I would like to urge you not to accept such statements as unchangeable or fully investigated attitudes of the Japanese Government. Of course I am well aware that the delegation of Japan is always controlled by Tokyo with little discretion in Geneva, so that it cannot be responsive to the discussion here or changes in the political process in Japan. As a member of the “Project Team to Consider the New Ainu Law” by the three-party ruling coalition, I would like to point out some changes already observed and their directions. Until the end of March this year, 211 out of 212 assemblies of local governments adopted the vote regarding enactment of the New Ainu Law which includes the clear provision on indigenous titles. Also, the “Round Table Conference under the Chief Cabinet Secretary for the New Ainu Law” was started in March 1985, with the chairpersonship of a former Supreme Court Justice. This Round Table Conference promised to submit the report on this task in March next year.

Japanese people and the members of the legislative offices are becoming aware of the uniqueness of our traditional lifestyle, social and political realms that have been denied, degraded and despised by the overwhelming colonial powers and have been wiped out from the present dominant legal and political systems.

I promise here to encourage my colleagues in the Diet to be more constructive to support the Declaration on the Rights of Indigenous Peoples, and to influence the Ministry of Foreign Affairs to take more positive action not to delay the process of adoption of this draft Declaration.

Please allow me thirty seconds to express my gratitude to the chairperson, all the indigenous brothers and sisters, and the members of the secretariat to my mother tongue. The tough meaning of it is a celebration of this open-ended Working Group gathering and my heartfelt appreciation of it.

Thank you very much.

Shigeru Kayano is a member of the Assembly, Chamber of Councillors.
Mr. Chairman:

1. Following some references this morning on the matter of genocide, I would like to observe that genocide, as represented in the Convention on the Prevention and Punishment of the Crime of Genocide 1948, is not expressed as a right, but in terms of prohibition, individual responsibility and the prohibition of groups. Article 11 of the Convention, in defining the crime, defines it as comprising acts directed against "a national, ethnical, racial or religious group, or such". Genocide is a crime which consists in the destruction of human groups. If, therefore, we translate this concept into the language of rights, logic dictates that the expression of the right must contain the group element. The essence of genocide cannot be captured by expressing it simply as an accumulation of individual rights. The approach to this question in Articles 6 and 7 of the draft Declaration is essentially correct. Removing the group right would be to take away the essence of genocide: a crime condemned in international law as a violation of jus cogens principles. Genocide represents the collective right to exist. A formulation as a purely individual right is inconsistent and impermissively regressive.

The group character of genocide - including its expression as a right to exist - is clearly reflected in General Assembly resolution 43/1, the most relevant precursor resolution to the Convention of 1948.

On cultural genocide, the reference in Article 2(c) of the Genocide Convention to "forcibly transferring children of the group to another group" is a legal remnant of a broader concept articulated by the jurist Lemkin on his original formulation of the basic concept and term "genocide". In the circumstances envisaged, the aim is not the death of the children but the death of the group. It contrasts with the physical and biological genocide condemned in the rest of Article 2. The concept has thus secured limited recognition in the corpus of positive international law, and may not be regarded as an exotic "invention" of the draft Declaration on Indigenous Peoples.

On genocide and other matters, the present meeting has heard many references to collective rights. Such rights are well represented in current international law, including the international Covenants on Human Rights, ILO Convention No. 105, etc. and in so many domestic legal systems. It does not represent a technically adequate standard before this Working Group to make sweeping objections to all collective rights. The issue must be addressed properly on an article by article basis in order to examine whether the formulation of a right as collective or individual corresponds to the substance of the right in question and represents its most appropriate expression. The above brief analysis of the genocide case demonstrates that collective rights formulas may be the most appropriate, even in purely logical terms.

2. Concerning Part III of the draft Declaration, it is not surprising that a consciousness appears to be developing. It is very obvious that part III builds upon and adapts to indigenous peoples principles already accepted in international law under general human rights or the rights of minorities: principles contained in, for example, Article 27 of the Covenant on Civil and Political Rights, the UN Declaration on Minorities, and regional instruments emanating from such as the OAS E and the Council of Europe. In all of these, the axioms of: protection of cultures, the existence and flourishing of cultures, the manner in which the protection of cultures broadens and enriches the society as a whole and strengthens the stability of States, are a recurring feature. Culture is a flexible term, encompassing language, religion, etc. and also in the work of the Human Rights Committee, matters concerning the use of land, resources and traditional activities: a concept summarised in the Committee's General Comment No. 23. The point is that, whatever the precise points to be made on the text before us, the substance of the principle is already there in international law. Even some of the details are there in other contexts: the Framework Convention of the Council of Europe deals with such questions as personal and place names (Article 11), use of language in dealings with administrative authorities (Article 10). However, I agree with the point made by the representative of the Grand Council of the Crees that the law on minority rights represents only the present limit of international law. This does not mean that further adaptation and development of rights is to be stifled. Minority rights offer basic protections. Indigenous peoples can choose to pursue the implications of these rights, or they may choose not to do so. Minority rights are not adequate to the aspirations of indigenous peoples, their self-definition and their claims.

3. On participation, and in relation to draft Articles 19 and 26, this is a broad theme in current international law. References have already been made to Article 25 of the International Covenant on Civil and Political Rights. Identifying only those cases where the verbs "participate" or "take part" are found in the general instruments on human rights (and what follows is by no means a complete list),
a fuller background reference would also include Articles 21 and 27 of the Universal Declaration of Human Rights; Article 15 of the Covenant on Economic, Social and Cultural Rights; Article 5(c) of the Convention on the Elimination of All Forms of Racial Discrimination; Articles 7, 8 and 14 of the Convention on the Elimination of Discrimination Against Women; and Articles 1, 2, and 8 of the UN Declaration on the Rights to Development. The concept is also expressed in Article 13 of the African Charter on Human and Peoples' Rights; XIII of the American Declaration of the Rights and Duties of Man; and Article 23 of the American Convention on Human Rights. In the area of minority rights, Articles 2 and 4 of the UN Declaration on Minority Rights are highly relevant. Concept and modalities of minority participation are set out extensively in Council of Europe and OSCE instruments - with notable detail in the Geneva Meeting of Experts on National Minorities 1991. Modalities are also set out in the report of the Special Rapporteur Fide. UN Doc. E/CN.4/Sub.2/1993/34, Add.4, paragraph 17. Among texts on indigenous peoples, ILO Convention No. 169 refers to the basic participation concept in Articles 2, 6, 7, 15, 22, 23, and 29. Further references in this instrument describe various programmes to be carried out in "co-operation" with the Peoples, "as determined by agreement," or with "free and informed consent," etc.

To illuminate the present text, and as noted above in relation to other aspects of the draft Declaration, there is a very wide range of references outside the text in general international law and in the law specific to indigenous peoples. For the more recent "ethnically" inclined texts, States have sometimes picked out the right to participation in the broad sense as a major development in human rights. The framework and content of participation is constantly being developed.

Many modalities of participation are possible and results differing in their details may be achieved in the different States. Nonetheless, whatever the domestic constitutional or other mode of expression of participation, it must respect basic international standards. The work of the present Group will undoubtedly add to the richness of our conceptions of participation. There is a variety of models and concepts to build upon. The consistency with existing international human rights mandated by General Assembly resolution 41/120 does not require endless repetition of the same. The context in which the Working Group operates is the standard-setting process. This implies, in concept and in practice, a developmental approach towards the present ensemble of legal rules and principles, taking further steps along the path to an improved specific regime of rights.

4. The following comments on Part VII of the draft Declaration are directed primarily to elements of general international law. I note Article 35 on cross-border contacts and, as with other interventions, wish to draw attention to the existence of this right in, for example, Article 2.5 of the UN Declaration on Minority Rights and Article 32 of ILO Convention No.169. Article 14 of Convention No.169 also calls up the rights of nomadic peoples which are not perhaps adequately addressed in this draft Declaration.

