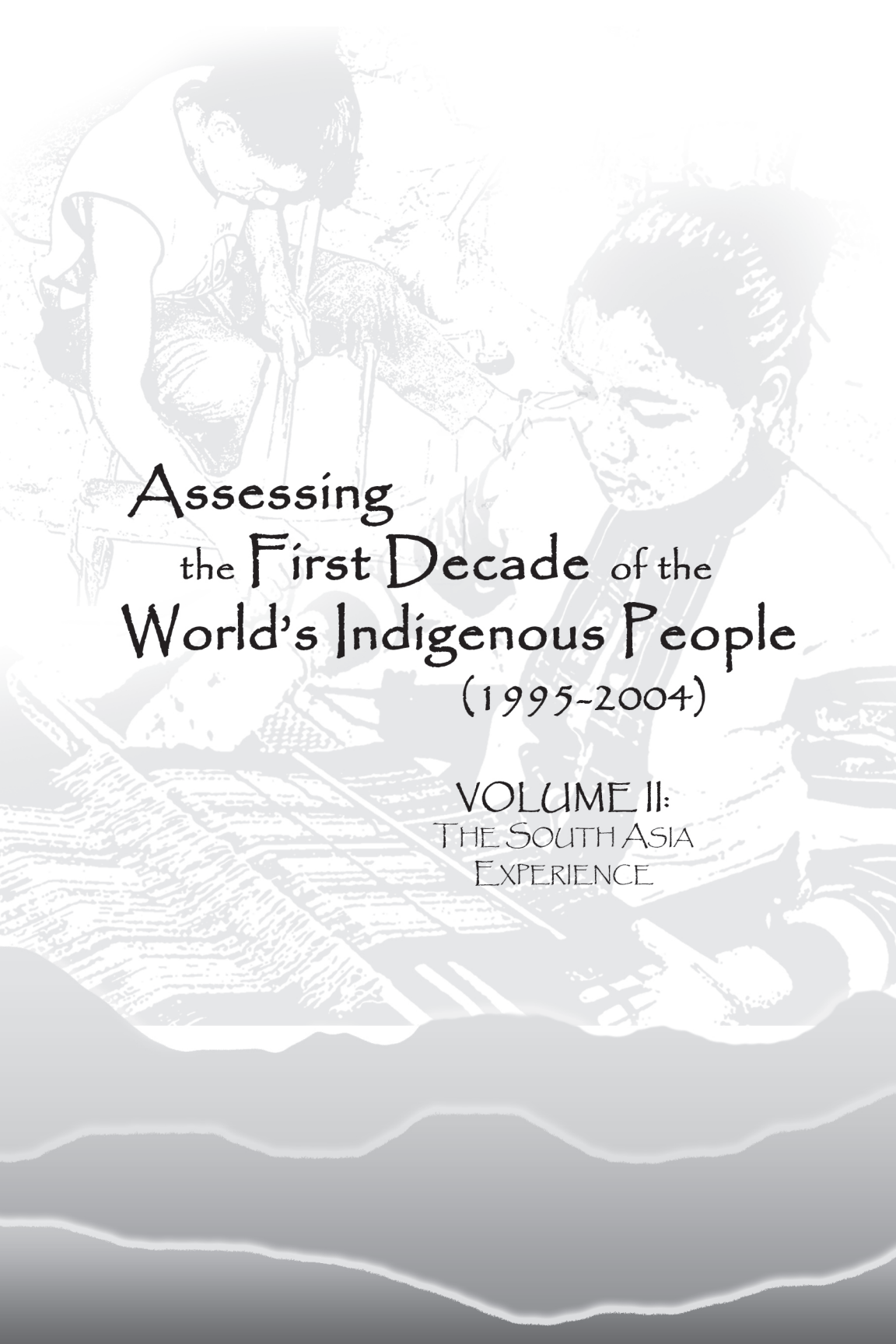
Assessing the First Decade of the World's Indigenous People (1995-2004)

VOLUME II: The South Asia Experience



Assessing the First Decade of the World's Indigenous People (1995-2004)

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Tebtebba Foundation

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Acronymns

ADB	Asian Development Bank
AIPP	Asian Indigenous Peoples Pact
AL&RR	Assam Land and Revenue Regulations
ANIJ	Association of Nepal Indigenous Journalists
ATMA	Agricultural Technology Management Agency
AusAID	Australian Government Overseas Aid Program
BALCO	Bharat Aluminium Limited Company
BDOs	Block Development Officers
BIDS	Bangladesh Institute of Development Studies
BIHPAA	Bangladesh Indigenous and Hill Peoples Association for Advancement
BMC	Biodiversity Management Committee
BNP	Bangladesh Nationalist Party
BPKIHS	B.P. Koirala Institute of Health and Sciences
CBD	Convention on Biological Diversity
CBS	Centre for Bhutan Studies
CBIK	Center for Biodiversity and Indigenous Knowledge
CCR	Co-ordination Committee for Rehabilitation
CHOLEN	CHT Children's Opportunities for Learning Enhanced
CHT	Chittagong Hill Tracts
CHTRC	CHT Regional Council
CIC	Central Information Commission
CNT	Chotanagpur Tenancy
CPC	Communist Party of China
CPN-Moaist	Communist Party of Nepal-Maoist
CPN-UML	Communist Party of Nepal-Unified Marxist-Leninist
CPRs	Communal Property Resources
CSP	Country Development Strategy Paper
DAC	District Autonomous Council
DAG	Disadvantaged Groups
DANIDA	Danish International Development Agency
DC	Deputy Commissioner
DCs	District Councils
DDA	Dzongkha Development Authority
DFID	Department for International Development
DFID/ESP	Department for International Development/Enabling State Program
DP	Displaced People
DPs	Displaced Persons
DYT	Dzongkhag Yargey Tshogchung

EFA	Expanded Food Assistance
EIA	Environmental Impact Assessments
EU	European Union
FDST	Forest Dwelling Scheduled Tribes
FGD	Focus Group Discussion
GATT	General Agreement on Tariffs and Trade
GS	Gram Sabhas
GSEA	Gender and Social Exclusion Assessment
GTZ	German Agency for Technical Cooperation
GYT	Gewog Yargey Tshogchung
HDI	Human Development Index
HDC	Hill District Council
HPC	Hill Peoples' Council
HSC	Hill Student Council
HSLC	High School Leaving Certificate
HTNF	Hill Tracts NGO Forum
HYV	High Yield Variety
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICIMOD	International Centre for Integrated Mountain Development
ICITP	International Confederation of Indigenous and Tribal People
ICT	Information and Communication Technology
IFAD	International Fund for Agricultural Development
ILCS	Institute of Language and Culture Studies
ILO	International Labor Organization
IMF	International Monetary Fund
IMR	Infant Mortality Rate
IPDP	Indigenous Peoples' Development Plans
IPs	Indigenous Peoples
IRDP	Integrated Rural Development Programme
ISDP	Integrated Sustainable Development Programme (ISDP)
ISI	Indian Social Institute
ITDP	Integrated Area Development Project
IUCN	International Union for Conservation of Nature
JAC	Jum Aesthetics Council
JEP	Janajati Empowerment Project
JFM	Joint Forest Management
JICA	Japan International Cooperation Agency

JOHAR	Jharkhandis Organization for Human Rights
JP	Jatiyo Party
LAHURNIP	Lawyers Association for the Human Rights of Nepalese Indigenous Peoples
LGED	Local Government Engineering Department
MAA	Mining Amendment Acts
MADA	Modified Area Development Approach
MDG	Millennium Development Goals
MEF	Ministry of Environment and Forests
MFPs	Minor Forest Produce
MLAs	Members of Legislative Assembly
MLR&LR	Manipur Land Revenue and Land Reforms Act 1960
MMR	Maternal Mortality Rate
MMRD	Mines and Minerals Regulation and Development
MNCs	Multinational Companies
MoEF	Ministry of Environment and Forests
MPFLR	Movement for the Protection of Forest and Land Rights
MPs	Members of Parliament
MRG	Minority Rights Group
MRTP Act	Monopolies and Restrictive Trade Practices Act
MVA	Manipur Village Authorities
NAC	National Advisory Council
NACC	National Coordination Committee
NAP	National Agriculture Policy
NAV&AC	Nagaland Village and Area Council
NBA	Narmada Bachao Andolan
NBA	National Biodiversity Authority
NC	North Cachar
NCDN	National Committee for Development of Nationalities
NCMP	National Common Minimum Programme
NCWA	National Commission on Women and Children
NEC	North Eastern Council
NEDFi	Northeast Development Financial Corporation, Ltd
NEFEN	Nepal Federation of Nationalities
NEFIN	Nepal Federation of Indigenous Nationalities
NFDIN	National Foundation for Development of Indigenous Nationalities
NFWP	National Food for Work Programme
NGOs	Non-Governmental Organizations
NHRAP	National Human Rights Action Plan
NHRC	National Human Rights Commission
NMP	National Mineral Policy
NPC	National People's Congress

NPMHR	Naga Peoples' Movement for Human Rights
NPRR	National Policy on Resettlement and Rehabilitation
NREGA	National Rural Employment Guarantee Act
NREGS	National Rural Employment Guarantee Scheme
NSB	National Statistical Bureau
NTFP	Non-Timber Forest Products
NWDPRA	National Watershed Development Programme for Rain-Fed Areas
PAAs	Project-Affected Areas
PAF	Poverty Alleviation Fund
PAPs	Project-Affected Persons
PBRs	People's Biodiversity Registers
PCJSS	Parbatta Chattagram Jana Samhati Samiti
PCP	Pahari Chatra Parishad
PESA	Panchayat Extension to Scheduled Areas
PILs	Public Interest Litigations
PKSF	Palli Karma Sahayak Foundation
PMU	Project Management Unit
PPCC	People's Political Consultative Congress
PRIs	Panchayati Raj Institutions
PRSP	Poverty Reduction Strategy Paper
PTGs	Primitive Tribal Groups
RAPA	Royal Academic of Performing Arts
RADO	Rehabilitation and Area Development Organization
R&R	Resettlement and Rehabilitation
SAD	Special Affairs Division
SANE	Society for Andaman and Nicobar Ecology
SAPI	South Asian Peoples Initiative
SBB	State Biodiversity Board
SC	Scheduled Castes
SC	Supreme Court
SEAC	State Ethnic Affairs Commission
SEHD	Society for Environment and Human Development
SEPA	State Environmental Protection Agency
SEZ	Special Economic Zone
SICs	State Information Commissions
SMCs	School Management Committees
SPT	Santal Pargana Tenancy
SSP	Sardar Sarovar Project
STD	Sexually Transmitted Diseases
STDCCs	State Tribal Development Cooperative Corporation
STs	Scheduled Tribes

TLR&LR	Tripura Land Revenue and Land Reforms
TRIFED	Tribal Cooperative Marketing Development Federation of India Ltd.
TRIPS	Trade Related Intellectual Property Rights
TSP	Tribal Sub-Plan
UN	United Nations
UNDP	UN Development Programme
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNO	United Nations Organizations
UPA	United Progressive Alliance
UNPFII	UN Permanent Forum on Indigenous Issues
UPDF	United Peoples' Democratic Front
USAID	United States Agency for International Development
VDP	Village Defense Party
WB	World Bank
WFP	World Food Program
WPR	Work Participation Rate
WTO	World Trade Organization
YDF	Youth Development Fund
YMCA	Young Men's Christian Association
ZORO	Zo Reunification Organization

Overview

Victoria Tauli-Corpuz and Mauricio B. Malanes

A Common Misfortune

Indigenous peoples in Asia, as elsewhere in the world, share a common misfortune. This is their long history of having been pushed to the edges or peripheries of society. Non-government organizations and development agencies have a common jargon for this—marginalization.

This marginalization is not only geographical, as in having been driven to the fastnesses of the forests or into the tough terrains of mountainous regions so the dominant majority could occupy the choice plains and valleys. The marginalization is also political, as in not being fairly represented, if not totally unrepresented at all in a country's political structure.

Similarly, the marginalization is socio-cultural and psychological in which the ways of life, traditional knowledge and cultural

heritage of indigenous peoples have been and continue to be relegated to the background. One reason is that indigenous culture and traditional knowledge have been considered by the dominant culture as unscientific and backward, if not dismissed as superstition. The result is psychologically damaging to the self-esteem of indigenous peoples, as this fans further their inferiority complex. Ultimately, this makes indigenous peoples less assertive of their rights, a situation that marginalizes them further.

Although common, marginalization is experienced by various indigenous peoples in different degrees. Some are more marginalized than others. While marginalization is by and large borne out of a history of colonization, in many cases the dominant populations in countries which declared independence or kicked out the colonizers are the ones who are equally marginalizing the minority or the indigenous peoples. The Yunnan-based Center for Biodiversity and Indigenous Knowledge reports about the marginalization of the "ethnic minorities" of Southwest China, which can be traced to the dominant Han culture and civilization, which has been seeking to assimilate other minority cultures.

Thailand has never been colonized. But Sakda Saenmi of the Inter-Mountain Peoples' Education and Culture in Thailand Association (IMPECT) quotes activist Chupinit Kesmanee, who laments that many indigenous and tribal peoples in Thailand have no citizenship and titles to their land. Worse, Kesmanee claims indigenous peoples are being displaced as their mountain home settlements are being declared by government as natural parks and forest reserves.

But an interesting case is Bhutan, the country which first propounded the idea of gauging progress not through Gross National Product, but through what it called Gross National Happiness. Francoise Pommaret and Dawa Lhamo of the Institute of Language and Culture Studies of the Royal University of Bhutan note how the Bhutanese have had no economic story of land grabbing or spoliation of one social group by another. Since the King had abolished serfdom in the mid-1950s, lands from large estate owners were redistributed to the serfs. It has to be noted, however, that there are around 105,000 Nepali-speaking Bhutanese who have lived in Southern Bhutan were sent to detention centers and sought asylum in Nepal, India and other countries in the early

1990s. Those who were sent to Nepal are still refugees for almost 15 years. Many of these are descendants of Nepali who were brought by contractors to Bhutan in the late 19th century. Most of them had their lands expropriated by the government. Up to now, their demand to be returned to their homeland, Bhutan has been refused by the Bhutanese government.

In Bhutan, what are called "small socio-cultural groups" also suffer some levels of marginalization. But Pommaret and Lhamo attribute this to geographic factors. Those considered poor, for example, are basically those in the rural areas, who solely depend on agriculture. And this cuts across various ethnic lines, not just the "small socio-cultural groups." In fact, small socio-cultural groups such as the Layaps and the Lunanaps are not poor. They are considered among the wealthiest because of a flourishing trade of goods from China across high valleys. They also have plenty of yak products, which they sell in the lower valleys of Bhutan.

Still, other small socio-cultural groups form part of what are described as "disadvantaged and vulnerable groups" in Bhutan's Vision 2020 document. These disadvantaged and vulnerable groups are those that have less or difficult access to drinking water, energy, schooling, health facilities, communication, sanitation and other services. But again, such disadvantage and vulnerability are not the monopoly of the small socio-cultural groups.

In other Asian countries, colonization greatly helped marginalize indigenous peoples, alienating them not only from their lands but from their culture, which had long bound them together as communities or peoples. Reporting about the indigenous peoples in North-East India, Walter Fernandes, Gita Bharali and Vemedo Kezo of the North Eastern Social Research Center point how the British deliberately used immigration to uproot indigenous peoples from their communities, thus becoming impoverished in the process. They cite how the British displaced the Adivasi from Jharkland and its neighboring regions and brought them to Asam to work in tea plantations.

The non-recognition of the rights of indigenous peoples of the Chittagong Hill Tracts in Bangladesh can be traced to the partition of India in which the British violated the Independence Act of 1947 and included the Hill Tracts within Muslim-dominated Paki-

stan. The Hill Tracts then had 97.5 percent non-Muslim population. With the annexation, however, Bengali Muslims were deliberately transferred into the Hill Tracts, making the original indigenous peoples the minority in their own land, report Raja Devasish Roy, Sanjeeb Drong and Mangal Kumar Chakma.

Bangladesh became independent in 1971 after nine months of war against Pakistan. But the people of the Hill Tracts have a long way to go in their search for an autonomous region with its own legislature, which, they hope, will finally correct decades of injustice and discrimination.

In Nepal, a long history of imposing upon diverse indigenous peoples one language (Khas-Nepali), one religion (Hindu) and one culture (Hindu) proved problematic. Sanjaya Serchan and Om Gurung of the Nepal Federation of Indigenous Nationalities or NEFIN point that the attempt of "high" caste groups to create an "asali Hindustan" or the true and pure land of the Hindus had courted resistance and conflict. The homogenization and assimilation efforts of the ruling high castes had destroyed the rich multi-ethnic, multi-cultural, multilingual and multi-religious reality of the country. But the subjugated peoples, including indigenous peoples, had resisted these homogenization efforts, which were done in the name of nation-building.

In Cambodia as early as the 13th century, many tribal peoples from the uplands became the slaves of the lowland Khmer, report Moul Phath and Seng Narong, quoting a Chinese emissary. Men were captured to do manual labor, while the women were sought for sex and to do domestic work. The practice of keeping slaves persisted until the period of the French protectorate. When the French ruled, most highlanders in Ratanakiri Province were employed in the rubber plantations and in construction projects. The authors note how the French organized these enterprises through village chiefs to minimize contact between colonial authorities and the natives.

In his report, "Vietnam: Bringing Ethnic Minorities into Mainstream Development," Luong Thu Oanh did not include how colonialism affected the lives of ethnic minorities in Vietnam. But a millennium of Chinese rule in Vietnam, the succeeding colonial rule by the French, and the interference by the Americans in supporting North Vietnam against a Ho Chi Minh-led South Vietnam

for fear of the spread of communism in the 1960s until the early 1970s had undoubtedly affected the lives of the various indigenous peoples or what are called ethnic minorities in that country.

Indonesia and the Philippines had their own share of Western colonization, which greatly marginalized and demeaned indigenous peoples. In their report, "Indonesia: Recognizing Masyarakat Adat," Albertus Pramono and Bernardinus Steni reiterate how Europeans during colonial times had considered indigenous peoples as "uncivilized," "barbaric," "primitive," even non-human.

In the Philippines, indigenous peoples were able to maintain much of their ways of life, despite more than 300 years of Spanish colonization. They were not as Hispanized as the Filipino majority in the lowlands, thus enabling them to maintain their distinct cultural heritage.

In her report about how the Philippines implemented the International Decade of the World's Indigenous People, Aida Priscilla T. Cadiogan traces how government gave different labels to indigenous peoples at different periods in the country's history. She notes how the current problem of indigenous peoples in relation to their land and resources could be traced to the Regalian Doctrine, which the Spaniards imposed during their more than 300 years of colonial rule. Under the Doctrine, all lands of conquest, which could extend to as far as the eyes of the Spaniards could see, belonged to the Spanish crown.

When the Americans took over as the new colonizers of the Philippines in 1898, they sought to assimilate them into mainstream society, both through hard (using the military) and soft (using education and Christianization) methods what they referred to as "non-Christian tribes." The "non-Christian tribes," also referred in other chronicles as "pagans," were later called "national minorities," "tribal Filipinos" and "cultural communities." They are currently called "indigenous cultural communities/indigenous peoples," a label used by what was considered a landmark legislation—the Indigenous Peoples Rights Act or IPRA of 1997.

As she reports how indigenous peoples were treated at various periods, Cadiogan also notes how indigenous peoples were able to regain some of their rights in recent years through their own struggles.

So whatever they were called in various stages of their countries' history, indigenous peoples were generally considered inferior, or worse, "barbaric" and "uncivilized." Such perception by Western colonizers, which is usually shared by the dominant ethnic groups within a country, was the premise of Manifest Destiny, the justification used by Theodore Roosevelt to colonize the Philippines. It is the Destiny of the USA to "civilize" or assimilate other people perceived as "uncivilized." This was also the basis for colonizers or dominant ethnic groups with who believe that their civilizations are more advanced and their role is to annex or invade the territories of their colonial subjects. They felt compelled that they have to assimilate the barbarians into their civilization which is more advanced or modern. The processes of "civilizing," annexation and assimilation, all the more marginalized indigenous peoples, who became alienated not only from their own culture (or their own civilization) but from their ancestral or aboriginal territories.

Reversing history of injustice

The international community led by the United Nations in recent decades finally recognized how decades, if not centuries, of marginalization and the lack of rights of indigenous peoples have contributed to their persistent poverty. Such recognition could be attributed to the efforts of indigenous peoples' leaders and representatives, who have brought their issues into the international arena since the 1950s and 1960s. Their sustained efforts to open up spaces in the United Nations so they can raise their complaints and get this body to formulate international standards which will respect their collective rights has increased through the years. This has resulted into several gains which include the following: a) the declaration of an International Decade of the World's Indigenous People; b) the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP); c) the establishment of a UN procedure called the UN Special Rapporteur on Human Rights and Fundamental Freedoms of Indigenous People; and d) the establishment of the UN Permanent Forum on Indigenous Issues. All these are meant to help reverse a long history of injustice and

discrimination of the world's more than 370 million indigenous peoples,

The UN declared the period covering 1995 up to 2004 as the International Decade of the World's Indigenous People. Its mandate was to "strengthen international cooperation" in solving problems, which indigenous peoples face in such areas as human rights, the environment, development education and health. The Decade's theme was "Indigenous People: Partnership in Action."

Within the Decade, the UN had sought two main objectives. One was the adoption of the Draft Declaration on the Rights of Indigenous Peoples. The other objective was to establish within the UN a permanent forum on indigenous peoples.

Broadly, the UN within the Decade also aimed to further develop international standards and national legislation, which protect and promote the human rights of indigenous peoples. It also sought to further implement recommendations concerning indigenous peoples at all high-level conferences.

To meet these objectives, the UN General Assembly in 1995 adopted a "Program of Activities" for the Decade with three specific objectives. One was for specialized agencies of the UN system and other intergovernmental and national agencies to develop activities that benefit indigenous peoples. These activities must also educate both indigenous and non-indigenous societies about the cultures, languages, rights and aspirations of indigenous peoples. And these activities must promote and protect the rights of indigenous peoples.

Walking the Talk

The declared Decade has come and gone. So it was time to assess how far the UN, other international agencies, and governments had walked the talk as far as implementing the goals and objectives set for the Decade that begun in 1995.

The Nepal-based International Center for Integrated Mountain Development (ICIMOD), the Philippine-based Tebtebba or the Indigenous Peoples' International Center for Policy Research

and Education, and the International Fund for Agricultural Development (IFAD) in 2005 thus agreed to assess the impact of the Decade.

They sought to determine how the Decade improved the status of indigenous peoples in the world, particularly in the 10 chosen Asian countries. They were equally interested in finding out tangible, positive changes, which the Decade contributed in influencing nation states to address the issues and needs of indigenous peoples. Since there were impacts at the global level as well, it was deemed important to include this. There was no specific research done on this, but the main author of this overview paper will include some of these global gains.

Each of the three organizations, which assessed the Decade, expects the assessment to help enable them to become more effective and efficient in addressing indigenous issues and concerns. The assessment can help how the three organizations can collaborate and reinforce each other in effectively carrying out their mandates.

Both ICIMOD and IFAD are mandated to address rural poverty via environmentally sustainable approaches. The assessment is important because the two organizations' geographical areas of work are home to large numbers of indigenous peoples. ICIMOD alone covers the Hindu Kush-Himalayan region, which has approximately 100 million indigenous peoples.

For Tebtebba, the assessment can help the Philippine-based international organization in understanding other indigenous peoples' perspectives, issues and concerns. From this understanding, it can embark on relevant and appropriate policy advocacy and campaigns that matter most for indigenous peoples.

For its part, IFAD strategically stresses the need to make the poor more resilient. Its focus on indigenous peoples is also aimed at helping achieve the Millennium Development Goals. One-third of IFAD's investment projects are in regions with large numbers of indigenous peoples. One-fifth of IFAD's total investment in Asia has been aimed to benefit indigenous peoples.

Table 1. Populations of indigenous peoples in the countries assessed

Country	Indigenous Peoples' Population (approx.)	Number of Main Indigenous Communities
Bangladesh	1.2 million (50 percent in CHT)	45
Bhutan	672,425 (100 percent of population)	-
Cambodia	140,397 (1.6 percent of population)	17
China	106.4 million (48.7 million in South West China)	55
India	84.3 million	647
Indonesia	30-80 million	N/A
Nepal	8.74 million	59
Philippines	12-15 million	110
Thailand	1 million	9
Vietnam	14 million	54

Source: Assessment Synthesis Report on the First International Decade of the World's Indigenous People in Asia, 1995-2004. Kathmandu: International Center for Integrated Mountain Development, 2007.

Evaluating Changes

The assessment of the Decade has two aims. It sought to document and evaluate changes at the level of the United Nations and to analyze how far these have translated into policy and programmatic changes at national levels. But the assessment mainly aimed to analyze the successes and failures of the Decade at the national level in individual countries.

The assessment was divided into broad but inter-linked parts (ICIMOD: Assessment Synthesis Report, 2007):

- Policy analysis – analysis of local, national, regional, and international policies and frameworks;

- Program analysis – documentation of successes, failures, and lessons from projects;
- Situational analysis – to capture the broader contextual environment including the role and influence of civil society, the judiciary, research institution, media, and public discourse.

Specifically, the assessment sought three outcomes, thus:

- to assess the extent to which the Decade advanced the cause and rights of indigenous peoples through an analysis of the successes, failures, and lessons learned from the Decade; to identify outstanding issues; and to evolve innovative approaches, strategies, and options for the future;
- to initiate a collaborative dialogue and consultation process with a diversity of stakeholders, to strengthen institutional capacities, and to share lessons and disseminate the findings in order to advance the rights of indigenous peoples; and,
- to identify and facilitate policy and program development and advocacy strategies that support the rights of indigenous peoples.

A Collaborative Effort

ICIMOD, Tebtebba and IFAD embarked on the assessment by collaborating with partners in 10 countries in South Asia and Southeast Asia. Many of these partners were indigenous organizations and several indigenous persons were hired and provided guidance to do the research, themselves. Some were involved in research on indigenous issues and in lobbying for their rights at local, national, and international levels. In places where there are no indigenous organizations or persons to take on the task, non-indigenous support organizations or consultants were taken in to do the work.

