Forests and Indigenous Peoples of Asia
FORESTS AND INDIGENOUS PEOPLES OF ASIA

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MINORITY RIGHTS GROUP INTERNATIONAL

MRG works to secure rights and justice for ethnic, linguistic and religious minorities. It is dedicated to the cause of cooperation and understanding between communities.

Founded in the 1960s, MRG is a small international non-governmental organization that informs and warns governments, the international community, non-governmental organizations and the wider public about the situation of minorities around the world. This work is based on the publication of well-researched Reports, Books and Papers; direct advocacy on behalf of minority rights in international fora; the development of a global network of like-minded organizations and minority communities to collaborate on these issues; and the challenging of prejudice and promotion of public understanding through information and education projects.

MRG believes that the best hope for a peaceful world lies in identifying and monitoring conflict between communities, advocating preventive measures to avoid the escalation of conflict and encouraging positive action to build trust between majority and minority communities.

MRG has consultative status with the United Nations Economic and Social Council and has a worldwide network of partners. Its international headquarters are in London. Legally it is registered both as a charity and as a limited company under English law with an International Governing Council.

THE PROCESS

As part of its methodology, MRG conducts regional research, identifies issues and commissions Reports based on its findings. Each author is carefully chosen and all scripts are read by no less than eight independent experts who are knowledgeable about the subject matter. These experts are drawn from the minorities about whom the Reports are written, and from journalists, academics, researchers and other human rights agencies. Authors are asked to incorporate comments made by these parties. In this way, MRG aims to publish accurate, authoritative, well-balanced Reports.
Forests and Indigenous Peoples of Asia

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Article 6
In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right to be brought up in his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

International Labour Office Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169)

Article 6
1. In applying the provisions of this Convention, governments shall:
(a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;
(b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;
(c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.

Article 14
1. The people concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the land they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional developments which may affect them directly.

Article 15
1. In applying national laws and regulations to the peoples concerned, due regard shall be had to their customs or customary laws.
2. These peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognised human rights. Procedures shall be established, whenever necessary, to resolve conflicts which may arise in the application of this principle.
3. The application of paragraphs 1 and 2 of this Article shall not prevent members of these peoples from exercising the rights granted to all citizens and from assuming the corresponding duties.

Article 13
1. In applying the provisions of this part of the Convention, governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both, as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.
2. The use of the term 'lands' in Articles 15 and 16 shall include the concept of tenures, which covers the total environments of the areas which the peoples concerned occupy or otherwise use.

Article 14
1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditional access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.
2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.
3. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned.

Article 15
1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.

Article 16
1. Subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy.
2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public enquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned.
3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist.
4. Where such relocation is determined by agreement or, in the absence of such agreement, through appropriate procedures, these peoples shall be provided in all possible cases, with lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees.
5. Persons thus relocated shall be fully compensated for any resulting loss or injury.

Article 33
1. The governmental authority responsible for the matters covered in this Convention shall ensure that agencies or other appropriate mechanisms exist to administer the programmes affecting the peoples concerned, and shall ensure that they have the means necessary for the proper fulfillment of the functions assigned to them.
2. These programmes shall include:
(a) the planning, coordination, execution and evaluation, in cooperation with the peoples concerned, of the measures provided for in this Convention;
(b) the implementing and cooperation on the rights of the children.

Convention on Biological Diversity (1992)

Article 8 In-situ Conservation
Each Contracting Party shall, as far as possible and as appropriate:
(a) integrate consideration of the conservation and sustainable use of biological resources into national decision-making;
(b) adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity;
(c) protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;
(d) support local populations to develop and implement remediation action in degraded areas where biological diversity has been reduced; and
(e) encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources.

Agenda 21 (1992)

Chapter 11 Combating Deforestation
The survival of the forests depends on us recognizing and protecting their ecological, climate-control, social and economic values. These benefits should be included in the national economic accounting systems used to weigh development options.

In addition to encouraging sustainable use of forests, countries need to create or expand protected area systems to preserve some forests. Such forests are needed to preserve ecological systems, biological diversity, landscapes, and wildlife habitat. Forests also need to be preserved for their social and spiritual values, including that of traditional habitats of indigenous people, forest-dwellers and local communities.

Chapter 26 Strengthening the Role of Indigenous People
Governments should recognize that indigenous lands need to be protected from environmentally unsound activities, and from activities the people consider to be socially and culturally inappropriate. There should be national dispute resolution procedures to deal with concerns about the settlement of land and use of resources. Governments should incorporate the rights and responsibilities of indigenous peoples into national legislation. Countries could also adopt laws and policies to preserve customary practices, and protect indigenous property, including ideas and knowledge.

Indigenous people should be allowed to actively participate in shaping national laws and policies on the management of resources or other development processes that affect them.

Governments and international organizations should recognize the value of traditional knowledge and resource management practices that indigenous peoples use to manage their environments, and apply this knowledge to other areas where development is taking place.

They should also provide indigenous peoples with suitable technologies to increase the efficiency of their resource management.

Deforestation has become a matter of global concern but, until recently, international environmental standard-setting aimed at curbing these losses tended to focus on the technical dimension of forest management. The social aspects of the forest crisis, including the human rights of the indigenous inhabitants, have received relatively little emphasis.

The conventional view of indigenous forest management as 'backward' and 'wasteful' is widely prevalent, deriving from a mistrust of peoples who are perceived to be outside government control, contributing nothing to the market economies and foreign earnings of their countries. However, studies of Asian forest-dwellers' economies reveal the full diversity and sophistication of indigenous farming systems, involving practices to conserve resources, restore soil fertility, mimic biodiversity and protect watersheds. As this Report documents, forest-based societies possess a wealth of practical knowledge and systems of mutual obligations and rights – in many cases inherited equally by women and men. That indigenous peoples' ancestral territories are also intimately bound up with their collective identities and traditions is also evident.

International agencies increasingly recognize the importance of sustainable community-based forest management, and some have promoted it as an alternative to destruction by logging and plantation companies. The inadequacies of the old widely practised policies, which rely on state control and result in the alienation of forest inhabitants, are increasingly understood. New policies, such as experiments in participatory forest management in India, Nepal and the Philippines, restore some control to indigenous peoples. Yet participation has too often been token, excluding women and poorer people.

Indigenous peoples' resistance to some outside interventions has been used to argue that they are static societies, opposed to change. But many seek change on their own terms, at their own pace and under their own control. This requires a recognition in official policies of indigenous rights and the need to seek the full and informed consent of the indigenous population before pursuing development initiatives.

This Report is written by authors with a wealth of experience on the issues, and it is extremely timely. On the one hand, globalization, trade liberalization and heavy-handed government policies and laws that deny indigenous peoples' rights while obliging their assimilation, are putting their societies and environments under increasing pressure and jeopardizing their cultural survival. On the other hand, indigenous peoples' mobilization and the growing international acceptance of the justice and prudence of recognizing their rights are creating the context for constructive change.

If their future is to be secured in Asia, or elsewhere, indigenous peoples must be supported in taking charge of their own destinies. Forestry laws and policies must prioritize their rights and the principles of community forestry. International agencies have a major role to play in promoting social, legal and policy reforms. Along with the Asian Development Bank, the European Union and the World Bank, development agencies should adopt policies that fully recognize indigenous peoples' rights and ensure their participation in policies and projects affecting them. Strenuous efforts need to be made to assist indigenous peoples' attempts to occupy social, political, economic and cultural space, enabling them to secure their own future in accordance with their aspirations and needs. It is intended that the recommendations at the end of this Report, which are aimed at governments, international development agencies and commercial enterprise alike, will lend support to these efforts.

Alan Phillips
*Director*
*April 1999*
Introduction

Overview

This Report spans a huge area. From Pakistan in the west, to the islands of the Pacific in the east, the politically marginal and ethnically distinct peoples who inhabit the forests of the Asia-Pacific are in a phase of rapid social change, characterized by accelerating deforestation, dispossession of their lands and rapid integration into the market.

Their common experience of land loss, human rights abuse and economic and cultural impoverishment, has brought many of these peoples to realize that despite their diversity and differences they share a common struggle. In the face of powerful outside interests, many of these peoples are linking up to create new institutions – local, national and international networks – through which they can better project their demands and influence decisions that affect them.

The Asia-Pacific region has already lost more than half of its original forest cover,1 and continues to suffer a startling rate of forest loss. The results have been a dramatic loss of biological diversity, a growing dependency on imported timber and other forest products, the increasing vulnerability of forests to fires, the loss of topsoil and farmlands, and unpredictable and increasingly severe floods and droughts.

Until recently, international environmental standards have focused on the technical dimensions of forest management, while the social, economic and political aspects have received relatively little emphasis. Happily, thanks to the increasingly outspoken voices of forest peoples and non-governmental organizations (NGOs), this situation is beginning to change. It is becoming more widely accepted that deforestation often results from social injustice and political inequalities.2 Forests are now seen as contested resources over which many different sectors of society seek to assert control. Often, forest loss results when these conflicts of interest favour the urban elites rather than the rural poor, while those who suffer most are the region’s indigenous peoples.3

The massive forest fires of 1997 and 1998 – which are estimated to have resulted in the destruction of 5.5 million hectares (ha) of forest, mainly in Indonesia – were a repeat of the massive burns of 1982–3, when Indonesia lost an estimated 3.5 million ha, and of 1992–3, and were similarly linked to the El Niño weather phenomenon. However, whereas in previous years the region’s governments blamed these forest fires on shifting cultivators, satellite imagery has shown that most of the large fires in Kalimantan and Sumatra were started in major land clearing operations for government-directed transmigration programmes, and for the establishment of oil palm, paper-and-pulp and timber estates. Poorly managed logging in neighbouring forests caused the fires to spread easily. The Indonesian Minister for the Environment was outspoken in his criticism of the forestry companies and noted how forest-dwellers had always been unfairly blamed for starting the fires.

"While bosses of large plantations just walk into their air-conditioned offices if the situation becomes too smoky, these voiceless people [forest-dwellers] have to take all the blame and suffer from suffocating smoke."

The Indonesian Forestry Minister published a list of 176 companies implicated in the blazes, including companies owned by Indonesia’s most powerful tycoons and companies owned by the (ex-) President Suharto’s family.

While economists tried to establish the full costs of the fires, little information has yet emerged on the impact of the fires on the indigenous peoples in the forests. Studies of previous fires suggest that these will have been severe: animals become scarce, food crops are lost and rattan gardens are destroyed, while cash crops are also wiped out. Preliminary government assessments of the latest fires in Kalimantan showed that tens of thousands of Dayaks now face hardship and starvation from the combined effects of the fires and droughts. The lessons are clear: the simultaneous promotion of industrial forestry and plantations, and the denial of indigenous peoples’ rights, can lead to serious economic loss, environmental damage and impoverishment.