Much of this Part is devoted to elaborating the implications of the community structures of indigenous peoples. This is very important for the paradigm of rights represented by the draft. We have heard a great deal about the paradigm of non-discrimination, affirmative action, etc. That is only one important - but not exhaustive - aspect of the draft as a whole. Part VII is concerned with self-determination, autonomy, self-government and their ramifications. The non-discrimination argument (and the international legal instruments it carries with it) is one part of a complex legal jigsaw which is in process of finding expression through this draft Declaration. The rights therein are, but are more than, rights in compensation for past injustices. They do not represent privileges or "more rights", but are rights which relate to specific aspects of the indigenous situation. In a similar manner, international law recognizes the rights of women, children, minorities and other groups. This draft merely continues the line of intercultural law addressing specific questions for those whose rights must be individualized in legal practice as a matter of pressing, human necessity. Neither do the rights in principle violate the concept of equality as it has been understood in international law at least as far back as the case of the Minority Schools in Albania, dealt with by the Permanent Court of International Justice in 1935. On the contrary, they are a vindication of that equality. As a non-indigenous international lawyer, I wish to support the remarks of the representative of the Indian Law Resource Centre in this last respect.

Patrick Thornberry is a Professor of International Law.
Statement by Sharon Venne

I would like to make some preliminary comments on the seventh part of the draft Declaration. These sections of the draft relate directly to our relationship to government and self-determination and the exercise of the right. We reserve the right to comment on the particular sections when the discussion turns to those areas.

All these sections are interconnected to each other and with the rest of the Declaration, especially as it relates to Paragraphs 3, 4, and 5. Mr Chairman, in the last century, we entered into Treaty with the British Crown. A factor which is critical to the understanding of the treaty relationship relates to the negotiation of treaties by our governments with the British Crown. Each party in a treaty negotiation delegates certain members of their citizenry to negotiate the treaty, and empowers them to make certain kinds of arrangements with negotiators from the other nation. Neither the negotiators of the Crown nor of the indigenous peoples have free and unfettered authority to negotiate. This was the fundamental relationship which existed between the European Crowns and the indigenous nations. There is a historical component to this section.

In 1492, Christopher Columbus arrived on the shores of the Americas to exploit the lands for wealth for himself and the Spanish Crown. In order to accomplish this task, Spain and the other European states developed the myth of terra nullius to dispose of the original occupants of the lands. The European states tried to dispel any international legal status of indigenous peoples, so as to allow the European colonizers to kill, enslave, and dispose of the indigenous inhabitants. The colonizers wanted to ensure their place by going through climatic humps to invent "laws" which would justify their occupation of the indigenous lands. From this it followed that such territories would vest automatically in the first civilized power which chose to occupy them, regardless of the wishes or resistance of the indigenous peoples. In the case of the State of Canada, the British Crown asserted its jurisdiction over the lands of the indigenous peoples and enacted various proclamation to regulate themselves in their dealings with indigenous peoples. The Royal Proclamation was never meant to be binding upon indigenous peoples. It was a proclamation to bind the British Crown and its agents in their dealings with indigenous peoples. The Proclamation set out rules for the Crown to follow in relation to indigenous peoples. These rules were in fact a codification of the customary international law norms used when entering into treaties with other nations. The need to enter into formula agreements with the indigenous peoples prior to claiming their lands is a prerequisite of lands occupied by indigenous peoples. There could no longer be an acceptance of the concept of terra nullius by the international community.

This position was clearly stated by the International Court of Justice in the Western Sahara case:

"Whatever difference of opinion there may have been amongst jurists, the State practice of the relevant period indicates that territories inhabited by tribes or peoples having a social and political organization were not regarded as terra nullius. It shows that in the case of such territories the acquisition of sovereignty was not generally considered as effected unilaterally through 'occupation' of terra nullius by original title but through agreements concluded with local rulers.”

The only way for the British Crown to have access to the lands of the indigenous peoples was to enter into agreements with their rulers, in this case chiefs and headmen who were in possession of their lands. There was no denying that the indigenous peoples were occupying lands long before the arrival of the non-indigenous, but to what effect?

International law norms now codified in many United Nations instruments state that all Peoples have a right to self-determination which includes their own form of government. The difficulty has been that indigenous peoples have not been recognized as being peoples. It is not surprising that indigenous peoples are victimized by the traditional procedures and frameworks. For one thing, indigenous peoples, to the extent that they centre their grievances around encroachments upon their collective rights, represent a competing nationalism within the boundaries of the States. Such claims, posed in a variety of forms, challenge two fundamental state notions: that of territorial sovereignty and that of a unified "nationality" judicially administered by government bodies. Characteristically, indigenous peoples claim to possess sovereign rights of their own and a nationality that is based on history, tradition and self-identification. Indigenous peoples have a territory, a language, a historical relationship to lands and a legal system which are all the markings of a government. Indigenous governments have all the necessary components under customary international law, unlike other sectors of the state. For example, under customary international law minorities within a state do not possess the right to form their own government. They may form a government based upon other notions but do not automatically possess such a right.

Mr Chairman, one other general comment on the issue of citizenship and the relationship to the Treaty process. At the time of the Treaty making, the Commission for the Crown asked indigenous peoples to point out their people. The Commissioner did not place people within the
various communities. It was a recognized right for indigenous peoples to relinquish their rights to determine their citizenship. All kinds of methods have been used to get indigenous peoples to give up our treaty rights. One method was recently introduced in the Canadian Parliament known as Bill C-31. Through this legislation, the Federal Government of Canada tried to gain control of citizenship. The Treaty peoples, particularly those within the areas of Alberta and Saskatchewan, resisted the application of this legislation. The Elders did not appreciate all the new rules and regulations that were being devised and set before us. We are not non-indigenous people and we do not fight like them. Non-indigenous people fight any place for their own aggressiveness as to how to own everything. Everything has to be in their own way. The Federal Government alleged that indigenous peoples were opposed to the legislation because of the women. It had little to do with the women but rather was seen as a direct attack upon the fundamental aspects of the Treaty. If people cannot determine who is a citizen of the Treaty, the Treaty would soon be broken for the future generations.

As you can see, Mr. Chairman, all these sections within this part are connected to each other with a need to be kept together within the draft.

Before concluding, Mr. Chairman, we agree with the statement made by the distinguished representative of Fiji in relation to Article 33, without entering into details.

Thank you for allowing me to take the time to cover this issue, which is particularly critical to us.

Sharon Venne is a representative of the Cree people.
Gender Equality in Panchayat Raj for the Indigenous Communities of Van Gujjars and Jaunsari

FREEING THE JAUNSARIS FROM BONDAGE

With this conviction RLEK took its first initiative in the early 1970s to free the indigenous community, living in the Central Himalayas, from the clutches of bondage. This community is probably the only one of its kind in India that practices both polyandry and polygamy. The compulsions for this are invariably economic. For centuries the weaker sections of this indigenous community lived a life of bondage. They were ruthlessly exploited by the richer land lords and their poverty drove some of them to sell their womankind to the “flesh trade”. It was only later that the Government of India passed the “Bonded Labour Abolition Act of 1976”. Subsequently, RLEK helped in the rehabilitation of the freed bonded labourers by ensuring that they got their entitlements as per their legal rights.

THE NOMIC VAN GUJJARS

Nomadism has generally been looked down upon by settled populations. It is considered to be a wayward life with no set goals and ambitions. On the other hand nomads believe that it is only those who are tired and weak who settle down. Looking at the hefty and handsome Van Gujjar men sporting dexterously crafted long caps and the beautiful and energetic Gujjar women with their range of beautifully crafted ethnic jewelry one is quite convinced of this fact. They are a colourful and unpolluted pastoral tribe who have been practising transhumance through centuries between the forests of the plains in the winters and the high mountain Himalayan pastures during the summers. Like most of the other nomadic pastoral groups around the world the Van Gujjars have also been the victims of gross misunderstanding and sensational prejudice. Living in absolute harmony with nature this indigenous cultural minority possesses a wealth of traditional knowledge on ecological conservations and bio-diversity and have been managing the forests where they live in a very sustainable way.

They are very proud of their indigenous breed of buffaloes that have a very distinctive personality and are very much a part of the family. They are solely dependent on these buffalo herds that they breed and the consequent sale of the excess milk and milk products. To maintain these herds the tribe lives in and depends totally on the forests of the plains during the winter months and practices transhumance to the highland pastures of the Himalayas where they spend the summers at heights between 8000 to 16000 feet above sea level.

Their contribution to eco-tourism

The community's contribution to society through promotion of eco-tourism is also significant. They are the only ones who produce sufficient excellent quality milk to cater for the enormous rush of tourists and pilgrims that throng this Himalayan region almost throughout the year. For this they have been asked is that they be allowed continued access to forests so that they may have access to fodder leaves. However, even this is being denied to them and they are being asked to leave the forests and settle in a most inhospitable place. The Van Gujjars are convinced that this would mean an end to their pastoralism and their traditional lifestyle.