The partner organizations in this project were the following:

South Asia:

- Bangladesh – Bangladesh Adivasi Forum
- Bhutan – Institute for Language and Culture Studies
- China – Center for Biodiversity and Indigenous Knowledge
- India – Indian Social Institute and North-eastern Social Research Center
- Nepal – Nepal Federation of Indigenous Nationalities

Southeast Asia:

- Cambodia – Moul Phath (Independent Consultant)
- Indonesia – Albertus Hadi Pramono (Independent Consultant working closely with AMAN [Aliansi Masyarakat Adat Nusantara)
- Philippines – Tebtebba
- Thailand – Inter Mountain Peoples Education and Culture in Thailand Association (IMPECT)
- Viet Nam – Center for Sustainable Development in Mountain Areas (CSDM)

The partner organizations combined primary and secondary research in collecting data and information for the assessment. For their primary research, these organizations consulted indigenous peoples, researchers, universities, nongovernment organizations and donor agencies. They also consulted some government representatives through workshops and individual interviews and discussions. In South East Asia there were consultation workshops organized by the partner organization and Tebtebba, where government representatives, indigenous peoples and other NGO representatives were able to participate. These were done in Viet Nam, the Philippines, Thailand, Cambodia and Indonesia. These workshops were held to share and validate the findings of the research results with the participants and to also raise their awareness on the issues of indigenous peoples. In South Asia there were no consultations held with the governments at the national level although there were some local consultations.

Through these consultations, researchers were able to generate feedback, comments, and suggestions from key people from various government institutions and organizations, including indigenous peoples' organizations. After the drafts of the studies came out and the consultation were done a culminating event was held. This was a regional conference held in November 2006 in Kathmandu, Nepal. In the conference researchers presented their findings of the assessment and deliberated and put forward recommendations. ICIMOD in 2007 published a synthesis report, capturing some features of the country reports. But Tebtebba offered to publish the ten country reports, including the two budget analyses done in the Philippines and India.

For their secondary research, the researchers reviewed various documents and reports from the UN, other international agencies, governments (particularly laws and policies), nongovernment organizations, the media, and from academic literature.

Coverage of Assessment and Country Reports

The assessment done in South Asia and China focused on specific regions with large numbers of indigenous peoples, although in terms of the policy reviews these were done at the national level. Thus, for India, assigned researchers did a separate report for Northeast India. For Bangladesh, researchers focused largely on the Chittagong Hill Tracts. For China, the focus was the four provinces of Southwest China. Otherwise, the researchers would have been overwhelmed by the wide coverage of the assessment, considering the vast territory of India and China, for example.

Each of the country reports followed a common methodology and areas of focus based on the objectives of the assessment. But each report represents diverse styles and levels of critique of policies and programs. The depth and breadth of the critique and analysis for each country obviously depended on how sufficient the data and information, which the researchers were able to gather.

Other researchers were lucky to have more data than others. So researchers in other countries were able to write case studies other than the main country reports. In the Philippines, for example, researchers were able to write two case studies besides the main country report. Researchers Aida Priscilla T. Cadiogan and Clint Bangaan of Tebtebba were able to write a case study noting how government and private corporate policies had affected the lives of indigenous peoples in Bakun town in northern Philippines through the implementation of mini-hydroelectric projects.

Bernabe Almirol, another Tebtebba researcher, also did a case study analyzing how the budgetary allocations of the provincial government of Nueva Vizcaya in northern Philippines affected the delivery of basic social and infrastructure services in indigenous communities.

India, the most populous country in South Asia, also has three reports. Besides the assessment report covering North-East India, Joseph Marianus Kujur and T.A. John of the New Delhi-based Indian Social Institute (ISI) did another assessment report. Their report covers the situation of what are called "Scheduled Tribes," including constitutional provisions concerning them, socio-economic indicators, and analysis of relevant policies.

Ritu Dewan of the University of Mumbai's economics department also submitted "India and Assam: Budget Analysis through Tribal Perspective." The report tracked the share of tribals from budget outlays from Central Plans done since 2000 up to parts of 2007.

Indonesia also has two reports. Aside from "Indonesia: Recognizing Masyarakat Adat" authored by Albertus Hadi Pramono and Bernardinus Steni, is another report, which Rukka Sombolinggi, an Indonesian, and Leah Enkiwe-Abayao, a volunteer research consultant of Tebtebba and assistant professor of History at the University of the Philippines Baguio, co-authored. Their report zeroed in on the impacts of development programs on indigenous peoples in East Kalimantan.

Although guided by a common framework and the objectives of assessing the Decade, the authors were free to develop their own writing styles. But as ICIMOD noted in its 2007 synthesis

report, the individual ideological or political perspectives of the individual researchers and the socio-political context of each of the country they researched all helped influence the outcome of their reports.

These reports are incorporated in this publication which is divided into two volumes: Volume I - The South East Asia Experience and Volume II - The South Asia Experience.

Visible Impacts at the International Level

The impacts of the Decade were highly visible at the international level. Within the Decade, for example, a United Nations Permanent Forum on Indigenous Issues was established in 2000. This section will focus on the gains achieved at the global level.

UN Permanent Forum on Indigenous Issues. In 1992, just before the Draft Declaration was adopted by the Sub-Commission, a meeting of indigenous leaders from all over the world was held in Guatemala to discuss the strategy for the work at the global level. This was the meeting which planned how to get the UN to declare the Decade for Indigenous Peoples and to establish a permanent forum on indigenous peoples in the UN. While the leaders agreed that the main priority is to get the UN to adopt the UN Declaration on the Rights of Indigenous Peoples, they also agreed that more spaces should be opened up within the UN to address indigenous peoples concerns. Thus, part of the work within the UN during the Decade was to get the Permanent Forum established.

The main author of this Overview Chapter was in this meeting and was centrally involved in bringing into existence the Forum. Subsequently, she became a member of the Forum and chaired the Forum from 2005-2009. The Forum was established in 2000 through a UN Economic and Social Council Resolution 2000/22, after sustained lobbying within the UN for many years. It is now the highest body within the UN which addresses indigenous peoples' issues. It holds a two-week session each year and the first

session was in 2002. There are 16 members, eight of whom are chosen by indigenous peoples' organizations from seven regions (Asia; Africa; Arctic; Central and South America and Caribbean; North America; Pacific; Central and Eastern Europe, Russian Federation, Central Asia and Transcaucasia) and eight were chosen by governments from the five UN Regions (Asia, Africa, Latin America, Western Europe and other States, Eastern Europe).

Draft UN Declaration on the Rights of Indigenous Peoples. Indigenous peoples, lamented that the Draft Declaration on the Rights of Indigenous Peoples was not adopted during the Decade. After the UN Working Group on Indigenous Populations (UN-WGIP) finished the draft of the Declaration in l993 this was submitted to the Sub-Commission for the Prevention of Discrimination and Protection of Minorities. The Sub-Commission adopted this draft and sent it to the Commission of Human Rights for elaboration and adoption. It took the Commission Working Group on the Draft Declaration more than ten years before it finally adopted this and sent it to the General Assembly. Thus, it was only adopted by the General Assembly in 2007, way beyond the time frame under assessment. The UN Human Rights Council adopted the Draft in 2006. Since it was one of the first decisions of the Council (which was the successor of the Commission on Human Rights) there was a great expectation that this will be easily adopted by the General Assembly. Unfortunately, this was not meant to be.

But from an optimistic view, indigenous peoples have noted how the Draft Declaration has been adopted as a framework by many international organizations in addressing indigenous peoples' issues. UN Treaty Bodies, like the Committee on the Elimination of Racial Discrimination (CERD), the Committee on the Rights of the Child and the UN Human Rights Committee and other regional multilateral bodies like Inter-American Court on Human Rights invoked the Draft in some of the decisions they made. Several UN agencies, bodies and programmes cited the Draft as a framework for their policies on indigenous peoples. For example the UNDP (United Nations Development Programme) invoked this when it developed and adopted its Policy of Engagement with Indigenous Peoples. The UNDP cited that this is one of their re-

sponses to the call of the International Decade of the World's Indigenous People to UN bodies and agencies to increase their level of work on indigenous peoples. The World Bank used the draft as a basis for their revision of their original policy on indigenous peoples. Three years after the end of the First Decade, in 2007, the UN Declaration on the Rights of Indigenous Peoples was adopted.

UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedom of Indigenous People. Indigenous peoples also hailed the creation of the post of this UN Special Rapporteur in 2001. The first Special Rapporteur was Prof. Rodolfo Stavenhagen. He visited at least one of the 10 countries covered by this assessment—the Philippines. Cadiogan reports how Prof. Stavenhagen, after a 10-day visit in December 2002, came up with "a moving report that reflected the human rights situation of indigenous peoples in the country." His visit to the Philippines was his second visit since he was appointed in his post. It is not easy to get a Special Rapporteur to conduct an official visit to a country because he has to be officially invited by the government of that country. This visit to the Philippines happened because Tebtebba offered to facilitate the process of getting the Philippine government to invite him and to work out his schedules which the government, eventually, had to agree to.

Stavenhagen strongly recommended to various actors—including the National Commission on Indigenous Peoples (NCIP), the Commission on Human Rights, the Philippine judiciary and the executive branch, the academe, UN agencies and NGOS—to enhance their work to promote and protect the human rights of indigenous peoples in the country. He made specific recommendations addressed to the NCIP such as the need to review and reform the processes used to obtain free, prior and informed consent from the indigenous peoples. This was a common complaint of the indigenous peoples he met in the regions as well as in the national consultation held between him and indigenous representatives.

When the results of his visit were presented at a debriefing session with government agencies in Manila, the Chair of the NCIP

stated that she concurred with all his findings and recommendations. Unfortunately, the Philippine government's responses to his recommendations were still very inadequate. an affirmation that the government was still generally "insensitive" to the problems that indigenous peoples face, writes Cadiogan. One significant gain in this whole endeavor is that there is an official UN report on the situation of indigenous peoples in the Philippines which has become a main reference for UN bodies and agencies and also for other stakeholders.

UN Voluntary Fund for the International Decade of the World's Indigenous People. Due to the lobby of indigenous peoples the UN in 1995 set up a Voluntary Fund for Indigenous for the International Decade of the World's Indigenous People. The Fund has since been accepting and administering voluntary contributions from governments, inter-government and nongovernment organizations, and other private institutions and individuals to fund projects during the Decade. The Fund also supports the activities of the Coordinator of the Decade. Administered by the Secretary General and the Coordinator of the Decade, the Fund provides small amounts of money for indigenous peoples' organizations to implement human rights projects and promote human rights awareness at the community level. The members of the Board of Trustees of this fund are indigenous peoples. The main author of this Overview Chapter is a member of the Board of Trustees. It ceased to exist after the Decade was over.

The Secretary General reported in June 2004 that the Fund supported 176 projects proposed, evaluated and implemented by indigenous organizations in several countries, including Bangladesh, India, Nepal and the Philippines. Ranging from US$5,000 to $10,000, grants from the Fund had supported human rights training sessions, publications on human rights, and activities aimed at strengthening indigenous peoples' organizations.

The impact of the Fund is actually part of the assessment of the Decade. Most countries have pointed that despite the Fund, awareness of the Decade and its goals was very limited.

Indigenous Fellowship Program. In 1997, the United Nations Office of the High Commissioner for Human Rights (OHCHR) established the Indigenous Fellowship Program. This seeks to give young indigenous women and men the opportunity to gain knowledge in international human rights in general, and about indigenous rights in particular. Ultimately, the program seeks to enable indigenous women and men to help protect and promote the human rights of their people. The program has so far accepted more than 75 indigenous fellows from 37 countries. Most of them are actively promoting the rights of their peoples in their countries and in the UN system.

After further evaluating the impact of the fellowship program, the OHCHR found that most fellows had the conviction and the capacity to promote human rights awareness to their people. But they were constrained by several factors, one of which was lack of funds to support them or their organizations when they go back to their home countries. Thus, several of these fellows are not working directly for indigenous organizations or movements in their home countries. There are several, though, who ended up working with UN bodies, indigenous peoples' organizations and networks. The Voluntary Fund gives some priority to projects or organizations of former fellows but because the grants are small, these are not sustainable.

Inter-Agency Support Group on Indigenous Issues. Set up in January 2002, this Support Group is now composed of more than 30 representatives of various UN agencies, programmes and funds. It was established mainly to support the work of the UN Permanent Forum on Indigenous Issues. This is a very important inter-agency coordination and complementation mechanism. The members share with each other the work that they do on indigenous peoples and they discuss how they can complement each other and coordinate so that the benefits can be maximized by indigenous peoples. Before the establishment of the Permanent Forum, there is no such mechanism existing. Since the Forum brings together these various bodies during its two-week sessions it made sense that they self-organize so that their work related to indigenous peoples can be enhanced. The members now are not just limited to UN bodies. There are other multilateral bodies like the European Commission, the Asian Development Bank, the In-

ter-American Development Bank, the European Commission, the International Organization of Migration, among others who are also members. In some regions and countries inter-agency coordination for indigenous peoples' issues have been established also.

International Day of the World's Indigenous Peoples. The UN General Assembly Resolution 49/214 which established the International Decade also declared 9 August as the International Day of the World's Indigenous People, marking the first meeting in 1982 of the Working Group on Indigenous Populations. The current assessment found that the 9 August celebration has significantly helped people become aware about the Decade, at least in the various places where it has been observed. The celebration of this day has intensified after the Second Decade of the World's Indigenous People was established between 2005-2014. The existence of the UN Permanent Forum and the Inter-Agency Support Group on Indigenous Issues has helped raised the profile of this day in the UN system and internationally. In several countries inter-agency bodies organize joint activities to celebrate the day.

Studies on Indigenous Peoples. During the Decade, experts of the Sub-Commission on the Promotion and Protection of Human Rights undertook several studies on indigenous peoples. Among these experts were Erica-Irene Daes and Miguel Alfonso Martinez. Daes in 2001 who did studies on "indigenous people and their relationship to land" and "indigenous peoples' permanent sovereignty over natural resources." Earlier in 1994, she prepared "draft principles and guidelines on the heritage of indigenous people," which was based on a study on the subject she submitted to the Sub-Commission in 1993.

After a 10-year study, Martinez in 1999 finally released the final report of his study "Treaties, Agreements and Constructive Agreements Between States and Indigenous Populations." This was a landmark study for indigenous peoples in North America, many of which have forged treaties between themselves and their colonizers. Critics, however, said the report's findings failed to acknowledge that there are indigenous peoples in Asia or Africa. Indigenous peoples from these regions challenged Miguel Alfonso Martinez several times on this conclusion. He agreed that there

are indigenous peoples in the Philippines but he still did not concede for the other countries. For this reason the study did not gain much support from the indigenous peoples in Asia, Africa and the Arctic.

OHCHR Evaluation. The Office of the High Commission for Human Rights in 2004 surveyed various governments and organizations to evaluate their perception about the impact of the Decade and 50 responded.

The survey showed 36 percent noted positive changes during the Decade, citing better access to development projects, improved information on indigenous rights, strengthened local indigenous organizations, and increased indigenous participation in local governance. But 44 percent felt there the Decade had no positive effect at all at the community level. A small percentage said the situation of indigenous communities had worsened.

On whether there had been any improvements at the national level, 52 percent noted positive changes, referring to the recognition of indigenous identity and other indigenous rights, better indigenous representation in political institutions, the multiplication or strengthening of indigenous organizations, and the creation of national indigenous institutions. But 44 percent felt much needed to be done yet, saying few or no changes had occurred at the national level and that indigenous peoples should be more involved in political decisions. Some noted a regression in national policies.

At the international front, 68 percent showed that the Decade had brought positive changes such as better access to diverse international activities, and the exchange of experience and contacts with other indigenous organizations and representatives. Fourteen percent also said they did not know of the Voluntary Fund for the Decade and some complained that there was unequal access to international meetings.

No Cause to Celebrate Yet

Many positive developments happened at the UN system during the Decade. But the Secretary General on the Preliminary Review of the Decade acknowledged that indigenous peoples in many countries continue to be among the poorest and most marginalized. Human welfare and poverty indicators confirmed this. "Although the political will of individual states is essential for the recognition of the rights and identity of indigenous peoples, many have contended that the UN system itself did not go far enough in implementing the objectives of the Decade," ICIMOD noted in its 2007 Assessment Synthesis Report of the Decade.

The UN system was unable to meet the objectives of the Decade for three main reasons, the details of which were presented at the 2003 Asian Consultation on Vienna Plus 10 held in Bangkok. Firstly, the UN system was unable to organize itself sufficiently well internally to implement the Decade. For instance, the Decade was proclaimed in December 1993, but the General Assembly adopted a Program of Activities only in December 1995. And a coordinator for the Decade was identified only in 1997.

Secondly, financing was lacking. The Voluntary Fund for the Decade did not receive enough financial support. From January 1995 to October 1999, the Voluntary Fund received only US$1.1 million, 70 percent of which only three countries contributed, according to UN records.

Lastly, the UN system itself lacks cohesion. Many of them operate in silos and do not coordinate at all. So the right hand does not know what the left hand is doing. For so long, the indigenous peoples' issues especially in relation to rights have been handled, in the main, by the Office of the High Commissioner on Human Rights and the ILO. Many UN agencies, programmes or funds do not give attention to indigenous peoples' issues. They deal with this concern if there are strong pressures from indigenous peoples or NGOs or even some influential individuals within their institutions for them to do so. Cited as active in working on indigenous peoples' issues include the OHCHR, IFAD, ILO, and, in some countries, UNDP and UNESCO.

The Decade and Impact at the National Level

As with the various agencies within the UN, some countries were more aware of the Decade than others. Luong Thu Oanh of the Center for Sustainable Development in Mountain Areas, for example, reports that the Socialist Republic of Viet Nam did not officially declare the 1995-2004 International Decade for the World's Indigenous People at the country level. But despite this, Oanh stresses that Vietnam must be part of the assessment because key policies and related mechanisms affecting ethnic minorities had transpired during the Decade.

In Southwest China, scholars and government officials interviewed for the assessment were totally unaware of the Decade. This raises questions about the potential for international instruments to play positive roles in improving recognition of ethnic minorities' rights and their welfare in the Chinese context, says the Center for Biodiversity and Indigenous Knowledge.

Also despite the Decade, other countries had denied and continue to deny the existence of indigenous peoples. One example is Bangladesh, which the authors of the country's assessment report say, had continued to follow a racial discriminatory policy inherited from the Pakistani regime. In spite of this denial, however, we see the Bangladesh government applying to the UN Voluntary Fund for the International Decade to get funds to hold activities for indigenous peoples. Thus, in the debates on the UN Declaration on the Rights of Indigenous Peoples, when the Bangladeshi government uses this argument, the indigenous peoples ask them why they apply to get grants from the fund.

In Nepal, indigenous nationalities were able to convince the government to set up an International Year for the World's Indigenous People's Committee after the UN declared the year in 1993. But the committee did not organize a single program for indigenous peoples during the year. It was indigenous nationalities themselves, who formed a committee to initiate programs for the UN-declared International Year for the World's Indigenous People.

The various levels of awareness of the Decade are almost similarly reflected in the other countries covered by the assessment. It

could be said that the Decade hardly made a dent in some countries, in terms of creating awareness on indigenous peoples' rights.

During the Decade, the 10 countries, in various degrees, embarked on policy and program reforms affecting the lives of indigenous peoples' rights and development. These changes varied from one country to the other. But these changes could be attributed to changes in political systems and regimes, the strength of indigenous peoples' movements, and the push from some international multilateral and bilateral agencies for policy reforms and program support.

Generally, awareness of the Decade in the various countries was low. Those who were aware of the Decade were indigenous representatives and activists, who had the opportunity to participate in various UN-sponsored meetings and trainings. Other indigenous activists and representatives who had actively engaged with governments for the concerns and rights of indigenous peoples were also very much aware of the Decade. But this awareness was more concentrated in the cities or in communities with large numbers of indigenous peoples. At the grassroots level, the average indigenous person's awareness of the Decade was so low. Only those who are members of indigenous peoples' organizations or networks are the ones who would have that knowledge.

Reports from many countries disclosed that the workshops and meetings held for the present assessment were often the first time that indigenous peoples, including some people in governments, learned of the Decade.

Lack of awareness of the Decade could be attributed to several factors. One was lack of funds for awareness-raising drives. Second, governments who are suppose to be the ones who should disseminate decisions taken by the General Assembly could not care less. But it was also pointed that even some indigenous activists are not conscientiously updating their constituencies on such developments.

Still, there were positive impacts. The heightened awareness of indigenous peoples' issues at the international level had gradually, if not slowly, percolated into the national level. The creation of the UN Permanent Forum on Indigenous Issues enabled indigenous representatives to come together and created spaces for

them to dialogue with their governments. In the process, indigenous peoples strengthened their own solidarity and network, thus raising their confidence to assert their rights. Activists are more active in putting more pressure on their governments to account for social injustices and human rights violations against indigenous peoples and to provide redress for these. Most of the times, though, victims or their families hardly get any redress.

It is important to note that some countries, which had long been denying the existence of indigenous peoples, had begun acknowledging not only indigenous peoples' existence but also their contributions. On Indigenous Peoples' Day in 2000, the then Prime Minister of Bangladesh, Ms. Sheikh Hasina, for example, told the *Sanghati* magazine that the country was home to two million indigenous peoples. On the same occasion in 2003, the current Prime Minister Begum Khaleda Zia also acknowledged the "significant contribution" of indigenous peoples to the liberation war and to the country's welfare, the same magazine reported.

Regional and National Networks and Programmes

That various national and regional indigenous peoples' network and institutions emerged or increased their activities in the course of the Decade also showed increased level of solidarity among indigenous peoples in Asia. Other UN bodies and programmes the UNDP, through its Asia-Pacific Bureau, established the Regional Initiative on Indigenous Peoples' Rights and Development (RIPP) which was based in Bangkok at the UN Center.

The regional and national networks and institutions which were formed or further strengthened are as follows:

- Asia Indigenous Women's Network (AIWN) - Asia-wide;
- Asia Indigenous Peoples' Pact (AIPP) - Asia-wide;
- Asian Indigenous and Tribal Peoples Network (AITPN) - Asia-wide;
- Assembly of Indigenous and Tribal Peoples (AITP) - Thailand;

- Bangladesh Adivasi Forum - Bangladesh;
- Cordillera Peoples Alliance - Cordillera region, Philippines;
- Kalipunan ng mga Katutubong Mamayan ng Pilipino (KAMP) - Philippines;
- Koalisyong Katutubo at Samahan ng Pilipinas (KASAPI) - Philippines;
- Indigenous Knowledge and Peoples (IKAP) - China, Burma, Cambodia, Laos, Vietnam and Thailand (or what are collectively called Mainland Montane Southeast Asia or MMSEA);
- Aliansi Masyarakat Adat Nusantara (AMAN, Indigenous Alliance of the Archipelago) - Indonesia;
- Indigenous Peoples' Forum - Cambodia;
- Nepal Federation of Indigenous Peoples (NEFIN) - Nepal;
- Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education) - Global;
- Thirteen Tribes Forum and Thai National Assembly of Tribal Peoples - Thailand;
- Tribal Women's Network - Thailand.

These networks and organizations are proofs of the enhanced capacities of indigenous peoples to self-organize and make better impacts at the national, regional and international levels. Tebtebba and AITPN have acquired consultative status with the UN Economic and Social Council within the Decade, which means they can enjoy the privileges of NGOs with such status. Some have since been helping provide information on situations of indigenous peoples, which became part of the proceedings and reports of the UN system; thus, making these more widely available to more people. Tebtebba has been cited on this regard. Tebtebba has also been actively engaged in participatory research, policy and situation analysis of indigenous peoples, policy advocacy, and education and training at the national, regional and global levels. Its work in deepening the research and analysis on free, prior and informed consent and blazing the path in pushing for this as a right for indigenous peoples at the national and global levels was instrumental in the gains achieved around this area.

Each of the other networks and organizations cited above had made their mark in their own chosen field and mandates, be it at the national, regional or global levels. The Indigenous Alliance of the Archipelago or AMAN of Indonesia, for example, has done significant policy advocacy and program work, including strengthening indigenous forest and resource management. In a short time since it was established in l999, it expanded very fast because many indigenous communities wanted to become members of the network. The Nepal Federation of Indigenous Nationalities or NEFIN played a prominent role in organizing programs, rallies and processions to help other indigenous peoples in Nepal become more aware of their rights. The Asian Indigenous Women's Network or AIWN has embarked on important activities to engender the indigenous peoples' movements and organizations and build up women's organizations. It was during this time when training activities were held to share with the members the draft UNDRIP and the significance of this on women. It held the Second Asian Indigenous Women's Conference in May 2004. This process led towards the formulation of a modest programme of action which was aimed at strengthening the indigenous women's networks and organizations in Bangladesh, India, Nepal, Thailand, Indonesia, Philippines and Taiwan. It was during this conference that work among indigenous women in Viet Nam and Cambodia were also agreed upon. AIPP has further consolidated itself and has become a key player on indigenous peoples issues within the region.

It has to be noted that many of these organizations, networks or institutions sustained their existence because of support from donors both from governments and non-government bodies. Donors include bilateral donors like DANIDA (Denmark), the United Kingdom DFID (Department for International Development), etc. There are also church-related donors such as Bread for the World and EZE/EED (Evangelische Entwicklüngdienst, e.V), MISEREOR in Germany or CEBEMO or ICCO in the Netherlands , Christian Aid in the UK which have provided resources for indigenous peoples' organizations. Non-church related donors like NOVIB in the Netherlands, For Foundation, Heinrich Boell Foundation, among others also provided support. Such support has allowed these organizations or institutions to do their training and

education on indigenous peoples' rights, organizing and to do policy advocacy work during the Decade.

But despite the work of these indigenous organizations and networks, their impact remains limited as far as influencing national development and political agendas. The processes done at the national level to present the results of these researches were, in fact, one of the first ones which brought indigenous representatives and government officials together.

Similarly, better solidarity and unity, although quite ideal, have yet to be achieved, considering undercurrents of what ICIMOD calls "issues of exclusion and inclusion" among various networks. But, as had been suggested, awareness of these undercurrents and transcending them may yet lead to better working relations and ultimately, better impact.

Media's Role. The role played by the media in covering the issues and concerns of indigenous peoples during the Decade could not be ignored. But while media coverage of indigenous issues increased compared to earlier decades, there were still limitations because of several factors.

In Bangladesh, for example, the mass media did their role in covering evictions of indigenous peoples, killings of indigenous leaders protesting against eviction, and other human rights violations in the Chittagong Hill Tracts. In fact, media coverage of indigenous issues increased in recent years and more and more journalists have become more aware of indigenous issues, even giving more space to support the CHT Peace Accord. But a form of censorship continues to stifle the free flow of information as the Bangladeshi government has since banned foreign and local journalists and tourists to visit the Hill Tracts.

