



RUSSIA

KAZAKHSTAN

UZBEKISTAN

TURKMENISTAN

KYRGYZSTAN

TAJIKISTAN

AFGHANIS-TAN

Jammu and Kashmir

PAKISTAN

INDIA

SRI LANKA

MALDIVES

TIBET

NEPAL

BHUTAN

BANGLADESH

BURMA

LAOS

THAILAND

VIETNAM

CAMBODIA

BRUNEI

MALAYSIA

SINGAPORE

Borneo

Sumatra

INDONESIA

TIMOR-LESTE

Java

JAPAN

NORTH KOREA

SOUTH KOREA

Taiwan

Hong Kong

CHINA

PHILIPPINES

Andaman and Nicobar Islands

Malaysia

Singapore

Brunei

Sumatra

Java

Indonesia

Timor-Leste

Borneo

Sumatra

Java

Indonesia

Timor-Leste

Borneo

Sumatra

PAPUA-NEW GUINEA

Bougainville

SOLOMON ISLANDS

Wallis and Futuna (FR.)

FIJI ISLANDS

New Caledonia (FR.)

NEW ZEALAND

AUSTRALIA

PACIFIC OCEAN

INDIAN OCEAN

French Polynesia (FR.)

Asia and Oceania

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Central Asia

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Central Asia was more peaceful in 2011, with no repeats of the large-scale violence that occurred in Kyrgyzstan during the previous year. Nevertheless, minority groups in the region continue to face various forms of discrimination. In Kazakhstan, new laws have been introduced restricting the rights of religious minorities. Kyrgyzstan has seen a continuation of harassment of ethnic Uzbeks in the south of the country, and pressure over land owned by minority ethnic groups. In Tajikistan, ethnic Uzbeks have also reportedly come under increased pressure from the authorities, often for alleged membership of banned Islamist groups. Meanwhile, Chinese nationals in Tajikistan have reportedly been targeted by new legislation tightening rules on marriage with foreigners, following public disquiet over the alleged acquisition of land by China in the country. In Turkmenistan the ‘Turkmenization’ policy continues, with school children now reportedly required to provide evidence of their ethnic origin for unclear reasons. Finally, in Uzbekistan the challenging human rights situation continues to affect all ethnic groups, while the increasing shortfalls in flow of the Amu Darya River disproportionately blight the ethnic Karakalpak population, who live in its delta area.

Kazakhstan

President Nursultan Nazarbaev of Kazakhstan has consistently voiced a desire for inter-ethnic accord and tolerance in the country. However, his government continues to tighten its control over religious minorities. Since October 2009, President Nazarbaev has promoted a National Unity Doctrine put together by the Assembly of the People of Kazakhstan – an umbrella body that represents the interests of minority ethnic groups – which stresses the consolidation of a Kazakhstani identity drawing on the multi-ethnic nature of

the country. However, this doctrine is opposed by nationalist groups, who interpret it as an attack on ethnic Kazakh identity, language and culture.

Language policy is part of this debate. The government has a long-term strategy to gradually increase the use of Kazakh language at the expense of Russian, the other official language, particularly in public settings. While use of Kazakh is steadily increasing in the public sector, Russian is still widely used by Russians, other ethnic minorities and many urban Kazakhs. Ninety-four per cent of the population speak Russian, while only 64 per cent speak Kazakh. In September, the Chair of the Kazakhstan Association of Teachers at Russian-language Schools reportedly stated in a roundtable discussion that now 56 per cent of schoolchildren study in Kazakh, 33 per cent in Russian, and the rest in smaller minority languages. In higher education, a slight majority study in Kazakh and just under half use Russian. The number of students enrolled in university courses taught in Kazakh has quadrupled since the early 1990s. However, in September, discontent with the speed of language reform led to a group of intellectuals and opposition leaders writing an open letter to the President, the Prime Minister and parliamentary leaders, calling for removal of Article 7 of the Constitution, which guarantees that Russian can be used as well as Kazakh in official communications. President Nazarbaev is reported to be categorically opposed to such a change.

A snap election in April saw Nazarbaev re-elected with 95.5 per cent of the vote. Two prominent opposition politicians did not take part because they failed to pass the required Kazakh language test. In elections for the Majilis, the lower house of parliament, held on 15 January 2012, about a quarter of the 98 candidates elected by party list appeared to be from Russian-speaking ethnic minorities (of whom almost half were women). This represents a substantial increase on the previous parliament. A further eight out of the nine representatives appointed by the Assembly of the People of Kazakhstan were from minority ethnic groups. Two Assembly-nominated deputies were women, representing the Slavic and the Tatar-Bashkir communities.

Over the past 20 years, about a million ethnic Kazakhs have returned or migrated to Kazakhstan under the state-run Oralman scheme (named after the ethnic Kazakh diaspora) – settling largely in Mangistau, South Kazakhstan and Almaty provinces, and the cities of Almaty and Astana. They have come primarily from Mongolia, China, Afghanistan, Iraq and Turkey, as well as Russia and other Central Asian republics. Reportedly these immigrants have faced problems with land allotments, employment, and access to Kazakh- and Russian-language training. Another concern is the acquisition of citizenship, though there have been some measures taken to simplify this in 2011. Some politicians claim that failures in migration policy were partly responsible for strikes by oil workers in Mangistau and Aktau provinces in December that saw 16 deaths; and that ethnic Kazakh immigrants are linked to the new Islamist groups purportedly responsible for bombings and attacks on the police in 2011.

The upsurge in Islamist activity in 2011 has caused concern among authorities. On 22 July, President Nazarbaev reportedly called for increased surveillance of religious communities and for unspecified ‘extremist religious ideology’ to be ‘strictly suppressed’. A new Religion Law, which came into force on 26 October, restricts the rights of religious minorities in contravention of Kazakhstan’s human rights commitments. The new law imposes a complex tiered registration system, bans unregistered religious activity, imposes religious censorship and requires both central and local government approval to build or open new places of worship. The new law could mean that only the Muslim Board, which is the state-backed religious authority for Sunni Muslims, and the Russian Orthodox Church are recognized as top-tier religious organizations.

Further plans are under discussion to build on this law by banning all independent and ethnically based mosques (such as Uighur, Tatar or Chechen), taking over all formal Islamic education, and using the state-controlled Muslim Board to control and report on all permitted Islamic activity. While there is no prohibition on men wearing beards and women wearing *hijab* in the new legislation, the introduction of the new law appears to have been accompanied by a

crackdown on these statements of religious faith in some areas.

Kyrgyzstan

Following the turbulence of the overthrow of President Kurmanbek Bakiiev and the clashes between ethnic Uzbek and Kyrgyz groups in 2010, during which over 400 people died and many more were wounded and displaced, Kyrgyzstan had a quieter year in 2011. Elections on 30 November saw the peaceful transfer of power to Almazbek Atambaev, who had been prime minister under interim President Roza Otunbayeva. Atambaev drew most of his support from his native north of the country. Those who voted among minority ethnic groups in the south also tended to support Atambaev, whose appeals to inter-ethnic unity reassured them more than the nationalist rhetoric of the candidates who came second and third. Though two ethnic Russians and one ethnic Kazakh were among the initial 83 candidates, by the time of the vote, only ethnic Kyrgyz were standing. Overall, the election campaigns were marked by an increased use of nationalist rhetoric by politicians and the media, which implicitly scapegoated Uzbeks for the 2010 violence and broader problems.

Back in March, the grief of some ethnic Kyrgyz – who lost relatives during the 2010 violence and created the ‘Osh Martyrs’ movement – was channelled into demonstrations in Osh and Bishkek against Atambaev, other members of the 2010 interim government, and Uzbek community leaders, whom the group considers to be jointly responsible for the violence.

A new coalition agreement, formed after Atambaev’s victory, led to the exclusion of the more nationalist Ata Jurt party from power, with the other four parliamentary parties agreeing the composition of a new government. Under the new government formed in December 2011, Ravshan Sabirov, who in 2010 had become the first ethnic Tajik parliamentarian in Kyrgyzstan, became its first ethnic Tajik minister, responsible for social welfare. There are no other representatives of minority ethnic groups in the new government.

President Atambaev is likely to follow the principles of the Concept of Ethnic Development and Consolidation in the Kyrgyz Republic, drawn



Above: Children in a damaged *maballa* or Uzbek neighbourhood in southern Kyrgyzstan – an area affected by the inter-ethnic violence in the summer of 2010. *Sofia Skrypnyk/Nonviolent Peaceforce.*

up under Otunbayeva to increase levels of trust between different ethnic groups. The principles call for the rule of law, respect for human rights and cultural diversity, preservation of the identity of ethnic groups and non-discrimination, ensuring equal opportunities for political participation and transition from ethnic identity to civil identity. The concept also calls for an education system in which young people from all minority groups learn to speak Kyrgyz, the state language, rather than continuing to rely solely on Russian for inter-ethnic communication. The draft concept was adopted by the Assembly of the Peoples of Kyrgyzstan, an umbrella body for minority ethnic groups, on 17 June 2011.

However, in the same month, parliament voted to approve a document developed by the Ata Jurt party, which proposed another approach to ethnic policy, founded on the notion of Kyrgyz ethnicity as the central element of nationhood, and set out

cultural and language policies focusing on Kyrgyz identity. Approval of this document shows that nationalist ideas have broader support in parliament than just within Ata Jurt. One contentious issue, for example, is the current provision that internal passports state a person's ethnicity. In his inauguration speech, Atambaev spoke of his desire to see this provision removed, in order to promote civic rather than ethnic nationalism, while senior Ata Jurt figures wish to see it maintained as a symbol of identity. There are ongoing efforts to reconcile these two approaches, and the results of this policy debate will be crucial for peace-building efforts in Kyrgyzstan in the coming years, and will have major repercussions on ethnic relations.

The situation in southern Kyrgyzstan remains strained. While inter-ethnic violence has largely abated, and many houses have been built with international support to replace most of those destroyed in the violence, widespread economic, social and legal harassment of the Uzbek community continues. Local newspapers in the city continue to publish derogatory and inflammatory articles targeting the ethnic Uzbek population.

Human rights organizations continue to document arbitrary detention and torture in

police custody, predominantly of ethnic Uzbeks. Between July and September, Human Rights Watch (HRW) recorded 10 cases of arbitrary arrest and torture of ethnic Uzbeks; two died as a result of torture. Trials stemming from the June violence in southern Kyrgyzstan have also been marred by physical attacks on lawyers and ethnic Uzbek defendants. Police and other officials have refused to intervene, and only one investigation into these attacks has so far gone to court.

Meanwhile, the vast majority of the crimes committed during the violence, disproportionately those targeting ethnic Uzbeks, remain unsolved. Women who have been victims of gender-based violence and often now face serious psychological and health problems, feel unable to approach the authorities for support because of their community's conservative traditions, and the hostility of the overwhelmingly ethnically Kyrgyz police. Prolonged detention of Uzbek men, and increased outflow of migrant workers to Russia from already high levels have led to a rise in female-headed households in the city.

Prominent government figures have alleged that support for militant Islamist groups has increased among ethnic Uzbeks. However, some analysts see the reports as merely a pretext to justify further discrimination and persecution against the minority.

Official approval of some houses that have been rebuilt in ethnic Uzbek areas of central Osh remains unclear, as the local government continues to press for implementation of a master plan which would see these areas replaced by high-rise buildings. The more inclusive inter-ethnic policies of successive national governments have had little sway in recent years in Osh, where Mayor Melis Myrzakmatov continues to play to his nationalist powerbase, musing on an independent police force for the city and building massive monuments to Kyrgyz folk heroes.

The trend of transition from Uzbek- to Kyrgyz-language schooling is continuing for many children in southern Kyrgyzstan. This is partly because of concerns about the quality of Uzbek-language education, particularly given the acute shortage of modern textbooks in the language. There are also few prospects for higher education in Uzbek, after the two universities in Kyrgyzstan that taught in

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Case study
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Land scarcity fuels ethnic conflict in Kyrgyzstan

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Several violent incidents revived fears of ethnic conflict in December 2011. Such disturbances in rural areas of Kyrgyzstan are caused by a complex range of factors, including migratory pressure driven by poverty, and perceived injustice caused by historical disparities between ethnic groups. This case study seeks to shed light on these ongoing tensions.

When two brawls broke out between teenagers of Kyrgyz and north Caucasian ethnicity in the northern Chuy Valley in December 2011 and January 2012, analysts feared these had the potential to provoke wide-scale inter-ethnic conflict. There have been various sizeable minority farming communities that have had relatively good relations with local Kyrgyz neighbours in the Chuy Valley since the 1930s. However, the lack of economic viability in remote mountainous areas following independence, coupled with a rise in ethnic nationalism, has meant that Kyrgyz internal migrants from impoverished areas have increasingly begun to lay claim to such farmland.

Meanwhile, both a parliamentary and a government commission were established in January 2012 to investigate clashes that broke out on 28 December between ethnic Kyrgyz and Tajik in the far southwest of the country, which resulted in the looting of Tajik-owned shops and the burning of houses. This area has seen complex migratory patterns in recent years, with ethnic Kyrgyz moving away in large numbers to find work abroad or in the capital, while ethnic Tajiks from across the

Case study continued

border have bought up land and property in their place. In an area where the international boundaries are not yet clearly defined, this trend is of concern to some of the ethnic Kyrgyz population.

Almost a third of Kyrgyzstani adults, including Kyrgyz and other ethnic groups, work as migrant labourers in Russia and Kazakhstan, and in recent years many from the countryside have moved to Bishkek for work. Until poverty and disparities between regions are addressed, grievance over land ownership fuelled by a sense of ethnic entitlements has the potential to lead to further outbreaks of violence in both the north and south of Kyrgyzstan.

Ethnic tensions over land have a long history in Kyrgyzstan. Until the 1930s, the ancestors of today's ethnic Kyrgyz were primarily nomadic, taking livestock high into mountain pastures in the summer and returning to lowland for the winter. Kyrgyz pastoralists were forced out of the fertile valleys of what is now the Kyrgyz Republic when other ethnic groups settled there under the Russian Empire in the nineteenth century, with Turkic-speaking sedentary relatives of the Kyrgyz living in the southern Fergana Valley, and European ethnic groups moving into the northern Chuy Valley.

After the Russian Revolution, in the 1920s, the borders of the Kyrgyz Republic were defined, and all citizens were ascribed ethnicities – most of the Turkic-speakers in the Fergana Valley were recorded as Uzbeks, while the vast majority of pastoralists were now officially Kyrgyz. In the 1930s, these ethnic Kyrgyz were forced to give up private ownership of their livestock and end their nomadic lifestyles, often to live in demanding mountainous areas. These mountain communities received massive subsidies from central government as compensation. At the same time, further waves of European migrants were encouraged to move to the Republic during much of the Soviet period, while other ethnic groups, such as north

Caucasian ethnicities and Meskhetian Turks, were deported there *en masse* before and during the Second World War. While some of these immigrants moved to cities, others joined collective farms in the valleys, many of which were ethnically based.

As the Soviet economy and its subsidies collapsed in the 1980s, many Kyrgyz found themselves unable to survive in the mountains and massive internal migration began to the cities and farmland in the valleys. Riots occurred in the south in 1990 when ethnic Kyrgyz, who had been forced by poverty to leave their mountain villages, demanded land in the grounds of a primarily Uzbek collective farm. The total number of deaths in the violence is unknown, but 171 deaths were officially reported.

Soon after, Askar Akaev became President. After independence in 1991, he sought to maintain Kyrgyzstan as a multi-ethnic state with international support. When nationalists in parliament passed legislation that favoured ethnic Kyrgyz in land ownership and use, President Askar Akaev vetoed it three times, before a less discriminatory land privatization act was passed in 1997. In the first years of independence, much of the demand for good farmland among ethnic Kyrgyz was met in northern Kyrgyzstan from land left by the thousands of Russians, Ukrainians, Germans and others who left the country for their historical homelands. However, people from many other ethnic groups, including Dungans (ethnic Chinese Muslims), Meskhetian Turks and ethnic groups originating from the North Caucasus continued to farm the land that their families had tilled for decades or centuries. Meanwhile, in the south, the Uzbek community continued to farm much of the fertile land in the Fergana Valley.

In 2005, Akaev was overthrown in the face of widespread allegations of corruption and growing authoritarianism. The protesters were predominantly rural Kyrgyz, and many reported that they had

been promised land in the Chuy Valley. An ethnic Turkish community faced severe threats in 2005, and a largely ethnic Dungan village experienced wide-scale damage to its buildings in 2006. There are reports that this violence was in part caused by resentment among ethnic Kyrgyz internal migrants that they were renting fields from non-Kyrgyz.

In June 2010, larger-scale inter-ethnic violence occurred in southern Kyrgyzstan between ethnic Kyrgyz and Uzbeks, with at least 475 fatalities. Although the direct impact was primarily in urban areas, rural families displaced by the violence in the south were among the most severely affected as they returned to find houses fully or partially destroyed, farming machinery and tools looted or burned, and livestock stolen or dead. Meanwhile, many of the ethnic Kyrgyz participants in the conflict had come from impoverished remote mountainous districts with pastoralist traditions such as Alay and Karakulja.

In the aftermath of the rioting, Kyrgyz-language media outlets tacitly repeated the assertions of certain prominent politicians that land in Kyrgyzstan belonged to ethnic Kyrgyz and that Uzbeks should be regarded as mere tenants. On 7 November 2010, a group of about 1,000 Kyrgyz attempted to seize about 70 hectares of land from Uzbeks near Osh. The authorities took action to disperse the squatters, with promises to look at their requests for land in 2011. In April, it was reported that the government was planning to allocate 31,200 plots of unused land around Osh city, but that the number of registered applicants for land was twice that and rising. While this has alleviated pressure on livelihoods, the fact remains that good agricultural land in the country's fertile valleys is at a premium. As the incidents in 2010 and 2011 show, tension remains high among communities in both the north and south of the country. ■

the language were closed in 2010. Ethnic Uzbek parents around southern Kyrgyzstan have elected to send their children to Kyrgyz-language classes. There has also been active support for the move to Kyrgyz-language teaching among prominent members of Kyrgyzstan's ethnic Uzbek community, who see this as a way to improve ethnic relations.

The situation of religious minorities is relatively better in Kyrgyzstan than in neighbouring countries. However, problems still remain. For instance, two Jehovah's Witnesses, arrested in May 2011 for possession of Hizb-ut Tahrir Islamist literature which they maintain was planted by police, were released on appeal in July. Human rights groups have also expressed concerns that many parliamentarians appear to want to erode the secularism enshrined in the country's constitution by providing extended breaks for prayers on Fridays and opening a Muslim prayer room in the parliament building.

Tajikistan

Tajiks comprise the largest ethnic group in the country, accounting for 79.9 per cent of the population. Other groups include Uzbeks (15.3 per cent), Russians (1.1 per cent) and Kyrgyz (1.1 per cent). Only two of the 63 parliamentarians in Tajikistan are ethnic Uzbeks. Uzbeks primarily live in the west of the country, near the border with Uzbekistan. Tajikistan's plans to build a major hydroelectric dam at Rogun have aggravated relations with neighbouring Uzbekistan and have reportedly led to the Uzbek minority facing increasing pressure inside the country.