This compelled RLEK to take up the cause of their empowerment through an integrated programme of initiatives. These include a very unique, innovative and successful adult literacy programme, Post Literacy, a primary school for their children, training in legal rights, opening of bank accounts under Self Help Group schemes, milk marketing with the infrastructural facilities of two refrigerated milk collection vans provided by RLEK, health programmes for their women and children, their inclusion into the Scheduled Tribes list (that ensures some ben-
Training Jansari women with regard to Panchayat Raj laws and representing themselves in the elections, Uttar Pradesh, India. Photo: Rural Litigation and Entitlement Kendra (RLEK).

The Panchayat Raj System of Governance

In 1993, the Government of India made the 73 Constitution Amendment Act that provides for the devolution of power of governance through the Panchayat Raj Act (Local Self-Governance), to the people at grassroots level of the villages in India. Besides the provisions of control of economic development and social justice schemes, it also makes provisions for reservation of a minimum of one-third of the seats at all three levels of Panchayat Raj Institutions for women. Seats have also been reserved for the economically and socially backward SC/STs and the Dalits. This is a great leap forward in the direction of emancipation of women and of ensuring their rightful place in governance. The worst sufferers in Indian society have always been women and the indigenous communities. Therefore, RLEK has launched a training programme for the empowerment of women of the Van Gujjar and Jansari indigenous communities that live in the Garhwal region of the Central Himalayas. This is a three-phased programme involving training the women before, during, and after the elections.

Training for gender equality

The exigencies of the life styles of both these indigenous communities leave them with very little free time at hand. The training programme for “gender equality in Panchayat Raj” therefore, had to be taken to their very doorsteps. The geographical area and the terrain in which these indigenous communities live is very
vast and hostile, making the logistics of the programme very intricate. Various problems were taken into account that included movement into forests, the constant threat of wild animals (especially the elephant), contacting widely distributed populations, trekking miles in the remote hill areas that lack access to any means of transport, overcoming language problems, etc.

A series of workshops were held in rapid succession to build a team of Master Trainers comprised of RJEK workers. This team was given training in understanding and analysis of the 73rd Constitution Amendment Act; the Panchayat Raj Acts of the states of Uttar Pradesh and Himachal Pradesh where the target Indigenous communities live; gender sensitisation; functional training; habits and customs and local problems of the beneficiaries of the programme; preparation of training modules; preparation of training and publicity material; use of various audio visual aids; participation in rural appraisal, etc. Renowned experts in relevant fields from across the country were the resource persons at these training workshops.

Preparation of training and publicity material was another major task as the majority of the target population is either illiterate or has only a modicum of literacy. The material, therefore, incorporated an abundance of illustrations, songs and puppet plays. The salient features of the changing scenario vis-a-vis Panchayat Raj were thus communicated through the simplest means in the beneficiary community’s dialect and vocabulary. All relevant and pertinent ordinances issues by the State Panchayat Raj Commissions were collected. This included ordinances on reservations of seats for women in Panchayat Raj Institutions at all levels in the three tier system of Panchayat Raj, i.e. the village (Gram), block (Kothra) and the district (Zilla).

**Dry Runs**

It is our experience that at any election at any level there are invariably a large number of invalid votes cast. This was to be feared even much more in these two Indigenous communities as in the case of the Van Gujars they would be casting their votes for the first time ever, and in the case of the Jaunsaris as they had always been kept away from mainstream governance. A component of the training programme, therefore, was to make the beneficiaries go through ‘dry runs’ W. In these the complete process of elections from the checking of names in the voter lists to the actual casting of votes in ballot boxes is undertaken.

Thus prepared the RJEK training teams set out into the field areas. In the case of the Van Gujars the team went from ‘derna’ to ‘derna’ W disseminating information on the rights, authority and responsibilities that would be devolved to the “Panchayats” and the very prominent role that would now be played by women. A very major interaction was the involvement of the Van Gujur women in issues of their children’s education and health and management of natural resources by the “Panchayat” community.

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*Photo: Rural Litigation and Entitlement Kendra (RJEK)*

The team of trainers stayed with the beneficiaries in their forest dwellings so that a good rapport could be built with them and they could participate in the training programme as per their convenience of time.
Mock elections were held at each of the "deras" where not only the women but the men also participated very emotively. The language used for training was their own "Gujari" dialect and this facilitated communication greatly. It also involved the groups in discussion and moved them to ask questions of fact a majority of them wanted the exercise of actually marking the ballot papers to be repeated so that they could correct the mistakes that they had made in the initial "run". In the Panchayats where seats have been reserved for women a very heartening sign of the efficacy of the training programme was the enthusiasm shown by women to contest in the forthcoming Panchayat elections. In some areas Panchayat elections have already been held a number of Van Gujari women have been elected to various posts. The RLEK training team is in the process of preparing material and modules for the post election training phase of the programme.

Training the Jaunsaris

In the Jaunsar area vested interests had raised the bogey of there not being any indigenous community there and that reservations for them should not, therefore, be made. Therefore RLEK felt that intervention and training in such an area was even more necessary. The training team spent months in the very difficult hilly terrain and stayed with the community in various villages. This helped in building a positive environment for the massive training programme. In some of the villages the temple caretakers summoned the village folk by playing on drums and announcing the arrival of the training team. In villages where the women were too shy to come out to a common place members of the training team went door to door to interact with them. Even those busy working in the fields were reached and relevant information was disseminated to them there and then. Rain, cold weather, continuous rain and snowfall and the resulting breakdowns could not stop the committed and dedicated training team.

A number of women from various villages in the Jaunsar area have become committed to the cause of gender equality through self-governance. They are supplied with training and publicity material by the organisation and continue to reach out to the women of the area encouraging them to participate in the process of elections and governance under the Panchayat Raj system.

Consequent to the motivation, awareness and training that has been imparted to them, the women of the indigenous tribes of the Gujars and the Jaunsaris are more clear in their goal and steadfast in their determination to end the uncertainty enveloping their lives.

RLEK's writ petition in the Supreme Court

Panchayat Raj elections have not been held so far in the hill region of Garhwal in U.P. RLEK has taken up the matter with the Supreme Court of India on the grounds that continuance of the old Panchayats where elections were last held over eight years ago the 3rd Constitution Amendment specifies that no Panchayat can last a day longer than five years is unconstitutional. Further it decries a minimum of 33.33 per cent women as also SC/ST and Dalit for whom seats are to be reserved at all levels of their rightful place in governance. On this petition the Supreme Court has issued show cause notices to the Government of India, the government of U.P. and the government of H.P. Himachal Pradesh, consequently, has already held its Panchayat elections. However, delay in the holding of elections has also had its silver lining. This has enabled RLEK to train a much larger section of the women of the indigenous communities of the Van Gujars and the Jaunsaris. This would greatly facilitate it in continuing its after the election training programme for the elected and un-elected members of the Panchayat Raj Institutions as and when they are formed.
There are massacres that we regularly read about in the newspapers. And there are massacres that we are not told of, one of which recently happened high up in the hinterlands of Mindanao with Moro tribal victims. In case of each of the massacres, the horrors suffered by the tribes are perhaps the worst. They were killed not by the usual hardened criminals or by a senator's son, they were killed by the very people who swore to defend and protect them: the soldiers of the Armed Forces of the Philippines.

The Morobos were killed not with the use of a simple knife, gun or rifle, but with rocket bombs and machine gun bullets fired by the state-of-the-art MIG59 assault helicopters, OV-10 warplanes and 105 howitzers. These war machines were used by the AFP in a series of indiscriminate bombing operations during a period of over two months in Agusan del Sur Sarigao del Sur. Complementing these war machines were the food and medical blockades, and the sheer government neglect with the effect of prompting the killing of the lamadts, this time very slowly.

The bombings were carried out not for the sake of bombings, but to be able to flush out the tribal society, development activists, and the filthy rich, who can prevail. This is the story.

The Surigao del Sur Bombings

The hinterlands of the towns of Laiag, San Miguel, Tandag and Lanauca of the Surigao del Sur province, became the first targets of a wave of bombing activities in the region last July 28, and then again on August 5, 7, 10, 18 and 19 of 1995, according to the Task Force Delin- tances of the Philippines. Along with the bombings, infantry operations were also conducted. In both assaults over a hundred families of Morobo and Musulman lamadts were displaced. Worse, the food regularly bought and brought by the lamadts was also held back or its quantity restricted by the military, an act which violates basic human rights.