The Bangladeshi government also has its own journalists organized into a press club, newspapers and magazines, book publishing outfits and radio-television networks to counter whatever has been coming out from the Hill Tracts.

The situation in Bangladesh was almost the same in the other countries, although some governments had been more repressive than others in terms of press freedom.

There were also other factors such as the role business plays in media coverage. The coverage of indigenous peoples displaced from mining and other development projects, for example, could be well-covered by alternative media outfits, but not in commercial media outfits in which mining companies were among the big advertisers.

That most media outfits are mainly event-oriented was another factor in the lack of depth and breadth of media coverage of indigenous peoples. Indigenous activists, for example, become prominent news sources only when a dramatic event such as a regime change occurs. Ideally, coverage and reportage of indigenous peoples' issues should continue even after a critical event such as a massacre or forced displacement of communities. But this was not the case as the media had to jump from one big event to another.

The domination of the media by non-indigenous people was another factor. A high illiteracy rate among indigenous communities and the use of foreign or mainstream languages had also barred indigenous peoples from entering the media profession.

But there were some good news during the Decade. Many indigenous peoples' organizations embarked on their own publications and radio outfits using their own languages.

Still, the various country reports showed that much needed to be done in improving media coverage. One area of capacity-building support indigenous peoples identified was to sensitize journalists to indigenous issues and to train indigenous peoples themselves on how to influence the media.

The Judiciary. The judiciary, if independent from the executive branch, could play an important role in upholding indigenous peoples' rights. In the Philippines, the judiciary was tested in 1998 when two prominent figures—a retired Supreme Court justice and a lawyer—filed a petition seeking to declare as unconstitutional the newly enacted Indigenous Peoples Rights Act of 1997 or IPRA. Despite its flaws, the IPRA, which based most of its framework from the Draft Declaration on the Rights of Indigenous Peoples and other UN human rights instruments, has been billed as a model law.

Philippine indigenous communities were only relieved when the Supreme Court in December 2000 finally dismissed the petition to declare the IPRA as unconstitutional. The petitioners on 22 December 2000 moved that the high court reconsider their petition, but the Supreme Court en banc resolved to deny the motion on 21 September 2001.

The Philippine Supreme court could not be totally regarded as independent because the presidential office would appoint to the high court people, who would tend to bow to the interests of the executive office. But the Constitution at least provides that the judiciary should be independent from the two other government branches—the executive and the legislative. Not in other countries such as Bangladesh where the judiciary has yet to be separated from the executive.

On a positive note, the judiciary could be tapped to support indigenous peoples' desire to legitimize or mainstream their customary laws and indigenous justice system. There were some cases, for instance, where the judiciary could work in favor of indigenous peoples' rights and interests as shown in some countries such as India and, surprisingly, Bangladesh. The Bangladesh high court upheld customary law in a dispute over the succession of the Bohmong circle in the Chittagong Hill Tracts.

But there was much to be desired in many countries where the judiciary might have helped inquire into human rights violations in indigenous communities but the perpetrators have gone unpunished. The judiciary in many countries was also helpless in intervening for indigenous communities where governments had granted mining permits and leases to multinational mining companies to extract mineral resources.

Land and Resources

The common thread of indigenous peoples' survival is their land and natural resources. They live off their land and resources so cutting them off from their lands and resources would be tantamount to genocide. This form of genocide or what some indig-

enous peoples' organizations call "development aggression" had become the common threat to the very lives, security and health of indigenous communities in Asia.

The 10 country reports all cited many indigenous communities alienated from and dispossessed of their rights to their ancestral territories and resources. And the common culprits were multinational mining corporations, logging firms, plantation projects and even government-supported projects such as big dams and ecological parks or forest reserves and national parks or protected areas.

Asian governments had allowed wide swaths of indigenous peoples' territories for extractive industries such as mining as a result of neo-liberal economic policies in which multinational companies were invited and provided incentives to invest on these industries. Multinational mining firms, for example, were given incentives such as tax holidays, full repatriation of profits and big areas to explore and mine. In the Philippines, under the Mining Act of 1995 the mining corporations are allowed to displace the people in the communities which they plan to mine (easement right). In balance, though, the Act says that the free, prior and informed consent of the indigenous peoples affected should be obtained before the company can explore and extract the minerals.

While most, if not all, of the 10 countries share the consequence of neo-liberal economic policies, one cause of land alienation and dispossession stands out in a few countries such as India, Bangladesh and Indonesia—immigration. Often supported also by government policy, immigration into indigenous communities had been encouraged to make the original inhabitants the minority in their own ancestral territories. Once "minoritized" and eventually divided, these indigenous communities would become more vulnerable and powerless to defend and uphold their rights.

With their long experiences of alienation and dispossession, indigenous peoples all the more pushed for their right to determine what development form was best for them. This is what they call the right to self-determination. Side by side with this, Asian indigenous peoples had been advocating for the recognition of their collective rights.

Some countries had tried to experiment on policies and programs, which would supposedly encourage indigenous community participation in managing resources such as forestry. But some country reports reveal that programs such as community forestry had done more harm than good. It was shown that in Nepal community forestry could displace indigenous peoples from the very land they occupy. The land maybe legally accessible to Nepal indigenous communities, but they have been forced to use it for permanent forestry instead of traditional purposes.

As a result of the advocacy of indigenous peoples, many Asian governments had passed laws and instituted policies governing land and resources. Some of these laws and policies, although full of loopholes and limitations, sought to address the issues raised by indigenous peoples. But some typifies the classic case of the government giving something from its right hand only to be taken by the left hand.

A mining law in Indonesia, for example, has one provision, which includes a clause on "community development" and the recognition of indigenous rights. But it is not clear how this clause can be implemented. In fact, it was noted that the State has practically transferred its constitutional duty of protecting the rights of vulnerable groups to the private sector.

Another case is the Philippines, which boasts of its Indigenous Peoples Rights Act or IPRA. Whatever gains indigenous peoples attained from the IPRA, these could be wiped the Mining Act of 1995, which was mentioned earlier.

In many countries, indigenous peoples virtually have no rights to their lands and forests, which are owned by the State. This was particularly so among indigenous peoples in Thailand. The hill tribes or indigenous peoples thus suffer from double jeopardy because, besides having no rights to their forest settlement, they are also not granted citizenship and are thus denied other rights accorded to Thai citizens. In Southwest China, ethnic minority villagers now have to pay the government for use of timber from the forests, which they have successfully protected for decades.

Also in Southwest China, ethnic minorities have difficulty securing their rights over their resources because of the vested interests of officials in various agencies. "Since various government agen-

cies at different levels all have their own interests in relation to development projects, and because power relationships within the government system are complex, how ethnic minorities can use policy, regulatory and legal means to secure their rights over natural resources and to realize their rights in development planning is a complex question," reports the Center for Biodiversity and Indigenous Knowledge in its assessment report.

In Viet Nam all lands are owned by the State and allocated to households for forestry and farming, a situation that looks ideal. But many indigenous peoples called "ethnic minority groups" lack the ability to invest so they are excluded from a large share of land allocation.

One of the enemies of indigenous peoples in other countries is right in their own communities. This is what the report from India calls "indigenous landlordism" in which many cases of communal lands had been privatized through government bank loan policies and programs, which promote cash crops. These policies and programs had been manipulated by schooled local indigenous elites to their own advantage.

Language and Literacy

In the course of their history, Asian indigenous communities had lost some of their local languages as foreign colonizers or more dominant ethnic groups imposed their languages. These imposed languages became the main language of communication and instruction in schools and offices. In the name of nation-building, Asian countries had also pushed for one-national-language policies.

It turned out that imposed or borrowed languages had made learning difficult for indigenous children, thus contributing to higher dropout rates. Some governments had tried to respond to this dilemma by adopting the advocacy for bilingual instruction. But the advances on this vary from one country to the other.

Similarly, the 10 country reports acknowledge that even with bilingual instructions, various local languages have disappeared or

in the brink of disappearing. They all admit that once this happens, the diversity or varied nuances of culture and traditional knowledge attached to a certain local language would also eventually vanish.

Some countries are aware of the consequences of the loss of local languages. To their credit, some countries have initiated efforts to preserve local languages. The government-run Radio Nepal, for example, broadcasts five-minute news bulletins in various languages.

Translating Awareness into Laws, Policies and Programs

In terms of translating awareness on indigenous rights into laws, policies and programs, the Philippines has often been cited as a model of some sort. For one, the country was the first to recognize the rights of indigenous peoples in its 1987 Constitution. Such recognition was the constitutional basis of the Indigenous Peoples Rights Act of 1997. But whether the Philippines has truly implemented the spirit of what has been provided for in both the Constitution and the IPRA is another matter. Still, the Philippines has been credited for its legislative advances in terms of instituting recognition of indigenous peoples' rights.

On the other hand, most states had difficulty recognizing even the term "indigenous" and much more so with "peoples." So they would settle for tribal, hill tribes, ethnic minorities, small socio-economic groups, highlanders, adivasi, and so on.

Many states also have been reluctant to accept the notion of self-determination and the recognition of collective rights. They just could not appreciate that self-determination simply refers to the right of indigenous peoples to be able to identify what is best for their own development and welfare. They look at self-determination for indigenous peoples as a threat to national sovereignty and territorial integrity.

Still, there have been windows of opportunities of engagement with governments. At the international level, the creation of the UN Permanent Forum on Indigenous Issues has prompted

states to engage with indigenous peoples. It also helped that many states are signatories to international conventions and treaties, which impact directly or indirectly on the rights of indigenous peoples. But, as will be explained in the next sections, there is still a long way before states will truly comply with their obligations to these international conventions and treaties.

At the national level, Asian governments, in various degrees, have responded to the needs and concerns of indigenous peoples, who, in some countries, are categorized as part of "vulnerable groups" or sectors. These responses include policies and programs seeking to help alleviate the poverty and marginalization of these vulnerable sectors, which include indigenous peoples.

Similarly, as a result of at least four factors, various national laws and policies were enacted to safeguard and uphold rights of indigenous peoples. Firstly, changes in political regimes had created new political spaces through which indigenous peoples could engage with their governments. Secondly, more and more Asian governments had stressed on equity and social inclusion in development, thus involving concerned sectors or stakeholders, including indigenous peoples. Thirdly, more governments had found it urgent to resolve identity-related conflicts arising from socio-economic and political marginalization. Finally, the long and persistent struggles of indigenous peoples and how they had been articulating their issues and concerns both at the national and international arenas finally paid off.

Trends in decentralized and participatory governance also paved the way for indigenous peoples to put forward their policy advocacies. This led to indigenous peoples' participation in natural resources management such as in community-based forestry management. But there were still problems. In the Asian context, prerogatives of economic growth driven by economic liberalization and globalization led to policies, which proved disastrous to indigenous peoples. This could be seen in various laws on mining, forestry and even marine resources.

Between 1995 and 2004 NGOs, indigenous peoples' organizations, international development agencies, including the UN, and governments launched programs and projects to help empower indigenous peoples and to provide or enhance their liveli-

hoods. But these programs and projects could not be totally attributed to the declaration of the Decade. The specific programs implemented in relation to the Decade were largely the initiative of indigenous peoples' organizations, NGOs and which managed to gather support from bilateral and multilateral donors and agencies. There have been a few private philantrophic donors who also supported some indigenous peoples' organizations to do more programme and project work in their communities.

International Conventions and Treaties

Most Asian states are signatories to various international human rights instruments such as the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, the International Convention on the Elimination of all forms of Racial Discrimination, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child, among others. Among the 10 countries surveyed, except for Bhutan, all the rest ratified these legally – binding international laws. Some of them have even translated these into national legislation. If the rights contained in these conventions and treaties were respected, protected and fulfilled then indigenous persons can enjoy these rights as well. Unfortunately, the reality is very different. Which means that much more work needs to be done to get governments to adhere to their obligations to these international laws. Table 2 shows which States signed some of these international treaties.

Table 2. International Conventions and Signatories from 10 Countries Assessed

Convention	Some Salient Features	Signatories
ILO Convention 107 (1957)	• Provides for adopting certain proposals to protect and integrate indigenous and other tribal and semi-tribal populations in independent countries; • It considers that the problem of marginalization and oppression of indigenous peoples will be solved if they are integrated into the dominant society. • Highly criticized by many indigenous peoples which led to its revision.	Bangladesh India
ILO Convention 169 (1989)	• It removed the integrationist and assimilationist content of ILO 107. • Recognizes that indigenous peoples 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 lands 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 development which may affect them directly." (Art.7)	None of the 10 countries assessed signed this Convention

ILO Convention 111 (1958)	• Protects indigenous peoples' rights to practice traditional occupations, including shifting cultivation and nomadic herding.	All except Bhutan and Thailand signed this Convention
International Convention on Elimination of all Forms of Racial Discrimination (1963)	• Calls on States to condemn racial discrimination and pursue a policy of eliminating racial discrimination and promoting understanding among all races.	All of the 10 countries signed this.
International Covenant on Economic, Social and Cultural Rights (1966)	• A multilateral treaty committing the 155 states that are party to it to work towards granting economic, social, and cultural rights to individuals.	Except Bhutan, the nine other countries signed this.
International Covenant on Civil and Political Rights (1966)	• Seeks to solve the disagreement between capitalist and communist nations over the aforementioned declaration (as capitalist nations favored the first-generation "civil and political rights" and the communist nations preferred the second-generation 'economic, social and cultural rights')	All the countries assessed, except Bhutan, signed this.

In spite of the fact that 10 states are not implementing in any satisfactory way these treaties it does mean that these are useless. The indigenous activists and leaders—who participated in training programs, conferences and related activities organized for the Decade which were initiated and organized by indigenous organizations like Tebtebba and bodies like the OHCHR—have come to appreciate more the relevance and potential of these various conventions and treaties in terms of protecting their rights.

The 10 Asian Countries and their Constitutions

How indigenous peoples are labeled in the Constitutions of their countries apparently shows how they are treated by their governments.

The Constitution of Bangladesh, for example, refers to indigenous peoples as "backward sections of citizens." Such label invites both good and bad consequences. On the one hand, the label suggests that as "backward sections of citizens," indigenous peoples in Bangladesh need more attention so they can move forward with the rest of the population. On the other hand, the label tends to deride the status of indigenous peoples.

Despite such labels, Bangladesh's Constitution offers some opportunities through which indigenous peoples can engage with the government. The Constitution, for instance, provides for partial autonomy in governance for the Chittagong Hill Tracts. So after a Peace Accord was signed in 1997, a Ministry of Chittagong Hill Tracts Affairs, Chittagong Hill Tracts Regional Council, three Hill District Councils, and a Land Disputes Commission were set up. But these bodies for partial autonomy have yet to deliver their functions and fulfill their mandates.

The 1993 Constitution of Cambodia also has no special provisions for indigenous peoples. But it has two articles, which indirectly cover the rights of indigenous peoples. Article 31 recognizes and respects human rights as defined in internationally accepted human rights standards. Article 32 provides that Khmer citizens are all equal before the law "regardless of their race, color, sex,

language, beliefs, religions, political tendencies, birth origin, social status, resources, and any position."

In China all ethnic groups, including the dominant Han, are considered indigenous. The government instead uses "ethnic minorities." Before the term used was "minority nationalities." This has been downgraded to ethnic minorities, however, which is deliberate political decision to counter the assertion by these peoples of their right to self-determination. On balance, the government participates in tackling issues affecting indigenous peoples. Minorities also have equal constitutional rights and are represented in the People's Congress and in the State Ethnic Affairs Commission.

Similarly, China has a Minority Area Autonomy Law, which grants certain rights to ethnic minorities. But the law has proved ineffective for lack of political power and representation held by ethnic minorities. Power still rests solely in the Communist Party system, which does not require leaders to be from ethnic minorities. At the People's Congress, the ethnic minority representatives are government employed officials. Although these officials belong to ethnic minorities, it was pointed that it would have been better if other ordinary minority villagers, not already employed officials, become the representatives.

The government of India neither uses indigenous. It instead refers to indigenous peoples as "Scheduled Tribes" as stipulated in Article 342 of the country's Constitution. These tribes since 1950 have been "scheduled" in specific areas and are thus recognized as Scheduled Tribes only in those areas. The Constitution protects the rights of Scheduled Tribes, but these tribes have yet to be fully empowered and emancipated. For example, the problem of community land not being recognized by the state law system remains a fact of life in Northeast India. They are also referred to primitive and backward tribal groups (PTGs). There are several tribes or peoples who are not included in the government list of Scheduled Tribes. Those who got excluded are working to get themselves into the list but this is not happening.

The 2001 Constitution of Indonesia is considered better than the 1945 Constitution. At least the new Constitution adopts many of the Universal Declaration of Human Rights and requires the State to protect the basic rights of its citizens, including indigenous

peoples. But the Constitution attaches conditions to the recognition of indigenous peoples' existence and rights. For instance, Article 18B(2) provides for the recognition and respect of indigenous peoples and their traditional rights but the recognition must be "in accordance to societal development and the principles of the Unitary State of the Republic of Indonesia…" The country, which faces secessionist and autonomy movements, is overly cautious about granting indigenous peoples rights. This leads to a situation that has proved more detrimental to indigenous peoples.

Nepal at the time of this assessment was in the thick of reconstruction and political transformation because of regime change. But indigenous peoples have since been using this time to push for their representation in the new regime. Currently, the interim government follows an "ad hoc" Constitution, which provides for the recognition and respect of rights of everyone—women, marginalized peoples, and indigenous peoples or *Janjatis*. The interim government has also pledged to create a federal system, which can ensure wider representation from the people. As provided for by Article 25.3 of the still-to-be-amended 1990 Constitution, Nepal reserves seats for indigenous peoples in education and government employment. But for a long time this has only been good on paper.

In the Philippines, indigenous peoples are now currently referred to as "indigenous cultural communities/indigenous peoples" in the 1987 Constitution and in the Indigenous Peoples Rights Act of 1997 or IPRA. The Constitution protects the rights of indigenous cultural communities to their ancestral lands. The Constitution also recognizes, respects, and protects the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions, which shall be considered in formulating national plans and policies.

The Constitution of Thailand does not specifically refer to indigenous peoples. But Article 46 provides that people who have settled down as a community shall have the right to conserve and revitalize their traditions, wisdoms, art, and culture. They shall also participate in managing, maintaining, and making use of the natural resources and environment through ecological and sustainable ways. But there are no implementing rules or enabling

laws to implement Article 46. That many indigenous peoples or highlanders are not given citizenship status also makes this article inutile.

Indigenous peoples in Vietnam are also referred to as "ethnic minorities" in the 1992 Constitution. Among other items, the Constitution, particularly Article 5, maintains a policy of "equality, solidarity and mutual assistance among all nationalities, and forbids all acts of national discrimination and division." The State likewise commits itself to "a policy of comprehensive development and gradually raising the material and spiritual living conditions of the national minorities."

Table 3. Constitutional recognition of indigenous peoples' rights

Country	Constitutional Recognition	Term Used to Refer to Indigenous Peoples	Constitutional Rights
Bangladesh	x	Tribals in official documents and indigenous hill-people in some legal documents	Scope for affirmative action for "backward section of citizens"
Bhutan	x	Socio-cultural groups	Article 9 "Principles of State Policy"
Cambodia	x	Khmer Leu (Upper or Highland Khmer) highland people/ethnic minorities. From 2004, indigenous peoples	Articles 31 and 32 (1993 Constitution of Cambodia)
China	x	Ethnic minorities	Equal rights and other specific rights
India	x	Tribes (scheduled tribes), adivasi	Article 342 (affirmative action), Vth and VIth Schedules, Article 371, PESA 1996

Indonesia	x	Masyarakat hukum adat (community of custory law), traditional people/ masyarakat adat	Articles 18B and 281 of the Constitution
Nepal	In process	Indigenous nationalities/janjatis	All inclusive provision
Philippines	✓	Indigenous peoples (after 1993)	Section 22, Article II Section 5, Article XII Section 17, Article XIV
Thailand	x	Tribal people, chao khao (hill-tribe people)	Article 46
Vietnam	x	Ethnic minorities	Articles 5, 39 and 94 of 1992 Constitution

Source: Assessment Synthesis Report on the First International Decade of the World's Indigenous People in Asia, 1995-2004. Kathmandu: International Center for Integrated Mountain Development, 2007.

Multilateral and Bilateral Agencies

The 10 countries assessed are recipients of one or more among various multilateral and bilateral agencies. These include the World Bank, Asian Development Bank, United Nations Development Program or UNDP, International Fund for Agricultural Development or IFAD, and other agencies such as United Nations Educational, Scientific and Cultural Organization or UNESCO, Danish International Development Agency or DANIDA, and the Norwegian Agency for Development Cooperation or NORAD.

During the Decade, these agencies either formulated institutional policies or revised existing ones for their work in indigenous communities. Many of these policies, however, have yet to be further revised to be more appropriate for and friendly to indigenous peoples.

The 10 country reports assessed the policies of these multilateral and bilateral agencies as applied to the indigenous communities where they supported various development projects.

Among other measures, the World Bank's policy of undertaking "free and prior informed consultation" instead of "free and prior informed consent," for example, has been widely criticized. This was more so because the policy directly links to the issue of land rights of indigenous peoples.

Generally, the good news was that there was a marked improvement among multilateral and bilateral agencies in terms of developing policies for engagement with indigenous peoples. Thanks to indigenous peoples themselves, who, in various parts worldwide, have risen up in protest against disastrous projects such as big dams and other development projects funded by these multilateral and bilateral agencies.

But some indigenous respondents interviewed for the assessment of the Decade claimed that these policies were not always followed.

Policy and Poverty

Poverty Reduction. "Policy reduction," which was later replaced with "poverty alleviation," became a catch-phrase within the Decade. Almost every government in Asia has talked about reducing poverty after the International Monetary Fund and the World Bank in 1999 embarked on what they called "poverty reduction strategy papers." Intended to help governments detail country-based strategies to reduce poverty, these strategy papers also seek to connect national public conduct, donor support and the development results required to meet the United Nations' Millennium Development Goals or MDGs.

The strategy papers contain the macroeconomic, structural and social policies and programs a country needs to follow over a number of years to encourage broad-based development and to reduce poverty. The strategy papers also include external financing needs and related sources of funding. Indigenous peoples are covered by the strategy papers as they belong to the poor and vulnerable sectors.

These strategy papers became the bases of drafting national policies in various countries in relation to achieving the Millennium Development Goals. In some countries, indigenous peoples were able to intervene in helping draft these policies. But there was much to be desired in the final policies that came out. In Bangladesh, for example, the national poverty reduction strategy paper acknowledges the presence of 'adivasi' or indigenous peoples, but it had no separate allocations for indigenous peoples in the last two national budgets.

In Viet Nam, the participation of ethnic minorities in drafting the national strategy paper was insignificant. In Nepal, indigenous peoples complained that many of their inputs were disregarded.

Programs and Projects. It was noted that during the Decade, non-UN international development agencies have supported more projects than UN agencies. These included the World Bank, Asian Development, and the development assistance arms of various rich countries. Again, one of the feedbacks of indigenous peoples in relation to these programs and projects was that they did not

always take into account the particular needs and cultures of indigenous communities.

Some development projects funded by these agencies have helped provide livelihoods and helped increase incomes and speed up transportation of goods and people in indigenous communities. But according to feedbacks, whatever benefits brought about by the projects were wiped out by neo-liberal economic policies being advanced by the GATT-WTO. One example was the Cordillera Highland Agricultural Resource Management Program or CHARM in northern Philippines, which the ADB and IFAD jointly funded.

The CHARM helped increase incomes and helped improve the social well-being of many recipients. But the government, as prescribed by the GATT-WTO, allowed the importation of temperate vegetables, almost killing a local vegetable industry supporting thousands of farmers.

Moving Forward

Indigenous peoples in Asia can learn vital lessons that emerged from the assessment. One of these is the need for indigenous peoples to keep on engaging with their governments, putting to maximum use and advantage whatever spaces opened for engagement. Another is for indigenous peoples in Asia to continue sustaining, if not improving, the solidarity they developed in the course of the Decade and the decades before.

The assessment also provided various ways by which indigenous peoples in the 10 countries could move forward as they continue their struggles in the Second International Decade of the World's Indigenous People. When the researchers and participants of the assessment finally met in Kathmandu, Nepal in November 2006 to finalize their work, they were able to push for various recommendations, which can help future actions. These recommendations included the following (also contained in ICIMOD's *Assessment Synthesis Report, 2007*):

For Thematic Areas

Health

- Provide more support for culturally appropriate and functioning health-care centers and local healers and (improved) traditional healing systems in indigenous peoples' areas.
- Provide more education on preventive and curative health care.

Education

- Promote multi-lingual and intercultural education to preserve indigenous peoples' languages and cultures, and facilitate indigenous peoples' access to education.

Capacity-building

- Strengthen and legally protect indigenous organizations, consistent with international human rights standards.
- Establish and support indigenous peoples' own media.
- Provide research facilities to answer indigenous peoples' questions, address their concerns, and improve their traditional farming, natural resource management, and health systems.
- Prepare registers of biodiversity and related indigenous knowledge, and work out a benefit sharing system for intellectual property rights collectively with indigenous peoples.

For the UN and International Agencies

- Provide financial and technical support for indigenous peoples and indigenous peoples' organizations to develop, implement, and monitor programs and projects.
- Build the capacity of indigenous peoples and indigenous peoples' organizations to use and monitor national and

international instruments to promote and protect indigenous peoples' rights (i.e., human rights violations, discrimination).

- Establish new mechanisms and support existing ones to actively promote awareness raising, capacity-building, and the translation of relevant documents into local languages for indigenous peoples and indigenous peoples' organizations.
- Promote culturally-sensitive poverty alleviation and/or development programs.
- Set up activities on sharing and learning for non-indigenous persons, governments, civil society, and media on indigenous issues in order to raise awareness and recognition of cultural diversity (particularly about indigenous peoples).
- Build networks among indigenous peoples (mountain, coastal, and so on) which also reach the grassroots, and strengthen existing ones.
- Ensure stronger emphasis on the self-determination of indigenous peoples.

For States

- Collect disaggregated data to develop and refine indicators of poverty and development for indigenous peoples.
- Develop contextual definition of the term "indigenous peoples" at national levels.
- Stop development-induced displacement and rehabilitation.
- Stop the militarization of indigenous peoples and their areas.
- Ensure the equitable political representation of indigenous peoples.
- Increase budget allocations for indigenous peoples' interests and find ways to monitor these.