One barrier to political empowerment for the Uzbek community is the government's language policy. Though the Constitution guarantees linguistic plurality, media reports reveal that in practice the use of anything besides Tajik in public discourse is discouraged, and few radio or television broadcasts are in Uzbek. In addition, civil servants are required to speak Tajik. Language policy also inhibits upward mobility for Uzbeks. University applicants must be fluent in Tajik. Although schoolchildren study the Tajik language for two hours a day, for many rural Uzbeks this is not enough to master reading and writing.

Non-nationals of Tajikistan wanting to marry



Above: Soldiers at a checkpoint on the road to the site of the Rogun dam, Dushanbe, Tajikistan. *Carolyn Drake/Panos.*

local citizens have been hit by new legislation passed in January, which requires foreigners to have lived in the country for a year before they can marry locals and to sign pre-nuptial agreements committing them to providing housing for their spouse. Reportedly, the changes target two specific groups – male Afghan citizens and ethnic Uighurs from China – some of whom are suspected to enter into marriage with local women to secure residence rights and accelerate acquisition of citizenship. There are fears within Tajikistan that immigrants from China will fill the vacuum caused by the mass migration of Tajik citizens seeking employment in the Russian Federation. Fears of an influx from China were raised in the media following the decision of

Tajikistan to lease 2,000 hectares of land to China's Xinjiang Uighur Autonomous Region in January 2011.

Ethnic Kyrgyz women in Tajikistan are increasingly falling victim to bride kidnapping, which is widespread in Kyrgyzstan. Media reports suggest that some of their ethnic Tajik neighbours in the north-eastern Jyrgatal district have begun to copy the practice.

In March, Forum 18 reported that all religious activity independent of state control, by Muslims, Christians, Jews, Jehovah's Witnesses and other religious believers, has continued to be targeted by the state. Violations perpetrated by the government include: demolitions and closures of mosques, churches and the country's only synagogue; a ban on all religious activity without state permission; arbitrary jailing of Muslims and criminal charges against Jehovah's Witnesses; limitations on the right to share beliefs; and tight

government censorship. The government justifies the imposition of these controls by the impact of extremism and Islamization on national security. In 2011, it continued to carry out military raids against alleged Islamist militants who had been hiding in areas that were opposition strongholds during the civil war in the 1990s, particularly the Rasht Valley, home of the Garmi community.

In a visit to Tajikistan in October, US Secretary of State Hillary Clinton suggested that recent steps to control faith could drive 'legitimate religious expression underground' and fuel extremism.

A law passed in August to ban children under 18 who are not receiving state-approved religious education from places of worship, appeared in October to be targeting mainly independent Muslims. Members of other religious groups continued to face legal problems, including a Jehovah's Witness with Uzbekistan citizenship, who was deported to Uzbekistan in September despite having a legal right of residence in Tajikistan.

Turkmenistan

It remains difficult to access information about minority issues in Turkmenistan because of the lack of press freedom and restrictions on civil society. There is no disaggregated national data available on the demographic composition of the population and the enjoyment of rights. Extrapolating from a mid-1990s census, the country has Uzbek, Russian and Kazakh and other minority communities. It is clear that minority groups continue to be sidelined from many educational, training, employment and political opportunities as a result of the government's continuing policy of Turkmenization, which sets out preference for persons of Turkmen origin, especially in the field of education and employment. The authorities have not undertaken measures to prevent these practices, or to improve the situation.

There are no ministers or deputy ministers from minority ethnic communities in Turkmenistan. Heads of regional and district administrations are likewise all ethnic Turkmen. Even in predominantly national minority areas, persons from these minorities only occupy low-ranking posts. The President is required to speak

Turkmen, and all 14 candidates for the 2012 elections were ethnic Turkmen.

Marking a new development in the Turkmenization strategy, in September it was reported that, for the first time, school children were being required to give personal information on immediate family members going back three generations. Authorities gave no explanation for this new requirement, which resembles previous policies for those applying for public employment and higher education that the UN Committee on Economic, Social and Cultural Rights also expressed concern about in November. Meanwhile, in spite of specific legislative provisions, the possibilities for ethnic minorities to study in their mother tongues are limited. It is reported that the country's few remaining Russian-language schools are in great demand, with parents paying large bribes to administrations or local education authorities for admission.

In January, new travel restrictions were reported for those planning to enter or exit the country. This is likely to have particular repercussions for those with dual Turkmen-Russian citizenship, which has been made invalid in recent years by the authorities in Turkmenistan.

In more positive news, Turkmenistan has made progress in combatting statelessness. Several thousand persons were registered as stateless, and 3,000 received citizenship in 2011. In December, the country acceded to the UN Convention relating to the Status of Stateless Persons. Most of these people were left stateless at the break-up of the Soviet Union in 1991, having moved to Turkmenistan originally from former Soviet republics such as Armenia, Azerbaijan, Moldova, the Russian Federation, Tajikistan and Uzbekistan.

The Kazakh minority in Turkmenistan numbered around 90,000 in 1995, but many have taken advantage of Kazakhstan's Oralman scheme, which supports ethnic Kazakhs abroad voluntarily repatriating to the country. In May, a court in Turkmenistan announced it had conditionally freed Bisengul Begdesinov, a prominent ethnic Kazakh, following a fraud and bribery trial. Among his activities within the community, Begdesinov helped ethnic

Kazakhs to privatize property and relocate to Kazakhstan under the Oralman scheme. Despite being freed, Begdesinov was refused an exit visa to leave Turkmenistan in December, leading to speculation that this was an attempt to intimidate Kazakhs residing in Turkmenistan to discourage them from privatizing their apartments.

Religious minorities in Turkmenistan continue to suffer discrimination. Plans to revise the Law on Religion, after a December 2010 report by the Organization for Security and Co-operation in Europe (OSCE) criticized many of its provisions for violating international human rights standards, have been shelved until 2012. The OSCE recommendations included an end to the ban on unregistered religious activity and on the private teaching of religion. The law also has no provision for conscientious objection to military service. Two Jehovah's Witnesses were imprisoned in the summer for their conscientious objection. While one was amnestied in August 2011, the other was sentenced to two years in a labour camp, after which he may be sent to another labour camp, where seven other Jehovah's Witnesses and one Protestant pastor are known to be held. Meanwhile, there have been further reports of harassment of Protestants by the police and religious authorities.

Uzbekistan

Given the restrictions placed on the media, civil society and human rights work in Uzbekistan, it is hard to get a clear picture of the situation of minorities within the country. HRW reported in 2011 that in recent years, arrests and persecution of political and human rights activists have increased, and credible reports of arbitrary detention and torture of detainees, including several suspicious deaths in custody, have continued. HRW itself was forced to close its office in Uzbekistan in June. However, the country's continued strategic importance as an entry point to Afghanistan appears to have meant that NATO countries feel obliged to tone down their criticism of the country's human rights situation.

Tight state control continues to curb any potential retaliatory action against Uzbekistan's ethnic Kyrgyz minority following the ethnic

violence of 2010 and ongoing discrimination faced by ethnic Uzbeks in Kyrgyzstan. A small demonstration held by a local human rights group in Tashkent to mark the anniversary of the ethnic conflict in southern Kyrgyzstan and protest the continuing discrimination faced by Uzbeks resulted in 15 activists being briefly detained in June. Nevertheless, there have been reports of ethnic Kyrgyz leaving Uzbekistan for Kyrgyzstan in 2011, particularly the Fergana Valley provinces of Jalalabad and Osh, in fear of retaliation.

Uzbekistan's already strained relationship with Tajikistan has deteriorated in recent years, partly due to the belief that a new hydroelectric dam being built upstream in Tajikistan would reduce Uzbekistan's water supplies. This has reportedly led to the Uzbek minority facing increasing pressure inside the country.

This year has seen ethnic Tajik nationals of Tajikistan working in Uzbekistan coming under suspicion. A former metallurgist was sentenced by a military court in August to 12 years in prison for espionage. His lawyer denied the accusations. In September, another ethnic Tajik was reportedly deported for inciting ethnic hatred; the man denied having been involved in Tajik-Uzbek issues.

The situation of religious minorities remains difficult in Uzbekistan due to tight state control of religion. According to Forum 18, followers of all faiths are subject to National Security Service surveillance, which can often be highly intrusive, as well as the use of informers inside religious communities. Muslims who wear atypical clothing or longer beards, and Protestants, appear particularly vulnerable. In 2011, Protestants had religious literature seized and destroyed, were fined, and prevented from leaving the country after importing religious literature. Meanwhile, a scheduled visit by the Russian Orthodox patriarch in November was postponed, reportedly because the government disagreed with the appointment of a bishop for the country. As of spring 2012, there was no indication when the visit might take place. Many religious groups remain unable or unwilling to officially register, while those that do operate legally continue to be pressurized to prevent children attending worship and not to proselytize.

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A sea that fled its shores

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With the retreat of the Aral Sea, thousands of Karakalpaks have lost their livelihoods and are being forced off their land.

The shrinking of the Aral Sea by 90 per cent and desertification of most of its territory is one of the most visible environmental disasters in the world over the last fifty years. While improved water management has led to modest growth in the volume of Kazakhstan's northern portion of the sea in recent years, there is little prospect of similar changes in the southern section, which is surrounded by the Autonomous Republic of Karakalpakstan, a part of Uzbekistan.

This environmental disaster has had serious economic, social and health consequences for the ethnic Karakalpak population, which is native to the region immediately around the sea. A 2011 report by the United Nations Environment Programme (UNEP) on the Amu Darya River shed further light on the serious social, economic and health impacts of the Aral Sea crisis on the Karakalpak population. They have lost their traditional livelihoods and are being forced to move away from the sea to find work and healthier environmental conditions.

The three largest ethnic groups in Karakalpakstan by population size are Uzbeks, Karakalpaks and Kazakhs. There has been no census in Uzbekistan since 1989, but it is believed that the Karakalpak population is about 500,000–700,000, of whom the vast majority grew up in this area. Karakalpakstan is one of the two poorest regions of Uzbekistan, and the Karakalpak population suffers higher levels of poverty, unemployment and sickness than their Uzbek neighbours. Ethnic Karakalpaks, who are culturally close to Kazakhs, have lived in the

delta of the Amu Darya River and the Aral Sea area for several hundred years. Their traditional lifestyle revolved around cattle breeding, fishing and irrigated agriculture.

However, these sources of livelihood have become increasingly unviable since the 1950s, when the Soviet Union developed a massive system of dams, canals and water pumping stations in Central Asia. Major rivers were diverted to irrigate cotton and other water-intensive crops in arid areas and deserts. Irrigated land expanded by 150 per cent in the Amu Darya Basin (primarily in Uzbekistan and Turkmenistan) in this period. At this time, most ethnic Karakalpaks became farmers, producing cotton, rice and other crops, primarily on collective farms.

Since independence, Uzbekistan has made some efforts to move away from cotton monoculture. But the volume of water reaching the sea has continued to shrink, as industrial and domestic use of water also increases. UNEP reports that more than 50 per cent of Amu Darya irrigation water is lost due to lack of canal lining, excessive filtration, evaporation and other reasons.

The Aral Sea disaster has destroyed the region's fishing industry. In addition, desertification is under way in much of the surrounding agricultural land. Local climate change, especially falling rainfall, is also affecting farmers further afield. A local farmer told RFE/RL in July that the situation in the Amu Darya delta is worsening:

'This is the third time during the last 10 years that the flow of water has been this low in the Amu Darya,' he said. 'Things are only getting worse here, and because of this people are abandoning the village.'

In addition to the drop in water flow, the quality of drinking water in the area is deteriorating because of the toxic residues of past over-use of pesticides and defoliants. Exacerbated by grossly inadequate levels of health care, this has led to rises in kidney, thyroid and liver diseases and anaemia caused by reduced iron absorption, as well as tuberculosis and cancer.

Resolution of the Aral Sea problem is complicated by interstate disputes over water use.

Case study continued

Uzbekistan's government is alarmed about the building of large hydroelectric dams in upstream countries, particularly the Rogun Dam in Tajikistan. There are also concerns about the long-term effects of glacial retreat on river flow, and of increased demand for water in Afghanistan, another upstream state. In order to mitigate the current and future water quantity and quality problems of the Aral Sea Basin, collective solutions will need to be found to improve water sharing and cooperation throughout the Basin.

Meanwhile, in the face of the loss of livelihood opportunities and health concerns, the Karakalpak population is faced with difficult decisions. While the mainstay of the region's economy remains agriculture, many have moved south to the region's capital Nukus, where there are few work

opportunities. Less than 9 per cent of the workforce is involved in industrial production, and there is limited access to credit to develop new businesses. Others have moved to Uzbekistan proper or migrated to work in the stronger economy of Kazakhstan, where they often face discrimination. Unofficial estimates suggest that 50,000–200,000 Karakalpaks have made the move to Kazakhstan. Karakalpaks remain one of the most threatened minorities in Uzbekistan because of the ecological catastrophe. Their position will not improve without significant external intervention to tackle the problems of the southern Aral Sea. ■

Below: A Karakalpak man stands in front of old discarded fishing boats that once worked on the Aral Sea, in Karakalpakstan, Uzbekistan. Jason Larkin/Panos.



South Asia

Irwin Loy

The quest to develop natural resources was a burgeoning issue in many South Asian countries during 2011. Authorities face a dilemma when pursuing such development: taking advantage of natural resources can be a vehicle used to pull populations out of poverty, yet in doing so the needs and livelihoods of local populations are often ignored. Across the region, minorities and indigenous peoples continued to experience ongoing conflict throughout the year, in many cases related to land rights and unfettered natural resource extraction.

Afghanistan

The start of 2011 ushered in a political crisis in Afghanistan, which saw President Hamid Karzai locked in a stalemate with the country's Independent Electoral Commission (IEC) over the results of the disputed 2010 parliamentary elections, raising questions about his legitimacy. Ultimately, in August Karzai announced that the final authority on election results indeed rested with the IEC.

The year marked the start of significant troop withdrawals of NATO forces from Afghanistan. In June, United States President Barack Obama ordered his country's military to withdraw 10,000 troops by the end of the year, with a more significant pull-out to occur by mid-2012. Other NATO countries made similar plans.

But with the reduction of foreign troops, there are significant question marks over how Afghan forces will perform on their own. Civilian casualties in the country continued to soar. The UN Assistance Mission in Afghanistan (UNAMA) documented 3,021 civilian deaths in 2011, an increase of 8 per cent compared with 2010 and a 25 per cent increase from 2009. Seventy-seven per cent of the deaths were attributed to anti-government forces, although critics noted that the tally appeared to exclude a

substantial number of civilians who were killed during NATO-led night raids.

Afghan Local Police (ALP) will in part step in to replace international troops, particularly in rural areas. But in a September report, Human Rights Watch (HRW) warned that such a civilian defence force could ratchet up ethnic tensions if authorities fail to prevent ethnic or political interest groups from commandeering the process.

A year after US officials announced the discovery of US\$ 1 trillion worth of untapped mineral deposits in the country, Afghanistan made significant moves to profit from its resources. In late December, authorities announced they had inked a deal with China National Petroleum Corporation to explore for oil in the northern Amu Darya Basin.

In November, Afghanistan awarded contracts to Indian and Canadian companies to develop the potentially lucrative Hajigak iron ore deposit in Bamyán province, home to ethnic Hazara. But watchdog groups were quick to warn of the dangers associated with resource development. A local civil society organization, Integrity Watch Afghanistan said: 'In the peaks of opportunity, Hajigak Mine can be a source of revenue, employment and development, or a curse if not [dealt with] properly.' Afghanistan is a candidate country for the Extractive Industries Transparency Initiative (EITI), and its government has committed itself to EITI's internationally recognized transparency principles.

Religious and ethnic tensions continued to simmer throughout 2011. There were reports that children from Hindu and Sikh communities were forced to drop out of school because of bullying.

In December, a suicide bomber killed at least 19 people at a funeral procession. The blast went off in Uzbek and Tajik-dominated Takhar province, where Taliban attacks had been relatively rare until recent years.

Also in December, at least 60 died and another 200 were injured when a suicide bomber struck an important Shi'a shrine in Kabul, in an attack blamed on Pakistani militants. On the same day, a bomb detonated near a Shi'a mosque in the northern city of Mazar-i-Sharif, killing four. The attacks coincided with the major Shi'a festival of Ashura.



Above: Hazara girls tending crops in Bamiyan province, Afghanistan. *Iva Zimova/Panos.*

The year also saw much debate over the US and the Afghan governments' stated plans to involve the Taliban in peace talks. Considering the Taliban's history in Afghanistan, the situation for minorities – particularly women from minority communities – remains a crucial concern. Some members of a coalition of ethnic minorities, made up of prominent opposition leaders who were members of the former Northern Alliance that fought against the Taliban in the 1990s, have said they support peace talks, but minority communities must be a part of the discussion if they are to be successful.

Advocates say women's rights in the country are already under threat, despite the previous 10 years of relative progress. An Oxfam briefing issued in October said: 'The Afghan government has already demonstrated its willingness to sacrifice women's rights for political ends.' The paper referred to the Shi'a Personal Status Law that President Karzai approved in

2009, in exchange for political support from fundamentalist elements within the Shi'a community. The highly criticized legislation allows husbands to withhold food from their wives for not having sex, hands custody of children to fathers in divorce proceedings and forces women to seek permission from their husbands in order to work.

The Karzai-appointed High Peace Council, which is tasked with seeking peace talks with the Taliban, also includes former warlords, critics say. A deputy chair of the council told the Institute for War & Peace Reporting that women should not fear a reconciliation agreement with the Taliban. But he also said women should not expect 'unconditional freedom in areas where Islamic rules and Afghan values were dominant'. In any event, the future of the peace talks is far from certain. In September, a suicide bomber assassinated Burhanuddin Rabbani, an ethnic Tajik who had headed the High Peace Council, dealing an early blow to the process itself.

The year also ended in controversy after Karzai replaced three members of the Afghanistan

Independent Human Rights Commission (AIHRC). Authorities said the commissioners had finished their terms on the independent body, but rights groups questioned whether the move was in response to the AIHRC's planned release of a report covering war crimes in the country, which was scheduled to be released during 2012.

Bangladesh

In Bangladesh, the issues of ethnic identity and land rights were closely intertwined in 2011. This was underscored by the government's failure to resolve tensions in the Chittagong Hill Tracts (CHT) area of south-eastern Bangladesh, home to at least 600,000 indigenous people. Not only did the authorities again fail to implement the long-delayed peace accords meant to bring stability to the region, but also Bangladeshi officials in effect denied the existence of indigenous people in the country, much to the surprise of the communities themselves and of a UN Special Rapporteur tasked with assessing the situation.

During the year, Bangladesh passed amendments to its Constitution that struck the term 'Adivasi', or indigenous, from the documents and replaced it with 'small ethnic groups'. Some communities in the CHT said the government refusal to recognize non-Bengalis in the area as indigenous will only come as a further threat to livelihoods, culture and language. Bangladeshi officials contended that allowing special treatment for any population would not be in the country's best interests and proceeded to press the case with foreign diplomats and UN agencies, according to local media.

