THE POSITION OF INDIGENOUS PEOPLES
IN THE
MANAGEMENT OF TROPICAL FORESTS

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INTRODUCTION

According to different estimates there are about 300 million indigenous people in the world with approximately 5,000 different cultures, which represent the larger part of the world's cultural diversity. At present, the close relationship between cultural and biological diversity is widely discussed.

Since the United Nations (UN) officially declared 1993 as the "International Year of the Indigenous Peoples", which was followed by the announcement of the "International Decade of the Indigenous Peoples" (1994-2004), the international discourse on indigenous peoples has gained in relevance. The Draft Declaration on the Rights of Indigenous Peoples will be discussed by the UN in the course of 2004. All major international donor agencies like the World Bank, Asian Development Bank (ADB) as well as agencies for nature conservation such as the Worldwide Fund for Nature (WWF) and the World Conservation Union (IUCN) have issued policy guidelines for dealing with indigenous peoples in the implementation of their activities. Many individual countries have also followed these practices, and most western countries have issued similar policy guidelines. Furthermore, at the level of the Convention of Biological Diversity and the World Intellectual Property Organization (WIPO), the protection of indigenous knowledge and practices is officially recognized. This recognition of particular rights of indigenous peoples in the development process, and also in relation to nature conservation activities, is the core element within these policy guidelines and convention texts. At present, many of these agencies are already in the second or third phase of policy revisions based on practical experiences with the implementation of these guidelines. Another important aspect is the increased level of organization of the indigenous peoples themselves and cooperation between the indigenous organizations. Furthermore, the representatives of the indigenous peoples have become more vocal. Although a number of individual countries have issued national legislation in line with international development in this field, other countries are more hesitant to do so. Simply because of the fact that they do not recognize the existence of indigenous peoples within their national boundaries. They prefer to use terminology like 'upland tribes', ethnic minorities, 'people' instead of 'peoples' and so on. We shall deal with the issue of definition in the following chapters.

For an organization like Tropenbos International, working in a number of countries in which a substantial indigenous population lives in rainforest areas, it was considered useful to provide an overview of these international developments as well as the situation in other countries where Tropenbos International is actually implementing research activities. The country studies include Indonesia, Vietnam and Colombia as the official Tropenbos research sites. Studies of the Philippines and Ecuador are also included because of developments within these countries or recently issued national legislation might be of influence to neighbouring countries or provide inspiration at the international level. Finally, the situation in Africa is described to provide a general idea of the developments on this continent.

As this research aims also to be relevant for the rainforest policies, a closer look will be taken at the interrelationship between policies towards indigenous peoples[1] and the management of rainforest resources. Firstly, we will present a summary of statements of relevant bodies involved with indigenous policies, followed by a number of country studies providing a more in-depth analysis of the situation at the national and local levels. Chapter 8 will then discuss some unresolved issues which will have already been touched upon within the various country studies but which need further clarification and discussion. We will conclude with a number of research questions and priorities that will hopefully provide inspiration for researchers working in this field.

Finally a small note on the history of this document and authorship. Initially it was the intention to create a short document about international discourse on indigenous peoples in relation to the use and management of tropical rainforests. It was to be written by Gerard Persoon and Tessa Minter. As the document developed, comments from various people and the members of the General Board of Tropenbos International were received and suggestions were made to include more relevant aspects as well as more country studies. Clara van der Hammen and Barbara Slee kindly contributed chapters on Colombia and Ecuador respectively based on recent fieldwork in these countries. In the final stage of the preparation of the document Barbara Slee added the chapter on Africa and she assisted in editorial work for the entire document.

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[1] 'Indigenous Peoples' as used in this document encompasses a general term and is used in a similar way as it is used in various bodies of the United Nations (United Nation's Permanent Forum, United Nations Educational, Scientific and Cultural Organization - UNESCO, WIPO, ILO and United Nations Development Program - UNDP), and multilateral Organizations (World Bank, Asian Development Bank and others). While in some countries terms like 'cultural minorities', 'ethnic minorities', 'indigenous cultural minorities', 'tribals', 'aboriginals' or 'scheduled tribes' are used, the term indigenous peoples is now generally used in the international discourse. For further explanation of the term and its use in international discourse, see chapters 1 and 8 of the present document. For specific terminology within various countries we refer to the country studies in this document.

1. INDIGENOUS PEOPLES AND NATURAL RESOURCE MANAGEMENT IN INTERNATIONAL POLICY GUIDELINES

Over the past half-century, an increasing awareness of and commitment to indigenous peoples' concerns has become visible within the international policy arena as well as amongst donor organizations. The International Labour Organization (ILO), which was at the forepront of this movement in 1957, was the first international policy body to focus on indigenous rights. More than two decades later, but strongly inspired by the ILO, the World Bank issued its first policy on indigenous peoples, and from there repeatedly refining its statements up to the present. Then, in the context of the United Nations (UN) Year for Indigenous Peoples (1993), the UN Draft Declaration on Indigenous Peoples was commenced. In the same year, the Convention on Biological Diversity (CBD) and the Netherlands Government came up with provisions and policy guidelines directed towards indigenous peoples. In 1996, the World Wide Fund For Nature (WWF) and IUCN-The World Conservation Union (IUCN) did the same, followed by the European Union in 1998. Finally, the Asian Development Bank, heavily influenced by (though much later than) the World Bank, issued its policy on indigenous peoples in 1999.

This chapter provides an overview of the various statements produced by the above mentioned bodies, listing their general aims and approach, the wording and definitions used and their visions on the relationship between indigenous peoples and natural resource management. Needless to say, many more policy guidelines could be explored. Also, the development of indigenous peoples' policies is an ongoing and dynamic process, which needs constant up-dating. However, the selection presented here is thought to provide the reader with the most relevant information available (see table 1 for a summary of the following overview).

1.1 THE INTERNATIONAL LABOUR ORGANIZATION

The International Labour Organization was the world's first international policy body to focus on the rights of indigenous peoples. Throughout the 20th century, the ILO formulated two conventions dealing with this issue.

First, in 1957, Convention No.107 'Concerning the Protection of Indigenous and Other Tribal and Semi-Tribal Populations in Independent countries' was adopted. As the title already indicates, it applies to indigenous and (semi-) tribal populations in independent countries and aims at protecting these peoples against abuses. The convention was ratified by several Latin American countries in the 1960s and early 1970s. Unfortunately, Convention No. 107 is of a highly protective and integrative nature, regarding indigenous peoples as backward and conservative. Despite criticism on this approach, however, the convention remains in force in 19 countries

and is often the only means of international protection of indigenous peoples available.[1]

Second, in mid-1989, a revised convention No.169 'Concerning Indigenous and Tribal Peoples' succeeded Convention No.107. This was done in light of changes in the position of indigenous and tribal populations and because of greater understandings of their position by governments, employers and workers. Convention No.169 contains a more open notion of development than its predecessor, stating that indigenous peoples have the right to choose their own priorities for the process of development as it affects their lives, beliefs, institutions, spiritual well-being and lands. So far, the convention has been ratified by 17 countries[2]. In a number of other countries, ratification is currently under active consideration. Although this convention is the only legally binding instrument of international law with respect to protection of indigenous peoples, which reflects a core of common opinion on indigenous peoples' rights, its actual effectiveness depends on implementation by member states. This means that the measures taken may be determined flexibly according to each country's characteristics.

1.1.1 Definitions

An important difference between conventions No.107 and No.169 exists between the characteristics, which are accredited to indigenous peoples. As was mentioned above, in Convention No.107, indigenous peoples are regarded as backward and conservative. Moreover, a distinction is made between 'tribal' and 'semi-tribal' peoples. The latter are 'groups and persons who, although they are in the process of losing their tribal characteristics, are not yet integrated into the national community'. Further integration is seen as a responsibility of national governments, albeit it by non-artificial and non-coercive means. These characteristics and standpoints are left out in Convention No.169 which is directed at:

1. Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations.
2. Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

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[1] Angola, Bangladesh, Belgium, Brazil, Cuba, the Dominican Republic, Egypt, El Salvador, Ghana, Guinea Bissau, Haiti, India, Iraq, Malawi, Pakistan, Panama, Portugal, the Syrian Arab Republic and Tunisia.

[2] These are Argentina, Bolivia, Brasil, Colombia, Costa Rica, Denmark, Dominican Republic, Ecuador, Fiji, Guatemala, Honduras, Mexico, Netherlands, Norway, Paraguay, Peru and Venezuela. Strikingly not a single Asian country has ratified this convention, while large parts of South America have committed themselves to it. Moreover, the list of ratifying countries for both conventions is completely dissimilar.

Apart from these conditions, the aspect of a group's self-identification as 'indigenous' or 'tribal' is a fundamental criterion for determining the groups to which the convention's provisions apply. The discussion also relates to the crucial issue of terminology: 'people', 'peoples', 'communities', indigenous or local among others. We shall come back to this discussion in chapter 7.

1.1.2 Indigenous peoples' position in relation to natural resource management

Convention No.169 explicitly recognizes (in articles 13 to 15) the special importance of indigenous peoples' (collective) relationships with the lands and territories on which they either live or which they use for other purposes. It also promotes governments' recognition of indigenous peoples' rights to these lands and territories. More specifically, the convention stresses the importance of safeguarding indigenous peoples' rights to the natural resources pertaining to their lands. This not only involves the right to participate in the use, management and conservation of these resources; the convention also calls for both indigenous peoples' sharing in the benefits resulting from resource utilization by outside interventions (such as mining activities) as well as fair compensation for any damage done to them as a result of these activities. However, it should be mentioned that the state retains rights to subsoil resources, such as minerals.

1.1.3 Resettlement

Convention No. 169 strongly opposes forced resettlement of indigenous peoples. Yet, it also recognizes that relocation cannot always be avoided. Articles 16 to 18 thus state that in the exceptional circumstances where resettlement is considered necessary, it should only happen with the free and prior informed consent of indigenous peoples' (see below). In case this consent cannot be obtained, procedures established by national laws and regulations have to be followed to make sure that the peoples concerned will be effectively represented. Moreover, the convention states that indigenous peoples have the right to return to their traditional lands and territories as soon as the conditions for relocation no longer prevail. In case this return is impossible, indigenous peoples should be provided with land that is of a quality and legal status at least equal to the lands that had to be abandoned. If, instead, the peoples concerned prefer to receive compensation in money or kind, this demand has to be met. Finally, the convention calls on governments to prevent violation of the mentioned procedure through the implementation of adequate penalties.

1.1.4 Free and prior informed consent

Convention No. 169 recognizes the important concept of free and prior informed consent. That is, it promotes indigenous peoples' right to participate in the formulation, implementation and evaluation of development programmes that may directly affect them. This also means that appropriate studies have to be carried out (in co-operation with the peoples concerned) to assess the social, spiritual, cultural and environmental impact of planned development activities on indigenous peoples.

The outcomes of these studies are to be considered as fundamental criteria for the implementation of planned activities.

1. 2   WORLD BANK

The World Bank was, with its Operational Manual Statement of 1982 (OMS 2.34), the first international development agency to issue an indigenous peoples policy. Many of the viewpoints embedded in OMS 2.34 were based on the above discussed integrative and protective approach of ILO convention No. 107. The statement focused mostly on small and isolated tribal societies.

A later review recommended that the bank would broaden its scope to larger and more heterogeneous tribal populations as well, while at the same time incorporating tribal and indigenous peoples' concerns into the bank's overall environment programme. Therefore, the bank issued a revised, and much more detailed Operational Directive on 'Indigenous Peoples' (OD 4.20) in 1991.[3] The directive's overall objective is to ensure that the development process fosters full respect for indigenous peoples' dignity, human rights and uniqueness. It seeks to a) ensure that indigenous people benefit from development projects, and b) avoid or mitigate potentially adverse effects on indigenous people caused by bank-assisted activities (Davis 1993: 3-10).
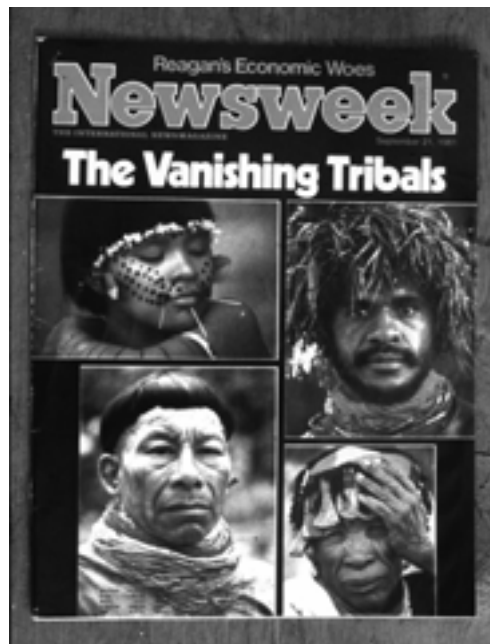
In the 1980's the vanishing tribals became world news

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[3] In this World Bank Operational Directive, singular (indigenous people) and plural (indigenous peoples) are being used interchangeably.

In 1997 the bank began revising OD 4.20. During a round of public consultations indigenous organizations lobbied for a stronger emphasis on indigenous land rights and the right to self-determination. The resulting draft Indigenous Peoples' policy (Operational Policy (OP) 4.10) is soon to be released, and will then replace OD 4.20. Yet, ironically, indigenous organizations actually consider the latest draft policy to be *weaker* than the existing policy. It is said to lack requirements for securing indigenous land and resource use and to disregard fundamental human rights (Forest Peoples Program 2001; World Bank 2002).

As OP 4.10 is not yet operative, we will only focus on the most relevant aspects of the World Bank's current policy on indigenous peoples, OD 4.20 as well as OD 4.30, which deals entirely with the issue of involuntary resettlement.

1.2.1   Definitions

Although indigenous peoples are generally among the poorest segments of a population, engaging in economic activities that range from shifting agriculture to wage labour or even small-scale market oriented activities, the World Bank argues that the contexts in which indigenous people are found are so variable that no single definition can capture their diversity. Therefore, in OD 4.20, the bank identifies indigenous peoples in particular geographical areas by the presence of the following characteristics[4]:

a) a close attachment to ancestral territories and to the natural resources in these areas;
b) self-identification and identification by others as members of a distinct cultural group;
c) an indigenous language, often different from the national language;
d) the presence of customary social and political institutions;
e) a primarily subsistence-oriented production.

1.2.2   Indigenous peoples' position in relation to natural resource management

As is apparent in the above-mentioned characteristics, the World Bank recognizes indigenous peoples' close attachment to their ancestral domains and natural resources. Operational Directive 4.20 contains two conditions, which specifically relate to issues of land rights and natural resource management. First, the directive states that particular attention should be given to the rights of indigenous peoples to use and develop the lands occupied by them, with protection against illegal intruders, and access to natural resources vital to their subsistence and reproduction. Second, the directive states that where the traditional land titles of indigenous peoples cannot be converted into those of legal ownership, alternative arrangements should be implemented to grant long-term, renewable rights of custodianship and use to indigenous peoples.

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[4] Note that within these characteristics the criterion of descent from populations that inhabited the country or geographical region prior to colonization or the establishment of present state boundaries, is not as strongly embedded as it is within the ILO definition.

1.2.3 Indigenous Peoples' Development Plan and resettlement

The World Bank will not appraise any project that affects the lands, resources and cultures of indigenous peoples until suitable Indigenous Peoples' Development Plans (IPDPs) are developed by the borrower and reviewed by the bank. These plans should meet the following characteristics. First, they should be culturally, environmentally and economically appropriate. Second, the institutions responsible for governmental interaction with indigenous peoples should possess the social, legal and technical capabilities in order to carry out the proposed development activities. Third, the plan should have a strong focus on the anticipation of adverse trends induced by the project. Fourth, it should result in a minimal creation or aggravation of indigenous peoples' dependency on project entities. Fifth, the plan should involve long-term commitment and follow-up. Lastly, it should connect to already existing effective programmes rather than focus on the development of entirely new mechanisms (Davis 1993: 10).

Resettlement (of which the World Bank, in principle, disapproves) is unavoidable, it has to be considered as an integral part of project design that should be dealt with from the earliest stages of project preparation. The bank aims to ensure that the population displaced by a project receives benefits from it. As outlined in OD 4.30, this involves; applying the notion of prior informed consent at all times, providing adequate compensation for any losses to the resettlers prior to resettlement, providing assistance to resettlers during and following the move, minimising adverse impacts on host communities, and carrying out an Environmental Impact Assessment.

1.3 UN DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

From the 1980s, indigenous peoples have made strong advances in the human rights arena. In this respect, the UN Draft Declaration on the Rights of Indigenous Peoples is probably the most progressive document on indigenous rights formulated so far. It was passed by the UN Working Group on Indigenous Populations and the UN Sub-Commission for the Prevention of Discrimination and Protection of Minorities during the UN Year for Indigenous Peoples (1993). The Draft Declaration is currently working its way up through the UN system to the General Assembly, where it will be reviewed as an aspirational document for nation states and indigenous peoples throughout the World. The outcome of this process is expected at the end of the Decade for Indigenous Peoples, in 2004.

1.3.1 Definitions

As yet, the Draft Declaration does not contain a definition of indigenous peoples. However, within the UN system, UN Rapporteur José Martínez Cobo's working definition (better known as the 'Cobo-definition') is commonly accepted. It defines 'indigenous communities, peoples and nations' as:

those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.

It is assumed here that the Cobo definition is also at the basis of the UN Draft Declaration.

1.3.2   Scope and approach

The document has been produced with the participation of hundreds of representatieves of indigenous peoples. Their ideas and suggestions have clearly influenced its positive tone. The Draft Declaration touches on a number of crucial issues such as self-determination, recognition of collective rights, prior informed consent, respect for indigenous culture and intellectual property, and recognition of indigenous peoples' own institutions. It even states that indigenous peoples have the right to restitution of lands, territories and resources that were taken from them in the past without their free consent. If this is not possible, the Draft Declaration states that indigenous peoples should be appropriately compensated for the losses.

In its present form, the Draft Declaration does not leave much space for individual governments to decide on the specific implementation of its provisions. For example, Article 37 reads that states must make sure that the rights recognized are adopted and included in national legislation in such a way that indigenous peoples themselves can avail of such rights in practice. Unfortunately, it is expected that many governments will refuse such a strong commitment.

1.3.3   Indigenous support and advocacy

Due to its comprehensive and progressive nature, the Draft Declaration has been endorsed by a broad range of indigenous organizations. They are prepared to uphold its present form and to fight against the weakening of the current text when reviewed in the higher political organs of the UN (IWGIA 2001: 4-5). Indigenous peoples are concerned that the inter-governmental negotiation processes could lead to a substantial weakening of the Declaration once the governments that are most negative towards indigenous peoples attempt to reduce its scope. The most important concerns of which are:

- limitation or removal of the term 'self-determination';
- removal of the 's' in 'peoples' to recognise only individuals;
- restriction of recognition to limited aspects of land rights;
- promotion of 'consultation' instead of 'consent' prior to development;
- promotion of 'participation' without 'control' in development;
- allowing for the commodification of intellectual property;

- recognition of only those institutions chosen by the state.

1.4   CONVENTION ON BIOLOGICAL DIVERSITY

The Convention on Biological Diversity (CBD), negotiated under the auspices of the UNEP, entered into force on 29 December 1993. Since then, 187 countries have ratified the Convention.

The CBD aims to promote a) the conservation of biological diversity; b) the sustainable use of its components, and c) the fair and equitable sharing of benefits arising out of the utilization of genetic resources. The Convention works primarily through implementation of its principles and directives in national law, policy, research and management.

The meetings of the Conference of Parties (COP) resulted in decisions that provided instructions and guidance for parties on implementing the Convention in their national activities. So far, six COPs have taken place, the last of which was hosted by the Netherlands in April 2002.

1.4.1   Indigenous peoples' position in relation to natural resource management

The Preamble of the CBD recognizes the 'close and traditional dependence of indigenous and local communities… on biological resources and the desirability of sharing in the benefits derived from the use of traditional knowledge, innovations and practices.' However, the parties to the Convention have not yet decided on a definition of the concept of 'indigenous and local communities'. This issue is on the agenda for COP-7, to be held in 2004.

Despite a lack of definition the CBD contains a number of provisions directly addressing indigenous and local communities, grouped together under the heading of 'Article 8(j) and Related Provisions'. The most important of these is Article 8(j) which runs as follows:

> [Each Contracting Party shall, as far as possible and as appropriate] subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilisation of such knowledge, innovations and practices.

It is important to note that indigenous peoples' practices are respected within the CBD only to the extent that these practices contribute to the conservation of biological diversity. The approach thus is eco-centric, rather than centred around human rights, and indigenous rights in particular.

1.4.2 Indigenous participation in the CBD process

As a result of a powerful lobby, indigenous representatives have been directly involved in the CBD process since COP-4 (1998). Their participation has mainly taken shape through the formation of an Open Ended Inter Sessional Working Group on Article 8(j), taking place on an ad-hoc basis prior to each COP. The two Working Groups held so far have indeed strengthened the position of indigenous communities in the CBD process and enhanced their dialogue with governments. During COP-6 it was therefore agreed that yet another Working Group would be held prior to COP-7.

Despite increasing participation of indigenous groups in the CBD process, it is subject to continuous criticism. First, the weak implementation of the convention, in spite of its legally-binding status, worries indigenous peoples and they claim that parties ought to commit themselves more strongly to Article 8(j). Secondly, as the article refers to 'traditional lifestyles', indigenous groups fear it will be used by parties to reinforce isolationist or primitivist notions of changeless peoples. On a general level, indigenous groups have expressed deep concerns that, unless interpreted positively, the Convention will only be used to their disadvantage (Arias et al., 1999).

1.5 THE NETHERLANDS FOREIGN POLICY ON INDIGENOUS PEOPLES

In early 1993, the Netherlands Departments of Foreign Affairs and Development Co-operation jointly offered a memorandum on the official policy on indigenous peoples to Parliament. The memorandum outlines three focal points. First, it sets the elimination of all forms of discrimination against members of indigenous communities as a priority. Second, it focuses on the reinforcement of the identity of indigenous peoples. Third, it aims at increasing indigenous participation and representation within national and international frameworks.

1.5.1 Definitions

In its policy on indigenous peoples, the Netherlands Government embraces the Cobo-definition (see section 1.3.1). In the practical application of this definition the Government suggests that differing weight can be attached to the various elements, with self-definition as an important feature.

1.5.2 Scope and approach

The Netherlands Government supports internal but rejects external self-determination for indigenous peoples. That is, while it must be possible to hold national governments accountable, this does not imply a right to secession.

Where possible, the Government will attempt to support indigenous individuals and organizations in their legitimate struggle for equality before the law. In the international legal arena, the Netherlands will focus on improving the effectiveness of UN treaty mechanisms.

The Government is reluctant to see collective rights accorded greater status as it argues that a collective right cannot always be easily transposed into individual rights. However, it does strongly support collective action in order to strengthen individual legal claims, particularly in relation to those rights that are important or essential for subsistence, continuity, sustainability and cultural identity.

Like all earlier mentioned policy bodies, the Netherlands stresses that indigenous peoples must be free to choose their own path of development. In those cases where it is not possible to avoid the negative impacts of development, a proper balance should be struck between conflicting interests, and indigenous peoples should have the right of appeal. In addition, every effort should be made to minimize the damage and to provide prompt, and adequate compensation.

1.5.3 Indigenous peoples' position in relation to natural resource management

The Netherlands Government views indigenous peoples as natural caretakers of the environment. It argues that serious disruption of this harmonious relationship is nearly always due to external processes and interventions, which cannot be controlled or reversed by indigenous peoples.

At the same time, the Government notes that because of their special relationship with nature, indigenous peoples risk being pushed into conservation projects that are not directly in their own interests. The proposed remedy is to involve indigenous peoples in decision-making on measures and activities affecting the area where they live and by integrating their views on development in an operational concept of sustainable development acceptable to all parties.

1.6 THE WORLD CONSERVATION UNION (IUCN) AND WORLD WIDE FUND FOR NATURE (WWF)

In 1996, IUCN and WWF presented their joint 'Principles and Guidelines on Indigenous and Traditional Peoples and Protected Areas' (IUCN & WWF 2000). The joint policy statement provides a basis upon which to develop partnerships between indigenous peoples and protected area planners and managers. This is to facilitate the establishment and management of protected areas, which overlap with ancestral domains, and/or include indigenous and local communities traditionally using their resources.

1.6.1 Definitions

In their joint policy statement, IUCN/WWF focus on both indigenous peoples and so-called 'traditional peoples'. In this document the definition used in ILO Convention No.169 has been directly adopted (see section 1.1.1).

1.6.2 Scope and approach

World Conservation Union/WWF (2000: 4) stress that the joint policy statement should be adapted to the particular situation, legislation and policies of each country.

Moreover it is to be used with complementary approaches and tools, to ensure effective management of protected areas through partnerships with indigenous peoples living within or around their borders.

With regard to resettlement procedures, prior informed consent, recognition of collective rights, respect for indigenous institutions, and benefit sharing, the joint policy statement largely follows policy guidelines of the World Bank (see section 1.2) and the Asian Development Bank (see section 1.8). Regarding collective rights this means that even where these collective rights have not yet been recognized by a government, the concerned communities should still be guaranteed access to the resources existing in their natural environments.

Unlike most of the previous mentioned policy guidelines, this joint statement also calls on governments to accept their share of responsibilities regarding indigenous peoples and protected areas. This involves issues such as public awareness raising and capacity building. It also includes effective defence of territories against external threats and the demarcation, consolidation and legal protection of territories.

1.6.3 Indigenous peoples' position in relation to natural resource management

The joint policy statement is derived from a notion of mutual responsibilities. That is, on the one hand, it is acknowledged that indigenous and other traditional peoples have long associations with nature and a deep understanding of it. It is therefore argued that in agreements between conservation agents and indigenous peoples, the latter should be recognized as rightful, and equal partners in any conservation project affecting their lives. On the other hand, such agreements should be based on the recognition by indigenous peoples of their responsibility to conserve biodiversity, ecological integrity and natural resources present in those protected areas.

Thus, like the CBD, the IUCN/WWF joint policy statement embodies an eco-centric approach. It respects indigenous peoples' rights as long as the involved communities in turn prove that they are capable of the sustainable management of natural resources within protected areas.

1.7 EUROPEAN UNION

In May 1998, a Working Document of the European Commission 'On Support for Indigenous Peoples in the Development Co-operation of the Community and the Member States' was finalized. Furthermore, in November of the same year a Council Resolution titled 'Indigenous peoples within the framework of the development co-operation of the Community and the Member States' was issued. Together, these documents provide the official policy statements on indigenous peoples by the European Union (EU).

1.7.1   Definitions

The EU uses the 'Cobo-definition' (see section 1.3.1) as a guiding principle for the identification of indigenous peoples. Complementary to the definition, self-identification as 'indigenous' is regarded as a fundamental criterion. The Commission further attributes the same set of additional characteristics to indigenous peoples as the World Bank (see section 1.2) and the Asian Development Bank (see section 1.8). In addition, indigenous peoples are considered to form non-dominant sectors of society, and to maintain a link with the global network of indigenous peoples.

1.7.2   Scope and aims

The overall objective of the EU policy on indigenous peoples is first, to enhance indigenous peoples' right and capacity to control their own social, economic and cultural development; and second, to enhance indigenous peoples' territorial rights and capacity for sustainable management of biological resources.

The more specific objective of the EU policy is to improve the positive impact of the European development policy on indigenous peoples, integrating the concern for indigenous peoples as a cross-cutting aspect of human empowerment and development co-operation. To meet these objectives, the Community proposes the following measures:

-   to include indigenous peoples' issues in policy dialogue with recipient countries;
-   to support the process regarding indigenous rights within the framework of the UN;
-   to enhance the protection of indigenous peoples' knowledge, innovations and practices;
-   to support the participation of indigenous peoples in environmental negotiations and strategies internationally and nationally;
-   to promote ethical trade standards, and
-   to ensure coherence and co-ordination in the European Community's development co-operation, by defining a comprehensive approach to the issue.

1.7.3   Indigenous peoples' position in relation to natural resource management

In the Working Document of May 1998 as well as in section 5 of the Council Resolution of November 1998, the Commission acknowledges that indigenous peoples should play a key-role in relation to environmental management and sustainable development. It stresses that indigenous peoples consider their existence and identity as inseparable from their land, while their land rights in many cases are not recognized by national governments. In the same context, section 4 of the Council Resolution stresses the political will of the EU and its Member States to participate actively in the initiatives within the CBD framework for supporting local and indigenous peoples in their contribution to the conservation and sustainable use of biodiversity.

1.8 ASIAN DEVELOPMENT BANK

In 1998, much later than the World Bank, the ADB approved its *Policy on Indigenous Peoples,* which was developed in close consultation with representatives of indigenous communities. Recognizing the vulnerability of indigenous peoples in development processes, the policy requires that with respect to development interventions the ADB supports or assists, affected indigenous peoples si that they are at least as well off as they would have been in the absence of the intervention, or that adequate and appropriate compensation is provided.

1.8.1 Focus and approach

The ADB with its *Policy on Indigenous Peoples* works to ensure the equality of opportunities for indigenous peoples, and that interventions affecting indigenous peoples are: a) consistent with the needs and aspirations of affected peoples; b) compatible with affected peoples' cultural, social, and economic institutions; and c) conceived, planned and implemented with the informed participation of affected communities.

Like the ILO and World Bank, the ADB has adopted the position that indigenous peoples should determine their own pace and path of development. Furthermore, it argues that social and cultural diversity are in the interests of society and need not be an obstacle to national development or economic stability.

In its operations, the ADB recognizes and respects the sovereignty of its member countries, including national legislation and policy relating to indigenous peoples. However, the ADB also recognizes its own responsibility for ensuring equality of opportunities for indigenous peoples and that its operations and assistance in its developing member countries do not negatively affect the welfare and interests of indigenous peoples.

For its future outlook the ADB finds itself at a junction of two possible approaches. In a regional workshop held in Manila last autumn, it was suggested that the bank could either develop separate projects and programs targeted specifically at indigenous peoples and ethnic minorities. Or, alternatively, the emphasis could be on 'mainstreaming' approaches, ensuring that these groups have better access to projects and programmes of general application, and are able to participate effectively (ADB, 2001). At the time of writing, a decision on these approaches had not yet been made.

1.8.2 Definitions

The ADB considers the notion of 'Indigenous Peoples' as a general concept that cannot be captured in one single term. In the ADB working definition indigenous peoples are defined as 'those peoples with a social or cultural identity distinct from the dominant or mainstream society, which makes them vulnerable to being disadvantaged in the process of development'. The additional characteristics attributed to indigenous peoples by the ADB are exactly the same as those formulated by the World Bank.

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1.8.3 Initial Social Assessment, the Indigenous Peoples' Plan and resettlement

The ADB requires its borrowers to undertake a so-called Initial Social Assessment (ISA) prior to the start of every ADB development project. It identifies possible project beneficiaries as well as groups that might be adversely affected.

If the ISA determines that indigenous peoples are likely to be affected by an ADB intervention, an Indigenous Peoples Plan (IPP) must be developed. This IPP strongly resembles the World Bank's Indigenous Peoples Development Plan (IPDP) (see section 1.2.3). However, in a way the ADB emphasize on empowerment of indigenous peoples more than the World Bank. Beyond addressing potential direct negative impacts of interventions on indigenous peoples as the World Bank does, the ADB also commits itself to counteract structural constraints regarding legal recognition of ancestral domains and indigenous institutions, and to address issues like self-determination and capacity building.

In case resettlement of indigenous communities in unavoidable, ADB borrowers are to follow similar guidelines as those specified by the World Bank.

Table 1. Indigenous Peoples in International Policy Guidelines

	Year	Definition	Wording	Indigenous peoples' position in relation to natural resource conservation	Indigenous organizations' endorsement
ILO Convention 169, ratified by 14 parties	1957 & 1989	ILO	Tribal and Indigenous Peoples	Special relationship of IPs and natural environment acknowledged; Recognition of (collective) rights to lands and natural resources.	Accepted
World Bank Operational Directive 4.20	1982 & 1991 Revised version forthcoming	Based on ILO	Indigenous Peoples	Special relationship of IPs and natural environment acknowledged; Recognition of (collective) rights to lands and natural resources.	- Lack of indigenous participation; - Weak implementation
Convention on Biological Diversity, ratified by 78 parties	1993	Non-existent (to be decided in 2004)	Indigenous and Local Communities	Special relationship of IPs and natural environment acknowledged; Instrumental: rights recognized and respected in as far as they benefit conservation of biodiversity	- 'Communities' instead of 'Peoples'; - Lack of legal government commitment - Fear of emphasis on isolation
UN Draft Declaration on Indigenous Peoples	1993	Non-existent (to be decided in 2004), Cobo-definition accepted as working definition	Indigenous Peoples	Natural caretakers of the environment; full recognition of their collective rights to lands and natural resources, both past and present.	Widely embraced
Netherlands	1993	Cobo-definition	Indigenous Peoples	Natural caretakers of the	Accepted

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The position of indigenous peoples in the management of tropical rainforests

	Year	Definition	Wording	Indigenous peoples' position in relation to natural resource conservation	Indigenous organizations' endorsement
Government Official Policy on Indigenous Peoples				environment. Disruption of this harmonious relationship due to external processes and interventions beyond control of IPs.	
WWF/IUCN joint policy statement	1996	ILO	Indigenous and Traditional Peoples	Instrumental: rights recognized in as far as they are beneficial to biodiversity conservation; mutual responsibilities.	Judged eco-centristic
European Union Working Document & Council Resolution	1998	Cobo-definition	Indigenous Peoples	Indigenous peoples play a key-role in natural resource management as they maintain close relationships with their natural environment.	Accepted
Asian Development Bank Policy on Indigenous Peoples	1999	Based on World Bank OD 4.20	Indigenous Peoples	Recognition of (collective) rights to lands and natural resources.	Weak implementation

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2. COUNTRY STUDY: INDONESIA

2.1 TRIBAL GROUPS IN INDONESIA

In this section we want to discuss briefly some aspects related to the position of tribal peoples in Indonesia. First of all, we want to look into the way the Indonesian government has dealt with the problem of defining its tribal population. Then, we will provide some basic data on this part of the population, including their numbers and dispersion. The main policies regarding tribal people will be described and, finally, attention will be drawn to the most recent developments.[5]

2.1.1 The concept of *masyarakat terasing*

The official concept within Indonesian policy documents regarding the people, which the outside world labels as indigenous peoples, was *masyarakat terasing*, or isolated community. This concept, however, has an interesting history. Shortly after Indonesian independence, when the bureaucracy for the new nation was created, the Department of Social Affairs was the institution placed in charge of all tribal people in the country. Initially included a limited number of small ethnic groups living in extreme poverty; in particular some Sumatran groups like the Kubu and the Mentawaians were mentioned. Some projects were implemented to bring relief to these people but their impact was only limited.

At that time the plural form *suku-suku terasing*, or isolated ethnic groups, was used to refer to the various ethnic groups. The term *terasing* was preferred to other words like underdeveloped, undeveloped or primitive, because of the negative connotations attached to them. *Terasing* was chosen because it was thought to refer to the dominant characteristic of these peoples that is their isolation. These peoples were considered to live isolate from the mainstream of Indonesian social and cultural life. Judging from the available documents of the Department of Social Affairs (see for example, 1973) the concept of *Orang Asli* (original or indigenous people) as is understood in Malaysia or the concept of indigenous tribes, Inheemse Volksstammen, which was used in Dutch colonial writings, has been never considered for Indonesia.

Some years later this plural concept *suku-suku terasing* was replaced by *masyarakat suku-suku terasing*. However, this concept is contradictory because *masyarakat* indicates a kind of overall unity, a sense of community even, while *suku* in its plural form implies differences between these groups. However, since the mid 1970s the term *masyarakat terasing* has been adopted because isolation was determined to be the overruling commonl link between these tribal groups. Within some policy documents reference is sometimes made to specific ethnic groups but this is always done within the framework of the unifying concept of *masyarakat terasing*. This is illustrated in a published book by the Indonesian anthropologist Koentjaraningrat entitled *Masyarakat Terasing di Indonesia* (1993), which includes some twenty case studies of, what he calls 'isolated community groups' (*kelompok masyarakat terasing*).

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[5] See Persoon (1994) for extensive discussion on these subjects.

In the English translation of the concept the idea of tribal peoples or tribal groups is preferred as a more neutral term to isolated group. Essential in the anthropological meaning of the word tribe or tribal is a strong degree of self-sufficiency, not only in terms of means of existence but also regarding language, religion, political leadership and legal authorities. Furthermore, these tribal peoples have a strong sense of cultural identity *vis à vis* the more dominant ethnic groups in the national society.

2.1.2 Population figures and tribal diversity

Roughly speaking the Indonesian Department of Social Affairs estimates that about 1.5 million people belong to the *masyarakat terasing*. Over the years there has been some variation in the way they were defined and how their population figures were actually calculated. From the mid 1960s onwards until about 1980 the numbers have continuously increased from about 30,000 up to 1.7 million. Since then numbers have declined somewhat but generally speaking the total number at the national level has remained stable over the last few years at the level of 1.5 million people. Estimations for specific provinces do vary, however. Sometimes new tribal groups emerge on those lists while others are dropped. Also the size of particular tribal peoples is not always consistent over a number of years and these changes do not always reflect demographic developments. It is not easy to explain these variations. Much seems to depend on how provincial governments actually deal with these tribal populations and how they perceive them.

The distribution of tribal peoples over the country is very uneven. It is estimated that more than 600,000 people in the province of Irian Jaya belong to the *masyarakat terasing* while also a substantial part of the population of East Kalimantan, 400,000 people, is classified as such. The remaining tribal people are spread over 19 other provinces. Officially only six provinces have no tribal peoples within their boundaries.[6] These provinces are Lampung, Bali, Central and East Java and the two urban provinces of Jakarta and Yogyakarta. In some cases the tribal population constitutes only a small minority of a province, such as the 5,000 Baduy people in West Java who are only an insignificant minority, demographically speaking, amidst 35 million Sundanese. In other cases the situation is less extreme.

An interesting anthropological question is of course which ethnic or tribal groups are classified as *masyarakat terasing* and which are not. This question, however, is not easy to answer as the official documents do not always follow anthropological criteria in classifying the ethnic units, while in other cases only a part of a particular ethnic or tribal group is classified as *masyarakat terasing*. In general documents it is stated that there are some 80 to 100 different tribal groups, but with regard to Irian Jaya the situation is more complicated because, for this province, alone a number of 200 ethnic groups is sometimes given. In some documents this large number is reduced; however, by putting tribal groups together in a kind of ethnic cluster (see table 1).

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[6] This does not mean that the official classification of tribal groups always coincides with the anthropological use of the term.