The Bayungan Massacre

On August 18 and 19, 1995, the 401st Infantry Brigade of the army conducted a "war exercise" along the boundary of the Aurgasan del Sur and Sarigao del Sur provinces. They dropped over 60 bombs. When the smoke cleared, eight Morobo lamadts, including a child, lay dead, their bodies mangled, dismembered and strewn all over the place in a field in Sitio Laubs, Bgy. San Juan in Bayungan town, Agusan del Sur. Three children were also injured, one of them severely, and still in the custody of the military. Army soldiers tried to cover up the incident through lies and deception. First they told the media that the wounded children were accidentally hit after playing with a gun. But when human rights groups raised a howl, they admitted to the killing of eight Morobo with the excuse that they were used as shields by the New People's Army. Later, AFP Chief Arturo Pimentel changed the story saying that the killings were accidental and happened in the course of their counter-insurgency operations, after which Enrile's subordinates said that they misinterpreted the map in their bombing operations. They also paid off relatives of the victims in exchange for their silence.

Survivors speaking out courageously recounted the incident: "The victims lifted up a child, waved a white cloth and shouted, 'We are civilians, spare us.' After that bombs were dropped and the scene I saw had chucks of human body part scattered everywhere," says survivor Amalia Bantal, 51, who was only meters away from the bombings. Amalia said that right after the bombings, the pilots pumped machine gun fires at the dead victims and at the two houses on the field. Amalia's husband and grandchild would barely have escaped the machine gun fire, had they not decided to jump out from the house and run towards the forest. Upon passing by the bodies, Amalia described what she saw: arms, intestines, jaws, legs and head scalps scraped or severed from fruit human bodies. She lost her cousin-in-law, Hamud an Bantal, 50.

Thirteen-year-old survivor, Josel Uydtaytay, said she saw the military aircrafts flying to the level of a medium-size tree: "I don't think they were blind not to identify my family as civilians. I'm cer-
taint that they intended what happened to happen.” José lost her great-grandmother, a 60-year-old Mayda Ponzo, and mother, a 40-year-old Cappang Pone. She herself would probably not have survived had she not hid away from the pilots’ view in the bushes.

Aracena Ponzo, a Parok leader and a Manobo chief in Sitio Labuno, said they have not received any notice of the bombing incident. “I think the military are bent on driving us out of our land. They might have some plans in these areas,” says Innocencio Tanu, 52, also a Manobo chief in an area of five dead victims. Innocencio’s five male relatives were husband and wife Marooid and Didi Tanu, who were killed along with their two teenage daughters Joseelyn and Viwha and a young son, 9-year-old Borromus.

The bombings have resulted in the evacuation of over 64 families in Agusan del Sur alone; they have received little help from the government.

San Luis Bombings

A five-day bombing spree that started on September 10 also hit the mountains of San Luis town, Agusan del Sur. The military said they killed eight New People’s Army guerrillas. But priests and nuns who work with the Lamads in the town said the victims were the innocent Manobo, Talaitandig, Bunawan tribals, who were driven out from their farms in the middle of their harvest.

Fr. Benigno Allforque, a San Luis parish priest, said over 179 families of Talaitandig, Bunawan and Manobó Lamads evacuated to barangay centers in the hinterlands. They are now suffering from hunger due to lack of food and medical assistance. Instead of food, the tribes have received bombs, which come three times daily courtesy of the government’s AFP.

Surigao del Sur Bombings: A Reprise

After the sorry tales, the military did not cease the bombing sorties. On September 13, the ground again shook the highlands of San Miguel and Lianga after two helicopters dropped over ten bombs. The pounding displaced over a thousand people including children, the church-based Justice and Peace Action Group Tanadag reported.
Coercive Conservation?

Biodiversity Preservation and Indigenous Peoples in Africa

Over the past decade a dramatic impasse has taken place in activities designed to conserve biodiversity in Africa. Calls have been heard from local people for the implementation of projects that enhance their livelihoods without reducing their access to land and natural resources necessary for their survival. Striking a balance between conservation and development is the key to ensuring the long-term survival of both people and wild species. The problem has been that conservation efforts have sometimes had negative effects on local peoples, including violations of basic human rights.

In some parts of Africa, biodiversity is on the decline as some species have gone extinct and habitats have been altered by a combination of human and environmental factors. A major worry of biologists is that the ability of ecosystems to carry out vital functions such as maintenance of soil fertility, water retention, and cycling of nutrients will be reduced by the loss of biodiversity. There are several reasons for this situation. First, the rapidly expanding populations of many African countries and the diversification of African economies are having major impacts on the environment. Second, outside agencies, including multinational corporations and international development organisations, have increased their efforts to exploit Africa's biological and cultural resources. And third, numerous scientific inquiries, some of them drawn from indigenous knowledge, have resulted in an expansion in the uses to which resources are put.

In response to rising concerns about biodiversity losses, international agencies, African governments, non-government organisations (NGOs), and local communities have attempted to rethink some of the approaches in order to come up with strategies that are sustainable over the long term. Attempts are being made to frame policies and put into place a variety of projects aimed at integrating conservation and development. The basic assumption behind these projects is that people will not attempt to conserve resources unless they can see the economic and social utility of doing so. When people are able to derive both direct and indirect benefits from the consumptive and non-consumptive use of resources, they are more likely to engage efforts to enhance the well-being of those resources.

African biodiversity programs range from habitat and ecosystem protection with the declaration and protection of national parks and game reserves (spatial conservation) to the passage of endangered species protection legislation and enforcement of conservation laws. African countries and various agencies are also involved in actions aimed at promoting agroforestry and wildlife breeding, including crocodile and ostrich farming. These programs have had implications for the resource rights of African populations, many of them indigenous peoples, a sizable number of whom live in the vicinity of national parks, game reserves, and other protected areas.

In the past, a major problem with biodiversity conservation programs in Africa was that they tended to dispossess people or to prevent them from pursuing resource procurement activities. As one 'dispossessed woman in the Ngai Ngai region of Bushmansland, Nanibbi, put it, 'Government first took away our right to hunt by Robert K. Hitchcock
and then tried to remove us from our traditional territories." The passing of legis-
lation to control hunting and the setting aside of parks and reserves generally
served to exacerbate problems of poverty and resource stress among local communi-
ties in Africa (Anderson and Grove 1987).
Some people in Africa feel threatened
by what they perceive to be coercive
conservation. Local people had been sub-
jected to periodic search and seizure op-
ERations since the establishment of colo-
nial institutions in Africa. This is par-
icularly true of indigenous peoples, many
of them foragers or small-scale farmers
who hunt and gather to supplement their
subsistence and incomes.
Africa has the largest number of indig-
Eeous peoples of any continent on the
planet, some 350,000,000 depending on
who one defines as indigenous. Most
African countries do not recognize spe-
cific groups within their territories as
indigenous, maintaining instead that vir-
tually all the residents of the country,
with the exception of people who came
in as colonizers or as refugees, are indig-
Eeous. Some of these peoples, such as
the Masai and the Furuana, are or were
pastoralists. Others, such as the 100,000
Bushmen (San) in southern Africa, have
a long history of hunting and gathering.
Still others, such as the Baloko or the
Batoro of Uganda, are agropastoralists.
In the 1970s and 1980s, as the concern
over the loss of elephants, rhinoceros,
and other large mammal species in-
creased, there were greater efforts by
African governments to put pressure to
people who they defined as poachers.
There is evidence to indicate that indi-
vidual Bushmen, Pygmies, Hadza, Masai,
Somalis, and other groups were mis-
treated or, in some cases, killed by
government officials in the course of their
official duties. In some cases, people were
arrested by police or personnel of Wildlife
and National Parks departments. There
were also instances in which people were
shot and killed, ostensibly for poaching.
Information obtained in the field suggests
that at least some of those shot were sim-
ply gathering wild plants, obtaining water,
or visiting friends.
Exact numbers of people killed by
gov-
ernment officials in the pursuit of bio-
diversity preservation are difficult to
come by. Some officials have suggested
off the record that there may have been
as many as 96 people shot in 1992 in one
country in southern Africa in a single
year, others familiar with the area argue
that the numbers are much lower than
that, around a dozen. Interviews of local
people in villages along the borders of
several African countries indicate that a
fairly sizable number of people were
stopped and questioned and at least some
of these people were arrested, beaten,
and killed at the hands of officials.
The anti-poaching operations have
served, it has been argued, to reduce
the losses of such endangered or threatened
species as rhinoceros and elephant. There
is a major question, however, as to
whether or not the misadventure and kill-
ing of people is really the most effective
way to promote conservation. Some in-
dividuals in a number of parts of Africa
have suggested that the actions of gov-
ernment and military agencies are geno-
cidal in intent. Others have said that
these actions have been undertaken in
order to get them off the land so that it
can be used for other purposes.
The question that a number of indig-
Eeous groups are asking today is whether
or not it is appropriate for government
agencies that are supposed to be doing
conservation to be so heavily involved in
promoting activities that are having such
negative effects on their lives. As one
Tuva woman from northeastern Bot-
swana put it, "Just because these people
say that they are helping preserve the
environment does not mean that they
should be able to violate our human
rights."
Members of local communities, non-
government organisation, and African
researchers and development personnel
have called for alternative strategies
which will help rather than hurt Africa's
people. Some NGOs, with the support of
government environmental agencies,
are engaged in promoting projects which in-
crease local incomes and raise standards
of living while also carrying out bio-
diversity conservation.
The World Wildlife Fund (WWF), Conser-
vation International (CI), Wildlife
Conservation International (WCI), the
African Wildlife Leadership Federation
(AWLF), and other environmental NGOs
are involved in projects that com-
bine conservation and development.
7) that greater awareness of the importance of environmental conservation will result in people being more willing to engage in it.
8) that there are extensive productive systems (such as organic agriculture and soil conservation) that encourage people to reduce their dependence on extensive production systems, thus lowering pressures on resources and slowing or stopping degradation of the agricultural frontier.
9) that involving people equitably as active partners in all phases of project implementation, from conceptualization through design, implementation, and evaluation, will increase the chances for project success.
10) that by increasing the options for local people to manage their resources for the benefit of current and future generations, better conservation will result.