In May, the UN Special Rapporteur urged Bangladesh to set a timeline to implement the CHT peace accord, which has largely languished since it was signed in 1997. For years, the CHT has been the site of conflict between indigenous people and Bangladeshi authorities. In addition to heavy militarization, the government has also exacerbated the conflict by encouraging Bengali settlers to move into CHT areas, a policy which has had consequences that play out in the form of present-day land disputes. The Special Rapporteur, Lars-Anders Baer, said land was the crucial issue in the CHT:

'Indigenous peoples have lost and are continuing to lose their ancestral lands at an alarming rate as a consequence of forceful eviction from and expropriation of their lands through development projects and occupation by the military.'

In the meantime, the violence continued in the CHT area throughout 2011, often pitting local indigenous populations against Bengali settlers. In April, indigenous villagers allegedly killed three Bengali settlers; in retaliation, settlers allegedly attacked nearby villages and set fire to at least 60 homes. Local rights groups say similar violent disputes over land were common throughout 2011. According to the NGO Kapaeeng Foundation, which campaigns for the rights of indigenous peoples, violence in the area saw more than 130 homes of indigenous people burned to the ground. Indigenous women also bore the brunt of the violence. The group recorded 16 rapes of indigenous women nationwide, including five who were also murdered.

The prolonged tensions mean that indigenous children in the area are among the country's least educated. Literacy rates among ethnic minority children from the CHT are far lower than the national average. Medical authorities said hospital facilities in the area are also dangerously understaffed, a key problem which is contributing to high infant mortality rates in the district, namely 63 deaths for every 1,000 live births, compared with the national average of 49.

Elsewhere, worries over the proposed Phulbari Coal Mine project in north-west Bangladesh were a dominant issue for environmentalists. The project would involve an open pit coal mine, which critics say would devastate almost 6,000 hectares of farmland and uproot nearly 130,000 indigenous people who rely on farmland.

Peaceful protesters, who opposed the Phulbari project, were also subject to violence. In May, advocates accused 'thugs' linked to the government of assaulting protesters during a rally. In December, riot police used batons and tear gas to break up another demonstration against the Phulbari project.

Religious discrimination is prohibited under the Bangladeshi Constitution, yet NGO Odhikar nonetheless recorded multiple rights violations

against religious minorities in the Muslim-majority country. These included more than 100 reported injuries to religious minorities as well as 25 attacks on places of worship. In one April incident recorded by Odhikar, supporters linked to a parliamentarian with the ruling Awami League party allegedly attacked a Hindu temple and several homes in central Bangladesh. The supporters then reportedly attacked local reporters who had arrived to cover the violence. In February, the Asian Human Rights Commission said officials in Gazipur District disrupted an annual convention of Ahmadiyya, even though prior permission had already been granted.

The NGO Bangladesh Minority Watch (BDMW) also recorded several alarming instances of violence against Hindus, in which girls and women were targeted. In October, a 15-year-old Hindu girl was gang raped and killed. In August, BDMW said another Hindu girl was abducted and then forcibly converted to Islam.

Bangladesh's Rohingya refugees continued to face problems throughout the year. The NGO Refugees International warned that the Rohingya, an ethnic minority from neighbouring Arakan (or Rakhine) State in Burma, enjoy few rights in Bangladesh and are subject to abuse. It is believed that more than 200,000 Rohingyas live in Bangladesh, though most of them are not officially recognized as refugees. The situation is particularly troubling for women. The NGO says reports of sexual violence against unregistered refugees have increased over the last year.

The government has long viewed the Rohingya as illegal migrants. Throughout 2011, Burma made international headlines as it incrementally allows greater freedoms for its citizens. Yet Rohingya in Bangladesh remain wary of the reforms and are unlikely to return there soon.

Women from minority communities were also the subjects of deep concern throughout the year in Bangladesh. During a February session, the UN Committee on the Elimination of Discrimination Against Women (CEDAW) expressed concern about the prevalence of violence against women, including rape and acid attacks. The CEDAW Committee said minority women often suffer many forms of discrimination, yet Bangladesh has only limited information or statistics about disadvantaged women and girls.

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Case study By *Oliver Scanlan*
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A year of broken promises

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'My grandfather used to tell me not to go in there,' the old man points to a wide expanse of grass where Bengali children are playing football, 'because of the tigers in the forest'. He is a member of the Garo community; one of Bangladesh's estimated 46 indigenous or *Adivasi* peoples. He is an activist fighting for his people's ancestral forests in Modhupur, in north-central Bangladesh. And he is losing.

When the Awami League swept to power in 2008, their election manifesto included unparalleled commitments to *Adivasi* communities of Bangladesh, both in the restive CHT region in the south-east and in the 'plain-lands'. The League promised to implement the 1997 Chittagong peace accord that brought the 30-year insurgency to an end, and to secure the plain-lands *Adivasis* access to their forests and lands. But in 2011, when Bangladesh passed amendments to the Constitution that denied *Adivasis* their right to identity, these promises were severely undermined.

Communities that live in the CHT and those that live in the plain-lands face distinct problems, according to recent research by Bangladeshi scholars. The CHT, still under military control, has seen enormous demographic changes over the past 60 years. Following a massive influx of Bengali settlers as part of a government-sponsored programme, today *Adivasis* are a minority in their own land. Over the past 30 years, collectively managed land in the CHT shrank from 76 per cent of the total to 26 per cent. *Adivasis* have lost their land, through forced eviction and expropriation, to Bengali settlers, the forests department and the military.

The plain-lands, while not subject to the same degree of military control, constitute a far larger area, and indigenous groups are

more numerous but more diffuse. There are at least 34 plain-lands communities spread over 90 per cent of Bangladesh's territory compared with 11 groups inhabiting the 10 per cent that comprises the CHT.

In the plains, indigenous groups are nominally governed by the same laws and protections as other Bangladeshis. However, because of far lower literacy rates and discrimination, they are overwhelmingly more vulnerable to land theft, largely through the non-existent implementation of Bangladesh's principal land act, which prohibits the transfer of land from 'aboriginal' to 'non-aboriginal' tenants without the written permission of local government officers. The results have been similarly disastrous.

A recent survey of ten plain-lands groups found that all of them had suffered land deprivation to some extent in the last 30 years. The hardest hit communities include the Patro of the north-east, where 68 per cent of households reported land expropriation, Santals in Rajshahi district (65 per cent) and Rakhain of Patuakhali in southern Bangladesh (45 per cent).

As a result, certain communities are now on the brink of extinction in Bangladesh; only a few hundred Lushai remain in Bandarban district in the CHT; and fewer than 3,000 Patro in north-east Sylhet. Adivasi activists are adamant that both substantive rights regarding their identity, as well as rights to lands and forests, must be

recognized and enforced by the government if their communities are to survive.

The 15th Amendment of the Constitution had the potential to address the identity issue as an essential precursor to resolving land and forest disputes. By enshrining the term 'Adivasi' in law, as opposed to the pejorative term '*upajati*', the government could have signalled its acceptance of a multicultural state.

Instead, on 30 June 2011, the amendment passed with provisions that excluded the term 'Adivasi', and replaced it with 'small ethnic groups' to refer to Bangladesh's indigenous peoples. It also upheld the legal recognition of the pejorative term '*upajati*'. The people of Bangladesh, according to the new law, are now to be known universally as 'Bengalis', completely denying the rights of Bangladesh's minorities to self-identification.

So the Garos of Modhupur continue to hold rallies; the national Adivasi activist organizations continue to hold roundtables in Dhaka. But the climate is gradually worsening as the high expectations that accompanied the Awami League's election to power in 2008 have dissipated. State-sanctioned violence against indigenous groups, often related to land disputes, also continues unabated.

By choosing to continue the mono-cultural nation-building project inherited from its predecessors, and eschewing efforts to address land issues and human rights abuses, 2011 was the year that the government of Bangladesh broke faith with its indigenous citizens. ■

Below: A Garo woman in the Madhupur forest, Bangladesh. G.M.B.Akash/Panos



India

As elsewhere in South Asia, the pursuit of natural resource development without full consultation with predominantly indigenous local communities continued to exacerbate tensions in India. In one prominent project in India's Odisha state (formerly known as Orissa), which is home to more than 100 indigenous groups, South Korean steel giant POSCO has been granted rights to a US\$12 billion steel project in the area.

Opponents were bolstered after Tribal Affairs Minister Vyricherla Kishore Chandra Deo publicly denounced the project, saying it would come at the expense of tribal peoples' rights. Still, tensions simmered throughout the year as authorities moved in to acquire land for the controversial steel plant. In December 2011, rights groups said non-violent protesters demonstrating against the POSCO project were injured after a private force confronted them.

By the end of the year, Abhay Sahoo, a local political leader who had rallied farmers against forcible land acquisition in Odisha, had been arrested. Amnesty International claimed that the authorities falsely charged him in a bid to silence his campaign. Increasingly large demonstrations calling for his release continued into the new year.

The POSCO project was one of many controversial development plans throughout the country. Many of these proposed projects are putting local indigenous groups up against corporations. In Arunachal Pradesh province alone, authorities are planning for a network of 168 individual hydroelectric projects, according to media reports. The rush to develop the province's hydro potential has drawn criticism from advocates for indigenous people as well as authorities in downstream districts.

Yet, as the year progressed, Indian authorities pushed forward with new plans for further development. In March 2011, the Asian Human Rights Commission (AHRC) deplored plans for a power plant project in Madhya Pradesh. The proposed project, the AHRC warned, would deprive local indigenous communities of vital access to food and water supplies. Indigenous people had earned a hard-fought victory in 2010 when the Dongria Kondh tribe managed to convince Indian authorities to block plans by the



UK's Vedanta Resources to build a bauxite mine in Odisha province. But that decision is under appeal and was scheduled to be revisited in mid-2012.

In August 2011, Shehla Masood, an environmentalist who campaigned for the rights of indigenous people, was shot dead at her home in Madhya Pradesh state. Her murder remains unsolved. Local media have questioned whether her death was linked to her advocacy against diamond mining in her state, involving the world's second largest mining company, Rio Tinto.

In 2011, the government's response to the ongoing conflict with the Maoist movement, known as the Naxalites, continued to be a major human rights issue. By the end of the year, the government claimed an 'historic low' in Maoist-related violence. Officials said the number of civilians who died as a result of the

Left: An Adivasi woman carrying a pot of water on her head in front of a Vedanta aluminium refinery in Lanjigarh, Odisha state, India.

conflict was at its lowest level in two decades. Yet violence continued to blight 2011. In May, rebels killed and dismembered the bodies of 10 policemen. In July, Maoists in central India blew up a bridge, resulting in the deaths of four people. At the same time, government forces also bear responsibility for deadly violence. In March, security forces in Chhattisgarh state were accused of killing three indigenous people in a week of violence that saw almost 300 homes burned, according to Amnesty International. Three women were sexually assaulted and 300 homes were destroyed and looted. Amnesty also deplored the killings of 25 Maoist suspects, including 10 indigenous people, in Odisha during the early part of the year. Police have claimed the suspects were armed combatants, though rights activists dispute this.

The government's handling of the Maoist insurgency is critical to minority rights. While the rebels claim to represent some of India's most marginalized, including Dalits and indigenous people, it is often these communities that get caught up in the violence. A positive move came in 2011, when the Supreme Court declared that the Chhattisgarh state authorities should disarm and disband the notorious Special Police Officers (SPOs), also known as 'Salwa Judum' or 'Koya Commandos'. The poorly trained militias are alleged to have committed serious human rights violations.

Across the north-east, including Assam and Meghalaya States, a worrying scarcity of communal land in the area is one of the drivers of what has become a rarely reported ethnic conflict. According to a report by the Internal Displacement Monitoring Centre and the Norwegian Refugee Council, almost 50,000 people were displaced during violent clashes between the Rabha and Garo peoples as the year began. Monitors say at least 76,000 remained homeless as of November 2011.

Dalits and indigenous people continue to suffer from the poorest health statistics in the country, caused by poor sanitation and inadequate access to safe drinking water and health care facilities,

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Case study By *Satbir Singh*
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'This land is our land' – mining, conflict and India's Adivasis

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Numbering 85 million, India's 600 Scheduled Tribes or *Adivasis* ('original people') are kaleidoscopically diverse and make up nearly a quarter of the world's indigenous peoples. Concentrated in an area of central and eastern India that stretches from Maharashtra to West Bengal, many tribal groups share their homelands with some of the most significant mineral deposits in the world – resources which have attracted increasing interest in recent years, precipitating mass displacement, worsening poverty and fuelling one of the world's longest-running conflicts.

Adivasis are by far the most vulnerable and marginalized socio-economic group in India; gaps in poverty, literacy and mortality between tribal and non-tribal groups are widening, despite the economic changes sweeping India. These challenges have been compounded in recent years by the arrival of global mining giants, for whom governments have used the colonial Land Acquisition Act of 1894 to forcibly displace millions from their ancestral lands. This deepening poverty and alienation have fuelled the decades-old Maoist-Naxalite insurgency, with the 100,000-strong militia consolidating its grip in areas of weak government, high malnutrition and mass displacement. The government's security response has in turn brought an influx of personnel and weapons into the region. With poor accountability and an often blurred boundary between the counter-insurgency mandate and broader economic imperatives, civilian populations

Case study continued

are often caught in the crossfire and fall victim to atrocities on both sides of the conflict.

Child soldiers are routinely recruited on both sides of the conflict. In addition to the 50,000-strong security force deployed under 'Operation Green Hunt', up to 7,000 youths – many Adivasis themselves – have been armed by the Chhattisgarh state government as 'Special Police Officers' with the *Salwa Judum* or 'purification hunt'. In July 2011, the Supreme Court ordered the Chhattisgarh state government to dismantle the Salwa Judum and investigate all allegations of human rights violations, including the recruitment of child soldiers. Chhattisgarh Chief Minister Raman Singh responded that his government is not inclined to disarm its Special Police Officers and has not yet taken any steps toward investigating atrocities.

In January 2011, in the state of Odisha, the central Ministry of Environment and Forests gave final clearance to Korean steel giant POSCO for a US\$ 12 billion refinery and captive port. A number of *panchayats* (village councils) who have expressed their opposition to the acquisition of their lands have seen their constitutional right to consultation undermined by the deployment of state security forces. In the village of Dhinkia, state officials described the *panchayat* leaders as 'encroachers', calling in state troopers and threatening to 'use force if necessary'. Abhay Sahu, leader of the anti-POSCO movement in Odisha, was arrested in November and journalists, activists and academics are now unable to enter the proposed displacement zone.

Elsewhere in India, opposition to mining-related displacement continued to be a dangerous undertaking throughout 2011. In August, 38-year-old activist Shehla Masood was shot dead after calling for an investigation into allegations of illegal mining by Rio Tinto. In Chhattisgarh, Soni Sori was arrested for alleged involvement in a Maoist protection racket. The Adivasi schoolteacher and human rights activist was stripped, beaten, repeatedly raped and electrocuted, and remains in custody despite demands from domestic and international human rights groups for her release. No investigation

has been initiated and the Dantewada police chief Ankit Garg, an officer named by Sori as being involved in her torture, was awarded a medal for gallantry by the President of India in January 2012.

Such disregard for serious allegations is commonplace and, along with the intimidation, disappearance and persecution of opposing voices, it has contributed to a culture of impunity within the security forces in the region. Political and mining interests have become fused through a complex web of campaign financing and corruption, which has led to security forces frequently straying from their mandates. Some individual units of both state and rebel forces have independently formed relations with private bodies. In 2011, a general manager of Indian multinational Essar Group was arrested for paying Maoist rebels to secure 267 km of pipeline through Odisha and Chhattisgarh.

For their part, mining giants responded to growing hostility in 2011 with aggressive public relations campaigns. Vedanta Resources launched a short film, 'Creating Happiness', broadcast daily across television networks. It trumpets the philanthropic efforts of the company, whose bauxite projects in Odisha have attracted international condemnation for destroying the sacred Niyamgiri hills and driving the Dongria Kondh tribe to near-extinction. Tata Steel similarly launched an advertising campaign highlighting the employment generated by mining. Their new tag-line, 'Values stronger than steel' does little for the 12 Adivasis shot dead in 2006 by police in Kalinganagar for protesting against the construction of the Tata steel plant.

Though they do not provide redress, these campaigns are proving remarkably successful in shifting public opinion outside the region in favour of big mining and driving a wedge between tribal and non-tribal communities. In this state of exception, corporate criminals become 'national champions', displacement becomes 'creating a good investment environment' and any opposition to the violation of domestic and international law becomes an act of terrorism, never to be spoken of out loud. ■

according to a report published by an NGO coalition in December 2011. The survey report found that nutritional indicators for Dalits and some indigenous groups dropped below the general population as children grew up. Girls, too, were more likely to have stunted growth or be underweight, the report stated. Prime Minister Manmohan Singh called child malnutrition 'a national shame'.

In a positive move, however, the state of Madhya Pradesh in July became the first in the country to set up a specialized court tasked with prosecuting crimes against scheduled castes and tribes. But, in an example that illustrates the problem of unaccountability for perpetrators of such crimes nationwide, it was reported that Andhra Pradesh state has a backlog of as many as 1,600 cases.

In July, more than 20 people were killed in a series of bomb blasts in Mumbai. Another bombing at the Delhi High Court in September killed 17 people and injured more than 90 others. But right groups are also warning that authorities' pursuit of terrorism suspects is snaring innocent civilians from religious minorities, particularly Muslims. An HRW report documented the alleged use of torture and coerced confessions of terrorism suspects.

In a related example, authorities released seven Muslim youths in November, who had been convicted of bombing a mosque in 2006. The case had become an embarrassment for investigators, who now blame Hindu extremists for the attack. In November, an Indian court sentenced 31 people to life in prison for their roles in the deaths of 33 Muslims who were burned alive during the 2002 Gujarat riots.

In August, the State Human Rights Commission of Jammu and Kashmir State revealed the discovery of more than 2,000 unidentified bodies found in mass graves in northern Kashmir. HRW urged India to investigate the long-standing claims of enforced disappearances in Indian-administered Kashmir.

During 2011, questions were raised over exploitative tourism practices in indigenous communities in parts of India. Survival International called for the closure of a main highway in the Andaman Islands, which passed

through land occupied by the endangered Jarawa tribe. Tourism in the area, critics warn, amounts to little more than a 'human safari'. A video showing a local police officer commanding Jarawa girls to dance for tourists later sparked outrage.

Nepal

Nepal courted a constitutional crisis throughout much of 2011, as it continued its uneasy transition from a Hindu monarchy to fledgling democracy. The country failed to hammer out a constitution by what had been a May 2011 deadline. By the end of the year, officials were saying that they would cement a new constitution by mid-2012, but at the time of publication yet another deadline was missed.

In one sense, these delays present an opportunity for some of the country's most marginalized – including indigenous people, Dalits and women from minority communities – to have a greater say in the drafting of such an important document. Prominent advocates are demanding that women be guaranteed proper representation in state institutions. Other advocates have expressed fear that women have been left out of the process altogether.

Indigenous people, too, have not been fully represented in the discussions. A July submission by local advocacy organizations to the CEDAW Committee noted that indigenous people have been unable to freely choose their own representatives in the process to draft the new constitution. Rather, the process demands that participants come from political parties. In a joint submission, the National Indigenous Women's Federation (NIWF) and the Lawyers' Association for Human Rights of Nepalese Indigenous People (LAHURNIP) said: 'Because the political manifestos do not promote indigenous peoples or indigenous women's rights, it is difficult to achieve effective collective representation.'