Rights and definitions

The use of the term ‘indigenous’ is controversial in Asia. Many Asian governments have protested that the term does not apply to their countries as the majority populations are indigenous. However, in international debates the term ‘indigenous’ has come to be applied to politically marginalized, territorially based ethnic groups, who are culturally distinct from the majority populations of the nation states in which they now find themselves, and who recognize themselves as indigenous.4 Therefore, the indigenous peoples of Asia include all or part of those groups that are officially distinguished from the society of the national majority, such as the ‘aboriginal tribes’ of Taiwan, the ‘aborigines’ of Malaysia, the ‘hill tribes’ of Thailand, the ‘indigenous cultural communities’ of the Philippines, the ‘isolated and alien peoples’ of Indonesia, the ‘minority nationalities’ of China, the ‘natives’ of Malaysian Borneo and the ‘scheduled tribes’ of India.5

Such peoples have begun increasingly to identify themselves as indigenous.6 They are affirming their solidarity with others using the same term and asserting their rights to their territories and to self-determination, rights which are recognized in existing and emerging instruments of international law.7

The right to self-determination is a right enjoyed by all peoples,8 as clearly spelled out in the United Nations'
Map showing Forested Areas
Introduction

Indigenous peoples in selected Asian countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Total (millions)</th>
<th>% of population</th>
<th>Number of indigenous peoples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangladesh</td>
<td>0.6</td>
<td>1.0</td>
<td>13</td>
</tr>
<tr>
<td>Burma</td>
<td>11.0</td>
<td>30.0</td>
<td>60</td>
</tr>
<tr>
<td>Cambodia</td>
<td>0.1</td>
<td>1.1</td>
<td>n/a</td>
</tr>
<tr>
<td>China</td>
<td>91.0</td>
<td>8.0</td>
<td>55</td>
</tr>
<tr>
<td>India</td>
<td>51.6</td>
<td>7.7</td>
<td>350</td>
</tr>
<tr>
<td>Indonesia</td>
<td>3.0</td>
<td>1.5</td>
<td>300</td>
</tr>
<tr>
<td>Japan</td>
<td>0.05</td>
<td>0.4</td>
<td>n/a</td>
</tr>
<tr>
<td>Laos</td>
<td>0.8</td>
<td>23.0</td>
<td>67</td>
</tr>
<tr>
<td>Malaysia</td>
<td>2.0</td>
<td>11.1</td>
<td>71</td>
</tr>
<tr>
<td>Nepal</td>
<td>11.1</td>
<td>60.0</td>
<td>60</td>
</tr>
<tr>
<td>Philippines</td>
<td>6.5</td>
<td>16.0</td>
<td>50</td>
</tr>
<tr>
<td>Taiwan</td>
<td>0.4</td>
<td>2.0</td>
<td>10</td>
</tr>
<tr>
<td>Thailand</td>
<td>0.5</td>
<td>1.0</td>
<td>23</td>
</tr>
<tr>
<td>Vietnam</td>
<td>9.0</td>
<td>13.0</td>
<td>54</td>
</tr>
</tbody>
</table>

Throughout Asia, an underlying objective of government policy towards indigenous peoples has been to promote their integration. Deeply held prejudices often underlie governments’ policies. In Indonesia, for example, indigenous peoples are officially characterized as ‘people who are isolated and have a limited capacity to communicate with other more advanced groups, resulting in their having backward attitudes’. In Thailand many of the ‘hill tribes’ are denied Thai nationality and residence, and the Thai armed forces have on occasion expelled long-settled communities into Burma at gunpoint.

Indigenous systems of land use have been particularly despised. Environmentally sophisticated rotational farming systems have been widely condemned, not because they have been shown to be destructive but because they bring little revenue to the exchequer and require large areas of forest that are coveted by other interests. Therefore, with the important exception of Melanesia and, to a lesser extent, western Pakistan and India’s north-east, indigenous peoples’ rights to the collective ownership of the lands are systematically denied. In Sarawak, for example, the state has recently decided to alienate ‘native customary land’ not only in the ‘national interest’ but even in favour of private companies: a legalized expression of racial discrimination which holds indigenous peoples’ property rights as inferior to the property rights of other citizens.

Indigenous peoples, forests and the state

Legislation denying indigenous territorial rights was initiated under colonialism in many Asian countries to facilitate the extraction of revenues and timber. In India today, 22 per cent of the national territory is under the control of governmental Forestry Departments where local communities’ rights to land are denied. Yet these are the areas most densely inhabited by indigenous peoples. In Indonesia, 74 per cent of the national territory is run by the Forest Department based in Jakarta. One estimate...
Deforestation in the Asia-Pacific

<table>
<thead>
<tr>
<th>Country</th>
<th>Total (official)</th>
<th>000s ha lost in 1990-5</th>
<th>% annual loss/gain rate of</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangladesh</td>
<td>1,010</td>
<td>44</td>
<td>0.8</td>
</tr>
<tr>
<td>Bhutan</td>
<td>2,756</td>
<td>47</td>
<td>0.3</td>
</tr>
<tr>
<td>Brunei Darussalam</td>
<td>434</td>
<td>14</td>
<td>0.6</td>
</tr>
<tr>
<td>Burma</td>
<td>27,151</td>
<td>1,937</td>
<td>1.4</td>
</tr>
<tr>
<td>Cambodia</td>
<td>9,830</td>
<td>819</td>
<td>1.6</td>
</tr>
<tr>
<td>China</td>
<td>133,323</td>
<td>433</td>
<td>0.1</td>
</tr>
<tr>
<td>India</td>
<td>65,005</td>
<td>(36)</td>
<td>-</td>
</tr>
<tr>
<td>Indonesia</td>
<td>109,701</td>
<td>5,422</td>
<td>1.0</td>
</tr>
<tr>
<td>Laos</td>
<td>12,435</td>
<td>742</td>
<td>1.2</td>
</tr>
<tr>
<td>Malaysia</td>
<td>15,741</td>
<td>2,001</td>
<td>2.4</td>
</tr>
<tr>
<td>Nepal</td>
<td>4,822</td>
<td>36</td>
<td>1.1</td>
</tr>
<tr>
<td>Other Pacific Islands</td>
<td>2,575</td>
<td>67</td>
<td>0.5</td>
</tr>
<tr>
<td>Pakistan</td>
<td>1,748</td>
<td>275</td>
<td>2.9</td>
</tr>
<tr>
<td>Papua New Guinea</td>
<td>36,939</td>
<td>666</td>
<td>0.4</td>
</tr>
<tr>
<td>Philippines</td>
<td>6,766</td>
<td>1,312</td>
<td>3.5</td>
</tr>
<tr>
<td>Solomon Islands</td>
<td>2,389</td>
<td>23</td>
<td>0.2</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>1,796</td>
<td>101</td>
<td>1.1</td>
</tr>
<tr>
<td>Thailand</td>
<td>11,630</td>
<td>1,647</td>
<td>2.6</td>
</tr>
<tr>
<td>Vietnam</td>
<td>9,117</td>
<td>676</td>
<td>1.4</td>
</tr>
<tr>
<td>Total</td>
<td>453,258</td>
<td>14,227</td>
<td>0.6</td>
</tr>
</tbody>
</table>

Many of these industrial-scale cash cropping projects have been supported by resettlement schemes which have sought both to concentrate dispersed indigenous communities into centralized settlements under government supervision and encourage large-scale settlement of indigenous lands with 'surplus people' from other areas. The aim of these projects is both to free up land for use by non-indigenous settlers and to bring about the administrative annexation of previously autonomous indigenous communities. Indonesia's transmigration programme is the best known but indigenous lands have also been targeted in Bangladesh, Malaysia, Nepal and Vietnam.

Indigenous peoples of the region have also experienced rapid social change due to their incorporation into expanding market economies. This has radically reshaped both the way indigenous peoples relate to their environment and to each other. Many of these changes have been socially and environmentally damaging. The assertion of cash values has eroded previous traditions of sharing, exchange and mutual support, leading to disparities in wealth and health. Indigenous women have suffered particular hardship as their societies become increasingly enclosed and subject to the legal and cultural impositions of outsiders.

Traditions of forest management

For many centuries indigenous systems of forest management have been based on the premise of mutual respect and coexistence with nature. Underlying this prejudice lies a deep mistrust of peoples who are neither subject to government control and taxation systems, nor contribute substantially to the market economy. As pressure on natural resources has intensified, such systems have been criticized as being environmentally destructive. A failure to distinguish between traditional forest farmers, who may have developed complex systems of forest management, and incoming settlers who have moved into the forests and adopted slash-and-burn techniques, has led many governments and development agencies to assert that shifting cultivation is the principal cause of forest loss in the region.

However, studies of shifting cultivation reveal the enormous reserve of vernacular knowledge on which they are based. Practices to conserve resources, mimic biodiversity, protect watersheds and restore soil fertility have been widely documented throughout the region. Indigenous peoples have also developed complicated customary rules regarding land tenure, land management and resource rights. For example, in common with many other indigenous peoples of the region, the Dayaks' system of forest management in Borneo is based on a web of overlapping rights, duties and mutual obligations, in which individual or family rights to use farmland, fishing areas, forests or hunting zones overlay the Dayaks' communally owned areas. In many Borneo societies these rights are inherited equally by men and women.

Indigenous peoples' ancestral territories are not just their economic base, these lands are also intimately bound up with their cosmologies and identities as communities, and as peoples. The landscape that they occupy is at once their home and the sacred abode of the spiritual beings whose invisible presence explains the functioning of the visible world. They see themselves as stewards holding the land of their ancestors in trust for future generations.

Much of this is obscure to administrators and other outsiders, and common property systems have been seen as open-access areas. However, as Michael Cernea of the World Bank has pointed out:

'Common property regimes are not the free-for-all that they have been described to be, but are struc-
tured ownership arrangements within which management rules are developed, group size is known and enforced, incentives exist for co-owners to follow the accepted institutional arrangements, and sanctions work to insure compliance.\textsuperscript{31}

This is not to say that indigenous systems of resource use are flawless. As indigenous societies undergo rapid change, this can impact on their environments. Where indigenous peoples have lost much of their ancestral territories to outsiders, for example, this has led to too many people being concentrated on too little land, thereby upsetting traditional patterns of land ownership, management and use.

International agencies such as the Centre for International Forestry Research and the International Centre for Research in Agroforestry have recognized that sustainable community-based forest management can be of global importance in ensuring biodiversity conservation, carbon stores, fire management and watershed control. Likewise the World Conservation Union (IUCN) and agencies such as the Ford Foundation have been actively promoting community forest management as an alternative to the destructive use of forests by logging and plantation companies.\textsuperscript{32}
Indigenous peoples of Malaysia

Malaysia was formed as a constitutional democracy in 1963, consisting of Malaya (Peninsular or West Malaysia), and Sarawak and Sabah on the island of Borneo (East Malaysia). Malaysia has a population of 18.7 million with 15.8 million in Peninsular Malaysia, 1.7 million in Sarawak and 1.2 million in Sabah. Of these numbers, only a small proportion is indigenous to Malaysia.

Dayaks and Orang Ulu of Sarawak

In Sarawak there are 37 distinct indigenous ethnic groups, now collectively known as Dayaks and Orang Ulu (people of Upper River regions), yet each has its own tribe name. Most live in remote areas, many in traditional longhouses. However, increasingly, indigenous peoples – especially the young – are migrating to urban centres to find work. Approximately 220,000 indigenous peoples in Sarawak are dependent on forest produce for their livelihood and daily needs.

Indigenous peoples of Sabah

There are more than 39 indigenous ethnic groups in Sabah, numbering about 1 million or 72 per cent of the population in the state. Eighty per cent of the indigenous peoples live in the rural areas and most of these live near a forest – and are partially dependent on it for resources. Others, in the interior, are totally dependent on the forests. Generally, the indigenous communities are divided into three main groups namely, the Dusun, Murut and Paitan. The Dusunic group is the largest.

Orang Asli of Peninsular Malaysia

Orang Asli is a collective term used by anthropologists and administrators for Peninsular Malaysia's indigenous peoples, with their 18 sub-ethnic groups. In 1985, the Orang Asli of Peninsular Malaysia numbered 85,529 people living in 778 villages scattered over all the states except Penang and Perlis. Some Orang Asli are fisherfolk, while others manage cash crop farms. However, about 40 per cent of the Orang Asli live in the interior, close to or within forested areas, and practice subsistence agriculture as well as hunting and gathering forest products. Other Orang Asli are semi-nomadic.