The country where this kind of approach has been developed to the greatest extent is the Republic of Zimbabwe in Southern Africa. There are at least two and possibly more large populations in Zimbabwe who can be defined as 'resource owners' and who were affected by conservation programs. One of these groups is the Tsembaburara of the Kanhunyema and Changpo Wards in the Gwarku District at northeastern Zimbabwe. The Tsembaburara were also affected by illegal hunting and for entering protected areas for purposes of collecting firewood and other resources. During the Zimbabwean War of Independence (1985-1988), they were not allowed to have weapons, carry out hunting activities, or even protect their crops from marauding wildlife. In the past, many of the people in Zimbabwe used wildlife as a problem than a potential source of income, subsistence, and employment. Elephants, buffalo, and other animals destroyed their fields, and sometimes killed people, and predators such as lions and leopards reduced their livestock numbers. The safari industry catered to non-local hunters and tourists, and people in the communal areas saw few, if any, benefits from the presence of safari companies. Police and Department of National Parks and Wildlife Management (DNPMW) personnel were viewed as enforcers of laws which sometimes meant that local people were jailed for illegal hunting or obtaining resources under the Zoological and Wildlife Protection Act.

In the late 1980s, efforts began to be made to promote democracy, education, and economic development in the area where the Tsembaburara resided. Under the Parks and Wildlife Act of 1975, the Zimbabwean government had invested authority over benefits from wildlife to communities and wildlife committees under the Communal Areas Management Program for Indigenous Resources (CAMPFIRE). This program was aimed at increasing conservation while at the same time ensuring greater economic benefits to local people.

One of the programs within CAMPFIRE has been to allow communities to manage their resources, management came from outside the producer community. This is being done, for example, in the case of the Gwarku District, where virtually all of the members of the local wildlife committee are from groups other than the Tsembaburara. The Tsembaburara households did not receive household-level economic benefits from the wildlife utilization activities. They also had little, if any, say in the decisions about how the funds were going to be used. The Gwarku District Council has been reluctant to give decision-making power to lower-level institutions such as ward wildlife committees. Efforts are being made to convince the district councils in Zimbabwe to devolve decision-making to ward and village level institutions and to provide greater benefits to individual households, but whether this works or not remains to be seen.

In the case of the Dzanga-Sangha forest reserve in the Central African Republic, Baka Pygmy communities are being encouraged to participate in the national development and conservation programs. In the area, an interdisciplinary team composed of ecologists, social scientists, and health and rural development workers. This project, sponsored in part by the World Wildlife Fund-US and the U.S. Agency for International Development (USAID), supports self-help activities and research on the establishment of both formal and informal village associations. Some of the Baka in the forest reserve are working as tourist guides while others are selling goods that they obtain from the forest on the commercial market. Health workers are involved in the distribution of first aid and prescription medicines. Conservation efforts are promoted through limiting the number of trees extracted in timbering activities, setting timber limits in the numbers of animals visited, and enforcing game laws. One problem has been trying to prevent incursions of outside groups into the area.

The Baka Pygmies in Cameroon have been affected by a number of development programs that included setting up permanent village settlements and associated agricultural projects through the Ministry of Social Affairs. Impact of the programs included expanding the degree of dependency on domestic foods, something that had implications for the nutritional well-being of local people. Conservation efforts in and around Korup National Park in Cameroon included resettlement of people from the park into the buffer zone on the peripheries. The primary strategy to encourage resettlement included alternative cropping techniques and income-generating activities to replace foraging and resource collection for food, fuel, and medicinal products. Pygmies in the region have raised the issue of monetary compensation for their losses. The 1,000 Hadza (Hadzabe) of the region around Lake Eyasi in northern Tanzania are foragers who have had relatively extensive interactions with their neighbours, trading with them and working for them as hunters and guides. The Hadza were affected by the imposition of wildlife laws, the movement of pastoralists and farmers into the area, and the expanding tourism and contract farming industries.

The mid-19th century saw the ivory trade expand and then decline as a result of hunting pressure on elephants. Bida were employed as trackers, guides, butchers, and carriers. The imposition of game laws by Germany and later the British colonial authorities saw Hadza being arrested for hunting illegally, a process which removed them from the labour force causing hardship among their families. Since the 1950s, the pace of change among Hadza has increased. The area has been under pressure due to colonization by non-Hadza populations. Some of the bush has been cleared and overgrazing is a seri-
ous problem, reducing the amounts of wild foods available to foragers. Deforestation has increased as a consequence of charcoal production and trade. Tourism has expanded in the area, with tour buses coming close to Hadza country in their quest to see both wildlife and local people. The establishment of settlements, especially after 1964-65, was an important process in Hadza country. One reason the settlements were set up was to encourage hunter-gatherers to take up other ways of making a living. Some of the development strategies that were attempted in these areas included having Hadza take part in game cropping, cattle fly clearance, and the establishment of safari camps for tourists. They also played a role in the disappearance of woody species in the vicinity of the settlements, turning trees and shrubs into charcoal for sale to towns and tourists camps. The areas around the settlements are described by some Hadza as "scenes of devastation."

Villagization in Tanzania had already posed a threat to customary land tenure and the future of Tanzania’s rural populations. Such a situation was seen in the case of the Barabaig, an agropastoral people whose grazing rights were usurped by a wheat farm established by the Tanzanian government and a Canadian donor, CIDC. Little attention was paid to existing land tenure system and the cultural systems in which they operated during the project planning process. The spill-over effects of the wheat scheme included movement of Barabaig into Hadza country, a process which has increased pressure on local resources and has exacerbated social tensions.

Indigenous peoples in Africa have been quick to respond to some of these pressures. In Tanzania, some educated Hadza who have returned to their areas have undertaken community development work and have done grassroots political organizing and promotion of Hadza land rights. Pan-Pygmies (Hutia) organizations declared the genocide which occurred in Rwanda in 1994. Southern Africa has seen the rise of a number of indigenous non-government organizations that are seeking social, economic, and cultural rights for Bushmen and other indigenous peoples. Indigenous groups in Kenya, Tanzania, and other countries have called for greater efforts to be made to promote basic rights to food, water, and health (Veber et al. 1993).