The Kubu of Jambi (Sumatra) preparing their hut for the night

Irrespective of the exact way of calculating their numbers, both anthropologists, linguists, and other scientists as well as policy makers agree that there is an enormous diversity of cultures within this *masyarakat terasing*. Over the years numerous efforts have been undertaken to reduce this diversity to a limited number of socio-cultural types of tribal peoples, based on particular criteria or a combination of them (see for example, H. Geertz 1963; Ave 1970; Koentjaraningrat 1983 and Persoon 1994). In general terms almost the whole range of tribal life styles can be found within the Indonesian archipelago. Those range from dispersed hunters and gatherers (like the Kubu, Punan, and Sakai), and sea nomads or sea gypsies (Orang Laut and Bajau) to various types of shifting cultivators including those operating from permanent settlements with a relatively elaborate material culture (such as the Dayak, Dani, and Mentawaians). Indonesia also has a few interesting examples of people living within cultural enclaves in which a traditional life style is maintained in spite of the fact that they are surrounded by peasants incorporated into the modern society. The Baduy in West Java are a good example of such an enclave culture. Due to the fact that they have a long tradition of protection by the central authorities, a tradition that dates back centuries, they are able to withstand outside pressures and encroaching farmers.

2.1.3   Official policies: back to the cultural mainstream

The ultimate goal of the Indonesian government is to integrate the tribal groups into the social and cultural mainstream of the country. It is stated that for a variety of reasons and in various stages in history these groups have lost touch with the main processes of social, religious, political and economic change and it is the obligation of the state to redirect these tribal groups back to the mainstream. In more concrete terms this policy is expressed in terms of housing and settlement patterns, modes of production, cultural expression, formal education, health care, religion and interaction with other parts of society.

This mainstream policy is made most explicit in the programme of the Department of Social Affairs. Additionally, two other departments are directly involved in changing the life, culture and prospects of tribal peoples. They are the Department of Forestry and the Department of Religion. The policies of these three departments will be described briefly using their original wording.

Department of Social Affairs
In a description of the target group of the Department of Social Affairs the *masyarakat terasing* is defined as isolated communities whose members live in forests, in mountainous areas or in riverine or coastal zones and in social circumstances, including their economy and level of civilization which are of a simple nature. Because of their isolation they are cut off from contact with the outside world and as a result hardly any social change or progress occurs (Departemen Sosial 1986: 3). In a number of publications the characteristics of these tribal peoples are described in greater detail and attention is paid to their religion, food, clothing, housing, body decoration, sense of beauty and arts, and consciousness of state and nation. In all these fields, life in the tribal communities is not (yet) according to the standards of modern Indonesia. It is the obligation of the Department of Social Affairs to bridge this gap thereby creating more political, economic and socio-cultural unity in the country (Departemen Sosial 1986: 4).

More explicitly the following goals are mentioned for this development and civilization programme:

a)   permanent settlements in sufficiently large social units;
b)   increase in production capacity;
c)   expansion of societal life outside the family group;
d)   increase of rational and dynamic mental capacities;
e)   breakthrough of the tribal world view and way of life;
f)   development of norms similar to the rest of the country;
g)   increased consciousness of state and nation;
h)   development of a monotheistic religious life (Departemen Sosial 1981 and 1986).

The core activity of this development programme is an all encompassing programme implemented in so-called resettlement villages. In these villages houses are constructed according to a uniform design for the whole country irrespective of the nature of the housing patterns of the tribal group for which the houses were built. Within a period of five years the tribal villagers should become 'modern Indonesians' after which period the resettlement villages loose their project status. At that time the people and villages should be integrated into the regular structure of provincial administration.

In official documents of this department, mention is occasionally made of the preservation of 'useful elements of the traditional culture'. In practice, however, little action is taken to achieve this goal. The only exception is with regard to a number of cultural elements, which have some external value because of their visual attraction,

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such as traditional architecture, dances, music or clothing.[7]

Over the past 25 years almost 500 of these resettlement villages have been built all over the country. Some 160,000 people were involved in the implementation of the development programmes. This, however, is still only a small part of the total number of people who are classified as *masyarakat terasing*.

MARI MEMBANGUN BERSAMA

Poster published by the Department of Social Affairs, indicating the general
idea of development for the 'isolated tribes' titled *Let us develop together*.

Though there have been some adjustments in the design and implementation of these projects, the main direction of the development policy has remained unaltered. The basic premises, the objectives and the methods of implementation have largely remained unchanged.

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[7] This aspect of preservation of cultural elements is becoming more important because of the booming ethno-tourism aimed at colourful tribal cultures in their original settings. The term folklorization, however, seems more suitable than cultural preservation to describe this kind of activity because of its highly selective and de-contextualized nature.

Resettlement houses on Siberut

Department of Forestry

Tribal people are not only a 'problem' from a social point of view, they are also defined as such by policy makers from the Department of Forestry. The government considers their dominant way of practising agriculture by means of shifting cultivation as a threat to the forests and the protected areas. By cutting down the forests, burning the vegetation and using the land extensively without using proper soil conservation methods, this form of agriculture is held responsible for the process of deforestation. This in turn leads to serious erosion, sedimentation and disturbance of the hydrological balance in watershed areas. That is why the Department of Forestry, in a similar manner as the colonial government tried to combat *roofbouw*, is fighting against shifting cultivation by replacing it with various forms of permanent agriculture or by introducing the cultivation of industrial crops like palmoil and rubber.

Just like the Department of Social Affairs, this department has also formulated a number of more explicit aims for solving the problem of shifting cultivation (*perladangan berpindah-pindah*). These aims are:

1. to prevent the loss of valuable timber;
2. to facilitate the smooth operation of commercial logging;
3. to prevent erosion;
4. to utilize the agriculturalists as a labour force;
5. to increase the standard of living of the agriculturalists;
6. to facilitate the administration of the area;
7. to up-root the nomadic way of life;
8. to provide favourable circumstances for economic development (Team Pusat Resetelmen Penduduk 1980: 108).

It is important to note that not all tribal people operate as shifting cultivators in old

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growth rainforest areas. Apart from the hunters and gatherers, and sea gypsies who by definition are not involved in shifting cultivation, there are also tribal people who practise permanent agriculture. Still other groups are engaged in shifting cultivation, but they do so in areas devoid of tropical forests. They operate in areas mainly covered with grass or shrubs.

There are also non-tribal people who are involved in shifting cultivation. In Sumatra, Kalimantan, Sulawesi, and Irian Jaya members of large ethnic groups may also practise this form of agriculture in areas, which do not belong to their homelands. Through voluntary migration as well as through government sponsored transmigration to forested areas in the outer islands, many people have adopted shifting cultivation as an effective way of land use. Buginese for instance, originating from southern Sulawesi, are to be found as shifting cultivators in various parts of Sumatra, Kalimantan and Irian Jaya. Because of these activities these migrants also belong to the target group of the Department of Forestry. According to official documents about six million people are involved in shifting cultivation in forested areas (Departemen Kehutanan 1991).

Forest dwelling people facing employees of a logging company (Jambi)

The policy programmes to solve this problem resemble that of the Department of Social Affairs. The focus of attention is resettlement of dispersed forest-dwellers into permanent villages with permanent agriculture. Activities with respect to social and cultural development of shifting cultivators receive less attention and are left to the provincial government.

This programme has increasingly been integrated into transmigration projects. A larger share of houses and agricultural plots are allocated for people already living in the area

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either as the original inhabitants or as migrants. In this way the government aims to achieve better integration between the local people and the transmigrants. Moreover, it is envisioned that the local people will be inspired by the sedentary agricultural techniques of the Javanese and Balinese to give up their shifting cultivation practices.

The Department of Forestry programme has only reached a very small part of the total number of shifting cultivators. In order to speed up this process, large-scale projects for the cultivation of industrial crops increasingly incorporate these shifting cultivators as their labour force.

Department of Religion
Indonesia has also developed policies towards tribal people regarding religion. In this respect tribal people are considered as 'ethnic groups which do not yet have a religion' (*suku-suku yang belum beragama*). This idea is based on the notion that officially only five religions are recognized as being religion (*agama*), these are Islam, Protestantism, Catholicism, Hinduism, and Buddhism. In the1 past few decades a number of religious movements, originating from these official religions, have also been declared forbidden. In this respect the (religious) mainstream is clearly prescribed. A striking feature of this religious mainstream is that none of the five religions are of Indonesian origin, they are all world religions. Soon after Indonesian independence it became clear that all indigenous Indonesian religions (*agama asli*, see for example, Hadikusuma 1993) were not going to be accepted as *agama*. A decree was also issued declaring that everybody should have a proper religion. As a result, there was a strong urge for missionary activities among the 'people without a religion'. Implicit in this concept of *agama* are also notions of progress, modernization and acceptance of nationalistic ideals (Atkinson 1983:633).

At the central level the Department of Religion has a limited programme of activities. It has issued a number of laws and regulations regarding the operations of missionary organizations. Religious organizations are for instance not allowed to be active amongst adherents of other religions ('Don't fish in the pond of somebody else!') and they should also refrain from offering goods and facilities to potential converts. Through extension materials and by stimulating Indonesian as well as foreign missionary organizations this department stimulates activities among the remaining 'pagan' people in the country.

This policy is aimed at converting tribal people to one of the officially accepted religions, thereby eliminating traditional tribal religions. By means of various types of coercion and conviction, the nominal acceptance of one of the official religions can be realized without serious problems, but in many cases new and old religious forms tend to become more or less separated domains. The traditional religions tend to dominate in everyday life because of their more encompassing nature, for instance in relation to the exploitation of the environment.[8] How this situation is handled and also whether syncretic tendencies are suppressed or accepted as a phenomenon of a more or less temporary nature depends strongly on the missionary organization involved. From Islamic and Protestant organizations there seems to be less tolerance towards these

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[8] That is why these tribal religions used to be called 'natural religions' in both older and colonial literature.

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traditional religious expressions than from Catholic or Hindu organizations. It is a matter of great concern among these missionary groups to continue to strive for religious purity among the newly converted tribal people. Without this attention old religious forms might revive again or the people might become attracted to another 'new' religion.

Compared with other sections in the Department of Religion that dealing with Hinduism has a different position regarding tribal people. In the past, a number of tribal religions were initially condemned as 'pagan' or 'primitive religions'. They have now been accepted as variants of the Hindu Dharma, analogous with the recognition of Hinduism on Bali (C. Geertz, 1973). In this way the traditional religions of the Karo Batak in North Sumatra, de Ngaju Dayak in Central Kalimantan and the Toraja in South Sulawesi have now obtained the status of accepted religion within the realm of the Hindu Dharma. A process of internal restructuring of the religion usually follows after official recognition and there are also a number of requirements to be fulfilled, but the most important aspect of this recognition is that the adherents of the traditional religions are no longer considered as pagans in urgent need of conversion.

2.1.4   Unplanned change

Apart from the official policies towards the tribal peoples, mention should also be made of other sources of change and influence. Other departments like those of Home Affairs or Agriculture have influenced the lives of tribal people through implementation of their all-Indonesian programmes. The law on village administration, issued in 1979, wiped out all traditional and local forms of village authorities and imposed a uniform structure of *desa* administration (Kato 1989).

In other instances the sources of change or influence originate from unplanned and almost autonomous processes of interaction between tribal groups and neighbouring ethnic groups. These groups are often dominant in number and operate from feelings of superiority towards the tribal people. Dramatic processes of change might also be initiated by new and large scale modes of exploitation of the environment inhabited by the tribal people, for instance through logging or mining operations, establishment of estates, transmigration settlements or construction of infrastructure (such as roads and dams).

Through this hardly monitored process of change the lives of many tribal people can be greatly affected. The way these people react to this process depends on a number of factors like the nature and scale of intervention, the nature and size of the tribal groups involved and on the available chances to retreat from the affected area. In general, however, the effects of this process are looked upon as unavoidable and sometimes even desirable consequences of development and modernization; so little protective as the measures are taken regarding the tribal people. In some cases they are even thought to speed up the process of incorporation.

2.2   REACTING TO THE INTERNATIONAL DISCOURSE

In this section we shall discuss how Indonesia deals with some aspects of the global discourse on indigenous peoples. We will do so by using a number of examples from different contexts. In this respect it is useful to make a distinction between reactions by governmental institutions, on the one hand, and by non-governmental organizations (NGOs), on the other. By using these examples a general picture of the Indonesian reaction to this global discourse will be drawn.

Though the international community has added the problem of indigenous peoples to its diplomatic agenda, and it has added the status and rights of these peoples to checklists for evaluating development projects, Indonesia did not join this trend unconditionally. The United Nations' (UN) Year of the Indigenous Peoples (1993) did not receive official attention in Indonesia. The government decided to devote that year to another theme, namely the environment. Furthermore, Indonesia has not ratified international treaties and declarations like the International Labour Organization conventions and it remains an open question as to whether or not the global discussion on this subject will result in new resolutions, which will have direct consequences in Indonesia. To a considerable extent, this attitude is based on how indigenous peoples are defined and the role which the state claims in relation to these indigenous peoples. The Indonesian government claims it does not have this distinction of indigenous versus non-indigenous peoples, as all Indonesians citizens are considered to be indigenous, Javanese just as much as Kubu, Dayak and Papuas. These ethnic groups are considered as deviations from Indonesian mainstream culture. The country's policy aims in this field will be implemented as long as international treaties are thought irrelevant to the Indonesian context. Also the money for almost all activities in this field originates from internal funding. Up to this moment there has been no substantial funding for projects directly related to indigenous peoples from external sources. Implementation of this programme is progressing very slowly, and despite its complicated nature, the Indonesian government does not invite outside interference or involvement at the central level due to its sensitive character. At the local level, however, there is certainly co-operation with organizations that more or less aim for the same objective (integration with mainstream culture) like missionary organizations or people aiming to raise levels of education or health care. In many cases these organizations supplement and reinforce the 'development and civilizations' programmes of the government (see for example, Hayward 1983).

The policy guidelines of multilateral development agencies like the World Bank and the Asian Development Bank (ADB) are of more practical relevance than the declarations that originate from international diplomatic circuits. These guidelines are formulated as conditions in the contracts for development projects between funding agencies and national governments. The funding agencies will see to it that projects, for which funds are allocated, will not adversely affect indigenous peoples. The severe criticism of the World Bank with regard to its involvement in transmigration has gradually led to serious changes in the bank's funding policy.[9]

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[9]   In 1986 the journal *Ecologist,* for instance, devoted a special issue to the Bank's involvement in transmigration. This issue, under the title *Banking on Disaster*, was a joint

Apart from adjustments in the design of projects, these new policy guidelines could also lead to a reluctance of individual countries to submit projects for funding to these agencies in favour of less critical agencies or to a tendency to finance kinds out of internal funds. This would avoid critical outsiders in these affairs urging for changes in project aims or implementation methods.[10]

In this respect the ADB is implementing an interesting project in biodiversity conservation. This project, for which 40 million US dollars are allocated, part of which is a loan, will be implemented in two sites, that is Flores and Siberut. This project is based on the so-called Integrated Protected Area Systems (IPAS) approach, according to which local people should play a prominent role in designing and implementing the management plans over the area. Development and conservation efforts should be integrated with the project's activities.

In the project documents it is stated that, until the ADB has officially approved policy guidelines with respect to indigenous peoples, it will follow the World Bank in this respect. Special reference is made to the World Bank's *Operational Directive 4.20: Indigenous Peoples*. At several places it is obvious that tensions and ambiguities will occur between these guidelines in particular, how participation of the local people and local forms of management are to be structured, on the one hand, and the prevailing Indonesian regulations regarding the *masyarakat terasing* and national park planning, on the other. Moreover, the project is implemented with the assistance of a foreign consultancy company, which has hired experts whose views and sources of inspiration are largely shaped and influenced by international discourse. As a consequence of this situation the preliminary management plan for the National Park on Siberut remains full of internal contradictions; the administrative and legal framework through which this project is to be implemented, does not fully coincide with the ADB approach and guidelines (Ministry of Forestry/ADB 1995).

Another small but significant example of the trickle down effect of the international discourse on indigenous peoples within this project is the choice of the name of a local NGO, called YASUMI, Yayasan Suku Mentawai, which is officially translated as the Association of Indigenous Mentawai. This organization fulfils an important requirement for the ADB, that is, it is the official representative of the indigenous people of the island. The choice for the term *indigenous* is striking because this term is never used in official Indonesian documents, but it is now very prominent in ADB documents. Its use stresses the relationship between the people and the island. Implicitly, it also functions as a signal to members of other ethnic groups, like the Minangkabau, and their involvement on the island.

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publication of the human rights organizations Tapol and Survival International. Apart from various ecological problems, special mention was made of the consequences of transmigration on Indonesia's tribal peoples.

[10] An interesting example is the role that the World Bank played in the Narmada dams Project in India. When the Bank's original involvement was heavily criticized by Indian and international environmental and indigenous peoples' organizations, it modified its original position. After numerous evaluation missions and adjustments, India decided in the end to keep the Bank out altogether and to go ahead with the project by using exclusively internal funds. Outside pressure was more or less paralized in this way (see Sarovar 1992).

A Mentawaian NGO started using the concept of 'indigenous' as a result of outside intervention

The use of the word *indigenous* may in this case be induced by the idiom and terminology of the ADB project, but there are also other examples to be found in Indonesia in which modern and global discourse is reflected. At a recent conference on modern developments in the province of Riau, it was surprising to notice the differences in terminology between some local representatives and the official statements in dealing with the tribal communities in the area (Chou and Derks 1995). Instead of using the word *masyarakat terasing* reference was to the *Orang Asli* of the Malay culture. The tribal people in Riau like the Sakai, Orang Laut or Petalangan are no longer looked upon as a strange and backward deviation of Malay culture, but as a positive and original element in Malay identity (see for example, Effendi 1995).

The government, however, sticks to the official terminology. It was interesting for instance to see how the head of the department for *masyarakat terasing* of the Department of Social Affairs dealt with this problem on the *International Seminar on Indigenous Peoples* in Kuala Lumpur in 1993. This conference was organized in relation to the UN Year of the Indigenous Peoples. In his speech Sri Rachmadi avoided any reference to whether some people are indigenous and others are not: he consistently used the term the *isolated and hinterland tribes* (Rachmadi 1993).[11]

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[11] Sri Rachmadi has done a lot for improvement within his department. During his term he has greatly stimulated the interaction between his staff and anthropologists with field experience among the tribal communities. He was also more open with respect to the problems encountered in the course of development activities among these people. He was also willing to learn from internal and external criticism. A publication programme on the *masyarakat terasing* using the available anthropological literature was started under his guidance (see for example, Departemen Sosial 1989).

At various places in the country organizations and institutions are founded for studying and preserving local cultures. Analogous with centres for the study of the history and culture of the larger ethnic groups, similar institutions have been established for some of the smaller and less well known groups. It is usually among some of the well-educated members of such a group that initiatives to this end are taken. Very often they have spent a number of years amongst other ethnic groups and have developed a sense of pride in their own ethnic traditions, rituals, history and culture. They want to retain what is still left of their local culture or revive parts of vanished traditions. In some cases these centres turn into the official institution representing such a people in dealing with the outside world. People connected to the Pontianak-based Lembaga Dayakologi (Institute for Dayakology) and the Lembaga Bela Banua Talino (officially translated as the Institute for the Indigenous Community and Territory Advocacy) spoke out as the official delegation during international meetings for indigenous peoples.

Foreign criticism regarding Indonesian policies for tribal peoples has often been pronounced. In particular, human rights organizations and anthropologists, but sometimes also ecologists, have been critical on this issue. However, it seems that this body of literature has only reached the responsible persons within the bureaucracy to a very limited extent because of the kind of language it uses and the selection of the publication medium.

An interesting aspect of this international criticism is the way it is either used or ignored within the Indonesian context. In a meeting with Indonesian journalists the above mentioned, Sri Rachmadi, discussed a number of issues mentioned in a book by George Mombiot entitled *Poisoned Arrows*. This book, not for sale in Indonesia, is critical about many issues concerning indigenous peoples' issues. Sri Rachmadi cites Monbiot stating that: 'The Indonesian government greatly threatens the *masyarakat terasing*, it destroys the traditional culture and implements a programme of javanization in tribal areas through its transmigration activities.' (Mombiot 1990: 9-10). According to Rachmadi foreigners would prefer to leave tribal people in their present state. The *masyarakat terasing* should be allowed and have the right to continue their original way of life. This line of reasoning, however, does not coincide with the aspirations of the Indonesian people, with the values of the Pancasila, nor with the reality of the Indonesian development process. Rachmadi continues to explain some of the other issues raised by Monbiot as well as issues raised by critics from Indonesia. He admits that there are certainly elements of truth in this criticism but that one should neither close one's eyes for the progress made (Rachmadi 1990).

The interesting aspect of using Monbiot's book, even though Rachmadi could have easily ignored it, is that by citing an example of severe criticism by an outsider the internal criticism and calls for some change in policy seem much more justified.

But criticism has not only come from outside. Also internally, and even from within the bureaucracy itself, there has been severe criticism on policies as well as implementation activities. In particular, the Department for the Environment has often voiced critical remarks through public media. And within the Indonesian parliament the Department for Social Affairs has been accused of 'big spending on small results' as well as of ill designed projects.

Over the years, Indonesian anthropologists have been involved in development issues related to the *masyarakat terasing* in various ways, either as consultants, teachers and trainers of local field staff for the departments or as critical outsiders. Some of the most prominent anthropologists of the country, all with degrees obtained abroad and often employed in governmental service, have participated in the discussions on this subject. They have used terms like 'ethnocentrism', 'imposing dominant values', 'use of force and violence' to describe official policies (see for example, Buddhisantoso 1991).

Some years ago, during the National Day of Social Solidarity, a meeting took place between some of the most important representatives of the Department of Social Affairs and a number of prominent anthropologists (Jakarta, 13 December 1990). Papers were read by officials as well as by anthropologists and there were extensive discussions over various aspects of the governmental interventions and the processes of change among these groups. The Jakarta based daily *Kompas* that co-organized the meeting reported extensively on that meeting. One of the topics for discussion was the term *masyarakat terasing*. Numerous alternative terms, some of which were inspired by the terminology of other Association of Southeast Asian Nations (ASEAN) countries were discussed. In the end, however, it was decided to stick to *masyarakat terasing* as all other concepts suggested had even more problematic aspects (Departemen Sosial 1990; Kompas 1991).

Indonesian environmental NGOs regularly pay attention to the situation of tribal communities in the country. At the national level it is in particular Sekretariat Kerjasama Pelestarian Hutan Indonesia (SKEPHI) (The Indonesian NGOs for Forest Conservation) which dares to speak out on issues related to these communities. Its English language journal *Setiakawan* contains critical essays on governmental policies and logging and mining activities affecting the lives of tribal communities. In some cases they have done more than that. In 1992 for instance SKEPHI published a report about Siberut, *Destruction of the World's Heritage: Siberut vanishing Forest, People and Culture*. This publication was largely based on a report by the English organization SOS Siberut but SKEPHI took the effort (and risk) to publish it under its own name.

The relationship between foreign institutions or individuals, on the one hand, and Indonesian organizations on the other hand is not always unproblematic. Voices from outside easily evoke irritation on the Indonesian side. And if authorities sense that there are foreigners behind local actions or protests they may be less inclined to listen. In the end external support may turn out to be counterproductive. Dove and Nickum reported on a case in which a Dayak NGO urged Indonesian friends to join in writing a protest against a logging company, but it also requested that they not invite 'friends from abroad to write yet... But let us optimise the appeal from inside the country' was added to the request. Voices from friends abroad could do more harm than good at that stage (Dove and Nickum 1996). In other words, globalizing a local conflict could also enlarge the scope of reaction on the part of the authorities and add undesired dimensions to it.

Ngaju Dayak planting rice in a newly cleared forest field

At international NGO meetings some representatives of Indonesian indigenous peoples present their case. Very often these representatives are members of Papuans or East Timorese living in exile, but once in a while an organization succeeds in inviting a representative directly from Indonesia. Outcomes of these meetings are usually declarations directed to nation-states or international bodies or declarations of mutual solidarity. Examples of such meetings with representatives from Indonesia are for instance the Changmai meeting in 1993 and the Baguio meeting in 1995.[12]

At a conference in Manila (November 1995), organized to discuss the draft policy guidelines of the ADB regarding indigenous peoples, some Indonesian representatives were present (ADB 1985). There were some Dayaks as well as some Papuas, but also a Jakarta-based NGO for legal assistance, functioning as an intermediary for all other groups. It is in particular because of the limited degree of organization of many tribal groups, and also because of the unfamiliarity to speak out in these kinds of forums that the voice of many tribal groups remains unheard during such meetings. Furthermore, the political climate in Indonesia does not favour this kind of representation. Groups need to have a strong network and a core of highly motivated and committed people to be active at this level.

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[12] Both the Changmai meeting (May 18-23, 1993) and the Baguio meetings (January 29-February 2, 1995) ended with declarations issued by the Asian indigenous and tribal peoples themselves on their rights. It was also decided that these declarations were to be submitted to the UN and other international bodies, agencies and governments. Moreover, these declarations should also serve as a framework for continuing actions by the peoples themselves.

2.3 INDONESIANIZATION IN BETWEEN LOCALIZATION AND GLOBALIZATION

In the literature, and in particular in the critical literature about transmigration and indigenous peoples, authors often refer to a process of Indonesianization. This term is used to refer to the process through which tribal peoples as well as other ethnic groups in the country's outer islands are confronted with norms and values of waves of transmigrants, as well as forms of large scale exploitation of their resources. These people usually lose authority over the land and its resources to the state, to concession holding companies and to encroaching farmers. The development policies regarding the tribal groups in the regions and the arrival of large numbers of Javanese, Sundanese and Balinese who often outnumber the local people in transmigration areas, are just two examples of this process of Indonesianization. Furthermore, the granting of concessions to national and international logging and mining companies is part of this process. The state claims authority over these resources and their revenues flow back to the centre and into the development bureaucracy. The local tribal peoples get more and more affected by these large scale operations.

The question could be posed how these processes of localization (enforcing and emphasizing cultural identity), Indonesianization (the promotion and unification of the country's mainstream culture and economy) and globalization (of various aspects of culture and society) are mutually related.

It is clear that the process of Indonesianization is not only characterized by the diffusion of a number of *all Indonesian* elements but also by aspects of the emerging global culture. The development and civilization programme contains some obvious elements of the global cultural flow, which differs from the Indonesian cultural flow. Referring to Appadurai's dimensions of this global cultural flow local tribal peoples are at least partly incorporated in its technical, infrastructural and ethnic dimensions.

Through the implementation of the economic development programme including the cultivation of industrial cash crops, the logging industries, foreign fleets of fishing boats, mining in many provinces and large scale tourist development projects, it is primarily the global economic order which manifests itself by means of its advanced outposts into the world of tribal peoples.

In Indonesia the process of development is often portrayed as a national development process which implies promotion of economic and cultural unity in which natural resources are considered a national treasure. Also many aspects of global culture are being incorporated into Indonesian mainstream culture. Within a short time span they are no longer being recognized as originating from that global culture.

A number of other aspects such as the increased interaction with other ethnic groups through increased mobility are specifically Indonesian. This is caused by rapidly expanding infrastructure and improvements in the various sectors of the transportation systems. Also government sponsored migration programmes into 'empty lands' (*tanah kosong*), which are often tribal territories, add to this increased movement of people.

Another interesting aspect of the global cultural flow is related to the world of religion.

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It is certainly true that Indonesia has embraced world religions as its official and dominant religions, but to some degree these religions are Indonesianized. Differences between religions are striking however. Hinduism and Roman catholicism for instance allow for more adaptation from local culture, or for contextualization as this process is being called nowadays, than Islam and Protestantism. So, to a certain extent, these world religions are being localized.

Explicitly, however, some aspects that seem very intimately connected to global culture such as a certain degree of secularization, drug addiction, increased consumerism, a growing lack of respect for nature, democratization of the media, pornography or in general the weakening of 'traditional' values, are considered as the big dangers of the penetration of the culture of the western world. This is even more the case in relation to tribal communities which are considered to be more fragile in this respect. It is interesting to see, however, how the state is losing control over some of these aspects because of the lack of possibilities to exercise censorship over modern means of communication such as satellite television and telecommunication.[13] Increased interaction between Indonesian people and its millions of tourists is also hard to control. The heavily promoted tourist sector brings along much diffusion of particular elements of western culture.

2.4   INDONESIA AND INTERNATIONAL ORGANIZATIONS

Indonesia has always denied that international discussions regarding indigenous peoples bear any relevance to the country. It has not participated actively in these forums and it has also denied representatives of particular ethnic groups the right to represent Indonesia during those meetings. In some cases spokesmen of East Timor, the Moluccas or West Irian (Irian Jaya) who had found asylum in other countries went to these meetings in order to inform the international community about the situation in their home area. But this never had much consequence for the people in the country itself. Furthermore, the international community rarely took any action.

To give just one example I would like to refer to the efforts of the ADB to achieve agreement on a policy paper regarding indigenous peoples. This process suffered for a very long time from the refusal of countries like Indonesia to take part in discussions by sending an official delegation while at the same time representatives of particular ethnic groups were also not allowed to participate in the consultations. It took the bank many years to achieve sufficient consensus among its members

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[13] Though these issues are often debated in media and in public speeches by policy makers and politicians, no mention is usually made of corruption as an aspect of global culture. Though corruption is often referred to as one of the evils of Indonesian society, global culture is not accused of being its source. Somehow, and implicitly, the policy makers seem to accept the Indonesian origin of this phenomenon. Among tribal people corruption is certainly considered as one of the aspects that comes with development projects. Telling stories, true or fiction, about 'money eating' (*makan uang*) by planners, officials and implementors is a favourite topic during gatherings among these people.

while at the same time the bank did not want to alienate the indigenous peoples' organizations from its own institutions (ADB 1998).

Over the years however, and through very complicated procedures some of the organizations have adopted guidelines, principles and policy statements regarding the rights and position of indigenous people. Often these rules are declared to be inapplicable to Indonesia but in practice they are relevant, at least to some extent. The World Bank changed, significantly, its policy regarding financing of transmigration projects after exposure of the consequences for tribal (or indigenous) peoples (see for example, *Ecologist* 1986). In the same manner the Indonesian Biodiversity Conservation Project of the ADB could not be implemented unless indigenous peoples were involved through local organizations (ADB/MOF 1996; Persoon 1998). Similarly, the World Wide Fund for Nature (WWF) committed itself to involving indigenous peoples more actively since it published its statement of principles in 1996 (WWF 1996). This is not to say that it is only through international organizations that indigenous people are recognized as such within Indonesia, but to some extent, it is true to say these organizations have imported some of the international ideology with regard to indigenous peoples through their financial power and structures of operations. I believe this is also crucial for what has happened in the recent past in Indonesia and what is likely to happen in the near future.

2.4.1   AMAN (Aliansi Masyarakat Adat Nusantara)

Since the fall of president Suharto in May 1998 a wave of democratization processes has gone through the country. Numerous new political parties have been founded and non-governmental organizations are booming in many areas (Pompe 1999). One of the most amazing events in relation to indigenous peoples has been the mass demonstration in Jakarta by people who labelled themselves as *masyarakat adat*, *adat* communities.[14] This massive manifestation took place in March 1999. As the venue for the event the prestigious Hotel Indonesia in the centre of Jakarta was chosen. Hundreds of people, many of them in their traditional garb were present, representing more than 200 ethnic groups. This demonstration was supported by various organizations from the west, though their support was never made very explicit. To many officials the magnitude of the event was a big surprise. The organization had invited high officials for a discussion about the demands of the *masyarakat adat*. Not surprisingly, most of them did not show up. They left the uneasy job to lower officials, many of whom were not prepared to face such a crowd and who did not have the authority to speak out on the issues raised during the meeting. At the end of the gathering a number of demands[15] were formulated.[16]

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[14]   *Adat* is a complicated concept. It encompasses concepts like culture, customs, systems of local justice and the like. In some contexts it is also understood as the traditional lifestyle of a particular community. *Adat* land is usually understood as (communal) village territory.

[15]   These demands were: 1. elimination of terms which denigrate indigenous people and their rights; 2. recognition of the diversity of indigenous people and recognition of rights, knowledge and skills; 3. representation of indigenous people at state institutions; 4. restoration of rights of indigenous peoples over land, and natural resources; 5. change of the concept of state control as contained in the Basic Agrarian Law, and the Forestry and

During the meeting the Aliansi Masyarakat Adat Nusantara (AMAN, Alliance of Indonesian Adat Communities) was officially founded. A mission statement was formulated and an organizational structure designed. A representative of the Baduy was selected as the executive secretary of the organization. A wise choice given the fact that the Baduy use to have a privileged position among high governmental officials in comparison with many other groups in Indonesia. An official reaction to the declaration and demands was never given. However, it is noteworthy to draw attention to two formal changes since that meeting. Firstly, a presidential and a ministerial decree were issued in September and October 1999 to announce an official change in the name of the former *masyarakat terasing*. From that moment onward this category of people was to be called '*komunitas adat terpencil*' (isolated *adat* communities) to announce a new vision and a more participate approach in the development of these communities (Departemen Sosial 1999a). The inclusion of the word *adat* is certainly to be understood as a kind of recognition that these people are more than just isolated: they have customs, a culture, and a particular way of life. A large conference was organized by the Department of Social Affairs in Jakarta in December 1999 to inform other departments, the media and interested organizations about the change (Departemen Sosial 1999b). Whether this will also lead to further changes in the kinds of projects that will be designed for them is still uncertain.

The second formal change refers to the inclusion of *etnis minoritas* (ethnic minorities) as one of the so-called functional groups in the *Majelis Permusyawaratan Rakyat Republik Indonesia* (MPR, or People's Consultative Congress). Though they occupy only five out of a total of 695 seats, it is significant that this group is now included under the label of ethnic minorities. Moreover the seats are occupied by representatives of ethnic groups which were usually classified as *masyarakat terasing*, that is a Baduy, a Kubu, a Papuan, a Dayak and a Sangir (MPR 1999).

Mining Act; 6. discussions need to be held with indigenous peoples about the use of land and resources by the government and the private sector; 7. social welfare programmes must guarantee not to violate indigenous rights; 8. there must be no military involvement in civil society as currently exists under the Armed Forces 'Dual Function' doctrine; 9. the state authorities must find a fair means to settle the issue of self-determination of indigenous peoples. It is the state's responsibility to restore the rights of indigenous peoples, which have been violated for so long; and 10. the state must acknowledge and sign international agreements which protect the rights of indigenous peoples, for example, the ILO convention 169 and actively participate in the formulation of the UN draft Declaration on the Rights of Indigenous Peoples.

[16] The main demands of this congress were of course formulated in Indonesian. The central term in this context in Indonesian is *masyarakat adat*, which is defined as 'our communities whose lives are based on customary rights to certain lands which have been handed down through the generations. We exert sovereignty over these lands and natural resources. Our societies and cultures are governed by customary laws and customary institutions which sustain the continuity of our communities'. In the Indonesian text the English words Indigenous Peoples are used once, that is in relation to the UN Declaration on Indigenous Peoples (AMAN 1999). In the integral translation of the Indonesian text into English *masyarakat adat* is consequently translated as indigenous peoples (*Down to Earth*, special issue 1999).

2.5   FUTURE PROSPECTS

The modern political history of Indonesia is still to be written but one of the remarkable features of present-day developments is certainly the new form of democratization. New organizations and new democratic procedures are being formulated. It is very likely that international discourse on indigenous peoples will provide an opportunity for many ethnic groups to articulate their rights and seek support within a rapidly changing Indonesia. AMAN will act as a strong co-ordinating force in this movement through regional meetings which will generate support among representatives of indigenous communities. They will also be inspired by recent developments in other countries, like the Philippines. Though at present the movement is still politically weak it is likely to gain strength in the near future. The national elections of 2004 will provide a new aim to generate political targets among the political parties and presidential candidates for their cause. However, ambitions of various ethnic groups and indigenous peoples differ widely, ranging from independence to the right to land and to self-determination, including also a fair share in the benefits of their territories' natural resources. It is still highly unclear how the Indonesian bureaucracy will react to these new movements. The most recent policy statement by the present government reveals no significant changes with regard to this part of the population.

Table 2. Tribal groups/indigenous peoples per province according to the Department of Social Affairs

Province	Tribal group/Indigenous peoples
1. Aceh	Cumok, Gayo, Aceh
2. North Sumatra	Komi, Mburidi, Karo
3. West Sumatra	Pa Aghai
4. Riau	Akit, Sakai, Talang Mamak, Bone, Laut
5. Jambi	Anak Dalam, Talang, Laut, Makur
6. Bengkulu	Serawai, Masyarakat Talang
7. West Java	Baduy
8. West Kalimantan	Punan Dayak, Kantuk Dayak, Lara Dayak, Manyuke Dayak, Manyukei, Sontas Dayak, Sebarak Dayak, Kemuning Dayak, Kendayan Dayak, Denan Dayak
9. East Kalimantan	Punan Dayak, Basap Dayak, Bumomato Dayak, Luangan Dayak, Kenyah Dayak, Iban Dayak
10. Central Kalimantan	Bawo, Hulu Dayak, Bukit Dayak, Ot Danum Dayak
11. South Kalimantan	Bukit Dayak, Bijau, Pitap Dayak, Banjar
12. North Sulawesi	Gorontalo
13. Central Sulawesi	Tolare, Pandau, Tajio, Wana, Kahumanmanon, Sea-Sea, Lo'on, Loinang
14. South Sulawesi	Sareung, Bentong, Totodamane, To Pakalotang, To Wal-Wala, To Mapung, To Bunggu, To Lampung, Kabo
15. Southeast Sulawesi	Tolaki, To Mone, Tooere, Koro, Bajau, Moronene,
16. NTB	Semawa
17. NTT	Abui, Karera, Neouleni, Anas, Guara, Rawe, Maran
18. Moluccas	Suku Imdi Halmahera, Tugutil Madole, Tugutil Biki-Biki, Tenggeo, Kadae, Mangge, Diboyo, Rana, Waetemur, Wayapo ach, Ngalilu Bona, Ngalilu Hatualan, Ngalilu Yalaten, Ngalilu Sawol
19. Irian Jaya/Papua	Muyu, Asmat, Mandobo, Marind, Dhani, Biak, Dhenisa, Hinghs, Kauga/Mimika, Maga, Bantol
20. South Sumatra	Akit

Source: Departemen Sosial 1979a, 1982 and 1989.

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3.   COUNTRY STUDY: VIETNAM

3.1   INTRODUCTION

Vietnam's population numbers nearly 79 million people, with an annual growth rate of 1.35 percent (UNDP [United Nations Development Programme] 2002). Of this total population, 85 percent consists of lowland ethnic Vietnamese, known as Kinh. They dominate politics as well as the economic and cultural affairs of Vietnam. Next to the Kinh, there are 53 officially recognized ethnic minority groups that together currently number around 10 million people. The minority population substantially increased over the past decades from 12.5 percent in 1979, to 13.3 percent in 1989, and now probably approaching 15 percent (Jamieson 1996: 1; IWGIA [International Work Group for Indigenous Affairs] 2001: 387; Colchester and Erni 1999: 161 and Corlin 1998: 2). Ethnic minorities are defined as those people that have Vietnamese nationality, and who live in Vietnam but who do not share 'Kinh' characteristics such as language, culture and identity (UNDP 1995: 1).