Indigenous peoples’ way of life

The indigenous peoples of Malaysia have many similarities in their belief and value systems, cultures, languages and traditions.

Traditionally, the indigenous peoples of Malaysia have lived independently, relying on their own resources, farms and gardens. Following the traditional practice, an indigenous person clears an area of forest for farming, and burns the cleared plot. The ash provides the necessary nutrients for growing fruit trees, rice and other crops. This plot is used again and again over the years. Should the plot of land be left fallow, the forest regrows to enable the soil to regain its natural fertility.

The person who clears, cultivates or maintains the land and the resources on it, has rights over it, and anyone who wants to enter the area has to ask permission before doing so. This is to avoid potential conflicts over land rights and tenure. These are customary rights recognized by the communities. However, these rights are only partially recognized and legally protected in Sabah under the Sabah Land Ordinance, 1930, as there are no legal rights under this law for land under fallow. In Sarawak, customary rights over native land are recognized under the Land Code, but there are provisions – especially since 1 January 1958 – that can remove or question these rights. In Peninsular Malaysia, customary rights of the Orang Asli over ancestral land are not guaranteed in law, i.e. under the Aboriginal People's Act, 1954. The Orang Asli can be dispossessed of their land at any time.

Traditionally, indigenous peoples cannot be separated from the land and forest – the source of their food and other material needs, as well as their traditions and culture. Many indigenous peoples still feel that they have an interdependence with the land, forest and rivers. This interdependence reflects their belief that they, the land and the living beings in the environment, are one flesh and blood.

Before the advent of logging, plantations and dams, the lifestyle of indigenous peoples was simple, with a high quality of life, one that was communal, peaceful, secure and free.
Society in transition

Indigenous society in Malaysia has been undergoing great change. In Peninsular Malaysia, the Orang Asli were moved by the British colonial government and later by the Malaysian government who wanted to have better control over them and to ensure that they would not support the communist insurgents. ‘Regroupment’ schemes during the Emergency, whereby Orang Asli were forced into distinct areas and off their land, enabled logging to develop and the indigenous peoples were required to grow cash crops such as oil palm and rubber. Then, in the mid-1970s, with the renewed communist insurgency, the government forced the Orang Asli to adopt a more sedentary, less nomadic lifestyle in a more limited area. This severely restricted their access to basic resources for their livelihood and subsistence. For example, in the Betan Regroupment Scheme in north-west Pahang, c. 1,284 Semai, who were originally spread over a 14.4 km radius of the administrative centre, were confined within a 5.6 km radius – about 15 per cent of the original area. Besides having to adapt to a new lifestyle, those who were regrouped have come under even greater government control, with institutionalized religious proselytization, and the imposition of economic policies and programmes. Furthermore, cash crop agriculture; direct control of village organization by the Department of Orang Asli Affairs, with the purpose of integrating Orang Asli into Malay society; and national education have the long-term impact of eroding the traditional systems of Orang Asli society.

‘Development’ projects such as airports, dams, golf courses, logging and plantations have led to the loss of land and resources among most indigenous communities in Malaysia, while their traditional social, religious and political systems have been weakened by governmental and other interference. Furthermore, Christian and Muslim missionaries have used coercion and persuasion to proselytize. The attraction of modern education and medical facilities, as well as psychological pressures (such as condemning indigenous practices as ‘evil’), are some of the factors which influence people to abandon their traditional practices and beliefs. Few indigenous communities continue their age-old practices; most have embraced the new religions, with some attempt to integrate certain elements of their indigenous beliefs.

The formal education system and mass media are other important socialization factors. Learning a curriculum that has little to do with indigenous knowledge and way of life has led to a gap between the older and younger generations. In Sabah many parents speak Malay to their children, hoping that this will help them in school. Thus their own dialect is neglected while the child learns a colloquial Malay that is not accepted in schools. Oral traditions such as myths and legends, and traditional recreational activities, are similarly dying out. The effects of urbanization and consumerism, combined with the power of advertisements, radio and television, have reached most communities – even those in the interior – influencing the attitudes, lifestyles and values of indigenous peoples, and attracting them to urban and Western cultures. Some youth no longer want to farm but prefer to work in town – even for subsistence wages.

Of the many internal and external threats to their culture, identity, livelihood and way of life, the most serious danger facing the indigenous peoples of Malaysia comes from the loss of their traditional lands and their land rights. Land cannot be separated from their knowledge, identity and future security.

Laws and indigenous peoples

Tenants-at-will

The Aboriginal People’s Act (formerly called the Aboriginal People’s Ordinance of 1954, and amended in 1967 and 1974) was enacted during the Emergency period in Malaya to prevent the Orang Asli from giving assistance to the communists, and to prevent communism spreading among the Orang Asli. Thus the Act empowers the minister concerned to prohibit the entry of any non-Orang Asli and any written or printed material into an Orang Asli area. The minister also has the power to appoint the village heads. However, the Act recognizes certain rights of the Orang Asli, including the right to their own way of life.

The Act provides for the establishment of Orang Asli areas and Orang Asli reserves, but allows the state to force the indigenous people to leave; the state may compensate for any loss of crops at its discretion, but not for the loss of land. Clause 7 (3) of the same Act also empowers the state authority to revoke or to vary any declaration of an aboriginal reserve. In reality, an Orang Asli occupies land as a ‘tenant-at-will’, i.e. at the pleasure of the state authority. If at any time Orang Asli land is required for any other purpose, the status of the land is revoked and the Orang Asli have to move elsewhere. Such areas or reserves have been revoked without the Orang Asli being informed. The state authority is not even obliged to provide alternative land.

While loggers and others steal crops and produce from Orang Asli land, a major issue of concern to many Orang Asli is the fact that Orang Asli lands are not given titles and cannot be transacted. This is a deterrent against developing their own land because they are not guaranteed permanent rights over it. Only about 15 per cent of all the 776 Orang Asli settlements are recognized as Orang Asli reserves. To prevent further encroachments into Orang Asli lands and further dispossession, all the remaining settlements need to be recognized in this way.

Native Customary Rights and statute laws

In Sarawak, the traditional Native Customary Rights (NCR) law, the Land Code of Sarawak and the Forest Ordinance, govern the indigenous peoples and their land rights. The NCR laws reflect the importance that indige-
Inadequate protection

The Land Ordinance of Sabah, 1930, provides some protection for indigenous lands in Sabah but the provisions are inadequate and seldom adhered to in practice. According to the Land Ordinance, land which is lying fallow cannot be claimed under NCR even though fallow periods are a necessary part of the agricultural cycle for many farmers. Furthermore, while NCR are recognized in law, they are not taken into consideration when large areas of land are required for industry, logging, etc. In addition the authorities do not always follow their own procedures, and while communities are meant to be notified, under the Forest Enactment, if land is to be placed in a reserve, sometimes indigenous peoples are not aware that their customary land has been included in a reserve until the bulldozers arrive to log the area.

Another weakness of the Land Ordinance is that notices calling for NCR claims to be made over untitled land are produced in English and merely posted at the Land Offices away from the village where the land is sited. The appeal period is only 30 days, which is insufficient if the claimants are living in the interior.

Logging

Once the state and federal governments started granting logging concessions and approving the setting up of plantations by corporate bodies, the loss of indigenous forests and lands intensified. Despite government claims to the contrary, indigenous peoples do not benefit from these activities. While indigenous peoples’ resources are destroyed by uncontrolled logging, it also results in the destruction of many plant varieties, including medicinal plants, and animals and fish are endangered. Juma, a nomadic Penan from the Magoh River says:

"When the company first came, they arrived unannounced. We were shocked to see our rivers suddenly polluted and our sago palms, blowpipe wood, rattan and fruit trees being felled and destroyed."

A threat to survival

Logging on indigenous peoples’ traditional lands also destroys farm lands, fruit trees and sacred sites. Furthermore, it destroys fallow land, thus threatening future food production. Forests that have been bulldozed cannot be planted with crops as the soil is compacted. Rivers on which people depend for water have been polluted, causing health problems. Forest produce has become scarce, threatening the survival of the people.

In Sabah, logging was carried out at the rate of 200,000 cubic metres (cu. m) a year in the 1950s. An average of 10 million cu. m a year was logged between 1973 and 1993. In Sarawak, 15 million cu. metres were exported in 1990 alone. While loggers and the government claim that logging benefits indigenous communities by providing roads and bridges, these facilities only last as long as the logging company needs them, after which they are not maintained and become unusable. Those who benefit most from the timber industry are the concessionaires, state government, sub-contractors and timber contractors. Over 95 per cent of timber workers are indigenous; yet they receive less than 4 per cent of the total gross income from timber.

Indigenous people are becoming landless peasants on their own land. Despite their non-violent protests against dispossession, this trend has intensified. Furthermore, the authorities have arrested hundreds of indigenous peoples and imprisoned them for protesting against the destruction of rainforests. Many of those arrested have still not been properly tried in the courts.

Dams

In Sarawak, the first hydroelectric dam at Batang Ai was completed in August 1985; it caused the resettlement of 3,000 people from 33 longhouses. The communities lost large areas of customary lands, and their communal life broke down with the introduction of the cash economy. All the promises of free electricity, free housing, free water and land ready-planted with crops have been broken. Food production was severely affected. The women’s position was undermined; land ownership was given to men and compensation only paid to male heads.
Peoples' voices and actions

The indigenous peoples of Malaysia have been voicing their problems to the authorities at all levels, from local to international. They want to be given the opportunity to negotiate with the authorities, and they want the freedom to speak and to be recognized and respected as human beings.

When all efforts at dialogue and requests for information have failed, people have taken non-violent actions such as human blockades to defend their land and their existence. The authorities have responded by arresting those taking these peaceful actions. The number of actions taken by indigenous communities all over Malaysia is unknown. These actions are etched in the memory of those who participated and are only partially recorded in the media. However, here are a few examples.

In September 1985, representatives of the Kelabit and Penan from Ulu Baram, Sarawak, gathered in Long Serian. They asked the authorities and companies for an immediate moratorium on logging in their tribal area of about 3,200 sq. km, and for the legal recognition of the area as community forest. There was no response. Then people from Ulu Limbang signed a declaration requesting an end to commercial logging in their area. However, logging companies like Sam-Ling and WTK continued their work. According to Datuk Amar James Wong, the Sarawak Minister of Environment who owns Limbang Trading Company Limited (LTL):

'There is no conflict of interests. Logging is my bread and butter. I am doing a good job for the Penan. I am building roads for them.'
The Karen of Thailand

Here is a Karen poem which encapsulates the feelings of the tribal and indigenous communities of northern Thailand: "Hto yoo le moo bo a-de, yoo le nga so o le bki." (The bird flies in the sky with closed wings. It faces the future, its heart thinks of the past.) It expresses the idea that change should be faced with strength and inspiration drawn from the past.

The 758,819 members of the 10 registered hill tribes in the north of Thailand are struggling to protect their way of life and their unique cultures from assimilation into Thai society. The 685,925 members of these communities still dependent on the forest for their daily existence are trying to obtain legal recognition of their rights to the land which they have cultivated for generations.

The environmental damage which Thailand has suffered over the last 30 years has been devastating. This damage can be traced back to a variety of sources, but the large-scale, government-sanctioned logging of the forests is one clear culprit. Despite this, governments have sought to place the blame on the agricultural practices of the northern minority groups. On 30 July 1998, the Cabinet decided to allow the forced relocation of tribal villages in ‘sensitive forest areas’. This comes after a series of laws and policies implemented to restrict and control highland agricultural techniques.