For community-based natural resource management projects to be successful, they must incorporate careful planning and design that is participatory in nature. These kinds of projects are definitely labour-intensive, and they require extensive interaction between staff and beneficiaries. In some of the evaluations of ICDFP, it was found that some members of the target communities, notably women, children, the elderly, and indigenous minorities, were left out of the project planning and implementation process. Clearly, greater attention needs to be paid to class, gender and ethnicity issues in future conservation and development efforts.

The degree to which conservation and development projects are beneficial is dependent in part on the extent to which local people can take part in project activities. Many of the environmental projects that were initiated did little in terms of providing employment and income generating opportunities. They did even less in the area of providing access to management-level positions in the projects and the NGOs involved in implementing them.

Conservation and development activities in Africa can only come about when coercion gives way to cooperation, and when local people are given support, information, and technical assistance. Indigenous peoples, for their part, are more than willing to cooperate with those organizations that place human rights on an equal footing with species preservation.

References

Note: The ideas in this text were derived from Anderson and Duff — (1997); Well and Benson (1992); Brown and Wyckoff-Bredl (1993); the U.S. Agency for International Development, the government of Zimbabwe, the World Wildlife Fund U.S., and the World Bank (see Nature WWP International).
The Human Genome Project

By Hilary Cunningham & Stephen Schaper
Third World Network Features

Tate highly desirable candidates for genetic study. Among these populations are: the Hadza (around 200 remain in Tanzania); the ‘Kung (roughly 15,000 members reside in the Kalahari Desert) and certain Somali communities; the Plains Apache (1,000 remain in Oklahoma); the Sareces and Delevare (each numbering around 600); the Arikara (about 50 remain in the Arizona), the Yatamuni (approximately 20,000 live along the border of Venezuela and Brazil); and the Dorzepe of Panama (roughly 50 remain). The Yukaghir (fewer than 100 live in Siberia) and the Chukchi (10,000 live in the Chukchi peninsula of north-eastern Siberia); and several other remote and isolated populations (these groups reside in the Andaman Islands off Malaysia, and number less than 100 each). While many of these groups were selected because of their linguistic and cultural uniqueness, some are also considered to be “genetically distinctive.” That is, scientists have speculated that they probably have genetic compositions that are slightly di

O n 14 March 1995, the US National Institute of Health (NIH) obtained a patent on the DNA (deoxyribonucleic acid) the backbone constituent of the gene of an indigenous man from the Hagahai, a people who live in a remote region of Papua New Guinea. The NIH patent established claim on a cell line in the Hagahai male which is linked to adult kalaemia. The DNA, it is presumed, will assist scientists in understanding the environment or suppression of an immune response to a leukaemia-associated virus.

Patent is part of a much larger controversy. First, there is a critique of the patenting of DNA in general which puts the control of genetic research into the hands of powerful government or private, largely Northern corporations. Second, the patenting of indigenous peoples’ DNA is seen by some as yet another manifestation of First World exploitation, i.e., the “mining” of indigenous communities for raw materials which now include their DNA. Indigenous peoples, critics argue, have become the target of gene “prospectors” whose quarry, in this case, is neither gold nor silver, but patentable indigenous DNA.

The Human Genome Diversity Project (HGDP) is at the vortex of this controversy. Established in 1991, the HGDP brought together anthropologists and geneticists concerned that the Human Genome Project betrayed an ethnocentric bias. It was, they claimed, too narrowly focused on Anglo-European populations. Aspiring for a more diverse and therefore more extensive catalogue of human genes, these scientists felt that a broader sampling of ethnic populations would not only better the project’s goal to combat common human diseases, but also assist anthropological efforts to reconstitute the story of human evolution and explore issues of human adaptation.
Some indigenous women's groups at the Beijing Women's Conference added their voice to those people from other groups who have expressed concern to the HGDP. Indeed, many of these groups refer to the HGDP as "the vampire project". 

In the light of a growing connection between HGDP scientists and commercial pharmaceutical concerns, HGDP scientists are being challenged to clarify not only their role in relationship to the commercialisation of DNA, but also their role as Western scientists who lack credibility among indigenous groups given the West's record of exploitation. This clarification is particularly important in light of how DNA, and in particular indigenous DNA, is currently being commercialised.

Scientists from Sequana Therapeutics a California-based "genomic" company in cooperation with the Samuel Lunenfeld Research Institute of Canada (affiliated with the University of Toronto), were able to collect samples from the people of Tristan da Cunha, a tiny island of just under 300 inhabitants located halfway between Brazil and South Africa. The inhabitants, who are all descendants of the island's original seven families, exhibit one of the world's highest incidences of asthma (30% of the population suffer from asthma and 20% are carriers). Sequana implies that it has the information necessary to identify and eventually patent the gene or genes which predispose people to asthma.

Recently, Sequana sold the licensing rights to a diagnostic test for asthma to a German firm (Boehringer Ingelheim) for $70 million. Another example involves scientists from the Rockefeller Institute in New York who, in conjunction with their research on obesity genes in lab mice, have extracted blood samples from the inhabitants of Koorae, an island in the Federated States of Micronesia in the South Pacific where obesity has a high incidence.

These scientists hope to identify the obesity gene in humans in order to understand how the amount of fat stored in the body is regulated. Rockefeller University has been offered $20 million by Amgen, a California-based pharmaceutical company, for licensing rights to the obesity gene and has also promised additional payments of up to $90 million.

Avoiding Primitivism

Given anthropology's historical role in and insensitivity to the exploitation of indigenous communities, these ethical concerns are particularly poignant for the HGDP membership, which includes many anthropologists. Anthropology, some have argued, emerged as a discipline deeply embedded in a racist process of constituting the 'other', i.e. the darker-skinned 'savage' of the Victorian world view. This "primitivism" was separated, on a hierarchical scale, from the civilised European and was thought to be inferior in cultural behaviour, mental capacity, and physical characteristics.

The "primitivism" thus became a source of "data", an object of scientific inquiry and study, that ultimately buttressed popular ideas about hereditary differences (and superiority). These differences between civilised and primitive humans were couched in biological categories (principally race) and "were called upon to explain history and justify present policy". Such political-economic policies of the period, of course, included colonialisation, forced assimilation and, in some cases, extermination.

As objects of scientific inquiry, primitives were often thought to be vestiges of an earlier moment in human history (and therefore close to our ape-like ancestors). Their artifacts, behaviour and beliefs, therefore, became an important scientific resource — they were to some extent a choice for the Victorian to see himself in a former manifestation, an opportunity to take a glimpse into human past in order to understand who the human was in the present. The dark-skinned savage of the anthropological gaze therefore became a mirror in which the white European could look "back" to understand the nature of the present.

In addition, many anthropologists assumed that these primitive societies were populations which would soon disappear from the human record. The recording of primitivism, then, became all the more important given time limitations. The primates' genes became a resource for Western civilisation, an object to be scrutinised, collected and preserved in much the same way that artifacts of antiquity might be subjected to examination and preservation.

Are the indigenous cultures identified by the HGDP at risk of becoming the "primitives" of a late 20th century scientific enterprise? The communities targeted by the project are viewed as "invaluable resources" for the advancement of science, and yet those who stand to benefit from these advances if the historical status quo persists — are principally white, wealthy, Western populations. Do we find here the abrogation at risk, yet again, of being treated not only as an object of Western study and collection but also a target of Western economic exploitation?

Many genomic scientists, and not only those of the HGDP, may well be embedded in a political economy which continues to exploit the resources of some populations for the benefit of others. This is a serious ethical issue worthy of ponderous and sustained reflection.

Ethical and Political Issues

What are some additional ethical and political issues surrounding indigenous populations and genetic research? For the purpose of this paper, we have divided the issues into three categories.

The first category involves issues of "informed prior consent". Although scientists and field workers extracting the samples from indigenous populations follow informed consent guidelines, these guidelines often do not mention how their DNA is handled. DNA research involves the possibility that DNA may become marketable goods in the future. It is possible that DNA may be used to create a genealogical history, allowing an individual to trace their lineage and possibly even their ancestors.