Just as concerns over the wording of the constitution persisted in 2011, so too did the aftermath of Nepal's civil war. Five years after the end of combat, roughly 100,000 people displaced by the fighting have still been unable to return home. Often, it is women who face the most trouble reintegrating. Former female-

combatants, widows of fighters and rape victims have difficulty finding acceptance in their old communities.

Many Dalits were also drawn to the Maoist insurgency. Some joined voluntarily, attracted to an ethos that once preached equality, while others were swept up in the violence between both sides. But, post-conflict, they are returning to a society in which caste discrimination still persists, despite the government's stated efforts to eradicate it.

Rights groups say that Nepal's government has gained little ground in reducing economic inequality in many parts of the country. In the Terai region, economic disparity continues to be a driving force of ethnic tension. The UN Office of the High Commissioner for Human Rights said that the activities of 'armed criminal groups' in southern Terai districts continue to hamper development, and again raised concerns over previous 'credible allegations' of extra-judicial killings in Terai at the hands of security forces.

Multiple cases of caste discrimination were reported during 2011. In August, a Dalit man was stabbed to death after his son married a woman from another caste. Witnesses claimed the woman's family was incensed by the inter-caste union, according to the Nepal National Dalit Social Welfare Organization.

Kyung-wha Kang, the UN's Deputy High Commissioner for Human Rights, voiced concern over caste discrimination following an April visit. She acknowledged the government's adoption of anti-discrimination legislation, but stressed that more must be done to ensure the laws are implemented and enforced.

Rights groups also warned during 2011 that indigenous women are likely to be disproportionately affected by the government's activities on indigenous land, including hydropower construction and the expansion of conservation areas. Current potential ventures, including the Melamchi Water Supply Project in central Nepal and the Arun Valley hydropower project in eastern Nepal, risk being implemented without the support or consultation of local indigenous populations.

In their CEDAW submission, local advocates NIWF and LAHURNIP said indigenous men are often assumed to be the heads of the household, with formal land titles issued in the man's name.

NIWF and LAHURNIP specifically highlighted a growing problem facing indigenous women due to the rapid expansion of Kathmandu, the capital city. Since title deeds are usually held by men, indigenous women are being left out of the decision-making process.

The year 2011 also saw incidents of religious discrimination in Nepal. In June, a Buddhist nun was attacked and gang-raped in eastern Nepal. But the problem was compounded when the woman was later expelled by the Nepal Buddhist Federation because she was judged to have lost her celibacy. The decision was later reversed following a public outcry. Rights groups say that poverty among the Tamang indigenous community to which the woman belongs causes families to send younger siblings off to become monks or nuns.

Nepal's Tibetan community continued to bear the consequences of the country's increasingly close relationship with China. In March, police attacked Tibetan protesters who were demonstrating against Chinese rule in Tibet. Tibetans in Nepal were also barred for voting for their government-in-exile, according to media reports, even though India made no such moves towards its Tibetan exile community. Later that month, a Chinese delegation signed a US\$ 20 million military aid deal with the Nepalese government.

Pakistan

Pakistan remained a volatile place for religious and ethnic minorities during 2011. This was highlighted by the murders of two prominent politicians who spoke out against the country's controversial anti-blasphemy laws. Critics say the legislation, which levies penalties including life in prison and death, have unfairly targeted religious minorities such as Christians and Ahmadis, but also mainstream Muslims themselves.

The January assassination of Punjab governor Salman Taseer marked a troubling start to the year. The governor had earlier publicly supported a Christian woman, Asia Bibi, who was sentenced to death for blasphemy. Then in March, Shabaz Bhatti, Pakistan's Minister for Minority Affairs and the only Christian member of the cabinet, was gunned down while on his way to work. The UN Independent Expert on Minority Issues,

Gay McDougall, called Bhatti's death 'an attack on the rights of all religious minorities and on human rights in Pakistan'.

The consequences of Taseer's death continued to reverberate through the year. In the aftermath of the January killing, the ruling Pakistan People's Party backed away from proposed reforms to the legislation. This drew criticism from one prominent member of the party, who warned that the 'appeasement of extremists will have a blow-back effect'.

In October, Taseer's former bodyguard was sentenced to death for his murder; sympathizers demonstrated in support of the accused before court appearances.

In April, human rights monitors say more than two dozen residents of a Christian community in Gurjanwala, in north-east Punjab province, were hurt after they were attacked by a mob, comprising more than 2,000 Muslims. A local NGO, Human Rights Focus Pakistan (HRFP) says the mob attacked homes, schools and churches in the community. The assailants had accused a member of the Christian community of burning a Qur'an.

The next month, HRFP reported that two Christian women were forcibly converted to Islam. Local police subsequently refused to investigate the matter – a common occurrence that is rendering women from minority religious communities, including Hindus and Christians, particularly vulnerable.

Minorities within the Muslim faith also faced persecution throughout the year. In one example, assailants shot and killed a 55-year-old Ahmadi man in Punjab province in what was a suspected hate crime. In May, Ahmadis in Lahore marked the one-year anniversary of one of the deadliest attacks on the community in Pakistan. In 2010, 88 Ahmadis were killed when assailants attacked Ahmadi places of worship. Relatives of the dead bemoaned the sluggish pace of the resulting police investigation. HRW also recorded 18 separate attacks on Shi'a Muslims during the year.

The wider regional conflict continued to affect the Pushtun community in Pakistan. Large-scale bomb attacks occurred near Peshawar, the provincial capital of Khyber Pakhtunkhwa province. For example, a pair of suicide bombers attacked a paramilitary training centre in May, killing more

than 80 people. Tehrik-i-Taliban Pakistan, often referred to as the Pakistani Taliban, claimed responsibility. Though it was initially described as a 'revenge attack' for the death of al-Qaeda leader Osama bin Laden, killed in Pakistan by US forces two weeks earlier, local police told media the attack was more likely the latest in a long-standing battle between the Pakistani army and Taliban forces. In August, a suicide bomber killed 48 people at a mosque in Jamrud.

Also in Khyber Pakhtunkhwa province, *The Guardian* newspaper reported on the increasing militarization of the Kalash valley – a development that could pose a threat to the Kalash people. The Pakistani military has been deployed to the Kalash valley for the first time, it was reported, though locals feared they would be caught in the crossfire between the army and the Taliban.

Either way, the continued strength of the Pakistani Taliban remains a serious concern for religious minorities – particularly women. In December, religious extremists destroyed two important Sufi shrines in the Khyber Agency, a region where Pakistani Taliban forces have been active in the past. They have been blamed for at least 25 similar attacks on religious sites in recent years.

In a 2011 report, the NGO Human Rights Commission of Pakistan (HRCP), predicted that the situation can only worsen for the country's minorities, citing a 'direct link between the rise of the Taliban and the suppression and oppression of the minorities and all of those whose beliefs differed with those of the extremists'. Women in tribal areas of north-west Pakistan are particularly threatened by the Taliban. The Taliban continue to oppose education for girls, setting back education targets for minority women in areas where the Taliban hold sway. Maryum Bibi, an official with Peshawar-based NGO Khwendo Kor, told media that women remain fearful: 'Despite the official stance that the Taliban have been defeated, they remain present in remote areas.'

Throughout the year, Pakistan's development of natural resources fuelled conflict in resource-rich areas where minority communities live, such as Sindh and Balochistan provinces. In April, several campaigners with a Sindh group that advocates for greater local autonomy over

natural resource exploitation were abducted. The AHRC pointed a finger at law enforcement and state intelligence agencies, charging that the abductions are part of a long line of 'enforced disappearances' at the hands of state actors.

Balochistan remained a severe and under-reported example of how the development of natural resources without the full consultation of local communities can drive conflict. The south-western province, one of the country's most ethnically diverse, boasts a wealth of resources, including potentially lucrative mineral deposits and rich natural gas reserves. Yet control over such resources has stoked tensions and given rise to a nationalist Baloch movement that has clashed with government forces. Added to a mix that includes foreign interest in resource extraction and the province's prime location on the borders with Iran and Afghanistan, the resulting conflict has had violent and deadly consequences for civilians.

State actors play a central role in the violence, targeting ethnic Baloch suspected of engaging in nationalist activities. HRW recorded the killing of at least 200 Baloch nationalist activists and dozens of disappearances in 2011. In its 2012 *World Report*, the organization concluded that conditions had 'markedly deteriorated' during the course of 2011. Prominent cases included that of Abdul Ghaffar Lando, a Baloch nationalist activist who had been abducted in 2009 and whose body was found in 2011. When the family had gone to the police to register the abduction, the police stated that Lando was being held in detention. In a July report, HRW recorded the cases of 45 recent alleged disappearances; three of the victims were children, the youngest of whom was 12 years old when he was abducted. Human rights activists and academics were also targeted. The local coordinator for the HRCP, Siddique Eido, was killed in 2011. The situation led *The Guardian* newspaper to label the secretive conflict as Pakistan's 'dirty little war'.

Nationalist militants have targeted non-Baloch minority groups perceived to be against the movement. Sunni and Shi'a militants have also been active. In May, an extremist Wahhabi organization claimed responsibility for the murders of 13 Hazara Shi'a Muslims.

As Pakistan battled with severe flooding

in Sindh province through September, rights groups reported to MRG that Dalits were being discriminated against because of their caste. Advocates said Dalit families had been turned away from government relief camps and been given unequal access to relief supplies.

Sri Lanka

As Sri Lanka marked another year since the end of its bloody civil war in 2009, the problem of how to ensure justice for wartime atrocities and reconciliation between the majority Sinhalese and the Tamil minority remained unresolved. In 2011, the government and the military issued a pair of reports that sought to address some of the violations, yet ultimately they proved to be a disappointment to rights groups hoping for significant signs of progress.

The government established the Lessons Learnt and Reconciliation Commission (LLRC) in 2010 under a storm of protest from rights groups, who questioned its independence and mandate. The resulting report, released in December 2011, contained some positive measures. MRG, for example, praised the report's acknowledgement of the impact felt by Sri Lanka's minority Muslim community. But MRG was also concerned that the LLRC report did not sufficiently investigate serious allegations of war crimes and crimes against humanity during the final days of the war. The report, MRG noted: 'exonerates the government for the manner in which the military campaign was conducted during the period'.

Earlier in the year, a Sri Lanka defence ministry report made a rare concession by acknowledging that civilians were killed in the government's final assault on the Liberation Tigers of Tamil Eelam (LTTE), commonly known as the Tamil Tigers. However, this report also contended that soldiers used only 'necessary force' and was seen by critics as presenting a one-sided account.

A UN report released in April was far more critical. The panel stated that it had found 'credible allegations' of war crimes and crimes against humanity by both the Sri Lankan government and the LTTE. Many of these allegations focused on the final stages of the war in 2009, when Sri Lanka's army pushed into Tamil areas of the north, trapping hundreds of thousands of civilians in the crossfire. It is

believed that tens of thousands of people lost their lives in the war's final five months. 'The panel's determination of credible allegations reveals a very different version of the final stages of the war than that maintained to this day by the Government of Sri Lanka,' the report stated. The report called on Sri Lanka to begin credible investigations into alleged violations of human rights law; it also urged the UN Secretary-General to establish an independent international mechanism capable of conducting its own investigations. Neither the government of President Mahinda Rajapaksa nor the UN made such moves during 2011.

In the meantime, human rights groups continue to raise concern over recent disappearances. In December, two local human rights advocates disappeared while they were preparing for a press conference in Jaffna. The AHRC also reported on two other cases involving missing men who were later found murdered. Critics say the government has taken little action on these and other forced disappearances.

In November, a UK-based charity, Freedom from Torture, said it had compiled evidence that torture persists in Sri Lanka, despite the end of the war in 2009. The group's physicians assess Sri Lankan asylum-seekers and refugees, mostly ethnic Tamils, often for use in asylum claims. They had found at least one case showing that torture had continued during 2011.

Problems of reintegration for those displaced by the conflict continued throughout the year. Women in particular faced unique hardships upon return. Increasingly, women are bearing the burden of restarting their families' lives. A government report released last year found that nearly one-third of families returning to the Tamil north are headed by women. One Jaffna-based organization, the Center for Women and Development, estimated there were now 40,000 widowed female-headed households in the area – a figure that excludes women whose husbands are missing or detained by the government.

This has resulted in a precarious situation for Tamil women. In a December briefing, the International Crisis Group said there has been an alarming increase in gender-based violence within the community. Women have been forced into prostitution or trafficked abroad. At the same

time, estimates suggest that unemployment in the north could be quadruple that of the national average.

In the aftermath of the civil war, its effect on Muslims has been largely ignored. The Tamil Tigers forced out much of the Muslim population from the north. Failure to implement proper reintegration and reconciliation measures in the region will only serve to exacerbate tensions between Muslims and Tamils.

The report from the UN Secretary-General's panel on accountability warns that recent government policies – requiring the national anthem to be sung only in Sinhala, for example – will alienate Tamil-speakers. Tamil groups also complained of destructive sand-dredging activities in Batticaloa district. In December, Tamil groups claimed that two activists, who were former Tamil Tiger members, were arrested after they protested against sand-dredging in the area.

During 2011, advocates raised concern over a tourism development in the Kalpitiya region of western Sri Lanka. They said up to 10,000 people, mostly Sinhalese Muslims, could be displaced or otherwise affected by a complex of hotels planned for the area. This project has raised concern that similar projects in other parts of the country, particularly in the north and north-east, where post-war tensions still run high, could undermine human rights for minority communities. In its annual report released in December, the AHRC raised concerns that the Sri Lankan government's concept of development 'does not include the guaranteeing of human rights'.

South East Asia

Nicole Girard

Across South East Asia, minorities and indigenous peoples are struggling to protect their lands, livelihoods and way of life. In Mindanao in the Philippines, Indonesia's Papua, and ethnic minority regions of Burma, control

over natural resources is central to a number of long-running armed conflicts. In Cambodia, indigenous Kuy are fighting to protect their traditional way of life in Prey Lang forest. In Vietnam and Laos, minority populations have been subject to resettlement as a result of dams and other development projects, largely without consultation. In Burma, dams in Kachin State threaten the livelihood of thousands of minority and indigenous peoples, and in 2011 led to fighting that broke ceasefires with two major armed ethnic groups.

The construction of two major dams, the Myitsone in Burma and the Xayaburi in Laos, was delayed in 2011. This was welcomed by environmental and indigenous peoples' groups, but worry remains over whether construction on Myitsone has actually been halted and how long plans for Xayaburi will be suspended.

Debate on how best to address ethnic conflicts continued in the region in 2011. Thailand made some efforts to increase accountability for human rights violations in the southern Malay-Muslim majority provinces. In the Philippines, peace talks with the Moro Islamic Liberation Front were initiated. The government of Burma secured ceasefires with major armed ethnic groups by the end of the year, making offers of reconciliation not seen in decades of conflict. Some ceasefires, however, had yet to be enacted on the ground.

Burma

Burma convened its first parliament in over 22 years in January 2011, after elections in November 2010. In March, Thein Sein was sworn in as President, officially dissolving military rule. The government has eased restrictions on media, permitted the creation of trade unions, and passed a law to allow peaceful assembly and protest. It has also reached out to opposition leader Aung San Suu Kyi, released significant numbers of political prisoners and pledged to prioritize minority issues. But whether reforms translate into genuine progress remains to be seen. While 17 out of the 22 ethnic political parties won at least one seat in the election (15.7 per cent of available seats), the conduct of parliamentarians is governed by laws criminalizing comments that are considered a threat to national security or the unity of the

country, or violate the 2008 Constitution.

Tensions between the junta and armed ethnic groups in the run-up to the November 2010 election broke out into renewed fighting in 2011. The military broke a 22-year ceasefire with the Shan State Army-North in March, mobilizing an additional 3,500 troops. By June, the 17-year ceasefire with Kachin Independence Army (KIA) was breached. By December, an estimated 34,000 people were in displacement camps along the border with China from this recent outbreak; the government was not allowing access to international relief organizations. Increasing militarization in Kachin State led to an increase in human rights violations. In their 2011 report, the Kachin Women's Organization documented the rape by soldiers of 34 women and girls, 15 of whom were subsequently killed. The Burma military's use of rape as a weapon of war has been well documented and continues under the new government.

The fighting in Kachin State broke out at the location of a Chinese-operated hydroelectric dam project at Daepin. Earlier, the Kachin Independence Organization (KIO) sent an open letter to the Chinese government, warning that if it continued with construction of the 6,000 megawatt Myitsone dam on the Irrawaddy River, armed conflict would likely ensue. To the surprise of many, in September the Burmese government temporarily halted the Myitsone, citing public opposition. However, local Kachin groups report that construction at the dam site has continued, and the approximately 1,000 displaced Kachin have not been permitted to return to their homes. The US\$ 3.6 billion Myitsone dam is one of eight dams planned on the Irrawaddy River, and is being developed by China Power Investment Corporation (CPI) and Asia World Company of Burma. Ninety per cent of the power is expected to be sold to China. There are serious concerns about the quality and independence of the environmental impact assessment, funded by CPI; a social impact assessment was not carried out (see case study below).

Resource extraction in minority and indigenous peoples' areas has fuelled army land confiscation, property destruction, designation of 'out-of-bounds' high-security areas, militarization and destruction of livelihoods. Both the Burmese army

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Case study
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Dams feed ethnic conflict in Burma

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‘The soldiers came to my house and said, “Starting now you cannot grow on the farms near the river,” and I asked him back: “Why?” He gave the reason that they will build the dam in that area. They confiscated the land from my farm, it was about 18 acres.’

On 30 September 2011, President Thein Sein announced an indefinite halt to construction of the 6000-megawatt Myitsone dam, on the Irrawaddy River in Kachin State, saying that public opposition to the Chinese-funded dam was overwhelming.

Perhaps the game has changed since the military rulers stepped into their civilian roles. But many remain sceptical. ‘We do not trust what the President has said about suspending the Myitsone dam,’ said a local affected by the dam, ‘we can see the workers and dam construction machines still at the site.’ For local communities, the stakes are high. The dam will displace around 15,000 people, mainly ethnic Kachin who revere Myitsone as the birthplace of their culture.

Currently, the Myitsone dam has only been halted until 2016, when Thein Sein’s term in office ends. But even if it is permanently shelved, it is only one of 48 dams currently in various stages of development in Burma. Twenty-five of these are ‘mega-dams’, with a capacity comparable to the Myitsone.

Most of the large dams are located in ethnic minority areas and many are in conflict zones. The fighting that broke a 17-year ceasefire with the Kachin Independence Army (KIA) in June

was exacerbated by tensions over Chinese companies surveying future dam sites.

Ninety per cent of the power from these dam projects will be exported to Burma’s neighbours. Chinese companies are involved in many of the projects, but Burma has also signed agreements with Thailand, Bangladesh and India. The dams are expected to bring revenues of US\$ 4 billion for the Burmese government. But according to Sai Sai of the Burma Rivers Network, the dams will not improve the lives of Burma’s ethnic nationals: ‘These mega-dams are fuelling further conflict, not benefiting the people of Burma,’ he said.