Government policies

Because the Thai government has blamed shifting cultivation for the country’s environmental devastation, the system and the indigenous peoples are under threat. The first clear attack came in 1938 when the Royal Forestry Department (RFD) of Thailand was given responsibility for all forested lands, including the right to grant logging concessions and control the gathering of all forest products. This was followed by the National Parks Act in 1961 which stated that the RFD had strict control of all lands designated as national parks, including the right to state which agricultural activities are permitted. The designation of lands as national parks was arbitrarily decided by the government and even at these early stages covered much of the land inhabited by tribal peoples. The stated purpose of this Act was to preserve the forest in its natural state. It promoted the image of forest land as being devoid of human habitation.

This was followed by a government ban on commercial forest use; a Bill was passed in 1985 which included a ban on residences and ‘environmentally detrimental’ cultivation. Complementing these three pieces of legislation is a series of laws designed to change the pattern of agricultural activity; a Bill was passed in 1985 which included a ban on residences and ‘environmentally detrimental’ cultivation. Complementing these three pieces of legislation is a series of laws designed to change the pattern of agricultural activities; a Bill was passed in 1985 which included a ban on residences and ‘environmentally detrimental’ cultivation. Complementing these three pieces of legislation is a series of laws designed to change the pattern of agricultural activities. The first began in 1957 and the current programme is number eight. The combined impact of government policies on the tribal peoples has been to marginalize and discriminate against peoples already at an economic disadvantage.

The restriction of land available to tribal peoples began with the designation of huge tracts of land as ‘restricted areas’ for human use, including conservation areas, national parks, watershed areas and wildlife sanctuaries. It became illegal to use rotational farming in these areas.

Highland agricultural practices

Because the hill tribes of Thailand are distinct cultures originating from areas throughout Indo-China it would be foolish to ascribe a single agricultural method to all groups. However, a variety of systems collectively referred to as ‘shifting cultivation’ is used by all the tribal groups. The most common method is that used by the Pgakenyaw and Lua peoples of Thailand, who have a short cultivation period followed by a long fallow. This is referred to as rotational farming and, unlike other forms of shifting cultivation, does not involve the clearing of virgin forests for cultivation. The Pgakenyaw and Lua tribes together form 48.6 per cent of the tribal population of the north, and the eight remaining tribal peoples use permanent agriculture or a long cultivation period followed by a very long fallow. Rotational farming has been demonstrated to be a long-term, sustainable agricultural system and therefore an effective system of natural resource management. It has been used extensively in South and South-East Asia for centuries. In Thailand it is fundamental to the indigenous peoples’ belief systems, social organization and values, their sacred practices and spiritual world view. Furthermore, it shows the balanced reciprocal nature of the relationship between the human, natural and spiritual worlds. A Pgakenyaw proverb reflects this relationship: ‘Auc tee ke taw tee, Auc kaw ke taw kaw’. (Live with the water, care for the river, live with the forest, care for the jungle.)

All the tribal peoples of Thailand have ceremonies and rituals which focus on the need for the conservation of the forests. For the Pgakenyaw and the Hmong, the most important ceremony in the annual calendar is like a forest ordination in which certain trees are invested with spirit beings, or souls. To cut a tree after these ceremonies is akin to cutting a human and great calamity is believed to befall anyone who does this. The Akha people also believe in spirits who can be called to dwell in the trees surrounding their villages, while others such as the Lisu and Lahu tribes believe in spirits who watch over the resources, while not actually entering them. For the latter tribes, the ceremonial blessing of the forests is a call for protection and a giving of thanks, for the former, the calling of spirits to their dwelling places.
Some highland peoples were relocated to lowland areas, usually to land too infertile to support their traditional farming methods. They have been forced to learn new ways of farming, this represents a weakening or loss of culture.

**Development projects**

Over the past 30 years, the Thai government has entered into a series of agreements with international agencies to implement development projects introducing cash crops to replace opium and providing increased income for the villagers. The objective of reducing opium production has been accomplished in many areas, but at great cost to the tribal peoples involved. In these development projects there is rarely any recognition of the local peoples' knowledge of their environment. Instead outside 'agricultural experts' provide advice as to the appropriate cash crop to be planted. In some cases the crops have benefited the people by providing a substantial income, at least for the life of the project. In other cases, various problems have emerged, including a heavy reliance on pesticides, high costs in transporting goods to the market, inappropriate soil conditions for particular crops, labour-intensive weeding and crop maintenance, a lack of adequate training and major fluctuations in the price of the produce. In many cases, people became dependent on these cash crops and were unable to maintain their income over the long term.

Many of the problems introduced into hill tribe communities along with the cash crops resulted from the one-dimensional view of the crop substitution programmes. On paper the switch had seemed like an efficient solution to the illegal production of opium. However, perhaps the most dangerous policy directed at the tribal peoples has been the policy of assimilation and integration, which was formally adopted in 1976. The Thai government was concerned about the possibility of tribal minorities aligning themselves with ethnic nationalist movements in neighbouring countries, especially in Burma and Laos. Therefore, they implemented policies in the north to encourage a feeling of belonging and of loyalty towards the Thai state. Roads were constructed to even the remotest of villages, schools with Thai teachers teaching Thai curricula were established, a Thai political system replaced the traditional local leadership systems and attempts were made to convert these populations to the dominant religions. Governmental agencies, in the form of public welfare offices or health centres, or Buddhist and Christian religious education centres, can be found throughout villages in the highlands. As the traditional belief systems with strong taboos over the use of forest lands are replaced by world-encompassing religions (such as the two mentioned), the site-specific religious beliefs – which aid in the preservation of the forest – are lost. Areas once considered the domain of the spirits are now considered empty forests, available for cultivation and occupation.

Government influence, in the form of greater authority within village leadership (with the appointment of a leader for each village responsible for reporting to the sub-district), and through health and education programmes has also weakened traditional cultures. A generation gap has appeared between the elders and the youth of tribal villages as the youth speak Thai and are increasingly attracted to the mainstream culture they are exposed to at school, while the elders often speak only their tribal tongue and follow traditional beliefs in the order and importance of things.

The Thai government has not, however, followed the integrationist policies with a corresponding rise in the rate of citizenship levels in tribal populations. The 1997 statistics of the Ministry of the Interior stated that all of the ethnic minorities in northern Thailand (including valley-dwelling peoples such as the Tai Yai and Tai Lor peoples) represented a mere 25.8 per cent of the total minority population.

**Migration**

Tribal communities' migration to Thailand's major cities has increased in recent years. This is due to the previous relocation of tribal communities to land unable to support them, and the search for work to supplement the reduced level of food self-sufficiency (and a lack of markets). The slums of Chiang Mai and Bangkok are increasing in size although they are already overcrowded and dangerous.

Finding work in the cities is incredibly difficult for indigenous peoples, especially the women, who have a low level of Thai literacy and whose skills are not readily translatable into city life. Within traditional tribal culture women have less opportunity to learn Thai, they are often under-represented in leadership roles, and they have little contact with the world outside their communities.

It is not only the women who suffer. Every tribal person in a city begins to lose contact with their tribal identity and their cultural knowledge.

**Outlook**

The indigenous and tribal peoples in the north of Thailand face the challenge of asserting the validity of their traditional knowledge and teaching their young the traditional agricultural systems. This necessitates the development of culturally based education and training programmes to ensure their survival. The UN, NGOs and international development agencies also face the challenge of recognizing the importance of these indigenous and tribal agricultural systems and influencing governments to allow them to continue. Additionally, the importance of the distinct and priceless knowledge which forms the basis of the unique cultures in northern Thailand must be recognized as an asset to the country.

Finally, governments must listen to the voice of indigenous and tribal peoples and be ready to work in partnership with them to develop land management policies which will recognize indigenous and tribal knowledge, and protect the biodiversity of the forests. Indigenous and tribal peoples must be given the right to determine their own futures and direct the course of their development.
Background

Nepal is a land of cultural and biological diversity. With a population of 22 million, it is a meeting place of several ethnic groups of Tibetan origin from the north and of Indo-Aryan descent from the south. Administratively, Nepal is divided into 14 zones and 75 districts overlaid with five development regions.

Nepal ranges from sub-tropical evergreen forests to alpine deserts. Due to harsh climatic conditions there is little settlement in the high mountains. Mature subsistence farming is practised in the mid-hills; this has a precarious and dynamic relationship with the forests. Vast stretches of forests in the inner valleys and the southern belt, called terai, had remained untouched until malaria was eradicated in the 1950s and people were resettled from the hills in an organized programme. Forests in the mountains are now under threat from subsistence needs. Forests in the plains, which are easily accessible by roads, have suffered from the combined pressures of commercial and subsistence interests of migrants from the hills. Often this has marginalized the indigenous population living in the terai.

The indigenous/oppressed peoples

While the question of identity has come to the surface in Nepal and influential ethnic groups have spoken out against the predominance of the people of Indo-Aryan origin in the affairs of state, indigenous politics have yet to take a firm shape. The state has been slow to recognize different knowledge systems and practices, and there has been no rigorous effort to define the indigenous people. However, indigenous peoples in Nepal can be said to have been primarily living via non-cash resources until recently, to have different and varied practices of resource management compared with state and/or dominant groups of people, and to define themselves as a distinct group of people with their own socio-cultural practices.

The oppressed people are Dalits, those considered to be 'untouchable' by Hindu caste customs, and they have specific occupations such as cobblers, smiths and tailors.

Legally, indigenous and oppressed women can own property but they cannot inherit. As a result they have little control over resources. However, women of the indigenous and oppressed groups generally have greater freedom than women of the rest of the population. There is more equality in the division of labour between men and women, and girls have a significant level of freedom to choose whom they marry. Nevertheless, women’s authority to take important decisions is less than that of men.

Population of castes and ethnic groups in 1991

<table>
<thead>
<tr>
<th>Groups</th>
<th>% of population</th>
</tr>
</thead>
<tbody>
<tr>
<td>High castes</td>
<td>41.0</td>
</tr>
<tr>
<td>Low or oppressed castes</td>
<td>15.4</td>
</tr>
<tr>
<td>Ethnic groups (including indigenous peoples)</td>
<td>35.5</td>
</tr>
<tr>
<td>Others</td>
<td>8.1</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
</tr>
</tbody>
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Source: 1991 census

The last (1991) census categorizes some 60 different groups of people out of which 24 are considered to be ethnic groups (jan-jati) representing some 35 per cent of the total population. Oppressed groups of people amount to more than 15 per cent of the population. Despite the laws which prohibit discrimination in terms of caste, ethnic origin, religion and sex, all still play a significant role in social transactions.

The government has recently established a Foundation of the Upliftment of the Nationalities whose aim is to promote the culture, interests and languages of the indigenous peoples, and to improve their standard of living. However, it is subject to the influence of the ruling party in the government.

The forests

While the forest is a basic means for survival, it is also a foundation of social organization and culture. Species that are socially significant and are therefore protected by indigenous peoples are also ecologically significant. Subsistence farming is dependent on an interaction with the forests. Yet modern forestry practices and state laws have grossly ignored forests as a habitat of people, have reduced ecology to protection, and the economy to the sale of wood.

Kipat was a communal land tenure system of the Kirantis, mainly Limbu people, where the community autho-
rized individuals to use part of the land and collect taxes. Kipat included both forest and cultivated land. Other ethnic groups also practised a form of common land tenure system. The oppressed people lived among the agricultural societies and used forests directly for limited purposes — primarily to provide services to the agrarian high castes and the indigenous groups. The common land tenure system was replaced by a feudalistic system of administration during the Rana regime, when the state would appoint a 'headman' for a given area. His role was normally hereditary and his function was to collect revenue for the state. Common property began to disappear in the nineteenth century, with land being granted to the Rana's officials.

In 1957 common property resources were legally confiscated when forests were nationalized. Where the state machinery is not yet fully entrenched local people continue to use and manage forests communally as 'our forest'. However, this nationalization prioritizes a commercial interest over their subsistence and survival in the name of the nation — even though the intention, to abolish the feudal system with its highly uneven ownership of resources, was to help them.