Geographically, around 75 percent of all ethnic minorities live in 15 of Vietnam's 35 provinces and autonomously administered urban centres. Eleven of these provinces are situated in the northern uplands, and another four in the Central Highlands or Tay Nguyen (see table 1). Many of the ethnic minorities living in the Central Highlands have up to recent decades lived in relative isolation with only limited interaction with lowlanders. In contrast, various groups living in the northern mountainous area have long since had contact with Chinese and Vietnamese (Jamieson 1996: 1; 36).

Jamieson (1996: 1) stresses that there is no entirely satisfactory way to classify the great diversity exhibited by Vietnam's 53 officially recognized minority groups. For instance, they speak a variety of languages belonging to three major language groups: the Austro-Asiatic, the Austronesian, and the Sino-Tibetan. The bulk of the ethnic minorities however, speak languages belonging to the Austro-Asiatic family. Also, some of the ethnic minorities have lived in the areas they now inhabit for millennia, while others have arrived during various historical periods, continuing into the 21st century. Lastly, ethnic minority groups differ widely in ways of earning a living, kinship, complexity of social organization, and the degree and nature of their assimilation into Vietnamese society. Thus, if any classification of the ethnic minority groups is possible at all[17], various authors (Jamieson 1996: 36; Corlin 1998: 2 and IWGIA 2001: 387) suggest it is one based on population size. Although the number of people belonging to each group varies from more than one million to no more than a few hundred, the many minority groups can be classified conveniently as major, medium-sized and small groups.

The first of these groups consists of only eight ethnic minorities that together account for around 80 percent of the non-Kinh population. These are the Tay, Thai, Hoa (Chinese), Kho-Mo (Khmer), Muong, Nung, Hmong and Dao. In terms of

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[17]   See for a critical discussion of the ethnic minority classification system in Vietnam also Donovan et al., 1997 and Winrock International, n.d.

material well-being, the Hoa are in many ways better off than the Kinh majority, and the Tay are only slightly behind the Kinh in many areas. The Thai, Muong, and Nung groups are relatively better off than most other minority groups, although they significantly lag behind the Kinh. The Khmer are relatively disadvantaged, in spite of the fact that most of them are lowlanders, living in the Mekong delta, one of Vietnam's more prosperous regions. The Dao too rank fairly low in most measures of well-being, and the Hmong are by any measure among the more disadvantaged groups in Vietnam and are considered by many officials and foreign observers to be a 'problem' group for a variety of reasons (Jamieson 1996: 36).

Another 21 groups, with populations between 25,000 and 250,000 in the 1989 census may be considered to be medium-sized groups. They constitute an additional 13 percent of the total minority population. The remaining eight percent of the total minority population is made up of 25 small ethnic groups that each number below 25,000. They form the most problematic and vulnerable part of the minority population. However, they are very poorly studied and thus reliable, up-to-date information is hard to obtain (Jamieson 1996: 36).

3.2   ETHNIC MINORITIES IN VIETNAMESE SOCIETY

3.2.1   The poorest of the poor

The majority of the ethnic minority groups are poor, marginalized subsistence farmers, living in the most remote areas of Vietnam (UNDP 1995: 1). Despite numerous government efforts for upland development, they suffer from diseases, lack of clean water, and have both low literacy rates and incomes. There is mounting evidence that the gap in well-being between Kinh and most ethnic minority groups is increasing, threatening to further marginalize many ethnic minorities. That is, although the poverty incidence for ethnic minorities decreased from 86 to 75 per cent between 1993 and 1998, it remains high compared to the Kinh majority poverty incidence, which in the same period of time fell from 54 to 31 percent. More precisely, in 1998, 75 percent of all Vietnam's ethnic minority people were below the poverty line, compared to 31 percent for the majority Kinh population (Jamieson 1996: 2; Vietnam Development Report 2000; ILO [International Labour Organization] 2000, in IWGIA 2001: 23).

In general, the United Nations Development Programme (UNDP) (1995: 1) claims that Vietnam's ethnic minorities are poor because they lack an ability to participate in national life, especially in the economic sphere. More specifically, ethnic minorities are suffering from several interrelated causes of poverty such as geographic, social and intellectual isolation; inadequate productive resources due to lack of labour, land, capital or skills; excessive health risks caused by poor crops, disease, and unwanted births among other factors; inadequate participation in planning and implementation of the Government's relevant programmes; and last, but not least, environmental degradation.

A wooden statue in front of a newly erected communal house of
one of the ethnic minorities

3.2.2 Kinh and the ethnic minorities

The Kinh majority's attitude towards the ethnic minorities is rather ambivalent. On the one hand, those minorities who sided with the North in the Vietnam war are now referred to as 'war heroes' in official rhetoric. Also, the arts and crafts of the ethnic minorities are exhibited and admired, and their herbal medicines are on the market.

The ethnographic museum in Hanoi invests substantially in the presentation of minority cultures, and its management aims at exhibiting them in a scientifically correct and attractive framework–a counterweight against the commodification of minority culture in the 'cultural ethnic shows' of the tourist industry. Yet, on the other hand, Kinh people also regard the ethnic minorities as primitive nomads carrying on ecologically destructive shifting cultivation, being opium addicts and conservative maintainers of (unspecified) 'backward' customs and superstitions. Moreover, there is a certain fear of witchcraft and 'black magic' that causes many lowlanders to shun closer contact with the minorities. Furthermore, while authorities are genuinely interested in promoting ethnic minority culture, they are so in a *selective* way, reflecting an ethnocentric or 'kinh-centric' bias. Picturesque 'folklore' is encouraged, but is decontextualised from its ritual setting, the latter being dismissed as 'superstition' (Jamieson et al. 1998: 6 and Corlin 1998: 3).

3.2.3 Upland development policies

International Work Group for Indigenous Affairs (n.d.: 5) has typified Vietnam's minority policy as a mixture of well-meant paternalism and ethnocentrism. It has been much less characterized by bad intentions than by a lack of knowledge about

and proper understanding of the ecological and socio-cultural reality of the highlands.

The integration of ethnic minorities in the overall Vietnamese society has always been the ultimate aim of Government attempts at upland development. Next to large-scale (re)settlement programmes, such policies also included infrastructure investment; financial support of education and health care; and, in the context of this report perhaps most importantly, the introduction of forestry and commodity production as alternative means of income generation. The Government has pursued these policies vigorously and has backed up its efforts by increasing its fundings to upland and mountainous areas considerably (UNDP 1995: 2).

Resettlement project for the Mong people

Perhaps the most dramatic highland development policy is the 1968 Fixed Cultivation and Sedentarization Project. This programme has targeted about 200 highland districts in 24 provinces of Vietnam as being inhabited by 'swiddeners' who need settling (see also section 3.3.1 and box 1). Despite early optimistic reports, the successes have been very limited. The state explains this by the 'tenacity of slash and burn traditions among the ethnic minority peoples. In fact, the failures of the project are probably due to a number of other reasons. Swidden often offers the best labour/output ratio of any agricultural system in the highlands, as these are generally not suitable for permanent cultivation, no matter what inputs the state provides. Also, the sedentarization project usually does not provide enough money for infrastructure like terraced wet rice fields or for credit for other inputs like high yielding rice varieties. Moreover, the land given to newly settled swiddeners is usually of poor quality that no one else wanted (McElwee 1999: 36).

3.2.4   Ethnic minority representation

The main governmental body charged with the responsibility for dealing with ethnic minorities in Vietnam is the Committee for Ethnic Minorities and Mountainous Areas (CEMMA). Its primary role is to advise the government on ethnic minority

policies. Unfortunately, tasked with improving conditions for more than ten million ethnic minority citizens, CEMMA has been plagued by allegations of embezzlement and mismanagement since late 1998. The committee has also been accused of failing to involve ethnic minorities in its work.

Relatively few members of ethnic minorities hold key positions in the ministries and state agencies that implement national development policies. This means that individuals with personal knowledge of upland life have little voice in key decision-making processes about upland development. Uplanders are also generally underrepresented in the ranks of cadre responsible for implementing and managing development in the uplands. Their absence is particularly evident in the technical branches of the civil service–a reflection of their relative lack of access to advanced education. State farm and forest enterprises are also most often headed by Kinh of lowland origin (Jamieson et al. 1998: 24; IWGIA 2001: 24, 391 and UNDP 1995: 7).

3.3 ETHNIC MINORITIES AND TROPICAL RAINFOREST MANAGEMENT

As late as 1973, in a discussion of the development potential of the mountain minorities, a Vietnamese scholar could still write that:

> The ethnic minorities inhabit an immense region of mountain forest. Out of 16 million hectares in the north, forest occupies more than 11 million hectares. But forest is 'green gold', an *inexhaustible* resource with a great many tropical timber trees (Phan Huu Dat cited in Donovan et al, 1997: 20; emphasis added).

Barely twenty years later, those seemingly inexhaustible resources have mostly disappeared, leaving the mountains permanently impoverished ecologically and economically (ibid: 21). This section will explore the causes and consequences of deforestation in Vietnam; major government policies to reverse this trend; and their consequences for ethnic minorities inhabiting the country's highlands.

3.3.1 Deforestation in Vietnam: causes and consequences

Most of Vietnam's ethnic minorities either live in or near forest areas in the country's mountainous regions. Most of them depend economically on the forests. As in many countries however, forest resources are becoming scarcer at a rapid pace: government estimations report annual deforestation rates of 110 000 hectares. While 45 percent of Vietnam's land surface was forested in 1945, forest cover had decreased to only 22 percent in 1985. Deforestation is most severe in the North, while the remaining extensive areas of natural forests are mainly found in the Central Highlands (IWGIA n.d.: 2-6 and Evans 1992: 284). As we will see below, causes of deforestation are multiple and complex.

Migration movements

Understanding processes of deforestation in Vietnam has much to do with understanding both planned and spontaneous migration movements that have occurred since the late 1950s. These have resulted in the relocation of approximately five million lowlanders into the uplands. The cumulative impact of these massive population movements has been immense. It is the main reason for deforestation and environmental degradation in the mountain regions, and is thus a major cause of widespread poverty and malnutrition among upland ethnic minorities (Jamieson 1996: 1,9).

Over the past 40 years, lowland Vietnamese flocked into the highlands in two main waves of migration. First, in the late 1950s and early 1960s over 1.2 million Kinh were sent to occupy and develop what almost all Vietnamese saw as empty, unused land that was rich in natural resources. Land was appropriated from ethnic minorities with no regard for their land tenure systems and without compensation. This process was slowed but not stopped by warfare in the late 1960s and early 1970s. A second and extensive migration wave occurred after the country was unified in 1976. Collectivization efforts and other programmes within the central Socialist Republic of Vietnam brought millions of lowland Kinh into upland areas already inhabited by ethnic minorities (Jamieson 1996: 6; Corlin 1998 and AITPN [Asian Indigenous and Tribal Peoples Network} and IWGIA 2001: 25-6).

Thus, between 1969 and 1979 the number of Kinh in the northern uplands more than tripled, soaring from almost 640 000 to over two million. Between 1979 and 1989, the Kinh population in this region grew by another 19.3 percent, accounting for 41 percent of the total population. During the same period, forest cover in the northern uplands dropped from, perhaps, about 60 percent to only 10 percent, both as a result of inefficient and unsustainable exploitation by the State Forest Enterprises, the conversion of forest land into agriculture (much of this done by State Farms), and the demands of a growing population for building materials, fuelwood and other forest products. The plateau portion of the Central Highlands, the Tay Nguyen region, has experienced even more disruptive shifts in population size, composition and distribution. As late as 1943, the population of Tay Nguyen consisted of 95 percent of ethnic minorities, whereas at present, of the almost three million people that inhabit the region, two-thirds are Kinh (Hickey 1982a: 439 and Jamieson 1996: 7,8).

In many upland areas pepper plants have been planted

The consequences of both planned and unplanned migration are just now beginning to be addressed in Vietnam. As a result, in recent years, state-sponsored migration has been considerably reduced. However, spontaneous migration has increased at the same time. Disputes over land between spontaneous migrants and non-migrant groups have occurred in many areas where spontaneous migrants settle. All this unrest and migration activity has had profound social, cultural and environmental consequences (Jamieson 1996: 2,9; Kemf and Vo Quy 1999: 156; Evans 1992: 277; Corlin 1998: 5; AITPN and IWGIA 2001: 25-9 and McElwee 1999: 38).

Shifting cultivation
Rather than acknowledging the severe environmental impact of the above described planned migration programmes, government rhetoric generally considers what is called 'shifting cultivation' as the primary cause of forest loss. Government statistics estimate that anywhere from 25 to more than 75 percent of deforestation in Vietnam is due to 'swiddening' (see also section 2.3). There are thought to be 2.8 million shifting cultivators in the country, most of whom are members of ethnic minorities, and the total area under shifting cultivation is estimated to be 3.5 million hectares.

However, McElwee (1999) claims that the lion's share of these figures is inaccurate and based on little concrete country-wide data. Statistics about the amount of land lost to shifting cultivation rarely address if new forest cover is being lost or if the cultivation is taking place on previously fallowed lands. Many accounts simply take all area currently under swidden as examples of areas that must have once been forested. Thus, numerous authors (Jamieson 1998; Evans 1992; Corlin 1998; IWGIA 2001 and McElwee 1999) claim that shifting cultivation contributes far less to national deforestation than other causes such as land clearing for agricultural settlement by lowland Kinh, logging by state enterprises (both legal and illegal),

mining and hydropower projects, and war-time herbicide spraying. Also, the closing off of large areas of forest land formerly available for minority exploitation, either as a result of its enclosure by state enterprises or its incorporation into parks and protected forests, has tended to concentrate shifting cultivation into a smaller area where it causes much more serious and lasting environmental damage.

Some officials and researchers are finally reaching the conclusion that shifting agriculture cannot be eliminated in Vietnam in the foreseeable future. This leads inexorably to the conclusion that it must be improved. Yet, so far, extension services lack the funds, the personnel, and the will to provide meaningful assistance to resource poor subsistence farmers. Therefore, a major shift in policy, in research priorities and in the agenda and methods of extension work in both agriculture and forestry is necessary (Winrock International n.d.: 9-11).

Box 1.   Who are the 'swiddeners'?

In Vietnam, as in most other Southeast Asian countries, there is considerable confusion as to what 'swidden' or 'shifting cultivation' actually is. There are a variety of terms being used, mostly interchangeably, but there is a general tendency to group shifting cultivators into three categories: 'true' shifting cultivators whose agricultural system is a long standing cultural practice and who shift both fields and residences at various times; 'rotational cultivators' who have fairly fixed residences and simply rotate and fallow their fields; and 'transitional' shifting cultivators who practise swidden as an intinerant lifestyle for temporary periods and also practise other forms of agriculture, such as wet rice cultivation.

Although the government would never admit it, into this last group of swiddeners must be placed large numbers of Kinh who migrate to the highlands and clear agricultural fields using swidden techniques of burning, but who then permanently cultivate the land or abandon it after the soil is exhausted. This category of 'swiddeners' can also be held responsible for illegal timber gathering and logging, as well as the hunting of endangered species in order to make ends meet. Such degradation, however, is almost invariably blamed on the ethnic minorities.

A June 1987 editorial in the party paper *Nhan Dan* on environmental protection singles out the highlanders for special attention: 'The movement to resettle the ethnic minorities for sedentary farming has helped reduce the incidence of bushfires and deforestation' (*BBC Summary of World Broadcasts, Far East,* 9 June 1987). By comparison, the destruction wrought by anarchic Vietnamese immigrant settlers in the highlands, or by rapacious forestry companies and illegal logging receives relatively little attention (McElwee 1999: 32 and Evans 1992: 284).

Non-timber forest product exploitation
In addition to the loss of forest cover, forest degradation through overexploitation of so-called 'minor' forest products poses another environmental problem. Traditionally, products such as rhinoceros horns, bird feathers, and medicinal plants formed a major share of the exports from the highland areas to the lowlands and abroad. After independence, timber emerged as a major forest product, heavily exploited by state logging companies. With the demise of the old-growth forest, and

the consequent decline of logging as a viable extractive industry, attention has again turned to collection of minor forest products. A growing and highly lucrative border trade with China may be the principle cause of species loss in the northern mountains today. The price for a bear's gall bladder, an anteater's tail, or certain snakes can equal a year's income for an upland household. Effective government control of this trade is virtually impossible (Jamieson et al. 1998: 5, 11 and Donovan et al. 1997: 42-4).

3.3.2   Forest management policies

The Vietnamese government perceives the highland provinces as a stockroom of natural resources to be mobilized for national economic development (Nguyen 1998: 1). Thus, the Ministry of Forestry Planning, in its 1988 Forestry Development Strategy towards 2005, formulated the following policy goals (IWGIA n.d.: 3):

1. meeting the nation's need for forest products and environmental protection on a sustainable basis;
2. increasing social and economic benefits from forest resources through efficient utilization;
3. increasing people's participation in forest protection and utilization;
4. improving living conditions for the rural population through forestry development.

The policies directed towards attaining these goals, however, have been heavily criticized for their technical bias (Nguyen 1998: 3, 7-11). Exemplary of this approach are the large-scale reforestation programmes that have been set up over the past years. Although these have resulted in reforestation rates of around 140 000 hectares per year, true re-forestation, if taken to mean the restoration of the original forest eco-system, has not yet become an integral part of forestry programmes in most cases (Donovan et al. 1997: 135-6; IWGIA n.d.: 2).

Moreover, it is said that Vietnam's forest management policies fail to encourage local participation by lacking efforts for public consultation and information disclosure. That is, in Vietnam, as in many countries, the present style of conservation has neglected the needs and aspirations of local people, their indigenous knowledge and management systems, their institutions and social organizations, and the value of natural resources for them. However, as will be shown below, there are indications that this trend is currently undergoing a change.

In addition to this criticism, highland development policies, in general, and forest land allocation policies, in particular, are often said to have a highly legalistic and bureaucratic character. They tend to be very ambiguous and show gaps and overlaps, which leaves the door open for a wide range of interpretations. Also, the policies and legal instruments are poorly known and understood at the field level. Finally, their implementation tends to emphazise quantitative targets (such as the above mentioned reforestation schemes) while lacking a deeper analysis of root causes of deforestation, let alone any analysis that challenges existing policies (Nguyen 1998: 3, 7-11). This section will describe a number of policies in some more detail.

Bill board calling for forest protection

Land policies
The 1993 Land Law classifies land into six categories: agricultural; forestry; urban; rural residential land; further land for special use; and unused land. The latter category comprises all other land, including re-growth forest and scrub which, very often, forms part of the shifting cultivation system of the ethnic minorities (Corlin 1998: 6; AITPN & IWGIA 2001: 28 and McElwee 1999).

The Law on Forest Protection and Development of 1991 places forests into the following three categories:

1. *Protection Forests* are those used mainly for the purpose of protecting water resources and soil through combating erosion, limiting natural disasters, and regulating the climate. These are planned to cover seven million hectares.
2. *Special Use Forests* are those used mainly for the conservation of biodiversity, for scientific research, for the protection of historical and cultural sites, and the protection of natural landscapes. They are planned to cover two million hectares.
3. *Production Forests*, to cover 10.2 million hectares; of which five hectares are actually 'bare hill' with no tree cover. Production forests are used mainly for the production of timber and non-timber forest products (McNeely 1999: 164 and Kemf and Vo Quy 1999: 173).

The Law puts forest land under the jurisdiction of the Ministry of Forestry and obliges all levels of Vietnamese society to be responsible for the protection and development of forests. However, various authors (Corlin 1998: 6; AITPN and IWGIA 2001: 28 and McElwee 1999) claim that both this system and the 1993 Land Law are discriminative against ethnic minorities. Land is allocated to those 'capable of developing' the land only. Often, ethnic minorities are not included because they are believed to practise 'irrational' forms of land use. Moreover, the official land

system generally does not reflect an ethnic minority's traditional system of land occupation. In such systems the land belongs to the village and is managed by the community, between whose members it is divided fairly according to the requirements of each of them. In this context, one of the weaknesses of the Vietnamese programme for empowering local farmers to manage forest land is the almost total dependence on usufruct contracts with *individual* farm households. Allocating protection forest to households for management may sometimes be inferior to community management, both in terms of its socio-economic viability and its ecological consequences. While recognizing that individual usufruct contracts have much to offer, Donovan et al. (1997) suggests that Vietnam offers a diversity of forms for managing forest lands, including community usufruct contracts. The 1993 Land Law offers broad-so far unused-potential for such contracts.

An alternative type of community-based forest management programme is based on contracts between forest protection committees and state forest departments that spell out the specific rights and responsibilities of partners as well as the length of the agreement. In Vietnam, a similar system is found on land managed by State Forest Enterprises (SFE). For example, the relationship between Yen Son SFE and its workers is structured around two contractual arrangements. First, some workers are paid wages for forest management operations on a performance basis; and second, the SFE utilizes contracts that allocate the management of pieces of forest land to worker families for a certain period of time. Sometimes this also poses problems as in Vietnam, many SFEs import workers from other parts of the country to work on Enterprise land. This increases conflicts between Enterprise managers and the people that are indigenous to the area (Donovan et al. 1997: 134-5).

The wisdom of Ho Chi Minh as source of inspiration for forest protection

Protected areas and social forestry initiatives

The 1995 *Vietnam National Plan on Biodiversity* called for:

> a) the immediate establishment and management of protected areas with high biodiversity values as well as the planning and enlargement of forests and forest land in 87 identified protected areas; b) the strengthening and development of buffer zones surrounding protected areas; the discouragement of intensive farming on sloping land; the gradual halting of shifting cultivation, the stabilisation of the life of rural people and awareness raising so that they will voluntarily join the protection force (cited in McNeely 1999: 160).

Thus, in line with this appeal, the Government of Vietnam has created a network of 105 protected areas. These include ten national parks, 61 nature reserves and 34 historical relics, cultural and environmental sites. Together, this accounts for an area of around two million hectares, or six percent of the country's territory (Kemf and Vo Quy 1999: 173).

The 1995 Biodiversity Action Plan (BAP) states that:

> The Plan must create conditions for, and ensure the support of the people who live nearby the natural resources for their increased benefits. Therefore, priority should be given to projects which assist the people with the building of the buffer zones, the application of advanced technological achievements, upgrading of infrastructure, improvement of the social welfare, so as to ensure the balanced income for the people, thus preventing them from further encroachment into the protected areas. (McNeely 1999: 71).

Thus, as a counterweight to top-down conservation measures, often including forced resettlement, the Vietnamese government is currently experimenting with social forestry. The intention of these projects is to make people more self-sufficient, thereby reducing resource-use pressure on state forests. Social forestry experiments include (McNeely 1999: 166):

- contracting the management and protection of forests to local people;
- allocating blocks of forest lands to individuals, families, and larger units to use on a long-term basis;
- encouraging villagers to undertake their own forest development and management, such as wood-plots, on their own non-forestry lands.

A nursery for aquilaria trees for the cultivation of agarwood, a project funded by the EU
and implemented by The Rainforest Project among ethnic minorities

However, while the BAP calls for close co-operation with and intensive participation of local communities in forest conservation, the mechanisms for such involvement are not specified and the participatory approach is still in its infancy in Vietnam. That is, although government policy is supportive in principle, this support has yet to be converted into widespread practical action (McNeely 1999: 172-3; Kemf and Vo Quy 1999: 173). Box 2 provides an example of the kind of collaboration that might be productive.

Box 2.   Successful local initiative in Ke Go Reserve

With NGO assistance, Ky Thoung Commune has established a buffer zone protected forest of 10sq km adjacent to the Ke Go Nature Reserve (61 515 ha). This protected area was established without government assistance by the commune to protect four threatened species of pheasant. As a way of reducing the dependence of local people on the resources of the forest, development projects such as agro-forestry, improved varieties of rice, establishment of fruit trees, and small hydro-electric stations were promoted. As a result of the project, the local population is increasingly aware of the values of intact forest, ranging from watershed protection to shelter for honeybees. The development projects also helped to improve the living standards of the local people. The project was so successful that it has now been expanded to all seven communes surrounding the Ke Go Reserve (McNeely 1999: 172-3).

3.4   IN CONCLUSION

Despite the fact that, gradually, some old approaches are being replaced by new programmes that offer both greater participation at the local level and provide highland people with land use and ownership rights, the present knowledge about indigenous resource management systems in Vietnam and their potential for being developed and adapted to the present conditions remains insufficient. Also, very little experience has been gained so far with common property or community-based forest management systems. Lastly, there is an urgent need to better understand the social organization, culture and logic of the traditional subsistence economy of the ethnic minorities (IWGIA 2001: 390; ibid. n.d.: 6-9).

A first and important step has been taken by Vietnam's Research Centre for Forest Ecology and the Environment. This centre has initiated a project aimed at both promoting the use of local knowledge among extension workers and collecting information that can be used to make future upland development efforts more successful (Jamieson *et al.* 1998: 14). Hopefully, this kind of initiative can be followed by a broad range of actors operative in the field of forest management in Vietnam. Conducting intensive research on the above mentioned issues is a prerequisite for successful collaboration in tropical rainforest conservation.

Table 3. **Ethnic minority distribution in Vietnam (based on Jamieson 1996)**

	North West	North East	Central Mountain Chain	Central Highlands
Geography	- Total land area: 359 610 hectares. - Lao Chai, Son La and (small) portions of Hoa Binh, Lao Khai and Yen Bai province.	- Total land area: 5 801 80 hectares. - Lao Khai, Ha Giang, Tuyen Quang, Yen Bai, Cao Bang, Lang Son, Quang Ninh, Bac Thai province.	- Total land area: unknown. - Thanh Hoa to Thua Thien province.	- Total land area: 5 557 000 hectares. - Entire region is elevated. - Lam Dong, Dac-Lac, Gia-Rai and Kontum province.
Climate	- Annual rainfall ranges from 1 300 to 3 000mm. - Average annual temperature: 20-22 degrees C. - Hot season from early April until August.	- Monsoon hits the north-east between November and March; - Severe storms between July and November.	- Upper half of mountain chain annually hit by severe storms.	- Mild climate. - Over 90 percent of rainfall comes during summer months; - Dry period: November-March.
Population/ ethnicity	- Ca. 2 500 000. - Total of 23 ethnic groups. Following 5 groups account for over 90 percent of the population of the region: ❖ Thai (1 050 000); ❖ Kinh (475 000); ❖ Hmong (437 500); ❖ Muong (237 500); ❖ Dhao (120 000).	- Ca. 5 200 000. - Total of 20 different ethnic groups of which the following are the largest: ❖ Tay (1 300 000); ❖ Nung (750 000); ❖ Hmong (350 000); ❖ The Dao (275 000); ❖ San Chay (125 000); ❖ San Diu (100 000); ❖ Giay (40 000).	- Unknown population size; sparse densities. - Many different ethnic groups; - Small in population size; - Relatively isolated; - Relatively little assimilation within Vietnamese society; - Livelihood: hunting/gathering and swidden cultivation of steep slopes.	- Ca. 1 800 000. - About a dozen ethnic groups. The main ones are: ❖ Gia-rai (300 000); ❖ Ede (225 000); ❖ Ba Na (125 000); ❖ Xo-dang (45 000); ❖ Cho-ho (80 000); ❖ Mnong (80 000).
Forest cover	- Reduced to only 10-13 percent. - Much of the land area is seriously degraded; - Most remaining forest cover is secondary forest.	- Around 15 percent; - Numerous virtually exhausted areas.	- High, but so far unknown deforestation rates. - Increased incidence and severity of floods during rainy season.	- From 95 percent in 1945 to 40 percent in 1993. - Quality of remaining forest is poor.

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4.   COUNTRY STUDY: THE PHILIPPINES

4.1   INTRODUCTION

Unlike most of its neighbouring countries, notably Malaysia and Indonesia, the Philippines shows a relatively progressive attitude towards indigenous peoples. In this country, a powerful movement of non-govermental organizations (NGOs), the media, the Catholic Church and scientists speak out on issues related to indigenous peoples. Moreover, the issue has long since been on the political agenda. This finally lead to the acceptance of the Indigenous Peoples' Rights Act of 1997, which is among the first of its kind in the world.

Throughout the Philippines, there are about a hundred indigenous peoples with distinct cultural characteristics. Collectively, these account for eight to ten million people, or about ten to fifteen percent of the country's estimated 70 million inhabitants (Duhaylungsod 1993). The indigenous peoples of the Philippines cover a large variety of cultures and speaking a wealth of different languages. Within some groups there is even a strong differentiation between sub-ethnic groups. Despite this large diversity, the Philippine indigenous peoples can be broadly divided into two categories. On the one hand, there are Negrito groups that traditionally live from hunting and gathering activities. Examples are the Batak of Palawan and the Agta of Luzon. Many of these groups have today shifted to swidden agriculture. On the other hand, there are groups of sedentary farmers. The Ifugao of the Central Cordillera are by far the most well known of these peoples (Persoon 2000).

4.2   INDIGENOUS PEOPLES IN PHILIPPINE SOCIETY

Throughout Spanish and American colonial rule it has been mostly the indigenous peoples that lived-and still live-in the mountain regions that retained most of their 'ethnos' or cultural identity. Those who lived in the lowlands, on the other hand, were much more affected by outside forces. There, colonial influences, notably Christianity, have resulted in what is called a 'majority culture'. Yet, given its background, this majority is in fact a blending of highly diverse ethnic groups (Duhaylungsod 1993 and Scott 1997).

This process of cultural blending has continued since independence. There is a strong tendency, even without outside force, for indigenous cultures to mix with mainstream society. Styles of clothing and housing tend to merge into one general Filipino style, leaving tribal differences as something to be expressed only during special occasions, festivals and big gatherings. It is thus mainly through the attitude of the outside world that these people are grouped together and because of their present political status that they become increasingly united in their struggle for land and other rights (Persoon 2000). This section gives a brief overview of the position of the indigenous peoples of the Philippines during colonial rule and in the post-independence era.

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Agta man, Isabela Province

4.2.1   Indigenous peoples under colonial rule

When the Spanish colonized the Philippines in the early 16th century, their main interest was in opening the area for agricultural purposes and conversion to Christianity. In order to pay for their missionary activities, the colonial government was ordered to open up gold mining in the mountains. But Spanish had a hard time fighting the indigenous peoples in the mountainous areas as the various tribes confederated to resist the Spanish attacks. At the same time, the Spanish government wanted to control trade with the lowland communities by forcing them to cultivate tobacco.

When the Americans purchased the Philippines in 1898, in fact they only bought those areas occupied by the Spanish. This excluded much of the tribal areas in the country. This later arose as an important issue as it caused the indigenous peoples to look at the Philippine government, not as 'their government', but as their real colonizers (Malayang 1996 in: Persoon 2000).

The Americans usually labelled the tribal people as 'pagan tribes', 'cultural minorities' or 'hill tribes' and they were imposing a reservation policy comparable with that regarding the American Indians at home. The Americans gradually occupied the areas that were never brought under the Spanish flag in the previous era. In the Cordillera this particularly required fierce battles. The Americans were mainly interested in the newly won areas for raw materials, minerals and timber. Roads were constructed and a new administrative system was imposed. Highlander's protection against lowlanders was propagated. Of course, christianization was an important aspect of American policy, as was peace and order. The new colonizers took a deep ethnographic interest in the indigenous peoples and this has contributed over the years to a wealth of information about various tribes. The Americans also introduced the notion of public lands, mineral

lands and timber lands over which the colonial state claimed jurisdiction. These notions were of course totally alien and incomprehensible to the indigenous peoples who were used to communally owned land and very different arrangements. Lastly, with regard to cultural policy there was certainly a tendency to adapt to the American model of civilization, including clothing, food, music and art (Persoon 2000: 13).

4.2.2 Indigenous peoples after independence

As the Philippines finally became an independent country after World War II, there were initially no special provisions for the indigenous communities. The Philippine government continued more or less along the lines of the Americans, the general idea being that integration and assimilation were the best possible options for these communities. In 1975, the Revised Forestry Code declared that all the lands with slopes of 18 percent or more could not be classified as alienable and disposable. Through this law the indigenous peoples became illegal squatters on state forest land even though they had occupied the land since the time of their forefathers. Forest dwellers, whatever their origins, were blamed for forest destruction and erosion through their slash-and-burn practices (*kaingin*). This remained the situation for more than two decades (Van den Top 1998).

In 1967, President Marcos appointed a Presidential Advisor on National Minorities (PANAMIN). The PANAMIN's responsibility was to implement socio-economic projects 'to enable minority groups to cope with the problems of the modern world while retaining their identity and human dignity'. The organization became involved with indigenous peoples across the country. However, its aim was certainly not only the welfare of the indigenous peoples: In the first place, PANAMIN was closely tied to the reservation policy initiated by the Americans. Secondly, its actions also had military purposes since the struggle against the New People's Army (the communist rebel forces) was a very important issue in some areas (Headland 1992 and Duhaylungsod and Hyndman 1993).

With the fall of Marcos and the rise of Cory Aquino as president there was a strong drive towards making special provisions for indigenous peoples in the new constitution. Presidential Advisor on National Minorities was replaced by three separate organizations: the Office of Muslim Affairs (OMA), the Office for Northern Cultural Communities (ONCC) and the Office for Southern Cultural Communities (OSCC). At the same time, new processes of democratization spread throughout the country and non-governmental organizations (NGOs) were flourishing. There was also strong support for indigenous peoples through both the Catholic Church and the media. In addition, many academic spokesmen took a stand in this case. There was a general call from society for the development of new policies and a new Parliamentary act (Van den Top and Persoon 2000).

Yet, for various political reasons indigenous peoples did not receive attention in the new constitution. The aim for a special law remained however: a draft version was made, but it was never discussed in Congress. Thus, indigenous peoples continued their struggle through indirect means, while at the same fighting to get an indigenous rights act through parliament. They finally succeeded towards the end of 1997, when

the Indigenous Peoples' Rights Act (IPRA) was passed through Congress, signed by the president and was widely published (Persoon 2000).

The IPRA was designed with the aim of recognition, protection and promotion of the rights of indigenous cultural communities/indigenous peoples. Along with its enactment, the National Commission on Indigenous Peoples (NCIP) was installed. The NCIP is the primary government agency responsible for the formulation and implementation of policies, plans and programmes to promote and protect the rights and well-being of indigenous peoples and indigenous cultural communities (IPs/ICCs) and the recognition of their ancestral domains. The NCIP is an independent agency under the Office of the President and is composed of seven commissioners appointed by the President. The commissioners are representatives from ICCs/IPs from all ethnographic areas within the Philippines (Republic Act No. 8371 1997: sections 38-40).

In the IPRA, indigenous peoples and indigenous cultural communities are defined[18] as:

> A group of people or homogenous societies identified by self ascription and ascription by others who have continuously lived as an organized community on communally bounded or defined territory and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits. ICCs/IPs shall also include people who are regarded as indigenous on account of their descent from the populations which inhabited the country at the time of conquest or colonization; who retain some or all of their social, economic, cultural and political institutions, but who may have been replaced from their traditional domains or who may have resettled outside of their ancestral domains.

The IPRA has long been questioned for its constitutionality since the entitlement of ancestral domains and the granting of natural resources to indigenous peoples were considered not to be within the forms of ownership stipulated in the constitution. More specifically, the debate is on how ancestral domain claims should be honoured in the face of the Regalian Doctrine of State Authority. This doctrine prescribes that the authority of the Philippine Republic extends throughout its territory, such that all lands and natural resources found in the territory are under the power of the state. Only the state may alienate and dispose of the lands and resources in the public domain and assign the same for private use and consumption (Malayang 2001). Thus, two petitioners have claimed that ancestral domains are a component of public property and can therefore not be privately or collectively owned by only a part of the nation's population (Ballesteros 2001). However, the court case was lost, meaning that the IPRA is now indeed operative. With that, the Philippines is among the world's leading countries regarding indigenous peoples legislation.

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[18] This definition, as well as many more aspects of the IPRA, is intimately linked to the International Labour Organization Convention No. 169, which has been used as a basis for drafting the Act.

4.3 INDIGENOUS PEOPLES AND TROPICAL RAINFOREST MANAGEMENT

4.3.1 Deforestation in the Philippines

The Philippines is the first major log-producing country in Asia whose natural forest resources have reached the point of near-depletion (van den Top 1998: 64).[19] According to the Earth System Science Center (ESSC) (1999), forest cover in the Philippines has decreased from 21 million hectares in 1900 to 6.6 million hectares in 1987. As a percentage of total land surface, this amounts to a loss of forest cover from 70 to 22.2 percent. The ESSC projected forest cover for 1999 to drop to 18.3 percent or 5.5 million hectares.

Table 4. Decline of the Philippine forest. Based on ESSC (1999)

Year	Forest cover as a percentage of total land surface	Hectares of forest cover (in millions)
1900	70.0	21.0
1920	60.0	18.0
1950	50.0	15.0
1960	40.0	12.0
1970	34.0	10.2
1987	22.2	6.6
1999 (projected)	18.3	5.5

As is clear from table 4, deforestation rates increased disproportionately in the post-war period. More specifically, van den Top (1998: 65) has pointed out that of almost 15 million hectares of natural dipterocarp forest in 1950, only four million remained in 1992. A qualitative assessment of these forests shows that in 1934, of the total forest cover of 17.2 million hectares, 10.7 million hectares or 62 percent was of the old-growth dipterocarp type. In 1992, only one-fifth of the four million remaining hectares was old-growth forest, while the other 80 percent were logged-over forests of varying quality. As is often the case, much of the Philippine's remaining old-growth forest is located in inaccessible areas at high elevations, with shallow soils and steep slopes. Also, although unlogged, the remaining old-growth forests are more disturbed now than they were 60 years ago. The use of guns, dynamite, chemicals and burning techniques by local and immigrant hunters has reduced wildlife stocks, as evidenced by the scarcity of hunting products and widespread complaints of a declining catch by local hunters.

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[19] In the early 1950s, the Philippines was Southeast Asia's largest timber exporter, joined by Malaysia a few years later and by Indonesia around 1965. Between 1987 and 1994, the number of corporate logging concessions in the country fell from 154 to 31, producing 800,000 m^3 of timber annually. Currently, the Philippines is the world's number eight *importer* of tropical hardwoods, spending 165 million US dollars per year to buy 700,000 m^3 of logs in international markets (van den Top 1998: 64; author's emphasis).