Loss of land, loss of life

The dams are proceeding without any proper consultation with ethnic minorities and indigenous peoples, and, for the indigenous communities, without their free, prior and informed consent. Compensation for their loss of land and livelihoods has been inadequate. In Karenni State, power plant-related development and militarization of the area saw 114 villages flooded; 12,000 people displaced; an estimated 18,000 landmines planted; local communities subjected to forced labour, sexual violence and extra-judicial killings; and prioritized water scheduling leading to crop destruction. Eighty per cent of the local population still has no access to electricity.

For years, the Burmese government has used anti-insurgency military operations to clear areas for dam projects. In 1996, for example, fighting in central Shan State led to the displacement of nearly 60,000 people, clearing the area for the Tasang dam on the Salween River. Since 2005, some 25,000 people in Karenni State have been forced by military offensives away from the Weigyi and Hatgyi dam sites. More recently, in the case of the Shweli dams in Karenni State, villagers were ordered off their land by the military and given a three-year ‘grace’ period, with some small compensation. ‘The Government said it will give half the worth of land and property as compensation, but I absolutely do not believe that they will,’ one man from the Molo village said.

Case study continued

The very existence of some communities is under threat. The Weigyi dam on the Salween River will submerge the ancestral lands, cultural sites and means of livelihood of Yin Ta Lai people, of whom only 1,000 remain.

If the new Burma government is serious about heeding the voice of the people, it should halt all dam projects in conflict zones. Consultations prioritizing the protection of minority and indigenous peoples' rights, coupled with the development and implementation of environmental policy and law (including land policy) based on international standards, is the only way any of these dams should proceed. Otherwise the dams could spell disaster for the affected communities.

'I have grown up in this village since I was born by drinking the water from the Shweli River. My livelihood is fishing which is related directly to this river. After we leave we do not know what we will do for our livelihoods or how to earn money to survive.' Molo villager facing eviction ■

and armed ethnic groups have relied on natural resources for funds, drawing heavily on logging and mining, including gemstone mining. Burma is the biggest producer of jade in the world and the most significant jade mine is in Kachin State, with little of its wealth reaching the people.

The Shwe oil and gas pipeline project is being advanced by the China National Petroleum Corporation along with companies from Korea and Burma and is slated for completion in 2013. Started in 2010, the 2,800 km pipeline will bring gas to China from Burma's western coast. Over 800 km runs across Burma through territory occupied by armed ethnic groups, in Shan State in particular. The pipeline is set to ignite conflict in minority regions, as Chinese workers are brought in to construct it and the Burma military is used to protect it. Widespread land confiscation for the pipeline corridor is leaving farmers jobless and fishing grounds off-limits,

contributing to rising migration. Local people are able to secure only low-wage, temporary and unsafe jobs on the project, and are reportedly unable to complain about working conditions or wages without retribution.

A draft land law was proposed in parliament in 2011, but according to the Asian Human Rights Commission (AHRG), under the law farmers could be evicted to make way for whatever government officials claim to be in 'the national interest'. The law was reportedly drafted without consultation with key stakeholders or land law experts.

The Myanmar National Human Rights Commission was established in 2011, mandated to investigate complaints on human rights violations. But critics questioned whether it is in line with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles), if its members – many of whom were generals under the previous military regime – are hand-picked by the state.

The elections did not improve the situation of Rohingya Muslims from Arakan State, denied citizenship on the assumption that most are not from Burma but come from Bangladesh. Thousands flee every year the harsh restrictions and persecution from Burma's government, ending up as asylum-seekers throughout Asia. In December, the government agreed to repatriate 2,500 refugees from Bangladesh on condition that they already have citizenship in Burma, effectively excluding many ethnic Rohingya.

While serious clashes continue in Kachin State and parts of Shan State, late in the year some positive progress was made in peace talks between the government and armed ethnic groups. A new Internal Peace Building Committee was created by the government, which has offered joint political talks with all such groups, an offer not seen during the 60 years of conflict. By mid-December, two major armed ethnic groups had reached ceasefire agreements. For Burma's ethnic minorities, this offered some hope for their future.

Cambodia

In 2011, four top former leaders of the Khmer Rouge faced proceedings in the Extraordinary Chambers in the Courts of Cambodia (ECCC),

set up to try those charged with crimes committed during the Khmer Rouge regime (1975–9). The ruling Cambodian People’s Party (CPP) under Prime Minister Hun Sen has been accused of interfering with the proceedings and the trials have been plagued by controversy. Bringing the leaders of the Khmer Rouge to justice will be an important step for the Cambodian judiciary to prove its effectiveness in addressing a grave historical wrong. It could also be significant for minorities, including the ethnic Vietnamese and Cham Muslims, whose persecution as part of the larger aims of the Khmer Rouge could in itself constitute genocide.

Civil society faced direct attacks, including new laws which were introduced or drafted during 2011, according to a report published by the Cambodia League for the Promotion and Defense of Human Rights (LICADO). These included an anti-corruption law, a draft trade union law, and a draft law on associations and NGOs. Individuals working to defend the rights of indigenous peoples continued to be threatened by the Cambodian government in 2011, in particular those combating land-grabbing by corrupt officials. By the end of the year, Human Rights Watch (HRW) estimated that at least 60 people were imprisoned or awaiting trial for protesting against forced evictions and land-grabbing.

The government continues to grant large economic land concessions (ELCs) for hydro-electric projects, mining and agricultural plantations. Land concessions are granted, often in an illegal way, over community land, and with no regard to national laws that require public consultations and environmental impact assessments, or laws that stipulate that state concessions cannot be granted in forested areas.

Prey Lang forest, home to Kuy indigenous people, who depend upon it for their sustenance and livelihoods, is a case in point. Peaceful community and civil society efforts to protect it have been curtailed by the authorities in a conflict that escalated throughout the year. Government officials have recognized this large primeval forest as an important area for conservation, but according to the Prey Lang Network, a local activist group, more than 40,000 hectares of the forest have been granted for rubber plantations, while 27 exploration

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Case study By *Mao Chanthoeun*
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Cambodia’s Kuy people rally to save ‘our forest’

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I am Mao Chanthoeun, a Kuy, from Chaom Svay Village near Prey Lang forest in Kampong Thom, Cambodia.

I was born here about 30 years ago. My parents and grandparents were also born here. We’ve always been dependent on Prey Lang, which in Kuy means ‘our forest’.

When I was young, the forest was large and thick. Prey Lang gave us food, medicines, and housing materials. We collected resin for sale. Since resin trees can be tapped for generations, this was sustainable. We lived happily.

In 2002, we learned that Cambodia’s forests were being destroyed. Our forest was threatened. We fought back. With hundreds of other Cambodians, we protested against logging concessions and they were suspended.

We had a time of peace. Our communities agreed rules to preserve the forest. This became harder over the years. Poaching and illegal logging took their toll.

In 2009, rubber companies came, first to build roads and then make plantations. We don’t know why they would grow rubber here; the soil is not good. We think they want to profit from logging.

We began organizing our Network in 2007. The Prey Lang Community Network has members in all four provinces straddled by the forest. I’ve been a community representative for six years. We’ve petitioned the government to protect Prey Lang, cancel agro-business and mining concessions, and rehabilitate cleared areas. We also want the government to recognize us as Prey Lang’s co-managers.

We conduct local patrols to try to stop illegal activities. We also went to the capital city to call on the country to help us. To get

Case study continued

attention, we dressed like the ‘avatars’ we saw in a movie. When we put on blue faces, people paid attention to us.

In my community, we confronted someone who illegally cleared forest. When a group of us, including the village chief, uprooted his cassava, he brought legal complaints against us. Those are still pending.

Now we are suffering. Thousands of resin trees have been cut; many families have no income. Even our rice paddy is not good since we have lost water.

In November, when I was six months pregnant, I joined hundreds of other Network members in laying claim to the forest. For almost two weeks we walked from all directions across the forest to stop illegal activities and to confront plantation companies. The walk was difficult. We had little food and water. We were often cold in the rain.

Below: A woman at a protest in Phnom Penh, Cambodia, in May 2011. Around 100 local activists attended a demonstration appealing to the government to save the Prey Lang forest.
REUTERS/Samrang Pring.

I feared my baby had died inside me. But I had to go on for the sake of all children. Life is not worth living if we lose our forests.

My husband left me while I was pregnant. Now four months later, I am alone with my baby boy. It’s not easy for me to live. Whenever I go out, others must accompany me; illegal loggers are angry with me for challenging them.

Today, in the village, a local businessman announced on a loudspeaker that everyone must shun me or face consequences. He claims I’m ‘inciting’ people because I tell them their rights and encourage them to protect the forest.

My community and our Network are strong. We have good cooperation. We work together to solve our problems peaceably. Now my neighbours are circulating a petition to support me.

I try not to lose hope. But it is difficult when one confiscated chainsaw is replaced by two others.

We ask the world to join us in saving Prey Lang. ‘Our forest’ belongs to everyone.
Case study provided by the East-West Management Institute / Prey Lang Network. ■



licences and related concessions have been handed to mining companies. Logging continues although the government stopped granting logging concessions in 2002, and the creation of logging roads has taken an environmental toll as well as opening up the forest to new migrants.

According to the Cambodian Center for Human Rights (CCHR), authorities detained over 100 peaceful protesters in August, many from the Kuy community, for distributing pamphlets about the issue; in December, local authorities filed complaints against members of CCHR on charges of 'incitement' for holding training seminars for locals. Soldiers hired by a mining company that has been illegally granted an ELC in Prey Lang have prevented Kuy women from gathering tree resin, according to a 2011 Amnesty International report.

Cambodia does have laws that recognize and protect indigenous peoples' access to land. But they are often not implemented, or are flagrantly violated. Those who defend their legal rights risk intimidation, violence and imprisonment. Despite some actions, Prime Minister Hun Sen appears unwilling to seriously address these issues.

Indigenous peoples and Cham Muslims are recognized under Cambodia's Constitution, but other ethnic minorities, such as ethnic Vietnamese and Khmer Krom, are denied citizenship, are therefore unable to access health care and education, and endure social discrimination. Lack of citizenship combined with endemic poverty makes ethnic Vietnamese women vulnerable to trafficking, mostly within Cambodia, and forced prostitution. 'One third of girls and young women of Vietnamese origin are reported to be sold into prostitution,' according to a 2011 report by the UN Committee on the Rights of the Child.

Indonesia

Discrimination, harassment and violence against religious minorities in Indonesia increased in 2011. The Setara Institute, an Indonesia religious rights monitoring organization, recorded 244 such incidents, up from around 200 the previous year; government officials, military and police were responsible for many of the incidents.

Ahmadiyya Muslims continued to be one of the main targets for violence and abuse. Three

Ahmadis were killed in February in West Java, after a group of 1,500 people attacked 21 of them, in order to expel them from the village. Police did little to intervene. Twelve men were tried, and received sentences of between only three and six months, on a variety of charges but not for manslaughter.

By September, 26 regencies and municipalities across the country had issued decrees banning or restricting Ahmadiyya religious practice, stemming from a 2008 ministerial decree preventing public propagation of the Ahmadiyya faith. The decree contradicts President Susilo Bambang Yudhoyono's continual assertion of Indonesian 'tolerance', and is justified on the logic that restricting the religious expression of minorities serves to protect them from violence.

The government continues to push the Religious Tolerance Bill, but rights groups have denounced the draft bill, completed in October, for limiting certain activities in the name of tolerance. For example, the bill attempts to regulate proselytizing, celebration of religious holidays, construction of houses of worship, holding of funerals and organization of religious education. The bill continues to define and punish blasphemy; existing laws on blasphemy have already served to discriminate against and harass religious minorities.

Indigenous peoples have long struggled to realize their rights in the Indonesia state, especially the right to land and free, prior and informed consent. In May, as part of the government's agreement with Norway over the Reducing Emissions from Deforestation and Forest Degradation (REDD+) project – a US\$ 1 billion project to protect forests and reduce carbon emissions while fostering economic development – President Yudhoyono, declared a two-year moratorium on new concessions in primary forest and peat lands. But this was flouted: ongoing illegal clearing of these protected lands in Central Kalimantan by a Malaysian company was reported by Indonesian NGOs.

In December, the Indonesian parliament passed a new bill which will allow the government to acquire land from citizens in the name of a vaguely defined 'public interest'. The legislation is intended to settle disagreements over

evictions and speed up infrastructure projects. Those affected do not have the right to appeal and compensation is only provided upon proof of certification of land-ownership, often lacking in the case of indigenous communities. A coalition of Indonesian NGOs says the bill is a direct threat to the rights of indigenous peoples and is likely to increase conflict over land.

Indigenous communities struggling to secure their right to land won a small victory in September, as two articles of the 2004 Plantation Act were dropped after being declared unconstitutional by the Constitutional Court for discriminating against indigenous farmers. The articles, which prohibited damaging plantation land or equipment, or preventing plantation business have been used to imprison and fine hundreds of people who have protested against corporate grabs of ancestral lands, especially by palm oil companies.

However, in October, the Indonesian government curtailed the legitimate activities of rights defenders by passing the long-debated Intelligence Bill – giving law enforcement power to spy on civilians to protect ‘national security’. Military documents exposed by HRW in 2011 suggest that unlawful military spying on peaceful activists in Papua is commonplace.

In Papua, the government failed to make any progress towards implementing the rights granted to the province under the Special Autonomy Law of 2001. At least three people were killed in October by security forces during the Third Papuan People’s Congress, a peaceful gathering of indigenous Papuans demanding a referendum on independence from the Indonesian state. Security forces have yet to be held accountable. Six indigenous Papuan men were charged with treason, adding to the approximately 40 existing Papuan political prisoners, according to the AHRC. Cases of torture, arbitrary detention and military operations continued to be reported during 2011 in the provinces of Papua and West Papua.

Indonesian military and special police forces conducted massive counter-insurgency ‘sweeping’ operations aimed at suspected Free Papua Organization (OPM) separatists in the central highland area of Panai, West Papua. The *Jakarta Post* reported that at least 500 people had fled from Dagouto village since raids in November.

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Case study
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The campaign against destructive palm oil plantations

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The rapid expansion of palm oil plantations in South East Asia is being driven by rising global demand for edible oils and bio-fuels. Thailand and the Philippines have a burgeoning palm oil industry, plantations have been established in Cambodia, and Vietnam is exploring the possibility of cashing in on this crop.

Malaysia and Indonesia are the top producers of palm oil in the world, and in these countries the industry fuels land dispossession and loss of livelihoods for indigenous peoples. Global consumption of processed palm oil more than doubled over the last ten years, with demand increasing mostly in China, India and Eastern Europe. Large-scale production in Malaysia and Indonesia started in the late 1980s and rapid expansion between 2007 and 2010 has devastated bio-diverse rainforests, replacing them with mono-crop ‘green wastelands’.

Millions of hectares of land have been swallowed by these plantations: an estimated 4.6 million hectares in Malaysia, and 9.4 million in Indonesia. Both countries intend to continue increasing the amount of land dedicated to palm oil. In Malaysia’s Sarawak state, the government plans to double the area devoted to palm oil while Indonesia plans to double its palm oil production to 20 million hectares by 2020. This expansion will continue to be driven by large estates, rather than independent smallholders.

To achieve this expansion, the governments of Malaysia and Indonesia have handed over indigenous peoples' lands for palm oil, despite their customary land claims. In Sarawak, Malaysia, and in Sumatra, Indonesia, oil plantations have polluted rivers, destroyed wildlife that once supported indigenous peoples' livelihoods, and led to communities being evicted from their lands. Many of the land conflicts in these countries are directly related to the expansion of palm oil.

Indigenous peoples' opposition to palm oil expansion has become increasingly violent. In November 2011, indigenous Dayak Benuaq peoples in Indonesia's East Kalimantan province protested against the conversion of their lands into palm oil plantations. But the Malaysia-based PT Munte Waniq Jaya Perkasa company has continued to clear the land and evict the community, supported by the police and other security personnel, according to reports from local NGO Telapak.

Communities like Dayak Benuaq, who struggle against palm oil plantations, meet violent reprisals. According to the Borneo Resource Institute, in February an indigenous community in Rumah Ranggan, Sarawak, Malaysia, were intimidated by a hundred armed men, allegedly hired by the palm oil company to force residents to halt their blockade protecting their forests. Police later arrested the leader of the armed group.

A flood of these incidents has led to increased pressure on palm oil companies to prevent abusive and destructive practices. The industry formed a Roundtable on Sustainable Palm Oil (RSPO) in 2004, to promote sustainable palm oil practices and raise the environmental profile of the industry. Comprising oil palm producers, manufacturers, investors and social and environmental NGOs, the RSPO has created a process to have plantations certified as sustainable.

Some NGOs have refused to join the RSPO, arguing that its standards have not done enough to address land disputes and environmental issues. But others, such as Sawit Watch, Indonesia's leading watchdog NGO on the palm oil industry, have participated

and helped shape the RSPO's criteria for certification. The standard affirms the rights of indigenous peoples to their customary lands, requires adequate compensation, and insists that no lands can be taken from indigenous peoples and local communities without their free, prior and informed consent. The standard also requires the fair treatment of smallholders and prohibits discriminatory practices against women.

One of the biggest players in palm oil – Singapore-based Wilmar International, a leading agribusiness group in Asia – is a member of the RSPO and has made various commitments to sustainable palm oil production. In November, however, the Forest People's Programme in partnership with Sawit Watch released a report documenting continued land confiscation, evictions and intimidation by the Indonesian police on behalf of Wilmar's suppliers against an indigenous community in Jambi. Director of Sawit Watch Abetnego Tarigan commented: 'Frankly we are very disappointed. We expect leading members of the RSPO to scrupulously adhere to the agreed standard.'

While the RSPO has developed strong standards through consultative processes, further efforts are needed to ensure that these standards are implemented. But in September, the Indonesian Palm Oil Association withdrew from the RSPO, and the Indonesian government says it will now implement its own 'green' standards for sustainable palm oil. The Malaysian government is also starting its own certification process for 'sustainable' palm oil. This has drawn accusations that these versions of sustainable palm oil are 'greenwash' and a watering down of the RSPO's criteria. The international community must continue to demand palm oil that follows the sustainability model provided by the RSPO, along with implementation that protects the rights of affected communities. ■

Local media estimate the military operation has forced about 10,000 people to flee their villages, and that 20 villagers had been shot. The raids had been escalating since April. Indonesia's National Commission on Human Rights (Komnas HAM) called on the National Police chief to withdraw all troops from the area.

In 2011, police admitted to receiving pay-offs from the US-owned Freeport-McMoRan to protect their Grasberg gold and copper mine in Papua, the largest gold mine and third largest copper mine in the world. This mine project has long been criticized for violating the rights of indigenous Papuans through land confiscation, environmental destruction and militarization. Indonesian military forces who 'protect' the mine have reportedly raped Papuan indigenous women.

Papua has consistently had the highest rate of HIV infection in Indonesia, at 15 times the national average. In May, the head of the Papuan AIDS Prevention Commission reported that the number of people living with HIV/AIDS in Papua jumped by 30 per cent in four months, to over 17,000. Mimika, the district of Freeport McMoRan's mine, had the highest increase and overall number of HIV/AIDS-infected people, with associated high numbers of prostitutes and brothels. While these numbers do not differentiate, past studies have suggested that prevalence of HIV/AIDS among Papuans is twice as high as among non-Papuans.