- Recognize traditional and ancestral land rights.
- Prevent the "commodification" of cultures in the name of tourism.
- Pursue activities from a gender-sensitive perspective.

Conclusion

On the whole, it can be said that the International Decade of the World's Indigenous People helped raise the awareness of the dominant society, States and the international community of the situation of indigenous peoples in the 10 Asian countries which were subjects of this research project. It is fair to say that the gains were more on the global level than the regional or national levels. One of the key gains is the great advance in the efforts to establish the minimum international human rights standards which will help in promoting the dignity and survival of indigenous peoples. These are the processes around the drafting and negotiations of UNDRIP. While the UNDRIP has not been adopted during this period the processes towards the eventual adoption in 2007 were set in motion.

It was within this period also when policies on indigenous peoples were developed, adopted or revised by some UN bodies and agencies. Even some bilateral donors developed their own policies on indigenous peoples. While the money allotted for indigenous peoples were not very big, it is without any doubt, that contributions from public and private funds which went directly to indigenous peoples helped increase the visibility of indigenous peoples.

Furthermore, spaces were establishes which gave access to indigenous peoples to the international arena. The UN Permanent Forum on Indigenous Issues is one of the major achievements of the Decade. Without this space it would have been harder to build upon the gains achieved within the ten year period. The UN Commission on Human Rights Working Group on the Draft Declaration was another space which was used by indigenous peoples

to network among themselves and to jointly contribute in getting the UNDRIP finalized.

There are also gains at the national level in the 10 countries subjected to this assessment. While these may not be very significant, these are baby steps towards bigger achievements. Most of these were due to the increasing strengths of indigenous peoples' movements and the support they gathered from those who understood and sympathized with their situation. The Decade is one factor which led to the establishment of more indigenous peoples' formations within the countries. The existence of the Forum and the UN Working Group on the Declaration as well as the UN Working Group on Indigenous Populations provided the venues for indigenous activists and leaders from all the parts of the world to come together. One cannot underestimate the role these spaces played in cementing unities among indigenous peoples who are very diverse. Such unity building is crucial to get the different States to agree to set up the Forum and eventually adopt the UNDRIP.

Clearly much more work needs to be done to substantially change the situation of indigenous peoples. This includes getting the States to comply with their human rights obligations and to regulate the behavior of corporations which are also contributing in the expropriation of indigenous lands, territories and resources. All of the 10 States in Asia have to show more political will to protect, respect and fulfill the individual and collective rights of indigenous peoples in their territories. One decade is not enough to do this and thus a Second Decade has been declared again by the UN General Assembly. It is our hope that when an assessment of this Second Decade is done there will be greater changes compared to what has been seen so far.

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Indigenous Peoples in Nepal: An Assessment of the UN International Decade of the World's Indigenous People (1995-2004)

Sanjaya Serchan* and *Om Gurung*

I. Introduction

The General Assembly of the United Nations (UN), in accordance with the recommendations of the UN Working Group on Indigenous Populations, through a decision (No. 45/164) on December 18, 1990 declared 1993 as the International Year of the World's Indigenous People. The main objectives of the Indigenous People's Year, with its slogan "Indigenous People: A New Partnership," were to encourage international support for indigenous peoples with regard to issues they face around the world such as infringement on their fundamental human rights in the areas of environment, development, education, and health. The Indigenous People's Year aimed to establish a new and equitable relationship among the international community, the state, and the indigenous peoples. This new relationship guarantees the participation of the

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indigenous peoples in the making, implementation, and evaluation phases of development projects that could affect them at present as well as in the future.

The International Year of the World's Indigenous People happened but many indigenous peoples around the world did not seem to know about it. Nevertheless, the UN declared 1995-2004 as the International Decade of the World's Indigenous People through a decision (No. 48/163) on December 17, 1993. The slogan of the Indigenous People's Decade was "Indigenous People: Partnership in Action." The UN recommended that during the Indigenous People's Decade, governments undertake intensive coordination among various ministries, departments, and agencies; mobilize resources focusing on indigenous peoples; decide upon programs related to indigenous peoples with their participation; and provide resources to the organizations of indigenous peoples. The UN also recommended that governments should focus on education for indigenous children; ratify the International Labor Organization (ILO) Convention No. 169; carry out constitutional amendments taking into account the rights of indigenous peoples; guarantee the economic, social, cultural, political and civil rights of indigenous peoples; and implement conventions related to biodiversity and human rights. The UN also declared August 9—marking the day of the first formal meeting of the UN Working Group on Indigenous Populations—as the International Day of the World's Indigenous People. Following the completion of the first Indigenous People's Decade, the UN announced the Second International Decade of the World's Indigenous People (2005-2015).

The history of indigenous peoples' efforts to bring their issues to the global stage dates back to 1924, from the days of the League of Nations. However, activities related to indigenous peoples only began in the UN in the 1970s. In 1971, there was a landmark activity in the UN when the Economic and Social Council passed a resolution, which authorized the UN Sub-commission on Prevention of Discrimination and Protection of Minorities to carry out the study "Problem of Discrimination Against Indigenous Populations." This study resulted in a multi-volume work by the special rapporteur, Jose Martinez Cobo. The volumes were issued from 1981 to 1983 as a series of partial reports. The work compiled

extensive data on indigenous peoples around the world, and made a series of findings and recommendations that supported the demands of indigenous peoples. The study by Martinez Cobo became a standard reference for discussions on the subject of indigenous peoples within the UN system (Anaya, 2000: 51). In 1982, the UN formed the UN Working Group on Indigenous Populations as an organ of the UN Sub-commission on Prevention of Discrimination and Protection of Minorities, a body under the UN Commission on Human Rights. In 2000, the UN also established the UN Permanent Forum on Indigenous Issues.

A significant endeavor by the UN for the indigenous peoples was the Draft United Nations Declaration on the Rights of Indigenous Peoples.[1] The UN Working Group produced the first draft in 1988. After discussions, the Working Group agreed on the final revised draft at its 11th session in 1993, which was the Indigenous People's Year. The Working Group submitted the draft to its parent bodies within the UN. The UN Sub-commission on Prevention of Discrimination and Protection of Minorities adopted the draft by its resolution 1994/45 on August 26, 1994. There was an observation that the draft declaration went beyond ILO Convention No. 169 because of its bold statements in areas of indigenous self-determination, land and resource rights, and rights of political autonomy (Anaya, 2000:53).

A. The Nepalese Context

After the UN declared 1993 as the International Year of the World's Indigenous People, the Government of Nepal (at that time, His Majesty's Government) formed the International Year of the World's Indigenous People-1993 National Committee, which the Prime Minister chaired. This was at the behest of the indigenous nationalities (called *Aadibasi Janajati)* of Nepal. However, this government-appointed committee did not organize even a single program to mark the Indigenous People's Year. After the declaration of the Indigenous People's Decade, the government formed yet another committee chaired by the Prime Minister for Education and Culture. Like its predecessor, this committee died a natural death without undertaking any activity.

As for the non-governmental sector, Nepalese indigenous nationalities themselves formed a committee and carried out various programs during the Indigenous People's Year. They also carried out various programs around the country during the Indigenous People's Decade. They have also been celebrating Indigenous People's Day on 9 August every year by organizing programs, rallies, and processions in Kathmandu and in various parts of the country. The umbrella organization of Nepal's indigenous nationalities, the Nepal Federation of Indigenous Nationalities (NEFIN), has been playing a prominent role in organizing these activities.

The declaration of a special day and decade for the indigenous peoples around the world boosted the movement of Nepal's indigenous nationalities. They felt connected other indigenous movements with similar hopes and aspirations in other parts of the world. These declarations also provided opportunities for Nepalese indigenous nationalities to take part in programs at the international level including celebrations and discussions at the UN Permanent Forum on Indigenous Issues. For instance, representatives of indigenous nationalities from Nepal, together with indigenous peoples from around the world, participated in the Third International Conference on Human Rights held in Vienna, Austria in June 1993. These activities helped in building solidarity and in sharing knowledge and experiences between Nepal's indigenous nationalities and indigenous peoples around the world.

B. Objectives of the Study

This study focuses on policies and programs related to the indigenous nationalities of Nepal during the period of the International Decade of the World's Indigenous People. Specifically, the study focuses on the initiatives undertaken on behalf of Nepalese indigenous nationalities by (a) the Government of Nepal and (b) international donor institutions. This study does not claim that these initiatives by the various actors are the outcomes or the consequences of the Indigenous People's Decade. It is more of a general survey of some of the initiatives related to indigenous nationalities that, one could perhaps say, happened to coincide with the International Decade of the World's Indigenous People.

Moreover, this study makes some preliminary discussion of other issues relevant to understanding the status of indigenous peoples in Nepal, namely (a) treaties and conventions related to indigenous peoples, (b) media coverage of indigenous peoples' issues; and (c) the Indigenous People's Decade in relation to Nepalese developments.

II. Background of Nepal's Indigenous Nationalities

Let us begin by looking at the history of on indigenous nationalities of Nepal before we discuss the programs and projects that affect them.

Nepal's history is a story of the hill Hindu "high" caste groups of *Bahun*, *Chhetri* and *Thakuri* imposing one language (*Khas-Nepali*), one religion (Hindu) and one culture (Hindu) upon the diverse peoples of Nepal. It was an attempt to create an *asali Hindustan* or the "true and pure land of the Hindus." This process of assimilation has led to the continued destruction of the multi-ethnic, multi-cultural, multi-lingual and multi-religious reality of the country. However, these attempts of the Nepalese state to achieve 'uniformity' in the name of nation building were not without resistance from the subjugated peoples, which included the indigenous nationalities. The territorial unification begun by the Shah king Prithivi Narayan and his descendants led to battles and resistances by peoples who came under his attack (H. Gurung, 2004a:136; Serchan, 2004:9-10). The Nepalese state often employed brutal means (e.g., cutting of noses and lips of the vanquished peoples) to suppress those who opposed it.

The Nepalese state, in the process of Hindu*ization* and through the National Legal Code of 1854, went on to divide the people of Nepal into five caste groups, namely, (1) the wearers of the sacred thread (*janai*); (2) the non-"enslavable alcohol-drinkers"; (3) the "enslavable alcohol drinkers"; (4) the "impure but touchable" castes; and (5) the "untouchable" castes. The indigenous nationalities were included in the categories of "non-enslavable alcohol-drinkers" (*namasyina matuwali*) and "enslavable alcohol-drinkers"

(*masinya matuwali*). These are also the lowest in the four-fold hierarchy of the Hindu *varna* (or caste) system.

In the name of standardization, the Nepalese state decreed that languages other than Khas-Nepali would not be used in government documents. The State even went to the extent of killing those who refused to celebrate the state-sanctioned Hindu festival of Dashain (Gurung, 2004a; Serchan, 2004). All this led to the Hinduization, Brahmanization, Sanskritization or Nepalization of the Nepalese society, thus consolidating the hegemony of the hill Hindu "high" castes of Bahun, Chhetri, and Thakuri.

Historians have documented attempts by indigenous nationalities to organize themselves even during the days of the Rana oligarchy. Rebellion and resistance against the Nepalese state took the form of Newari organizations like the *Nepal Bhasa Bikas Mandal* (1926) and *Chwasapasa* (1949); and a Tharus organization, the *Tharu Kalyankari Sabha* (1941). The first democratic interregnum of 1951-1960 saw the formation of the *Pichadieka Barga Sangathan* (Backward Class Organization, 1956), comprised by the *Tharu Kalyankari Sabha*, *Gurung Kalyan Sangha*, *Kirat League,* and the *Dalit Sangha*. However, the advent of the King-led party-less *Panchayat* system under the slogan "Our king, our country; One language, one dress" strengthened the process of "Nepal*ization*." The *Panchay*at attempted to create a unifying Nepalese nationalism under such concepts and symbols as "one Nepalese ethnic group" (*Nepali jati*), "one language" (Khas-Nepali), "one religion" (Hindu), "one culture" (Hindu), and "one dress" (*daura suruwal* for men and *sari* for women).

Nepal was first declared a Hindu state by the Panchayat constitution of 1962. The Panchayat period (1960-1990) was a period of homogenization and assimilation. Nonetheless, the post-referendum period (1980-1990) of the Panchayat saw relative political openness and attention to socio-cultural matters. The period saw the beginning of Newari bhintuna or New Year celebrations in urban areas like Kathmandu. There were publications by indigenous nationalities such as the Tharu-Sanskriti by the Tharu, Tamu by the Gurung, Paruhang and Kongpi by the Kirat, Khanglo by the Thakali, and Kairan and Chhahara by various other groups. The period also saw the establishment of the Nepal Sarbajatiya Adhikar Manch (Nepal All-Peoples Forum) in 1982, which was a

forerunner of the Nepal Federation of Indigenous Nationalities (NEFIN).[2]

The restoration of multiparty democracy in 1990 saw the founding of Nepal Federation of Nationalities (NEFEN) in 1991, an umbrella organization of the country's indigenous nationalities. The constitution of NEFEN came up with a definition of *janajati* which was a first in Nepal. Although the 1990 Nepalese constitution mentioned the word *janajati*, its meaning was unclear. The NEFEN constitution defined *janajati* as indigenous or original inhabitants of the country who do not fall within the four-fold Hindu *varna* system. NEFEN also translated the Khas-Nepali word *janajati* into English as "nationality," i.e., "peoples or groups on the verge of or with the potential of becoming nations."

By this act of self-definition, the Nepalese indigenous nationalities have struck at some of the most cherished foundations of the Nepalese state. By calling themselves janajati, they are asserting their indigeneity and that they are not Hindus. They have raised their voice in support of the "first settlers" of the country, thus countering a belief that was prevalent in the last couple of centuries—the notion that various groups of people in Nepal, from the King to the commoners, are migrants from the south with a culture that is "superior" to the indigenes. By translating janajati as "nationality," the indigenous nationalities have brought forth a new concept of Nepal as a state with many nations, or a multinational state.

After its fifth convention in 2003, NEFEN renamed itself as NEFIN, which is an acronym for Nepal Federation of Indigenous Nationalities. NEFIN has a federal structure and provides membership to indigenous nationalities, with one member from each group. It began with eight member organizations at the time of its founding. At present, it has 54 indigenous nationalities as members out of 59 groups officially recognized by the Government of Nepal (see Box 1).

The post-1990 period has seen a spurt of "modern" non-governmental organizations (NGOs) among the indigenous nationalities, although these groups are fewer compared to the dominant groups that were formed during the same period. The various groups of indigenous nationalities have established organizations along with joint organizations combining various indigenous

nationalities. Apart from NEFIN, there are other organizations with a federal structure like the Nepal Indigenous Nationalities Women's Federation, and Nepal Indigenous Nationalities Students Federation. These organizations were also established in the post-1990 period. There were also various professional organizations of indigenous nationalities such as the Association of Nepalese Indigenous Nationalities Journalists (ANIJ) and Lawyers Association for the Human Rights of Nepalese Indigenous Peoples (LAHURNIP). In this period, one could see greater awareness among indigenous nationalities regarding their own language, culture, and way of life. This shows in their attempts at organization and publication, as well other cultural programs.

Table 1. Nepal's 59 Indigenous Nationalities

Mountain		
1. Bhote	2. Sherpa	3. Thakali
4. Dolpo	5. Lhomi (Singsawa)	6. Lhopa
7. Larke	8. Siyar	9. Mugali
10. Barhagaule	11. Walung	12. Thudam
13. Tangbe	14. Tokpegola	15. Marphali Thakali
16. Tingaule Thakali	17. Chairotan	18. Byasi
Hills		
19. Chepang	20. Gurung (Tamu)	21. Jirel
22. Lepcha	23. Limbu	24. Magar
25. Newar	26. Rai-Kirati	27. Sunuwar
28. Yakkha	29. Tamang	30. Thami
31. Dura	32. Hayu	33. Chantyal
34. Hyolmo	35. Pahari	36. Bhujel
37. Baramo	38. Surel	39. Kusunda
40. Fri	41. Bankariya	
Inner Tarai		
42. Bote	43. Danuwar	44. Kumal
45. Majhi	46. Raji	47. Darai
48. Raute		

Tarai		
49. Dhanuk (Rajbanshi)	50. Dhimal	51. Ganagai
52. Rajbanshi (Koch)	53. Tharu	54. Meche (Bodo)
55. Kisan	56. Satar (Santhal)	57. Tajpuriya
58. Jhangad	59. Kushbadiya	

III. Policies and Programs on Indigenous Nationalities

This section presents the focus of this research, which is an analysis of programs related to indigenous nationalities of Nepal. The first part discusses the programs of the government of Nepal while the second part discusses those of the donor and multilateral agencies.

A. Programs of the Government of Nepal

The Nepalese government, previously known as His Majesty's Government of Nepal and now known as the Government of Nepal,[3] formulated policies and programs, which targeted indigenous nationalities. These policies and programs include, among others, poverty alleviation, mother tongue education at the basic or primary level, "reservation" or affirmative action, and preservation and promotion of languages and cultures. These policies are operationalized in the government's five-year plans (e.g., Ninth Plan, Tenth Plan), language policy, affirmative action, and other government programs such as the establishment of the National Foundation for Development of Indigenous Nationalities (NFDIN), the Monastery Development Program, Poverty Alleviation Fund, and the National Human Rights Action Plan.

1. The Ninth Plan (1997-2002)

For the first time in the 50-year history of Nepalese development efforts, the plans and programs have been specifically men-

tioned the indigenous nationalities as a target group. This Ninth Plan (1997-2002) mentions them under the chapter on "social security." The Ninth Plan, which talked of indigenous nationalities' feeling of exclusion from the national mainstream, had the following broad objectives vis-à-vis the indigenous nationalities:

(a) To eliminate social imbalance by undertaking social and economic development of indigenous nationalities;

(b) To uplift the level of cultural development of the entire country by seeking out and preserving the cultural heritage of indigenous nationalities;

(c) To enhance the capability of indigenous nationalities by undertaking their economic, social and cultural empowerment; and

(d) To empower indigenous nationalities to participate in nation-building by promoting and undertaking the vocational modernization of their knowledge and skills and increasing their access to resources (Ninth Plan, 1997-2002).

The Ninth Plan includes provisions establishing an independent and powerful Indigenous Nationalities Council at the center and Indigenous Nationalities Committees in the 75 districts of Nepal. It indicated the need to ensure the District Development Committee and the Village Development Committee spend a certain percentage of their budgets on development programs for indigenous nationalities. The Ninth Plan also aimed to meet the aforementioned goals by improving upon existing programs and embarking upon new programs targeted at indigenous nationalities.

Aside from employment-generating training programs, the plan outlines specific projects like providing seed money to carry out income generating activities as well as making arrangements to provide easily accessible loans for the management of capital necessary for indigenous nationalities to undertake development activities. In these efforts, NGO involvement and local participation of indigenous nationalities are encouraged.

Moreover, the plan includes developing human resources through programs that improve the education and health status of indigenous nationalities. In education, the plan provides for "mother tongue" education at the primary level to remove the

obstacles to basic education due to language and culture. There would also be scholarships for indigenous nationalities aside from affirmative action that gives them priority in admission to technical educational institutions.

The plan recognizes the contribution of indigenous nationalities in national development. Specifically, it encourages the utilization of traditional knowledge, skills, and institutions in improving health as well as environmental protection. Other communities should learn about these knowledge and skills (Ninth Plan, 1997-2002).

In the area of "culture," the plan mentions various initiatives such as undertaking studies and researches to protect cultural heritage (dress, festivals, music, dance, language, among others). It cautions against "excessive encroachment of external cultures on our living cultural heritage" and of "our originality" that need to be protected. The Plan talked of establishing a museum of indigenous nationalities and a Nationalities Center to develop and promote the arts and culture of indigenous nationalities. The objective was to establish an ethnographic museum, an open museum that showed the culture of the entire Kathmandu Valley, and developing two villages as open museums for tourism purposes (Ninth Plan, 1997-2002).

In the long term, the government sees the preservation and promotion of the country's heritage as national heritage and source for increasing employment and national income and for earning foreign currency.

2. The Tenth Plan (2002-2007)

Like the previous plan, the government's Tenth Plan (2002-2007) includes a separate chapter on indigenous nationalities as well as similar broad objectives. The plan aims to provide equal access to indigenous nationalities in development opportunities by empowering the indigenous nationalities. These communities are presumed "backward" and have not been able to participate actively in the mainstream of development. The Tenth Plan has laid out four primary strategies to achieve these objectives, namely:

(1) to assist in the development of an equitable society by undertaking the all-round development of indigenous na-

tionalities by initiating and implementing programs related to the social, educational, economic and cultural development and [also the] upliftment of indigenous nationalities;

(2) to preserve and promote the language, script, arts, culture, literature and history of indigenous nationalities;

(3) to assist in the vocational use of the traditional skills, technology and specialized knowledge of indigenous nationalities by preserving and promoting them; and

(4) to empower indigenous nationalities to participate in the mainstream of development by maintaining harmonious relationship and goodwill among indigenous nationalities, various caste and ethnic groups and communities (Tenth Plan, 2002-2007).

The Tenth Plan contains various policies and programs targeted at indigenous nationalities. These include effective implementation of already existing targeted programs through structural and institutional reforms. It provides for the establishment of units in all the 75 districts of the country to look into the activities of indigenous nationalities and to strengthen the Foundation for Development of Indigenous Nationalities (NFDIN), a national government agency. The plan also ensures that the District Development Committee and Village Development Committee spend a certain percentage of their budgets on development programs for indigenous nationalities (The Tenth Plan, 2002-2007).

The plan seeks to preserve and promote the varied cultures, languages as well as the knowledge and skills of indigenous nationalities, which are invaluable cultural assets and are part of the national heritage. Toward this end, programs include studying, identifying and documenting cultural heritage, as well as establishing model villages and museums. It further includes classifying the indigenous nationalities languages into several categories such as (a) endangered, (b) without written tradition, (c) oriented towards developing a written tradition, and (d) with written tradition. The plan includes the preservation, promotion and development of these languages (The Tenth Plan, 2002-2007).

Moreover, the plan includes awareness raising and literacy programs for educational development, which include "special en-

couragement" programs for students from extremely backward and endangered indigenous nationalities during their primary and secondary level of education. There shall be scholarships at the school level as well as in technical and non-technical higher education (The Tenth Plan, 2002-2007).

The Tenth Plan also provides for empowering and enhancing the capabilities of indigenous women by legally protecting their traditional rights. It also provides for monitoring and evaluation of investments made by NGOs for the upliftment of indigenous nationalities. Various government agencies are expected to undertake programs in areas where indigenous nationalities constitute the majority in order to increase their access to national resources (The Tenth Plan, 2002-2007).

All these efforts are directed towards decreasing the "social imbalance" or the gap between indigenous nationalities and others. As such, the plan ensures the active participation of indigenous nationalities in various stages of development activities (The Tenth Plan, 2002-2007).

For the above-mentioned policies and programs, the Tenth Plan has allocated a total amount of NRs1.6 billion which includes a minimum amount of NRs 500 million from the Poverty Alleviation Fund and NRs1.1 billion as grant from the local bodies of the government. This is in addition to the amount allocated by various ministries for indigenous nationalities.

3. Policy on Language

Promoting indigenous languages has been one of the more significant initiatives undertaken by the government for indigenous nationalities. This could be taken as the government's response to the efforts of indigenous nationalities who had concentrated on two things in the years immediately following the 1990 restoration of democracy—language and religion. The 1990 Nepalese constitution provided for the indigenous nationalities' right to education using their mother tongue (i.e., languages other than Khas-Nepali) up to the primary level (Article 18.2). However, the responsibility to provide such education is in the hands of the community concerned, and not the government. The indigenous nationalities have prepared related teaching materials and begun

classes at the primary level. It has not been easy given that there are no long-term incentives in learning one's own language (e.g., employment). Nevertheless, indigenous nationalities have continued to bear the responsibility of imparting primary level education using their "mother tongue." The use of languages of indigenous nationalities is encouraged even in non-formal education. Some organizations like the Kirat Yakthung Chumlung, an organization of the Limbus indigenous nationality, have even successfully tapped international donors like the Danish International Development Agency (DANIDA) for a pioneering mother-tongue education for the Limbus indigenous nationality (Bhattachan and Webster, 2005:36).

With regard to the government's Education for All National Plan (2001-2015), NEFIN discussed with the Ministry of Education the right of indigenous nationalities to basic and primary education in their own language. In response, the Ministry formed an additional "thematic group" composed of experts, leaders, and activists who came up with various recommendations, most of which were incorporated into the national plan of action. The plan adopted four major strategies in achieving its goals, namely: (1) use of mother tongue as the subject and medium of instruction; (2) bilingual education; (3) recruitment, training, and deployment of teachers; and (4) special programs for endangered languages and cultures (Education for All National Plan, 2001-2015).

The first phase of the plan (2003-2005) reflects these strategies in the proposed activities. It includes the establishment of mother tongue schools with minority languages as subjects. Furthermore, there is training of teachers and preparation of textbooks and reading materials, which focus on ethnic and cultural values. The plan also addresses the need to formulate policies and programs for the recruitment, training and deployment of teachers (Bhattachan and Webster, 2005:36).

The Ministry of Education has prepared a "core document" that served as a common framework for all its planning and programming to address the needs and priorities of indigenous nationalities. The government has also formed a National Language Policy Recommendation Commission after 1990 to recommend appropriate policies for what the 1990 constitution called the "na-

tional languages" of the country (in contrast to Khas-Nepali which was the "language of the nation"). The Commission recommended the identification, protection, and promotion of national languages and their use in education, administration, and the media. The Commission recommended the creation of a language department in the Royal Nepal Academy as well as the establishment of a National Language Council. However, the government has not yet implemented these recommendations at the time that this research was conducted in 2006.

Nevertheless, the government has other initiatives to support the language of indigenous nationalities in the area of broadcast media. For instance, there are five-minute news bulletins in various languages by Radio Nepal. Among the national languages included in these broadcasts are the Nepal Bhasa (Newari), Bantawa-Rai, Gurung, Magar, Limbu, Sherpa, Tharu, Tamang, and Kham-Magar.

4. Affirmative Action

Aside from the promotion of language, "affirmative action" (or "reservation") is one government initiative that has elicited great interest and reaction from the people. Article 25.3 of the 1990 constitution of Nepal (Part 4, Directive Principles and Policies of the State) provides for the social objective of the state to eliminate all types of economic and social inequalities. Moreover, Article 26.10 of the same section provides for the state pursuing a policy of helping to promote the interests of economically and socially backward janajati or nationalities and communities by making special provisions in education, health and employment.