Nationalization converted common property into private agricultural land. Previously, the people managing their communally owned forests generally took good care of them. After nationalization, the people tried to clear as much of the forest as they could because any land with trees would be considered as forest, and therefore state property. Furthermore, natural forest in terai was cleared for resettlement purposes and was severely encroached upon by migrants from the hills.

A journalist recalls the situation in Rampur:

There was a forest called Panchaseko Ban near my village in Rampur, in Okhaldunga covering some 300 ropani [c. 15 ha]. People of Rampur used and protected the forest. In 1987, the team came to Rampur to demarcate agricultural land for entitlement. Now the influential people could register all the forest if they [could] produce a receipt from Jimadu [the former feudal village 'headman'] to say that they had paid a notional revenue to him. So it happened. His relatives, neighbours, and other close people registered a share of land amongst themselves. Smiths, cobblers and Ghatris [indigenous and caste group peoples] protested but to no avail.

After the registration other people, not only the smiths, cobblers and Ghatris ... were stopped [from] grazing their animals. Even the collection of roots was prohibited by the owners.

Two years [after] the encroachment was legalized, I met a blacksmith from my village carrying a load of charcoal from Katari the nearest roadhead. Katari is one day and a half on foot from Rampur. He said there was nowhere where he could get charcoal from.74

Under separate legislation in 1973, parts of the nationalized forests were protected as national parks and reserves; the gaming interests of the royal family wedded with those of Western conservationists and scientists. The army was deployed to conserve these areas. People living in and around these protected areas were displaced, relocated or legally excluded, with little or no access to the resources.“

The peoples’ outcry grew louder and the managers of the protected areas began to understand their views. The forest officers saw that the plantation and protection programmes were becoming more and more expensive while deforestation continued. Several aid agencies were also concerned. These concerns led to the promulgation of more inclusive laws. A provision for community forestry with significant rights for users was established in 1983.

Conservation areas were set up under legislation in 1990 and 1997 where people and nature could exist in harmony. Recently, the idea of a buffer zone took legal shape (enacted in 1988 and endorsed in 1990). This states that 50 per cent of the revenue from the park or protected area has to be spent on the development of the community living along the fringes of the protected areas. Furthermore, protected area managers have been resisting other forms of potentially damaging land use. They have been using tourism as a weapon to resist encroachment on protected areas.

Basic issues regarding the diverse indigenous practices remain. The access to resources and 'voice' of the oppressed peoples, including the indigenous groups, is minimal. Furthermore, the forests, particularly those in the terai, are subject to commercial interests. Multinational corporations' involvement is increasing the threat to the livelihoods of those dependent on the forests.

The Finnish Development Agency (FINNIDA) proposed a Forest Management and Utilization Project (FMUDP) to generate c. US $185 million for the Nepali government and create 30,000–40,000 jobs. It was to be undertaken as a joint private venture of Finnish and Nepali companies, with an exemption from excise and duty on the timber exported, whereas Nepali law prohibited the exporting of timber.

The FMUDP proposal was withdrawn after heavy protests from the local communities and their supporters when the project became publicly known about in 1995. The protesters argued that the benefits from the 280,000 ha of prime hardwood forests did not outweigh the livelihood interests of some 60,000 forest-dependent people. The counter-argument made in favour of the project by a Finnish diplomat in Kathmandu was, “It is difficult to understand why government should simply hand over the productive forests to communities.”

Basic issues

A clash of ideologies

Laws in Nepal have been drawn up by experts in legal systems and modern forestry. Normally, these experts are grounded in an industrialized view of society which is based on science and a monetary culture. Forests and trees are having a specific commercial value. The legal system assumes that anything not belonging to individuals belongs to the state and laws have been designed to rep
The case of occupational castes (oppressed peoples)

The occupational castes worked for the peoples of the agricultural societies. Smiths, for example, were dependent on forests for charcoal for their livelihood. They were not allowed to own agricultural land. Now they suffer numerous difficulties because:

- they have little or no access to land;
- their skill is becoming obsolete as their products are being replaced with cheaper industrial products;
- they were socially oppressed for so long that they have no economic base to compete with the dominant groups of people;
- due to their scattered location, their collective strength is less than that of the indigenous peoples.

With some 90 per cent of household jobs in Nepal being undertaken by women, as well as three-quarters of the work of collecting fodder and firewood, the lack of access to forest resources is a particular burden for women. The greater the distance from the forests and the harder the access, the more difficult their work becomes.

Barely on the political agenda

Some 30 years ago, the issue of ethnic identity was suppressed in the name of nationalism. This period was highly successful in establishing an 'economic growth-based development model'; this was at the top of the state's agenda and it seriously undermined concern over indigenous issues. It is not yet clear whether indigenous concerns will be placed on the national political agenda. An indigenous perspective has yet to take a firm political shape. Yet, it is important to note that political extremists are increasingly receiving backing from highly marginalized ethnic groups of people.

Prospects

Under Nepal's parliamentary system, freedom of speech is now guaranteed. There are more opportunities to use the mass media than a few years ago and to take part in the democratic process. All these opportunities to advocate the cause of indigenous and oppressed peoples' rights to the forests. There is also a sizeable growth of NGOs working on human rights.

There is a gradual change in forestry regulation in favour of the people. The law on community forestry is one such example. Nepal has also signed the UN Declaration on Human Rights and Agenda 21, so pressure can be brought on the government to implement these international instruments.

There is a resurgence of indigenous and minority peoples the world over and growing communication links make building international alliances among indigenous peoples and their supporters possible at low cost. This should provide an opportunity to raise concerns and to apply pressure. There is also a growing support among environmentalists for indigenous peoples and their rights of access to forests.

In the long term, everyone needs to recognize or understand the importance of cultural pluralism, and the rights of different groups of people. Education (including the development of appropriate school textbooks) is crucial in this regard.
Tribal and indigenous peoples of India

Background

India has about 68 million tribal and indigenous peoples (8.08 per cent) of its population. Over 50 per cent of them live in the central Indian belt (southern West Bengal, Orissa, southern Madhya Pradesh, Gujarat, western Maharashra and southern Rajasthan) and approximately 12 per cent live in the North-East region. In four states of the latter they make up more than 80 per cent of the population. Himachal Pradesh in the north-west and Andhra Pradesh in the south, are other mainland states with a fairly large proportion of tribals. The rest live in small pockets in the remaining states and in the Lakshadweep Islands.

With the exception of West Bengal, all of the states of mainland India with large tribal and indigenous populations contain 'scheduled areas' under the Fifth Schedule of the Constitution. Several protective measures are available to the tribal and indigenous peoples of these areas. The hill tribes of the North-East come under the Sixth Schedule, which recognizes community ownership of land and forest – it is not recognized in the rest of India. Yet all states have laws banning the transfer of tribal land to non-tribal or indigenous peoples.

According to the Constitution, a percentage of government and public sector jobs, as well as seats in the legislature, is reserved for (indigenous) tribals and Dalits (formerly called 'untouchables'). In the central government this is 7.5 per cent for the tribals and 15 per cent for the Dalits. In each state the percentage is fixed according to their proportion in the population. They are also entitled to free education up to university level. The tribal, indigenous peoples and castes that benefit are notified in a schedule through a government order. Hence the terms Scheduled Castes (SCs) and Scheduled Tribes (STs).

However, most laws are not implemented properly, so they do not benefit from many of these privileges. Furthermore, while the tribal and indigenous peoples depend on forests and land for their subsistence, they are often alienated from them without an alternative means of survival. Hence, in much of India 90 per cent of them are poor and 47 per cent of them are malnourished.94

Some major events

In 1988 the government of Andhra Pradesh tried to scrap Law 1 of 1970. According to this law, non-tribal and non-indigenous peoples owning land in the scheduled areas had to prove that they or their family owned this land before 1955. If they could not do so the land was considered an illegal possession. However, official statistics showed that c. 73,000 ha. had been alienated despite the law. Researchers put the figure at more than 242,000 ha.95 Yielding to pressure from the encroachers on the land, the government tried to repeal the law, an effort that was thwarted by the tribal and indigenous peoples, and their supporters.

Recent data shows that 49 per cent of the tribal and indigenous peoples in the state are landless.96 This landlessness is common elsewhere. Land is also being acquired for development projects; this has increased since the International Monetary Fund (IMF)'s Structural Adjustment Programme,97 or the liberalization policy of 1991, and is likely to continue to increase – particularly in the tribal areas – following the government's Draft National Rehabilitation Policy of 1994.

More than 1,000 NGOs, in association with scholars and hundreds of thousands of displaced persons, have prepared an alternative to the rehabilitation policy. The government has borrowed from it and prepared a new draft policy; with input from NGOs. Now the government is under pressure to improve its policy further and then to enact a law based upon it.

In contrast are the tribal and indigenous struggles against land acquisition; the one against the Narmada project being the best known. This dam will deprive 100,000 people of their livelihood, two-thirds of them tribal and indigenous peoples. The tribal and indigenous peoples of Jharkhand (part of Bihar, Madhya, Pradesh, Orissa and West Bengal) are demanding a state within the Indian Union, as are the Bodos of Assam. There are struggles against land alienation throughout India.

The growing struggles show that some people are beginning to resist the forces of exploitation and are searching for possible solutions. In discussing these solutions, we should remember that most tribal and indigenous peoples subsist on Common Property Resources (CPRs), predominantly forests and other land. They lost control over them when the British colonial government passed the Indian Forest Act, 1865. The colonial government also turned lands without individual ownership titles into state property.

Tribal and and indigenous peoples and forests

Most of India's tribal and indigenous peoples have been forest-dwellers for centuries. Traditionally, forests met most of their fodder, food, medicinal and
The displacement of tribal and indigenous peoples which balanced human and ecological needs, and ensured intra- and inter-generational equity.

Shifting cultivation among most tribes is an example of intra-generational equity and of women’s proportionately higher status (when compared to ‘mainstream’ societies – although women were still not considered ‘equal’ to men). The area to be cultivated was chosen by the (male) village council. The council also decided how much land each family could cultivate according to family numbers, and when cultivation could begin. The man of the house then chose the plot and the woman took charge of it. The man represented the family in society and controlled the resources. The woman controlled the family economy and production. As a result, the division of labour was more just than in settled agriculture where the man controlled when cultivation could begin. Although women were still not considered ‘equal’ to men).

Inter-generational equity is symbolized by tribal and indigenous peoples’ traditional forest management systems which accorded protection to ecosystems linked to their life cycle. The forest where the burial ground was located (representing the past), where young men were trained into adulthood (representing the present) and the dancing ground where young men and women met and chose their life partners (representing the future) were protected and no sickle or axe could be used there. Other species of great economic value were also protected and were linked to the origin or continuity of the clan. The ideology behind this system was that the resource has come from the past, it should be used according the needs of the present and preserved for posterity.

Tribal and indigenous peoples’ alienation from their sustenance began with the forest laws. The first of a series of laws was passed in 1864, culminating with the Indian Forest Act of 1927. These laws turned the forests into a source of revenue and timber for the railways and shipbuilding, and the forest-dwellers into ‘encroachers’. Since independence this process has intensified; industrialists have been given numerous subsidies, and the tribal and indigenous peoples ignored. Thus, the vicious circle of tribal and indigenous peoples’ marginalization began.

The industrialists cut the forests that the tribal and indigenous peoples of the villages had relied on to meet most of their food and other needs. The industrialists continued, moving to the next village, the next district, etc. As a result tree cover has been reduced from around 70 million ha in 1950 to about 35 million ha today.