The rights of indigenous Papuans to their ancestral lands also continued to be threatened by the Merauke Integration Food and Energy Project (MIFEE), a mega-agro initiative launched in 2010, which involves the conversion of a vast area of land, including forests, into plantations. In a report submitted to various UN mechanisms in 2011, an NGO coalition claims that MIFEE has proceeded without regard for the principles of free, prior and informed consent, and has forcibly acquired around 2 million hectares of traditional lands. The military has also reportedly been harassing those resisting the project. In October 2011, President Yudhoyono set up the Unit for the Acceleration of Development in Papua and West Papua (UP4B) to stimulate economic development. Little attention has been given to Papuans' right to autonomy and self-governance, however.

Laos

The ninth Party Congress of Laos People's Revolutionary Party (LPRP) was held in 2011. But there were few new faces to be seen. Elections for the National Assembly were held shortly after, with the LPRP winning all but four of the 132 seats in this one-party state. Ethnic minority parliamentarians won 38.6 per cent of the seats in the National Assembly. However, party members secured their positions through patronage, rather than by campaigning for the rights of minority communities.

There are at least 240 ethnic groups in the country, but the Lao government only officially recognizes 49. Most minorities live in the mountainous highland areas, whereas the Lao majority has traditionally been in the lowlands, dominating political and economic life. Ethnic minority villages have been subjected to government relocation programmes since the 1970s, increasing in scope in the 1990s, ostensibly aimed at ending swidden agriculture and opium production.

The Lao government aims to transform the country into the 'battery of South East Asia' by exporting the power generated by numerous hydroelectric projects. In June, the National Assembly announced plans to complete ten large-scale dam projects between 2011 and 2015; five are already under construction. The proposed 1,200-megawatt Xayaburi dam on the Mekong River has attracted the most controversy. It will displace an estimated 2,100 people, the majority of whom are ethnic minorities (including Khmu, Leu and Hmong), and threaten the livelihoods and food security of another 200,000 people. The Xayaburi project is backed by Thai companies, and Thailand is expected to be one of the main beneficiaries of the power generated.

The Mekong Rivers Commission, a regional river basin organization, twice delayed a decision on whether to approve the Xayaburi dam in 2011, under strong pressure from Laos's neighbours, pending further environmental studies. However, with the tacit approval from Lao authorities, the Thai dam building-company is proceeding with construction work, without consulting affected minorities.

In 2011, a national survey carried out by the Lao government estimated that 5 million

hectares – about 21 per cent of the country's total territory – has been granted as concessions to either domestic or foreign parties, mainly for mining exploration (85 per cent). Many land concessions in Laos have also been granted to foreign companies from Vietnam, Thailand and China, for large-scale agribusiness plantations, such as bio-fuels, rubber and eucalyptus, as well as mining and hydro-electric projects.

Though all land is state-owned in Laos, communal land use rights are recognized under the Constitution and various national laws. But land and forest concessions have been granted without proper documentation or implementation of legal processes, leaving local livelihoods unprotected, according to a 2011 report by the NGO Forest Trends. Such concessions are often facilitated through bribetaking by local and central officials. Affected groups are left without access to their traditional livelihoods or adequate compensation, despite a government decree guaranteeing it.

Displacement and government attempts to eliminate swidden agriculture have had a disproportionate impact on minority and indigenous women from communities such as the Khmou and Phone, where their status derives from their role in such agricultural activities.

In November 2011, the Laos government issued its first set of communal forest land titles, acknowledging the community rights of four villages to bamboo forests in Sangthong district near Vientiane. It is hoped that communal titles will now be issued in other areas of the country where minority and indigenous groups are at a high risk of being displaced from their land.

In one positive development, the Lao Ministry of Energy and Mines proposed amendments to the Minerals Law in 2011 in order to address loopholes that were thought to be giving free rein to mining companies, for example to use sites for purposes for which they were not granted, such as logging and plantations. Other proposed changes include stricter environmental standards and increased compensation for affected communities.

Freedom of religion is guaranteed in the Lao Constitution, but in practice some laws are used to suppress unsanctioned religious activities. Many ethnic minorities in Laos practice

animism/ancestor worship or have converted to Christianity. In 2011, rights groups continued to report incidents of local authorities harassing and illegally detaining members of Christian communities.

In 2011, the group of over 4,000 Hmong that were forcibly repatriated to Laos from Thailand in 2009 are reportedly still facing 'severe restrictions' on their freedom of movement and are unable to make a living.

Malaysia

Civil society in Malaysia, including those organizations struggling to secure the rights of minorities, continued to experience restrictions on the right to assembly. In September 2011, Prime Minister Najib Razak pledged to repeal the Internal Security Act (ISA), which allows the authorities to detain people indefinitely without charge or trial. The move was welcomed by a broad range of civil society organizations, but Razak's commitment was questioned as authorities continued to arrest people under the ISA.

Razak proposed two other pieces of legislation. The Race Relations Bill was set to be debated in parliament in 2012 but Malaysian human rights organization Suara Rakyat Malaysia (Suaram) argued that the draft law would not adequately protect minorities from hate crimes. At the time of writing, it appeared that the government was going to drop the initiative.

In December, the senate passed the controversial Peaceful Assembly Bill, despite widespread opposition from local civil society and international NGOs. The law bans street protests, prohibits those under 21 years old from assembling peacefully, and provides a wide range of powers to the police.

The new legislation comes after crackdowns on protests throughout 2011, including protests by religious minority organizations. In February, authorities denied a request by the Hindu Rights Action Force (HRAF) to conduct a peaceful anti-discrimination march. HRAF was banned after a peaceful demonstration in 2007 for the rights of religious minorities in Malaysia. Authorities arrested at least 59 members of HRAF and the Hindu Rights Party (HRP) hours before the rally began. All were released on bail, charged with being part of an 'illegal association'.



Above: A Penan family at a temporary shelter in Malaysian Borneo. *Sofia Yu.*

The HRAF protest was in part sparked by controversy over the novel *Interlok*, compulsory reading for students in secondary school, that includes racial stereotyping of Indian and Chinese communities. On 15 January, the novel was removed from the syllabus, but the decision was reversed on 28 January. It remains on the syllabus, but sensitive words will be removed. Many in the Indian community and others think the book generates inter-racial conflict.

Shi'a Muslims, listed as a 'deviant' sect by Malaysia's Islamic law in this majority Sunni Muslim state, also continued to face difficulties. In May, in the central state of Selangor, authorities broke up a gathering of Shi'a who were celebrating the birthday of a daughter of the Prophet, on accusations of proselytizing. Four people were reportedly detained.

In August, police raided a Methodist-Christian Church in Selangor, accusing members of

attempting to convert Muslims at a charity event, an accusation the group denied. Soon after, rallies against alleged Christian proselytizing were held across the country, organized by Himpun, an *ad hoc* coalition of Muslim groups pushing for a conservative, pro-Muslim Malay agenda.

In April, Abdul Taib Mahmud was reelected as Chief Minister of Sarawak – a forested state on the island of Borneo – continuing his 30-year reign over a state where 50 per cent of the population are indigenous people, collectively referred to as Dayak or Orang Ulu. Elections were marred by reports of vote-buying and intimidation of indigenous communities. International observers as well as local election monitors were reportedly not allowed into the state, and some indigenous people were not registered to vote because they had been denied national identity cards. At least 480,000 people (one-third of eligible voters), largely from rural areas affected by land-grabbing, are not registered to vote. Members of the Penan community say they have repeatedly sought identity cards but

their applications are never processed.

In 2011, accusations of corruption against the Chief Minister gained momentum: the UK government announced it would investigate accusations of money-laundering against him. Taib has notoriously provided business contracts to his family and associates for logging, hydro-electric projects and palm oil plantations in Sarawak. Three Chinese state-owned companies are helping to build a network of as many as 51 controversial dams to spur rapid industrial development. Many of these concessions have been granted in territories contested by indigenous peoples, whose rights are recognized under Malaysian law. Less than 10 per cent of Sarawak's forest is reportedly left intact, a figure hotly contested by the Chief Minister.

In June, the Malaysian national human rights institution, Suhakam, announced its National Inquiry into the land rights of indigenous peoples, and has so far received almost 900 land rights complaints. Suhakam plans to conduct a series of consultations in affected areas and release its report by June 2012.

Indigenous community attempts to enforce their traditional land rights in Malaysian courts have had mixed results. In September, members of indigenous groups lost their decade-long fight against state confiscation of land to construct the controversial 2,400-megawatt Bakun dam in Sarawak. The Federal Court ruled that the state had not violated their native customary rights. However, the Chief Judge of Sabah and Sarawak expressed concern that provisions in the land code seem to give wide powers to ministers to override customary land rights. In October, with the help of Sinohydro and China Export Import Bank, the dam became operational after nearly five decades of delays.

Indigenous groups won a victory in September, when the state government postponed the construction of the Baram dam, set to displace 20,000 people. Strong resistance from affected Kayan, Kenyah and Penan groups is thought to have been the impetus behind the decision. However, the dam will only be delayed for further social impact assessments and until the Baleh dam is complete, a project that will resettle fewer communities. Also in September, the High Court in Sabah and Sarawak ruled that the

Forestry Department had issued illegal logging licences for land covered by native customary rights of the Krian people. It is hoped that this ruling will have positive implications for land rights cases pending in lower courts against state confiscation of indigenous ancestral lands; estimates of the number of cases vary from around 200 to over 300.

Philippines

Conflict and displacement affecting Philippines' minority groups continued during the first year and a half of Benigno Aquino III's presidency, both as a result of militarization and natural disaster. The Moro Islamic Liberation Front (MILF), a major armed Islamic group, is currently engaged in peace negotiations with the government. The Mindanao region, home to a significant number of Muslim Moro or Bangasmoro, has seen a long-running struggle with armed insurgency groups seeking autonomy in the majority Christian Philippine state. Negotiations resumed in February 2011. While an agreement was reached in December to create a functioning autonomous government for the Moros, negotiations are ongoing and will have to address the rights of minorities within Moro territory, a major cause of the breakdown in talks in 2008.

Mindanao is also the ancestral territory of indigenous groups, collectively known as Lumad.

In northern Cordillera, in the Luzon region, a variety of heterogeneous indigenous groups are collectively referred to as Igorot. Indigenous groups in the Mindoro region of the Visayas are collectively called Manyan. Many indigenous communities across the country have been drawn into the conflict between the central government and the New People's Army (NPA) – the armed wing of the Communist Party of the Philippines (CPP) that has been fighting for over four decades for a communist take-over. Communities have been accused of supporting the NPA and targeted by anti-insurgency operations of the Armed Forces of the Philippines (AFP). In February, the government resumed negotiations with the CCP-NPA in Oslo for the first time in six years. But talks stalled later in the year.

Both human rights defenders from indigenous communities and those supporting their rights

have been targeted for extra-judicial killings, threatened and harassed throughout the Philippines. During Aquino's first 18 months in office, the National Alliance of Indigenous Peoples in the Philippines (KAMP) recorded 13 indigenous rights activists killed, at least 4 of whom were resisting mining in their communities.

The AFP has long been implicated in these and other politically motivated killings over the last decade. Rudy Dejos, a B'laan indigenous community leader in Santa Cruz, Davao del Sur, was killed in February 2011 along with his adult son. According to HRW, Dejos' body showed signs of being tortured. He had previously been threatened by the AFP; the police blame the NPA, but his family is not convinced.

Conflicts relating to mining concessions in Moro and indigenous peoples' lands continued throughout 2011. The Xstrata-controlled Sagittarius Mines-proposed open-pit gold and copper mine in Tampakan, South Cotabato drew particular controversy. The company intends to push forward its application despite evidence of lack of free, prior and informed consent on the part of affected B'laan communities, as well as a province-wide ban on open-pit mining that was declared in 2010. The company claims it has the backing of local communities, while activists question whether those who support the project understand its environmental consequences. The mine will straddle the territory of four ancestral domains of the B'laan indigenous people. The project has led to a string of violent incidents in 2011, including the murder in February of a S'bangken indigenous leader who supported it. The NPA has attacked the mine in the past and warned of further violence if the project proceeds.

In January, Aquino instituted a counter-insurgency programme, the Oplan Bayanihan (OB), ostensibly to foster peaceful relations between conflict-affected communities and the military. KAMP has argued that it only increases militarization in indigenous areas. In October, the NPA attacked three mining operations in Surigao del Norte, killing three private security guards and damaging equipment. In response, the government agreed to allow mining companies to hire militias to protect their sites. A statement released by the Special Committee

of the Koronadal Indigenous Peoples Women Gathering, an indigenous women's coalition, said: 'This sounds like a blanket call to intensify attacks against us.' According to KAMP, 60 per cent of the total land area of the Cordilleras has been approved for mining applications and operations. Indigenous communities in Pampanga and Cagayan Valley also contend with the massive influx of large-scale mines.

In November, the Internal Displacement Monitoring Centre (IDMC) reported that 34,000 people remained displaced following separate instances of heavy fighting between the AFP and MILF, as well as suspected renegade MILF groups, in October in Basilan and Zambonga Sibugay provinces. Drawing on UN Office for the Coordination of Humanitarian Affairs (OCHA) findings, the IDMC reported a total of 46,000 displaced at that time.

On 17 December, tropical storm Washi hit northern and south-western parts of Mindanao. By January 2012, over 1,200 had died in the flash floods. The devastation was exacerbated by deforestation, leading the Autonomous Region of Muslim Mindanao's (ARMM) recently appointed governor Mujiv Hataman to declare a logging ban in ARMM, at the behest of the central government.

Thailand

In July, Thailand elected its first female Prime Minister, Yingluck Shinawatra of the Pheu Thai party, younger sister of ousted Prime Minister Thaksin Shinawatra. Her supporters, mainly rural poor from the north, had previously filled the streets of Bangkok with their protests. Her leadership has since been tested by flooding in the central provinces and increasing violence in the south.

Conflict continued to plague Thailand's four southern-most provinces, where Malay-Muslims are a majority in this majority Buddhist state. Since 2004, these provinces have endured a violent separatist insurgency. Insurgents target civilians for extra-judicial killings and regularly detonate explosives in public areas. From 2004 to the end of 2011, nearly 5,000 people have been killed in the conflict. Thai military and security forces have been accused of arbitrary arrests, detention without charge and torture of Malay-

Muslim suspects, under the Emergency Decree and martial law.

Yingluck Shinawatra's Pheu Thai party won no seats in the south, but her campaign promises included increasing the number of Muslims permitted to attend the hajj and more public input into decision-making processes. According to Deep South Watch, a local conflict-monitoring organization, violence spiked in the month after Yingluck Shinawatra's appointment.

In December 2010, then Prime Minister Abhisit Vejjajiva attempted to quell the unrest through changes to the recently revived Southern Border Provinces Administrative Centre (SBPAC), a civilian body that oversees development and policy-creation. It can now receive complaints on mistreatment by security forces and has the power to discipline or remove officials or police officers. But by October Yingluck Shinawatra's Cabinet had replaced the administrative head of the SBPAC, to the disappointment of southern Muslims who saw this as a political appointment that did not reflect their interests. In December, the Cabinet extended the Emergency Decree for another three months.

Human rights defenders working to achieve justice for victims in the southern provinces continue to face threats. In April, the AHRC reported that Yaena Salaemae was being harassed by security forces for her work to achieve justice for the seven Muslims shot by security forces while peacefully protesting in 2004. A further 78 protesters had died after the group had been herded into trucks to be taken into detention.

In the case of the 2004 disappearance of lawyer Somchai Neelapaijit, who had also fought for the rights of Muslims, the defendants were acquitted in March on technical grounds.

Thailand's diverse indigenous peoples have also been engaged in a long struggle to defend their rights. Hundreds of thousands of indigenous people have been denied Thai citizenship, stemming from state neglect, corruption or rejections on the basis that many have migrated from Burma. In cooperation with NGOs and UN agencies, the government has enabled some to receive Thai citizenship, but in 2011 approximately 30 per cent or 296,000 of Thailand's indigenous peoples still lack citizenship. They are consequently denied access

to health and education services, face restrictions on their movement and endure harassment by state authorities.

For decades, indigenous peoples have been forcibly evicted and relocated from their lands on grounds of national security, development and resource conservation. In the north, smaller mountain-dwelling ethnic groups, including Akha, Hmong, Karen, Lahu, Lisu and Mein, struggle to survive economically and culturally in the face of development projects, land-ownership issues and the influx of ethnic Thais.

In July, officials at Kaeng Krachan National Park, Phetchaburi province, stormed and burned a total of 90 homes and rice barns in a Karen village. Officials justified this as a means to prevent forest destruction, even though it is the constitutional right of these Karen to reside in the forests, as they have been on the land for generations. Many of the families remain displaced, some reportedly hiding in the forest without sufficient food or shelter.

On 3 September, Tatkamol Ob-om, a Karen community activist brought the case to the National Human Rights Commission. He was shot and killed on 10 September. A warrant was issued for the arrest of the park director Chaiwat Limlikitauksorn, who later turned himself into police, denying the charges. He has since been released on bail and has retained his role as park head, still justifying his violent evictions of the Karen village.

Forest officials have blamed Karen traditional swidden agriculture – pejoratively known as 'slash and burn' – for contributing to forest degradation and global warming. From 2005 to 2011, 38 cases of 'global warming' were brought against Thailand's indigenous forest-dwelling peoples, nine of which have been settled resulting in fines of over 18 million baht. Marine park conservation has also pushed indigenous Moken and other sea nomads off their territory, making it illegal to fish in protected waters. These and other such cases criminalize indigenous groups for practising their traditional livelihoods and residing in areas to which they have ancestral land rights claims.

Vietnam

January 2011 saw the reappointment of Prime

Minister Nguyen Tan Dung for a second five-year term in the Politburo of Vietnam's Communist Party (CPV), the ruling party in this tightly controlled one-party state.

Vietnam officially recognizes 54 ethnic groups, among whom the majority ethnic Kinh make up 86 per cent of the population. Ethnic minority and indigenous groups have significant populations in the northern highlands, central highlands and the Mekong delta region – including Hmong, Khmer, Muong, Tay and Thai. In the central highlands, in Gia Lai and Dak Lak provinces in particular, about two dozen indigenous groups collectively self-identify as Montagnards, many of whom are also Protestant Christians.

Vietnam's central highlands are rich in natural resources, including bauxite. In September, a Chinese-backed bauxite mine in Lam Dong province began operations, despite unusually high levels of public criticism about environmental consequences and Chinese involvement. Bauxite is a mineral used to produce aluminum, and, with the third largest reserve of bauxite in the world, the government has shown little regard for the concerns of central highland peoples, including over potential contamination of water resources as well as adverse impact on crops.