With regard to special initiatives for disadvantaged groups, the minority government of Communist Party of Nepal-Unified Marxist-Leninist (CPN-UML) in its budget speech of July 1994 announced special programs for 16 groups of indigenous nationalities and the *dalit* (or oppressed people). The indigenous nationalities targeted were Jhangad (Urao), Dhimal, Chepang, Raute and Satar (Santhal). The coalition government of the Rastriya Prajatantra Party and the Nepal Sadbhavana Party, which formed the Nepali Congress following the collapse of the CPN-UML government, also announced special program for 12 groups of indigenous nationali-

ties and the *dalit* in its budget speech of July 1995. The indigenous nationalities included were the same as before, with the exception of the Chepang, which was removed.

The government revived its focus on special initiatives for disadvantaged groups during the King-appointed government of Prime Minister Surya Bahadur Thapa while the latter was engaged in peace talks with the rebels of the Communist Party of Nepal-Maoist (CPN-Maoist). The government's budget speech of July 2003 pointed out that the cause of social unrest and conflict in the country was "social exclusion"—a euphemism for the Maoist insurgency and the violence it has unleashed.

The budget speech tries to respond to this problem through affirmative action in education. For instance, it called for increasing the enrollment rate of indigenous nationalities and dalit students to more than 30 percent in educational institutions. It also called for the provision of specific proportion of the seats in higher education, as follows: 15 percent for indigenous nationalities; 10 percent for dalit; and 20 percent for women students. Moreover, the government prescribed the "reservation" of 10 percent of the seats for indigenous nationalities in technical education, 15 percent in general education, and five percent in government service.

To sustain the efforts in affirmative action, the government formed a Reservation System Recommendation Committee on 1 January 2004 under the chairpersonship of the former Finance Minister. After the change of government in June 2004, the newly formed government of Prime Minister Sher Bahadur Deuba came up with "reservation" for indigenous nationalities, dalit, women, and the disabled in government and semi-government institutions. This was part of the road map of the Administrative Reform Project.

There are problems in the implementation of the "reservation" policy as the case of the B.P. Koirala Institute of Health and Sciences (BPKIHS) illustrates. The BPKIHS allocated one seat for indigenous nationalities in its institution. The BPKIHS has identified only 14 indigenous nationalities as eligible for the seat reserved. However, no one from these groups applied for the lone seat. It was possible that none from these groups fulfilled the criteria to qualify. The BPKIHS then gave the seat to a non-indigenous person.

In the above case, the NEFIN took action when it learned about this incident. It protested the decision to an official (the Vice-Chancellor) of BPKIHS. In accordance with the recommendations of NEFIN, the official not only increased the seats reserved for indigenous nationalities from one to three the following year, but also made all 59 groups of indigenous nationalities eligible for the seats following a classification scheme formulated by NEFIN (see Table 2).

Table 2. Classification of Indigenous Nationalities

	Mountain	**Hills**	**Inner Tarai**	**Tarai**
Endangered Group		Kusunda Banakari-ya Surel Hayu Lepcha	Raute Raji	Kisan Meche (Bodo) Kushbadiya
Highly Marginalized Group	Siyar Lhomi (Singsawa) Thudam	Chepang Thami Baramo	Majhi Bote Danuwar	Dhanuk (Rajabansi) Satar (Santhal) Jhangad
Marginalized Group	Bhote Tokpegola Dolpo Mugali Larke Lhopa Walung	Sunuwar Tamang Bhujel Pahari Fri Dura	Kumal Darai	Tharu Rajbansi Ganagai Dhimal Tajpuriya
Disadvantaged Group	Chairotan Tangbe Tingaule Thakali Barhagaule Marphali Thakali Sherpa Byasi	Gurung Magar Rai-Kirati Limbu Yakkha Chantyal Jirel Hyolmo		
Advanced Group	Thakali	Newar		

In general, the implementation of the government's reservation policy leaves much to be desired. In addition, the frequent changes in government over the years caused some disruptions in the implementation of this policy. Indeed, the King-led government after the royal takeover of 1 February 2005 annulled the reservation quota through an ordinance. Nevertheless, one could say that the reservation or affirmative action debate, with its long-term consequences, has entered the Nepalese societal discourse on affirmative action.

5. Establishing the National Foundation for Development of Indigenous Nationalities (NFDIN)

Another government initiative that has attained high visibility among indigenous peoples is the National Foundation for Development of Indigenous Nationalities (NFDIN). The NFDIN is an outcome of a Working Group formed in 1996 and comprised by intellectuals and activists from indigenous nationalities. The government organized this group to make appropriate recommendations regarding indigenous nationalities. The Working Group defined the janajati (indigenous) as those groups that do not belong in the four-fold Hindu varna system.

Before NFDIN, there was the National Committee for Development of Nationalities (NCDN), originally constituted by the government in 1997 through an executive order. Its activities included awareness raising programs, research, discussion, and consensus-building programs to respond to problems of indigenous nationalities. Later, its successor, the NFDIN was established in 2002 through an act of the government—the National Foundation for Development of Indigenous Nationalities Act, 2001—which makes its footing more secure. The NFDIN began its work only in 2003. It has the following general objectives:

(5) to carry out overall development of indigenous nationalities by formulating and implementing programs related to the social, educational, economic and cultural development and upliftment of indigenous nationalities;

(6) to preserve and promote the languages, scripts, cultures, literatures, arts and histories of indigenous nationalities;

(7) to preserve and promote the traditional knowledge, skills,

technologies and special knowledge of indigenous nationalities and to provide assistance in their vocational use;

(8) to empower indigenous nationalities to be participatory in the mainstream of overall national development of the country by maintaining good relation, goodwill and harmony between different indigenous nationalities, castes, tribes and communities; and

(9) to assist in building an equitable society by carrying out social, economic, religious and cultural development and upliftment of indigenous nationalities.

NFDIN is an autonomous body headed by the Prime Minister as the Chair and the Minister for Local Development as the co-Chair. It has a Vice-Chairperson, which functions as the executive head. The Ministry of Local Development selects the Vice Chairperson based on the three names recommended by NEFIN.[4] The NFDIN also has a Governing Council composed primarily of organizations of indigenous nationalities affiliated with NEFIN. The formation of the NFDIN could be taken as the Nepalese state's recognition of the legitimacy of the indigenous nationalities movement.

However, the government controls the purse strings. Indigenous nationalities decried that the money the government provides to NFDIN is insufficient. The annual amount allocated by the government for NFDIN was NRs21.7 million for the year 2004-2005 and NRs 33million for 2005-2006. These budgets already include the salary of personnel and staff.

The NFDIN had actually requested almost three times that amount (NRs60 million for 2004-2005 and NRs70 million for 2005-2006). It needs a bigger budget to finance projects like Praja Development Program—a program specifically formulated for the Chepang indigenous nationality in their traditional homelands of Gorkha, Dhading, Chitwan, and Makawanpur districts. This program started from the party-less Panchayat period when the former King Birendra renamed the Chepang as "Praja," which literally means "subjects." The Praja Development Program was started in 1979 and has since been incorporated into the NFDIN program and budget.

6. Other Government Programs

Aside from the NFDIN, which operates specifically to respond to issues of indigenous nationalities, there are other government initiatives that also serve the purposes of indigenous nationalities. These programs include the Monastery Development Program, Poverty Alleviation Fund, and the National Human Rights Action Plan.

The Monastery Development Program, another program that also continues from the Panchayat period, is for the Buddhists, which also include members from the indigenous nationalities. The Poverty Alleviation Fund (PAF), established by the government as an autonomous program in 2003, aims to assist individuals, families, and groups suffering from social exclusion and economic poverty. Many from the indigenous nationalities, dalit, and women also belong to this category. Although indigenous nationalities are among the three target beneficiaries of the PAF, they were not consulted during its formulation and its founding. Given that selection criteria set by PAF for its partner organizations, it actually excludes many organizations of indigenous nationalities. For instance, given that many are not "formalized" like mainstream NGOs, the demand from indigenous nationalities and their organizations has been weak (Bhattachan and Webster, 2005:28).

Another government program is the National Human Rights Action Plan (NHRAP), which the government approved in 2004 and has programs and activities that are similar to those formulated for the NFDIN. The objectives of the NHRAP that concern the indigenous nationalities include the following:

(1) enact and/or reinforce and safeguard equal rights for indigenous nationalities in conformity with international human rights norms and standards;

(2) ensure the rights of indigenous women and children affected by conflict;

(3) protect the way of life, culture and identity of indigenous nationalities;

(4) protect the right to education of indigenous nationalities children and adults;

(5) update statistical database on indigenous nationalities to monitor incidences of poverty;

(6) increase employment opportunities for indigenous nationalities; and

(7) protect and promote the technologies, skills, knowledge, arts and crafts of indigenous nationalities.

B. Programs of International Donor Institutions

In the face of increased awareness and aspirations of indigenous nationalities, the Nepalese government had to respond with policies and programs. However, it is not just the national government that has become sensitive to the issues of indigenous nationalities. International development players like donors institutions have turned their attention to the issues of indigenous nationalities of Nepal. All these indicate a shift in paradigm at both the national and the international level, i.e., a shift from "state-led" development efforts to "community-led" efforts that emphasize the role of the people, the community, non-governmental organizations, and civil society.

After the Nepalese government announced special programs for indigenous nationalities in its documents (e.g., the Ninth Plan and the Tenth Plan), international donor institutions also implemented programs for the indigenous nationalities in the name of "mainstreaming," "empowering" or "including" them in development efforts.

Nepal began receiving foreign aid in the early 1950s following the end of the Rana oligarchy. In the early 1950s, Nepal signed an agreement with the United States of America for technical cooperation. Nepal also joined the Colombo Plan in 1952 and began receiving scholarships for higher studies in foreign countries. The main areas in which Nepal received foreign aid in those early days were agriculture, transportation, power generation, industry, health and education. Since the 1950s, Nepal's dependence on foreign aid has been on the rise. Yet, it is only in recent years that these development agencies have directly targeted indigenous nationalities as beneficiaries. For instance, CARE-Nepal, in its strategy pa-

per in 1996, identified indigenous nationalities like the Chepang, Raute, Danuwar, Koche, Meche, Chantyal, Jirel and Tharu in the category of "relatively disadvantaged groups" (DAG). In this context, it is not surprising that the Chepang people have been among the first indigenous nationalities to be targeted by donors for assistance. The Netherlands Development Organization (SNV) implemented Praja Community Development Program for the Chepang people. The Nepal Chepang Association is also running a Chepang Mainstreaming Project for which it received Euro 410,000 (equivalent to NRs36.49 million).

The British Government's Department for International Development provided funds through the Enabling State Program (DFID/ESP) to support projects implemented by NEFIN. The first was the Janajati Empowerment Project (JEP), which was funded in the amount of NRs195 million over a period of three years (2004-2007). This project was intended to strengthen indigenous nationalities organizations, increase awareness among indigenous nationalities, make decision-makers accountable about the rights of indigenous nationalities, and strengthen the role of indigenous nationalities in the policy-making of the state. The DFID/ESP also provided NRs45 million to the NFDIN for its Institutional Strengthening Project in September 2005.

The World Bank also funded a research project carried out by NEFIN to study the indigenous nationalities that were displaced by the Maoist conflict. The project cost was US$30,000.

The Netherlands Development Organization (SNV) together with the Royal Norwegian Embassy and the Government of Nepal established the Social Inclusion Research Fund in 2005 with the aim of producing high quality research, which will make social science research more relevant to the excluded and disadvantaged groups. Aimed at ensuring that research effectively contributes to policy debate and a deliberative democratic process, the Fund provides grants to Nepalese researchers, including indigenous nationalities, to carry out research on various themes including indigenous nationalities.

Action Aid Nepal's project called "Samartha" focused on six indigenous nationalities. These were Santhal, Kisan, Koche, and Reaun (Jhangad) from the Jhapa, Morang, and Sinsari districts.

The other two were Majhi and Bote of Chitwan and Nawalparasi districts. The project started in 2006 and will run until 2010. The total project cost is Euro 750,000.

There are other programs involving international development agencies. The Minority Rights Group (MRG) International is again involved with NEFIN in carrying out advocacy activities. A Canadian and a Danish international NGO, along with DANIDA (mentioned earlier) are working with Kirat Yakthung Chumlung on literacy programs. The Plan International-Nepal assists the Nepal Tamang Gurung, an organization of the Tamang, to conduct literacy programs in their own language in the Makawanpur district.

Apart from the grants given to indigenous nationalities and their organizations to carry out programs and projects, international institutions have also undertaken studies and researches on indigenous nationalities. This is in keeping with the trend of the Nepalese government to mention groups like indigenous nationalities in its government documents. Like the Government of Nepal, international institutions have also begun to mention the indigenous nationalities in their documents. The United Nations Development Programme in its Nepal Human Development Report 2004: Empowerment and Poverty Reduction includes indigenous nationalities, along with dalit, women, children and the disabled in the category of "disadvantaged groups." The World Bank carried out a study in 2005 called "Gender and Social Exclusion Assessment" (GSEA). It looked into the causes and consequences of exclusion. The assessment focused on indigenous nationalities, women, and dalit. Finally, the Netherlands Development Organization (SNV) studied highly marginalized indigenous nationalities of the Eastern Tarai in 2005.

IV. Other Issues and Concerns

This section makes a preliminary observation of the other issues concerning the status of indigenous peoples in Nepal. The discussion includes treaties and conventions related to indigenous peoples, and media coverage of indigenous peoples' issues.

A. Treaties and Conventions Related to Indigenous Peoples

Nepal is a signatory to many treaties and conventions that have direct implications for the situation of its indigenous peoples. Some of the human rights documents that protect the rights of indigenous communities and other minority groups are the (1) International Covenant on Civil and Political Rights (ICCPR 1966), (2) International Covenant on Economic, Social and Cultural Rights (ICESCR 1966), and (3) International Convention on the Elimination of all forms of Racial Discrimination (ICERD 1965). However, these international instruments do not have a binding effect for local implementation. As a result, the gross violation of human rights and discrimination against indigenous peoples based on ethnicity, languages, religion, sex and region have become the prominent features of Nepali state society.

Similarly, the Convention on Biological Diversity (CBD 1992) is another important international instrument that aims to protect the rights and interests of indigenous peoples over their lands, territories and other natural resources. Based on this convention, Nepal's Ministry of Forest and Soil Conservation drafted an Act related to the access and benefit sharing of indigenous peoples. However, it failed because the draft Act fails to address the rights and interests of indigenous peoples. NEFIN has already presented a memorandum to the Minister of Forestry to formulate the Act that would serve the interests of indigenous peoples. The International Union for Conservation of Nature (IUCN) in collaboration with the Ministry of Forestry has completed a research project to document traditional knowledge and practices of indigenous peoples for biodiversity conservation. However, this project document has been stored in the shelves of IUCN due to ownership problems.

The International Labor Organization (ILO) Convention 169 is among many other international conventions that specifically deal with the rights of indigenous peoples. The convention directs states to take positive measures to protect the identity of indigenous peoples and the rights of its members to enjoy and develop their cultures and languages and to practice their religion, in a community with other members of the group. The ILO Conven-

tion is particularly relevant in a multicultural country like Nepal, which is engulfed by ethnic conflict. It also provides the development framework for a multicultural society.

However, the government of Nepal has not yet ratified ILO Convention 169 even though it was supposed to be ratified within the Indigenous People's Decade. This delay is due to two reasons: (1) the government of Nepal did not realize its importance and relevance in Nepal's context; and (2) the ILO Office in Nepal put much effort to protect workers' rights rather than to protect the rights of indigenous peoples. They even did not start dialogue with the government of Nepal for its ratification until recent years. It was only in the last three years that ILO started a dialogue with the government for the ratification of the convention. It has also provided a small support grant to NEFIN for policy research, publication, advocacy workshops, and training on ILO Convention 169. NEFIN's research and advocacy program aims to put a strong pressure on the government of Nepal to consider the ratification of ILO Convention 169. As of 2006, the reinstated Parliament has passed a resolution directing the government to ratify the ILO Convention.

Another very important document that protects the rights and interests of indigenous peoples is the UN Draft Declaration on the Rights of Indigenous Peoples. At the time of writing this report, the UN General Assembly did not yet adopt the declaration. It was due to the strong opposition from the US, Canada, Australia, India and some other countries against the concept of "peoples" and the principle of "rights to self determination" of indigenous peoples. After years of advocacy by the working group and indigenous leaders from all over the world, the newly appointed Human Rights Council finally adopted the draft declaration and forwarded it to the UN for its final adoption. The government of Nepal did not show any concern for its adoption. (The United Nations General Assembly finally adopted the declaration on 13 September 2007.)

B. Media Coverage

Media is a powerful weapon for the advocacy of the rights of disadvantaged communities. However, there are structural defects that block the access of indigenous peoples to media. First, the media, which are dominated by non-indigenous peoples, do not carry news about indigenous peoples. Second, government controls and regulates the national media, both print and electronic, and so it does not address the causes of indigenous peoples. In addition, the Hindu Bahun and Chhetris who control the government think that news about the janajati spread the sentiments of communalism. Third, the mainstream media is biased against indigenous peoples. Fourth, media uses the Nepali language, which is not intelligible to many indigenous communities. Finally, the media is mostly based in urban centers like Kathmandu and are not accessible from remote villages of Nepal.

In order to have access to media, some indigenous activists have started to have their own publications particularly in the forms of magazines to promote janajati causes. Although these magazines have not been able to influence the agenda for the janajati, the growth of their publication is encouraging. They have become helpful in strengthening janajati languages and cultures. There is also progress in the use of janajati languages in radio programs. Now, even Radio Nepal reads news in Gurung, Magar, Newar, Tamang, Sherpa, Limbu, Maithili and Bhojpuri languages. Many FM radios have been set up inside and outside Kathmandu and a number of individuals from different janajati communities are involved in the preparation and production of janajati programs.

Several janajati journalists have started to work in the national and other mainstream print media of Nepal. Apart from this, indigenous journalists have taken initiatives to have their own organization to promote journalism for indigenous peoples. The Association of Nepal Indigenous Journalists (ANIJ) is the formal organization established by indigenous journalists. Together with NEFIN through its Janajati Empowerment Project (JEP), they publish wall newspapers and monthly magazines to advocate the janajati causes, and provide scholarship and training facilities to aspiring young journalists. They support janajati issue-based programs on

television and radio. By 2006, the national and other mainstream media have also started to cover janajati issues in their publications and broadcast. However, they cover the janajati issues on a very sporadic manner. Nevertheless, these developments have been a big help for NEFIN in advocating its agenda for indigenous nationalities.

C. International Decade of the World's Indigenous People and Nepalese Developments

The years spanning the Indigenous People's Decade (1995-2004) have coincided with highly significant, if not momentous, political events that took place in Nepal. The year 1990 saw the restoration of multiparty democracy following a popular movement. In 1991, a parliamentary election was held after a gap of three decades. The euphoria following the democratic restoration was not to last long, however. Internal squabbling within the ruling party after its victory in the 1991 elections led to mid-term polls in 1994. The mid-term elections led to a hung parliament, ushering a period that saw all kinds of shenanigans being practiced in parliament as politics reached a new low. The situation was further compounded by the launching of the "people's war" by the CPN-Maoist on 13 February 1996.

At the time of this research, the country was in the third round of talks with the CPN-Maoist and the casualties from the "people's war" have already crossed the 13,000 mark. In the name of combating the "people's war," the Nepalese state went to the extent of imposing a state of emergency, thus curtailing civil and political rights that were achieved in the 1990 movement for the restoration of democracy. The sacking of the elected Prime Minister by King Gyanendra on 4 October 2002 further weakened Nepal's multiparty democracy. The king further consolidated his power on 1 February 2005 by assuming the Chairpersonship of the ministry. He censured media and ordered the arrest of political leaders, cadres, civil society figures, and intellectuals.

The king's autocratic adventure, however, did not last long unlike his father Mahendra's party-less Panchayat regime that lasted for 30 years. The popular movement of 2006, launched after the

seven parliamentary parties and the CPN-Maoist reached a 12-point understanding to end "autocracy," forced the king to retreat and reinstate the House of Representatives. The House of Representatives came up with its declaration of 18 May 2006—the Nepalese "Magna Carta"—which declared Nepal as a secular state. According to this declaration, the country was to elect a Constituent Assembly, which would formulate a new constitution.

V. Discussion and Analysis

The previous sections had listed some of the policies and programs of the government and as well as those of the donors, international NGOs, and other multilateral institutions for the indigenous nationalities. This section tries to analyze the context and consequences of these initiatives.

Because of the "open atmosphere" brought about by the democratic restoration in 1990, the aspirations of the various marginalized and oppressed groups like the indigenous nationalities, dalit, and women were brought to the fore. Different groups gave different responses to these issues. Some came up with platitudes when they could not come up with concrete steps. For instance, the political parties have made pronouncements about affirmative action and "reservation" programs for indigenous nationalities. Moreover, they have established "fraternal organizations" of ethnic and indigenous nationalities in their parties. Mentioning indigenous nationalities in government documents as well as in party documents has also become de rigueur.

The Nepalese State. To some extent, the post-1990 Nepalese state has come to accept the multicultural reality of the country. The 1990 constitution stated Nepal as a multi-ethnic and a multilingual state, although at the same time continuing with the appellations of a Hindu state. The Local Governance Act of 1999 has some provisions on culture, specifically those relating to the use of languages other than Khas-Nepali at the local level. However, this provision was nullified on 01 June 1999 when the Supreme Court struck down as unconstitutional the decision of the Kathmandu

Metropolis to use the language of the Newar along with Khas-Nepali at the local level.

It must be noted that opposition from indigenous nationalities, along with the CPN-Maoist's violent actions forced the government to discontinue the teaching of Sanskrit in schools, the practice for many years. The indigenous nationalities met this action with approval. However, the teaching of Sanskrit was replaced with teaching of moral values and education based on Hindu norms. The indigenous nationalities are also criticizing it. Moreover, free education for Hindu Bahuns in exclusively Sanskrit schools continues.

With regard to international instruments pertaining to indigenous nationalities, the government of Nepal is not very enthusiastic about some of them. Nonetheless, it was ready to ratify other international human rights instruments, especially in the immediate aftermath of the democratic restoration in the early 1990s. Although Section 9 of the Nepal Treaty Act 1990 says that provisions in the international instruments ratified by the government of Nepal overrides national laws that contradict them, this has not been the case in Nepal so far. For instance, while the government's National Human Rights Action Plan ambitiously talks of reviewing existing laws and formulating new ones in conformity with international human rights instruments, it was not clear which existing laws it has already reviewed so far, or which new laws have been reformulated. One could only say that government activities in this regard have been insignificant.

The CPN-Maoist. The CPN-Maoist, on the other hand, has made pronouncements about the right to self-determination, regional autonomy, linguistic and cultural equality, and proportional representation. The CPN-Maoist has established "national liberation fronts" in various indigenous nationalities.[5] It has also adopted a federal structure for Nepal with nine autonomous regional units, six of which are of indigenous nationalities.[6] Given these, some intellectuals from indigenous nationalities have come to see the CPN-Maoist as the most sympathetic of all the various political forces in the country (Bhattachan and Webster, 2005:28). It has been said that the government was forced to come up with policies for indigenous nationalities to address the causes of the CPN-

Maoist's "people's war" and after being pressured by multilateral institutions like the Asian Development Bank.

The Media. The media also has an important role to play in society. The so-called mainstream media, dominated by the hill Hindu "high" castes, and Hindu academics and intelligentsia, played a significant role in retaining the provision of a Hindu state in the 1990 Nepalese constitution. Its coverage of issues raised by indigenous nationalities has traditionally been minimal. The mainstream media cover "human interest issues" which means color photographs of indigenous nationalities in their cultural programs that appear in the broadsheet dailies that have sprouted in the post-1990 era. Negative comments regarding the customs and traditions of indigenous nationalities are still common in the media. Although there have been some changes from the early 1990s, issues of indigenous nationalities still earned the label of "communal" and "separatist."

Newspapers and magazines have begun to delve into "serious" issues such the secular state, culture and language, reservation and affirmative action, autonomy and federalism. All these have become part of the societal discourse. Nonetheless, there remains the problem of effectively getting the viewpoints of indigenous nationalities through the mass media. For example, the debate on federalism has occupied considerable "space" in the mainstream media. However, the mainstream media focused on its view that federalism means "administrative federalism" as opposed to one that takes into account the cultural and linguistic diversity of the country. There is apprehension among indigenous nationalities that any transformation of the Nepalese state from a unitary to a federal structure would only mean "administrative federalism."

Nevertheless, the media endeavors of indigenous nationalities in the post-1990 period generally played an important role in the indigenous nationalities movement.

Human Rights Organizations. Nepalese human rights organizations in the non-governmental sector, too, have appeared less than enthusiastic in addressing the issues of indigenous nationalities. These organizations, most of which are run and dominated by the hill Hindu "high castes" like the Hindu Bahun, have shown

more fervor for "political rights" and "the restoration of democracy." Though this is not to deny that democratic rights also benefit the indigenous nationalities, multicultural societies like Nepal need political structures that are in conformity with their cultural reality. Only such structures can lead to the deepening of democracy in a multicultural society like Nepal. Thus, issues of language, culture, religion, autonomy, federalism, equality, right to self-determination, and right to traditional land and natural resources of indigenous nationalities are also "human rights." Nepalese human rights organizations and activists belonging to the "dominant groups" have to recognize this and raise their voice for justice and equality.

Other Civil Society Organizations. In the Nepalese civil society, NGOs represent various institutions dominated by the hill Hindu "high" castes. NGOs in Nepal have been accused of many things. Such accusations include being "engaged in dollar farming," "begging and cheating bowls," "slaves of foreigners," or "rotten organizations of Nepal." They are accused of being "engaged in reform that prevents revolution and fundamental change" (Karcher, 2002).

The NFDIN, a semi-autonomous government body, has recently been able to acquire donor funding for its institutional strengthening project. This did not help in countering the perception that NGOs are tools of foreign donors to intervene in developing countries like Nepal, or that they are pawns in the more subtle intervention through the grassroots (as opposed to the more direct state-level interventions of the past).