### The impact of displacement and deforestation

The processes around displacement and deforestation are similar. The difference is that the former pushes tribal and indigenous peoples out of their community without any preparation and without any resources. The latter deprives them of their livelihood but some resources, i.e. forests, remain. In the latter case, moneylenders and merchants accompany the industrial agents. Many tribal and indigenous communities have generally lived in the informal economy and are thus unprepared for sudden encounters with the agents of the formal economy. Consequently, tribal and indigenous peoples have fallen into the hands of the moneylenders and often lost what little land they had; many have become bonded labourers. To survive, others have cut trees for sale as fuel or turned to wage labour under timber contractors or wildlife smugglers. A sign of their impoverishment is that there are estimated to be over 5 million ‘headloaders’ (people who carry wood to the market to sell) in the country. To the tribal and indigenous peoples who had developed a culture of sustainable use, such destructive measures are the last available option.

Women suffer the most. As a result of deforestation, the distance of forests from villages in much of eastern India increased from about 1 km in the early 1960s to around 7 km two decades later. Women have to walk this extra distance to ensure the regular supply of fertilizers, fodder, food and other daily requirements – all of which are increasingly scarce. This has implications for women’s health and the nutrition of their families.

Many people have left their region. Initially only men migrated, sometimes returning with the ‘mainstream’ value system – that of men’s domination of society – and often with a second younger wife. In the past, in times of abundant resources, the first wife would have divorced him and married another man (since tribal and indigenous culture usually recognized divorce and widow remarriage). But, deprived of her sustenance, she now has to
Tribal and indigenous peoples of India

accept her status as a second wife, subordinate to the younger woman.\textsuperscript{10}

Now the whole family often migrates. Being inhabitants of isolated forest regions and unused to the 'mainstream' formal economy, they are promised a rich life by the labour contractors who take them to the city. But with no contacts and no knowledge of the city, they get the worst paid and most exploitative jobs, and many women are drawn into sex worker and other exploitative networks.\textsuperscript{76}

Tribal and indigenous land alienation

Another process is individual land alienation, which is often a by-product of the legal system. Many tribal and indigenous peoples have been cultivating land without a written title deed, others have been forced by poverty to sell or mortgage the little land that they own. Additionally, their land is encroached upon, sometimes with state support or with connivance between the officials and local elites.

Gudalur in Tamil Nadu in southern India is an example of state support for encroachers. In an agreement, the former king of Nilambur handed over poromboke (non-forest common land) belonging to him to the tribal communities for cultivation. In the 1950s the state government unilaterally abrogated the agreement. As a result most tribal and indigenous peoples have lost their land to majority peoples and many have become their bonded labourers.\textsuperscript{77}

The 'settlers' who occupied tribal land in the 1960s and 1970s in Kerala (southern India) have ignored the Kerala legislature's law stipulating that it be returned to the tribal and indigenous peoples. This 1975 law is yet to be implemented because the settlers belong to powerful communities that dominate the legislature. In 1996 the Kerala High Court ordered that the law be implemented, but the legislature still shows no sign of complying.

Tribal and indigenous peoples and liberalization

Displacement is increasing with liberalization. For example, out of 930,000 ha of land acquired in Orissa between 1951 and 1995, 41,000 ha. were for industry. Future trends suggest that about 81,000 ha will be acquired for industry alone in the next decade.\textsuperscript{78} Our studies imply that this situation is being replicated in other states of India.

The World Bank Forestry and Ecodevelopment projects being imposed on several forest regions of India are symbolic of this shift to liberalization. The former is an effort to turn forests into timber plantations for use in India, and for export to repay foreign debt. The latter, meant to preserve wildlife, are also recreation centres for the middle class and tourists.\textsuperscript{79} Thus the resource-rich regions have become victims of 'double colonialism'. The rich countries rob the poor nations of their resources in order to maintain their consumerist lifestyle. The Indian middle and upper classes appropriate the remaining resources and further impoverish the already poor.

Resistance and alternatives

Tribal movements are demanding a halt to their dispossession and autonomous political and economic management. They are ready to share their resources with the nation and the rest of the world but they object to another class appropriating their livelihood and impoverishing them in the process. Similarly, movements are beginning in India against the intellectual property rights regime of the General Agreement on Tariffs and Trade (GATT) which recognizes the rights of the biotechnology-owning companies but not those of the communities which have developed the knowledge that the companies pirate and patent.

The tribal and indigenous peoples demand that they be allowed to change on their terms and face the 'mainstream' society as equals, not as levers of wood and carriers of water. They demand rights over their knowledge and a benefit-sharing system that respects their traditions.
Indigenous peoples and forests in Bangladesh

Introduction

Bangladesh is bounded in the east, west and north by India, in the south-east by Burma and by the Bay of Bengal in the south. Much of Bangladesh was formerly under forest cover: According to recent estimates, about 18 per cent of the country, covering about 2.5 million ha, is managed by the Bangladesh Forest Department under the Ministry of Environment and Forests. However, out of this, only about 6 per cent is thought to be forested.

Traditionally, most of the indigenous peoples of Bangladesh lived in the forest regions of the country and made a living out of fishing, herding, hunting and gathering, and shifting cultivation (or swidden cultivation). To the indigenous peoples, there was no distinction between forests and swidden lands since swidden lands left fallow for a long period regenerated into forests. These lands were customarily under the common ownership and management of the peoples who lived there. However, after these territories were annexed by the British East India Company and then by the British government in the eighteenth and nineteenth centuries, large parts were designated as ‘protected areas’, both in the Chittagong Hill Tracts (CHT) and elsewhere, the absolute titles to which were vested in the government alone. In areas outside of the CHT, swathes of indigenous territories were converted into large private estates for non-indigenous landowners. These estates were taken over by the government in the 1950s, but the indigenous peoples’ land rights became even more precarious under government ownership and management as reserved and protected forest area status was extended to many other lands.

As the forest areas began to diminish, the livelihoods of the indigenous peoples also began to change. Gradually, the indigenous peoples took up horticulture, market-oriented fishing, plough agriculture and jobs in the private and public sectors. In the CHT, they also started market-oriented tree and bamboo farming. Nevertheless, a significant part of the indigenous population of the country remains largely dependent, directly or indirectly, on forests for their livelihood.

The forests of Bangladesh

Among the largest of the forests of Bangladesh are those categorized as ‘reserved forests’. These include forests in the CHT region in the south-east (322,331 ha), in the Modhupur tracts in the north-central region (17,107 ha) and in the Sundarbans in the south-west (601,700 ha). The reserved forests and the much smaller protected forests are both considered government property and are managed by the Forest Department under the Ministry of Environment and Forests. The basic difference between the reserved and the protected forests is that the inhabitants of the latter have been conceded far more rights. The protected forest status is, in many cases, an intermediate category awaiting formal recognition as a reserved forest.

Another category is legally classified as ‘privately owned forest’. These range from plantations whose ownership and benefits are shared by farmers, government agencies and non-governmental organizations (NGOs) to those that are wholly owned by private individuals or companies. There are also private forests that are owned by non-resident private individuals and companies. Many of the latter’s forests are unused. In some cases, the owners have merely used their landholdings to obtain bank loans for other schemes.

According to a recent accord between the Parbata Chattagram Jana Samhiti Samiti, a regional political party of the indigenous peoples of the CHT, and the government, the leases of unused plantation lands in the CHT are to be cancelled. However, no action has yet been taken.

Last, there is a residual category of forests known as ‘unclassed state forests’. The only substantially forested portions of the unclassed state forest lands are what we shall call the village common forests that are managed by indigenous villagers in the CHT.

The indigenous peoples of Bangladesh

Indigenous peoples, who are usually referred to in government records as ‘tribals’, live in all six administrative divisions of the country. The most recent official census report (1991) accounted for 1,205,978 indigenous (‘tribal’) persons in the country. Of these, 501,144 (41.5 per cent) were located within the CHT. However, information from various sources indicates that the actual indigenous population of the country is significantly higher than is indicated by the official estimates.

The indigenous peoples form a numerical majority only in the CHT where there is a separate administrative structure which allows limited self-government and land management. The CHT also has the second largest forest area in Bangladesh after the uninhabited Sundarbans. The recent accord on the CHT provides for the strengthen-
The state of the forests

The extent of deforestation

According to the Forestry Master Plan of Bangladesh, the annual rate of deforestation for 1981–90 was around 3.3 per cent. This is an alarming rate of deforestation compared to the rest of South Asia.

For example, parts of the Sundarbans and other mangrove forests in the coastal areas have been clear-cut for commercial shrimp farming by private companies and individuals. The Asian Development Bank (ADB) and the World Bank funded a number of these projects. Illegal logging and human settlements have also led to deforestation in these mangrove forests. Severe deforestation has also occurred in the Modhupur sal forest, the third largest forest in the country, originally inhabited by the Mandi (Garo) and Koch peoples. In Modhupur, over the last decade, government-sponsored rubber plantations and commercial fuelwood plantations funded by the ADB have been the main causes of rapid deforestation. Similar projects on rubber plantations have also led to environmental degradation and human rights violations in the Sylhet region— including displacement and the denial of land titles.

Many reserve forests have been affected by intensive swidden cultivation by those displaced by the Kaptai Hydroelectric Dam (which was completed in 1960). Similarly, large tracts within the Kassalong and Matamuhri reserves have been affected by the migration of landless farmers and by logging gangs. Officially sanctioned logging by the government-owned Bangladesh Forest Industries Development Corporation (BFIDC) has worsened the situation. Even relatively inaccessible areas such as the central Kassalong reserved forest in the northern CHT and the Sangu reserved forest in the southern CHT now have BFIDC-operated saw mills and logging stations, with an expansion of the road network.

The village common forests in the CHT have generally fared much better, although some of the latter were destroyed during the insurgency war in the CHT (1973–92) by military camps, ‘security operations’ and non-indigenous settlers. Nevertheless, the village common forests are diminishing due to their conversion into homesteads or agricultural lands.

Human rights, environment and forestry policies

Land and resource rights of indigenous peoples

Although the Forest Department’s commercial plantations provide some employment to indigenous people in the initial planting stages, they are promptly evicted when the tree saplings take hold. In desperation, some of these forest-dwellers in the CHT work for logging gangs from the plains regions. Criminal charges have been filed against the forest villagers for alleged theft of forest produce. Informal surveys have shown, however, that of the thousands of accused persons, just a tiny minority were involved in the thefts, and that criminal cases have been filed against people who had died long before the ‘crime’ took place. There are also instances of indigenous peoples being shot and killed by armed Forest Department guards in the Hill Tracts and elsewhere in the country. Most of these killings were neither reported nor investigated.

The denial of land and resource rights in the government forests is a common problem. Despite having title documents to their lands, many indigenous peoples of the Modhupur forest and in the CHT have been unjustly evicted or subjected to oppressive civil and criminal actions.

The situation of the indigenous Khasi people in the Sylhet Division is only marginally better. Over the last few years, the Forest Department has changed the Khasi forest villagers’ long-term leases into short-term leases, making the forest inhabitants’ rights to their homes and lands far more precarious. According to a narrow interpretation of the Forest Act of 1927, the government is free to cancel these leases or to vary their length. On the other hand, a broader interpretation of customary and prescriptive rights under the Forest Act and the provisions of the International Labour Organization’s (ILO) Convention No. 107, which has been ratified by the government of Bangladesh, obliges the government to exercise its powers under the Forest Act with due consideration to customary and prescriptive rights. So far, no case has been taken up in the courts.

The policy of expanding planted forests at the expense of natural forests has adversely affected the customary land rights and the livelihoods of many forest-dependent indigenous communities. The traditional role of indigenous women, gathering firewood and plants and herbs for food and medicine, has been severely affected. The Forest Department guards have also harassed women when they go to gather fallen branches and leaves.