Land in Vietnam is state-owned – with individual land use rights – and can be re-appropriated for state interests. With forests and mineral-rich lands in minority and indigenous areas, state land confiscation can have a devastating effect on these communities. In her January 2011 report on her official visit to Vietnam in 2010, the Independent Expert on Minority Issues, Gay McDougall, noted the massive resettlement caused by the Son La hydropower plant, where 91,000 people belonging to ethnic minorities were relocated by 2010 – the largest resettlement programme in Vietnam's history. Ten different groups have been affected, the majority being ethnic Thai. The Vietnam Union of Science and Technology Associations reported: '[R]elocation is breaking down existing social structures and community relationships and creating trauma for minority groups ... Most are left without any agricultural land.'

In May, seven land rights defenders, some of

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Case study
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Asia's Commission on Human Rights

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The establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) on 23 October 2009 marked a momentous achievement for human rights in the region. But there is no explicit mention of the rights of indigenous peoples and minorities in its mandate and civil society organizations continued to push to include these rights in the draft ASEAN Declaration on Human Rights.

The AICHR has been criticized for getting tied up in procedural issues, failing to consult with civil society and for being unable to receive information officially from civil society groups about severe human rights violations. There is also concern about the independence of the commissioners, inadequate resources and an unclear protection mandate.

There is no specific mechanism for the protection and promotion of minority or indigenous peoples' rights within the AICHR. Civil society groups created an Indigenous Peoples Task Force in order to lobby and inform ASEAN and its relevant bodies, particularly to establish a focal person for indigenous issues and to establish an ASEAN Working Group on indigenous issues.

The team drafting the Declaration on Human Rights was formed by the AICHR and was expected to present its first draft in January 2012. The drafting process has been held largely behind closed doors and the terms of reference have not been made public. ■

whom also struggle for religious freedom, were tried for ‘subversion’ in the Ben Tre People’s Court; all received prison sentences ranging from two to eight years. Pastor Duong Kim Khai was one of those found guilty. A leader of the Mennonite ‘Cattle Shed’ religious group – so-called because their church was confiscated by authorities and they began using a shed for worship – has assisted people in the Mekong delta with land rights claims.

The government maintains strict controls on freedom of religion, permitting only state-sanctioned religions, and using complex registration requirements, surveillance and intimidation to control the practice of faith. Religious activists and those practising ‘unauthorized’ religions are targeted by the government. In July, police arrested three Catholic activists as they returned from a conference abroad. Twelve more religious activists were arrested by the end of September, the majority of whom were later charged with ‘subversion’. In December, Nguyen Van Lia, a 71-year-old who has raised international awareness about the situation faced by fellow-members of the Hoa Hao Buddhists, was sentenced to five years in prison for distributing ‘anti-government’ propaganda.

Vietnamese authorities continued to use violence and intimidation in the central highlands and north-west provinces, especially against Protestant ethnic minorities and others conducting ‘unsanctioned’ religious practices. Since the state restricts foreign media in these areas, it is difficult to get a clear picture. HRW, however, reported that thousands of Hmong Christians began protesting in the north-west province of Dien Bien at the end of April. This was met by a violent response from the military, with unconfirmed reports of numerous deaths and injuries. According to the BBC, the protesters demanded more religious freedom, secure land rights and greater autonomy.

Unrest over land rights and the struggle for religious freedom in the central highlands during the last decade has made the area a security concern for the government. In a 2011 report, HRW detailed how security forces have used violence, arbitrary arrest, imprisonment and torture, as well as forced public renunciations

of faith and declarations of allegiance to the state, against indigenous Montagnards. HRW further reported that since 2001, more than 350 Montagnards have been imprisoned for public protests, attending unregistered house churches or trying to flee to seek asylum in Cambodia.

Vietnam has, however, demonstrated a sustained effort to collect disaggregated data on its ethnic minority populations in order to implement more effective development projects. In 2011 a recent study by the government in conjunction with UN agencies reaffirmed that ethnic minorities in Vietnam have worse health indicators, particularly for minority women, who had less access to reproductive health care than their majority counterparts.

East Asia

Marusca Perazzi

China

The year 2011 revealed unmistakable signs of ferment and frustration in Chinese society. Unsettled by the pro-democracy Arab Spring uprisings and the country’s scheduled leadership transition in October 2012, the government launched the largest crackdown on human rights lawyers, activists and critics in a decade. This resulted in tightened internet censorship, persecution of high-profile critics, and an increasing number of forced disappearances and arbitrary detentions.

During 2011, the Chinese government continued to limit religious practice to officially approved religious institutions. There was a continued crackdown on unregistered religious organizations, including underground Christian groups. In April, the government pressured a Beijing landlord to evict the Shouwang ‘house church’ with 1,000 congregants from its location in his restaurant. Consequently, services were held outdoors attracting police attention and resulting in the temporary detention of more than 100 of its members. Thousands of Falun Gong spiritual practitioners, members of a group targeted by the authorities, continued to face intimidation, harassment and arrest. The



government continued to heavily restrict religious activities in the name of security in minority areas, particularly in Tibet and Xinjiang.

While ethnic minorities in China constitute only 8 per cent of the overall population, they inhabit large areas rich in natural resources, especially energy and minerals, in some of the most impoverished regions of the country. For example, Inner Mongolia has rich coal deposits; Xinjiang is known to have China's largest oil and gas reserves; Tibet has massive deposits of gold, copper and rare earths, as well as much of the country's water resources.

Over the past decade, these areas have been the target of the government's 'Go West' campaign. Ostensibly, the government's goal has been to reduce regional disparities and bring economic development to the western provinces and autonomous regions (Ningxia, Tibet, Inner Mongolia, Guangxi and Xinjiang); critics have defined the campaign as 'internal colonization', aimed at bringing large areas in minority regions under control so as to exploit their natural resources to support further development along

the country's east coast.

During 2011, the Chinese government called for accelerated development in minority areas under its 12th Five-Year Plan (2011–15). Also in 2011, the US Congressional Executive Commission on China (CECC) reported that in ethnic minority autonomous regions the Chinese government continued to implement top-down development policies that have undercut the promotion of regional autonomy and limited the rights of minorities to maintain their unique cultures, languages and livelihoods, while bringing a degree of economic improvement. The government push on development also meant an intensification of the long-standing majority Han migration into minority areas. These new arrivals have disproportionately benefited from economic opportunities, which has caused resentment among ethnic minorities. Also, the environmental degradation that accompanies natural resource exploitation continues to exacerbate tensions.

Xinjiang Uighur Autonomous Region

The Chinese authorities have continued to

Left: A Tibetan monk sits in his room with a photo of the Dalai Lama and Karmapa on the wall at a monastery in Sichuan province, China. Photos of the Dalai Lama are prohibited in China but many monks carry one secretly. *Shiho Fukuda/Panos.*

implement a repressive security regime in Xinjiang Uighur Autonomous Region, since violent riots broke out in July 2009 – the worst ethnic conflict in recent Chinese history. According to Human Rights Watch (HRW), the government has still not accounted for hundreds of people detained after the riots and continues to target human rights activists.

Tensions in the region have been exacerbated by increasingly tight controls over religious practice and use of minority languages. Government-led development projects have undermined the rights of Uighurs and other non-Han communities. Employment practices in both the private and public sectors have also continued to discriminate against Uighurs and other non-Han groups, who together comprise roughly 60 per cent of Xinjiang's population.

During the summer of 2011, the region was the scene of several violent incidents. In July, at least 18 people were killed when rioters, some armed with homemade explosives, attacked a police station in the city of Hotan. And on 30 and 31 July, at least 13 people were killed and 44 injured in two episodes in Kashgar, the state news agency Xinhua reported. Following these incidents, the authorities launched an anti-terrorism campaign in August, targeting illegal religious activity and implementing patriotic education campaigns.

In October, Xinhua reported that the government was considering new stricter anti-terrorism legislation, claiming that the country faced serious threats from Islamist groups. In December, police killed seven Uighurs accused of being terrorists in Pishan County, a Uighur-majority area near the Pakistan border. However, overseas Uighur groups said they doubted the official account of events.

Land seizures in the ancient Uighur city of Kashgar also stirred up resentment. Eighty per cent of traditional Uighur neighbourhoods in Kashgar were scheduled for demolition by the

end of 2011, and many Uighurs have been forcibly evicted and relocated to make way for a new city centre, dominated by the Han population. Forced evictions have become a routine part of life in China amid rampant development. But rural land grab disputes hit new highs in 2011 and are spreading further into undeveloped regions of western China, according to an October report by Xinhua's magazine, *Outlook Weekly*.

Ningxia Hui Autonomous Region

Violence also broke out in the Ningxia Hui Autonomous Region in north-west China. On 30 December 2011, police clashed with ethnic Hui Muslims in Taoshan village. According to the Hong Kong-based Information Centre for Human Rights and Democracy, 50 people were injured and two people killed after authorities declared a newly refurbished mosque illegal and the police tried to demolish it.

Grassland policies

At a State Council meeting in April 2011, authorities called for 'more forceful policy measures' for 'speeding up development of pastoral areas, ensuring the state's ecological security, and promoting ethnic unity and border stability'. This strengthened ongoing grassland policies that impose grazing bans, and resettle herders, forcing them to give up their pastoralist lifestyle, which affects Mongols, Tibetans, Kazakhs and other minorities. Critics have questioned the effectiveness of such policies in meeting the declared goal of restoring degraded grassland, while affected communities report forced resettlement, inadequate compensation and loss of traditional livelihoods and culture.

Inner Mongolian Autonomous Region

During the year, rising ethnic tensions in the usually relatively calm Inner Mongolian Autonomous Region rattled the Chinese authorities. In May, a Mongolian herder protesting against the destruction of traditional grazing land was killed by a Han driver transporting coal in Uxin County. The incident sparked the worst demonstrations in two decades in Inner Mongolia. Protesters called for the government to respect herders' rights

and condemned the exploitation of grasslands. While the government executed the truck driver responsible, the mining project that caused the protest continued.

Further protests broke out when another herder was killed by an oil truck in a similar incident in October. This prompted the government to tighten security and cut off internet and mobile-phone access to large parts of the region, according to the Southern Mongolian Human Rights Information Center (SMHRIC). Mongolian herders continue to complain that their traditional grazing lands have been ruined by mining, that widespread desertification is turning the grassland to dust, and that the government has forcibly relocated them into settled houses.

Tibetan autonomous areas

The situation in the Tibet Autonomous Region, and other Tibetan autonomous areas of Qinghai, Sichuan, Gansu and Yunnan provinces grew increasingly tense throughout 2011. Since the brutal crackdown on protests that swept the plateau in 2008, Chinese security forces have maintained a heavy presence. Large numbers of Tibetans, including intellectuals, monks and farmers, have been imprisoned, and monasteries, seen by the Chinese government as the focus of dissent, have been subject to intensified controls and political pressure. Tibetans are increasingly economically marginalized, as development has brought an influx of majority Han Chinese into Tibetan regions; the newcomers dominate the job market, and local businesses as well as culture.

During the second half of the year, there was a wave of self-immolations mainly involving Buddhist monks and nuns across eastern Tibet. In March, a monk from the Kirti monastery in the Tibetan Ngaba region of Sichuan province set fire to himself in protest against Chinese rule and the ongoing repression of Tibetan religious and cultural identity. In August, local authorities imposed heavy prison sentences on three Tibetan monks who had assisted him. Ten more Tibetan monks and one nun had self-immolated by mid-November, all expressing their desperation in the face of ongoing repression. By March 2012, a reported 30 Tibetans had set themselves on fire in Tibetan areas of China to protest against

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Case study By *Gabriel Lafitte*
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Mining Tibet

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Gold

Tibetans call the Plateau of Tibet ‘the land surrounded by mountains’. Among the massive mountain chains, a few peaks are especially sacred, attracting pilgrims from afar. In rugged eastern Tibet, nowhere is as sacred as the hidden land of Kawa Kharpo.

The sacred Kawagebo mountain sits on the border between the Tibetan Autonomous Region and China’s Yunnan Province; its eastern side is part of the Three Parallel Rivers area, a UNESCO World Heritage Site. In February 2011, a small gold-mining operation started near the village of Abin, which is on the western side of Kawagebo, along the path of an 800-year-old pilgrimage route that circles the mountain, attracting tens of thousands of Tibetans annually.

In 2012, Tibetan villagers, acting out of reverence for the holy peak, attempted to stop the operations of a Chinese mining company. The response was threats and violence from company representatives, then harassment and arrests by local police. On two occasions, men armed with wooden sticks with nails reportedly attacked villagers, injuring more than a dozen.

After efforts to negotiate with the local government failed, villagers pushed US\$ 300,000 worth of mining equipment into the Nu River. A leader of the group was arrested, but later released when 100 villagers surrounded the local police station where he was being held. A few months later, however, mining resumed and tensions grew. Harassment, death threats and attacks on villagers increased, and some women and children fled to other villages to escape the violence.

On 20 January 2012, a village leader who had tried to confront the mining company was arrested by local police. Some 200 community members surrounded the police station, resulting in violence and injuries on both sides,

with at least one villager hospitalized with serious injuries. Hundreds more villagers from the surrounding area joined in. On 23 January, with tensions mounting, a local government leader ordered the mine closed and the equipment trucked out of the village.

This story represents a rare victory in the struggle against the despoiling of the landscape of Tibet. All too often, local Tibetan communities are powerless, knowing that any protest will be quickly labelled as ‘splittist’ and a challenge to China’s rule, invoking a massive security presence to quell dissent. The Kawa Kharpo episode is remarkable, both because the villagers won and because the world got to hear about it, due to a brave conservationist from the Chinese environmental NGO Green Earth Volunteers, who witnessed the protest and reported it. Usually, such protests are not only swiftly curbed but all mention of them is repressed.

Mining is widespread in hundreds of locations across Tibet, despite official bans on small-scale gold mining in 2005 and 2007. The soaring price of gold, and the even faster rise in Chinese domestic demand for gold, has made Tibet a magnet for gold-seekers. The environmental cost of gold mining is extremely high, with cyanide and mercury being used in the processing, despite their toxic effects on those living downstream. The most systematic way of extracting gold in a river is to assemble a dredge, a house-sized machine on tracks, which crawls along, chewing up everything whilst gathering the specks of gold. These methods are highly destructive, yet Tibetans have been unable to form their own community associations, speak up, articulate their concerns and let the world know.

Hydroelectric power

Unfortunately, Abin is but one of many Tibetan villages threatened by economic forces. There is a greater overarching threat to the region, namely hydroelectric dam development. The government is increasingly turning to Tibet to solve China’s impending water and energy crisis.

Along the Nu River (known as the Salween once it reaches Burma), the longest free-flowing river in mainland south-east Asia, a 13-dam cascade has been proposed. The scheme includes several dams in or very close to the World Heritage Site mentioned above; these would wipe out portions of the pilgrimage route around Kawagebo and displace numerous communities along the river valley. Although the project was put on hold in 2004 in the wake of widespread protest, it is certainly not dead.

Last year, the World Heritage Committee issued a statement expressing concern over reports of unapproved construction under way at one dam site on the Nu River, and surveying work – including road-building and drilling – at three others. But in February, Chinese officials revealed plans to resume the Nu River dams as part of China’s ambitious hydropower plans to meet its renewable energy targets. The project will displace 50,000 people belonging to ethnic minorities, including Lisu, Nu and Tibetan people.

Nearly all the dams scheduled for construction in China by 2020 are in Kham, one of the three provinces of Tibet, which is now administratively fragmented into the Chinese provinces of Sichuan, Yunnan, Qinghai and Tibet Autonomous Region. Kham is not only a historically coherent province of Tibet, all of its counties and prefectures are officially designated as areas of governance by and for the Tibetans as a people. But west-to-east transmission networks will increasingly supply coastal China with electricity from Tibet, triggering serious questions as to whether Tibetans will benefit in any way. The Kham hydroelectric dam cascade is not for rural electrification, to provide light for nomad children to study by night and improve their school grades. It is not for Tibetan farmers to buy electric threshing machines for their barley crops, or for village millers to roast and grind the dried barley seeds to make *tsampa*, the staple of the Tibetan diet. The ultra high voltage lines will pass them by, en route to factories in Shanghai and Guangzhou. ■

government policies

The self-immolations have raised the level of tension and distress in Tibet to new heights. Security forces have used violence when raiding monasteries, searching for signs of allegiance to Tibet's exiled spiritual leader, the Dalai Lama, and arbitrarily detaining monks. Demonstrations, vigils and expressions of moral support for protesters seen as martyrs by the wider population have been met with ever tighter security clampdown. The wave of self-immolations has caused the central authorities considerable embarrassment but has resulted in no change in their repressive policies.

The recent acceleration in natural resource development has led to increasing conflict and protests in the region. The completion of the Qinghai–Tibetan railway in 2005 and new highways is spurring an economic boom in Tibet, including hydropower and mining (see case study on page 162). For example, Tibetans protested against the Gyama mine project, controlled by Vancouver-based China Gold and located just upstream of Lhasa in 2010. The mining operation has reportedly dried up spring waters, poisoned drinking water, killed animals and destroyed flora and fauna in the region. Despite this, in August 2011, China Gold announced that it will proceed with a major expansion of the project.

Across Tibet, nomads are being systematically and often forcibly relocated into settled communities as part of a policy known as 'ecological migration'. For example, since 2005, 50,000 Tibetan nomads have been relocated from the Sanjiangyuan National Reserve in Qinghai province on the Tibetan Plateau into unfamiliar urban areas where there are few economic opportunities. Some experts have pointed out that the locations of the recent self-immolations correspond, 'with a few exceptions', to areas of intensive resettlement. Social problems – such as high levels of unemployment and crime – have quickly emerged in these areas. The government's ostensible goal is to preserve fragile ecosystems and to counteract the negative impact of over-grazing. But during 2011, the boundaries of the reserve have quietly been redrawn to allow for large-scale gold mining by Inter-Citic, a Canadian mining company, near the source of

the Yellow River.

The government is ramping up its hydropower ambitions in a bid to meet renewable energy targets, resurrecting projects previously shelved for environmental reasons. The NGO International Rivers has reported that China has begun to build a series of dams in ethnic minority regions of south-west China, including the Jinsha (upper Yangtze), Lancang (Mekong) and the Nu (Salween) Rivers.

Japan

The year 2011 was a very challenging one for Japan as it struggled to cope with the economic, social and political aftershocks of the most devastating earthquake and tsunami in 140 years, which struck the country in March. The disaster left 20,000 dead and many more homeless, and triggered the meltdown of three reactors at the Fukushima nuclear plant.

Although Japan promotes itself as a homogeneous society, the country has significant numbers of minority and indigenous groups, including Burakumin, and indigenous Ainu and Okinawans. Korean and Chinese minorities have had a long-standing presence, along with newer arrivals from South America and Asia, who continue to appear vulnerable to exploitation, prejudice and discrimination.

The estimated 200,000 Burakumin belong to a social minority of the same ethnicity as other Japanese but are nevertheless victims of deep-seated caste-based discrimination. Modern reforms, including regarding access to housing and employment, have improved social conditions to some extent, but the root causes of their marginalization – social discrimination and prejudice – have not been adequately addressed by the government.

Ainu were officially recognized by the government as indigenous settlers of northern Japan in 2008 but, to the disappointment of many activists, this recognition has failed to address problems of social and economic marginalization. Amid growing frustrations over the lack of tangible progress securing their rights, at the end of October, Ainu representatives formed their own political party. There are an estimated 30,000–50,000 Ainu in Japan. Research carried out in 2006 indicated that

the number of Ainu living on welfare was over three times the national average, and that the proportion of Ainu receiving higher education was one-third the national average.