During many years, large scale logging was big business in the
Sierra Madre Mountains, Northeast Luzon

4.3.2 Changing visions on indigenous peoples and forest conservation

For much of the post-war period, Philippine forestry policy was based on two primary assumptions:

a) forest degradation is caused by *kaingeneros*, or farmers practising shifting cultivation; and
b) the timber concession system is the best means of protecting, managing and developing the nation's forest resources (Severino in Utting 2000: 85).

In the past decade, this emphasis on the destructive impact of local farmers on the rainforest and the high value of timber companies as protectors of that forest has been turned on its head completely. Recent legislation places forest occupants at the centre-stage of efforts towards the protection and wise use of the Philippine's remaining forest while at the same time blaming the commercial concession system for being biased against indigenous peoples and local communities. The emphasis on the involvement of these stakeholders in conservation efforts has increased to such an extent that community based natural resource management has become mainstream in the Philippines (van den Top and Persoon 2000 and Severino in Utting 2000). This trend has been marked by a series of events.

One important means of granting more space to local power has been the enactment of the Local Government Code in 1991. As a result of this administrative measure, central government power, authority, responsibilities and resources have been devolved to lower level state institutions such as provinces, cities, municipalities and villages (van den Top 1998: 63). This trend of power devolution was incited by the belief that governors and mayors would be more sensitive to grass-roots concerns

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than their superiors in Manila, and that benefits for local communities would increase (Severino in Utting 2000: 87).

Over the years the indigenous peoples' movement has become more vocal

Next, as a counterweight to decades of intense forest exploitation, in 1992 the Congress of the Philippines passed the National Integrated Protected Area System Act (NIPAS). In addition to the establishment of a system of protected areas, the NIPAS Act enabled the Department of Environment and Natural Resources (DENR) to ban logging in virgin forests, as well as in any contiguous residual forest of good quality above one thousand metres in elevation or on slopes greater than 50 percent. Shortly after, the NIPAS Act was passed by Congress, ten priority protected areas were selected which have received core funding from the Global Environment Facility (GEF) for a seven-year period. The NIPAS Act states that in the protection of each of these sites active participation of local communities and other actors must be pursued. This is to ensure that all stakeholders can become partners in protected area management. Therefore, every site is managed by a Protected Area Management Board (PAMB); a multi-sectoral body composed of representatives from all cultural communities residing in the administrative units covered by the park, key governmental institutions and civil society (van den Top and Persoon 2000: 160).

Regarding indigenous peoples, the NIPAS Act states (in section 13) that the rights of indigenous communities residing in protected areas should be respected by the Department of Environmental and Natural Rresources (DENR). At the same time, however, indigenous communities living in protected areas should conform to the rules and regulations the DENR has stipulated for those areas. It is crucial to note that, although the NIPAS Act devotes attention to the specific situation of

indigenous peoples, it does not provide for any recognition of ancestral domains (Gatmaytan 1992 in: van der Schaaf 2000: 29).

This changed in 1993 when the DENR issued Department Administrative Order No.2 (DAO No.2), which has resulted in the so-called Certificate of Ancestral Domain Claim, or CADC system. Within the CADC system, indigenous communities can apply for the formal recognition of their ancestral domains. 'Ancestral domain' is the term used by the Philippine government to refer to the land and natural resources which indigenous peoples have traditionally used as their area of domicile and the basis of their economic and social life (Malayang 2001). So far, the CADC areas that have been granted vary from a few hundred hectares to a little over 100 000 hectares in the case of the Bugkalot (Persoon 2000).

A CADC bill board indicating, among others, the large number of parties involved

On the one hand, recognition of their ancestral domains within the CADC system grants indigenous communities important rights to their domains. This is especially with respect to the occupation and utilization of the land and natural resources, the regulation of the entry of migrant settlers and participation in the formulation of government projects within the domain. On the other hand, once having been granted a CADC, the particular indigenous community also carries the responsibility to prove that it is capable of the sustainable management of the land and natural resources within the domain. It is required to do so through the formulation and implementation of an Ancestral Domain Sustainable Development Protection Plan.

One of the DENR's most important responsibilities stated in DAO no.2 is to ensure the Free and Prior Informed Consent (FPIC) of the community in the implementation of development programmes and projects. Just recently, the conditions for obtaining FPIC have been further specified in NCIP Administrative

Order No.3 (February 2002). The seven pages long Administrative Order sets extensive guidelines on the procedure and process for obtaining FPIC; the acquisition of a Memorandum of Agreement; and the roles and responsibilities of all parties involved in the process. It also specifies prohibited acts and sanctions during the process of acquiring an FPIC. Most importantly, the Administrative Order provides for a definition of Free and Prior Informed Consent that offers some leads in working with the concept of FPIC. The definition runs as follows:

> This is the consensus of all members of the ICCs/IPSs which is determined in accordance with their respective customary laws and practices that is free from any external manipulation, interference and coercion and obtained after fully disclosing the intent and scope of the program/project/activity, in a language and process understandable to the community. The Free and Prior Informed Consent is given by the concerned ICCs/IPs upon the signing of the Memorandum of Agreement containing the conditions/ requirements, benefits as well as penalties of agreeing parties as a basis for the consent (NCIP AO no.3).

Again, by providing a definition of FPIC, the Philippines are ahead of other countries and international institutions. Although the concept of FPIC is being used by many policy makers and other actors in the field of indigenous peoples, it usually remains undefined.

4.4   IN CONCLUSION

Given the nature of both forestry and indigenous peoples policies that are the legacy of 450 years of colonial history, the Philippines has gone through a process of major change since the fall of Marcos in early 1986. In the past 15 years, the timber concession system has disappeared from the forest management arena altogether, while local communities and notably the indigenous peoples have moved from being illegal squatters to the centre stage of natural resource policy. This has lead to a situation in which community based resource management has become mainstream in the Philippines.

It is clear that the enactment of the IPRA in 1997, which was inspired by ILO Convention No.169, has confirmed and materialized a long-standing trend towards the more equitable sharing of benefits with indigenous peoples. This is both with respect to their general position in Philippine society as well as to their specific role and status in tropical rainforest management.

Yet, although the Philippines has one of the world's most progressive and comprehensive laws regarding indigenous peoples, many voices in the archipelago can be heard saying the implementation of the IPRA, including the awarding of CADCs, is still an uphill battle. This is due to a combination of factors, of which a lack of funds and expertise are most frequently mentioned. It is also often heard that it is simply a lack of political will that causes the implementation problems. In addition, it should be noted that as the IPRA is one of the world's first of its kind, it is simply in its infancy. One of the difficulties is, for example, how to match the

complicated CADC application process with the often-times low educational background of the particular indigenous communities. Although it remains to be seen how the Philippines will overcome these and other teething troubles, the fact is that the country has made a major step forward both in terms of internal and international legislation.

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5. COUNTRY STUDY: COLOMBIA[20]

5.1 INTRODUCTION

In Colombia the indigenous population has been estimated at 600.000 persons pertaining to 81 different ethnic groups (see box 3) and they form a minority of the total population (around two percent). Despite being a minority, their territorial rights have been recognized and today they possess almost 25 percent of the national territory. A major part of the forest areas (more than 80 percent) is owned and under the responsibility of ethnic minorities. This is a unique case in the world that deserves to be analyzed, especially regarding its consequences for biological conservation.

The policy of Colombia towards its indigenous people contains a whole series of recognitions of their rights related to political and administrative autonomy, land tenure, education and health and can be considered very progressive at the global level. The establishment of indigenous reserves, called *resguardos* in Spanish, which is a collective property, protects both the territory as well as the peoples' cultural and political autonomy. This system also has great relevance because it can be considered as the recognition of the role of the traditional indigenous management systems for the conservation of the environment. This is especially the case in the tropical rainforests of the Colombian Amazon region were this policy has had a major impact because of the more than 20 million hectares which are declared *resguardo indígena*. The *resguardo* corresponds to a historical mechanism that came into existence during the colonial period by which a piece of land was adjudged to the indigenous people in order to reduce their territories and to enable major control of the population as a labour force and contributors. This occurred in the Andean region of the country while the tropical rainforest areas where less interesting for the colonizers. Only during the second part of the 19th and beginning of the 20th century did these areas become of economic importance through the extraction of natural products like quinine and rubber. These activities had a terrible impact on the indigenous population who where forced to work for the rubber dealers and where confronted with new diseases.

The *resguardo indígena* as a legal form of land tenure has been transformed notably and today has gained major significance because the Colombian state has created the possibility to convert these areas into new zones: the indigenous territorial entity. This policy forms part of the new territorial ordering of the nation, with all the

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[20] Most of this chapter is an abstract of a longer document on the contribution of the indigenous *resguardo* system of Colombia to conservation published by IUCN-NL [Netherlands Committee for the World Conservation Union-IUCN] (van der Hammen 2003). Tropenbos International has a long presence in Colombia and has developed a close relationship with the indigenous people in the Amazon region based on the importance of research. In this chapter the situation of the indigenous peoples in Colombia will be presented, as well as the relationships developed between these people and the Tropenbos Colombia programme.

political and administrative implications that this brings with it within the general policy of political administrative decentralization.

Despite the fact that the law of territorial ordering has operated now for some five years, the indigenous territorial entities have not yet been created as a result of the many prejudices that still exist in Colombian society and the lack of willingness in the higher political spheres of the state.

The *resguardos*, besides their political future as territorial entities, face a whole series of threats as a result of armed conflict that is occurring across the whole country, the expansion of the agricultural frontier, and the enormous expansion of illegal crops and drugs traffic, as well as a lack of a state presence in many regions.

With its policy of *resguardos* Colombia offers a model of recognition of indigenous rights and at the same time a proposal of nature conservation due to the contributions made by the indigenous peoples to the conservation of the environment. The advances made in the recognition of political and administrative autonomy include the participation of the *resguardos* in the current income of the nation through budget allocation in order to allow them to develop their own projects in the fields of health, education, infrastructure, production and institutional strengthening. This allocation of budget can be seen as a model of support for indigenous peoples and has reinforced their autonomy.

As the major owners of the tropical rain forest indigenous peoples are crucial actors for the conservation of this region and all research carried out in their territories has to gain their approval; this has consequences for the way research has to be formulated and negotiated with the local communities.

Fruits of the *Mauritia flexuosa*

All research should be considered within the context of the support it provides for processes of cultural recuperation, the reinforcement of traditional indigenous management systems as well as the development of sustainable alternatives that allow the indigenous peoples to generate an income and to perpetuate their contributions to the conservation of the Amazon region.

This chapter aims to present pertinent information on each of these aspects that defines the actual situation of the *resguardos* and the problems and potential of this system of land tenure in relation to the conservation and research of the tropical rainforest, with special reference to the Colombian Amazon region.

Box 3.   Indigenous peoples of Colombia

Etnic group	Estimated population
Achagua (ajagua, axagua)	280
Amoroua (wipiwe)	165
Andoke	518
Arhuaco (Ijka, bíntukua, ika,aruaco)	14301
Awa (cuaiker, cuaiquer, kuaiker)	12936
Bara	96
Barazana (Barazano, Hanera yae y oka)	1891
Barí (barira, motilón, dobocubí, cunausaya)	3536
Betoye (jirarre)	745
Bora	646
Cabiyarí	277
Carapana	412
Carijona	287
Cocama	767
Coconuco	6141
Cofán (kofán)	1457
Coyaima-natagaima (pijao)	21507
Cubeo (paniwa, kubeo, cobewa, hipnwa, kaniwa)	6035
Cuiba (wamone, chiricoa, maiben, masiguare)	2274
Curripaco (incluye baniva, kurripaco)	7066
Chimila (simiza, simza, shimiza)	900
Chiricoa	173
Desano (wira, kotedia, winá)	2136
Dujos	96
Embera (incluye catío, chemí, epera o emperá)	71412
Guambiano (misag, huamimehab, silviano)	20782
Guanaca	723
Guayabero (mitua, guayavero, cunimia)	1061
Hitnu (macaguane, jitnu, magaguán, hutnun)	542
Indígenas de Caldas	24298
Indígenas residentes en Bogotá	1300
Inga (ingano)	17855
Kamsá (kamentxá, kamtsá, camsá, sibundoy-cache)	4022
Kogui (kággaba, cogui, kogi, koggian, koghi)	9765
Koreguaje (korebahu, coreguaje, koreguaxe)	2106

Etnic group	Estimated population
Letuama (lituana, detuama)	650
Macú (makú, nukak, cacua, judpa, yujupde, wacará)	1163
Macuna (sara, ide masa, buhagana, siroa, tsoloa)	922
Makaguaje (macaguaje, makaguaxe)	50
Masiguare	387
Matapí (jupichiya)	203
Miraña (mirnha, miraya)	660
Muisca	1859
Muinane (muinane-bora)	547
Nonuya (nunuya)	199
Ocaina (okaina, orebe, diokaya)	126
Páez (paez, nasa, nasa yuwe)	118845
Pasto (quillacinga)	55379
Piapoco (cuipaco, dzase, piapoko, wenéwika)	4466
Piaroa (dearuwa, wo'tiheh,maco)	797
Piratapuyo (parata-puya, wai kana, uaikama, waikana)	630
Pisamira (papiwa, pisatapuyo, wasona, wasina)	54
Puinave (puninabe, uaipi, guaipunare, wantyinht)	5381
Sáliba	1304
Sikuani (guahibo, guajibo)	20544
Siona, (ganteyabain, ganteya, ceona, zeona, koka kanú)	700
Siriano (sura masa, ciruga, chiranga, si-ra)	715
Siripu (tsiripu)	152
Taiwano (eduria, taiunano)	19
Taninuca (ufaina, tanimuka, tanimboka, ohañara, opaima)	1149
Tariano (tariana)	332
Tatuyo (juna maja, pamoa, tatutapuyo, sina, sura)	294
Ticuna (tikuna, tukuna)	6585
Totoró	3654
Tucano (dasea, tukano, yepa masa)	6837
Tule (cuna, tulemala, bayano, yule, caribe-cuna)	1166
Tuyuca (dojkapuara)	570
Uwa (tunebo, u'wa)	7013
Wanano (Guanano)	1172
Wayuu (gujiro, wayú, uáira, waiu)	144003
Witoto (uitoto, huitoto, murui, muinane, mi-ka, mi-pode)	6245
Wiwua (arzario, guamaca, malayo, sanjá, dumuna)	1850
Wounaan (waunana, noanamá, waunmeu)	7962
Yagua (ñihamwo, mishara)	294
Yanacona (mitimae)	19623
Yauna (kamejeya)	95
Yucuna (jukuna, camejeya, yukuna-matapí)	507
Yuko (yuco, yukpa)	3529
Yuri (carabayo)	200
Yurutí (wai jiara masa, wadyana, wadzana, totsoca, waikana)	610
Zenú	33910
TOTAL	**701860**

Source: DNP/UDT 1997

5.2 INDIGENOUS *RESGUARDOS* IN COLOMBIA: TOWARDS AUTONOMY AND POLITICAL DECENTRALIZATION

The modern state was (and in some cases still is) conceived as a liberal, united mono cultural state, based on the principle of equal rights for equal individuals. This vision did not leave any room for other right systems and authorities, and all traditional and or local systems had to be eliminated and assimilated in the name of modernization. There has been, nevertheless, at the global level a change in vision. It is now recognized that there is a need to promote the participation of all sectors of the society. Many countries accept state reform in order to transfer budget and rights to the society on different levels: communities, municipalities, and districts or departments. Not only to create a more efficient administration, but also in order to create a plural state that recognizes the existence of different social groups on the basis of equity among the groups.

Different factors have influenced this change of vision especifically in Colombia. First, local social movements like the indigenous peoples movement gained importance during the second part of the twentieth century and became a strong political force. Second, the national policies and programmes inspired with a centralized homogenous state had failed in many cases, showing the need to recognize local particularities and local institutions. A good example of this is the failure of land reform policies that were meant to create major security of land tenure for the peasants and the possibility to invest capital to modernize agrarian production. Unfortunately, this resulted for many cases in loss of land, debt relations and disintegration of local communities. Third, the global preoccupation with climatic change and degradation of the environment showed the failure of central policies and contributed to the idea that it is important to involve local communities in the management of resources. Now, even institutions like the World Bank demand participation of local population in projects related to resource management.

In Colombia this process of transformation also took place as part of the search for a solution to long standing internal conflict. A national constitutional assembly was installed that designed a new political constitution that commenced operation in 1991. This new political card was meant to create a more tolerant society able to integrate the different conflicting sectors and factions of the population by opening up new spaces of political participation. Indigenous representatives had a place in this assembly and they received support from many sectors. They could vocalize many of their political aspirations and contribute to discussions with their experiences in search of their own space and tolerance towards their cultures.

As far as the ethnic minorities are concerned the Colombian constitution can be considered among the most progressive of Latin America and of the world. Its very formulation recognizes the multi-ethnic and multi-cultural situation of the country and it consists of a whole corps of basic articles as well as articles related to social, economic and cultural rights. Furthermore, it includes a series of articles with respect to the special regime that strengthens the *resguardos* as a form of land tenure as well as indigenous representation. The constitution has served as a basis for the development of extensive legislation on each of the themes mentioned, besides the necessary governmental adjustments as far as the structural organization of the state

and the public administration is concerned. In the following sections the themes related to collective territorial rights as outstanding aspects of the indigenous policy in Colombia will be discussed.

5.2.1   Collective territorial rights

As stated before, the political constitution reconfirmed the inalienable, imprescriptible and non-seizable character of the *resguardos* (article 63). The recognition of territorial rights has been the basis of the development of all other rights. The constitution defines that the state will protect and promote common and joint forms of property (article 58) which opens up the possibility for recognition of collective territorial rights for others besides indigenous peoples. The black communities that live in the tropical forests, organized as traditional communities, comprise a total population of some two million persons. They obtained the right to claim their territories through Law 70 of 1993. This collective occupation of a territory has been defined as the historical and ancestral settlement of black communities that constitutes their habitat and on which they actually develop their traditional production practices. In order to obtain the collective title, they have to present a management plan. In this way different territories have been legally recognized as territories of black communities, especially in the pacific region where today more than a million hectares has been adjudged. Much of what can be said of the *resguardos* and their contribution to conservation is, to a great extent, also valid for the territories of the black communities. Besides the recognition of property that is conferred in virtue of the importance of the territory for the physical and cultural survival of the indigenous peoples, the *resguardos* constitute a manner of organization, representation, political practice and of strengthening of autonomy as it is expressed especially in the articles 171, 287 (4) and 330.

5.3   *RESGUARDOS* TOWARDS ADMINISTRATIVE DECENTRALIZATION

As has been pointed out earlier, the Political Constitution contains a whole range of principles and articles that are oriented towards the reinforcement of cultural diversity and autonomy and which are in the process of further development through the laws that regulate these rights in detail. In this way Law 388 of 1997 of the new territorial ordering of the state was promulgated. This law is orientated towards strengthening the indigenous *resguardos* through the (to be) created indigenous territorial entities as part of the new vision of political and administrative decentralization.

Within this system the *resguardos* participate in the income of the state through the so-called "*transferencias*": budget allocations from the central state to the territorial entities. Therefore the indigenous territorial entities (ETI) were included in the overall territorial structure of departments and municipalities (articles 286, 329, 330). As this legal figure of ETI does not exist yet, the Political Constitution has appointed, in the meanwhile, the *resguardos* as municipalities to make it possible for the indigenous people to receive part of the current income of the nation. Until the ETIs are created, the *resguardos* receive their budgets through their local municipalities.

This policy of territorial budget allocation contains a variety of administrative, juridical, economic, socio-cultural and organizational aspects, which are important to consider as they constitute a complete vision of the interaction between whites and Indians with its positive and negative implications.

The Nation has determined by law the total amount of territorial transfers. Each *resguardo* receives part of this amount according to its population in relation to the total indigenous population of the country based on reports of Institute of Land Reform (INCORA). During the period between 1994 and 2001 the indigenous *resguardos* received, through this mechanism, a total amount of some 23 million US dollars.

Based on Article 357 of the Political Constitution that provides for the possibility to receive economic resources from the current income of the nation special legislation has been developed and Law 60 of 1993 was adopted. This law has been derogated by Law 715 of 2001. Both laws ordered the distribution, follow up and evaluation of the resources allocated to the municipalities and *resguardos* for the National Department of Planning. The funds for the moment are administrated by the municipality where the *resguardo* is located. For its execution it is necessary to sign an agreement between the municipality and the indigenous authorities of the *resguardo* before the end of each year. The areas of investment can change each year and in general this money is spent for inmediate expenditure and is designated for the acquisition of materials and the payment of labour or personal contracts that are delegated to the indigenous organizations. The indigenous authorities, generally the so called *gobernadores* or *cabildos* (or their delegates), are in charge of receiving the budget for which they have to travel to the administrative centre of the municipality, or in some cases to the specific department. The indigenous residents of the *resguardos* define the programmes and projects for which they want to use the allocated budget. The law limits the designation of this budget to projects related to education, health, drinking water, housing and agricultural development. The *resguardos* should receive technical assistance and training from the National Planning Department in order to improve the capacity of planning and execution of the resources.

This policy of budget allocation has given major dynamism to the role of the representative authorities, their organizational forms and the participation of the communities in the indigenous *resguardos*. Although the *cabildo* had its own functions, with the management of these financial resources his role has been revitalized. This administrative action was undertaken to contribute to the autonomy of the indigenous people, to consolidate at the same time the policy of recognition of indigenous rights as well as for the administrative decentralization of the state, as part of a new territorial ordering of the country. The people of the *resguardos* were confronted with this new challenge to administer and manage in a direct way economic resources, and while some peoples had a long tradition in managing resources, for many it was a completely new experience. The management of these resources in general was and still sometimes is used as an element of political patron/client relationships for not always transparent management with cases of open or hidden corruption. This could happen because the administrative chain

presented some gaps from the formulation of the projects themselves, in the way of contracting, to the implementation and evaluation of the projects. These aspects still require an evaluation because in many cases, especially during the first years of operation, these resources did not fulfil their aims and disappeared to different bodies; at the level of the department, the municipalities and even in the hands of the indigenous peoples themselves, as some of their leaders never accounted for the resources received.

With almost a decade of experiences, the allocation of budgets seems a successful mechanism of direct support of the nation to the *resguardos* which can contribute to the consolidation of a new territorial and administrative ordering of the country. However, it will be necessary to reconsider and adjust the actual process of intermediation, contracting and execution and to improve the mechanisms of control in order to watch over the actual administrative consolidation of the *resguardos* and indigenous territorial entities.

Meeting with indigenous groups on natural resources mangement

The discussions at the core of the communities about the potential use of resources are of cultural importance. In many cases, not yet fully analyzed nor described in detail, the allocation of the resources was defined in terms of cultural reinforcement; through the support of programmes of own education and own health together with the recovery of ways of transmitting traditional medicine and some income generating projects meant to reinforce the community. A very significant case has been the use of these resources for the acquisition of land in order to recover traditional territory. Another interesting case occurred in the Vaupes region where some communities decided to spend their funds in the acquisition of basic goods to

which they had no access such as salt, batteries, cloths, medicine and tools. There is a tendency to apply these resources in the search for an alternative way of interacting with the global society from the perspective of cultural reinforcement.

5.4 PROBLEMS AND CHALLENGES OF THE POLICY OF *RESGUARDOS*

In a very short time indigenous peoples have obtained many advances in the recognition of their rights and they now have an excellent opportunity to work towards an autonomous development with respect for their values and based on their cultures. Although most of their fundamental rights are recognized there remain some ambiguous situations in which the scope of these rights is not quite clear for everybody. In this section two examples are presented. First, the issue of overlap between *resguardos* and national natural parks; and second, the issue of the property of the subsoil and its resources will be discussed.

Besides these legal issues the indigenous territories have to deal with many threats. For a long time, these territories were considered empty and could be adjudged to landless peasants who had moved to these areas. Although the government has recognized the territories, this does not mean that all the individual colonists do. The agricultural frontier is still expanding and affecting the territories. Illegal crops like coca are an important motor of this expansion. The impact is not limited to the felling of the forest, because the chemicals used for the production of cocaine contaminate the environment. Fumigation to exterminate the plantations is contaminating the soil, water and many other crops. The impact on the health of the forest and of humans still needs to be studied. For the moment fumigation causes the opening of new areas and it is accelerating deforestation. The coca economy has destabilized many indigenous communities, causing the abandonment of food crops and other traditional activities, and increasing alcohol and drug abuse, violence and other health problems.

Although the indigenous people have divulged on many occasions that they do not want to become involved with the internal conflicts of Colombia, different guerrilla and paramilitary movements continue to operate in indigenous territories. In most cases they do not respect the autonomy of the indigenous people, and take young people with them. These problems can only be solved if the indigenous people themselves are determined to change this situation but this also requires the solidarity of other sectors.

5.4.1 Land tenure: the overlap between *resguardos* and National Natural Parks

Legally it is possible to declare a National Natural Park on indigenous territory and in fact this has occurred in many cases, which is not surprising because indigenous territories are often the best-conserved areas. At least 19 of the 50 parks overlap, either wholly or to a great extent with the *resguardos* and other indigenous territories. This situation will occur more often as some *resguardos*, within or

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bordering with the parks, need to be enlarged because the current area is not big enough to support a growing population.

Although it has been stated that the establishment of a park is not incompatible with the prior or later establishment of an indigenous reserve (Decree 622 of 1977), it is not always clear how to interpret the laws and competing regimes. In the first place, an indigenous reserve is a category of lesser implications than a *resguardo*. Furthermore, reserves have lost their relevance as most of them have been transformed into *resguardos*. This decree also states that in order to create a National Park it is necessary to carry out a study that has to be approved by the Colombian Academy of Science. In case the park is to be created on indigenous territory the study has to be carried out together with the land reform institute INCORA [Instituto Colombiano de la Reforma Agraria] and the Colombian Institute of Anthropology (ICAN) in order to establish a special regime that benefits the indigenous population and that will respect their permanence and rights of using the renewable natural resources therein. The history of the creation of many parks as well as the establishment of their administration, nevertheless shows the absence of clarity of the status of these territories with two competing regimes acting at the same time. In some cases the indigenous population has been forced to leave, in other cases restrictions on the use of resources were imposed.

Indigenous peoples and their organizations have opposed the creation of parks in their territories, in the first place because they were never approached or heard and were informed only once the parks had already been created. Second, as it is not always clear how to deal with this situation, the creation of parks has led, in practice, to the imposition of all kinds of restrictions on the indigenous communities by the personnel of the parks. On the other hand, many environmentalists have been sceptical with regard to the capacity and willingness of indigenous peoples to conserve their territories and have opposed the recognition of indigenous rights in those areas declared as National Parks.

When comparing the two regimes (the regime of the *resguardo indígena* and the regime of the National Natural Parks) there are some similarities, but also many differences. Both figures are defined as inviolable, imprescriptible and inalienable, and although it is not quite clear what the implications are in the case of the parks, it does mean that in both cases it is a space that has been put outside commerce and it is land not susceptible to negotiation. But there are also many differences between the two regimes that have to be considered, for example the fact that the National Parks allow the use of resources only for conservation, research and recreation without the permission to live there, while the *resguardos* actually regulate the right to use the resources. It seems clear that although there is a formal compatibility between these two legal figures, there is a need to create clarity as it is not possible for two authorities to act upon the same territory without establishing a hierarchy and a system of co-operation and co-ordination. A National Natural Park aims to conserve, for an indefinite period a certain physical space and its resources for the future of the country and its society, and therefore it fulfils a public need. However, it is not related to the fulfilment of fundamental rights of a people or community as a social group and of its members as individuals. Therefore the *resguardo* seems to have primacy over the National Natural Park. The National Natural Park also

requires the creation of a new category of protected areas with special requirements for the management of these parks that are located on indigenous territory. A *resguardo* and its resources are used by their owners, and they are the basis for their development. The recognition of indigenous rights implies the recognition of rights to use land and this is not compatible with a category of a protected area not allowing any use.

Most of the parks were created without considering a special regime that could benefit the indigenous population of those territories and during a long time many conflicts were the result of this situation. In recent years the Ministry of Environment has changed its policy and tried to involve the local population, especially the indigenous people, in the management of the National Natural Parks. So far one agreement has been signed between the Ministry of Environment and the authorities of a *resguardo* in order to establish co-operation for the administration of one area.[21] The development of these kind of agreements will give clarity to the situation of these territories with a double status, explore the possibility of a new category of protected indigenous territories, and will extend the role of indigenous peoples and their traditional authorities as environmental authorities. Recently a new kind of proposal has been developed that combines the conservation efforts of some *resguardos* in collaboration with other governmental and non-governmental institutions that undoubtedly will contribute to the development of a new category of protected area.[22]

5.4.2 Mining and the ownership of the subsoil

The growth of the exploration and exploitation of products like oil, carbon and gold during the last decades have had a considerable impact on the indigenous communities as many of these resources are found within their territories. According to a study carried out on this subject some 22 different indigenous peoples are affected by mining activities in their territories. [23]

The oldest Spanish laws attributed ownership of the mines to the owners of the land where the mines were situated. This was changed later in colonial times and reaffirmed with independence. The Political Constitution again reconfirms this policy as it establishes that the resources of the subsoil, and of non-renewable resources in general, are owned by the state. Nevertheless, the mining code reserves some rights for the indigenous communities to control the exploitation of minerals in their territories such as the claiming of preferential use or exploitation rights.

Another important legal instrument was obtained through the Decree 1397 of 1996 that creates the National Commission of Indigenous Territories. It stipulates that no

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[21] The inter-administrative agreement for the coordination of the public function of the conservation and management of the National Natural Park of Cahuinari, between the Ministry for the Environment and the Mirana public authority.

[22] Mataven, selva corazón de la selva. 2000. M. Lobo-Guerrero et al. Bogotá. Panamerican Formas e Impresos. Pp.42.

[23] R.Roldán, E.Sánchez and S. Castaño. Explotación de petroleo, gas natural y carbón en los territorios indígenas de Colombia. In: *Minería en territorios indígenas de Colombia, Perú y Venezuela*. 1999. Disloque editores Bogotá.

activities of exploration and exploitation will take place on any indigenous territory without the previous consent of the indigenous authorities, the communities and their organizations. The Political Constitution also indicates that the exploitation of natural resources in indigenous territories must be carried out without affecting the cultural, social and economic integrity of the communities.

The International Labour Organization Convention defines, moreover, that in those cases where the resources of the subsoil are owned by the state, the government should establish and maintain procedures in order to consult the indigenous peoples involved, in order to determine if their interests are affected. The people involved should always participate in the benefits and receive an indemnification for any damage that they may suffer from these activities.

The experiences of indigenous peoples with oil exploitation have been dramatic. One of the most ancient concessions, known as the Mares Concession located in the Magdalena River valley near Barrancabermeja, was exploited by the International Petroleum company of Toronto. Reports of the first explorations mention the presence of 'hostile undernourished and ill natives', qualified also as 'unfriendly head-hunters'. These people lost their lands and in a few decades disappeared probably as a result of the loss of access to their resources, the introduction of diseases and perhaps persecution. Another famous concession is the Barco concession on Motilon Bari territory. These people, over a long period, resisted the colonization of their territory, and hostilities occurred between settlers and indigenous people.

Mining activities brought with them the construction of roads and the opening up of indigenous territories, immigration of non-indigenous population to and near indigenous territories, the destruction of sacred sites and the contamination and destruction of the natural environment, which in turn have brought health problems and social disintegration, and in some cases even the physical elimination of ethnic groups. It is not surprising, then, that there are many examples of confrontation between companies and 'general economic interests' on one side and the indigenous people on the other (see box 4).

The case of the Uwa shows that it was not enough to accept consultation as a mechanism to assure the participation of an indigenous people, but that it is necessary to define what the scope of a consultation is. It is important to specify the internal mechanisms of representation of the indigenous people and their mechanisms of decision making because these are important elements for the regulation of the consultation as required for all exploitation of resources in their territory (see Article 330 of the Political Constitution).

Box 4.   The Uwa

The struggle of the Uwa people in defence of their territory received a lot of international attention and solidarity. The Uwa are some 5000 persons living on the slopes of the oriental cordillera of the Andes. Their territory covered at the time of the Spanish conquest, some 1,400,000 hectares. Nowadays they live in small fragments of this traditional territory, some recognized as *resguardo,* but many of their sacred areas are not included and the development of their annual ritual cycle is obstructed. They are still located at different altitudes with different ecosystems that go from the Andean cloud forests to the tropical lowlands at the foot of the Andes. It is in these lowlands that oil has been found. The Uwa are claiming a continuous and unified territory but the government has not been very eager to recognize this territory because many colonists are living in the area, and also because of the economic importance of the resources found in the subsoil. The Uwa consider the earth sacred, it's a living being, a mother, and the oil is her blood. The oil reservoirs are considered the mother of all sacred lakes that should be left untouched as they secure the well-being of all the living creatures. The Uwa have been opposing the exploration of oil in their territories as they consider that this will only bring destruction of flora and fauna, the introduction of illness and the collapse of their culture.

In 1993 Occidental of Colombia, an oil company affiliated to Occidental Petroleum Corporation, signed a contract for exploration in the northeastern part of Colombia. An area which 25 percent coincided with the Uwa territory. The company applied for an environmental license in order to explore in the Uwa territory. A meeting was held with some members of the community and the government accepted this as the consultation with the indigenous people, which is obligatory by law, and eventually granted the environmental license. The Uwa did not consider this meeting as a consultation because their spiritual leaders and representatives had not been present. The Uwa objected to this decision and a long process of debates with court sentences took place. The Uwa declared they did not agree with the exploration in their territory based on their conviction that as a people they belong to their territory, and a harmonious relationship with the territory must be the basis for a dignified life. In this context they even mentioned their decision to commit a collective suicide in the case of their territory being violated. During this process their *resguardo* was extended considerably and the exploration license was given for an area outside their territory. It's paradoxical that at the end no important oil reservoirs were found and the company reduced their activities in the area.

(Based on information presented in Roldán, Sánchez and Castaño 1999 in Minería en territories indígenas de Colombia, Perú y Venezuela).

The resources of the subsoil are of great importance for the Colombian economy and because many of these resources are located in indigenous territory it is clear that the pressure on these territories will continue. The experiences have not been very positive and the indigenous peoples will have to negotiate favourable conditions. This requires technical information, negotiation skills and above all a good organizational basis that controls and supports their leaders in charge of these negotiations.

5.5   THE RECOGNITION OF THE ROLE OF INDIGENOUS PEOPLE IN NATURE CONSERVATION

The recognition of indigenous *resguardos* implies the recognition of their contribution to nature conservation, given that within their traditional models of

management, indigenous peoples have established a relationship with the humid tropical forest, through which the continuation of vegetation and the good state of biodiversity is maintained. In this section a description of this model is made in general terms.

5.5.1 Cultural and ecological principles of forest management: from a traditional vision to the present day situation

In general terms, indigenous peoples have developed a holistic vision of the environment; they see themselves as an intrinsic part of their territory, which is perceived in many cases as a sacred living organism that deserves respect. Most Amazonian people have developed models of forest management that have allowed its persistence without radically transforming the vegetation cover. The relationship with nature is mediated by a series of symbolic concepts that order the practice of resource use.

Ecological and cultural principles guide their practice following a basic scheme of non-accumulation of energy, as has been defined for the Yukuna Indians of the Mirití river. In the first place the world was created by the gods, which gave it a sacred connotation and therefore deserves respect. In the second place, they consider that the world functions with a limited amount of energy that has to flow between all beings. This implies that not a single being or place should accumulate energy. A fundamental aspect of the notions of nature is that everything in this world has an 'owner', and in order to use it, it is necessary to ask for permission or to negotiate its use offering coca and tobacco. The spiritual owner controls use and punishes abuse by sending illness or causing an accident. A certain group of spiritual owners participated in the mythical origin of the ethnic group, and therefore each group is related in its own specific way to certain owners and certain resources. This relationship leads to a series of food restrictions and to the definition of what is considered proper food for each ethnic group. The result is a differentiated use of the resources in the area. On the other hand, it is possible to think of the forest as a "humanized" space and of all beings as human beings. All beings (humans, plants and animals) have a very close origin and in the mythology they speak of a period in which all these beings could not be differentiated and shared the same language. This common history makes it possible to think of all beings as people, and to apply notions of social organization to refer to them. In this way it is possible to speak of plant-people and of animal-people, men and women who also have chiefs, shamans and live in roundhouses, just like indigenous peoples. Finally, they believe that flora and fauna had a similar origin as ethnic groups, and that a set of spiritual owners also participated in their origin. The places of origin of all beings and ethnic groups are considered sacred places that deserve respect.

Each ethnic group has its specific ritual task and set of rituals: moments in which the world's energy is brought into balance and excessively accumulated energy returned to its owners. These are also moments in which social relations, that are alliances with other ethnic groups, are reinforced as these groups are invited to participate. Each group has, thus, precedence over the use of a certain territory which is recognized as its mythical birth place, but also has detailed knowledge of the species that can be found there, and the relations between different species. Their knowledge

is not limited to this place, but encloses a much greater space that has nevertheless clear boundaries, which they call 'edges of the world' shared by different groups (humans and non-humans). This macro-territory is mentally visited by the shaman in order to establish the origin of an illness or accident and to re-establish energy flows. In this territory sacred and other respected places are recognized such as lakes, rapids, salt-lick places and headwaters, associated in most cases with mythical birthplaces of animals and plants or the dwelling of a spiritual owner. Many of these places can be used but it is necessary to negotiate special permission with its owner and to follow certain rules, like the prohibition to cut trees in the forest, to enter or stay in certain places for certain periods of the year, or to consume certain species. These norms contribute to the protection of, for example, feeding places important for certain animals and/or special moments of the reproduction cycle. The shaman is in charge of the establishment of a good relationship with the spiritual world, and of negotiation with the owners. He keeps account of the use of the environment and may give indications of the restrictions and rules that ought to be followed.

Variety of catfish species at Araracuara river

Each ethnic group has its own internal social organization based on kinship. Some are divided into clans and others are composed of lineages. The majority of groups are patrilineal and exogamic and birth order is important for internal hierarchy. Each group has its own 'brothers in law' or groups in which to marry and groups with which it is strictly forbidden to establish this kind of relationship. Each ethnic group is organized around one or more roundhouses or community houses. Various families can live together in one roundhouse under leadership of the owner or

captain. Division of labour is mostly based on gender. Women are in charge of the gardens, the children and the preparation of food, as well as ceramics; men of fishing and hunting, housing and basketry. Some specialist tasks are ascribed, defined by birth order. In this way the eldest son will be chief of the '*maloca*', the second one will be prepared to heir ritual knowledge and the following sons will learn to be offensive and defensive shaman. Furthermore, there are members with some minor ritual tasks like the coca, tobacco or beer specialists: these persons will be in charge of the preparation and distribution of these items during rituals.