The second category involves the protection of indigenous resources and knowl-
The Trade-Related Intellectual Property Rights (TRIPs) of the current World Trade Organisation favour the protection of the intellectual contributions made by corporately sponsored scientists. Gernamplasm, however, is regarded as "true common"Kind and is therefore patentable. This distinction between intellectual property and common heritage supports a system which allows wealthy Northern countries to extract genetic and organic raw materials from poorer nations and transform them into highly profitable commodities for sale in the North. How should indigenous communities and poor nations be compensated for their DNA resources - especially given the fact that the latter are often staggering under the weight of enormous foreign debt? The third category includes cultural and moral attitudes toward the patenting of life forms. While the issue was resolved, at least legally, in the US courts in 1980, several of the indigenous groups involved find the prospect of patenting life forms not only foreign but also abhorrent. For communities (such as the Guaymi) which hold life in all its manifestations as "sacred" and "collective" (and therefore not subject to the ideologies of individual property rights), what should be the role in controlling the possible uses and kinds of research conducted on DNA samples extracted from their members? Ethical Responses: Two Models While the HGDP does not adopt a position either for or against the patenting of human DNA, it has embraced an approach which, the organisers hope, maintains the non-commercial nature of the project. The HGDP favours a contractual approach with each indigenous community participating in the project, specifically the HGDP wishes to establish contracts with scientists using samples from its data bases that respect the wishes of indigenous communities. In this way, the HGDP argues, the benefits of commercialisation would not only go to the sampled communities but proceed with the community's consent and control. The following excerpt from the HGDP fact sheet prepared by the organisation's North American Regional Committee notes: "...the HGDP is committed to two propositions: 1) that financial benefits should not go to the project and 2) that an adequate part of the financial gains, if any, must go back to the sampled populations. These two propositions do not entirely clear. Implementation depends on some complex issues of patent and contract law that have not been entirely resolved, as well as on some decisions by the sampled populations or their representatives on how best to proceed. The Project plans to make the implementation decisions after consultation with such representatives. But, whatever method ends up being chosen to implement the Project's commitments, the commitments themselves are firm. The HGDP will not profit from the samples and it will do its best to make sure that financial profits, if any, return to the sampled populations. In the HGDP scenario, the Project would act as a kind of "middleperson" between commercial and indigenous groups, and require that scientists using its data banks sign contractual agreements based on the wishes of the communities from whom the samples have been extracted. The logistical and legal problems with this approach - including who or what bodies would represent indigenous groups - are acknowledged in HGDP policy. It nevertheless states the Project's aversion to anything resembling "biopiracy". Several indigenous coalitions, including the World Council of Indigenous Peoples (WCIP), Survival International, the Third World Network, and those groups represented at the First International Conference on the Intellectual and Cultural Property Rights of Indigenous Peoples held in New Zealand in 1993, are sceptical of such a plan. They propose a different approach. In addition to voicing their opposition to the patenting of any living organism, these groups have underscored the need for both indigenous control of their own resources and the recognition and respect of the international community for their "past, present and potential contributions". Those participating in the third workshop in Suva, Fiji, have called for the establishment of a Life-Form Patent-Free Zone in the Pacific. A similar conclusion was reached by a group of North American NGOs forming the "No Patents on Life Coalition" who have concluded that the patenting of life is "morally unacceptable, fundamentally inequitable and technically unworkable". One of the central points emerging from this coalition is an emphasis on the structuring of a political economy on the use of natural resources: the coalition has concluded that there is an inevitable nexus between the patenting of life forms and the capitalist appropriation of biological resources: a linkage which, the coalition avers, will only result in further exploitation of indigenous and Third World peoples. Conclusion : Avoiding Genetic Imperialism The envisioned practice of extracting blood, tissue, and hair samples from indigenous populations risks representing a process that could be referred to as the genetic colonisation of Third World peoples. It is particularly important that scientists collaborate with indigenous communities and do their utmost to separate themselves from the commercial exploitation of marginalised populations. The age of imperialism, alas, has yet to run its course. It seems that now, in the twilight of the 20th century, we need to be sentinels against a new form of domination, one which seeps control of the very molecular structure of the human family. Hilary Cunningham is Assistant Professor, Department of Anthropology, University of Notre Dame. Stephen Scharper is Visiting John A. O'Brien Instructor, Department of Theology, University of Notre Dame.
New document from IWGIA (No.77)

CHIAPAS

THE EXPLOSION OF COMMUNITIES IN CHIAPAS

By
June Nash,
George A. Collier,
Kathleen Sullivan,
Christine Marie Kovic,
Rosalva A. Hernández Castillo,
María Eugenia Santana E.,
Marie-Édile Marion and
Hermann Bellinghausen.

US$ 15
Ngäbe-bugle at the mercy of science
By Alberto Migar

The Ngäbe-bugle people always listen without complaining to the government delegates, who take part at the Congresses as special invitees, when they present reports of their activities, projects and programmes destined for and carried out in the Comarcas. When these are directed at the Ngäbe-bugle people they bring false hopes: “You are the people who are the top priority beneficiaries for the project which will be developed in your communities.” These are utopic promises which disappear in the midst of the bleak devastation — failures which have been to the detriment of the territorial, cultural, medical and even biological patrimony of the Ngäbe-bugle who with the advance of science and technology are losing more and more of their rights.

It has been proven that the governments have not stopped giving huge concessions of lands to the transnationals. During the past regime, some health officials unilaterally assumed powers and gave North American scientists permission to make expeditions into indigenous areas between 1985 and 1989 to collect blood samples. In 1990, during the administration of President Guillermo Endara, the Ministry of Health collaborated with national doctors, through the Gorgas Laboratory, to complete the project initiated by the North Americans. This was a project which has lasted almost 10 years and put our indigenous brothers in Changuinola under a new scientific colonialism.

The researcher, Jonathan E. Kaplan, revealed in his report that, together with Dr. William Reeves and staff from the Gorgas Communicative Laboratory and the National Institute of Health, they considered the Changuinolans a convenient focus for investigation because there was a hospital and laboratory where the blood samples could be processed before being sent to the Panama City and then on to the US Centre for the Control of Diseases (CDC) in Atlanta, Georgia. The hundreds of blood samples which had been collected were stored in ice in Panama City where the researchers of the National Institute of Health carried out tests to detect antibodies against the HTLV-II virus. Dr. William Reeves took the frozen samples and sent them to Maryland.

Later they travelled to Canquiantu, an indigenous community in the Chiriquí Grande district where they took 300 blood samples. Using new research techniques, Michael Laimins, from the Centre for the Control of Diseases and Steven Jacobson, from the National Institute of Health discovered that the virus found in the Ngäbe (Guaymi) was the HTLV-II virus, confirming that those people whose results were positive in the tests at Changuinola, as in Canquiantu, were infected with the HTLV-II virus.

On the 10th January 1994, Jonathan E. Kaplan sent a message to Dr. Guillermo Rolla Pimentel, head of the Ministry of Health, confirming the participation of the two health institutions which were financing and supporting the research into the HTLV-II virus. The two health institutions are: the Centre for Control of Diseases and the National Institute of Health.

The virus was investigated with the authorisation of the Ministry of Health by the Gorgas Communicative Laboratory under the auspices of the two international health institutions.

As part of the work they developed a cellular line from the HTLV-II taken from a Guaymi infected by the virus. This was developed by the Centre for Control of Diseases and the patient application for the cell line was registered in 1990. Because of the cost, the application was suspended in 1993.

According to the version of events by Dr. Fernando Gracia, Director of the HTLV-II Project, this virus was isolated in various parts of the world, but in 1988 it was isolated for the first time in Panama with the help of some US organisations. It is not explained why Dr. Gracia did not give the names of the supporting organisations and limit himself to say “health organisations” and to state that the HTLV-II project did not want the patent for economic but for scientific reasons.

The samples used in the investigations into HTLV-II came from extracting the liquid part of the blood and studying the human secretions in small quantities in order to demonstrate the reactions of the organism in the presence of the virus. This required a simple technique of freezing and analysis however for the Human Genome Project and Genetic Bio-
diversity project large quantities of the solid part of the blood are required through a sophisticated technique of extraction, concentration and analysis. The doctors on the HTLV-II project deny any connection with the Human Genome project and that of Genetic Biodiversity project but what is certain is that the Human Genome project allows for the sampling of thousands of human specimens. The white corpuscles from the blood from the indigenous people will be conserved “alive” in the “American Type Culture Collection” located in Rockville, Maryland (USA), the same place where Dr. Reeves sent the congealed sample for his analysis. Is this pure coincidence?

John D. Dingell, as President of the House of Representatives’ Subcommittee Supervising Investigations said on one occasion: “The American government supports scientific research and each year gives 8 thousand million dollars to the scientists and their satellite institutions for research investigations through the National Institute of Health.”