Over the centuries, Ainu have been stripped of their land, resources and traditional livelihoods. More recently, Ainu people have been caught up in a struggle to control their ancestral waterways. A government plan to build a second dam on the Saru River in the Hidaka Region of Hokkaido has raised concerns about the rights of the Ainu people. The first Nibutani dam on the Saru River, the most important river for local Ainu, was completed in the 1990s. In a landmark decision in 1997, a district court judge ruled that the government had illegally expropriated land owned by Ainu farmers to construct the dam and recognized Ainu's cultural rights. The ruling did not reverse the all-but-completed dam, but the case set a precedent and, as a result, work on the second Biratori dam further upstream was delayed until 2010. And now, as it is going ahead, the Ainu community has become engaged in the construction process of the dam, aiming to ensure preservation of local Ainu culture.

But in other cases, the government has failed to uphold Ainu rights. In a collective statement made at the UN Permanent Forum on Indigenous Issues in May, the NGO Asia Indigenous People's Pact along with other civil society organizations accused the Japanese government of failing to fully implement indigenous rights. According to the statement, the Mombetsu city government in Hokkaido prefecture authorized plans to build an industrial waste dumping site near the Mobetsu River in February 2010, a sacred salmon spawning site for Ainu, without obtaining their free, prior and informed consent. The statement also condemned the heavy presence of US military bases in Okinawa territory as a form of discrimination against the Okinawan people. A new base is under construction at Henoko/Oura Bay, plus six helipads elsewhere, despite long-standing opposition from local indigenous communities. In response to their protests, the authorities have filed a lawsuit forbidding local indigenous members to stage sit-ins at the heliport construction site.

In 2011, the Japanese government yet

again failed to respond to requests by the UN Committee on the Elimination of Racial Discrimination (CERD) and the UN Committee on the Elimination of Discrimination Against Women (CEDAW) to provide economic and social data reflecting the situation of minorities, and data to expose the extent of violence against minority women. CEDAW has also requested data on the education, employment, social welfare and health status of minority women.

Taiwan

The 14 officially recognized indigenous groups in Taiwan make up about 2 per cent of the island's population (collectively referred to as '*yuanzhumin*') and mostly inhabit the central mountains and the eastern coastal region. Ami constitute the largest group, and they along with the Paiwan and the Saisiat communities are able to maintain a visible traditional cultural life. Other smaller groups (known as '*pingpu*' or lowland tribes) are still fighting for recognition. Other communities on the island include the majority Hokkien/ Minanese (69 per cent), Hakka (13 per cent) and more recent immigrants from mainland China and elsewhere.

While historically Taiwan's indigenous peoples have been discriminated against and deprived of fundamental freedoms including their land rights, in recent years the government has invested more funds to support indigenous peoples' culture. The Taiwanese government has also adopted a number of laws and regulations to protect indigenous peoples' rights, including with regard to political participation, culture and language. However, serious inconsistencies and contradictions in legislation alongside partial implementation of laws guaranteeing the rights of indigenous peoples have partly thwarted progress towards self-governance.

The government has pursued a policy of economic development which, according to local indigenous activists, has negatively affected indigenous peoples' traditional lands. Forested areas and land with mining potential have been claimed as national property; areas of natural beauty have been designated national parks for tourism; and the government has reportedly also taken large tracts of land from indigenous communities living in mountainous areas under



the pretext of national security. At the end of January, members of the Ami indigenous group protested against the government's occupation of their traditional land. Subsequent discussions with officials failed to make any progress. In June, about 300 Paiwan leaders and representatives from other indigenous groups demonstrated in Nantien village in Taitung County against government plans to build nuclear waste facilities. Also in 2011, academics and civil society and indigenous groups successfully managed to stop the construction of a section of coastal highway that would overlap with the ancient Alangyi Trail in south-west Taiwan and pass through previously untouched coastal forest used by indigenous people for hunting.

In June, indigenous groups rejected the draft Indigenous Autonomy Act, which sets out the legal framework and process for establishing autonomous regions for indigenous peoples, saying it was disrespectful, unconstitutional and violated the Indigenous Peoples Basic Law. Indigenous groups are concerned that

the Act does not define or grant them rights to indigenous lands, and that if it is passed, they would lose much of their input into decision-making. This prompted activists to criticize the government in December for failing to implement the Indigenous Peoples Basic Law, as already passed by Taiwan's highest legislative assembly in 2005.

Ongoing protests are evidence that a number of indigenous communities have not benefited from Taiwan's economic boom, partly due to economic disparities and lack of proper access to education in their areas. Education is still a key issue, with endangered indigenous languages put at great risk of extinction, despite constitutional guarantees and the National Language Development Act.

On a positive note, in 2011 Taiwan's legislature adopted a law to implement the UN Convention on the Elimination of All Forms of Discrimination Against Women, and followed up by establishing a national Department of Gender Equality in 2012, both key steps to combat gender discrimination. Much remains to be done, since trafficking and child prostitution

Left: Taiwanese indigenous activists shout slogans during a protest outside the Executive Yuan in Taipei in January 2009. Hundreds gathered to protest against what they said was a lack of protection for historic land rights. *REUTERS/Nicky Loh (TAIWAN).*

remain significant issues. To combat such illegal practices, the Taiwanese authorities announced that they will adopt a zero tolerance gender violence policy, as well as judicial measures to strengthen protection mechanisms and improve law and order.

Oceania

Jacqui Zalberg

Oceania is made up of some of the most ethnically diverse populations in the world. While Oceania is not often associated with large-scale resource extraction, the region is gaining increasing attention for its natural resources. For the small island states of Oceania, the sea remains a key resource, and many of the subsistence needs of the peoples of the region, including food security and livelihoods, are underpinned by marine resources. The explosive growth of Asian fish markets has put increasing pressure on Pacific marine resources and is affecting people's livelihoods. This has been compounded by the impact of climate change, where higher sea temperatures have led to loss of marine habitats which also impact on the fish and shellfish that support many coastal communities in the region.

Moreover, the rise of China as an economic power coupled with the high global demand for mineral resources has contributed to the accelerated pace of exploitation of previously untouched natural resources in the region. For example, a Chinese corporation is building its first large nickel mine in Papua New Guinea.

However, in many instances the economic benefits of these large-scale extraction projects have not properly benefited the indigenous peoples in whose lands, waters and territories these resources are found. Typically, weak Pacific island governments have allowed foreign

companies to extract resources, principally timber, fisheries and in some cases minerals, with little benefit for their own peoples. This exploitation is causing loss of wildlife habitat and pollution of environments, which have an enormous impact on local peoples and communities. Moreover, as many indigenous communities throughout the region attach spiritual values to their surrounding ecosystems, the development of these projects impacts significantly on their cultural practices.

Other social ills plague the indigenous peoples of the region, most notably the extreme rates of violence against women and the exploitation of girls, with rates of abuse and rape in the Pacific among the highest in the world.

Fiji

Fiji has suffered four coups and a military mutiny since 1987, mainly as a result of tension between the majority indigenous Fijian population and an economically powerful Indian minority. Over five years have passed since the most recent 2006 coup d'état by Commodore Josaia Voreqe Bainimarama, who has since assumed the post of prime minister. During this time, Fiji's military government has been heavily criticized for its infringement of rights to free speech, press, peaceful assembly, and association. However, Bainimarama lifted martial law in January 2012 and indicated that consultations on a new constitution would begin shortly thereafter, with a promised return to democratic elections within the next two years. He has stated that it was a priority to end ethnic tensions, and to put an end to a system that classifies Fijians based on ethnicity. Regulations introduced when martial law was lifted raised fears that government critics could still be silenced.

Papua New Guinea

With more than 800 indigenous tribes and languages, Papua New Guinea has the most diverse indigenous population in the world. Papua New Guinea is also one of the poorest countries not only in Oceania, but in the world. The country faces some serious obstacles to development, with some of the worst health and education outcomes in the region, driven by high

levels of poverty and a largely rural population, often living in remote locations.

Geologically, Papua New Guinea contains many natural resources, including copper, gold, oil and natural gas. The government hopes that greater exploitation of the mineral wealth of the country will provide an opportunity to increase wealth and result in significant social and economic change. For example, the PNG LNG (Papua New Guinea Liquefied Natural Gas) Project operated by ExxonMobil subsidiary Esso Highlands, is the country's largest gas development project and is predicted to double Papua New Guinea's gross domestic product.

Yet the case of the PNG LNG Project highlights the tensions generated by many such development projects in Papua New Guinea. For example, the land upon which the project will take place is registered as state land and has been leased by the government of Papua New Guinea to Esso Highlands. However, local communities have filed a legal claim, citing their customary land rights. Moreover, in 2011, after a local boy died due to toxic poisoning from a project site, landowners forced the temporary closure of the Hides gas conditioning plant. A landslide in early 2012 destroyed communities living below a quarry used by the PNG LNG Project and was believed to have killed at least 25 people; the Red Cross feared that the final figure could be closer to 60 fatalities. Locals are demanding a full investigation into the connection between the quarry and the landslide, as a preliminary report failed to even make mention of the mine. There are fears that the increasing tensions between indigenous local communities and the company could lead to civil unrest in the region.

Other large-scale mining projects in Papua New Guinea are also being contested by local communities. Communities at Krumbukari in Madang Province are opposed to the development of the Ramu nickel mine. Arguably one of the richest nickel deposits in the southern hemisphere, the project, which is being run by a company jointly owned by the Chinese state company China Metallurgical Group Corporation (MCC) and the Australian-based Highlands Pacific, will result in the dumping of over 100 million tonnes of slurry waste at sea – a practice banned in both China and Australia. In 2010,

indigenous community leaders challenged the validity of the mine's environmental permit, which was issued by the government against the advice of its own experts. In December 2011, however, the Supreme Court dismissed the appeal, ruling that the company can proceed with its activities.

The Barrick Porgera mine continues to be the subject of ongoing tension, particularly regarding the severe environmental impact and human rights abuses associated with mining. Human Rights Watch (HRW) published a report in 2011 detailing serious violations, including gang rape, committed by security guards against members of the local community. The company, Barrick Gold, conducted an internal investigation, but HRW pointed out that it should have acted before being prompted to do so. In 2011 a 'Request for Review' of the project was filed by two community groups and Mining Watch Canada against Barrick Gold under the Organization for Economic Co-operation and Development (OECD) Guidelines on Multinational Enterprises, alleging breaches of the guidelines regarding sustainable development, human rights and the environment. The Canadian OECD National Contact Point has jurisdiction over the matter as Barrick Gold is a Toronto-based gold mining company and owns 95 per cent of the Porgera mine through subsidiaries.

Australia

Indigenous Australia

The year 2011 has been a significant one for indigenous peoples in Australia. A referendum to recognize indigenous Australians and remove racially discriminatory provisions in the Constitution now seems likely, following a recently released expert report which received bipartisan support. The report recommended, among other things, the constitutional recognition of Aboriginal and Torres Strait Islander peoples, and the insertion of a prohibition on racial discrimination.

Another important national initiative to recognize the fundamental place of indigenous peoples in Australia is the National Congress of Australia's First Peoples, whose first board took office in July 2011. Established with the support of the Australian government, the Congress is



a national representative body for Aboriginal and Torres Strait Islander peoples, which has been notably lacking since the abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC) in 2005. The Congress is independent and will provide a formal national mechanism with which the government, the private sector and community groups can partner with indigenous and Torres Strait Islander peoples on reform initiatives.

Much attention in previous years was paid to the Northern Territory Emergency Response (NTER) laws, which put in place a number of extraordinary measures, including an income management regime, imposition of compulsory leases, and community-wide bans on alcohol consumption and pornography, purportedly to protect indigenous children and communities. These measures were internationally criticized as discriminatory and in breach of Australia's international human rights obligations. The federal government recently announced a new legislative framework intended to replace the NTER, the Stronger Futures in the Northern

Above: The late Aboriginal elder Ned Cheedy, who worked to preserve the law and culture of the Yindjibarndi people in the Pilbara of Western Australia. *Juluwarlu Group Aboriginal Corporation/Alan Thomson.*

Territory Bill 2011. Yet a Senate Committee inquiry has already received criticism of the proposed legislation, namely that it extends many aspects of the measures introduced in 2007 as part of the NTER and continues to raise serious human rights concerns.

Statistically, indigenous Australians still continue to occupy the bottom rung across the full range of development indicators. Education, health and life expectancy indicators fall significantly below non-indigenous averages. Moreover, indigenous peoples are highly over-represented in the criminal justice system: according to figures released in 2011, the imprisonment rate increased by 59 per cent for indigenous women and by 35 per cent for indigenous men between 2000 and 2010. Indigenous people are 14 times more likely to be sent to jail than non-indigenous people.

Indigenous minors are particularly at risk; indigenous girls and boys are 23 times more likely to be imprisoned than their non-indigenous counterparts. The situation of extreme indigenous disadvantage has been addressed by a number of targeted nation-wide policies, most notably the 'Closing the Gap' strategy, launched in 2006 that has set clear targets to improve the lives of indigenous Australians. However, recent analysis indicates that the government is on track to meet only two of its six targets under this initiative.

While Australia has been found to contain a plethora of high-demand natural resources, the mining sector does not appear to have benefited indigenous peoples, upon whose lands these resources are often found. To the contrary, it appears that many traditional owners have not been properly consulted regarding the development of such projects on their lands, and many are outright opposed to their development.

For example, the Yindjibarndi people have been challenging a proposed project by Fortescue Metals Group to develop the Soloman Hub iron deposit in the Pilbara region. The land on which the iron ore is found is subject to a long-standing native title claim by the Yindjibarndi people, who have requested that emergency powers be invoked to stop the development. Yet in December 2011, the Minister for Indigenous Affairs of Western Australia removed or amended previously imposed conditions requiring the company to identify and protect Yindjibarndi heritage, allowing the project to proceed without key safeguards for the more than 200 sites of cultural significance contained on the proposed project site.

The Anindilyakwa traditional owners of the region near Groote Eylandt, off the Northern Territory coast of Arnhem Land, are also deeply opposed to the development of a project to undertake open-cut mining of manganese on the sea bed. The area has very important cultural significance for both the Waunindilyakwan, and the Nunngubuyu peoples who inhabit the area; communities carry out burial rites and believe the sea is where reincarnation takes place. It is also a key source of subsistence and economic resources for the communities.

Another highly controversial project is the processing plant for an offshore gas hub off the

Kimberley coast at James Price Point, Western Australia. A deal was struck between some of the indigenous traditional landowners of the region, Woodside Petroleum and the State of Western Australia. The agreement included a generous benefits package; foresaw high-level cultural and economic engagement from traditional landowners in the proposed project; and gave traditional landowners rights to oppose the development on environmental grounds, in return for foregoing native title claims over that land. The deal caused a lot of tension within the community. Opponents of the project claimed that not all traditional landowners were consulted, that the project would destroy ancient Aboriginal sacred sites, and that it was pushed through under the threat of compulsory acquisition. In December 2011, the Western Australian Supreme Court ruled the notices of compulsory acquisition invalid, but state authorities and the company insisted that the decision would not stop the project.

Indigenous peoples also fought the proposal to build the Limmen Bight iron ore mine inside Limmen National Park in 2011. The project would involve the construction of a pipeline out to Maria Island in the Gulf of Carpentaria, which would impact on the land and waters of the Marra people, for whom the island is a deeply sacred site. The community are not opposed to the mining project per se, but they have objected to the transport of the ore via pipelines through traditional sacred areas.

To mitigate some of the concerns around the dominance of the resource industry, including environmental issues, and to ensure that the Australian society as a whole benefits from the resource boom, an important national discussion evolved around a government proposal to introduce a controversial 30 per cent minerals resource rent tax (MRRT or mining tax) on big mining companies. After much discussion, the tax cleared the first major hurdle, passing through parliament's lower house and will go to the senate in early 2012, with predictions that it will enter into force later in the year.

Minorities and migration

Topics of migration and asylum-seekers continued to capture Australian national

attention. In 2011, a number of boats transporting migrants ran aground or sank in Australian waters, leaving many people dead, including women and children. Nevertheless, the Australian government maintained bipartisan support for its mandatory detention policy for all refugees and asylum-seekers. While the government has indicated a shift in policy to release all children from detention, there still appear to be numerous minors mandatorily detained for extended periods. A government proposal to send 800 asylum-seekers to Malaysia in return for 4,000 processed refugees, the so-called Malaysia Solution, was declared unlawful by the High Court of Australia. The government has declared that it will pursue the initiative through legislative amendments.

Strong political desire to criminalize and prosecute all aspects of illegal migration led to the passing of anti-people-smuggling laws with mandatory minimum sentences in 2011. The laws have resulted in the arrests of over 493 people, however criticism of the scheme has been strong. In particular, of those charged under these offences, only six people were actual organizers or facilitators of the smuggling operations. The rest are reportedly deceived into working on these ships as crew members, and thus may themselves have been victims. Moreover, some of the detained crew members claim to be children, yet the processes used to determine their age are such that, to date, all are nonetheless held in adult prisons.

New Zealand

New Zealand's general election, held in November 2011, saw the incumbent Prime Minister, John Key of the National Party, retain his position. The Maori Party won three seats, down two from the previous election, and has formed a coalition government with the National Party.

The Maori enjoy a relatively strong position in society compared to other indigenous peoples around the world, thanks to the Treaty of Waitangi. New Zealand also has a very sizeable minority population of Pacific Islanders, and an Asian minority community. Both Maori and minority groups are often, however, in situations of economic and social disadvantage. A recent

study on infectious diseases has illustrated that Maori and Pacific Islanders suffer from higher rates of disease and are twice as likely to be hospitalized as those New Zealanders of European heritage. Asians are the minority group most often perceived to be discriminated against.

Maori have long been seeking more secure protection of their treaty rights through constitutional provisions. The government recently announced that it is planning to undertake a constitutional review process, which will include a review of Maori representation, the role of the Treaty of Waitangi and other constitutional issues.

Regarding mining, New Zealand has a wealth of as yet untapped natural resources. The current government has put economic growth at the top of its agenda and is keen to emulate Australia's mining success. One proposal tabled was to open mines in national parks and other protected lands. The strength of the public backlash led to the proposal being abandoned in 2010; however, the government is now working with community leaders on the possibilities of mining on Maori-owned land.

The controversial Marine and Coastal Area Bill, which replaces the much-debated Foreshore and Seabed Act 2004, was passed in 2011 in parliament. The original act vested the ownership of the public foreshore and seabed in the government, thereby extinguishing any Maori customary title over that area, while private title over the foreshore and seabed remained unaffected. The act was strongly criticized as being highly discriminatory against the Maori community, by both Maori themselves and international actors, including the UN Special Rapporteur on the rights of indigenous peoples, and the UN Committee on the Elimination of Racial Discrimination. The new bill purportedly restores the customary interests extinguished by the Foreshore and Seabed Act. Yet in order to obtain customary marine title under the new law, a Maori group must prove that it has used and occupied the area claimed according to custom (*tikanga*) without substantial interruption from 1840 to the present day, and to the exclusion of others, which is an extremely high threshold. ■