Maloca

There is a ritual cycle according to the ecological calendar: the rituals are organised according to the supply of fruits in the forest and in the gardens. In the socio-political sphere the rituals are carried out in order to invite brothers in law and to establish or reinforce relationships with them and for the internal cohesion of the '*maloca*'. All these relations are based on reciprocity. In the sphere of shamanism, the rituals are carried out to re-establish the energy balance and to reinforce reciprocal relations with the spiritual world. A shaman uses a complex set of indicators to judge the state of the environment. These indicators are related to the annual cycle and the rhythms of nature, the fructification and blooming of trees, the behaviour of insects, frogs, birds and off course the rainfall and water level of the rivers. Each shaman uses the indicators he has learned from his father and which are specific for each territory. There are other indicators used both by the members of a community and by the shaman in order to measure the well being of the community and its relationship with the environment.

This set of principles is working as part of a traditional framework, but the situation of cultural change imposes new challenges towards sustainable forest use in present

day conditions. The demographic decrease, the change in settlement patterns as well as the integration into the market economy and the attraction of the cities has brought many changes. In many cases there has been a loss of control over the use of resources and younger generations do not comply with the traditional rules. The mechanisms of transfer of knowledge between generations has been disrupted, and part of this traditional knowledge is at risk to disappear. In many cases part of the rituals, so important for the maintenance of the energetic balance of the ecosystem, are not carried out any more. In these conditions it is not surprising that many leaders and elders of the indigenous communities want to promote a process of cultural strengthening and recovery.

5.5.2   Mechanisms of forest management for the present conditions

Given the strong changes in population and settlement patterns of many indigenous people, and also because of greater integration with the market economy, relations with nature and ways of land use have transformed and pressure on some resources has increased. Faced by new challenges in their relationship with nature, indigenous communities, within the framework of Colombian legislation, have been formulating plans for territorial management (or 'territorial ordering' – *ordenamiento territorial*), including plans for managing natural resources.

The Life Plans and Plans for Territorial Ordering that the indigenous peoples have been developing, involve a series of activities some of which are purely cultural-traditional in character, while others are more formal, in the sense of being administrative, legal or procedural. The indigenous *resguardos* have their own forms of organization and representation, which in most cases is through the *cabildos* (traditional indigenous authorities). However, at the regional level they have established mechanisms of representation based on regional indigenous committees, organized in a way that is more characteristic of the western world; with a president and steering committee, secretary, treasurer, spokesperson, legal representative, and so on. This scheme has demonstrated serious operational limitations, and is being replaced by other, more traditional forms. The 'councils of elders' continue to be important figures, although in many cases they are more symbolic than anything else, and in some cases they function as a support and control group.

The very fact that plans for territorial ordering have been developed, which under Colombian law have been carried out by all territorial bodies including indigenous *resguardos* (given that this figure could in the future become an Indigenous Territorial Entity), has led to a new type of organization-representation. For example, 'planning councils' have come into existence, which have the power to accept a plan for territorial ordering and, to a certain extent, ensure that it is fulfilled. Additionally, among the regional indigenous organizations, these advisory figures for territorial ordering are also being created, in which elders and 'wise men' have their place.

The plans for territorial ordering include aspects relating to the bio-physical base, and the definition of management norms and guidelines that lead to a sustainable use of resources. With regards to the physical-geographical aspects of indigenous territories, there has been a whole series of projects for the recuperation of

knowledge associated with territory. These include the reconstruction of traditional maps, replete with symbolic and shamanistic elements, where every place, river, stream, lake, hill, savannah, and each type of forest has its place within the mythology of origin. According to this mythology, each area of the landscape has its own rules and norms for use, and widespread mention is made of sacred sites or sites of power, which are important for the balanced management of the resources, in accordance with the ecological and cultural principles already mentioned.

The dynamic of developing the plan of territorial ordering, which is generally dealt with by a regional indigenous organization, implies the designation of a secretary for territorial ordering, who should work jointly with other secretaries, such as the secretaries for education, health, and natural resources. Also, given the advances in reflection about territory, there should be permanent support and direction from the Committee of Elders and the Council for Territorial Ordering. Unfortunately, it is evident that there are substantial limitations with regard to financial and technical-academic support, for taking the tasks and activities related to territorial ordering to a greater level of depth and impact.

5.5.3 Participatory research as a contribution to forest management

The diagnosis of the current use of natural resources presents a series of limitations for indigenous people, given that at present it is difficult to measure and even more difficult to control use. This is due to the loss of authority of the shamans and *caciques* (traditional indigenous leaders) and the loss of social and cultural cohesion in general. Furthermore, the study itself of the use of resources requires the development of methodologies that enable follow-up and monitoring at a regional level and over long periods of time, which presents a challenge just as much for indigenous peoples as for western science.

Through a series of work experiences with indigenous communities, supportive to the development of plans for territorial management by communities in the Middle Caquetá region, Tropenbos Colombia has been using a strategy of participatory research (within the framework of research on indigenous environmental management) to develop a methodological approach for the issue of natural resource use, using different ways of participation in research. In the first place research was carried out in which the indigenous people participated principally as informants in a dialogue on their resource use and management, but were not responsible for the elaboration of the information. Then a participatory research method was developed based on the generation of daily registers of consumption, at the level of family units. The registers are organized, discussed and carried out according to the needs of the communities and their own objectives for cultural recuperation, support for educational projects, the formulation of management plans, and proposals for income-generating projects, deriving from local initiatives or their own perspectives. The process of analysis is given in terms of structure: a permanent observatory to analyse the status of natural resources in indigenous territories. This kind of research is complemented by research carried out by the indigenous communities themselves, according to their own interests, especially related to the recuperation of traditional knowledge and norms of environmental management. This 'own research' is the basis of ethno-educational programmes and has become the basis also for projects of

sustainable income generation developed by the local communities with the support of Tropenbos Colombia.

5.5.4   Permanent observatory of the status of natural resources

The daily register of consumption, at the level of family units, constitutes the quantitative basis for determining the magnitude of natural resource use. The greater the number of family units involved, the easier it is to make projections and extrapolate information through which it is then possible to have a regional image of the current and future situation. Basic information is obtained through simple formats, using specific columns for data concerning social, economic and biological information related to the resource. In general, the formats include a register of information on fishing and hunting activities like, for example, the names of the fishermen, size and weight of captured fish, techniques and sales numbers. With regard to information about agricultural activities there is an even simpler format, in which a smaller quantity of data is required, although, depending on the interests of each family unit, it can be increased to include detailed information on agricultural parameters. The registers are carried out by each family unit, under the co-ordination of the *cacique* of the community, the person responsible for ensuring the balanced use of nature. Once the formats are complete, they are entered into a database and an information system, from which the necessary reports are produced for spatial analysis, as well as socio-economic, socio-cultural or purely cultural analysis.

The making of daily registers is an activity that demands great precision, which leads to a constant improvement in the quality of data that is obtained and introduced into the database. In this sense, the formats constitute an important reference for re-thinking the relationship with nature; for example, with regard to traditional and educational references, the column for names of the species and the areas of extraction of the resources can be highlighted. The use of the correct name is of great importance for indigenous people and for this reason, the correct name of animals and plants is an imperative. With the passing of time, the young people have lost their language and now do not know animals by their true names. Since the making of registers started, the writing of the names in the local language has become a challenge and in many cases the names have been forgotten. The recuperation of the names in the local language is therefore a constant task, and has widespread repercussions at the cultural and educational level. Thanks to the making of registers the young people and children now dominate a wider lexicon with regards to fish and wild animals.

The areas of extraction, places for fishing or hunting have special meaning related to traditional topography and the knowledge linked to the territory and its management. Hence the recuperation and analysis of these aspects has been fundamental for the reconstruction of traditional knowledge and reflections about the territory and its care. In this way, each item that is taken into account in the registers provides references associated as much with traditional knowledge as with cultural recuperation, and forms a support to educational projects.

The analysis of registers through community workshops feeds the need for information for the formulation of management plans. As such, these meetings

constitute a permanent observatory, in which the status of each resource, the threats and potentials, are discussed. From these meetings and workshops, aside from a communal analysis of information, a basis is established for the establishment of advisory groups and management committees for natural resources, in accordance with the organizational norms of each community. Once a mechanism for representation is consolidated, with regard to natural resource use, it enables the formulation of management plans.

Activities like hunting, fishing, agriculture and harvesting forest products take place in specific areas and cause certain environmental impacts. Core settlement areas have produced a change in land use and a profound transformation in the traditional patterns of use. The opening up of *chagras* (small forest agricultural plots) in permanent settlement areas has led to over-pressure on the few available places, not leaving enough time for the regrowth and therefore impoverishing the forest diversity and soils. This situation is the cause of conflicts about access to suitable land, which makes it absolutely necessary to reach agreement on management plans for land use. At the same time pressure on certain animal species have increased in these settlement areas and require the adoption of management measures.

Within the strategies of participatory research, some studies have been carried out on the location of areas for agriculture, re-growth and forests, and their transformation over time, using both social mapping as well as methodologies derived from landscape ecology, satellite images, radar and aerial photography. The detailed study of land use and a good cartographic base, constitute the reference point for defining these transformations, and at the same time provide support for ongoing monitoring of land use and its implications for forest conservation.

5.5.5 Recuperation of traditional knowledge for the consolidation of indigenous territories

The making of maps is an essential step in the development of plans for territorial ordering. The simple reconstruction of traditional maps involves a large number of actors, including elders and 'wise men' from different communities. Some of the elders and those with shamanistic knowledge can make a mental journey through the territory, naming the entire topography of the area of a particular ethnic group. However, the overall process of socialization and physical recognition of the territory by members of an ethnic group remains slow and costly, but one that gives extraordinary results in terms of cultural recuperation. There have been some successful experiences in the construction of traditional maps in the Middle and Lower Caquetá rivers, and the Mirití and Apaporis rivers.

Furthermore, cartography that is generated through academic studies of information systems and geography, of landscape ecology and land use (such as those developed within projects) has been a fundamental reference point for knowledge about the types of forest; and for quantifying the magnitude and dynamics of transformation in land use over the last 15 years. Likewise, scientific studies of indigenous systems of agricultural production, both from a social sciences perspective and from ecology, agronomy and forest science, have been fundamental for understanding the transformations of the last years, and for proposing alternatives for the recuperation

and alternative productive projects from an indigenous perspective. In the same way, basic scientific studies of the structure, composition and dynamics of the different Amazon ecosystems, have been extremely useful for generating local processes in co-research and self-research about the forest and its processes. Indigenous communities have participated directly and/or indirectly in the development of these studies.

5.5.6 Sustainable income generation as a part of a knowledge dialogue

Most of the proposals of income generation projects among indigenous communities of the Amazon region have been based on the idea that these territories are very rich in resources awaiting exploitation. Often these proposals do not take into account local notions of nature and the relationship established with nature by the indigenous people, and they follow non-participatory mechanisms for their formulation and implementation.

Somehow this vision has been perpetuated as a result of the extractive history of this region that started with the exploitation of quinine and rubber at the end of the 19th century, process that continued until the 1960s. The latex cycles presented a whole series of economic relations and forms of articulation of the indigenous economy that go from a semi-slavery phase, to the implementation of patron-client relations and wage labour relations and the establishment of typical commercial relations.

The exploitation of rubber was predominant in this region and set a precedent for the exploitation of natural resources through the establishment of patron-client relationships that where applied also to other products like precious furs, meat, gold and lately catfish which has been the base of the regional economy during the last decades and still reflect the economic relations established during the rubber boom.

The economic history of the Amazon region shows a series of processes based on an extractive economy that has generated among indigenous peoples a vision of the white man's world as a world of money, commerce, and deceit. This perception has been difficult to change and has required a long process in order to construct a relationship based on respect and trust. With regard to the use of natural resources, the methodologies developed during the last ten years within the framework of Tropenbos Colombia, show considerable progress and practical application, as already mentioned in the section on establishing a permanent observatory for monitoring the status of natural resources. Likewise, the formulation of their own proposals for productive projects has increased greatly in the Middle Caquetá river, as a result of academic accompaniment, frequent workshops for discussion, and the direct participation of communities in the process of formulating and implementing proposals, based on traditional knowledge and their wide autonomy with regards to materials and external inputs.

Before a project can be considered for support a long process of discussion has to have taken place. The projects are analyzed together with the community. During these discussions the results of previous experiences are crucial. A whole series of social, cultural, economic and ecological criteria are analyzed, which in most cases refers to the formulation of principles, criteria and indicators of sustainability (see

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box 5). These criteria are based on ecological and cultural principles and will vary from one case to another. The definition of these criteria is therefore of importance in each case.

Box 5.   Indigenous criteria and indicators of sustainability

These principles are guidelines to 'live well', an indigenous concept that comes close to sustainability. Although their worldview is a holistic one, it has been possible to deduce three main criteria and some indicators that most people mention when judging if they are 'living well'. Taking into account that a shaman has a much more fine-tuned system of indicators to judge the state of the surroundings and the beings that are part of it, the criteria will be presented below.

Criteria: Sufficient food (and other resources) is available
Indicators:
- Hunters bring in sufficient (not too much) animal protein
- Production of gardens is sufficient to organize community rituals
- Important resources (for example, 'pui' palm used for the roof) can be found nearby the settlement
- Shaman negotiates with spiritual owners
- Sacred places are protected

Criteria: Social cohesion is assured
Indicators:
- Conflicts between members of the settlement are minimal or settled
- Conflicts with other settlements are minimal or settled
- All members carry out in time their specific tasks in ritual and production
- Indications of shaman and roundhouse-owner are followed by the members of the community
- Community rituals are carried out

Criteria: Community members are in good health
Indicators:
- Low number of people with fever
- Infant mortality is low
- Low rate of accidents in the forest
- Low number of snake bites
- Community rituals are carried out
- Shaman negotiates with spiritual owner

The process of accompaniment has left many lessons to be learned by the communities (see box 6) and provide a challenge for academies to explore and establish mechanisms for a mayor university presence in the region in order to contribute to the regional and local problems, that is to say for the implementation of life plans and plans of territorial ordering of the communities, *resguardos* and territorial entities.

In this sense the challenge is to develop research programmes more consistent with local needs and demands that can contribute to the solution of problems, in an

indigenous context were a knowledge dialogue should be the basis for the development of income generating alternatives in the frame of cultural, social and environmental sustainability.

Box 6.   Towards a balanced relationship with white men and research*

"The research carried out by Tropenbos during more than a decade created many expectations among the people and were important as a reference for the proposals developed by the people themselves. Many of these proposals were directed towards a generation of pedagogical materials as a way to strengthen the ethno-educational programme. At the same time there was a need to develop sustainable alternatives for the generation of income.

The community of Peña Roja, as the receptor of this whole process, the experience and knowledge acquired during this process and accompaniment of the students has left some clear conclusions on how to manage the indigenous culture in a context of a permanent influence of western culture.

The 'thought' from an indigenous point of view, is where all things that exist came into existence. When all things were only 'thought' they where invisible, it was not possible to hear them. From 'thought' they become 'words', the time it takes from thought to word is impossible to measure. When the 'word' comes into existence it was possible to hear it but not to see it. The 'word' was transformed into labour and then we say 'the word awakened'. This awakening is the result of thought, and the fruit of work, it is the transformation of the word into something visible. Thought and words can be transformed in two ways, depending if it is negative or positive. If the thought is positive, the result will be positive; if the thought is negative the result will be according to it.

Speaking of the profound sense and result of this process the following aspects should be stressed:

- Strenghtening of the intercultural relationship between indigenous thought and western science
- Understanding and respect for one's own culture and those of others
- Research carried out by students and members of the community stimulated the interest of the people in recuperating their own knowledge and has strengthened their sense of pertinence to their territory. The intercultural relationship opens up new spaces and offers new instruments to the community for the construction of a development process based on their own experiences.
- The direct participation in the design of the proposals has been important as the community members have changed their concept of research, formerly understood as of exploitation of the indigenous people, nowadays accepted as a way of learning from the others."

* Taken from an unpublished document on the relationship between Tropenbos and the Nonuya ethnic group at Araracuara, written by Hernán Moreno, traditional leader and maloca-owner of the community of Peña Roja.

5.6 ENVIRONMENTAL TRANSFERS

Transferencias (state funding) direct from the central government has been destined to support sectors such as education, health, infrastructure improvement and housing, productive projects for agriculture and fisheries, and institutional strengthening. The environmental sector remains, in one way or another, excluded; or at least there is no explicit inclusion of it within the sectors where these resources from the national budget are used. Given the importance of the plans for territorial ordering, and within these plans the focus on developing natural resource management plans, there is a need for technical and financial support mechanisms, to ensure the functioning of indigenous models of managing the humid tropical forest and the perpetuation of their support for nature conservation.

The magnitude of environmental transfers can be indicated by the experiences of developing management plans. These include a series of budgets to cover the costs of specialized personnel, meetings, workshops and congresses, as well as the production of educational materials such as maps, reports, posters, leaflets, courses, and a series of traditional activities such as meetings of elders and rituals. In addition, environmental transfers could cover the operational phase of the plans, or in other words their implementation; especially with regard to the costs of personnel and setting-up alternative income-generating projects through proposals for sustainable use. One of the main aspects to cover is the training of local people. Also, the development of a long-term strategy for technical and academic support, based on successful experiences that link the universities, research institutes and non-governmental organizations (NGOs) to the process of accompanying indigenous communities in the management of their territory and resources.

5.6.1 Compensations and subsidies for indigenous management

Within funding mechanisms for the environmental sector, it is necessary to develop alternatives in compensation, support and subsidies for environmental services derived from the indigenous model of forest management, such as water regulation and provision, climate regulation, and carbon sinks. The definition of such funding mechanisms also implies consideration of a series of cultural, social, political and organizational aspects, to avoid generating undesired impacts within indigenous communities and the socio-cultural processes they are carrying out. The suggestion of alternatives, such as environmental incentives and compensations, based on the mechanism already developed by the Colombian state, may be a good option. However, special care should be taken with the strict use of financial resources in the process of territorial ordering, both in the phases of developing these plans, and in their implementation.

Direct support for the training, accompaniment and development of actions with regard to the management of territory and the development of management plans for land, fauna and flora resources, will be a priority. Likewise, the generation of a great long-term strategy for technical and academic support will be a challenge for the range of institutions linked to sustainable development and the environmental theme. Financial resources should promote, first of all, the recuperation and cultural re-structuring of the indigenous peoples, to continue the development of the

management models that have allowed the balanced use of nature and continuity in the humid tropical forest canopy, together with all the contributions that this model brings with it for the conservation of cultural and biological diversity.

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6.   COUNTRY STUDY: ECUADOR

6.1   ECUADOR, THE AMAZON AND ITS PEOPLE[24]

6.1.1   Ecuador and the Amazon

Ecuador straddles the equator and covers an area of 283,561 square kilometers on South America's Pacific coast. To the north it is bordered by Colombia, to the east and south by Peru and to the west by the Pacific Ocean. The sovereignty of some 200,000 square kilometers of Amazon rainforest to Ecuador's east (which is an area almost as large as Ecuador itself) was for more than 50 years the subject of dispute between Ecuador and Peru. Ecuador never recognized the 1942 Rio de Janeiro Protocol outlining the border between the two countries. The long-lasting dispute was finally brought to an end in 1998 when President Jamil Mahuad of Ecuador and Peru's President Alberto Fujimori signed a permanent agreement defining the border and awarding Ecuador unlimited (though not sovereign) navigation rights on the Amazon river.

Ecuador's environment, habitation patterns and land use are determined by its four distinct geographical regions–coast ('Costa'), highlands ('Sierra'), the Amazon rainforest ('Oriente') and the Archipiélago de Colón ('Galápagos Islands').

The Costa, or coastal plain, covers a little more than one quarter of the area of the country. The Sierra region, or central highlands, is situated between two chains of the Andes, the Western and Eastern Cordilleras, which have more than a dozen peaks higher than 4,877 metres. These highlands allow for the growth of subsistence crops and livestock farming, and it is the area with the highest population density. However, more than half the country's population lives along the coast where cash crops of bananas, cocoa, rice, coffee and shrimp are produced. The Oriente, or eastern jungle, covering about half of the country, consists of moderate slopes east of the Andes. The Galápagos Islands include six larger and nine smaller islands containing many volcanic peaks, mostly extinct.

The diversity of Ecuador's natural habitats (including the Galápagos Islands) makes it one of the most species-rich countries on the planet. This diversity is a major draw for tourism that is Ecuador's fourth-largest foreign exchange earner. Forests, which are an important resource for Ecuador, cover about 11,473,000 hectares, which corresponds with 42.2 percent of the national territory.

The Ecuadorian Amazon, divided into six provinces: Sucumbios, Napo, Orellana, Pastaza, Morona Santiago and Zamora Chinchipe, contains 9,930,000 hectares of forest with approximately 1009 species of trees and 8200 vascular plants of which 15 percent are endemic. The rich diversity of the Amazon is caused by high precipitation, the proximity of the Andean slopes, the complexity of its soils, the

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[24]   Information in this section was collected from Microsoft® Encarta® Online Encyclopedia (2002) and Lucas (2000).

abundance of rivers and a specific geographical history, which together create a mosaic of various habitats (Ruiz 2000: 45-57).

However, despite the diversity of Ecuador's environment and its qualification as one of the ten 'hotspots' in the world (Myers 1988: 1-20), its habitats and many unique species are under threat from different environmental problems. Unfortunately, this also triggers the loss of valuable cultures, languages and ancestral knowledge related to biodiversity and the environment. Section 6.2.3 will discuss these problems and the way that the Ecuadorian government, different organizations and the public have (not) responded to these threats.

As indigenous peoples are generally closely dependent on biological resources for their subsistence and survival, it is these peoples who suffer the most from the deterioration of the natural environment in Ecuador. Some 3.5 million of Ecuador's 11.5 million inhabitants are indigenous and they are grouped into 14 indigenous peoples and 13 communities that designate themselves as nationalities (Ministerio del Ambiente 2001: 20, n.6).[25] Most of these indigenous peoples and nationalities live in the rural areas of the country. The indigenous peoples of Ecuador are: Saraguro, Canari, Puruhá, Waranka, Panzaleo, Chibuleo, Salasaca, Quitu, Cayambi, Caranqui, Natabuela, Otavalo, Kichwa Amazónico and Manta-Huancavilca. The largest auto-designated nationality is Quechua, who live in the Sierra highlands and Oriente. The Awa, Chachi, Epera, and Tsáchila nationalities live on the Pacific Ocean coast. The Cófan, Siona, Secoya, Huaorani, Zápara, Shiwiar, Achuar, and Shuar live in the Oriente (Lucas 2000: 8 and Ministerio del Ambiente 2001: 20).

To avoid confusion, reference will be made to both indigenous peoples and nationalities in the following text as 'indigenous peoples'. All the fieldwork of the research has been focused on the Shuar; their history, their culture, their way of life and most importantly, their view on the situation in Ecuador.

6.1.2 The Shuar

The term Shuar signifies 'man' or 'people' and refers today to the indigenous group Untsuri Shuar. The Shuar belong to the same language group as the Achuar, Aguaranas and the Huambisa called the Jivaros. They occupy the region of Trans-Cutucu in the province Morona Santiago, between the Cordillera of Cutucu and the river Pangui, where the territory of the Achuar begins.

In the past, the Shuar fiercely defended their territory against foreign penetration and they were known for decapitating the heads of their enemies and shrinking them afterwards to serve as trophies. However, since the beginning of this century, they have been exposed to great influences of various groups of missionaries, especially

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[25] Article 83 of the Constitution of 1998 states that 'indigenous peoples who define themselves as nationalities with ancestral roots, and the negro and afro Ecuadorian communities are part of the Ecuadorian State, unique and indivisible'. The phrasing of the article confirms the possibility of the indigenous peoples to define *themselves* as a nationality, but the Constition does not recognize indigenous status as nationalities nor the plurinational state as a constitutional principle (emphasis added) (Espinosa 1999: 52).

the Salesian Mission (Catholic) and since 1945 the Gospel Missionary Union, a group of North American evangelists (Borgtoft eds. 1999: 91-93). They were forbidden to kill, to visit their sacred waterfalls and to take Ayahuasca for the practice of their rituals and to drink '*chicha*' (a traditional alcoholic brew made of cassave mixed with the sliver of a woman for fermentation). The shrunken heads belong to the past now and can only be seen as part of the collection in some museums. These religious groups and also the pressure of colonization on their lands have significantly changed the culture and life of the Shuar. However, some aspects of their traditional way of life have survived this influence and can still be witnessed (to some extent) in the Shuar communities throughout the region.

The life of the Shuar is strongly connected to their natural environment, as they consider life an integral part of nature. Supernatural beings, gods and the position of the stars and the moon control the circle of life of wild and cultivated products. The wild is represented by spirits connected to the hunt and fishing like Etsa (the sun) and Nantu (the moon) and the cultivated lands are the place where Nunkui, the goddess of agriculture is present. The phases of the moon are important for the preparation and sowing of the fields and timing of the hunt. They believe that the powers that determine life and death are invisible powers that can only be seen and used by taking hallucinogenic plants like Ayahuasca or tobacco. According to the Shuar, these plants have the capacity to make man communicate with Arutam, the protecting god of the jungle.

During the year, the Shuar organize feasts according to different periods to celebrate, for example, the abundance of fruits, the spawning of fish, the return of the birds, and the harvest etc. These feasts and the rituals, songs and dances that accompany them are of great importance to the Shuar because agriculture is their livelihood. What their lands produce is mainly for their subsistence, but some of their products (different kinds of fruits like green bananas) are sold and serve as extra income to enable to buy other products in the city, like salt, soap, medicines and keroseneto be bought. However, their ability to trade on the market is limited because, depending on the distance of the communities to the cities, transportation of the products can be difficult corresponding with high costs.

The Shuar are represented by different organizations. In 1964 the Interprovincial Federation of Shuar and Achuar Centres (FICSHA) was formed under the direction of the Salesian Mission. This organization developed into one of the most important organizations in South America. Later, the organization divided into the Interprovincial Federation of Shuar Centres (FICSH) and the Interprovincial Federation of the Nationality Achuar (FINAE). The reason for this division was the wish of the Achuar to be represented by an organization of their own (Borgtoft eds.1999: 101). The biggest organization at present, representing the majority of Shuar centres in the region Trans-Cutucu, is called the Independent Federation of the People Shuar (FIPSE), which was founded in 1988 and legalized in 1995. Most of these organizations work together with different non-governmental (international) organizations on projects and receive assistance, financial aid or advice. Even so, their existence is often threatened due to lack of funds and/or organizational problems.

Time and influences from outside have changed the life of the Shuar. They have tried to adapt to the modern world, which has left its marks on their daily life and culture. What have been the changes to their situation? Are they conscious of these (possible) changes and have these changes been for the better? Have they really lost their traditions and ancestral knowledge and if so, how do they feel about this? The following paragraphs are a compilation of experiences during two months of fieldwork among the Shuar and they contain the answers to the questions just mentioned.

Two proud Shuar medicine men

6.2   THE IMPACT OF THE INTERNATIONAL DEBATE

The leading question to be answered with this research was as follows: *What is the impact of the international debate, concerning the protection of indigenous knowledge relevant to the conservation and sustainable use of biological diversity, on the local level?* The main objective was to evaluate the (possible) changes that have occurred on the local level in Ecuador as a consequence of international developments and discussions. To evaluate this impact, various aspects were analyzed, namely: the position and participation of indigenous peoples, their role in conservation and sustainable use of biodiversity and the protection of their knowledge relevant to conservation and sustainable use. In the following paragraphs the results of this research are described in a corresponding manner. In each section the progress that has been made until now will be reported, the continuing problems will be discussed and each aspect of the evaluation illustrated with a specific case study.

6.2.1 The position and participation of indigenous peoples

Progress made

Ethnic politics in Ecuador has been strongly determined by the promotion of assimilation and the inclusion of indigenous peoples in the construction of a unitary and homogenous state. But in the last two decades important efforts have been made to change this situation. Indigenous claims and public discourse have evolved within the context of rapidly changing national politics, ongoing international debates and new legal instruments. Generally, indigenous claims have been based on four main topics: the constitutional recognition of a plurinational, multicultural and multilingual state; rights to self-determination; self-reliance and self-development; and the strengthening of indigenous cultures (Espinosa 1999: 47-51). Representatives of indigenous peoples have continuously made these claims through different organizations; the Shuar of the Amazon region created the first Indian federation in 1964. Following this organizational experience, a regional Federation of the Andes was created in 1972 called 'Ecuarani', followed by the regional Amazonian confederation called CONFENAIE (Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana*)*. Finally, in 1986, the Confederation of Indigenous Nationalities of Ecuador (CONAIE, Confederación de Nacionalidades Indígenas del Ecuador) was established to represent indigenous peoples and claim their rights (Espinosa 1999: 48).

In 1997 more than 3000 Ecuadorians participated in the "March for Autonomy and Plurinationality." This March reinforced the need for a plurinational state. It started on September 28 and ended on October 12 with the arrival in Quito of 3000 marchers from different regions of Ecuador. The March concluded with the installation of the Popular Constitutional Assembly that met for one week with different working groups attended by representatives from several organizations. The outcome of these working groups was a document containing a proposal from civil society for a new Constitution (Espinosa 1999: 52).

One of the demands in the proposal prepared by the 'Popular Assembly' was the recognition of collective property rights to lands, territories, resources, traditional knowledge, technologies, and religious practices and rituals. Environmental rights were also mentioned in terms of the right to live in an ecologically balanced environment free from pollution, as well as the preservation of a natural and genetic heritage and the guarantee of food security. Furthermore, indigenous proposals demanded previous, free and informed consent for mineral and oil exploitation within their territories, with the power to veto and full participation in all levels of planning, implementation, evaluation and monitoring of such activities (Espinosa 1999: 52). Once the formal Constitutional Assembly was installed in January 1998, most of the discussions revolved around two main issues: the inclusion of a special section on collective rights for indigenous peoples and the declaration of a plurinational state as a constitutional principle. The first demand was accepted by consensus but the issue of plurinationality was the subject of intense debate. The unitary character of the nation and of national sovereignty remained an obstacle for inclusion of plurinational status in the final version of the new Constitution.

The text of the new Constitution recognizes several rights that constitute significant progress for indigenous peoples. In the 3 articles and 15 provisions on collective rights (Chapter 5 of the Constitution), most of the demands proposed in the indigenous political platform have been incorporated, among which are the following key aspects[26]:

- the right to maintain and develop their identity, culture, traditions and medicinal practices, including the right to protection of sacred places, plants, animals and ecosystems;
- the right to maintain ownership of their ancestral, communal lands; which may never be divided and from which they may never be estranged;
- recognition of indigenous territorial circumscriptions from which indigenous peoples cannot be displaced;
- the right of participation in all levels of decision-making concerning the use and conservation of their renewable resources, and in project planning, management, and implementation within their territories;
- the right to be consulted about the exploitation of non-renewable resources; to participate, when possible, in benefit-sharing; and to receive just compensation for socio-environmental damages;
- the right to formulate plans and projects for the improvement of their quality of life and receive financial support from the state;
- the right to preserve biodiversity within their lands and maintain collective intellectual property rights over their ancestral knowledge;
- the right to a bilingual and bicultural education system;
- the right to have representatives in all official governmental entities determined by law;
- the right to use their own symbols and emblems.

This constitutional body of collective rights appears to be complete and comprehensive and the indigenous representatives to the Constitutional Assembly publicly expressed their agreement and satisfaction with this end result.

However, it is important to note another milestone in Ecuadorian history-the ratification by National Congress in May 1998 of the International Labour Organization (ILO) Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries. As a monist state, the ratification of treaties by Ecuador means that the provisions of these treaties do not need to be transformed in national legislation. Nonetheless, for the effective implementation of treaties and conventions it is essential that laws and regulations are developed specifically for the situation of the country. This Convention is of great importance to the situation and participation of indigenous peoples, because it complements the collective rights established by the Constitution. For example, Article 84 subsection 5 of the Constitution states that indigenous peoples will be consulted about plans and programmes on prospecting and exploitation and participate in the resulting benefits. Whereas, the ILO Convention goes further and states in Article 6 that governments have to consult the

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[26]   This information is taken from the article "Ethnic politics and State Reform in Ecuador" by M.F. Espinosa and Chapter 5 from 'Constitución Política de la República del Ecuador' (Constitution of Ecuador).

indigenous peoples involved, especially through their own representative institutions, every time that legislative and administrative measures are foreseen that could affect the indigenous peoples (Article 6 subsection 1). Furthermore, these consultations have to be done in good faith in accordance with the situation and with the purpose of reaching an agreement on the proposed measures (Article 6 subsection 2). This Convention has proved to be a strong instrument in the defence of the collective rights of indigenous peoples in Ecuador, as illustrated below with the case study of FIPSE versus ARCO ORIENTE Inc.

Billboard with text *Sucua* (name of a village) *prosperous and progressive towards the new millennium* illustrated with an indigenous woman shows recognition for the role of indigenous peoples

On numerous occasions there was the opportunity to discuss the current situation and participation of indigenous peoples and the vision on the future with representatives of indigenous organizations. A representative of the indigenous political party named 'Pachakutic' formulated his opinion as follows:

> To understand our organization, you have to understand the historical process of our people and the struggle of many different social movements. The organization was founded for participation in politics, and although we are a small organization, we have many different roots. Our political power permits us to construct a new democracy responding to the present situation: our country consists of a diversity of actors and realities. Our organization tries to transform this diversity into unity and improve the economic, political, social and cultural conditions of all the people. The acknowledgements of the existence of indigenous peoples at present show the guilt of the western world and

our government, but now it's time to really understand our reality and show the will to implement the declarations.

Continuing problems

Despite the successes, several major issues, such as the declaration of plurinationality, conflicts related to oil exploitation and the recognition of indigenous legal regimes, remain unresolved. The new Constitution does not recognize indigenous status as nationalities, although it does state that indigenous peoples, who define themselves as nationalities, are part of the Ecuadorian state, unique and indivisible (Espinosa 1999: 52).

Furthermore, the Constitution mentions the right to participate when it concerns the use of renewable resources, but when non-renewable resources are at stake, indigenous involvement is limited to the right of being consulted. This of course has major consequences for all the exploitation activities that are undertaken on national and mostly indigenous territory. The case-study, which will be discussed below, is only one of the many examples of conflicts that flow from these practices. These kinds of conflicts are not only caused by the actual activities on the lands of indigenous peoples, but also because of the way they are implemented. As several respondents explained, Ecuador is a country with a history of corruption. Governments have often taken advantage of their power to enrich themselves and rule without genuine consideration of the population. With such a background and a lack of good examples, problems arise from the inexperience of politicians in the process of consultation and it is difficult for the indigenous to have real faith in politicians and their methods.

This lack of faith in the government is encouraged as a result of all the speculation and rumours surrounding the activities of several oil companies in the country. Government officials and representatives of the oil companies are suspected of bribery to 'convince' indigenous peoples of the eventual benefits of cooperating with their activities and exploitation. These practices have severely affected the indigenous organizations and communities as some individuals and/or groups have decided to cooperate and others to remain opposed. In Macas there is a clear separation between the organizations that cooperate with exploitative activities (the president of Shuar Organization of Ecuador (OSHE) was convinced that the exploitation of oil is vital for the development of his people) and the ones that are against these activities (FICSH, FINAE and FIPSE). This situation is often referred to as a 'serious conflict' or even a 'war', and just mentioning the word 'petrol' among the indigenous populations, is considered to be asking for trouble. This has made the work of non-governmental organizations in the region more difficult as well, because they (often without intent) get involved in the conflict.[27]

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[27] A representative of SNV (Stichting Nederlandse Vrijwilligers), an organization that does not want to interfere with the petrol activities, showed me several e-mails in which the organization was accused of 'terrorist activities'. Although, the sender always remains anonymous, it is most likely to come from organizations that cooperate with the petrol companies with the purpose of undermining the credibility of SNV.

Another source of frustration is the amount of time it takes to pass laws through Congress in Ecuador. There are still several legal projects and preliminary works that have already been under review for several years without actual implementation. An important example of such a legal project and related to the position and participation of indigenous peoples, is the Project on the Law of Indigenous Nationalities and Peoples.[28] This project developed as a result of local, regional and national workshops concerned with the practice and execution of the collective rights of indigenous peoples, guaranteed by the Constitution of 1998 and ILO Convention No.169.

The approved law will function as a juridical framework for indigenous peoples and guarantee their existence, strengthening and development. It recognizes the diversity of nationalities and their complexity in relation to the white-mestiza population, but stresses, at the same time, the unity and development of the Ecuadorian consciousness. Some of the rights that this law would establish are: the conformation of their own internal structure; the right to rescue; maintain and promote their culture; form of government; and administration of justice and territory. Furthermore, it grants the right to be represented in organisms of the state, such as the Commission of Education, Commission of National Health, and the National Institute of Agricultural Development, and in local and regional entities where policies are developed that affect indigenous peoples. It offers clear rules on the relationship between indigenous institutions and institutions of the state and acknowledges the organization and validity of indigenous authority.

The text of this project is published by CODENPE, the Council for Development of the Indigenous Nationalities and Peoples of Ecuador, and it is important to note that the current presentation has been approved by the Permanent Commission of Indigenous Matters, which is part of the National Congress. However, the project is still under review and it remains to be seen when and how this law will be implemented.

The national coordinator of 'Pachakutic', explained his doubts regarding the implementation of indigenous rights:

> The problem is that institutions concerned with our rights and situation, like CODENPE, are for the most part symbolic institutions. They do not have enough monetary resources and do not receive sufficient support from the State. I strongly believe that Ecuador is a rich country, with many possibilities and great wealth in resources, but 80 percent of the people are poor as a result of the politics of the government. The differences and inequality of the population is brutal and the corrupt upper-class doesn't want to notice, or isn't able to notice our situation. The situation of indigenous peoples looks hopeful, because even though we were previously ashamed of our culture and customs, we are now in the process of rescuing our traditions and language. But it is not only the

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[28] Proyecto de Ley de Nacionalidades y Pueblos Indígenas, CODENPE (2002), Quito: NINA Comunicaciones.

responsibility of the indigenous themselves; this process should include efforts of the government and all of society to be successful.

Some changes have taken place: an important precedent for the defence of collective rights of indigenous peoples was set with the decision of the Constitutional Tribunal in the case FIPSE versus ARCO.

Case study: FIPSE versus ARCO[29]
In 1998, the Ecuadorian government signed a contract with the oil company ARCO ORIENTE Inc. for exploitation activities in Block 24 situated in the Provinces Morona Santiago and Pastaza (Chávez 2002: 37).[30] The Shuar consider 70 percent of these lands as their property because of traditional occupation, but they were never notified (before or after the signing of the contract) by any official authority of these plans. This lack of information on the content of the contract and the environmental effects of the planned activities motivated FIPSE, the Federation of the Shuar, to adopt a resolution on August 13, 1998, which prohibited all negotiations of individuals or associations of the Shuar with the oil company. Any attempt of the oil company to negotiate would be considered a violation of the integrity of the Shuar people and its organizations and a violation of their rights recognized by the Constitution and ILO Convention No.169 (Chávez 2002: 39).