The management of plantations and the logging industry in Bangladesh do not yet include private corporations to a very large extent, although the government-owned BFIDC, which is involved in both plantation management and logging, is administered along the lines of a private corporation. However, the role of private enterprise in the forestry sector is likely to grow if the recommendations of the Forestry Master Plan, which was formulated with the active support of the ADB, are acted upon, because the Plan contains an implied, if not explicit, bias towards the expansion of planted forests of choice species and their exploitation on a commercial scale. The government of Bangladesh is amending the Forest Act of 1927, mainly, it is believed, to facilitate logging through deregulation. This would have far-reaching implications for the land and resource rights of indigenous communities throughout Bangladesh.
Environmental degradation in the plantations

Many government-owned fuelwood, teak and rubber plantations have suffered from soil erosion and biodiversity loss. Some of the worst cases are concentrated in the teak plantations in the CHT. The soil-eroding effects of mono teak plantations are well known to the government, but the practice continues unabated. A similar situation prevails in the fuelwood plantations in the Modhupur forest and in some rubber plantations in the Hill Tracts, among other places.

Indigenous peoples: custodians or encroachers?

Government sources are swift to blame shifting cultivation for the rampant deforestation in the CHT without acknowledging the deforestation caused by other factors, such as illegal logging. Moreover, indigenous peoples' traditional skills in successfully managing the village common forests are ignored. The indigenous peoples are invariably looked upon as marauders and encroachers by government agencies, even though these peoples were living in the government-run forests long before their titles came to be vested in the government and the lands categorized as reserved and protected forest areas.

Information on forestry policies and the rights of indigenous peoples

Most indigenous communities in Bangladesh come from very poor and marginalized groups that have little access to education and other basic resources. Most also live in relatively inaccessible areas. This means that very little information about their problems reaches the higher levels of government and the media. Litigation on behalf of the indigenous peoples has also been limited because of the affected peoples' lack of information and resources, and their lack of confidence in the legal process.

Evaluating the forestry policies and practices

The major legal provisions and administrative measures governing the protection and use of forests in Bangladesh are contained in the Forest Act of 1927, framed during British rule, and the Forestry Master Plan which was formulated in 1993. The government is starting to amend the Forest Act, largely under pressure from its main funding agency, the ADB. The Forestry Master Plan and the draft amendment to the Forest Act (as recommended by foreign consultants) emphasize commercial plantations and the rapid extraction of timber and other produce from the forests. In addition, the former proposals change the land tenure system to encourage private sector investment in forestry. The Forestry Master Plan and the proposed changes to the Forest Act are a direct consequence of Bangladesh's adherence to the Tropical Forestry Action Plan (TFAP) which was formulated with active support from the World Bank.

The Forestry Master Plan has increased the rate at which natural forests are converted into plantations. Similarly, there has been faster and more extensive logging by the Forest Department and the government-owned BFIDC. The organized illegal loggers have been able to take advantage of the improved communications. The widespread corruption within the logging sector is largely unacknowledged, leading to inefficient and unrealistic protective measures and extraction plans. In these circumstances, it is surprising to some that the Forestry Master Plan recommends that the government should continue to log in the natural forests of the Hill Tracts until 2023. These plans appear to be quite unrealistic because it is extremely doubtful whether very many large trees will remain by that time. If the aforementioned policies are not changed, the remaining natural forests will disappear and the indigenous peoples who live in them will be marginalized even further.

There are also other serious flaws in the way the forestry laws and policies are administered. At present, the major emphasis of the Forest Department with regard to the prevention of theft and encroachment in the government forests and plantations is on policing activities. However, unless the inhabitants living in and around the forests are given a direct stake in protecting these forests and in their management, mere policing functions are extremely unlikely to control the situation. This is partly because allegedly corrupt Forest Department employees are thought to be involved in many cases of theft from the government forests. Another undesirable practice is the recent emphasis on plantations in the absence of any effective steps to allow natural regeneration. The earlier practice of combining the planting of choice species of trees with natural regeneration needs to be revived.
Conclusion

Towards indigenous forest management

In recent years, the inadequacies of the old forestry and conservation policies, which rely exclusively on state agencies to control forests while alienating the inhabitants, have been widely recognized, particularly at the international level. New policies are beginning to be adopted which restore a measure of control to indigenous peoples. In India, Nepal and the Philippines, experiments in participatory forest management have gained international support and even become national policy.11 Protected areas, which secure indigenous peoples' support through the recognition of their land rights, have also been established.12

However, too often, participation has been token and outsiders have imposed institutions and restrictions on local communities which do not fit their customs and needs. Women, lower caste and poorer groups have been excluded, and trust and coordination between state agencies and indigenous peoples has broken down.

Moreover, the sustainable management of forests requires indigenous peoples not just to secure land rights and control of forest resources but to represent themselves through inclusive and transparent institutions that cannot be captured by sectoral interests.14

Indigenous peoples and development

This Report has shown how indigenous peoples are easily parted from resources they depend on, yet it has also shown that they are far from passive. Examples of active resistance to the unwelcome impositions of outsiders come from all over the region and have a very long history.

Indigenous peoples' resistance to some outside interventions has given many the false impression that these are static and conservative societies, opposed to all change. But this is simply another pretext for outsiders to intervene in indigenous peoples' lives 'for their own good'. The reality is that indigenous peoples are seeking change, on their own terms, at their own pace and under their own control. As an indigenous person resisting the logging of Tinggian pine forests by the Japanese-owned Cellophil Corporation in the Cordillera of the northern Philippines eloquently stated:

'Don't mistake us. We are not a backward-looking people. Like others we want development and we want to improve our lives and the lives of the next generations; we want better education, better health and better services. But we want to control this development in our land and over our lives. And we demand a share both in decision-making and in the benefits of development.'16

Achieving this kind of development implies a radical change in government policies towards indigenous peoples. Indigenous peoples demand secure rights to their territories and to control what happens within them. They demand a recognition of their own representative institutions and that governments seek their free and informed consent before pursuing development initiatives. They seek, in short, the right to self-determination.18

These are not just rhetorical demands. All over the region practical initiatives are being made by indigenous peoples to put this model of 'development' into practice. For example, as a first step in asserting their land rights and clarifying boundaries, indigenous communities in Indonesia, the Philippines, Sarawak and Thailand have been carrying out participatory mapping exercises, using technologies ranging from tape-measures and compasses to satellite-linked global positioning systems. In Papua New Guinea and the Solomon Islands, where land rights are already legally secure, communities that have resisted leasing their forests to foreign logging companies have begun using small portable sawmills to harvest timber themselves in much less damaging ways. In Thailand, where the government banned all logging in the late 1980s, a draft law is currently being discussed which could grant communities the right to manage their own forests. There are still some old-style conservation organizations that want to restrict all human activity in Thailand's vulnerable watershed areas, but the tide is turning against these views.

International forest policy

This encouraging shift in official forest policy in some Asian countries has been matched to some extent by changes at the international level. During the 1970s, the UN Food and Agriculture Organisation (FAO) launched its own global programme of 'social forestry' to try to give forestry a more people-oriented face. The underlying logic of social forestry was to leave natural forests under state control — to be exploited by the commercial logger or preserved by the conservationist — while alternative means were found to supply the folder, fuel and wood needs of the very poor for fuel collection, grazing, medicinal herbs and thatch.19 Social forestry thus enriched landed peasants at the expense of the poorest and most marginalized social sectors, notably tribal peoples. A widely criticized World Bank-funded project in southern Madhya Pradesh, which
dispossessed the Muria people of large areas of their lands, was one of a number of failed social forestry projects which prompted the FAO to promote more community-based forestry policies, culminating in today's enthusiasm for "participatory forestry".

Foresters, however, have been slow to revise the policies of colonial forestry. As tropical forest loss became a matter of global concern in the early 1980s, the FAO, UN Development Programme and the World Bank launched a joint Tropical Forestry Action Plan (TFAP), with a US $5 billion budget, to curb deforestation. The plan received widespread criticism from NGOs, primarily because it had been developed in almost complete isolation from local communities, with minimum consultation with NGOs and the provision of very limited information to the public. The TFAP ignored key social issues and took little account of indigenous peoples' concerns. The plan also failed to address the underlying causes of forest destruction. An NGO study showed that the TFAP, far from slowing deforestation, was likely to increase it.

These findings caused such concern among donors that a 'revamping' of the TFAP was demanded at the 1991 G-7 summit. Proposed reforms were strongly resisted by the FAO and the other lead agencies gradually dropped out of the plan. This experience did lasting damage to the FAO's reputation.

The UN agency with a mandate to improve the quality of tropical forest logging - the International Tropical Timber Organisation (ITTO) - has also proved very reluctant to promote the trade in tropical timbers and promoting forest conservation. However, the ITTO's voting system gives countries which import or export large volumes of tropical timber a greater share of the vote, thus giving priority to trade over conservation. The ITTO has consistently resisted calls for the kind of international controls to limit the trade in destructively produced timbers, and has been extremely reluctant to give consideration to the rights of indigenous peoples or other forest-dwellers. However, after much pressure, it has adopted a set of guidelines that set conditions for involving indigenous peoples in planning and forest management, and specified the need to respect the rights of customary rights holders in line with the Conventions of the ILO and the standards of the World Bank.

Global environmental discussions at the Earth Summit in Rio de Janeiro in 1992 also led to the evolution of new international standards, with mixed results for indigenous peoples. Whereas a fundamental aspect of the Rio agreements was the assertion of states' sovereign rights over natural resources, they were much more ambiguous in their assertion of the corresponding rights of local communities and indigenous peoples. Notwithstanding, Article 22 of the Rio Declaration says:

"Indigenous peoples and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development."

At Rio, governments also adopted 'Agenda 21', the loose programme of action to achieve sustainable development established at the summit, which includes indigenous peoples as one the 'Major Groups' of civil society to be involved in its implementation (Chapter 26); it also sets out a plan for 'Combatting Deforestation' (Chapter 11). Chapter 26 contains objectives for governments and intergovernmental agencies to fulfil, including empowering indigenous peoples and strengthening their participation in formulating policies, laws and programmes concerning natural resource management. Chapter 26 also recognizes indigenous rights to lands, intellectual and cultural property, and the need to preserve customary management systems in order to promote conservation.

During the Earth Summit, the Convention on Biological Diversity was signed. Like other intergovernmental agreements made at Rio, the Convention recognizes that states have 'the sovereign right to exploit their own resources pursuant to their own environmental policies'. The Convention is much less forceful about the rights of communities and local peoples, leaving it up to states 'as far as possible and as appropriate' and 'subject to its national legislation':

'[to] respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices'. (Article 8j)

A good faith interpretation of these and the Agenda 21 obligations may offer some scope for indigenous peoples to gain control of their territories and resources. The Convention has now been signed by 171 countries and those state signatories have now begun to study the implementation of the agreement. In direct response to indigenous demands, the issues set out in the Convention are also being explored by a specially established 'intersessional working group'.

The international agency which has been accepted by governments as the interim financial mechanism for implementation of the Convention on Biological Diversity is the Global Environment Facility (GEF). A number of conservation projects implemented by the GEF in the early 1990s had severe impacts on indigenous peoples and other local communities and indigenous peoples have been actively calling for a revision of policies regarding protected areas at national and international levels to accommodate their rights.