International donor institutions appear to have grown more sensitive to the issues of indigenous nationalities over the years. However, their engagements with the NGOs could be perceived as co-opting the best and the brightest among the indigenous nationalities. There are concerns that instead of their "movement," indigenous nationalities would be preoccupied in "project work" with donor agencies with all its requirements such as report writing, monitoring, and evaluation. The financial aspect of such work is a cause of concern because it creates rifts and divisions among the indigenous nationalities, which, in turn, cause a setback in their movement.

The Nepalese state and society have not recognized the various organizations of indigenous nationalities that have helped their communities. Among these organizations are the *Rodhi* of the Gurung, *Bheja* of the Magar, *Chumlung* of the Limbu, *Choho* of the Tamang, *Guthi* of the Newar, *Khel* of the Tharu, *Posang* of the Marphali and Thakali and *Dhikur* of the Thakali. Because the institutions of indigenous nationalities are not "formal," they have not been able to access the support of donors. Nonetheless, there are efforts to overcome these constraints. Indigenous nationalities have begun to organize themselves into "modern" or "formal" organizations.

The issues raised by indigenous nationalities are of course political and they require political solutions. Thus, symbolisms and platitudes may be all right, but they are not enough to solve the problems of indigenous nationalities. For instance, it is not enough that the Prime Minister is photographed publicly drinking *tongba*, an alcoholic drink of indigenous nationalities, on the International Day of the World's Indigenous People on 9 August. Likewise, it is not enough that international donor institutions express solidarity with the indigenous nationalities. However, providing fundamental solutions to the issues raised by indigenous nationalities requires action.

One could say that Nepal is presently shifting from one "paradigm" to another. The unitary, centralized structure of the last couple of centuries is giving way to a more inclusive federal structure. Those engaged in "project work" and even in incremental political change are constrained by their very work to carry out their activities within the existing structure. The indigenous nationalities themselves have to be clear about whether they want to go ahead with "NGO/Project work" or they want to move ahead "politically" and thus plan their strategies accordingly. As nationalities become nations and nations become states, the future of Nepal is that of a "multinational state" which accounts for the cultural diversity of the country.

The UN and the Global Context. Although the UN-declared International Decade of the World's Indigenous People could not be the only cause of the upsurge in aspirations of Nepalese indigenous nationalities, it certainly is a contributing factor. The Indig-

enous People's Decade provided opportunities for Nepalese indigenous nationalities to build solidarity and networking and to be part of a "global civil society" of indigenous peoples around the world.

As members of this global civil society, they have criticized some initiatives including the UN's use of certain terminologies. For example, they argue for the use of the term "indigenous peoples" (i.e., in plural) instead of the UN's "indigenous people" which is singular. The plural form denotes a collective or group characteristic, which implies the diverse, distinct, and multitudinous indigenous peoples around the world. Each group has its own social, cultural, and political characteristics. "Peoples" is also the word used in international human rights instruments to confer the right of self-determination to "all peoples," an inalienable right which indigenous peoples also claim as their own.[7]

The use of the word "populations" in the UN Working Group on Indigenous Populations (and not "peoples") has also earned the disapproval of indigenous nationalities. Moreover, the use of the word "issues" and not "peoples" in the UN Permanent Forum on Indigenous Issues prompted one Nepalese indigenous nationality intellectual to say that the United Nations regards "indigenous peoples" as an "issue," i.e., a problem or even a nuisance (Gurung, 2004:146).

As regards the United Nations Draft Declaration on the Rights of Indigenous Peoples, there were mixed reactions from different groups. Some indigenous peoples criticized it for "not going far enough," while governments say that "it goes too far." According to a Nepalese indigenous nationality activist, some of the provisions in the Draft (such as those related to the right to self-determination, compensation, and reparation) have been watered down during discussions in the UN (Harka Gurung, quoted in Biswa Aadibasi Diwas-2004 Bisheshank, 2004:64). Nevertheless, at a press conference on 18-19 August 2001, which was organized by the parliament's Human Rights and Foreign Affairs Committee, indigenous nationality parliamentarians had stressed on the necessity of Nepal's role regarding the passage of the Draft in the UN.

VI. Conclusion

This study has been an attempt at a general survey of some of the initiatives undertaken by the Government of Nepal, international donor institutions, as well as by sections of the Nepalese civil society with regard to indigenous nationalities of the country during the International Decade of the World's Indigenous People (1995-2004). The study also analyzed the context and consequences of these initiatives. There has been greater sensitivity to the issues of indigenous nationalities over the years. This has to be attributed, on one hand, to the "movement" of indigenous nationalities, which has undoubtedly become increasingly successful in clarifying and asserting their demands. On the other hand, the CPN-Maoist's "people's war" deserves credit in making the Nepalese state responsive to the demands of indigenous nationalities. The international actors in the Nepalese scene also have a role to play in all this.

The Indigenous People's Decade and the various UN initiatives related to indigenous peoples, like the ILO Convention No. 169 and the UN Draft Declaration on the Rights of Indigenous Peoples, are important and crucial instruments in advancing the issues of Nepalese indigenous nationalities. They have prescribed norms for states and indigenous peoples around the world. As the Nepalese indigenous nationalities become more and more successful in asserting their demands, the Nepalese state, the government and the international actors in Nepal will also have to bring forth their policies and programs accordingly.

Endnotes

[1] On 13 September 2007, the UN General Assembly adopted the UN Declaration on the Rights of Indigenous Peoples (Tauli, 2008).

[2] Before NEFIN, there was also NEFEN. See discussion.

[3] Nepal's newly elected lawmakers abolished the monarchy and declared the country a republic on May 28, 2008, ending 239 years of royal rule in the Himalayan nation. The assembly which was led by the former communist rebels adopted the resolution at its first meeting by an

overwhelming majority (The Associated Press, 2008).

[4] The inclusion of NEFIN in the selection process as prescribed by the NFDIN Act indicates success of the indigenous nationalities movement in getting the government to heed its demands.

[5] These include the Newar National Liberation Front, Magarat National Liberation Front, Kirat National Liberation Front, Tamang National Liberation Front, Tamuwan National Liberation Front, Tharuwan National Liberation Front, Majhi National Liberation Front, Thami National Liberation Front, Kochila National Liberation Front, and Danuwar-Rai National Liberation Front.

[6] These are the Newar, Kirat, Tamangsaling, Tamuwan, Magarat, and Tharuwan.

[7] The indigenous peoples have taken issue on this matter with the UN which used terms such as International Year, Decade, and Day of Indigenous "People" and not "Peoples" as the indigenous peoples prefer.

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1990 Constitution of Nepal.

2

An Assessment of the United Nations First International Decade of the World's Indigenous People in Bangladesh

Raja Devasish Roy, Sanjeeb Drong, and Mangal Kumar Chakma

I. Introduction

Indigenous peoples comprise a significant proportion of the poor in Asia. Due to deeply-embedded power relations that foster social inequities, indigenous peoples lack the ability to exercise control over their life and socio-political systems. They are far more susceptible to poverty due to lack of decision-making power, which in turn limits their rights over their resources. In the last decade, issues facing the world's indigenous peoples have received greater visibility and attention. One of the most significant initiatives that were introduced to address the problems of indigenous peoples was the United Nations declaration of the First International Decade of the World's Indigenous People, 1995-2004 (henceforth, the Indigenous People's Decade).

The conclusion of the Indigenous People's Decade offers a timely opportunity to not only assess the outcomes of the Indig-

enous People's Decade and acknowledge its successes and shortcomings but to identify and evolve future strategies, which can advance the cause of indigenous peoples. An assessment of the First Indigenous People's Decade is even more necessary as the United Nations has already declared the Second Indigenous People's Decade. Reflecting on the successes and failures of the first Indigenous People's Decade will be critical in making the second decade more meaningful.

A. Description of the Assessment Project

The International Fund for Agricultural Development (IFAD) entered into an agreement with the International Centre for Integrated Mountain Development (ICIMOD) to undertake an assessment of the Indigenous People's Decade in 10 countries in Asia—Bangladesh, Bhutan, China, India, Nepal, Cambodia, Indonesia, Philippines, Thailand, and Vietnam. ICIMOD would cover Bangladesh, Bhutan, China, India, and Nepal and it would enter into partnership with different organizations for the conduct of the research in these countries. The Philippine-based Tebtebba Foundation would cover countries in Southeast Asia.

The goal of the assessment is to contribute to poverty reduction and to improve livelihoods in the target countries by promoting, advancing, and protecting the rights of indigenous peoples. The assessment project has the following specific objectives:

a. To increase the understanding and awareness concerning the status of indigenous peoples in the target countries;

b. To strengthen the capacity of institutions in the target countries which support the well-being of indigenous peoples; and

c. To contribute in creating an enabling environment for policy and project development and advocacy, and to advance the rights of indigenous peoples in the target countries.

B. Objectives of the Study

The assessment team did this study as part of the abovementioned assessment project. The researchers specifically conducted the following:

1. **Situational Analysis**. This part analyzes the role of the media, civil society organizations, and the judiciary in upholding the rights of indigenous peoples. It also provides a brief description of the history of the struggle of indigenous peoples.
2. **Program Analysis**: This section of the paper reviews the selected programs of the government and donor agencies, including a reflection on their achievements and shortcomings.
3. **Policy Analysis**: This is an analysis of (a) national policies of Bangladesh that are relevant to indigenous peoples and their livelihoods; and (b) policies in selected districts, with a particular focus on the Chittagong Hill Tracts (CHT). It includes a review of the trends in key indicators of welfare and livelihoods of indigenous peoples in Bangladesh over the past decade.

C. Methodology

To generate the needed information, the researchers relied on a variety of methods such as review of secondary literature, documentation, and field visits. They conducted in-depth consultations and focus group discussions with various institutions that focus their work on indigenous people's issues. The researchers also interviewed government representatives from the national and district levels. They conducted one collective consultation to triangulate the diversity of perceptions gathered through the individual meetings and to generate a debate and discussion on the successes and failures of the Indigenous People's Decade.

II. Brief Historical Background of the Indigenous Peoples in Bangladesh

There are more than 45 different indigenous communities living in Bangladesh with a population of more than three million. The government prefers to use the term "tribals" in official documents when referring to the indigenous peoples, although some legal documents may sometimes refer to them as "aboriginals" or "indigenous hill men" or "indigenous tribes." However, the indigenous peoples themselves prefer to be known as *Adivasi* or "aboriginal." According to the official census of 1991, the total number of "tribal" peoples in Bangladesh was 1,205,978. However, this figure grossly underestimates the true number of indigenous peoples in the country.

The largest concentration of indigenous peoples in Bangladesh is in the southeastern border region of the Chittagong Hill Tracts (or CHT). The CHT is the only region in the country where the indigenous peoples make up the majority of the population. It has an extensive semi-autonomous administrative structure that has no parallel in other parts of Bangladesh.[1] According to the 1991 census, the Jumma people who number more than 500,000 comprise about 51 percent of the population in the CHT. In contrast, the Santal people with a population of more than 700,000 are the most numerous among the indigenous peoples in the plains where they constitute almost 30 percent of the total population in the area.

The CHT comprises a total area of 13,189 square kilometers. It is about one-tenth of the total area of Bangladesh, with a population of over 1.325 million. It shares borders with Myanmar on the south and southeast, India on the north and northeast, and Chittagong district on the west. It is completely different in physical features, agricultural practices, and soil conditions from the rest of the country, which has the sub-Himalayan Mountains and forest tracts. It is also topographically distinct from the deltaic plains of Bangladesh. It stretches from north to south with a length of roughly 280 kilometers. It is socio-economically, culturally, and administratively different from the rest of Bangladesh.

The 11 indigenous groups in the CHT collectively identify themselves as the Jumma (which means "highlanders") who are the "first" people of the CHT. They are the Chakma, Marma, Tripura, Tanchangya, Murung, Lushai, Khumi, Chak, Khyang, Bawm, and Pankhua. Besides the Jumma, a very small number of descendents of Assames and Gorkhas also live there. The Jumma people are distinct and different from the majority Bengali people of Bangladesh with respect to race, language, culture, heritage, and religion.

Historically, indigenous peoples are known to have lived in the CHT even before the arrival of the Portuguese in Bengal in the 16th century. In contrast, the Bengali people have not settled in the region prior to the 19th century. Their population increased several folds since then, especially with the government-sponsored population transfer program of 1979-84 that they are now the most populous and dominant ethnic group in Bangladesh (Roy, 2004).

Before and during Mughal rule in the south Asian sub-continent, the Jumma people were independent and their territory was much larger than the present CHT region. When the East India Company conquered Bengal, it started to advance towards the hill country. In 1787 and after about more than a decade of fighting, the Chakma king signed a treaty named "Cotton Treaty" with the East India Company at Fort Williams, Calcutta. The region became a British tributary area. The company, however, maintained a policy of non-interference with the king's rule over the CHT (Oanungo, 1998).

In 1860, more than a hundred years later, the British government formally annexed the CHT region with Bengal and created a non-regulated tribal district with limited autonomy known as the Chittagong Hill Tracts (CHT). From 1860 to 1900, the British government administered the CHT. It promulgated the Frontier Police Regulation III on December 7, 1881 for the maintenance of discipline among the police personnel in CHT. The regulation led to the organization of the CHT Police Force, which included indigenous peoples.

In 1900, the British government enacted the CHT Regulation 1 of 1900, which declared the region as an "excluded area" in

order to protect the Jumma people from economic exploitation by non-indigenous peoples and to preserve their traditional socio-cultural and political institutions. For more than a century, this regulation served as bulwark against the encroachment of the Bengali Muslim on the land of the Jumma people. The indigenous peoples in the plain land also received the same protection when the British government declared five thanas in the Greater Mymensingh district as "partially excluded area" in 1935. These were Sribardi, Nalitabari, Haluaghat, Durgapur, and Kolmakanada, which were areas populated predominantly by indigenous peoples. After the British left, these safeguards also ceased to exist.

During the partition of India, the British violated the Indian Independence Act, 1947 and included the CHT as part of Muslim-dominated Pakistan. At that time, the majority of the population of the CHT (97.5%) was non-Muslim. The partition affected indigenous communities in the eastern zone of India such as the Garos, Hajongs, and Kochs. When thousands of Bengali Muslims transferred to these areas, the indigenous peoples became the minority in their own land. As a result, many Garos, Hajongs, Kochs, Dalus and other indigenous peoples migrated to India.

After the partition of India, many communal riots were induced to evict the Garos and other indigenous peoples from the regions now ruled by Pakistan. In 1964 and 1965, the Pakistan government burnt the houses of indigenous peoples to evict them from the Greater Mymensingh area. Then the Pakistan government enacted the Enemy Property Act, 1965 to confiscate the lands and properties from indigenous peoples and religious minority communities.

During the whole period of Pakistani rule, the Jumma people of the CHT faced discrimination in jobs, business, and education. In 1948, the Pakistani government disbanded the CHT Frontier Police Force that the British created under the CHT Frontier Police Regulation of 1881. In addition, although Pakistan's first constitution (passed in 1956) retained the CHT's status as an "excluded area," the government amended the laws that protected the indigenous peoples from acquisition of land titles by non-indigenous peoples and their entry into the region. Even though it is against the CHT regulation, the Pakistan government allowed thousands

of Muslims to settle in the CHT in early 1950s. The situation was further aggravated when the Pakistan government built the Kaptai Hydro-Electric Project in 1960. This project uprooted about 100,000 Jumma people from their ancestral homes and submerged 54 percent of the best arable land in the region. All these illustrate the slow process of marginalization of the Jumma people through more and more Muslim settlements in the CHT region.

In 1971, Bangladesh emerged as an independent state after nine months of war of independence against Pakistan. The Jumma people had expected that the new political leaders of Bangladesh would realize their hopes and aspirations. Soon after independence and in the wake of severe repression and discrimination against indigenous peoples experienced under the Pakistani regime, Manabendra Narayan Larma, a member of the Constituent Assembly at that time, led a delegation of Jumma people to Dhaka to demand regional autonomy prior to the adoption of the Constitution in 1972 (see Box 1).

Box. 1. Jumma Delegation's Demands

1. CHT will be an Autonomous Region with its own legislature;
2. For the safeguard of the rights of the Jumma people, a Statutory Provision must be guaranteed in the Constitution similar to the CHT Regulation of 1900;
3. Administrative set up of the tribal Chiefs be retained; and
4. There must be a Constitutional provision with a guarantee that no constitutional amendment on matters relating to CHT will be made without the prior consent of the people of the CHT.

The Constitution of Bangladesh (adopted in 1972) did not recognize the Jumma people in the CHT and the separate administrative arrangements hitherto enjoyed by the Jumma. The Constitution of Bangladesh did not recognize the presence of indigenous peoples in the country. It did not include a single word regarding the Jumma people. When Mr. Larma strongly reiterated the Jumma people's demand for autonomy in the CHT, the government called him "hostile" and a "separatist." Because of lack of constitutional provisions that protect the Jumma in the CHT re-

gion, Bengali settlers have increasingly been coming into the CHT. Many considered this as the beginning of a "relentless ethnocide and ecocide" in the CHT, which was motivated by "extreme Bengali nationalism."

Finding no other alternative to ensure their survival, the Jumma people rallied behind the banner of the PCJSS (*Parbatta Chattagram Jana Samhati Samiti*) led by Mr. Larma. In the face of rising militarization and police atrocities, and when all democratic avenues failed to draw attention from the government, the peaceful democratic movement turned to armed struggle in 1975 to assert self-determination. Still, the PCJSS always kept the door open for dialogue to resolve the Jumma people's problem through political and peaceful means. The first formal dialogue with the Ershad government happened in 1985, after continuous communication between the government and PCJSS. In this dialogue, the government recognized the CHT problem as a national and political problem. The PCJSS submitted its "five-point charter of demands including provincial autonomy with a legislature" to the government. However, the dialogue ended without any fruitful result. The dialogue continued during the period of the Khaled Zia government in the early 1990s. Still, 13 rounds of dialogue did not obtain results due to the government's seemingly lack of good intentions.

Finally, the government of Sheikh Hasina and the PCJSS signed the CHT Peace Accord on 2 December 1997. A result of seven rounds of dialogues, the Accord ended more than two decades of armed struggle for self-determination. The Accord paved the way for peace, development, and representation of the Jumma people. It recognized CHT as a region inhabited by tribes. It also established three Hill District Councils HDCs), the CHT Affairs Ministry, the CHT Regional Council (CHTRC), and the Land Commission. However, more than eight years after signing the Accord, the main provisions have yet to be implemented.

III. Assessment of Present Situation of the Indigenous Peoples in Bangladesh

For centuries, more than 45 indigenous communities have lived in Bangladesh with a distinct culture, social system, and way of life. The Chittagong Hill Tracts (CHT) is the only region in the country where the indigenous peoples comprise the majority of the population. The British government adopted the CHT Regulation 1 of 1900, which recognized the Chittagong Hill Tracts (CHT) as an "excluded area." The indigenous peoples enjoyed their rights in their own way. No outsiders could enter the area without permission from the Deputy Commissioner of the CHT. In the plains, the border area of the Greater Mymensingh district was also declared as a "partially excluded area" in 1935 recognizing the status of Garos, Hajongs, Koch, Banai, Hodi and Dalu communities as indigenous communities and to protect their lands.

After the British rule, the government of Pakistan partially recognized these safeguards in the Constitution, while the Bangladesh government that later emerged did not recognize them at all. Without a single word about indigenous peoples in the Bangladesh Constitution, the government does not have a policy for the development of indigenous peoples. Neither does it recognize the Adivasis as indigenous peoples who demand for constitutional recognition, and their rights to self-determination, land, forest, and natural resources. All ruling parties of the government lacked sympathy towards the social and economic systems of the indigenous peoples. The state's policy of "internal colonization" further exacerbates the situation and destroys indigenous communities in the country.

The indigenous peoples of Bangladesh are the main victims of human rights violations and all kinds of discrimination. They do not often get justice from police, courts, and other governmental or non-governmental legal institutions. The presence of the security forces in the name of security and development in the CHT served to support the processes of transmigration and settlement of Bengalis as well as the uprooting of the indigenous peoples from their ancestral land. Violation of human rights by security forces and their accomplices in the forms of extrajudicial killings,

torture, rape and general intimidation claimed thousands of victims amongst the indigenous peoples of the CHT.

A. Land Dispossession

Land is the main problem of indigenous peoples in Bangladesh. As in other countries, indigenous peoples in Bangladesh lose their lands, forests, and territories in exchange for "development"[2] without their free, prior, and informed consent. They believe that "when land survey comes, the lands of indigenous people decrease."

In 1960, the Kaptai Dam in CHT flooded the lands and homes of thousands of Jumma people. They remain un-rehabilitated until today. In the Khasi hills of the Moulvibazar district, more than 1,000 indigenous families have faced threats of eviction from their ancestral homeland by a government project called "eco-parks" which started in 2001. A similar project that was implemented in the Modhupur forest in 2003 evicted 20,000 Garos. In June 2005, government officials destroyed 65 houses of the Santal and other indigenous families in Parbatipur, Dinajpur to evict them from their land. The affected families were not compensated.

These incidents have resulted in deaths among the indigenous peoples. In 2000, land grabbers in the Naogaon district killed a Santal leader named Alfred Soren. Piren Snal, a Garo youth leader, was also killed in the Modhupur forest while he was in a protest rally against the eco-park project in 2004. In 2002, the forest department killed Abinash Mura who wanted to protect his people's land in Fultotal in the Moulvibazar district. These cases remain unsolved.

The government has also been acquiring hundreds of acres of land for its eco-park and social forestry projects. In Chimbuk of the Bandarban district, government acquired a total of 5,000 acres of land in the name of constructing an eco-park or a security area for the army. The government is acquiring 5,500 acres more in Sangu Mouza of the Bandarban district in the name of creating an *abhoyarannyo* or animal sanctuary (ACHR Review, 2005).

The Ministry of Environment and Forests (MoEF) declared a total area of 220,000 in the three hill districts as additional reserved forests under different schemes in 1992. Large parts of these forests contain human settlements and farmlands, some of which are registered in the Deputy Commissioner's (DC) office. The project means that another 200,000 people would lose their rights over land and forest resources. Most of them would have to relocate if these plans push through (CHT Commission, 2000). On one occasion, a writ petition was filed in the High Court, challenging the process of declaring forest reservations. However, the High Court advised the petitioner to exhaust his remedies by applying to the CHT Regional Council. This matter is still pending (Roy, 2002).

Aside from forest reserves, social forestry is another project that the Ministry of Environment and Forests (MoEF) plans to implement in the CHT. However, CHT leaders refused because they believed that the proposed social forestry model did not adequately account for the land rights of the Jumma peoples. The model also gave too much power to MoEF officials, rather than to local people who would actually bear the major burden of work (Roy 2002).

Another agro-forestry-related program that affected indigenous peoples was the granting of leases to non-residents and companies for commercial ventures like rubber plantations. For instance, a total of 40,077 acres of lands were leased to non-residents in four *upazilas* in the Bandarban district (namely Lama, Nikkyongchari, Alikadam, and Bandarban Sadar). A large part of these lands contained homesteads and farmlands, which are occupied by indigenous peoples who did not possess formal titles to these lands. The CHT Peace Accord of 1997 states that the leases granted to non-residents would be cancelled if the said lands were left unutilized for 10 years or more. This provision has not been implemented.

Land dispossession also result from state-sponsored migration of Bengali Muslim settlers into the CHT since 1979. More than 400,000 Bengali Muslims transferred to the CHT. Since there was no land available for settlement, the migrants forcibly occupied the land of the Jumma people. With an aim to uproot the Jumma people from their ancestral land, the Bengali settlers "perpetrated

a series of massacres and genocide" allegedly with the direct help of military forces. Government civil functionaries with the active support of military authority are patronizing this expansionist program with funds allotted under the so-called "pacification programme," NGO Program, and various other covert and overt programs. On 01 January 2005, the Bengali Muslim settlers from Maischari cluster village in Khagrachari district constructed houses on land of the Jumma at the Gamaridhala area in the Khagrachari *upazila* with the help of the army.

The Bangladesh army and air force have also declared their intention to acquire no less than 30,444 acres of land in the Bandarban district[3] for artillery training grounds. If these plans materialize, 25,000 people would be evicted from their land. Moreover, the army plans to acquire another 9,560 acres of land for the expansion of Ruma Cantonment and 184 acres of land to expand its brigade headquarter in Bandarban town without any prior consent either from the Hill District Council (HDC) or from the CHT Regional Council. This would displace another 4000 people. Protests by local people have so far not resulted in any concessions from the governments (CHT Commission, 2000).

B. Situation of Indigenous Women

Women in indigenous communities constitute about half the population of Bangladesh. They traditionally occupy positions of lower socio-economic and political standing compared with men. They are victims not only of repression and negligence but also of violence, rape, kidnap, and murder. Rampant violation of women's human rights takes place not only within the home but also even in police custody.

There were human rights violations during the years of the armed struggle. The military imprisoned and tortured Jumma women who were seen as "soft targets." The military singled them out because they were related to men suspected of opposing the government. Aside from military forces, Bengali settlers, forest guards, and abusers of drugs and alcohol also committed violence against Jumma women. Moreover, Jumma women who traditionally sell products in the market by themselves (unlike women from the plains) also face harassment. Bengali settlers and traders ham-

per this age-long tradition when they deprive the women of the actual price of farm produce. On many occasions, Bengali traders not only buy the products at lower prices, but they also ridiculed the women.

Forced intermarriage is used as an instrument to integrate the Jumma peoples into Islamic Bangladeshi society and to alter the demographic profile in the area. Many Jumma women were kidnapped[4] and forced into marriage to convert them into Islam. Those who refused were murdered. Generally, the Jumma women move freely and are not bound by the cultural and religious impositions that restrict the freedom of movement of Bengali Muslim women. These cultural differences combined with the military presence and the increasing domination of Bengali Muslim culture in the CHT have made the Jumma women more exposed to sexual attacks by the Bengali settlers.

Despite the CHT Peace Accord, the safety of Jumma women remains uncertain. There are regular reports of rape and kidnapping committed by both the armed forces personnel and Bengali settlers. For instance, there were reports that security forces and Bengali settlers raped 36 women, molested 13 women, kidnapped nine women, and tortured more than 25 women in the period after the signing of the CHT Peace Accord. In the plains region, Bengali settlers killed a Garo woman leader named Gidita Rema in the Modhupur forest in 2001. Before killing her, the Bengalis abducted her younger sister Namrata Rema and raped her. Cases were filed against the killers, but no justice came to the victim. In general, indigenous women face serious violation of human rights, insecurity, and harassment daily.