However, the oil company continued to negotiate with three associations, affiliated with FIPSE, namely: Kusutka, Iniayua and Achunts, which caused serious conflicts between members of the Shuar and divided their people in two groups: the ones that were on the side of the oil company and the ones that opposed their plans. According to FIPSE, the conduct of the oil company endangered the integrity of their organization and consequently the integrity of every individual Shuar member. The entering of the oil company within the territory of the Shuar was seen as a violation of the right to inviolability of their domicile. In August 1999, FIPSE presented its petition for protection before the Civil Judge of Morona Santiago with the request, that the oil company ARCO ORIENTE Inc. or any other company with activities in Block 24 would be forbidden to approach individuals or organizations of the Shuar in and outside their territory without legitimate authorization of the Federation. Furthermore, they requested the prohibition of entry without authorization of FIPSE by representatives of this or any other company in the territory ancestrally owned by the Shuar. The Federation also recalled the responsibility of the state for the protection of their collective rights against violations of private entities like ARCO ORIENTE Inc. referring to the statement of the Committee of Economic, Social and Cultural Rights of the United Nations: "the

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[29] At the time of the lawsuit, the contract parties were the Ecuadorian Government and ARCO ORIENTE Inc., but recently this contract has been taken over by a different petrol company called Burlington.
[30] Part of the Ecuadorian Amazon has been divided into 15 areas, referred to as 'Blocks', corresponding with contracts of different petrol companies with the Government for exploration and exploitation activities.

responsibility of the State is invoked when the State does not take the necessary measures to confront clear threats to the rights of its people".[31]

The result: ARCO ORIENTE Inc. was ordered by the Judge to cease all its attempts to negotiate and arrange meetings with members and organizations of the Shuar without the involvement of FIPSE. This judgement was mainly based on Articles 7 and 13 of ILO Convention No.169 (see paragraph 1.1.1) and on Article 84 subsections 1, 2 and 3 of the Constitution which states that indigenous peoples have the collective rights to maintain, develop and strengthen their identity and traditions (including social and political traditions) and to preserve and maintain their ancestral possession of communal lands. The Judge added that it was the obligation of the state and the Administration of Justice to guard the exercise of these rights. This ruling has been crucial to the indigenous peoples as it was the first petition presented by an indigenous organization in defence of their collective rights that had a favourable outcome (Chávez 2002: 42).

The request for a prohibition of entry to the territory of the Shuar was only discussed when the case was referred to the Constitutional Tribunal following the appeal of ARCO ORIENTE Inc.[32] Unfortunately, this ruling did not establish very clear indicators of how to handle the problems and conflicts with lands and territories. On the one hand, the National Constitutional Assembly was concerned with safeguarding a territorial perspective in favour of the indigenous people (prohibition of division and sale of ancestral lands), but on the other hand, this ancestral possession could not be contradictory to Article 247 of the Constitution which establishes that the non-renewable resources and the subsoil products are the inalienable and unlimited property of the state (Resolution 247-RA-00-I:S 16 March 2000).

In Colombia, the Constitutional Court resolved these kinds of problems by confronting two different collective interests (Sánchez Botero 1998: 183-237), which in this case could be: the territorial rights of the indigenous peoples versus the economic development interest of the state. For the resolution of these problems, the Colombian Court considered[33] the extent of the general interest in relation to social rights and participative democracy together with the necessity to establish priorities for general interest, but emphasized the fact that these priorities can not be interpreted in such a way that they justify the violation of fundamental rights. The priority has to be based on general social progress and should not only be in favour of a minority.

This is exactly what tends to go wrong in Ecuador. Exploitation of oil and minerals in general does not involve different sectors of society (which ís the case with 'production'), but it extracts products from nature, mainly with the purpose of

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[31] Demanda de Recurso de Amparo interpuesto por la FIPSE en contra de la Compania ARCO ORIENTE INC., pp.15-19. (Petition for Protection by FIPSE against the Company ARCO ORIENTE INC.).

[32] The Judge of Morona Santiago could not give a ruling on this matter because there was no evidence presented of possession nor titles of ownership of the lands (Chávez 2002: 43).

[33] See comments on Judgments T-428 of 1992 and T-405 of 1993, in: Sánchez Botero 1998: 183-237.

exporting them to generate income. These winnings unfortunately end up in the hands of few, whether national or foreign companies, and do not benefit the local population. This is illustrated by the fact that the Amazon, most rich in biodiversity and most exploited, continues to be the poorest region in Ecuador. Poverty reaches 79 percent of the population in the Amazon, whereas it amounts to 54 percent in the Andean and Costal regions (Larrea eds. 1996). It is painfully obvious, that when it concerns petrol exploitation in Ecuador, the consultation and participation of indigenous peoples tends to be of minor importance.

Opportunities
To improve the situation in Ecuador in relation to the position and participation of indigenous peoples, different opportunities can be identified.

At the national level, the following measures can be taken:
- increasing the speed of the legislation process to adjust laws and regulations to the new Constitution and the treaties and conventions that have been ratified by the state;
- effective control of the implementation of rights and obligations by improving the coordination and financial means of governmental institutions;
- improving transparency and fairness in the process of exploitation, including the participation and the sharing of benefits with the indigenous peoples concerned.

At the local level, it is necessary to take the following action:
- create more unity among the indigenous peoples and strengthen the organizations that represent them to benefit from a stronger position;
- develop and continue the proposals and projects based on sustainable strategies for the local economy to offer an alternative to exploration and exploitation and to improve their economic situation;
- maintain the indigenous traditions, customs, languages and identity to avoid the loss of valuable cultures.

6.2.2   The role of indigenous peoples in conservation and sustainable use of biodiversity

Progress made
Ecuador was one of the first countries to sign the Convention on Biological Diversity of 1992 and because treaties and conventions do not need to be transformed into national legislation, the Convention was in force from February 23, 1993, the date of ratification. However, for the effective implementation of treaties and conventions it is essential that laws and regulations are developed specifically for the situation of the country and this has taken quite some time in Ecuador and it is still far from complete.

Before the ratification of this Convention on Biological Diversity, Ecuador had developed only a small body of law concerning environmental matters. Some

measures address environmental protection,[34] others water pollution,[35] and some regulate protected areas.[36] Additionally, a mini-law was published on September 27, 1996 protecting biodiversity.[37] This law consists of only two articles stating that the state has the sovereign right to exploit the country's resources according to its own environmental politics and confirming the ancestral rights of indigenous peoples over their knowledge, intangible components of biodiversity and genetic resources.

However, as described in paragraph 6.2.1, the new Constitution of 1998 has made great changes for indigenous peoples with the inclusion of collective rights in Chapter 5. This Chapter also covers a section on the environment in which the state is obligated to protect the right of the population to live in a healthy and ecologically balanced environment that guarantees sustainable development (Article 86).[38] In accordance with public interest, some of the aspects to be regulated by law are:

1. the preservation of the environment, the conservation of the ecosystems, the biodiversity and the integrity of the genetic patrimony of the country;
2. the prevention of environmental contamination, the recuperation of degraded natural spaces, and sustainable management of natural resources;
3. the establishment of a national system of protected natural areas, that guarantees the conservation of biodiversity and maintenance of ecological services, and conforms with the conventions and international treaties (Article 86).

Both articles on the right to live in a healthy environment are considered a major progressive step because the inclusion of the environment in the economic, social and cultural rights of the Constitution demonstrates a wide vision on the importance of the environment on the quality of life (Ruiz 2000: 25).

The role of indigenous peoples in the conservation and sustainable use of the biodiversity is referred to in Article 84 subsections 4, 5 and 6. The state will recognize and guarantee the collective right:

- to participate in the use, profits, administration and conservation of the renewable natural resources that are present in their lands;
- to be consulted about plans and programmes of prospecting and exploitation of non-renewable natural resources present in their lands which could have environmental or cultural effects;

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[34] Ley de Prevención y Control de la Contaminación Ambiental (Law for the Prevention and Control of Environmental Pollution) No. 374; Registro Oficial 97: 31.5.76, Articles 8-11, 16, 20.

[35] Reglamento para la Prevención y Control de la Contaminación, en lo relativo al recurso agua (Regulation for the Prevention and Control of Pollution, regarding water resources) No. 2144; Registro Oficial 204: 5.6.89, Articles 11, 17, 22-25, 64.

[36] Ley Forestal y de Conservación de Areas Naturales y Vida Silvestre y Reglamento (Law and Regulation on Forests and Conservation of Natural Areas and Wildlife) No. 74; Registro Oficial 64: 28.8.81 and Decreto Ejecutivo 1529; Registro Oficial 436: 22.2.83.

[37] Ley que protege la Biodiversidad No.3; Registro Oficial 35: 27.9.96.

[38] Articles 84, 86 and 88 from section one and two of Chapter 5 of the Constitution are partly translated by the author. This is not the official original version.

- to participate in benefits when this is possible and to receive compensation for socio-environmental damages;
- to conserve and promote their methods of management of biodiversity and natural environment.

Furthermore, any decision of the state that could affect the environment needs to be reported beforehand to the public so that will be fully informed. The participation of the public will be guaranteed by law (Article 88).

The incorporation of these principles into the Constitution of 1998 has been the result of the active and constant participation of social movements that handed over several proposals. Groups of women, indigenous people, farmers and environmentalists were highly involved in the process, which has been a significant deviation from the development of constitutions in the past (Ruiz 2000: 23), whereby it was strictly the responsibility of legislative and executive powers of the state. This process has made the majority of the indigenous people more aware of the Constitution, including their rights and obligations related to conservation of the environment.

To obtain the objectives and to guarantee the rights mentioned above, it was necessary to develop an adequate institutional structure with environmental norms, which was published on July 30, 1999 as the Law on Environmental Management.[39] Respect for traditional cultures and practices is expressed in this law (Article 2) and the process of environmental management is based on the universal principle of sustainable development laid down in the Rio Declaration on Environment and Development of 1992 (Article 3). Article 28 is also of importance, because it states that every natural or juridical person has the right to participate in the management of the environment. If the process of consultation, to which Article 88 of the Constitution refers, has not taken place, the activity can not be undertaken and the contract is to be cancelled. Unfortunately, these consultations are still more of an exception than a rule in the policy of the Ecuadorian government. The actual outcome of the aspired changes in politics and practices depends on implementation and efficient control.

Although the majority of strategies and principles does not reach the local level because of problems with implementation, representatives of indigenous organizations are aware of the importance of some strategies and principles. A representative of Pachakutic shared his view on the subject as followed:

> We need to develop a new model of development, of sustainable development. It is a mistake to regard our country as a 'developing' country, because then we consider it necessary to reach the level of developed countries. To arrive there with all the so-called 'developing' countries, we would need five planets. The paternalistic attitude of the west ("ah, those poor indigenous") is wrong, because the theme of new development is not a problem of the third world; it is a problem of the whole world. For the survival of mankind, the west needs to part with its

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[39] Ley de Gestión Ambiental, Ley 99-37; Registro Oficial 245: 30.7.99.

capitalist logic, and its belief that they master the truth and will always have the last word. We need to re-design the consuming model of development and rebuild harmony with the earth, our mother.

Continuing problems

As many respondents have explained to me, the measures called for in the above mentioned laws and articles are poorly implemented and often not enforced. The reasons mentioned for this were: the dispersion and lack of co-ordination between different administrative offices with environmental mandates, the restricted funds with which the understaffed government offices must operate, and the extreme politicization of any matter concerning oil development.

The slow process of lawmaking is also a major problem in this area. Almost a decade after the ratification of the Convention on Biological Diversity, Ecuador is still struggling with the implementation of the Convention. Since 1999, the project on a Special Law on Conservation and Sustainable Use of the Biodiversity[40] is being discussed with the guidance of the National Group for Biodiversity,[41] but the actual law has not been implemented so far. A representative of the Ministry of Environment explained that, as long as this law is not passed through Congress, claims related to conservation and sustainable will be based on legislation dating back to 1981.[42] This means that, although Ecuador adjusted its policies and strategies on the subject (Ministerio del Ambiente 2001), the progressive rights and obligations mentioned in the new Constitution of 1998 and the Convention on Biological Diversity are still not incorporated in appropriate laws and regulations and cannot be claimed effectively.

The representatives of indigenous organizations did express their gratitude towards international attention for the situation of their peoples, which has triggered much of the changes that have occurred in Ecuador. However, in their opinion conservation and sustainable use of biodiversity is not a priority of the government. But when we talk about conservation and sustainable use, the realities within the country have to be considered as well. Ecuador has to cope with high poverty rates, devastating inflation and an enormous external debt.[43] Petrol constitutes the principal export product and the main source of income for the country (Ruiz 2000: 65-74). Petrol reserves were estimated at 3,760 million barrels in 1999 and can be increased up to 5,000 million with new prospecting activities. The value of the export revenues in 1999 was 1313 million US dollars, which constitutes 45 percent of the national budget. Considering these facts, petrol exploitation is considered of vital importance

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[40] Anteproyecto de Ley Especial para la Conservación y Uso Sustentable de la Biodiversidad en el Ecuador, Ministerio del Ambiente del Ecuador (2000).

[41] Grupo Nacional de Biodiversidad, responsible for the management, control and finances for sustainable use. See Decreto Ministerial (Ministerial order) No. 82; Registro Oficial No. 219: 23.6.1999.

[42] Ley Forestal y de Conservación de Areas Naturales y Vida Silvestre y Reglamento (Law and Regulation on Forests and Conservation of Natural Areas and Wildlife) No. 74; Registro Oficial 64: 28.8.81 and Decreto Ejecutivo 1529; Registro Oficial 436: 22.2.83.

[43] The poverty rate in 1999 was 43.8 percent, inflation in 1999-2000 was 104.9 percent and the total outstanding debt increased from 4.525 million US dollars in 1979 to 15.310 million US dollars in 1999. See World Bank (2000).

by the Ecuadorian Government and forms the priority of its policies. Unfortunately, only 2.34 percent of the national budget (46.2 million US dollars) was invested in the Amazon area, while most of the national income flows to the outstanding debts of the country which actually tripled since the 1970es, when Ecuador first experienced the 'petrol boom' (CDES 2002). Instead of developing sustainable strategies for the diversification of national production, the Ecuadorian policy still concentrates on the traditional extractive economical model, which makes the country highly dependent on the international oil market and results in degradation of its environment. Therefore, most of the activities in the field of conservation and sustainable use in the Amazon are undertaken with the (financial) help of the international community combined with the initiative and motivation of indigenous peoples themselves.[44]

Case study: The 'zoocriadero'- project in Santa Marianita
A good example of an initiative of an environmental organization is the project of Fundación Natura in the Shuar community Santa Marianita.[45] The project started in 1999, when a contract was signed between Fundación Natura and Fundación Tsantsa, a non-governmental organization of the Shuar. The project is only a small part of the macro-project of Fundación Natura called 'Conservation of the Biodiversity and Participative Management of the Sangay National Park',[46] financed by the Netherlands government. The activities involve management of wildlife in captivity and semi-captivity (Fundación Natura 1999: 2). The idea is to breed 'guantas' (*Agouti paca*)[47] in traditionally built Shuar huts (captivity) and in a closed areas covering 60 by 60 metres (semi-captivity) for consumpion and sale.

This approach is based on the use of empirical knowledge of the Shuar, related to the management of wild fauna, combined with new technical knowledge. The objective is to improve the quality of life, the conservation of biodiversity and the strengthening of the organization of the community, its participation and the empowerment of men and women within the community. By providing an alternative opportunity to gain income for the Shuar, Fundación Natura is aiming at decreasing future pressure on the flora and fauna in the Sangay National Park.

The motivation of the Shuar community is based on the need to develop new strategies for the supply of food and economic revenues. In the last few years, they have started to feel excluded from development, and threatened by the negative

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[44] In 1995 there were 254 organizations active in Ecuador: 147 NGOs, 51 organizations of farmers and indigenous peoples, 17 organizations of the Church (Catholic or Evangelist), 27 international organizations and 12 companies. See Fundacion Alternativa (1997).

[45] This community is situated approximately 40 kilometres from Macas, belongs to the canton Huamboya and is situated in the Sangay National Park. It was founded about 40 years ago, hosts 35 Shuar families and occupies an area of 3,336 hectares. See for more information Fundación Natura (1999).

[46] Conservación de la Biodiversidad y Manejo participativo del Parque Nacional Sangay. See Fundación Natura (2002).

[47] The Ecuadorian name for this animal is '*guanta*' and in the Shuar language it is called '*kashai*'. It is much bigger in size (60 to 75 cm) than a guinea pig and more heavy (the adult males can weigh up to 14 kg). For more information, see:
http://www.cab.int.cu/cab/biocab/biofauna/especie/agoupaca.col/sinonimo.htm.

effects of the introduction of monocultures and aggressive exploitation of the forest. This is a result of the colonization that started in the 1960s, when farmers from the highlands and the coast were forced to move into the Amazon area.[48] These farmers introduced western agricultural methods and activities and transformed large areas of the jungle into grazing land. Problems that arose for the indigenous groups originally occupying these areas, varied from relocation, changes in their traditional way of living caused by the sudden increase in population, and the need to accumulate monetary resources compensating for the loss in the amount of food they encountered in these areas before the colonization (Fundación Natura 1999: 3).

A Shuar man weighs a 'guanta' before selling it to a visitor

The implementation of the project has been a great struggle for both the technical experts of Fundación Natura and the community. The Shuar are traditionally hunters and gatherers, living from the products that the jungle has to offer, and the idea of breeding animals for consumption and sale seemed absurd to them. "It felt as if we

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[48] Starting from the 1960s, several laws have had a negative impact on the life and environment of the indigenous peoples in the Amazon. For example the Ley de Tierras Baldías y Colonización (Law of 'Unoccupied' Lands and Colonization) No.2172, RO 342: 22.9.64 established that land in the Ecuadorian Amazon, which had not been given away in land title, belonged to the state (is considered to be nobody's) without any recognition of it being ancestral land of indigenous people. For more criticism see Fabra (1996).

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were eating and selling our mascots" explained the coordinator of the project and member of the Shuar community. Although this has taken some time to get used to, they do feel more comfortable now with the idea of consuming and selling the animals and they are highly motivated to proceed with the project. The breeding of the animals has not been an easy task and they still cope with quite a lot of problems, but successes have been booked and new ideas are being developed every day.

One of these ideas is to combine the project with an eco-tourism programme. An older community member mentioned the importance of tourists visiting their village:

> Our community is quite isolated and we miss the communication with the outside world. If people would come to visit our community, we could teach them what we know about the jungle and the animals and they could learn about our culture and traditions. Like this, we will not forget our stories and traditional songs, our culture will be better understood and our work will receive the appreciation it deserves.

Another member also expressed some of his ideas:

> I am thinking of organizing trips for tourists for several days. The animals we breed can be used to prepare typical food, we can serve our traditional drink '*chicha*' and walk along the paths through the jungle to explain the use of different medicinal plants. The women can perform dances and maybe even sell handmade ceramics and jewellery. This idea still needs a lot of work, but it would be great to offer the opportunity to experience the life in our community.

A problem at the beginning of the project was the weak organization of the community resulting in a lack of participation of its members. Fortunately, this has changed with the guidance and assistance of the technicians of Fundación Natura combined with the motivation of the community. Due to the democratic election of a coordinator by the community and the organization of workshops and meetings, every member of the community is informed and involved in the project. During the visits, any approached person was able to answer my questions and explain the purpose and progress of the project.

The visits to Santa Marianita actually showed that much of the work, related to conservation and sustainable use that is being done in the Ecuadorian Amazon depends on the initiative and involvement of the people concerned. The success of a project is determined by the enthusiasm of the community and the assistance of non-governmental organizations. It is important that assistance is given in the sense of transferring knowledge combined with a minimum of financial aid to assure a capacity-building process within the community without a growing dependence on aid.

Opportunities
The change in national policies can be made by taking the following measures:

- increasing the speed of the legislation process to adjust laws and regulations to the new Constitution and the treaties and conventions that have been ratified by the state;
- effective control of implementation of rights and obligations by improving the coordination and financial means of governmental institutions;
- strengthening environmental management by supporting democratic participation of the indigenous peoples to include their expectations, necessities, visions and knowledge in the process;
- supporting sustainable strategies for development, like eco-tourism, to strengthen the local economy and encourage sustainable use of biodiversity;
- promoting capacity building of indigenous peoples by offering adequate education and projects;
- cooperating and coordinating projects with environmental, non-governmental and indigenous organizations to gain better results.

On the local level, the initiative of the indigenous peoples needs to be focused on:

- developing and continuing the proposals and projects based on sustainable strategies for the local economy to offer an alternative to exploration and exploitation and to improve their economic situation;
- maintaining the sustainable methods and indigenous traditions related to conservation of the environment to avoid the loss of valuable knowledge;

The Ecuadorian Government has realized some of these opportunities, which are laid down in the National Politics and Strategy of Biodiversity (Ministerio del Ambiente 2001) as a vision for Ecuador in 2020. The vision is based on four underlying strategies:

1. to consolidate and stimulate the sustainability of productive activities based on native biodiversity;
2. to assure the existence, integrity and functionality of the components of biodiversity: ecosystems, species and genes;
3. to balance the pressures for conservation and sustainable use of biodiversity;
4. to guarantee the respect and exercise of individual and collective rights to participate in decisions related to the access and control of resources and assuring that benefits of conservation and use of biodiversity and knowledge, innovations and practices of local communities are shared in a fair and equitable way.

It remains to be seen though, whether these strategies will be implemented in the near future and if the vision will be a reality in 2020.

6.2.3 The protection of indigenous knowledge

Progress made
The international community has acknowledged the importance of the protection of indigenous knowledge. These developments have also had their influence on the Ecuadorian state, which incorporated an important article on the subject in the Constitution of 1998. Among the collective rights that will be recognized and

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guaranteed by the state, is the right to collective intellectual property over ancestral knowledge and the right to its valuation, use and development according to the law (Article 84 subsection 9). The fact that not just the intellectual property of an individual is protected,[49] but also the *collective* intellectual property of indigenous peoples, is a progressive step in the legislation on this subject. It recognizes one of the inherent characteristics of indigenous knowledge (collective ownership), which makes it difficult to protect with traditional intellectual property rights.

Furthermore, the Constitution also recognizes the difference in interests related to the protection of knowledge. Where developed countries are concerned with protection of knowledge for the purpose of commercialization, the indigenous peoples emphasize the importance of protection for preservation of spiritual wisdom, respect for physical things and the source of rituals and ceremonies. This indigenous point of view is reflected in Article 84 subsection 12, which states that, besides the protection of their knowledge and practices of traditional medicines, they have a right to the protection of sacred places, plants, animals, minerals and ecosystems that are vital from their point of view.

Preceding the reformed Constitution, the Law that Protects the Biodiversity was published on September 27, 1996 which confirms the ancestral rights of indigenous peoples over their knowledge, including the intangible components and genetic resources within their possession. Consisting of only two articles, this law does not seem to be of great importance. This point was highlighted because of the fact that the majority of representatives of the organizations who were interviewed (including the government officials of the Ministry of Environment) were not aware of its existence or its exact content.

Several treaties and conventions related to protection have also been ratified by Ecuador:

- the Convention on Biological Diversity of 1992 ratified by Ecuador on February 23, 1993;
- the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of 1994, member since January 1996;
- Decision 391 of the Andean Community, adopted in 1996, establishing a Common regime on Access to Genetic Resources;
- Ecuador has been a member of the Convention of the World Intellectual Property Organization since May 1988.

These ratifications and the incorporation of protection in the Constitution did not have the expected effect in Ecuador due to problems with implementation, which will be discussed below. However, the population does seem to be more aware of the problems related to the subject and the importance of protecting knowledge.

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[49] See article 30 of the Constitution and the 'Ley de Propiedad Intelectual' (Intelectual Property Law) No. 83; Registro Oficial 320: 19.5.1998.

Shuar women attending the Assembly for Women and discussing the loss of culture
and the importance of protecting knowledge and traditions

Although it is mostly the representatives of indigenous organizations who are more conscious of what goes on, they do have the spirit to fight and avoid the appropriation of their knowledge in the name of all the indigenous peoples. Because an appropriate system of intellectual property right has not yet been developed for the protection of indigenous knowledge, the members of the visited communities tend to use their own methods to cope with the situation.

Continuing problems
As has been the case with the implementation of the Convention on Biological Diversity, there are similar problems with the implementation of the protection of indigenous knowledge.

Valuable efforts exist to confront the problem, but none of these have been implemented so far. In paragraph 6.2.1, the 'Project on the Law of Indigenous Nationalities and Peoples'[50] is described where this proposal covers the position and participation of indigenous peoples. This project also incorporates the two common principles concerned with protection of indigenous knowledge, which have been developed in international law.

Chapter 2 (Articles 24-27) prescribes the necessity of consultation of the indigenous peoples when plans, programmes and projects are to be undertaken in their territories. This chapter actually covers the 'prior informed consent' principle as it

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[50] Proyecto de Ley de Nacionalidades y Pueblos Indígenas, CODENPE (2002), Quito: NINA Comunicaciones.

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requires prior studies accompanied with all the necessary documents to fully inform the communities for receiving their consent of the activities, without which the plans cannot be executed (Article 26).

The principle of 'equitable benefit sharing' can be found in Chapter 3 entitled *Participation in the Benefits.*[51] Any plan, programme or project involving tourism, infrastructure, prospecting, exploration and exploitation needs to consider the participation of indigenous peoples in the benefits that are obtained (Article 28). Institutions of the state cannot authorize nor approve projects that are not accompanied by a contract that confirms this participation as well as sufficient guaranties.

Furthermore, the state is considered responsible for promoting and encouraging the different cultural expressions of the indigenous nationalities and peoples in art, language, literature, cosmological vision, ideas and religious beliefs, costumes and traditions, as a part of Ecuador's historical and cultural patrimony (Article 53). Article 58 adds that laws, regulations and juridical norms which involve indigenous nationalities and peoples, need to be published in Spanish as well as in the official idiom of the indigenous group to which they belong.

Another effort to protect indigenous knowledge can be found in the project on a Special Law on Conservation and Sustainable Use of the Biodiversity.[52] In Title IV on Sustainable use of the Biodiversity and its Functions, Chapter I entitled *Prior Informed Consent* confirms, in Article 61,[53] that activities related to access of biological and genetic resources (including its components), scientific research and commercialization demand the prior informed consent of the communities involved. The processes of consultation and agreement will respect the practices, mechanisms and traditional forms of organization of indigenous peoples, afro-Ecuadorians and local communities. In Chapter III, entitled *Intellectual Property Rights*, Article 98 confirms that the state recognizes and values the traditional knowledge, innovations and practices associated with biodiversity, which are the results of ancestral practice of indigenous peoples, afro-Ecuadorians and local communities, and moreover, that this includes the recognition of their collective intellectual property right. For the protection of the knowledge and practices, the state also intends to develop a *sui generis* system in accordance with the Intellectual Property Law of 1998.[54]

According to Article 82, the Ministry of Environment will determine the conditions for the 'equal sharing of benefits' and the access to genetic resources, in accordance with Decision 391 (see paragraph 2.3). However, the draft regulation developed in July 2000,[55] for the establishment of complementary norms for the application of Decision 391 constitutes yet another example of a mere proposal. This regulation

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[51] De la Participación en los Beneficios.
[52] Anteproyecto de Ley Especial para la Conservación y Uso Sustentable de la Biodiversidad en el Ecuador, Ministerio del Ambiente del Ecuador (2000).
[53] Título IV del Uso Sustentable de la Biodiversidad y sus Funciones, Capítulo I del Consentimiento Informado Previo.
[54] Ley de Propiedad Intelectual No. 83; Registro Oficial 320: 19.5.1998.
[55] Anteproyecto del Reglamento de la Decisión 391 de la Comisión del Acuerdo de Cartagena, CEDA (2000).

covers both principles in a similar way as the project on a Special Law on Conservation and Sustainable Use of Biodiversity, but the regulation is still not accepted as formal legislation due to continuing disagreement on the content.

All the above mentioned projects certainly illustrate the influence of international developments on the national legislation of Ecuador. International principles and statements have been included in policies and draft legislation with the participation of indigenous, environmental and political organizations, but unfortunately the actual laws and regulations have not yet been enforced.

As long as no effective protection system in Ecuador exists, indigenous knowledge will continue to be vulnerable to appropriation without consent or equal sharing of benefits. An example of these malpractices is the patent over a variety of Ayahuasca, which was accorded to a Mr. Miller. Despite the efforts of Coordinating Body of Indigenous Organizations of the Amazon Basin (COICA) to contest the patenting of this plant variety through a strenuous and expensive legal procedure, the rights have been granted to Mr. Miller without the consent of the indigenous peoples. As mentioned above, it is difficult or even impossible to avoid these kinds of problems in the future with the existing legislation concerned with the protection of indigenous knowledge.

As a response to this situation, it is mainly the international organizations and the indigenous peoples themselves that try to maintain and protect knowledge and practices. However, the case study below will illustrate that this does not always guarantee the continuity of ancestral wisdom and traditions.

Case study: the 'Módulos Agroforestales'-project in Santa Marianita
Another project with the guidance of Fundación Natura is the project concerned with the adoption and implementation of agro-forestry modules in different communities situated in the Sangay National Park.[56] In cooperation with the Nucleus of Action for Sustainable Development (POEMAR),[57] the project started about three years ago and the agro-forestry system was considered the best option because it combined conservation with the development of the local population (Witte eds. 2001: 3).

The importance of the project for the protection of indigenous knowledge is that the project is based on the recognition that ancestral methods of management and use of biological resources present the only guarantee for conservation and sustainable development. Realizing that the influence of new habitats and new forms of exploitation in this fragile region constitute a threat for its conservation, the idea behind the project is to return to the wisdom of the men and women who first inhabited this region.

In the Brazilian Amazon, the indigenous people Kayapó still use the cultivation system they inherited form their elders, the knowledge of which POEMAR has

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[56] The agro-forestry modules are also referred to as 'agriculture in levels'.
[57] POEMAR is an organization that, without the purpose of making profits, contributes to the activities of POEMA, the Poverty and Environment Programme ('Programa Pobreza y Medio Ambiente en la Amazonía') of the Federal University of Pará in Belém, Brasil.

adapted to the situation of other indigenous peoples in Brazil. Based on the traditional 'agriculture in stratums', the adapted system is now referred to as 'agro-forestry modules'. This technique aims at reproducing the botanical characteristics of the tropical forest in simultaneous forms and technical structures, while substituting the species of less economic value with species that represent more commercial value (Witte eds. 2001: 6-8). The approach of the project in Santa Marianita is to propose this system of agricultural development of the Kayapó to the Shuar people, because the system is not invasive but in balance with the situation of the region, and it revalues the knowledge of the local people. The new techniques are not imposed, but adapted to the existing knowledge of species and local conditions.

Due to its indigenous and Amazonian origin, the system has adapted rapidly to the traditional cultivation systems of the Shuar. The modules occupy 30 by 30 metres and are composed of different levels: from the outside level one, with plants that grow to one meter and provide protection of the soil, to the most inside level, seven, with trees that can be harvested every seven years. Every level has its own function: from an annual harvest for subsistence of the community, to levels that create a favourable microclimate inside the module or produce products for commercial purposes. The species used for the project are similar to the ones that the Shuar traditionally used for their cultivation, and they use their own technical and practical knowledge of the plants in combination with the cultivation model of the Kayapó. The advantages of this system are that it imitates the basic structure of the Amazon forest, it protects biodiversity and does not degrade the soil, it limits the amount of plant plagues and diseases and it offers a high level of productivity.[58]

A Shuar man explaining the uses of plants

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[58] Interview with the coordinator of the project: Marcela Mora, August 27, 2002.

The project works well for the local people and they are motivated to keep it going for the coming years. Among the species that are planted in the modules, there are also medicinal plants to be found. One of the members of the community who cooperates with the project, explained to me that, unfortunately, not everybody in the community has the knowledge of how and when to use the plants:

> The plants that can be found here, were known and used by our ancestors. We still grow different plants to make tea for example to cure headaches, to ease menstrual pains or to avoid pregnancies. The problem is that it takes time and knowledge to use and grow the plants. Not everybody wants to do this anymore and we have lost quite a lot of knowledge, because our elders are not always willing to share with us what they know exactly. Our elders and shamans are afraid that the knowledge will be misused. There are still 'evil' shamans that abuse the knowledge of plants to do harm to other people with the practice of black magic. And we have heard the stories of people that come from outside to steal our plants and wisdom, to make profits without sharing a dollar with us. That is why our elders and shamans protect their wisdom now with 'jealousy': they explain some of the uses, but they never reveal all that you need to know or how to make the same medicine.

One of the older female members of the community told a similar story. She was the only woman in the community whose face shows traces of the traditional tattoos that the Shuar used to make as a sign of elegance and beauty. Now, she feels ashamed of it, because she considers it too old-fashioned and traditional. However, she did express the importance of maintaining the Shuar culture:

> Many things have changed since the time when my grandparents founded this community some 40 years ago. We have adjusted to our time, but we have lost too many aspects of our culture. About ten years ago, our people were ashamed of our culture and did not want to speak the language or sing our songs. Now, we teach our children again to speak the Shuar language as well as Spanish. The world changes, but we should not forget where we came from or who we are. My grandparents used to drink the traditional Shuar brew called '*chicha*' from beautifully decorated ceramics and not from the plastic bowls which we use now. I am trying to make these ceramics again, but it is difficult because my grandmother never taught me how to make the paint they used to decorate them. She also knew how to cure her children with plants and rituals. If somebody gets sick now, they prefer to use western medicines because we don't know how to use the plants anymore. I still have some plants outside of the house, which I use for headaches or other small problems, but I don't have the wisdom my grandmother had.

Other members of the community have also indicated many of the same concerns that she has concerning knowledge and traditions. The indigenous peoples are aware of the use of their knowledge without their consent or the sharing of the benefits resulting from that use. They do not know what intellectual property rights are or what is discussed on the international level for the protection of indigenous knowledge. But they do know that the Ecuadorian government does not make it a

priority to protect their knowledge even though knowledge should enjoy legal protection according to the Constitution.

The awareness of the importance of protecting ancestral wisdom, traditions and culture is not a result of protection efforts, but rather results from stories they have heard about 'biopiracy' and the realization of others about the value of their methods of conservation. The only way they know how to protect this, is to keep their wisdom secret and to pass it on solely to relatives with whom they have a special bond. Unfortunately, this means that when a shaman or a wise older member of the community dies, there is always the risk that they did not have the possibility to pass on their knowledge. For the community, their death means the loss of valuable knowledge, which can never be recovered.

Opportunities
The opportunities on a national level are similar to the measures that can be taken to ensure the role of indigenous peoples in conservation:

- increasing the speed of the legislation process to adjust laws and regulation to the new Constitution and the treaties and conventions that have been ratified by the state;
- effective control of the implementation of rights and obligations by improving the coordination and financial means of governmental institutions;
- strengthening environmental management with the use of indigenous knowledge by supporting democratic participation of the indigenous peoples to include their expectations, necessities, visions and knowledge in the process;
- supporting sustainable strategies for development, like eco-tourism, to strengthen the local economy and maintain the traditional methods of sustainable use of biodiversity;
- promoting the appreciation of cultures, traditions and ancestral wisdom by offering adequate bilingual education and projects that are based on a traditional way of life;
- cooperating and coordinating projects with environmental, non-governmental and indigenous organizations to gain better results.

On a local level, indigenous peoples need to work on:

- developing and continuing proposals and projects based on sustainable strategies that incorporate traditional methods to strengthen the local economy and maintain important aspects of traditional life;
- maintaining the sustainable methods and indigenous traditions related to conservation of the environment to avoid the loss of valuable knowledge;
- promoting and emphasizing the value of their culture and traditions and contributing, with their knowledge, to local and national development;
- pressuring the government and foreign organizations or individuals to comply with the legal provisions related to the protection of their knowledge and collectively opposing the appropriation of their knowledge and practices.

6.3   THEORY AND PRACTICE

In the preceding paragraphs the more theoretical part of the impact of the international debate at the local level in Ecuador is revealed

Theoretical, in the sense that the investigation of national laws and regulation clearly shows the inclusion of principles and concepts that have been developed at the international level. Some of these principles and concepts can be found in legal projects that are not yet implemented by laws or regulations, and others that indeed have been incorporated into national legislation. Indigenous peoples are recognized by the new Constitution of 1998 and they have been awarded several important collective rights to strengthen their position. Among these rights, is the right to maintain and develop their identity and culture, to participate or to be consulted about projects and programmes within their territories with the sharing of resulting benefits when this is possible, and the recognition of indigenous territorial circumscriptions from which they cannot be displaced. Another important right of the reformed Constitution is the right to live in a healthy and ecologically balanced environment that guarantees sustainable development, which has been recognized both as a collective right and an individual right. Additionally, indigenous peoples have the right to preserve biodiversity within their lands and maintain collective intellectual property rights over their ancestral knowledge. Other influences of the international debate are the result of the ratification by Ecuador of several important treaties that are strongly linked to indigenous peoples and conservation of biological diversity. The Convention on Biological Diversity (for the conservation of all biodiversity worldwide) was ratified in 1993, Decision 391 (establishing a common regime on access to genetic resources) was adopted in 1996, and Ecuador became a party of to ILO Convention No. 169 (concerning indigenous and tribal peoples in independent countries) in 1998. Experts and politicians are discussing the possibilities of implementing principles like 'prior informed consent' and 'equitable benefit sharing' for projects involving tourism, prospecting, exploration and exploitation. Furthermore, the Ecuadorian government has mentioned its intention to develop a *sui generis* system for the protection of indigenous knowledge and practices.

The practical part of the impact of the international debate was more difficult to illustrate, since the recognition of rights and principles have not been transformed in specific regulations for effective implementation and concrete action. Several laws and regulations are still being discussed (the Special Law for Conservation and Sustainable Use of Biodiversity for the effective implementation of the Convention on Biological Diversity, the national regulation designed to comply with Decision 391 and the Law of Indigenous Nationalities and Peoples to offer a juridical framework that guarantees the existence and development of indigenous peoples), but it remains to be seen how and when these projects become a reality for the population of Ecuador. Until then, theory is being put in practice mostly on the initiative of local communities with the assistance of environmental and indigenous Organizations. Great efforts, that clearly benefit local communities including financial assistance as well as practical knowledge is provided and strategies are in harmony with indigenous cultures and practices.

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Even though indigenous peoples are proud of these achievements and changes, they feel that much still has to be done. In interviews with members of indigenous communities, this was frequently expressed with the words: "We will keep on fighting". According to the indigenous movement, they regard their fight as a "*minga* for life" (working together for life). It is only recently that the protection of indigenous knowledge was included in this battle, but before this can be achieved, other vital conditions need to be sufficiently fulfilled. Provided that the indigenous point of view is taken into account, protecting traditional knowledge will eventually benefit all parties involved. This *minga* needs all the support it can get.