In the run-up to Rio, a number of governments and international agencies, particularly the FAO, were also keen to promote a global convention on forests. The proposal did not find enough support at Rio itself - although a non-legally binding 'Statement of Principles on Forests' made at the meeting did include a call to respect indigenous peoples' rights - but two follow-up processes under the UN's Commission for Sustainable Development (CSD) have been moving slowly towards this goal. Indige-
nous peoples' are concerned that norms adopted in these environmental negotiations may be weaker than those developed under existing and emerging instruments of international law on human rights, such as ILO Conventions 107 and 169 and the Draft Declaration on the Rights of Indigenous Peoples. To lobby on these issues indigenous peoples from the tropics formed the International Alliance of Indigenous and Tribal Peoples of the Tropical Forests in 1962, which includes a large number of indigenous organizations in Asia, organized into four Asian sub-regions.

Since 1992, representatives of the International Alliance have been extraordinarily active in bringing the concerns of indigenous peoples to the attention of intergovernmental agencies. They have focused particular attention on the Intergovernmental Panel on Forests (IPF), which was set up under the CSD. Following concerted pressure by a global 'intersessional' meeting of the IPF, sponsored by the Colombian and Danish governments in 1996 and organized by the International Alliance, an important precedent was established which demonstrated that these semi-official meetings could be run by indigenous peoples themselves. The meeting ended by issuing the so-called 'Leticia Declaration', and many of its statements of principles found their way into the final IPF document and were in turn endorsed by the UN General Assembly Special Session in June 1997. Furthermore, a newly established Intergovernmental Forum on Forests under the CSD is now pursuing international discussions on forest policy.

There have also been advances in the policies of environmental NGOs with respect to forests. For example, new principles for logging set out by NGOs under the banner of the Forestry Stewardship Council – which provides a mechanism to accredit agencies that certify the good operating standards of forest industries – explicitly accept that forest exploitation in indigenous territories must respect indigenous peoples' land rights and secure their free and informed consent before proceeding. Furthermore, in May 1996, after several years of dialogue with indigenous peoples' organizations, the Worldwide Fund for Nature (International) adopted a new policy on indigenous peoples and conservation, which explicitly recognizes the rights of indigenous peoples to the use, ownership and control of their traditional territories; approves the current UN Draft Declaration on the Rights of Indigenous Peoples and emphasizes the principle of free and informed consent in all interactions between indigenous peoples and conservation organizations.194

Likewise, the General Assembly of the World Conservation Union (IUCN), at its meeting in Montreal, Canada in November 1996, approved several resolutions which refer to indigenous peoples and protected areas. The resolutions provide guidelines for the secretariat and members of the IUCN, stating not only that they should recognize the rights of indigenous peoples in protected areas, but also that the staff and members of the IUCN should contribute to indigenous initiatives in inter-governmental meetings such as the Convention on Biological Diversity. The resolutions propose that the rights of indigenous peoples in protected areas should be respected and that conservation policies should be compatible with the current UN Draft Declaration on the Rights of Indigenous Peoples.

While these advances are important, there is a world of difference between international expressions of good intent and actual practice on the ground. The Dayak activist Raymond Abin of Sarawak sent a letter to the Third International Conference of the International Alliance, held in Nagpur in May 1997, after he was prohibited from travelling to the meeting by the Malaysian authorities:

With this message I would like to take the opportunity to inform you of the appalling situation facing the indigenous peoples of the Bahasa region [Indonesia and Malaysia]. The destructive development policies and programmes of the governments, which place great emphasis on natural resource exploitation and acquisition of lands, have caused acute problems for the indigenous communities. Our human rights as indigenous peoples are continuously being suppressed, harassed, intimidated and violated ... Our peoples are being deprived, evicted, culturally assimilated, economically marginalised, and live in poverty and malnutrition as a result of development activities within our lands and territories.'

Looking to the future

On the one hand, Asia's indigenous peoples and environments are under increasing threat from globalization and trade liberalization; this coupled with heavy-handed government policies and laws puts their very survival as distinct peoples in jeopardy. On the other hand, indigenous peoples' mobilization, and a growing international acceptance of their rights are creating the context for radical reform. Paradoxically, in Asia, where governments have been the most reluctant to admit the international concept of 'indigenous peoples', reforms in forest policy towards a more socially sensitive approach, while still patchy, have gone further than in any other region.

However, if indigenous peoples' futures are to be secured, substantial further reform is needed. These reforms should be refined and developed in close consultation with the indigenous peoples and not imposed by those from above, however good their intentions.
Recommendations

1. Legislation

Forestry laws and policies need to be changed to give priority to indigenous peoples' interests and to promote community forest management.

Legislation should be revised to provide scope for the exercise of customary law under indigenous jurisdiction, subject to respect for international human rights principles.

Land tenure must be reformed to recognize the right of indigenous peoples to the collective ownership of their ancestral domains.

2. International development agencies and financial institutions

International financial institutions and development agencies need to ensure that their development assistance programmes do not undermine indigenous land security, but instead enable indigenous peoples to manage their lands and related natural resources on indigenous peoples' terms.

Development agencies need to adopt clear policies that recognize indigenous peoples' rights and ensure their active and informed participation in any development projects that will affect their territories.

Effective mechanisms (e.g. independent inspection panels) need to be instituted at national and international levels for the open and transparent evaluation of complaints and the redress of grievances about internationally funded development projects.

3. Indigenous knowledge, practices and innovations

Indigenous knowledge, practices and innovations that are conducive to the protection, creation and management of forests and plantations need to be officially acknowledged and utilized with the full and informed consent of the indigenous peoples. Similarly, the land and resource rights of indigenous peoples, as recognized under such international legal instruments as ILO Conventions Nos 107 and 169 and the Convention on Biological Diversity, need to be fully acknowledged by the Asian governments, ratified and adequately enforced.

Furthermore, the governments in Asia (and indeed internationally) should ensure the speedy adoption of the UN Draft Declaration of Indigenous and Tribal Peoples, in accordance with the aspirations of the indigenous and tribal peoples.

4. Land ownership

The current policies of total state ownership of the government forests should be combined with community ownership, including individual, collective and common ownership. Proposals to change land ownership patterns in favour of private companies and international or national funding agencies should be carefully assessed for the long-term needs of preserving the natural forests and the rights and needs of indigenous peoples and other forest communities.

In addition, indigenous peoples who have been displaced from their land should be compensated in line with Article 16 of the ILO Convention No. 169.

5. Commercial interests

A balance needs to be sought between the rights and needs of indigenous peoples and other forest-dependent communities, and the need for conservation of natural resources. The use of indigenous peoples' land and knowledge should only go ahead if indigenous peoples have given their free and informed consent to such exploitation. Furthermore, indigenous peoples should share the rewards and benefits of any such ventures.

6. Capacity-building and information dissemination

Innovative funding mechanisms must be developed in close consultation with indigenous peoples to provide direct support to indigenous organizations. Funds should be provided not just for community-managed development and conservation initiatives, but to build up the capacity of indigenous institutions, provide training, improve communications, promote regional experience-sharing and secure adequate indigenous participation in national, regional and international meetings.

In addition, constant monitoring of forestry policies and practices is essential so that incidences of violations and environmental damage can be assessed, monitored and acted upon, as appropriate.
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<td>10</td>
<td>Gray, A., 'The indigenous movement in Asia', in Barnes, op. cit.</td>
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<td>11</td>
<td>ILO Conventions 107 and 169 recognize the right of indigenous and tribal peoples to the control and ownership of their territories and lands, while the right of all peoples to self-determination is recognized in the International Covenants of Civil and Political Rights and of Economic, Social and Cultural Rights. These rights are most clearly set out in the UN Human Rights Commission's Draft Declaration on the Rights of Indigenous Peoples.</td>
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<td>12</td>
<td>By contrast, international law does not recognize that minorities enjoy such a wide range of rights, particularly not the right to self-determination.</td>
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<td>16</td>
<td>President Suharto to the UN Workshop on Human Rights, Jakarta, 26 January 1993; speeches by Indonesian and Malaysian Ministers of Foreign Affairs and Head of Chinese delegation to World Conference on Human Rights 14, 15, 18 June 1993.</td>
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<td>18</td>
<td>Source, Erni, <em>op. cit.</em>, p. 20. Statistics used in this Report may vary depending on the source and the definitions of 'indigenous peoples' used.</td>
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<td>24</td>
<td>FAO, <em>op. cit.</em>, p. 187; while the FAO's figures represent the only full set currently available, they are widely acknowledged to be unreliable and are based on a flawed methodology. See Angelsen, A. and Kaimowitz, D., <em>Economic Models of Tropical Deforestation: A Review</em>, Bogor, Centre for International Forestry Research, 1998.</td>
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<td>25</td>
<td>Officially, a gain in forestation has been made.</td>
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<td>28</td>
<td>WRI, <em>The Diversity and Dynamics of Shifting Cultivation: Myths, Realities and Policy Implications</em>, Washington, World Resources Institute, 1997; Colfer, <em>op. cit.</em></td>
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<td>30</td>
<td>Colfer, <em>op. cit.</em></td>
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<td>33</td>
<td>Longhouses are long buildings on stilts. They house many families who live in adjoining apartments, these open out to a long indoor verandah where community meetings and indoor activities take place. Longhouses are usually found along the banks of rivers and are an example of communal living.</td>
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<td>35</td>
<td>Observations by Lusiah Toboh and Patrick Segundad of an NGO, Partners of Community Organisations, Sabah (PACOS) which organizes rural indigenous communities in Sabah.</td>
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<td>38</td>
<td>Nicholas, <em>op. cit.</em>, p. 165.</td>
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NOTES

41 For testimonies of indigenous Penan on the changes logging has forced on them, see Manser, op. cit.
42 Clause 10 (3), Aboriginal People’s Act, 1954.
44 Phoa, op. cit., p. 201.
45 Manser, op. cit., p. 266.
51 Many examples can be found in Colchester, 1989, op. cit.; Manser, op. cit. and Nicholas, op. cit. The experiences of the Orang Asli are also documented in Pernoi Gah, a newsletter of the Center for Orang Asli Concerns (COAC), and see Makitaak, a newsletter of Partners of Community Organisations (PACOS) for information on Sabah.
53 Manser, op. cit.
54 Phoa, op. cit.
55 Translation by the author.
56 Figures from the Hilltribe and Minority Section of the Office of Government Coordination and Ministry of the Interior, 3 August 1998.
57 Ibid.
59 Verbal account by Rajendra Dahal of Rampur, an environmental journalist.
60 It is debatable whether the environment would have thrived had these measures not been introduced at this time.
62 Adapted from CDO, National Park and Misery of Fishing Community (A Primary Survey on the Livelihood of Musihar and Bote of Nawalparasi and their Relationship with Royal Chitwan National Park, Chitwan), Community Development Organization, 1996.
63 Census of India 1991. This is the official figure for the Scheduled Tribes. For further information, see Bhengra, R., et al, The Adicosis of India, London, MRG, 1999.
67 This has led to privatization and encouragement to Indian and foreign private investment. Land – much of it in tribal and indigenous areas – has been an integral part of this package.
69 There is a series of such laws, yet the Indian Forest Act of 1927 remains in force.
74 Fernandes and Menon, op. cit., p. 72.
81 ‘Hill tract’ was a term used by the British for rugged hill areas which had low elevation.
84 A peace accord was signed on 2 December 1997 between CHT representatives and the Bangladeshi government, ending 20 years of fighting.
85 Published by the government of Bangladesh in 1993.
87 Information supplied by villagers during field visits.
88 Information provided to Raja Devasish Roy during field visits.
89 Ibid.

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90 Information supplied by Taungya, an indigenous peoples NGO in the CHT.
91 Interview with Pidison Pradhan Suchian, a Khasi leader.
97 Hobley, op. cit.
98 Anderson, R.S. and Huber, W., The Hour of the Fox: Tropical Forests, the World Bank and Indigenous People in Central India, New Delhi, Sage, 1988; Hobley, op. cit.
103 Ibid.
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