The doctors on the HTLV-II project state that the Human Genome project and the Genetic Biodiversity project do not have medical aims. However, Professor Daniel Cohen, a French geneticist from the Human Genome project, stated that: “the Human Genome project, begun in 1990 by North American and European researchers, is continuing; the mapping project will permit a notable increase in the discovery of genes responsible for diseases such as epilepsy, diabetes and asthma.” Furthermore, the geneticist Francis Collins stated that: “we are hoping to see the genetic map, the sequence and the problems which have a prominent place in all branches of science. They could find genes to determine difficult diseases which will then be within reach of scientists.”

Who could have believed such duplicity in the sanctuaries of science? The New Scientist Journal (15 September 1990) questioned the National Institute of Health for the scant interest it showed in controlling from whom the scientists receive support. The majority of this research is considered to be lacking in ethics, fraudulent, violations of human rights, and violations of the laws of the countries in which the scientific research was carried out. These acts against humanity should not take place. However, such a decree in the title was half of science is quite common among medical researchers.

A report by doctors from the HTLV-II project, states that to carry out the study of the virus they collected blood samples taking 10cc of blood from adults (2 teaspoons) and 5cc of blood from children (1 teaspoonful).

On the 22nd of October, 1990, the Revista Desertal published a very interesting report on the blood, the Red Gold. “As its name suggests, we are dealing with a very important substance. It is a precious liquid, a primordial natural resource which has not only been compared with gold but also with oil and coal. The red gold cannot be extracted from veins or seams in the rock with borings and dynamite but from people through much more subtle methods. Just like gold, blood feeds greed. How? Just as well, in the way that a recent model of a car can fetch up to five times more than it has been taken to pieces than it can whole. Blood has much more value when it is divided into its components.”

“Life is in the blood, it is the most precious fluid in the world and it is so simple that we pay no importance to a drop of blood. We watch it flow from a scratch or a graze and it is nothing more than a minuscule drop of brilliant red colour, and without thinking any more about it we clean ourselves with water or a handkerchief.”

“The drop of blood and its profundities is a world of incredible complexity and order; it is an incredibly complex fluid which reaches all the cells in our body. In one drop there are 250,000 red corpuscles which transport oxygen and take away carbon dioxide: 400,000 white corpuscles which scour out and annihilate undesirable invaders: 15,000,000 platelets, which unite the instant there is a cut and begin to coagulate the blood and close the wound. All these cells are suspended in a clear liquid the colour of ivory called plasma which itself is made up of hundreds of ingredients which carry out vital roles in the long list of functions of the blood.”

On the 29th of May, 1994, the doctors from the HTLV-II project and the leaders of the Ngabe-bugle from Bocas del Toro, signed an “Agreement of Scientific-Medical Assistance, HTLV-II Programme”. The leadership had not the least idea about this agreement or about the possible consequences which put the indigenous people of Ganguina at the mercy of science.

The agreement was to last two years. It had three advantageous clauses for the doctors, while there were no guarantees in the clauses in favour of the Ngabe-bugle people, who were the main protagonist. The last phase of the study continued to allow the indigenous peoples’ oral consent, which is both positive and negative; and committed the Ministry of Health to producing a vaccine to stop the virus.

According to the agreement, on the 9th of June, 1994, the Panamanian Indigenous Association (ASIPA) sent a letter to Dr. Fernando Gracia, Director of the HTLV-II Programme, containing some thoughts, not with the aim of getting into an argument but to find viable solutions which did not affect the culmination of the research. This act angered Dr. Gracia so much that he replied in a note on the 16th June saying that all that the ASIPA had said “was extemporaneous”. The observations which so annoyed the Director of the HTLV-II project were the following:

1. It is not easy for ASIPA to give an opinion in favour of the Agreement because we have very little information about the research; it is very important to obtain another source of information although the proposals that we do not trust the information they have given us.

2. The Agreement of Scientific-Medical Assistance involves making agreements with the necessary content by both parties, not to make agreements...
which are advantageous for one and disadvantageous for the other.

2. In the previous phases of the blood sampling, medicines for the eradication of parasites were given, constituting a system of barter with the Ngbale of Chagundolu.

3. It is clear that those taking part in taking the blood samples were not aware of their role within the HTLV-II project.

4. Given that it was a body which was solicitors of human rights and which gave consent for the research, the ASIPA consulted the President of the Panamanian Committee for Human Rights, Roberto Troncoso, who replied in his note CPMH- LC-87-94 of 31 May 1994, that "this body has never expressed its consent or disapproval of the said project."

None of the Ngbale-blood from whom samples of blood were taken knew the destination of their blood and never authorised its removal to the US. What ethical code do the scientists follow when they carry out these acts? It is known that the alteration and manipulation of human cells is Intellectual Property which belongs to the researcher more than to the indigenous people themselves from whom the blood samples were taken.

The passing of laws of Intellectual Property in the developed countries directly or indirectly makes the living cells of indigenous peoples available for patenting. In this way, the white corporates can be "immortalised", become converted into the property of a group of scientific researchers.

The Ngbale leaders who signed the Agreement of Scientific Medical Assistance, HTLV - II Programme or Project, did not anticipate the serious implications and the scientific, legal and social consequences of the research which had unknown repercussions. The HTLV-II or the Human Genome project are scientific investigations which immediately affect the fundamental rights of the Ngbale, their identity, dignity, intimacy, life and health.

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DOCUMENT 78

THE TWA OF RWANDA

Jerome Lewis
Judy Knight

Assessment of the Situation of the Twa and Promotion of Twa Rights in Post-War Rwanda

WORLD RAINFOREST MOVEMENT and
IWGIA - INTERNATIONAL WORK GROUP FOR INDIGENOUS AFFAIRS

15 USD
The following letter was sent by 180 indigenous people who inhabit the world’s largest wetlands, the Mato Grosso Pantanal, to the Inter-American Development Bank, regarding the Bank’s support for studies for the Paraguay-Paraná Hidrovia in largest waterway and for the Pantanal project, both of which will have environmental and cultural impacts on the region, and both of which have being designed and implemented without consultation with the traditional inhabitants of the region.

We, the Gaviao, Têowin, Kaiowá, Bororo, Uru, Pariri, and Kinkinawa, are the traditional peoples that the Great Creator chose to live in and protect this region of the world. Throughout time, our ancestors taught us to live in harmony with the waters, birds, and plants, as a way of giving thanks and nurturing this gift for our well-being.

With the arrival of the white man came the roads and the railroad, and then came diseases and new customs which were unknown to us. This was the new civilization.

The Inter-American Development Bank, the IDB is now financing a large-scale project under the pretext of developing the southern cone. We know that this project is part of a new re-organization of the world by unscrupulous whites, a world where egotism, nepotism, and political rivalries reign and only the fit test survive.

In this context of the decadence of the white man, indigenous peoples were never considered but were instead only victimized.

The Project
We were never consulted, but we recommend that this type of ambition ought to be halted for the good of humanity. The white man’s money must not destroy the homes of our people or be employed in disrespect of the Great Creator. Our role is to serve the memory of our people and the Great Creator. Our role is to serve the memory of our ancestor and our traditions and to defend the Pantanal, because only in this way can we go forward towards the future in search of a better life.

At the FIRST MEETING OF INDIANS OF THE PANTANAL, the indigenous voice asks: Why do they want to destroy the natural waterway? Who is going to benefit? Who is going to become rich from this? Up to what point is the IDB aware of the threat of destruction and impoverishment which the large-scale projects bring to our people?

Not only in Brazil, Paraguay, Uruguay, Bolivia, and Argentina.

We appeal to the Bank to be clear and transparent in its proposals, because our villages are worried. Will we be victims? Or may we dream of a better future?

For more information:
Contact the Rio Vivo Secretariat
Campos Gaucho, Brazil. Tel: 55-67-724-3230. Fax: 55-67-724-9109
e-Mail: ecourberisau@acup.org
IWGIA Indigenous Affairs

The International Work Group for Indigenous Affairs (IWGIA) is an independent, international organisation which supports indigenous peoples in their struggle against oppression. IWGIA publishes the IWGIA Documents Indigenous Affairs (English) and the IWGIA Asuntos Indígenas (Spanish) are published four times a year. The Documentation and Research Department welcomes suggestions as well as contributions to these publications. IWGIA publications can be obtained through subscription or purchased separately.

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