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7.   INDIGENOUS PEOPLES IN AFRICA

7.1   INTRODUCTION

In Africa, an interesting process has been initiated within the African Commission on Human and Peoples' Rights (ACHPR), with the establishment of an ad-hoc group that will focus on the situation of indigenous peoples in Africa. This is an amazing step given the reluctance of African governments to recognize the concept of 'indigenous' and it is also a promising step, because of the possibilities this could entail for the role of the commission. Before this important event, the African Commission rejected the use of the term 'indigenous peoples' because it did not find the term applicable to African conditions (IWGIA [International Working Group for Indigenous Affairs] 2002: 453). The overall opinion was that all Africans were indigenous and that no particular group could claim indigenous status (Bahuchet and de Maret 2000).

However, also on this continent, changes are taking place and in the following paragraphs a general overview will be given of developments in Africa. First, the background of the situation concerning indigenous peoples in Africa will be described, then, the developments and current activities of the African Indigenous Movement and the Working Group on the Rights of Indigenous People/Communities in Africa will be discussed, followed by a description of the situation of two African indigenous groups. Finally, a summary will be given of the main characteristics and problems of all indigenous peoples in Africa, based on the available literature.

7.2   GENERAL SITUATION

During the preparatory sessions of the International Labour Organization (ILO) Convention No. 107,[59] which started in 1956, only six African delegations participated,[60] because, up to that time, most of the African states remained subject to colonial authorities and were, therefore, without treaty-making powers (International Labour Conference 1956: 537-538). The meetings were mostly attended by representatives of Latin American and European countries and indigenous groups did not participate. The result clearly shows the lack of this influence: ILO Convention No. 107 promotes an integrationist regime where the state is responsible for shaping the well-being of indigenous groups without considering the wishes of the peoples themselves (Barume 2000: 43). Ghana was the first African country to ratify ILO No. 107 in 1958. Then followed Egypt (1959), Tunisia (1962), Malawi (1965), Angola (1976) and Guinea Bissau (1977). In 1989, a revised ILO Convention came into force, namely No. 169, which showed a new understanding of indigenous peoples and recognized certain important rights. Up to today, not a single African state has ratified this convention.

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[59]   See for more detailed information on the ILO Conventions section 1 Indigenous peoples and natural resource management in international policy guidelines of this document.

[60]   Egypt, Liberia, Libya, Morocco, Tunisia and the Union of South Africa.

According to Waehle, this reluctance to sign conventions can be explained by taking into account the use of the term 'indigenous' within the African context. Some decades ago the dominant understanding of the concept of indigenous peoples was that these groups were the aboriginal, original or first inhabitants of the lands they now occupy (Waehle 1996). Even though this definition was applied to the Americas, it was not thought to be relevant for the Asian and African contexts. Waehle states that the underlying distinction could implicate negative consequences for some aspects of the human rights situation in Africa and Asia. The mentioned ILO Conventions No.107 and No.169 made this distinction, namely between indigenous peoples on the one hand and the tribal peoples of Africa and Asia on the other. Consequently, some governments will not find it necessary to ratify the Draft and Final Declaration on the Rights of Indigenous Populations; on the contrary they might simply decide that issues covered in the Declaration are of no relevance to their countries.

Bush meat trade threatens wildlife and the food resources of local people

However, since the mid-1980s, there is some indication of a greater recognition of the rights of indigenous peoples among the African states. This may be attributed to their increasing involvement in the sessions of the United Nations (UN) Working Group on Indigenous Populations (WGIP) and the production of the Draft Declaration on the Rights of Indigenous Peoples (Barume 2000: 44). This participation has made it possible for them to see how indigenous representatives from other parts of the world have been using the notion of indigenous peoples as a universal concept (Waehle 1999: 271). Examples of African groups that used this concept as a self-definition include the Twa, the Maasai, the Barabaig, the Himba, the Bushmen, the Hadzabe and the Ogoni. Despite these examples, the concept of indigenous peoples is not commonly used among those analyzing African issues, which can be explained by the view that since the majority of peoples living in

Africa are indigenous, the concept is considered superfluous (Waehle 1999: 272). This interpretation is either based on cultural history, African people being the first inhabitants of the continent, or on historical and political arguments (to colonial powers all Africans were aboriginal with a non-dominant position and culturally different from external powers) with the applicability of the term reduced in the processes of national liberation from the colonial powers (Saugstad 1996, Veber et al. 1993).

Nevertheless, some groups like the Twa of Rwanda have presented themselves as indigenous peoples in their political work concerning human rights and development. The volume in which these presentations appeared was based on a conference, held in 1993, where representatives of African communities and organizations met with African and Western scholars to discuss the concept of indigenous peoples (Waehle 1999: 273). During the conference, the following interpretation of the concept in Africa came forward:

> Peoples with strong ties to their lands and who have been in their region before colonisation, are now dominated by other peoples from whom their cultures are markedly different and who identify themselves as indigenous (Colchester 1993: 38).

According to Waehle, today many African representatives would share the views expressed by indigenous leaders of Asia at a meeting in 1995:

- Indigenous peoples have a special attachment to lands and territories.
- Indigenous peoples have a sense of shared ancestry and have the right to self-determination.
- Indigenous peoples have their own languages, cultures, spirituality and knowledge.
- Indigenous peoples have their own political, social and cultural institutions. These include customary law, consensual decision-making processes, community life and collective sharing.
- Indigenous peoples' land, territories and cultural institutions are violated by states and global forces through acts of domination (IWGIA 1995: 33-34).

In other parts of the world, disadvantaged groups, together with human rights organizations and others have insisted on forms of positive discrimination. Indigenous or minority rights are used as a strategy to ensure that these groups enjoy the same privileges and rights as other groups in society. Within the African context, however, such suggestions have regularly been confronted with the argument that such measures would lead to unwanted apartheid-like or tribalistic situations (Waehle 1999: 273).[61]

Whatever the approach or interpretation to the concept of indigenous peoples, it is clear that the situation of these peoples is receiving more attention in Africa. The establishment of the Working Group on the Rights of Indigenous People/Communities in Africa under the African Commission, which will be

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[61] See Davidson (1993) for a sound argument on why such a critique is misplaced.

described below, is another clear indication of growing interest for the situation of indigenous peoples. Although these are all positive indications, it is important to realize that the WGIP remains a non-binding instrument until adopted by the United Nations General Assembly. If African governments are unwilling to recognize indigenous rights within the UN's human rights framework, the conditions attached to loans by financial institutions like the World Bank may prove a more effective incentive. However, the involvement of the World Bank needs to be closely monitored, because this does not necessarily guarantee a positive outcome for the indigenous peoples involved, which is illustrated by the case of the Bagyeli in Cameroon (section 7.5.1).

7.3 THE WORKING GROUP ON THE RIGHTS OF INDIGENOUS PEOPLE/COMMUNITIES

In 1999, International Working Group for Indigenous Affairs (IWGIA) held a conference on the situation of indigenous peoples in Africa in co-operation with Pastorialist Indigenous NGOs Forum (PINGOs) in Tanzania. This conference recommended that the African Commission on Human and Peoples' Rights should be encouraged to address the human rights situation of indigenous peoples in Africa, which it had so far never done (IWGIA 2002: 453). Although this recommendation was originally rejected by the Commission (based on the argument that *all* Africans are indigenous), the situation of indigenous peoples was on the agenda as a separate agenda item during the 28th Ordinary Session of the African Commission in Benin in October 2000. During this session, a Resolution on the Rights of Indigenous People/Communities in Africa was adopted by the Commission by which a working group was set up with the following mandate:

- to examine the concept of indigenous peoples and communities in Africa;
- to study the implications of the African Charter on the human rights and well-being of indigenous communities;
- to consider appropriate recommendations for the monitoring and protection of the rights of indigenous communities;
- to submit a report to the African Commission.

The adoption of this resolution has been an incredible step forward, and it showed the willingness of the African Commission to discuss the situation of indigenous peoples. In the subsequent session of the Commission in Libya (23 April-7 May 2001), for the first time ever, five indigenous representatives participated and they were allowed to present a statement, even though their organizations did not have the observer status. They actively lobbied the governments and Commissioners and discussed intensively with human rights non-governmental organizations (NGOs) and state parties. The presence of indigenous people at the session in Libya, presenting the reality of their experiences, was felt within the African Commission and forced the Commission to seriously engage on issues relating to the rights of indigenous peoples. Furthermore, during the private session of the 29th session, the Working Group on the Rights of Indigenous People/Communities in Africa was created by the African Commission. This Working Group is different from the UN WGIP, in the way that the Working Group under the African Commission is a small

unit with only a few people nominated by the Commission as experts. Another striking difference is that the African Working Group is not an open forum with broad participation like the UN Working Group.

On October 12, 2001, the Working Group held its first meeting in Gambia, prior to the 30th Session of the African Commission, which took place from October 13 to 27, 2001. It was agreed that the first task of the Working Group would be to develop a Conceptual Framework Paper, which would result in the formulation of a report to be submitted to the Commission around April or May 2003. It was stated that the paper should discuss the characteristics of indigenous peoples in Africa to have an idea about the groups and their human rights problems. Furthermore, it was considered that more indigenous people should participate in the forthcoming sessions to present their position, and that their organizations should apply for observer status with the Commission to be able to speak out in the sessions. During the session, the representative of the government of South Africa welcomed the establishment of the Working group as an important initiative, while other commissioners clearly objected to the issue, stating that the African Commission seemed to be taking on an issue that was not the concern of the Commission. The term 'indigenous' could not be used appropriately in an African context and it implied negative colonial connotations. This position was, however, contested by other commissioners, reflecting the differing positions within the Commission.

At the 31st Ordinary Session of the African Commission (May 2-16, 2002, Pretoria, South Africa) a first draft of the Conceptual Framework Paper was discussed and the approach used in the paper seemed to be generally accepted. At the meeting, comments of commissioners were generally positive and constructive, encouraging more commissioners to take an active interest in the issue of the human rights of indigenous peoples.

Six indigenous representatives participated in the 32nd session of the African Commission, which took place in Gambia in October 2002. Though this session was cut very short due to financial reasons, three of the indigenous participants still managed to speak in the public session and to maintain a certain focus on the issue. The consultative conference to discuss the draft report of the Working Group with a wider audience of African indigenous representatives and human rights experts was held in late January 2003 in Kenya, and based on the input from this conference, the Working Group is now finalizing the report. It was to be submitted to the African Commission during the 33rd session of the African Commission to take place in May 2003 in Niger.[62]

In conclusion, several commissioners have expressed an interest in dealing with the issue and in co-operating with the Working Group. This open attitude on the part of the African Commission is encouraging, but obviously the issue of indigenous peoples remains difficult in an African context. However, the African Commission is a major platform of debate, and if the African Commission does support the significance of looking after marginalized and vulnerable groups such as indigenous

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[62]   See for recent developments and information about the sessions:
      http://www.iwgia.org/sw371.asp

peoples, this will send a very important message and help facilitate a much needed dialogue between African governments and indigenous peoples (IWGIA 2002: 456).

7.4   THE AFRICAN INDIGENOUS MOVEMENT

Unlike the African states that are not eager to acknowledge internationally recognized rights of indigenous peoples, the peoples themselves are becoming more and more involved with the improvement of their situation. In the early 1990s African indigenous groups began to attend the sessions of the WGIP. Dr. Deng Dongrin Akuany, speaking on behalf of the people of Southern Sudan at the 11th session of July 1993, was one of the first to report the systematic depopulation, widespread killing, ethnic cleansing and terrorism. Twa representatives from Rwanda attended the Working Group for the first time in July 1994, joined by a Twa representative from Congo at the July 1998 session (Barume 2000: 50).

In 1997 African participants at the Working Group established the Indigenous Peoples of Africa Coordinating Committee (IPACC) to facilitate, coordinate and represent the rights of the indigenous peoples of Africa. The 'Bushmen', Maasai, Berbers, Twa and Bagyeli Pygmies are represented within this committee. However, African indigenous peoples are still under-represented at the UN for, and, notwithstanding the special efforts of the United Nations Voluntary Fund for Indigenous Populations and other support agencies. The main reason is the lack of funds to enable African representatives to attend the annual meetings in Geneva (Barume 2000: 51).

On the regional and national level, several networks have been established that operate throughout Africa: the Working Group of Indigenous Minorities (WIMSA) covering south Africa, the Pastoralist Indigenous NGOs Forum (PINGOS Forum) of Tanzania including several pastoralist groups and a Hadzabe community, the African Indigenous Women's Organization (AIWO) created in 1998 at the first Indigenous Women's Conference in Morocco, and a network of central African Pygmy peoples is emerging, including CAURWA (Communauté des Autochtones Rwandais), the Twa people in Rwanda, PIDP-Kivu (Programme d'Intégration et de Développement du Peuple Pygmée au Kivu) representing the Twa people in eastern Congo, and CODEBABIK (Comité de Développement des Bakola/Bagyeli des Arrondissements de Bipindi et Kribi) representing the Bagyeli people of Cameroon (Barume 2000: 51).

Also at the national level, indigenous peoples are claiming their rights through law suits for the recovery of ancestral lands and respect for human and cultural identity. International NGOs such as Survival International, the International Alliance of Indigenous and Tribal Peoples of the Tropical Forests, the IWGIA and the Forest Peoples Programme are supporting the African indigenous movement by strengthening the emerging local indigenous organizations, assisting meetings to exchange information and creating common positions. For example, in 1999 PINGOS and IWGIA organized a conference in Arusha, Tanzania, which brought together 50 participants from more than 30 indigenous organizations and communities in east/central and southern Africa (IWGIA 1999: 50-55). However,

there are still national and local organizations working with or acting on behalf of indigenous peoples in Africa that are aiming at the integration of indigenous peoples into society without regard for local traditions, rituals and culture.

7.5 TWO CASES IN AFRICA

In this section a brief description will be given of two different indigenous groups in Africa. Needless to say that these are only examples and that situations of other groups can be somehow different to the situation of the Bagyeli and the Hadzabe. However, these examples do indicate some of the problems indigenous groups in Africa are confronted with.

7.5.1 Exploitation and the Bagyeli in Cameroon

In Cameroon, some 4000 Bagyeli, also known as "Pygmy" people, are living in the south-west region. The 'pygmy' peoples are estimated to number between 250,000 and 350,000 people (approximately equal to the number of Australian Aborigines). Besides the Baka and Bagyeli of southern Cameroon, the different pygmy groups include the Baka of the Central African Republic and northern Congo-Brazzaville, the Mbuti of the Ituri forest, north-east Congo, and the Twa of eastern Congo, Southern Uganda, Rwanda and Burundi (Luling and Kenrick 1998: I-II).

Large scale logging has greatly affected the Pygmees' environment

Since the 19th century the land rights of forest dwellers (like the pygmy) in Cameroon have not played a role in the major decisions of the rulers. All forest lands, defined as vacant and without owners, became the property of the state and

were then opened for timber exploitation. As a consequence, these areas were closed for hunting by Bagyeli, Baka, and other so-called pygmy hunter gathering communities, who were present across Cameroon before the colonial state (Nelson 2002). When France became the ruling colonial power last century, practically all lands became the property of the state, notwithstanding the fact that almost all land in Cameroon is held under customary principles. This system has not changed much since (only 2.3 percent of the lands have been titled since 1974), and most forest lands outside protected areas are extremely susceptible to some form of exploitation. The local people are rarely consulted or informed about activities taking place on these lands.

An example of these kinds of practices is the Chad-Cameroon pipeline through the forested region of South West Cameroon which has caused land and forest loss for many different communities. The controversial oil pipeline was approved by the World Bank on June 6, 2000, costing 3.5 billion US dollars, of which 240 million dollars would be from loans supplied by the World Bank to secure the project against political risk (FPP [Forest Peoples Programme] 2000: 58). However, many aspects of the project have been the subject of controversy and NGOs alleged violations of at least five of the World bank's policies. An Indigenous Peoples' Plan intended to diminish the effects of the pipeline on the Bagyeli did not comply with the World Bank's Policy on Indigenous Peoples and did not deal with problems of the Bagyeli related to their marginal status within society. The Plan underestimated the likely impact of the project on Bagyeli livelihoods and failed to identify the most obvious threats to the local population resulting from the influx of pipeline workers, like increased drinking, violence, prostitution and AIDS [acquired immunodeficiency syndrome] (all these consequences have been recorded for other pipelines) (FPP 2000: 59).

Eventually, the construction of the pipeline has left a 30 metres wide gap through the forest, crossing land where Bagyeli hunted, gathered and cultivated. No one Bagyeli has received individual compensation for the losses they experienced due to the construction. Furthermore, the protection of Campo Ma'an National Park as part of the environmental compensation for the pipeline, has led to new restrictions on hunting and forest access in Bagyeli traditional areas near the border with Equatorial Guinea, possibly resulting in Bagyeli being criminalized for pursuing their livelihoods in this area (Nelson 2002). Problems identified by the investigations in February and March 2001 of Planet Survey (a local NGO), range from a lack of information access throughout the project's institutional framework, and inequality and conflicts between the Bagyeli and Bantu village neighbours resulting from the pipeline's compensation process, to a lack of participation in consultation and decision-making (IWGIA 2002: 399).

These examples clearly illustrate how those who prepared the pipeline plans turned a blind eye to local land tenure. The Bagyeli are not recognized as citizens, do not possess identity papers nor participate in local elections, they have no land rights under either national law or Bantu customary law, they have no recognized property rights and they have never been well informed about the implications of the pipeline project for their future (FPP 2000: 60). With support from the FPP and two local NGOs (earlier mentioned Planet Survey and the Centre for Environment and

Development-CED), the Bagyeli are now beginning to secure identity cards and engage regularly with governmental officials, and representatives of the pipeline project, who have recently agreed to meet with them to discuss plans for regional compensation measures. The Forest Peoples Programme and its partners will also support Bagyeli to generate their own data for community based maps of land use, using Global Positioning Systems technology, working in collaboration with the majority Bantu communities. The CED will also produce the final maps, which will form the basis for future dialogues between Bagyeli and Bantu communities, protected area managers, government agencies and pipeline representatives in order to attain secure, communal land rights for the Bagyeli (Nelson 2002).

Pygmee man in front of his hut

In conclusion, it is useful to add a last comment written by Waehle related to the Twa of Rwanda (Waehle 1999: 273). Waehle states that combining an analysis of the current situation of the pygmies with a discussion on the rights of indigenous peoples is definitely not without problems. Besides the pygmies, there are approximately 12 million other people (farmers, fishermen and other forest inhabitants) living in Equatorial Africa, representing up to 450 different ethnic groups (Vansina 1990). From the outside, there are good reasons for regarding all the traditional inhabitants of the region, hunter-gather/pygmy and others alike, as genuine forest peoples. In recent documents on forest people and deforestation, the pygmies are usually singled out as the threatened group. Waehle suspects that such preconceptions concerning the status of forest peoples reflect the romantic attitudes of outsiders towards the pygmies, and not necessarily those of the forest peoples

themselves.[63] Considering ways to defend the forest, some forms of far-reaching strategies seem essential. However, it is important to remember, the fact that pygmies have rights to territories, resources and self-determination should not exclude other forest populations from having rights as well (Waehle 1999: 273-274).

7.5.2   Land alienation and the Hadzabe in Tanzania

The Hadzabe are situated in an area geographically located within the southern section of the Western Rift Block zone of Tanzania, where they occupy the most agriculturally marginal lands of this area in the Eyasi Basin. The Hadzabe number between 1,000 and 1,500 individuals with approximately 1,500 square kilometres where they pursue a semi-nomadic lifestyle characterized by hunting and gathering. Although in recent years some Hadzabe have chosen to diversify their income by engaging in some gardening, small scale agriculture and trade with neighbours, the majority persist in their traditional way of life (Madsen 2000: 15-16).

Before, this lifestyle was practical and adequate, but now, with increasing land alienation by immigrants from neighbouring communities and the resulting environmental pressures, their way of life seems impossible to maintain. Until recently, the Hadzabe were the only residents in the Eyasi Basin, but Barabaig pastoralists and an increasing number of Iraqw and other agriculturists have been moving into the area. Also, the Hadzabe are under great pressure from the government, Church, neighbours and other organizations to abandon their hunting and gathering lifestyle. In the past there have been various programmes to sedentarize the Hadzabe into permanent villages and to get them involved with agriculture. Furthermore, Tanzania adopted development policies in order to "catch up" with the developed world: a modernization strategy with a socialist development ideology that focused on peasants and workers as the key factors in centralizing economic production. However, all of these measures failed; sooner or later the Hadzabe left the settlements and neighbouring communities replaced them with the result that again another piece of their land was lost to outsiders (Madsen 2000: 17-20).

According to Madsen, one of the problems that can be identified is that there is surprisingly little debate in Tanzania about what actually constitutes development, particularly for communities like the Hadzabe (Madsen 2000: 20). Despite decades of failed "development" programmes, most government officials cling to the view of development as a process of modernization in line with earlier development theory. A theory in favour of expansion of industrial capacity and mass production, rejecting local concerns and priorities. Madsen adds that foreign colonial officials were replaced by African officials, but the attitudes, perceptions and biases within society and among government officials are indicative of the colonial era. Groups like the Hadzabe and also the more populous groups like the Barabaig and Maasai are not seldom described with terms such as "backward" and "primitive" (Madsen 2000: 21).

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[63]   Frankland also warns of this romantic attitude by stating: "Romantic fascination has no coping strategies for disruption in paradise". See for more discussion on this issue, Frankland (1999), *Turnbull's syndrome*.

Together with this attitude comes the rejection of these peoples' customary rights to land and resources, their means of livelihood, which results in the alienation of their lands. Recently issued land legislation in Tanzania falls short of protecting peoples' claims to traditional territories and also, administrative measures have been taken against people to remove them from their lands. The Hadzabe and other hunter-gatherers share similar circumstances with that of pastoralists in the way that the interests of minority populations are not included in national development programmes. Too often national majority interests take precedence, which can be illustrated with the case of the Barabaig pastoralists of Hanang who lost ten percent of their land to a government parastatal organization establishing large, mechanised wheat farms in the area (Madsen 2000: 22 and Lane 1996). The consequent movement of large numbers of outsiders into this area displaced the Barabaig who are now living all over Tanzania, and who have in turn displaced the Hadzabe. The Maasai have been and are facing the same kind of dislocations. Madsen states that the evictions of Maasai from the Mkomazi game reserve in 1988 by the government took place with the same rational and "legal" arguments used by the colonial authorities for the mass evictions of the colonial era (Madsen 2000: 23).

All these examples of communities and their problematic situations demonstrate that the case of the Hadzabe is not an isolated case but is particularly serious because they are not only losing their lands to majority interests, other minority communities are also applying pressure by forcing them to relocate. The International Working Group for Indigenous Affairs reported on the situation in 2001 and the first half of 2002 that the indigenous hunter-gatherer communities of the Hadzabe and Ndorobo, as well as the pastoralist Barbaig and Maasai continue to experience marginalization, economically, politically, socially and culturally. The indigenous communities face a reduction of their resources base as traditional territories continue to come under forms of land use other than indigenous ones. This process creates serious land scarcity, and, consequently, conflicts between wildlife and human activities, pastoralism and farming, and subsistence and sport hunting have increased in both frequency and intensity (IWGIA 2002: 385-386).

Over the years, Tanzania has underlined a policy of national unity, national language (Swahili), national identity and national consciousness. This policy on national identity has suppressed cultural diversity and therefore distinct cultural values are fading. The International Working Group for Indigenous Affairs states that this is the case for all indigenous communities in Tanzania. The changing pattern of resource utilization has an impact on the lifestyles of all the indigenous peoples and alienation of sacred sites represents a clear denial of basic cultural rights to indigenous peoples since religious performances and spiritual practices support the value system of any society (IWGIA 2002: 387). Whatever the cause, land alienation endangers all minority groups. As we know now, the loss of land and territory entails the loss of valuable cultures, traditions and knowledge, more often than not without the possibility of recollecting or restoring lost wealth.

7.6   MAIN CHARACTERISTICS

Realizing that there are many different indigenous peoples/communities or groups present in Africa (besides the pygmies who are the most researched and described) and that it is beyond the scope of this document to describe all their different situations, we will conclude with a summary, composed by Waehle, that contains the main characteristics of the recent situation of the pygmies in Equatorial Africa (largely based on APFT [Avenir des Peuples des Forêts Tropicales] 1995, Knight & Lewis 1995, Waehle 1996, Waehle 1999). It is said that these characteristics also apply to other indigenous peoples inhabiting the African rainforest (Waehle 1999: 267).

Rattan is one of the most important sources of income for the forest dwelling people

Status and position in the larger society
The pygmies in Equatorial Africa are time and again the victims of "misunderstandings (if not malevolence) and their techniques and values are always compared unfavourably to those of the dominant society" (APFT 1995: section 1.2.49). Whether in local, regional or national contexts, these groups often suffer from a range of negative stereotypes, deeply rooted prejudices and paternalization. It seems that they are caught in some kind of underdog position from which it is difficult to escape, the more so because their religion, language or clothing often contrast with that of the mainstream society (APFT 1995). Information, about the present situation or range of problems these groups have to deal with daily, is either lacking or can only be found in sources difficult to access. When compared to the attention that forest peoples in Asia or in the Amazon region of South America have received over the last decades, it seems that these groups are most of the time ignored or forgotten (Waehle 1999: 267).

Territories, resources, land tenure and land use

The defence of their territories and resources represents a basic challenge to the hunter-gatherers of Equatorial Africa. Occurring in different forms, this problem is generally linked to conflicts between extensive land-use systems requiring relatively large amounts of land and more intensive land-use systems. Additionally, there is a contrast between what has been termed collective rights (economic, social, cultural and political) and the more common concern about individual or civil rights in the sense of the Universal Declaration of Human Rights. Related to land rights, the following threats can be identified:

- internal colonization, as in the process of landless peasants colonising the rain forest areas, often following commercial logging operations or caused by pressures of neighbouring groups (for example the displacement of Hadzabe triggered by the influx of Barabaig pastoralists in Tanzania);
- state measures, often by legal means, that weaken the rights of particular segments in society to land and resources (for example, the acquisition of title-deeds, or land rights that can be acquired through cultivation instead of by hunting and gathering activities).;
- coercive measures and forced resettlements related to the establishment of national parks, nature reserves or military grounds (as documented for the Twa in Knight and Lewis 1996);
- intrusions by national and international companies engaged in large-scale resource extraction such as logging, mining or industrial agriculture;
- difficulties in competing with other actors in the market for groups that previously were self-sufficient as national-scaled and market-oriented economies become more dominant. Groups end up in poverty or new types of client or tenant positions result, while others may revert to what outsiders term petty theft and poaching;
- prejudices, misunderstandings and discrimination with regard to land use systems of these groups (like hunting and gathering, nomadism or shifting cultivation) that could result in land shortages, together with insecurity of customary land tenure. Furthermore, problems relating to the lack of respect for land rights and Western-inspired ideas about economic and ecological matters often clash with the more cosmological approach of hunter-gatherers (Howell and Waehle 1992).

Relationship to the state and other bodies

In contrast with western states, which guarantee the rights of its citizens and encourage political debate, African states tend to discourage democratic processes. This may have consequences in different areas:

- access to basic necessities like health facilities, education and social services that are available to other segments of societies may be denied to indigenous groups;
- democratic participation and self-determination may be impossible because of dictatorial or paternalistic regimes, corruption and power abuse;
- certain groups may be the victim of malpractice by the state, like discrimination, illegal arrests, killing or even genocide as has been the case in Rwanda;

- inconsistencies may arise between laws and their application like, for example, the difficulties the pygmies experience in several Equatorial African countries in obtaining citizenship (see the above mentioned case of the Bagyeli in Cameroon) and, furthermore, wishes and aspirations of the indigenous groups may be disregarded by state authorities (APFT 1995);
- national independence did not result in independence for every group in society, which is demonstrated for example by the fact that there exist no effective desires to change the exploitation and marginalized situation of the indigenous groups;
- strong relationships may be created with international development agencies, NGOs, trade unions, churches and other external bodies to improve the situation of indigenous peoples, either directly or indirectly through lobbying.

Organizations and self-development
Negative experiences with colonial and post-colonial situations and dependency relations have often made the pygmies suspicious of authorities or development agencies facing problems like:

- political weakness: rejection/denial of these groups in situations of negotiation or development planning;
- lack of basic organizational infrastructure, resources, competence for self-Organization and contacts at a regional or international level. Fortunately, there are exceptions to this scenario, which is for example the case with the Twa of Rwanda because not only did they establish their own organizations, but they are also represented in the international forums.

The description of the situation of the Bagyeli in Cameroon and the Hadzabe in Tanzania complemented with the summary of main characteristics of the situation of the pygmies only creates a general view on the problems indigenous peoples have to cope with in Africa. However, when projects are undertaken in this region, this general overview does indicate the problems of frequent occurrence that need to be taken into account.

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8. DECENTRALIZATION OF NATURAL RESOURCE MANAGEMENT: SOME THEMES AND UNRESOLVED ISSUES

8.1 INTRODUCTION

A major impetus for decentralization and regional autonomy in many countries has been the demand for greater local control of natural resources. Both within and outside Asia, co-management of natural resources epitomizes this broad trend of decentralization in the context of environmental conservation. Co-management is loosely defined as 'the sharing of power, responsibilities and benefits with respect to the management of natural resources (including their exploitation and conservation) among government and individual collective users'. Other terms in the literature are: joint management, adaptive management and collaborative management. In recent years, co-management programmes, policies and projects have been widely promoted. In Asia, just as in many other areas, co-management has become far more than an abstract idea. Community boundaries are being mapped and across the continents many experiments in local resource management are in progress.

A number of collections of case studies have been published recently on projects with a wide variety of co-management arrangements, some successful, others not (see for example, West and Brechin 1991; Kemf 1993; Lynch and Talbott 1995, Western et al 1994; Kothari et al 1996; Stevens 1997; Zerner 2000; Maffi 2001; Vira and Jeffery 2001). Some of these case studies, like the CAMPFIRE [Communal Areas Management Programme for Indigenous Resources] project in Zimbabwe and the extractive reserves in Latin America, are posited as almost ideal models for co-management arrangements. These and other cases tell stories of local people, non-governmental organizations (NGOs) and field officials of government institutions trying to creatively overcome situations of growing environmental degradation and poverty. Their successes and failures, however measured, provide interesting material for those who wish to learn from past failures in order to come up with better alternatives.

On the other hand, co-management arrangements, however well designed and implemented by committed people, can never solve the whole gamut of environmental problems. Different management structures are still necessary for certain types of resources, user groups and circumstances. In general, though, co-management arrangements have proven to be a helpful instrument in overcoming a variety of problems formerly associated with state and centralized styles of management. This does not imply that co-management projects are always successful, nor that implementation of these new management regimes is unproblematic (see Pimbert and Pretty 1995; Western et al 1994; Lutz and Caldecott 1996; and Leach et al 1997). In fact, we are still in the learning stages.

This chapter will therefore examine a number of themes and issues that so far are unresolved in the sense that they require further attention in the future by all those involved in the new forms of arrangements with respect to the management of natural

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resources. They are taken from various discourses and experiences in a number of projects and countries. In particular they are inspired by the present situation in the Philippines where the process of decentralization commenced more than ten years ago and where the indigenous peoples' movement has played a major role in changing the discourse on resource management. We believe however that many of these issues also bear direct relevance to the present day situation in Indonesia. The themes and issues raised here are by no means meant as an exhaustive list, but rather as a way to look at a number of important aspects of present trends in resource management. The themes and issues that we would like to discuss here are the following:

1. differences in time perspectives;
2. the ecological basis of natural resources under co-management arrangements;
3. 'community' and 'management' in 'community-based management';
4. dissolving state responsibilities and non-local interests;
5. contractual arrangements;
6. third parties in co-management arrangements;
7. terminology: 'people', 'peoples' or 'communities';
8. self identification versus objective criteria with regard to being indigenous;
9. principles of justice;
10. the danger of ethnic cleansing;
11. free and prior informed consent;
12. failure and success in co-management: a comparative perspective.

8.2   DIFFERENCES IN TIME PERSPECTIVES

Images of time, that is views about the past, present and future, play an important role in the management of natural resources. For some the past has been taken as a basis for claiming and recognizing rights to natural resources, while for others events in the past provide a basis for urgent action in an effort to redirect the present course of events.

Although the global sustainability debate emphasizes 'the future' and 'future generations', scarcely any attention has been explicitly paid to the dimension of time and the future, either in this debate in general (Boersema 2000) or in the co-management debate in particular (Persoon and Van Est 2000). Multiple time perspectives co-exist within the 'real' world of nature conservation and co-management arrangements. They are used by a variety of people-nature conservationists, donor agencies and development bureaucracies, economists, anthropologists and local people and their advocates-representing different institutions from various spatial contexts. They operate from diverse, often implicit, normative viewpoints and different time-order or time-value systems. To understand the way these views coalesce in the real world of co-management, it is necessary to consider these different timescapes (Adam 1998) and render them more explicit.

Nature conservationists' time perspectives can be summarized as 'acting now for tomorrow's world' and 'extinction is for ever'. Certainly, that is the conception that informed attempts to set up biosphere reserves and national parks in the (recent) past. Conservation-minded ecologists are by definition very much future-oriented.

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They want to conserve species, plants and animals or even entire ecosystems and landscapes. They base their plans of action on lessons learned from the past. In their writings, two very different kinds of images of the future prevail. Trends over the past few decades indicate that the areas covered with natural habitats are in rapid decline, that the number of species sliding into extinction is on the rise and that factors contributing to environmental degradation (population growth and growing volumes of consumption) are increasing. These trends lead to pessimistic, calamitous or even apocalyptic projections for the future (see for example, Western 1994, McNeely 1996). These images, often supported by powerful symbols or metaphors, serve as negative points of reference, to be avoided at all costs. Plans of action are based on an alternative vision for the future, a world in which things can change for the better. This vision of a better world is seen in terms of the maintenance of biodiversity and protected areas and the sustainable use of available natural resources. The benefits are intended for unspecified 'future generations'. In order to generate sufficient support for these alternative visions, a variety of policy instruments (varying from economic incentives to environmental master plans) are being developed to turn these alternatives into reality.

Although conservation explicitly addresses the long-term future, project-type activities are generally narrowly instrumental and planned in short-term episodes governed by the project rhythm of donor agencies. There is consequently a need to 'unpack' the time perspective of development bureaucracies, both national and international, both in general and in the specific case of Asia. These bureaucracies, with their multiple aims and internal contradictions, have time perspectives that are organized predominantly around the 'timing of project cycles'. These project formats of two to five years are repeated again and again, each time reflecting changes in development discourse. The time perspectives of development bureaucracies are linked closely and in multiple ways to the rise and fall of politicians or political parties. This is also the case for bureaucratic institutions engaged in nature conservation, which have generally adopted the style of development agencies.

Economists can also be said to have a dominant way of perceiving time and the future: 'the timing of money'. The most important conceptual instrument at their disposal for expressing the present and future value of goods, including natural resources and services, is that of 'discount rates'. Present-day satisfaction of needs is thereby ascribed a higher value than the satisfaction of needs in the future. Natural resources are generally assigned a market value, broadly equivalent to the present market value. This raises problems of market imperfections and difficulties in the pricing of ecological functions. One result of these problems is that the future in all its dimensions (satisfaction of needs, rights of future generations, future value of biodiversity) is accorded a lower priority than the present. As a consequence of this powerful discounting logic, investments in the long-term productivity of forests or the conservation of nature as an 'heroic sacrifice' (Passmore 1980) are automatically deemed uneconomic, irrational ventures. This may be partly solved by introducing appropriate pricing mechanisms for the environmental functions of natural resources, but this is not yet the case. The horizon of economists in relation to the exploitation of natural resources is not generally a long-term one: the further removed in time the benefits and problems are, the less they will be taken into account. The economic perspective leads to a kind of free-market environmentalism,

to use Eckersley's term, characterized by an attitude of scepticism towards limits to growth and non-economic uses and an emphasis on quantifiable material values and a maximized economic output.

Generally speaking, the future is remarkably absent as a topic of research in anthropological literature (Wallman 1992 and Van Dijk 1997). While in the field, anthropologists are more interested in the present and its genesis. In other words they stand with their back to the future. Even in some studies dealing explicitly with the anthropology of time, the future is considered to be of only minor importance (see for example, Gell 1996: 314).

We are convinced that people in general, in their daily subsistence activities, are far more occupied with the future than with the past. There are also other kinds of future, however, that imply alternative options not only in the field of natural resource exploitation but also in social domains, in relation to kin as well as to those in power. People may also plan for a more distant future, for themselves or for their offspring. They decide on the resources needed to make particular social or economic investments. They may do so individually or collectively.

Particularly in rapidly changing circumstances, the past and even the present cannot teach us all we need to know about the future. The present can only be understood once we understand the image or perception of the future that is held by the people involved. People may opt for radically different alternatives.

By focusing too much on the present and the past, researchers overlook options and opportunities for change and innovation. Through changing circumstances, people initiate changes, become able to reorganize their lives, value familiar ways of behaviour in a new perspective and set out in new directions. What for some may have seemed an unrealistic, distant future, can become radically more accessible by the actions and discourse of innovative, risk-taking individuals.

8.3   THE ECOLOGICAL BASIS OF NATURAL RESOURCES UNDER CO-MANAGEMENT ARRANGEMENTS

An important issue in relation to the discourse on resource management that often draws little explicit attention is the ecological nature of the resource in question and the managerial consequences that follow from the ecological characteristics. Natural resources are by themselves very heterogeneous. Co-management of resources such as timber, non-timber forest products, water and fish differs fundamentally from community conservation of biodiversity. The former is management of directly utilized resources yielding immediate value to those extracting them from nature, while the latter provides only indirect, delayed or cultural and symbolic value (Uphoff 1998: 3). On the other hand, highly mobile stocks of fish or marine mammals with territories far beyond the jurisdiction of particular communities cannot be managed along similar lines to localized and immobile non-timber forest products or animals that are much more territorially bound. Effective management of water resources requires clear and rapid procedures, in times of both scarcity and abundance. Conflicts over scarce irrigation water, for instance, cannot linger on, for

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otherwise the resource looses its value for the disadvantaged party. Similarly rapid procedures are necessary when flooding threatens. Conflicts over access to land and other immobile resources, in contrast, require less urgent action.

Resources also require specific knowledge and are subject to specific management aims, and because of differences in regenerative capacity they also require different time perspectives if they are to be adequately managed. In successful management projects, ecological realities are matched with the social and cultural facts of life. Uphoff suggests that we interrogate ourselves as to whether or not a resource is 'bounded' (known and predictable) and whether the resource users are a 'bounded' set: identifiable and coherent or lacking group identity and structure (1998: 13). Ecological and socio-cultural (or administrative and political) boundaries rarely coincide.