C. Development

There are numerous examples of development projects inflicting more harm than positively contributing to the economic welfare of the indigenous peoples of Bangladesh. They do not have control over developments activities that have identified them as "target groups" or "beneficiaries." Both the government and to a lesser extent, NGOs, seldom consult with the indigenous peoples in the formulation or implementation of development projects.

For example, the gas reserves in the CHT may be greater than the gas reserves of the rest of the country put together. An American company named UMC Bangladesh Corporation completed survey work in the CHT in 2004. Very little is known about the terms of the memorandum of understanding between the Government of Bangladesh and this company. Consequently, many CHT people are concerned that mining activities could destroy the environment and lead to the dislocation of local people. Although the CHT Regional Council has formal authority over environmental matters and heavy industries, it is not clear whether the council could ensure that mining activities prevent environmental damage and human rights violations.

Also of special concern is the "practice" of accusing indigenous peoples of theft of forest produce on a large scale. The Movement for the Protection of Forest and Land Rights (MPFLR) dismissed the vast majority of these cases as baseless (Leaflet, Committee for the Protection of Forest and Land Rights, CHT: n.d.). Examples include cases against blind and severely disabled, and even people long dead. This proves that the charges were baseless.

Based on the CHT Peace Accord, the CHT Regional Council shall coordinate all the development activities carried out by the three Hill District Councils (DCs). It further provides that

> *the CHT Development Board shall discharge the assigned duties under the general and overall supervision of the Council. The Government shall give preference to the eligible tribal candidates in appointing the Chairman of the Development Board (CHT Peace Accord, 1997).*

Despite these provisions, authorities[5] do not respect the authority of the CHT Regional Council making it difficult to coordinate with the Hill District Councils and the CHT Development Board. Moreover, the government has not appointed a tribal candidate as chairperson of the CHT Development Board. The government appointed a non-indigenous person named Abdul Wadud Bhuyan (an MP from the ruling party) as the Chairman of the CHT Development Board in gross violation of the CHT Peace Accord. Since his appointment, Mr. Bhuyan has allegedly been allocating a major portion of the CHT Development Fund for areas dominated by Bengali settlers specifically for the rapid expan-

sion and establishment of new villages after his own name such as "Wadud Polly" (Wadud Village) in many new areas of the CHT. In contrast, no development program was undertaken in the Jumma people's areas.

With the administrative devolution in the CHT, indigenous peoples are supposed to be more in control of decisions on development priorities. However, government ministries, which are based in the national capital, retain major decision-making powers and financial authority.

Recently, various national and international NGOs have started activities in the CHT. Due to the negative impact of externally conceived development interventions in the region, the indigenous peoples have become skeptical of NGO activities that are inconsistent with their needs. For instance, it the indigenous peoples learned that some donor agencies have given grants to mainstream NGOs for implementation in the CHT. However, these projects proved ineffective, especially in the micro-finance sector. The national government responded by allowing the CHT Regional Council to have the authority to monitor NGO activities in the region.

The newly formed NGOs of the CHT organized their own Forum—the Hill Tracts NGO Forum—to articulate their development perspectives and to monitor development activities in the region. This served as a counter perspective because national NGOs did not adequately respect the indigenous peoples' cultural identities and development philosophies. In 2006, however, the government of Bangladesh stopped the activity of the Hill Tracts NGO Forum. In some cases, government intelligence agencies hinder the work of local NGOs. On 23 November 2005, the Prime Minister's office stopped the workshop on "Land Right Issues in CHT" organized by the Hill Tracts NGO Forum and other local NGOs. In a meeting of Parliamentary Standing Committee on CHT Affairs held on 29 May 2006, one Member of Parliament from the ruling party threatened to undertake drastic action against the local NGOs making "false and baseless allegations."

Another important matter is the significant rise of the Bengali population over the years. This rise is commensurate to its growing numbers, economic influence, and its closer links with the social, economic, and political elite in the capital city of Dhaka. The

Bengalis' rising influence is shown by their control of trade and commerce in the region (Chakma, 1998). Although there is a growing middle class among the indigenous peoples, their economic and political influence is quite limited, especially at the national level. Large sections of the indigenous populations remain socially and economically marginalized. This is due to displacement and land alienation brought about by privatization and state-sponsored population transfer of non-indigenous peoples into the region (Roy, 2004).

In general, the indigenous peoples in the CHT are neither benefiting from development programs nor getting back their land from Bengali Muslim settlers and the military. Many indigenous youths are losing their traditional ways of livelihood. They also do not have sustainable alternatives.

D. Education

There is little or no information available on the status of education in the CHT. National surveys like the 62-Village Study conducted by the Bangladesh Institute of Development Studies (BIDS) and the Assessment of Basic Competencies conducted by BRAC did not account for the CHT.

However, it is widely known that literacy rates in the CHT lagged behind the national rate. The level of education in the CHT is very low. The status of education for women is lower. Seven out of every 10 women in the CHT are virtually uneducated (CHTDF-UNDP 2005). In some cases, education for girls is discouraged. Fewer girls than boys are attending school, and girls drop out at an earlier age than boys do. However, the literacy rate of children aged 11 to 12 years old varied significantly with ethnicity. The literacy rate was highest in the Chakmas (37.7%) and lowest in the Mros (only 3.2%). Similarly, adult (15 years and older) literacy rates also varied among different ethnic groups. For instance, the adult literacy rate was 36.2 percent in Chakma, 26.6 percent in Marma, 2.9 percent in Mro, and 18.5 percent in Tripura (Mushtaquw and Chowdhury, 2001).

Moreover, only one in five villages in the CHT has a primary level educational institution. In contrast, there are two schools in

every three villages in other areas. This leads to the conclusion that children in the CHT have less opportunity for education compared to the rest of the children in Bangladesh. At the primary level, the net enrollment rate was 56 percent in the CHT, while it was 77 percent for the entire country. Even in the case of literacy rate of children aged 11 to 12 years old, the CHT was lagging behind the rest of the country (Mushtaquw and Chowdhury, 2001).

The turbulent situation during armed conflict disturbed the smooth functioning of educational activities in CHT. Even after the signing of the CHT Peace Accord, the situation did not change because the Accord was not implemented. These realities have contributed to the present educational status of the region and its variation from the rest of the country.

Another constraint that leads to learning difficulties is the use of the Bengali language as the national language. Obviously, Bengali is not the mother tongue of the indigenous peoples. The CHT Peace Accord of 1997 provides for the introduction of primary education using the languages of the indigenous peoples. However, government has not yet taken concrete measures to reform the school curricula. No similar arrangements have been proposed for the plains region. These omissions are contrary to the provisions of the ILO Convention No. 107 and the Convention on the Rights of the Child, both ratified by Bangladesh.

E. Health Services

Generally, Bangladesh has inadequate health services. The indigenous peoples health situation is much worse because they do not have access to health services. Because all health facilities are located at the district or at upazila (sub-district) headquarters, the indigenous peoples from hilly areas have to travel on foot or are carried on the back to seek treatment at the hospitals.

Food insecurity is quite high among the indigenous peoples. The overall prevalence of severe protein-energy malnutrition in the CHT appeared to be greater than the national average. The CHT is one of the malaria-prone regions in Bangladesh. The indigenous peoples also suffer from pneumonia, maternal and in-

fant mortality, hookworm infestation, diarrhea, and dysentery. There are frequent reports of death from malaria and dysentery.

There is one doctor for every population of 4,955 in Bangladesh. In the CHT, the ratio is one doctor for 10,000 people (Chakma, 1998). Because of limited access to doctors, most indigenous peoples depend on traditional doctors and faith healers. There are three hospitals with obstetrical units at the district headquarters in CHT. However, there is no other clinic in the private sector with delivery facilities. Because of inadequate maternal and childcare facilities, neonatal and infant mortality rate is very high. All these factors are the reasons for the low population growth rates among the indigenous peoples in CHT.

F. The CHT Peace Accord and its Implementation

On 2 December 1997, the National Committee on CHT Affairs (on behalf of Government of Republic of Bangladesh) and the PCJSS[6] (on behalf of residents of the CHT) signed the CHT Peace Accord of 1997 (see Box 2 for its main features). The event was held at the International Conference Hall of the Prime Minister's Office in Dhaka, in presence of the Prime Minister and other cabinet ministers and officials. The accord is named "Accord between the National Committee on Chittagong Hill Tracts formed by the Government and the Parbatya Chattagram Jana Samhati Samiti."

The CHT Peace Accord ended decades of fierce fighting between the Jumma peoples and the government of Bangladesh. It defined the scope of the rights of the Jumma people over the CHT region with the formation of four local councils to control and supervise land management, law and order, civil administration, local police, development, primary and secondary education, and forest and environment, among others.

The Jumma people of the CHT, the democratic and secular political parties of Bangladesh together with the UN, European Union (EU), governments, and international organizations hailed and welcomed this Accord. Even UNESCO had awarded then Prime Minister Sheikh Hasina with the Houpet-Felix Boigny Peace Prize in 1999 for the signing of the Accord.

However, there were also those who rejected the Accord like the Bangladesh Nationalist Party (BNP), Jamat-e-Islam, and Jatiyo Party (JP). They claimed that the Accord was unconstitutional and a sell-out to India. Members of Parliament expressed opposition to the Accord because it was not discussed in the parliament prior to its signing. They also objected to amendments and modification in the CHT Regional Council and Hill District Council bills. They also argued that the Accord endangers the sovereignty of the country and fails to safeguard the rights of the Bengali settlers in the CHT. Besides, a faction of the Hill Peoples' Council (HPC), Hill Student Council (HSC), and Hill Women's Federation also rejected the Accord arguing that the aspirations of the Jumma people including the demand for autonomy has not been fulfilled by the Accord.

Box 2. Main Features of the CHT Peace Accord of 1997

A. General

(1) The CHT region has been recognized as a tribal-inhabited region, and the need for preserving the characteristics of this region, and attaining the overall development thereof.

(2) Both the parties have agreed to make, alter, amend and add to, in consonance with the consensus and responsibilities expressed in the different section of this Accord, the relevant laws, regulations and practices according to law as early as possible.

(3) A 3-member Accord Implementation Committee with a Convenor to be nominated by the Prime Minister will monitor the implementation of the Accord. The Accord will come into effect from the date of its signing and execution and will remain valid until completion of all tasks to be performed by both parties, as stipulated in the Accord.

B. Hill District Local Government Councils

(4) Provision for more strengthening of power and functions of

three Hill District Councils with 33 transferable subjects (including more new 12 subjects awarded in the Accord), such as, supervision, maintenance and improvement of the law and order, general administration, police (local), land and land management, primary and secondary education, youth welfare, forest (except reserved forest) and environmental protection and development, local tourism, agriculture, health, etc. Besides, the following provisions are also included in the HDC Acts:

(a) Definition of non-tribal permanent resident has been determined, by which a non-tribal person would not be permanent resident who has not lands of lawful entitlement in the hill districts.

(b) No land and premises, including the leasable Khas lands, within the territorial limits of the Hill Districts shall be transferable by Ijara (lease), settlement, purchase or sale except with the prior permission of the Council.

(c) Only the permanent residents of the CHT shall be entitled to be considered as legally eligible for enlistment in the voters' list.

(d) Responsibility of issuing permanent resident certificate was bestowed on traditional Circle Chiefs.

C. The Chittagong Hill Tracts Regional Council

(5) Provision for formation CHT Regional Council with the aim of making CHT a unique political and administrative unit. This Regional Council was bestowed upon the power of supervising and coordinating to the subjects transferred to three Hill District Councils (HDCs), like law and order, general administrations, development programs, CHT Development Board, Coordination of NGO activities and disaster management and relief operation, traditional and social justice, etc. and the power of giving license for heavy industries. In making any law in connection with CHT, the Government shall enact such law in consultation with the Regional Council.

D. Rehabilitation, General Amnesty and Other Matters

(6) In order to restore normalcy in the CHT region and, to that end, in respect of *rehabilitation, general amnesty and allied*

issues, both the parties have been arrived at the following consensus and agreed to undertake programs as follows:

(a) Withdrawal of all the temporary camps of the army, the Ansars and the Village Defense Party (VDP), excepting the Border Security Force (BDR) and permanent army establishment (being those three at the three district headquarters and those at Alikadam, Ruma and Dighinala), from CHT;

(b) Rehabilitation of returnee Jumma refugees, internally displaced families and returnee members of the PCJSS;

(c) Rehabilitation of landless Jumma families providing land settlement;

(d) A land commission would be formed for settlement of land disputes due to forcible land grabbing by the Bengali settlers and unlawful entitlement and acquisition.

(e) Allocation of additional finance on priority basis for the implementation of increased number of projects towards developments in CHT;

(f) Quota reservation for the Jumma people in respect of government service and in institutions for higher studies;

(e) All the posts of officers of all ranks and employees of different classes in government, semi-government, local government and autonomous bodies of the CHT, the permanent dwellers of the CHT shall be appointed, subject to priority being given to the Jumma people.

(7) Provision for establishment of Ministry for CHT Affairs where a cabinet minister would be appointed from among Jumma people and an Advisory Committee shall be constituted to lend support to this Ministry.

The government led by the Awami League implemented some provisions of the Accord, but the system of "self-rule" in the CHT has not been fully implemented despite the existence of policies. For instance, the parliament passed the CHT Regional Council Act in 1998 in accordance with the CHT Peace Accord. An interim CHT Regional Council was also constituted accordingly. However, the Act has not been fully implemented. Even the "Rules of Business" of the council is still pending.

The parliament also amended the Hill District Council Act to follow the Accord. Again, these Acts have not been fully implemented. No power has been transferred to the HDCs and elections were not held since the 1990s even after signing the Accord. The CHT Peace Accord Implementation Committee itself, which government formed in 1998, has not been truly operational.

There are several agencies led by people who come from the CHT. These are the newly established CHT Affairs Ministry, Task Force on Rehabilitation of Returnee Refugees and Internally Displaced Persons, and CHT Development Board. However, these agencies have not done anything to implement the provisions of the CHT Peace Accord.

Government also formed the Land Commission for resolving land disputes, but disputes have not been settled. Worse, the parliament enacted the CHT Land Dispute Settlement Commission Act in 2001 containing 19 provisions that contradict the provisions of the Accord. This happened on the day before the handing over of charge to the Caretaker government.

As for the displacement of indigenous peoples from their land, only 31 temporary base camps (Report on the Implementation of the CHT Peace Accord, PCJSS, 2004) out of 545 camps (Briefing notes issued by CHT Affairs Ministry) were withdrawn. While repatriation of refugees was completed in 1998, most of the 9,780 families have not taken back their lands (Report of the CHT Returnee Jumma Refugees' Welfare Association, 2002).

Since taking office in October 2001, the coalition government led by the Bangladesh Nationalist Party seems to delay the implementation of the Accord. In addition, the coalition government has distorted some vital clauses of the Accord that were implemented during the period of the Awami League government.

The following are some of these distortions and violations.

- The CHT Affairs Ministry, instead of being led by a minister appointed from the ranks of the Jumma people, has been under the direct control of the Prime Minister. The position of Deputy Minister was the post filled up by someone appointed from the Jumma people;
- Monitoring the functions of the CHT Affairs Ministry is made through the Parliamentary Standing Committee in-

stead of the Advisory Committee to the CHT Affairs Ministry;

- The person appointed as Chairman of the CHT Development Board belongs to non-indigenous Bengali settlers;
- Government has not established the CHT Implementation Committee. It monitors CHT affairs through a committee renamed "Cabinet Committee on the CHT Affairs" under the chairmanship of a non-indigenous Bengali settler who is the Minister of the Local Government and Rural Development Ministry.

Given these circumstances, most provisions of the CHT Peace Accord are only partially implemented if they are implemented at all. At present, implementation of the Accord has totally stopped. Most of the respondents interviewed for this research strongly emphasized that the idiosyncratic and chauvinistic mindset of the ruling elite, intelligentsia, and bureaucrats are responsible for the non-implementation of the Accord. Moreover, the government's "Islamization policy" is the major obstacle to the implementation process.

IV. Assessment of Programs Undertaken by the Government, Donor Community, and Other Actors

The overall picture of partnerships between the Government of Bangladesh, on one hand, and indigenous peoples and civil society, on the other, is far from ideal. Almost all successive governments have neglected relevant policies and have not done anything to change the general situation of widespread discrimination against the indigenous peoples. Problems of bureaucratic red tape, over-centralized government, corruption, and poor governance have marginalized members of civil society and the indigenous peoples. This eroded whatever little gains were made in the past between government and civil society. These gains resulted from lobbying efforts of civil society and indigenous activists and workers, and sometimes because of pressure from bilateral development agencies from industrialized countries. In the case of the CHT and indigenous peoples, among the most important factors

behind the bipartite and tripartite development efforts are the provisions of the CHT Peace Accord of 1997 and the support of some development agencies of industrialized countries.

A. Government Activities During the Indigenous People's Decade

The United Nations, in its 50th session of the General Assembly in 1996, adopted a program of activities for the International Decade of the World's Indigenous People. This program emphasized the importance of action at the national level to implement the activities of the Indigenous People's Decade. The UN encouraged governments to support the Indigenous People's Decade by

- Preparing relevant programs, plans and reports in relation to the Indigenous People's Decade, in consultation with indigenous peoples;
- Seeking means, in consultation with indigenous peoples, of giving indigenous peoples greater responsibility for their own affairs and an effective voice in decisions on matters, which affect them;
- Establishing national committees or other mechanisms involving indigenous peoples to ensure that the objectives and activities of the Indigenous People's Decade are planned and implemented based on full partnership with indigenous peoples.

Despite this encouragement, the government of Bangladesh did not take any initiative to lend its support. The government did not observe even the International Day of the World's Indigenous People.[7] In fact, the government continues to deny the existence of indigenous peoples in Bangladesh saying that the national minorities living in the country are not "indigenous peoples" but "tribals." The government even claims that the Jumma people are descendants of the settlers. It is clear that the International Decade of the World's Indigenous People has not brought any fundamental changes in the government's policy towards the indigenous peoples in Bangladesh.

Despite the government's denial of the indigenous peoples' existence, former Prime Minister Sheikh Hasina mentioned in an interview with the *Sanghati* magazine on Indigenous People's Day in 2000 that there are two million indigenous peoples in the country. Similarly, Prime Minister Begum Khaleda Zia acknowledged the significant contribution of the indigenous peoples to the liberation war and the country's welfare in the message given to the same magazine on Indigenous People's Day in 2003.

Most interviewees for this research agree that many provisions of the CHT Peace Accord have not been implemented. These are the provision on the transfer of power to the CHT Regional Council and the Hill District Councils, resolution of land disputes by the Land Commission, demilitarization of the region, conduct of elections for the district and regional councils, and rehabilitation of Jumma refugees.

The government has implemented a few projects for the indigenous peoples in recent years. Among these was the setting up of cultural centers in the districts of Netrokona, Moulvibazar, and Cox's Bazar. However, non-indigenous peoples who have little knowledge about indigenous culture are the ones holding the major positions in these centers.[8]

In addition, the Special Affairs Division (SAD) also has a funding arrangement for the indigenous peoples in the plains region and not just for the CHT, which started in 1990. Under this arrangement, the government identified 14 upazilas (or sub-districts) of the 10 districts in the plains region as "special development areas." These are as also inhabited by the Adivasi who are socially and economically disadvantaged (Prime Ministers' Office, 1990, 1997, 1998). In 2004 to 2005, the SAD expanded the coverage to 36 districts and 62 upazila (Letter, Prime Minister's Office, 2003). However, most of the interviewees said that the indigenous peoples are not involved in planning this program. There are also questions regarding transparency and accountability in the operations of SAD.

In line with the Millennium Development Goals (MDG), the Government of Bangladesh drafted a national policy known as the "Poverty Reduction Strategy Paper" or "PRSP." The draft initially included only a few insignificant sentences concerning "tribal" people effectively bypassing all issues of vital interest to indigenous

peoples. However, after formal consultations and intense lobbying by indigenous peoples, the government amended the draft on 28 April 2005. Indigenous representatives offered concrete suggestions including those pertaining to terminology (i.e., preference for "indigenous" over "tribe" or "tribal"), and amendments to constitutional provisions and other policies. It appears that the government representatives acceded to these demands. This dynamic may provide a good precedent for indigenous peoples involvement in policymaking. However, there are no concrete action plans in the policy document. As a result, there were no separate allocations for indigenous peoples in the national budgets.

Nevertheless, the government has come up with "equal access" provisions on job quotas as special privileges for indigenous peoples. It mentions that five percent of public jobs are reserved for "tribal" people although the "tribal" population is only 1.5 percent of the entire national population. Despite such provisions, far less than 1.5 percent of government jobs are currently held by indigenous peoples.

B. Indigenous Peoples' Activities in the Decade

According to the interviewees, solidarity between indigenous peoples from different regions of Bangladesh grew significantly during the Indigenous People's Decade (see Box 3) despite severe discrimination and oppression. Observing the International Day of the World's Indigenous People every year and forming a national organization of indigenous peoples in Bangladesh strengthened this solidarity.

The *A*divasi National Coordination Committee (NACC) coordinated several events for the indigenous peoples. During the late 90s, it coordinated the events for the International Day of the World's Indigenous People, which they have been observing since 1993. The NACC also helped organize a National Round Table Conference of Indigenous Peoples of Bangladesh, which took place in Dhaka on 19 December 1997. The NACC worked with the Bangladesh Indigenous and Hill Peoples Association for Advancement (BIHPAA) and the Society for Environment and Human Development (SEHD) with the support of the Minority Rights

Box 3. Reflections of an Indigenous Leader

Mr. Shaktipada Tripura is a traditional leader in CHT. He is a Headman of the Gasban mouza and President of the Khagrachari District Headmen Association. He is also involved in the indigenous movement since his student days.

He said that the declaration of the International Decade of the World Indigenous People is a historic message to the indigenous peoples. It has also drawn the attention of the world community regarding problems faced by the indigenous peoples. Nevertheless, he believes that there was little achievement during the Indigenous People's Decade. The signing of the CHT Peace Accord during the Indigenous People's Decade was the result of the Jumma peoples' struggle.

Still, it is very encouraging that the UN welcomed the CHT Peace Accord. The Indigenous People's Decade definitely benefited the Jumma peoples of CHT like other indigenous peoples of the world. The Jumma peoples became part of the international network. Another great achievement of the indigenous peoples was the founding of the Bangladesh Adivasi Forum, which strengthened the solidarity among indigenous peoples in the country.

He opined that the UN's initiatives in influencing the implementation of treaties and constructive arrangements between the government and indigenous peoples could be frustrated. Hence, there is an urgent need for a mechanism within the UN System for monitoring the implementation of treaties and other international agreements.

Group, International (MRG). The conference adopted a declaration called the Adivasi Declaration, 1997. Most of the interviewees believed that the adoption of this declaration was one of the most important achievements of the indigenous peoples during the decade. This declaration articulated a common demand for the indigenous movement.

One major achievement of the indigenous peoples in Bangladesh during the Indigenous People's Decade was the formation of the Bangladesh Adivasi Forum, a national organization for indigenous peoples. The Forum was established on 13 July

2001 consisting of 75 members from all over the country. The Forum also publishes a regular magazine on indigenous issues. Some of the achievements of the Forum are the following:

(a) Organizing indigenous peoples to fight for their rights;

(b) Raising the united voice of indigenous peoples in the national and international stage;

(c) Making aware and sensitizing majority Bengalis, civil society members, media, and NGOs on the issues of indigenous peoples;

(d) Stopping projects like Eco-parks, national parks, and reserved forests that displace indigenous peoples from their land;

(e) Putting pressure on government to include indigenous concerns in the PRSP.

The indigenous peoples hold a national program on 9 August every year to celebrate the International Day of the World's Indigenous People. Local indigenous organizations observe the Indigenous People's Day in their localities. During the Indigenous People's Decade, some students and indigenous youth organizations actively participated in the struggle for protecting their rights to land, forests, and natural resources. These organizations include the Pahari Chatra Parishad (PCP), Bangladesh Garo Student Organization (Bagachhas), Santal Students Union, Hajong Student Organization, Bangladesh Adivasi Student Movement Organization, Hill Women Federation, and Khasi Student Council.

The indigenous peoples also observe the CHT Adivasi Cultural Festival organized by the Jum Aesthetics Council (JAC) since 1998 as part of the indigenous peoples' cultural rights. The festival allowed indigenous peoples to network with the mainstream cultural movement. In addition, the indigenous peoples observed other activities promoting human rights and fundamental freedoms of indigenous peoples. Such activities include International Women's Day, International Mother Tongue Day, and International Day of the World's Indigenous People. The Hill Student Council, Hill Women's Federation, CHT Women Association, Movement for the Protection of Forest and Land Rights, and the Khagrachari District Citizen's Forum also launched protests against human rights violation and land grabbing in the CHT.

Besides the pioneer role of the PCJSS in strengthening solidarity among indigenous Jumma peoples in CHT, other cultural organizations, NGOs, and ethnic-based organizations have also helped in raising awareness on indigenous people's rights.

C. Donor Community's Activities in the Decade

More and more donors were having reservation about sanctioning development proposals from the Bangladesh government due to delays in the implementation of the CHT Peace Accord. Nevertheless, international development institutions such as the Danish International Development Agency (DANIDA), UN Development Programme (UNDP), Asian Development Bank (ADB), World Food Program (WFP), and CARE-Bangladesh have implemented programs for the indigenous peoples.

1. Danish International Development Agency (DANIDA)

According to the interviewees, the Danish Government is one of the strongest supporters of the peace process in the CHT. In 1998, DANIDA sanctioned approximately US$30 million to construct a road that connected the three district headquarters in response to a PCJSS request in August 1999. However, on 16 February 2001, armed cadres of the United Peoples' Democratic Front (UPDF) allegedly abducted three foreigners who were road engineers of the DANIDA project. The incident happened at a spot close to an army camp on the Rangamati–Mahalchari road. All donor agencies including DANIDA postponed their activities in the CHT following this incident.

In 2003, DANIDA consulted with the indigenous peoples to formulate its five-year program. This led to cooperation between DANIDA and CHT-based indigenous organizations. One example was the HYSAWA project (from the words "hygiene," "sanitation," and "water") undertaken in 2003. A National Project Steering Committee supervised the project, which was implemented by a national NGO. The Government of Bangladesh led the steering committee, which had a membership composed of representa-

tives from the project-holding national NGO, the Hill Tracts NGO Forum (HTNF), and local NGOs. The HTNF chaired the regional coordination committee, which was composed of representatives from the CHT Regional Council and local government bodies. This was one of the very few examples where the government, the indigenous peoples, and other non-governmental institutions worked together in Bangladesh (Chakma, 2005).