In general, however, we feel that in present discussions on resource management there is too much emphasis on social and political issues and context, and too little on the ecological dimension of the resources to be managed. This is to be attributed partly to the ecological 'naiveté' of those engaged in relevant discussions and partly to the fact that natural scientists have not been able to bring forward with sufficient clarity the ecological characteristics of particular resources. A truly interdisciplinary approach to this problem is often lacking. While state-controlled management and protection of nature used to be dominated by biologists and ecologists, under the new management arrangements the role of these disciplines has been greatly diminished. In my opinion, greater importance should be attached to the role of other disciplines and the contribution of interdisciplinary research in the debate on co-management and in the design and implementation of co-management projects (see for example, Gilbert and Janssen 1998).

8.4   'COMMUNITY' AND 'MANAGEMENT' IN 'COMMUNITY-BASED MANAGEMENT'

Although the concepts of community and management are crucially important to a proper understanding of co-management, these terms are often used extremely loosely and their actual meaning in the field is not always entirely clear. What kind of phenomena does 'community-based management' cover, then, and what is the meaning of the term with respect to the actions of real men and women dealing with particular resources in particular places?

Community
It may be enquired how this emphasis on 'the community' originated in relation to decentralization of resource management. It is assumed that the support and commitment of rural people emerged as being indispensable for halting resource degradation (Cernea 1985). Because of their knowledge and skills, local and indigenous communities were regarded as victims of degradation as well as the possible 'saviours' of the environment (WWF [World Wide Fund For Nature] 1996, IUCN [The World Conservation Union] 1997). In a sense, nature conservation and lifestyles of indigenous communities were considered more or less synonymous. Indigenous or tribal people and nature conservationists were often thought of as

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natural allies. The success stories of particular instances of local management from across the world spread rapidly prompting, furthermore, a certain shift in environmental policies. Projects and donors began to focus on local communities with the assumption that they would induce their members to plant trees, mobilize labour and protect 'their' natural resources. It was further assumed that communities could ensure the distribution of benefits among the inhabitants (Cernea 1985: 280). Often communities were equated with villages as social units.

The word 'community' is always, as Williams put it, a warmly persuasive one. Unlike all the other terms of social organization (state, nation and society) it seems never to be used unfavourably (Williams 1983: 76). This 'cosy' term also tends to imply something synonymous with internal solidarity and mutual care. In a certain sense, then, as Crehan puts it, "a community can be treated as a single entity with a single set of interests" (Crehan 1997: 227). Reality is far more complex, however. For example, Von Benda-Beckmann et al. (1992) consider this conception of community highly problematic, stating that there is no such thing as 'the community as a whole'[64] (see also, Vayda 1996). One must always make due and thorough allowance for specific local realities such as power dynamics and differences in access to resources among men and women, ethnic groups, age groups and individuals. This idea of fractured communities is elaborated by Kate Crehan (1997). She makes clear that it is necessary to distinguish between the ideal definition of what constitutes a community, and communities as substantive realities, that is, what actually happens within these communities? The fact that ideals differ from reality when it comes to 'communities' has important practical implications for resource management. This is also evident from the kind of events that occur in relation to resource allocation to indigenous peoples (see also, below). In many cases they do not form socially integrated units that can handle the allocated resources in an effective manner because of their lack of international checks and balances. Group formation based on other criteria (in addition to being 'indigenous') proves necessary. Communities may, as Murray-Li (1993: 3) states, have culturally based practices relating to resource use and management, but this does not imply that all individuals and groups within the community have equal access.

This criticism vis-à-vis the community concept in relation to community-based management should not close our eyes to the fact that in some cases and under certain conditions, people do unite and collaborate in order to achieve a common good. What is important here is to determine under what conditions and for what kinds of purposes people start organizing themselves. It is obvious that communities cannot be predefined: boundaries, internal cohesion and collective action should be topics for research and not for postulation. This means that we need to place 'community' in an analytical context and look beyond it.

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[64] Murray-Li comments that it is not only outsiders that like to idealize communities. For their part 'communities' (represented by a village council) are also often keen to convey images of solidarity and co-operation to outsiders (1993: 3).

Management

This takes us to the second term in 'community-based management', management, which we will distinguish here, for the sake of clarity, from the term sustainable management. To start with the latter, we learn from the literature that many different definitions are used, ranging from rather broad (Brundtland) to narrower descriptions (IUCN, WWF). The broad definition is globally agreed upon and, generally speaking, regarded as a useful concept in efforts to halt environmental degradation. It also raises problems, however, because it is so general and open. For a significant 'global' community of development experts (from the south as well as the north) and environmentalists backed by strong environmental non-governmental organizations (NGOs), sustainable management relates very much to the global concern for maintaining biodiversity-that is, the existing species richness of the Earth-perceived in terms of a common heritage of mankind. These global NGOs are hugely influential in the field of environmental management, because it is at this level that policies are formulated, values of nature and wildlife assessed and decisions made as to what, where and how sustainable management efforts should be implemented.

This environmental discourse has trickled down from the international arena to the national and local levels. Before discussing the influence of these supra-local values on various other levels, however, let us examine the notion of local management more closely. Researchers differentiate between the use and the management of a resource, the latter implying that "measures are taken to increase and sustain the resource and its yield" (Van den Hombergh 1993: 74). We would add that there are also forms of resource use that do sustain resources, though not as a result of clear, explicit measures. They are the outcome of cultural restrictions (often related to gender, age and clans) or local power relations. These regulations might restrain resource use, but should not be misconstrued in terms of local people aiming to conserve nature as a purpose in itself, as if it were based on a traditional conservation ethic (Polunin 1991). One often encounters this type of misunderstanding among romanticizing environmental activists. Wiersum (1996) argues that the term (forest) management is a concept used to refer to a variety of empirical situations ranging from controlled utilization, protection and maintenance to purposeful regeneration. It also includes transitions from one type of management to another.

The influence of the aforementioned, supra-local values on the various other levels is dominant but not without complexities. We have seen that the meaning of the term (sustainable) management differs from one interest group to another. Interest groups may range from international, through national to local levels. Supra-local resource interests relate to the conservation of biodiversity, while for local people resource use relates to daily needs (material and cultural), which are not sustainable per se. The state has the highly complex task of combining economic growth and environmental health, which in the south may lead to a range of contradictions, as natural resources often serve as the countries 'green gold'. However, the international community dominates the management debate at the various levels, including the local and regional and in this configuration several problems arise in matching supra-local values with specific local understandings and forms of management. This is specifically the case with the conservation of protected areas,

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which include tropical forests, national parks and wildlife sanctuaries. Here, the object of management is state property and the propagated management form is known as co-management.

Although supporters of conservation claim that various benefits may accrue to those living around protected areas, for several reasons this match is usually very complex. There are evident differences between professional nature conservation organizations and local people in terms of objectives, views and practices. The former wish to protect 'ecosystems' (forests, wetlands and savannah) as a whole, while local people are more interested in specific resources relevant for fulfilling human needs (Wiersum 1996). Richards points to the large cognitive gap that exists between the 'global credo' of environmentalists, who consider themselves as 'savers of the forest' and local people's perceptions of forest and forest resources (Richards 1992: 153). Kessy (1998) shows that the integration of various formal and informal local forms of management (with apparent potential use in conservation initiatives) in conservation activities is very difficult. Local forms of management have proven to be less simple, obvious and direct than expected, as the ecological aspect of local management (presently over-emphasized) is just one aspect among many (such as religious, political, and economic) forming an integrated part of local livelihood strategies and power relations.

Due to the heterogeneity of communities, the presumed 'whole community' might not always be the most appropriate unit for resource management, for two reasons. Firstly, issues of access to and control over natural resources almost always signal arenas of competition and potential conflict, in which some groups are likely to gain or lose more than others. In both cases, interventions may make life more problematic for those concerned, especially when interventions are related to increased income, access and power. Secondly, in actual practice there is always a need to define who, or which categories of people, are the legitimate representatives of the local population. To answer this question requires a thorough understanding of community dynamics, the role of traditional councils leaders and elite, and a willingness to demystify the ideal image of the community. Any policy that excludes these components will frustrate the goal of resource management.

8.5   DISSOLVING STATE RESPONSIBILITIES AND NON-LOCAL INTERESTS

In many discussions about the failure of state-controlled management of natural resources, local, or community-based management is proposed as a more viable alternative. In many case studies of the state and its local institutions are seen as the embodiment of an evil force, misappropriating what is considered to be intrinsically local. In many Asian countries processes of decentralization have come about as a result of an awareness of the inadequacy of centralized forms of government. Local people, frequently supported by dissident politicians, the media, NGOs and scientists, have been successful in acquiring greater political power. In recent years international donors have adopted a similar position, now preferring to work together with local organizations. In their implementation of programmes and projects, government institutions have shown themselves prone to corruption,

inefficient bureaucracy and other problems. This movement towards decentralisation has a number of important potential implications. Can supra-local or non-local interests, like those of downstream farmers and fishermen, urban people, or even the global community now and in the future, and taking care of nature for its own sake, be entrusted to the care of local communities, who are not generally in a position to adequately deal with such interests (Lutz and Caldecott 1996). The emphasis on stakeholder involvement is certainly problematic if the process is dominated by aversion to the state, the collective representative of all those interests that cannot be heard at the local level. Somehow, checks and balances must be built into the process to avoid the denial of interests beyond merely local interests (see for example, Hanna et al. 1996 and Zerner 2000).

8.6   CONTRACTUAL ARRANGEMENTS

Under conditions of good governance the devolution of power from central to local authorities usually takes the form of contracts between governmental institutions and (representatives of) local communities. Examples are so-called stewardship contracts, contracts regulating extractive reserves (like the ones for rubber tappers in Latin America) and lease contracts through which the management of a resource can be handed over by the legal owners to another authority under certain conditions.

The use of contracts in these cases involves a number of assumptions and it also has some interesting aspects. First of all, a contract presupposes some kind of equality between the contract partners, as if negotiations about terms and conditions take place in a 'free market' situation in which partners enjoy substantial freedom as to whether or not to come to an agreement. This is rarely the case.

Co-management contracts are usually drawn up in a legalistic fashion, stipulating at great length, the definition of terms and the contract partners (who are they? who represents them?) and in particular the rights and obligations of the respective partners. Although it may be common practice for government institutions to formally live and act on the basis of carefully formulated and authorized written documents, this is rarely the case for local fishermen or groups of forest farmers in their daily struggle for survival having to adapt to all kinds of changing conditions (such as market changes and environmental changes). Contracts often limit flexibility and adaptability, which are crucial for people living largely on the extraction of natural resources.

A contract between two parties should also include provisions on how to deal with violations of the norms (or responsibilities) laid down in the contract. In the case of inadequate compliance with contract obligations, proceedings against government institutions or civil servants are not readily instituted, and if they are, governments generally claim a lack of staff, financial means or infrastructure for monitoring, control or providing the services stipulated in the contract.

Co-management arrangements are predominantly future and outcome oriented with respect to the aims of the government. The contract is an instrument to achieve a particular end: the protection of animals, plants or a particular aspect of an

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ecosystem. For local groups it is a license to do something: to harvest, to exploit, or to take on the basis of historical rights. Restrictions in resources as stipulated in the contract are seldom wholeheartedly supported. This difference in emphasis in what the contract is taken to be is crucial for the actual outcome.

Finally, contracts are usually between well-defined parties. This leads to the exclusion of so-called 'outsiders'. Although this form works perfectly well in a free market, it may create deep feelings of social injustice among those who are excluded from the arrangement because they do not meet particular requirements. It may be especially strong among people who live amongst or near the resources of which the management is covered by the contract.

8.7   THIRD PARTIES IN CO-MANAGEMENT ARRANGEMENTS

In principle co-management arrangements are between individual or collective users of resources and governmental institutions. However, in many cases third parties play a crucial role in the creation and facilitation of these arrangements. The organizations claim to be instrumental in the implementation of such arrangements. By their presence and actions they become an important actor in the social and political context. International organizations like IUCN, WWF, Conservation International, but also national non-governmental organizations often assume such an intermediate role. They do so on the basis of their own programme of action and they seek opportunities to take up this position. In many cases they assume such a role because of the relatively weak governmental representation in the area and because they believe they can play a constructive role in bringing about positive changes either in the field of nature conservation or protection of rights and interests of local people.

This intermediate role brings about a delicate balance because of the complex interests at stake. In the first place the organization is bound to the regulations of the government and the available legal instruments. In the second place, it is necessary for the organization to ensure the confidence of the local population in order to perform well. And in the third place, it is necessary to satisfy the constituency of the organization, that is the donor agency or the supporters of the organization. This third aspect could conflict with the required instrumental nature of the performance of the organizations as the constituency of the organization might require clear visibility in the local context and successes within relatively short periods of time in order to ensure continued support for its activities. The organizations might be tempted to assume a stronger role if the performance of the governmental organization is weak. This situation could lead to a susceptibility for criticism and tension from both sides: the local population might identify the organization with the governmental institutions and thus question its reliability, while on the other hand criticism might also come from the government once employees of the organization take on governmental roles or identify too strongly with local interests. Finally, there is a certain time constraint connected with the presence of the organization: duration of projects of these groups can rarely go beyond a limited number of years. Success stories and new challenges or new battles to fight in other places are necessary to retain the interest of the constituencies and their willingness to continue the support

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for the organization. The departure of the organization from the local scene might lead to flaws in the implementation of the activities, as a smooth and complete transfer of responsibilities is rarely ensured.

8.8 TERMINOLOGY: 'PEOPLE', 'PEOPLES' OR 'COMMUNITIES'?

It may come as a surprise but a large part of the international discussions regarding indigenous peoples take place without a clear definition of the core concept in this discourse. In most cases the description of indigenous peoples is rather vague in order not to upset particular countries.

In the Convention on Biological Diversity (CBD), reference to the concept of peoples is explicitly avoided. Instead, reference is made to 'indigenous and local communities'. This is largely done so as not to upset countries which do not want to refer to segments of their citizens in terms of 'peoples' for two main reasons. First, it may be perceived as a threat to the unity of the nation as a whole. Second, it may create the need to recognize collective, instead of individual rights. Within the CBD process a clear definition will only be suggested at the next Conference of Parties, which will take place in 2004. At the same time, the United Nations (UN) draft declaration on the rights of indigenous peoples will be in its final phase. Most likely the proposals made in various forums will greatly influence one another.

Other concepts that are applied in this context are 'tribal' or 'upland communities', 'cultural' or 'ethnic communities'. In particular contexts the concept of 'first nations' or 'first peoples' is used. From the discussions about the concept and the emotions that it raises, it is clear that the concept of indigenous peoples is a political one. The term cannot be related to historical events or to anthropological characteristics of the people involved. The variety of historical and social contexts and conditions, and the heterogeneity of types of populations make it almost impossible to strive for a clear and politically acceptable definition. Nevertheless, in the international debates there has been a tendency, for the time being, to accept the definition proposed by the UN rapporteur José Martínez Cobo. This definition runs as follows:

> Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.

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The indigenous peoples' movement however, does not stop to insist on their recognition as 'peoples' instead of communities, or minorities.[65]

8.9 SELF IDENTIFICATION VERSUS OBJECTIVE CRITERIA WITH REGARD TO BEING INDIGENOUS

Due to lack of an officially accepted definition at the international level, there remains room for various debates regarding who can and who cannot claim membership to an indigenous people or community. Indigenous peoples themselves are strongly in favour of self-determination. As we saw in section 1.1, this criterion is also included in ILO Convention No.169 (1989).

It is not entirely clear how self-identification actually works in every day life. There may be rules and practices to decide whether a person, in his/her behaviour (such as language use, culture, and religion) belongs to a particular ethnic group or whether he or she is accepted as such by fellow members, however, this does not automatically imply that the ethnic group is also accepted as an indigenous people.

So the question to be asked here is: who is the 'self' referred to in the concept of self-determination? Is it the individual person, the ethnic group, or its leaders? Another question that needs to be answered is: what is the position of people of mixed ethnic origin? Throughout history, people of mixed blood have often taken an ambivalent position with regard to ethnic affiliation. And this depends of course on the degree of mixed origin and the nature of the mixture (for example, majority/minority, or two indigenous peoples). There is surprisingly little information on how ethnic groups classify the descendants of mixed origins and how the people prefer to identify themselves.

In many countries that have gone into some degree of positive discrimination of indigenous peoples there is a clear tendency to describe very clearly in terms of criteria, who is and who is not eligible to some of the awarded privileges. In these cases self-determination is unacceptable. It is the state that decides who is and who is not considered to be indigenous.

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[65] An interesting historical aspect of the classification of ethnic groups is that in many cases the colonial administration has been instrumental in the naming of ethnic groups and formalizing official boundaries between them in an effort to divide-and-rule or to bring more unity in what seemed to be extremely amorphous social groups. What now seems to be stressed as ethnic units 'since times immemorial' are in many cases only relatively recent social units.

8.10 PRINCIPLES OF JUSTICE

In the granting of rights to indigenous peoples and communities various principles are used in the justification of these rights. In most cases these rights are based on a history of injustice done to these peoples through all kinds of processes such a marginalization, removal from lands, slavery and various forms of exploitation and appropriation of natural resources in their environment. To a certain extent, the allocation of rights is an attempt to make up for injustices created in the past.

It can also be argued that indigenous peoples need special protection because of their present disadvantaged position within the nation-state. Commonly, indigenous peoples classify among the poorest groups within many countries in terms of education, access of health facilities, life expectancy, and employment rates, while they still suffer from all kinds of discriminatory attitudes. It can therefore be argued that they need special protection and facilities to make up for their relatively backward position.

If emphasis is put on the present and previous inequality, the justification of granting special rights to indigenous peoples would no longer hold once general conditions have improved and various indicators regarding the quality of life and societal well-being are brought to a comparable level with other parts of the population. In other words, special rights would only be granted on a temporary basis and as long as the indigenous peoples are in a disadvantaged position. As soon as this is no longer the case, there would be no need for maintaining these special rights. Indigenous peoples would not have to be treated differently from other people. Even though the justification of rights is often linked to their status of being the poorest of the poor, the allocation of rights is rarely phrased in terms of its temporary nature. Instead, the indigenous peoples' movement usually expresses its claims in terms of permanent rights for the future. Numerous countries however, have indicated that this position is unacceptable for them.

8.11 THE DANGER OF ETHNIC CLEANSING

A number of countries have made explicit reference to the fact that they cannot accept the concept of 'indigenous peoples' because of the inequality this would bring about within their nations. Furthermore, there is also a threat of officially reinforcing ethnic boundaries that many governments have been trying to wipe out in the name of building one nation with only one people. Granting exclusive territorial rights to a particular ethnic group might provide a legitimate basis for ethnic cleansing. While in the past many indigenous peoples were discriminated against, displaced or robbed of their land and resources, this most often happened at the forest frontier where the state executed little effective power. This process of marginalization often did not have a legal basis. The granting of exclusive territorial rights to particular groups could lead to the drawing of new, legally recognized boundaries between ethnic groups, creating a mirror image of the familiar pattern of relations: forest dwellers who used to be pushed aside by more powerful groups of migrants are now turned into collective owners of the land with a right to deny

access to their resources by other groups. The latter might complain that they are now being turned into a lower class of citizens (see also, Murray-Li 2000).

8.12 FREE AND PRIOR INFORMED CONSENT

An important topic in the discussion regarding decentralization and participation of indigenous peoples in all kinds of processes is what is now called 'free and prior informed consent'. This concept is used with regard to planned interventions within the territory occupied by indigenous peoples, and it is also used, for instance, in relation to the use of traditional knowledge by other parties and in biodiversity prospecting. Owners of the land including its resources should be involved in the entire process of planning and designing of interventions in their home territory. Holders of traditional knowledge should be fully informed about the collection of plant and other material from their land and about the future uses by others. The concept of prior informed consent features in most of the policy guidelines by the major donor agencies.[66]

But what exactly is meant by free and prior informed consent? Just like in many other cases what seems an almost self-evident concept turns out to be quite problematic in its actual use. The operationalization of the concept is more difficult than was expected in the beginning. Based on an interesting but at the same time dramatic case study among the Maya in Chiapas (Mexico) (Berlin and Berlin 2002) pose the following key questions to be answered in relation to prior informed consent:

- What is it?
- How do we get it?
- From whom do we get it?
- What constitutes evidence that we've got it?
- Who decides (and accepts) when we've got it?

In this case there was another complication. Ethno-botanical material can only be collected once permission of the legal owners of the land and its resources has been obtained. But what about getting permission about the uses of such material for healing purposes? Who is the one to give permission if this knowledge is in the

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[66] In ILO Convention 169 it is stated that: "These (indigenous and tribal) peoples are in most cases able to speak for themselves and to take part in the decision making process as it affects them" (ILO 1998: sect. 2). In the CBD it is stated in article 15 that: "Access to genetic resources shall be subject to prior informed consent of the contracting party providing such resources." During the Sixth Conference of Parties to the CBD that took place in The Netherlands (2003), the wording of prior informed consent was a topic for serious discussion. Some countries wanted to have it replaced by 'consultation'. Due to a strong indigenous peoples' lobbying however, in the end, prior informed consent was agreed by all parties. Finally, the World Intellectual Property Organization (WIPO) has clearly defined prior informed consent as a requirement for the use of traditional knowledge in an effort to protect traditional knowledge from being used by other parties without consent.

public domain of the community or if this knowledge is confined to medical specialists?

Recently the concept of free and prior informed consent was operationalized within the framework for the Indigenous Peoples' Rights Act in the Philippines. But here again it was mainly conceptualized in legalistic terms and mechanisms (NCIP [National Commission on Indigenous Peoples] 2002). Whether it will actually function in the way it is supposed to do, remains uncertain.

8.13   FAILURE AND SUCCESS IN CO-MANAGEMENT: A COMPARATIVE PERSPECTIVE

Indicators and perceptions of the success or failure of co-management projects differ widely. The parties involved in such projects-fishermen or forest dwellers, project staff, donor agencies or ecologists-evaluate them with different terms of reference in mind. In particular, the spatial and temporal contexts in which the projects are evaluated may also differ. Because projects directed towards resource management do not materialize in 'empty' time or space, they are evaluated by local people on their own terms. Projects may be perceived as resources in their own right, because they bring direct gains in terms of material benefits, paid labour, increased access to resources and new opportunities. In some cases these benefits, intended as incentives in relation to overall project aims, are valued in themselves, irrespective of the purpose they are supposed to serve. Project evaluators usually seek sustainability of project organizations and devote less attention to the trickle-down effects and internal changes occurring within communities. Ideally, there should be better clarification of the evaluation criteria for these projects (Harkes 2001). For the time being, more comparative studies should address the outcomes of different management regimes (see for example, Gilbert and Janssen 1998).

One general problem with project evaluation is the tendency to adopt a rather isolated perspective of the project thereby forgetting its wider context, which may be of crucial relevance for understanding the results and achievements. A study of reforestation projects in the Philippines clearly indicates that apart from a number of intrinsic characteristics of the projects, contextual factors outside the scope of the project went a long way in determining the results (Pasicolan 1996). Another example is the extractive reserve in the Amazon area which did bring a certain degree of empowerment to local people but which did not save the forest. In other words, co-management projects, just like other types of projects, to a certain extent, follow the 'flow of life' in their specific setting. Factors external to the projects are of crucial importance and are at the same time more difficult to evaluate.

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9.   TOWARDS RESEARCH PRIORITIES

9.1   INTRODUCTION

This final chapter aims at providing an overview of research questions on indigenous peoples and tropical rainforest management that Tropenbos International could integrate into its programme. This chapter is a natural continuation of the foregoing chapters and highlights some of the crucial issues that were discussed throughout those pages. It is based on a literature review; participation in various Convention on Biological Diversity (CBD) and World Intellectual Property Organization (WIPO) meetings; discussions with International Work Group for Indigenous Affairs (IWGIA), the World Rainforest Movement, Survival International, Netherlands Centre for Indigenous Peoples (NCIV) and Down to Earth, and field experience in Indonesia, the Philippines, Vietnam, Ecuador and Colombia.

Section 9.2 will list and explain those questions that have an 'on the ground' value. That is, it contains those issues Tropenbos may wish to focus on directly in its various site programmes. These questions are directed both at the national and the local level. Section 9.3 provides a list of essential 'background' topics that we believe should be looked into by Tropenbos or other researchers in order to be well equipped for 'on the ground' research. Section 9.4, finally, contains some notes on research methodology. It discusses the fact that research on indigenous peoples poses specific political challenges that researchers need to be well aware of, and able to deal with.

9.2   RESEARCH PRIORITIES AT THE NATIONAL AND LOCAL LEVELS

9.2.1   Research questions at the national level

Topics related to position of indigenous peoples in relation to national legislation, development policies, and protected area policies

1.   What is the legal status of indigenous peoples within specific countries?

As this status strongly differs for each country, from being denied citizenship as is the case in Myanmar, to being fully recognized in specific laws as is the case in the Philippines, it is important to explore this issue for each specific research site.

2.   Do indigenous peoples enjoy special rights with respect to the forest?

How do these rights materialize? What is the level of law enforcement in case of violation of the rules and regulations?

3.   What kind of interaction (if any) exists between government officials and indigenous communities?

Before assessing the perceptions of these groups, it is important to know what kind of contact they have had or still have.

4. What are the perceptions of the bureaucrats and technocrats at various governmental levels about forest dwelling people?

These perceptions may differ from officially held positions as the latter are often the result of diplomatic compromizes achieved by people who lack real experience with the forest people and everyday interaction with them.

Topics related to supra local forms of organization and support

1. Do indigenous peoples participate in supra-local networks in order to promote their cases for wider audiences?

How can we describe the character of these networks? What is the indigenous people's role in these networks? How do they represent themselves? Do they make use of intermediate persons? How does feedback take place? How can we describe the process of consultation between indigenous people and their representatives? Are there any cases of false representation? Does cooperation exist between the different indigenous organizations? If yes, what are their motivations to work together? If no, does the will/intention exist to cooperate or unite?

2. Does the group receive external support for recognition of its rights?

How is support organized? Who are the caretakers? (media, scientists, fair trade networks, advocacy groups) What kind of support is being given? How do the indigenous organizations view this support?

9.2.2 Research questions at the local level

Baseline questions for indigenous groups

1. How can we describe the specific indigenous peoples or communities in demographic terms?

What data are available? It is useful to collect information on exact numbers, location (keeping in mind that some indigenous groups are nomadic, which may pose sample problems), age-distribution, education, levels of assimilation, households, and intermarriage. These census data should serve as the basis for further research.

2. How are the groups differentiated internally?

To what extent do the indigenous peoples actually form a coherent group in the social sense and to what extent do they act as a unit? What internal differences between communities can be observed? Is leadership contested or disputed? What kinds of counter movements exist within the groups themselves? Is there evidence of these counter movements? What practical effects do these movements have?

3. Are the indigenous groups aware of or make use of the rights they have related to the forest and its management?

In case legislation exists that guarantees certain rights to the indigenous groups, it does not always mean that the groups are aware of their rights. Do they know which rights they have been given and do they know how to enforce these rights? If so, are they involved with the enforcement of these rights?

4. Do indigenous peoples have experience with contractual agreements and other forms of allocated rights?

In many countries rights allocated to indigenous peoples take the form of contractual agreements. In most cases these arrangements are highly legalistic in nature and conceived in wordings that are alien to the indigenous people's ways of arranging relations. These arrangements usually also lack flexibility and the possibility to adapt to changing conditions. What are the experiences with these arrangements? What happens in cases of violation of the rules? Who is responsible for the implementation of sanctions?

5. Do indigenous peoples have any experience with involvement in the drawing of maps and the making of management plans? Or are there other instruments used under the present banner of joint management, co-management or adaptive management?

The drawing of maps and the making of management plans are some of the instruments that are widely used by the bureaucracy dealing with forest management. Though it is often stated that the approach used in order to arrive at these maps and management plans is done in a participatory manner, it must be concluded from comparative evidence that these methods have their limitations. They are often alien to the forest users, they lack flexibility, and they deny a relatively high level of insecurity that people are confronted with in daily life. How can procedures be improved to overcome some of the shortcomings of these instruments?

6. What are the indications for societal well-being of the indigenous groups in both emic and etic terms?

An important element in the discussion regarding the position of indigenous peoples is the definition of their societal well-being. It is important to determine the insider's as well as the outsider's perspective of this issue. Insiders' perspectives most likely stress aspects like free choice, self-determination, adherence to tradition and cultural freedom and the possibility of communication or contact with the outside world. On the other hand, outsiders' perspectives stress 'objective' criteria like life expectancy, level of nutrition, birth rates and suffering from jungle hardships. How do these different perspectives relate to each other?

Expressions of identity

1. How do indigenous people define themselves in relation to other forest dwelling people?

In many cases the use of the term 'indigenous people' is alien to local practices. Within the local context various ethnic groups interact in particular ways and they have done so for decades. To what extent does the use of the term indigenous people create a new differentiation? Is it applicable in specific contexts? Or does it create unnecessary and unwanted differences between people? What type of interaction exists between the indigenous people and their neighbours? What about groups of mixed blood? How do *they* classify themselves? Does this correspond to the way others classify themselves?

2. To what extent, on what grounds and for what purpose do forest dwelling groups present themselves as being indigenous?

As both international and national policy arenas create an increasing number of opportunities for the granting of indigenous rights, it becomes ever more attractive to label oneself as 'indigenous'. Whereas being indigenous previously was a synonym for being backward, marginalized and oppressed, it currently opens doors to the world of subsidies, land rights and so on. As it is, the term 'indigenous' thus is subject to devaluation: the number of people claiming to be indigenous has grown substantially over the past decades. The question thus is what motivates a group or an individual to claim being indigenous, as well as whether or not this claim is justified.

Modes, intensities and effects of forest use

1. What are the dominant forms of resource use among specific indigenous groups?

This question relates to dominant modes of production and extraction as well as harvested or produced products. Are there relevant variations in these modes within the group? Are there relevant innovations? An important aspect is the difference between subsistence production and production for outside markets. Is there an opportunity for commercialization, and if so, does this lead to the exploitation of new resources or to different modes of productions?

2. What are the environmental effects of present day behaviour of the people involved?

To what extent can these effects be attributed to the level of exploitation (per individual or for the group as a whole) or to the modes of exploitation? Is there any relationship between environmental impacts of present day behaviour on the one hand, and subsistence and market orientation on the other hand?

3. What is the group's internal variation with regard to the aspired path of development and how does this effect modes and intensities of forest resource use?

It will be rarely seen that an indigenous community as a whole aspires to similar kinds of future ways of living and paths of development. For example, it is likely that the senior part of a community sticks to traditional ways of living, while the younger generations may explore new modes of production, either within or outside the community. These and other variations will all have different consequences for the intensity and mode of forest resource exploitation as well as management. How are communities internally divided with respect to future aspirations? Is there a relationship between these aspirations on the one hand and management and exploitation of forest resources on the other hand?

4. Are there any practices that could be characterized as having a conscious and limiting effect on forest resources?

Examples of what is meant here are for instance: closed seasons, limitations in use of hunting techniques, and resource saving gathering techniques. In all cases it will be important to determine the background (motivations) for such behaviour.

5. Is there any evidence of 'pure nature conservation' practices?

The literature devotes much attention to the assumed positive relations between indigenous lifestyles and nature conservation. Is there, at the specific research site any evidence of this phenomenon in terms of sacred sites, sacred plants and animals, closed seasons or rejection of particular kinds of weapon use? If so, it is relevant to determine what is the cultural meaning of such practices and to what extent is it motivated or based on ecological considerations?

6. What are the images of contemporary futures among forest dwellers (including emic definitions of sustainability)?

What kind of images of the future do the indigenous peoples have? To what extent do these images have effects for present day behaviour? How widespread are these images? Are there relevant differences between the various groups of indigenous peoples? How do they define sustainability with respect to forest use? Is there a kind of time horizon in their way of thinking? (This generation, next generation or even further?)

7. How can we describe indigenous peoples' perceptions of nature and nature conservation?

While discussing tropical rainforest management we should first gain an insight into local perceptions of nature and critically assess how these relate to Tropenbos' perceptions of nature and nature conservation. What tensions between these perceptions can be revealed? And what opportunities for collaboration can be discovered?

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Social organization in relation to forest use and management

1. What are the forms of social organization relevant to forest use?

What are the units for production and consumption of forest products? Does this take place at the level of households, communities or villages for example? Are decisions regarding change of resource use also taken at this level? In other words: what kind of social organization exists in relation to resource use and is this organization effective in implementing control and management?

2. Do outside interventions influence internal social organization?

To avoid any negative influence on the social organization of the indigenous community as a result of contact with organizations from outside, there needs to be a clear understanding of how co-operation or interventions need to take place without interfering or even contradicting internal rules.

Interactions between various types of forest users

1. Who are the second and third level actors in forest use and how do they relate to indigenous peoples?

Identification of the second and third level actors, both in relation to exploitation as well as in relation to conservation efforts, is important in order to gain an insight into forest management dynamics. In particular, the multiple actors from the government are relevant here because they usually do not speak with one voice. What is their role in forest use? How consistent has their influence been over the years?

2. What are the relationships with other groups operating in the forest such as migrant farmers, loggers and mining companies?

How do indigenous people approach outsiders? Do they resist these outsiders in any way? In what form do they organize this resistance? Is there a differentiated attitude among the communities towards these outsiders? Do they attain some kind of symbiotic relationships?

3. How does immigration affect the use of land?

How do indigenous resource management and land use practices change under the influence of immigrant land users? How do tenure relations materialize when immigrants enter an area? How does this effect forest composition?

External interactions: 'prior informed consent' and principles and practices of 'access and benefit sharing'

1. What are the experiences with external interventions, particularly compensation measures and rewards for non-use, alternative livelihood options such as non-

timber forest products, eco-tourism, infrastructure, and agricultural intensification?

This involves outlining a short history of external interventions for each specific research site and their (long-term) effects on resource use. To what extent are these external interventions sustainable in terms of required levels of organization, flows of money, and external support required?

2. What are successful management projects in terms of forest conservation? And what makes them successful?

A lot can be learned from case studies of projects that are considered either successful or a failure in terms of achievements and/or methods of implementation. There are quite a number of well-documented cases that could be reviewed and from which conclusions could be drawn regarding designs of future projects.

3. To what extent is the certification of timber and non-timber forest products, both formally and in practice, influenced by the well-being of indigenous peoples?

Since the Punan 1986 incidents many organizations take the well being of indigenous people in relation to forest exploitation seriously. Certification of timber and non-timber forest products (NTFPs) is only granted if the interests of indigenous peoples are not adversely affected. What is the formal situation at present, and is there any evidence on each specific research site regarding the effects of this certification?

4. How is the prior informed consent of indigenous peoples regarding external interventions implemented at the local level?

The concept of prior informed consent (PIC) is an important criterion for indigenous participation at the local level. As a condition for good practice, the term appears in almost every policy document and project proposal. There is still a lack of clarity however, as to what is actually meant by PIC and how its meaning varies along with its context. What exactly is PIC? How is it obtained? From whom is it obtained? What proves that it has been obtained? Who decides that it has been obtained?

9.3   BACKGROUND QUESTIONS

9.3.1   International discourse on law, declarations, policy guidelines and best practices

1. What is the character of international discussions on Indigenous Peoples' rights (IP rights)?

Indigenous peoples' rights constitute an ever-bigger component of discussions on biological diversity conservation and (sustainable) development in the international policy arena. The nature of discussions varies from granting indigenous peoples

more rights in the light of democratization processes on the one hand, and granting them rights because of their assumed positive role in the conservation of natural resources on the other hand. In what atmosphere, wordings and level of priority are indigenous peoples represented on the international policy agenda? What triggers this process? To what extent do indigenous peoples themselves influence the agenda? What role do external influences have?

2. What is the impact of international discourse and its regulations and resolutions at the local level?

The granting of rights to indigenous peoples at the international level is meant to have an impact at the local level. However, there is a great distance between the meeting places of the international deliberations (Geneva, New York and Brussels) and the forest fringe. To what extent do these decisions have an impact at the local level? Is this impact purely theoretical (in terms of adjusted or newly developed legislation) or also practical (in the way that indigenous peoples are aware of the discourse)? How can we describe the interplay between local and supra-local levels regarding indigenous peoples and tropical forest management?

3. What are the new and relevant developments at the international forums regarding indigenous peoples and forest management?

With the present attention for indigenous peoples in the international forums it is likely that during the next few years new developments will take place that are of relevance to the work and aims of Tropenbos. It would be worthwhile if somewhere within the Tropenbos network these developments could be monitored and made accessible for Tropenbos researchers.

4. How can we explain policy break-throughs in specific agencies?

It would be interesting to make a few case studies of countries that have really changed their policies regarding indigenous peoples and forest management. What contributed to these changes? What role did various actors play? What role did (new) knowledge, or its exposure, play in making these changes? How successful are these policy changes? What new dilemmas do they create?

9.3.2 International support groups, networks and alliances

1. How can we describe the range of international support groups operating in the indigenous peoples' rights movement?

With the increasing level of indigenous representation at the local and national levels, there are also a growing number of international networks that support the indigenous case from various angles. Not much is known on what categories of international support groups can be defined; what they aim at exactly; how these networks operate; how they are organized; what their impact is on the various levels; and what the indigenous peoples' perception is of these groups.

9.4   RESEARCH METHODOLOGY

A politically sensitive issue:

Indigenous Peoples: "We are researched to death!"
The state: "We have no indigenous peoples: everybody is indigenous!"

9.4.1   The need for participatory research

Research among indigenous peoples is different from many other rainforest related topics because of its sensitivity. Indigenous peoples have, in many cases, experienced non-fulfilled promises on the part of researchers as well as cases of bio-piracy and misuses of knowledge, like the patenting of traditional knowledge by others. There is a need for a careful and participatory approach for both the design and implementation phase of the research including attention to the issues that are of relevance for the indigenous and local people themselves. In sum, executing research in this field is complicated and full of pitfalls. But it can be done in a programme that aims at conservation and sustainable use of tropical rainforests. A good example of what can be achieved is the work in Colombia that has been done by the Tropenbos researchers (see chapter 5). The need for free and prior informed consent is also part of the ethical code for researchers working within the context of indigenous peoples.

9.4.2   Operating in a delicate and sensitive political context

A second point of attention deals with the political context in which research on indigenous peoples necessarily takes place. Many governments look upon this topic as a highly sensitive one. In many cases, indigenous peoples or forest dwelling communities do not fall under the jurisdiction of the forestry department, which is the usual counterpart or host institution of Tropenbos' activities. Departments which have, or claim to have, authority over indigenous or forest dwelling communities usually restrict access to these areas; they require special permits and often demand constant supervision by police or even military officials. This makes research on this topic more complicated, more time consuming and it requires careful planning and good co-operation with the authorities and researchers in the host country. In some cases, this might lead to stressful relations with the indigenous peoples involved.