2. UN Development Program (UNDP)

In May 2002, the Government of Bangladesh and the UNDP agreed to review and assess the situation of risk in the region and the possibilities for renewed development activity and assistance. The Joint GoB/Donor Risk Assessment Mission on the CHT described the CHT as having a "congenial atmosphere for development." They called upon the donor agencies to undertake development program in the region (UNDP, 2003). The CHT people including the PCJSS expressed their reservation on this report saying that the UNDP Mission did not recognize basic issues of the indigenous peoples but simply echoed the views and policies of the government.

In accordance with the said report, the UNDP undertook a project called "Promotion of Development and Confidence-building in the Chittagong Hill Tracts." The estimated cost of the project was $2 million. The project established a so-called "Quick Impact Fund," which was dedicated primarily to providing small grants to 500 Para Communities (UNDP, 2003).

The project aimed at:

(a) facilitating the resumption of substantial international development assistance to the Chittagong Hill Tracts (CHT) which was suspended in February 2001 as a result of a serious kidnapping incident in the CHT; and

(b) supporting the formulation and start-up of a multi-sectoral Development Support Programme in the CHT which is funded by UNDP and other donor institutions.

The UNDP created a CHT Development Facility with modest offices in Dhaka and Rangamati in support of the first objective mentioned above. The second objective meant elaboration of various project initiatives aimed at (a) institution-building support to

all relevant CHT institutions, (b) community development pilot schemes at the grassroots level in the CHT, and (c) confidence building measures to strengthen communal harmony and cooperation in the CHT.

However, there were questions whether the project was consistent with the CHT Peace Accord of 1997 as well as with the UNDP's policy on indigenous peoples. The "target beneficiaries" section of this project proposal states the following: "In line with basic principles of the United Nations, the benefits of the project will be accessible to all population groups in the CHT, irrespective of their ethnic origin or residence status." Based on these criteria, this project has included outsider Bengali settlers as target beneficiaries. According to the interviewees, the project did not ensure the participation of Jumma peoples and local institutions in the planning and decision-making processes of this project.

3. Asian Development Bank (ADB)

After the CHT Peace Accord of 1997, the ADB supported the preparation of a Ten-Year Regional Development Plan for the CHT in 2000. A team from ADB visited the CHT in July 2000 to assess the feasibility of the projects, which included developing the road infrastructure, preventing hill erosion, and establishing women's rights. The ADB approved a loan of $30 million in October 2000 for the project that would run from 2001 to 2007.

Following the assessment, the ADB undertook a project named CHT Rural Development Project (CHTRDP) covering three districts with financial assistance coming from the Government of Bangladesh, Asian Development Bank, and the Palli Karma Sahayak Foundation (PKSF). The project aims to reduce the incidence of absolute poverty in the CHT by improving the rural infrastructure, increasing employment, and creating income-generating opportunities for the poor. The Local Government Engineering Department (LGED), the three Hill District Councils, the PKSF, and the Project Management Unit (PMU) of the CHTRDP are the implementing agencies of the project, led by the CHT Regional Council.

Some interviewees believe that on-going CHTRDP is not transparent and is not part of the activities for the Indigenous People's Decade.

The ADB also organized consultations for the ADB Country Development Strategy Paper (CSP) for Bangladesh in 2003. However, the indigenous peoples were also not properly involved in these consultations.

4. World Food Programme (WFP)

Following the signing of the CHT Peace Accord of 1997 and the consequent repatriation of exiled and internally displaced people in July 1998, the WFP launched a three-year "Expanded Food Assistance" (EFA) program in all three districts of the CHT. The objective was to improve the livelihood, food security, and nutrition of the poor, particularly the women and children. The three components of the program were Integrated Fish Culture, Livelihood Support Initiatives, and Rural Road Maintenance. The WFP sanctioned $21 million, including 30,000 metric tons of rice and food baskets for the years 2002-2005 (SFO Update, 2006).

The program also supported the peace process by building trust among the population. However, neither the indigenous peoples nor the Indigenous People's Decade was the reason for this project. In fact, the project also included huge numbers of Bengali settlers who have been receiving free ration of food grain since 1979.

5. CARE-Bangladesh

In 1999, CARE-Bangladesh conducted an assessment named "CHT Livelihood Security Assessment." In 2000, CARE-Bangladesh implemented a project called CHOLEN or "CHT Children's Opportunities for Learning Enhanced," which was sponsored by the United States Agency for International Development (USAID) and CARE-USA. Adopting a strategy of joint management, the project facilitated a participatory process whereby indigenous communities could take ownership and management of their children's primary education. The project specifically focused on increasing women's education and enhancing teaching-learning methodology in schools. As one of the means of promoting enhanced teaching-learning methodology, the project also encouraged appropriate usage of indigenous languages in the classroom.

CHOLEN continues to work in partnership with local partner organizations and attempts to influence local government agencies towards improving educational facilities in the CHT.

6. General Observations on Donor Activities

The UNICEF has been involved in community development programs in cluster villages for many years. Even the International Fund for Agricultural Development (IFAD) and UNESCO (United Nations Educational, Scientific and Cultural Organization) implemented projects for indigenous peoples outside the CHT. However, almost all the interviewees for this research opined that these UN agencies and other donor institutions had not brought any development program to the CHT to achieve the goals of the Indigenous People's Decade. Moreover, there was no proper consultation with indigenous representatives and organizations in Bangladesh.

Though several UN specialized agencies have their own policy of engaging indigenous peoples, they did not follow these policies when they implemented development projects in the indigenous regions. They did not incorporate the indigenous perspectives in their development initiatives.

D. Role of Civil Society in the Indigenous People's Decade

Although discriminatory attitudes within mainstream society are still widespread, a number of support networks involving both indigenous and non-indigenous peoples have grown. However, the number and activities of such networks is too limited to influence the mainstream political and developmental agenda.

Generally, the mainstream population knows very little about the CHT issue especially prior to the CHT Peace Accord of 1997. Many people in Bangladesh including members of the major political parties lack the knowledge about indigenous peoples and their cause. Most of them do not acknowledge the rights of indigenous peoples including the right to self-determination. This was due to the government's repressive policy, its control of the media, and censorship of the independent press. It is thus important

that one of the objectives of the Indigenous People's Decade was to educate non-indigenous societies concerning the cultures, languages, rights, and aspirations of indigenous peoples. Still, the CHT issue took the national spotlight during the 1990s due to commencement of formal dialogues between the government and the PCJSS, and particularly after the signing of the CHT Peace Accord of 1997.

There are segments of the civil society that reacted differently to indigenous issues. For instance, a progressive section of the secular Bengali people supported the Jumma peoples' struggle since the 1990s. There were many organisations run by mainstream Bengali people, which supported the Jumma peoples' cause. One of the most dedicated organizations was the National Committee for the Protection of Fundamental Rights in the CHT led by barrister Lotfar Rahman Shahjahan. The organization criticized the government's repressive measures, and condemned extra-judicial killings and arbitrary arrests. However, the organization became inactive after the death of Lotfar Rahman Shahjahan.

Another example would be the Parbatya Chattagram Adi O Sthayee Bangali Kalyan Parishad (translated into English as CHT Permanent Bengali Welfare Council). Permanent Bengali residents in the CHT who came to the region during the British period and were affected by the Kaptai dam formed this organization immediately after the signing of the CHT Peace Accord of 1997. It continues to work with indigenous peoples' organizations such as PCJSS in support of the Accord. Unfortunately, the organization has also become inactive.

In 2004, indigenous peoples and people from mainstream society formed a new organization named Bangladesh Adivasi Odhikar Andolan. This organization has been working to support and create national awareness on indigenous issues. Several student organisations, women's organizations, secular and progressive political parties, and institutions have demonstrated their concern for the Jumma peoples' cause and now work closely together with Jumma organizations.

In contrast to the above examples, a "fanatic" organization named CHT Equal Rights Movement (Parbatya Chattagram Sama Odhikar Andolan) was formed in 2004. Since its formation, the

organization has been harassing people in the CHT. For instance, on 23 February 2004, members of this organization attacked the president of the Gono Forum, Dr. Kamal Hossain while he was on his way to attend a meeting organized to demand for the implementation of the CHT Peace Accord.

In general, while there has been increased support from civil society for the indigenous peoples' demands, the commitment of civil society organizations for indigenous issues remains limited.

E. Role of the Judiciary in Upholding the Rights of Indigenous Peoples

Freeing the judiciary from executive control is still far from reality in Bangladesh. The Supreme Court (SC) recommended that the judiciary remains in one ministry, but the government placed it under three ministries. In addition, the government has not yet constituted the proposed National Human Rights Commission (NHRC). Indigenous peoples could not execute any legal challenge until this body is in place.

There is, however, one rare instance when the SC upheld the rights of indigenous peoples. This was in a dispute over the succession to the position of "chief" of the Bohmong circle between two members of the chief's family. The Supreme Court declared:

> *The Office of Bohmong Chief is a customary office and both the Government and the Court have to recognize the custom and not to introduce any other criterion or factor that will add to the customary requirements of that office. The High Court Division was manifestly wrong in holding that the office of Bohmong Chief is a political office and that the claimant is nominated by the Government on politico-administrative considerations. This finding is not based on any authority. It is an innovation, which is an alien criterion contrary to the established usage and custom of the Bohmong Circle...Government will also not deny that the susceptibilities of the tribal people should not be ignored (Aung Shwe Prue Chowdhury v. Kyaw Sain Prue Chowdhury and others, 1998).*

This decision may be regarded as a positive precedent in protecting customary law and upholding the rights of indigenous peoples in the CHT. The big question is whether the Bangladesh courts, the executive, and the legislative arms of the government would be as sympathetic towards customary resource rights as they have been in the case of customary personal laws (Aung Shwe Prue Chowdhury v. Kyaw Sain Prue Chowdhury and others, 1998).

One instance that illustrates how the high court ignores the rights of indigenous peoples was the controversial case against the CHT Peace Accord of 1997. One argument was that the Accord would affect the right of franchise, the right to purchase and transfer property, and the right to contest various elected posts. The petitioner claimed that CHT Peace Accord has created an autonomous region of CHT and that this effectively violates the unitary nature of the Bangladeshi state. Moreover, the CHT Regional Council is neither a local government unit nor an administrative unit within the context of the Constitution. The petition also stated that the convenor of the National Committee on CHT had no authority to sign an agreement on behalf of the government. In response, the Court cited the main assertion in the petition that the CHT Peace Accord has not been consented by the parliament.

The government passed the CHT Regulation (Amendment) Act of 2003 (Act No. 38 of 2003) to effect major changes in the CHT judicial system. It seeks to transfer civil and criminal judicial authority from civil servants to judicial officers of the Ministry of Law and Justice. However, government has not yet implemented this Act. Hence, the officials of the executive (i.e., Deputy Commissioners, District Magistrates of the hill districts) function as judicial authorities in the CHT. Given this situation, the judiciary could not fully uphold the rights of the indigenous peoples.

There were a few cases of judicial inquiry in response to cases of kidnappings, but government did not disclose the reports to the public. The Jumma peoples suspect that the results of these inquiries could have been unfavorable to the government and the military, which is why they remain unpublished. Consequently, no one is punished for human rights violations most of the time.

There were also few cases when the Jumma people in the CHT got favorable verdicts at the district courts. These cases were land-related. However, despite the court verdict, the Jumma peoples could not effectively take possession of their land in most cases due to presence of the Bengali settlers.

F. Role of the Media in Upholding the Rights of Indigenous Peoples

Despite many obstacles, there has been considerable progress in the media's role in Bangladeshi society. Print journalists played a role in hastening the end of military rule, which in turn, led to amendments in laws restricting freedom of the press. The establishment of private television channels, together with the increasing number of newspapers, journals, and satellite television channels are a testimony to the pluralistic character of the Bangladeshi media. There is also an alternative film movement led by young, progressive, and innovative filmmakers. Despite political polarization among journalists, incidents of individual attacks and killings of journalists have catalyzed unity and collective action (Statement, 2006).

There has been increased support from the press for indigenous peoples' demands for self-determination, constitutional rights, and right to local resources. There is an increasing understanding within mass media of the value of ethnic, language, and cultural diversity. Despite continued government denial of the indigenous peoples' existence, the term "indigenous peoples" has permeated the mass media discourse. However, there are also those who feel more comfortable using the term "tribe" or "tribal." They even use the term "tribal terrorist" when referring to incidents involving indigenous peoples.

In general, there is now greater awareness and sensitivity about indigenous issues in the mass media in Bangladesh than before. Media coverage of indigenous issues has increased quantitatively and qualitatively. Media as covered stories about gross human rights violation committed against the Jumma people.[9] All these helped create a public opinion at the national and international levels. Because of this coverage of the cause of the indigenous

peoples, the "fundamentalists" in the CHT have targeted some media personalities and correspondents. There may be considerable progress in improving freedom of expression and freedom of the press in the CHT, but constraints remain with regard to access to information.

In contrast, the government backs certain journalists, newspapers, radio, and television programs to portray its version of the issues pertaining to the Jumma peoples. The army funded the publication of several books and magazines in Bengali and English aside from sponsoring dozens of newspapers. Even offices of the press club in the hill districts were constructed with the financial support of the army. Military and government propaganda against the indigenous peoples continue in the region.

G. Major Challenges to Partnership in Action

Lack of political will on the part of the government is the major challenge for indigenous peoples in Bangladesh. The political leaders need to be more sensitive to the issues faced by indigenous peoples. Use of religion and mono-culturalism in politics put the indigenous peoples at risk every day. Politicians and the majority in society do not look at diversity as a tool for peace building and harmony. The majority Bengalis lack the knowledge about indigenous cultures, languages, history, and tradition. Textbooks and educational materials present a distorted and stereotypical view of the indigenous way of life.

Non-recognition of the indigenous peoples and their rights in the Constitution is the root problem of the marginalization of indigenous peoples. The government is reluctant to implement the international human rights conventions related to indigenous populations. For instance, the Government of Bangladesh ratified the ILO Convention No. 107 for Indigenous and Tribal Populations in 1972 but no single provision has been implemented. Government officials are not aware of this convention. In the CHT, lack of trust between government and indigenous peoples is the major challenge for the non-implementation of the CHT Peach Accord of 1997.

V. Assessment of Policy Development Regarding Indigenous Peoples in Bangladesh

The Government of Bangladesh has no single formal policy document regarding its indigenous peoples. The policy of the successive governments regarding the indigenous peoples' concerns could be gleaned from legal instruments, administrative practices, sectoral policies, and development programs. Some of these laws and documents make explicit references to indigenous peoples using varied nomenclature. The phrases include "aboriginal tribes" (State Acquisition and Tenancy Act, 1950), "indigenous hill men" (Finance Act, 1995; CHT Regulation, 1900), and "tribes" (CHT Regional Council, 1998). The Constitution of Bangladesh does not directly mention the indigenous peoples but it is understood that they form part of the disadvantaged part of the citizenry, which the Constitution terms as "backward section of citizens" (Articles 14, 28, 29).

A. Understanding Government Policy from Legal Instruments and Other Documents[10]

1. Special Constitutional Dispensations of the Past

During the British period (19th century until 1947) and part of the Pakistani period (1950s and 1960s), the CHT was recognized as an "excluded area." Sribardi, Nalitabari, Haluaghat, Phulpur, Durgapur, and Kalmakanda in the greater Mymensingh region were recognized as a "partially excluded area" (Government of India Act, 1935 and the Pakistan Constitution of 1956).

An "excluded area" (and later, a tribal area) denoted an almost exclusively tribal-inhabited area. Administrative features were unique to the territory and general laws were applied very sparingly. A "partially excluded area," on the other hand, denoted a comparatively mixed, but still predominantly tribal-dominated territory, whose administrative system was more integrated into the regular administration of the province. Moreover, more laws of general application were allowed to function therein.

The Pakistan Constitution of 1962 designated the former "ex-

cluded areas" as "tribal areas." The former "partially excluded areas" of Mymensingh were not included in the list of "tribal areas" unlike the CHT. However, the special constitutional status of the CHT was removed in 1964 through an amendment to the Constitution of Pakistan called the Constitution (First Amendment) Act, 1963. Despite repeated demands from CHT leaders—both the traditional chiefs and headmen, and members of parliament and other elected leaders—the special constitutional status of the CHT was never revived. Likewise, the special status of the Mymensingh areas was also not revived. This change in status of Mymensingh resulted in a huge influx of settlers into the region. This happened from the 1950s and continued into the 1980s.[11]

In the case of the CHT, there were similar developments. For instance, the East Pakistan High Court struck down a CHT law that restricted the movement of non-indigenous peoples within the CHT as unconstitutional on grounds that it violated the freedom of movement clause of the Constitution.[12] In the period after the signing of the CHT Peace Accord of 1997, the constitutionality of the Accord and consequent laws including the CHT Regional Council Act of 1998 and the Hill District Council (Amendment) Acts of 1998 were challenged in the High Court of Bangladesh.[13]

2. Current Constitutional Provisions

The Fundamental Principles of State Policy, as recognized in Article 14 of the Constitution recognizes the "emancipation from all forms of exploitation" of the "backward section" of citizens. The "backward section" includes the peasants, workers, and other "toiling masses" which are the "fundamental responsibility of the State."

The Constitution further outlaws discrimination on grounds of race, religion, and place of birth (Article 27, Article 28) and provides a scope for affirmative action in favor of the "backward section of citizens" (Article 28, Article 29). These provisions were the basis for allotting a small percentage of public sector jobs, and seats in a number of governmental educational institutions for indigenous peoples.

3. Laws of the Plains Region

There are some ordinary laws that make specific reference to indigenous peoples. In the plains, one such laws is the East Bengal State Acquisition and Tenancy Act, 1950 (Section 97), which forbids the transfer of lands owned by "aboriginals" to non-aboriginal persons without the express consent of the government's district officer. This law, along with the special provisions restricting the transfer of aboriginal lands, is especially protected in Article 47(2) and First Schedule of the Constitution. However, this was more due to the administrative implications of legal challenges regarding complex land issues, rather than due to some concern for the indigenous peoples. Thus, although a "historical accident," the question of the aboriginal identity of several indigenous peoples of the plains (including the Santal, Oraon, Garo, and other larger groups) and the need to protect their land rights are beyond legal challenges.

4. Laws of the CHT

The CHT has a large body of laws that refers directly to indigenous peoples. Some of these laws recognize the indigenous peoples' customs regarding the ownership and use of land and other natural resources. The most important of such laws is the CHT Regulation of 1900. Other laws include the Hill District Council Acts of 1989, the CHT Regional Council Act of 1998, the CHT Land Dispute Resolution Commission Act of 2001, and the CHT Regulation (Amendment) Act of 2003.

The latter three laws mentioned were passed after the signing of the CHT Peace Accord of 1997. However, many provisions in the Accord have yet to be fully implemented especially those pertaining to the devolution of powers to the regional and district councils, resolution of land disputes, the rehabilitation of former refugees and displaced people, and the demilitarization of the region.

The CHT Regulation of 1900, like other comparable administrative regulations in nearby Northeast India and Northern Burma ("Myanmar"),

> *…lays down a detailed policy for the general, judicial, land, and revenue administration of the region and defines the powers, functions and responsibilities of various officials and institutions…[It] stipulates the manner and extent of the application of other laws to the region, many of which apply only to the extent that they are not inconsistent with the Regulation (Roy, n.d.: 44).*

The regulation acknowledges the practice of customary law and lays down guidelines on land administration practices. Although the most important powers are vested in state officials, the regulation also recognizes the traditional offices of chiefs and headmen, and their consultative and administrative prerogatives, albeit under government supervision.

5. CHT Laws and the Constitution of Bangladesh

The Constitution does not expressly protect the CHT laws of today, although it is understood that the provisions on "backward section of citizens" provide a protective umbrella to these laws. A simple majority in parliament could amend the CHT laws because these laws are "ordinary" laws. However, the government is now obliged to consult the CHT Regional Council before legislating for the CHT.

At a round table conference in 1998, indigenous peoples from all parts of the country unanimously demanded the constitutional recognition of the "indigenous peoples." They also called for the recognition of the special administrative status of the CHT in the national Constitution. Recently, Moni Swapan Dewan, the Member of Parliament from the Rangamati district (and the Deputy Minister of the Ministry of Chittagong Hill Tracts Affairs) raised the issue of constitutional recognition in parliament (Daily Suprobhat Bangladesh, 2006). However, it is not known if this demand has generated enough support from the majority Bengali population.

6. The Indigenous Peoples and International Human Rights Treaty

The Government of Bangladesh has ratified several international human rights treaties that have a direct bearing upon the rights of indigenous peoples. These include the International Convention on the Elimination of Racial Discrimination (CERD), the

International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

In addition, there are other conventions such as the ILO Convention on Indigenous and Tribal Populations (Convention No. 107 of 1957)[14] and the Convention on Biological Diversity.

The ILO Convention No. 107 contains several provisions that deal with the rights of indigenous peoples on land, recruitment and conditions of employment, vocational training, handicrafts and rural industries, social security and health, administration, education and means of communication (Roy, 1005). Some provisions in Bangladeshi law conform to the standards of ILO Convention No. 107 but there are also provisions that fall short of these standards. Nevertheless, regulations on legislative prerogatives, customary laws, and self-government in the CHT go beyond the provisions of ILO Convention No. 107. They are in fact more in conformity with the more progressive Convention No. 169, and close to the comparable provisions of the UN Draft Declaration on the Rights of Indigenous Peoples.[15]

However, the implementation of the provisions of the said treaties is wanting, especially the provisions in the ILO Convention No. 107 which pertain to administration, land, education, vocational training, employment, mother tongue education, and language rights. These are especially needed in the plains region where there are few legal and administrative provisions that address the concerns of indigenous peoples.

Another international treaty ratified by Bangladesh and relevant to the indigenous peoples is the Convention on Biological Diversity, which contains provisions on the protection of traditional knowledge systems and genetic resources of indigenous communities and measures for their equitable utilization (Article 8j and Article 10c). Unfortunately, most of these provisions remain unimplemented especially in the plains region.

There are several factors behind the weak implementation of the treaty provisions in Bangladesh. Firstly, international treaty-based rights are not directly enforceable in the courts of law under Bangladeshi law. Secondly, the treaty-monitoring system, especially in the case of the ILO Convention No. 107, is complicated

and provides no direct access to indigenous peoples. Thirdly, monitoring of these processes by the indigenous peoples themselves and by human rights groups has not been sustained and thorough. This is due to the limited organizational capacity indigenous peoples and human rights groups. These shortcomings need to be addressed through a combination of lobbying, advocacy, and capacity-raising work within the treaty monitoring bodies in the government and civil society.

7. Indigenous Peoples and Sectoral Policies

Government policy may also be understood as reflected in sectoral policies and development programs. Important sectoral policies pertain to land administration, healthcare, education, and employment. For example, it has already been mentioned that "tribals" are allotted a number of seats for certain jobs and positions in educational institutions. Unfortunately, the mechanics to implement this allotment are absent. Separate policy directions with regard to land administration in the plains district are also unknown.

The practice of special restrictions on land transfers of aboriginals is present in some parts of Mymensingh and in parts of Dinajpur. However, this practice is not followed in other Adivasi-inhabited areas in the plains (Roy, 2006). With regard to the CHT, there does not seem to be any explicit and written policy on land administration. Land administration practices show major changes particularly in the 1970s and 1980s with growing preference for allowing entrepreneurs and other outsiders to acquire land in the CHT. This process slowed down since 1989 with the introduction of the Hill District Councils in the CHT (Roy, 2004). Although the Hill District Councils now play a role in administering land in the small market center, and in vetoing or allowing land transfers in other parts of the CHT, it seems that the government is not yet ready to devolve substantial land administration authority to them (Roy, 2002).

Similarly, the CHT Land Commission, which was entrusted with providing quick remedies to land disputes in the CHT has yet to start its work. It appears that the government is not yet ready to amend the law establishing the commission—the CHT Land Dis-

putes Resolution Commission Act, 2001—in accordance with the CHT Peace Accord of 1997, as requested by the CHT Regional Council (Adnan, 2004).

Finally, there seems to be no special measures that aim to address the indigenous peoples' health and education needs, especially those living in remote areas. The "usual" healthcare and education programs designed for the Bengali-populated plains regions could not be used to resolve the problems in other places. Thus, tens of thousands of indigenous peoples continue to be deprived of healthcare and education. In order to provide equal access to indigenous peoples, the sectoral policies need to provide for special measures to address the needs of the disadvantaged people.

B. Policy Neglect and Policy Gaps

In dealing with indigenous peoples in Bangladesh, previous discussions show that policy neglect is a recurrent theme in describing the role of government since the colonial period. This is particularly glaring in the plains where land grabbing is rampant in all the Adivasi-inhabited areas. Many Adivasis suffer displacement in the name of "eco-parks" and "national parks." Their participation in decision-making is limited because they could not be elected into the local government bodies in the plains district due to their small number. At the time of writing in 2006, there was only one Member of Parliament who was an Adivasi. Even more vexing is the continued absence of any Adivasi representative in the Special Affairs Division (SAD) of the Prime Minister's Office—the office that deals with development in Adivasi-inhabited areas. Many Adivasi have demanded the creation of a special ministry or, at least, representation in the SAD. Unfortunately, these demands have not been heard.

In the CHT, policy neglect and policy gaps on many of indigenous issues remain despite some policy advances. Foremost are the non-implementation of the CHT Peace Accord of 1997 and the unresolved land disputes. Although the Accord has indeed set a firm basis for reestablishing peace, justice, and democracy in the CHT, the representation of the smaller ethnic groups in the CHT

Regional Council and in the hill district councils is not substantive. Similarly, the Accord and other policies have not adequately addressed the disempowerment of indigenous women and other gender inequities (Roy, 2003: 4-57, 34-37).

Government, indigenous leaders, and civil society actors should address these issues in the future.

C. Policy Advances

Government has generally neglected the issues of indigenous peoples in the CHT or in the plains district for many decades. Perhaps, the only policy advance worth mentioning is the adoption of the National Poverty Reduction Strategy Paper (PRSP) in October 2005, which referred to indigenous peoples as "Adivasi/ Ethnic Minority." This document at least acknowledges the indigenous peoples' disadvantaged position as well as their exclusion from the development process. More importantly, it refers to the "inadequate representation of Adivasi at various levels of government and policy processes" (Planning Commission, 2005). In the short term, the PRSP is a potential policy tool for advancing the social and economic rights of indigenous peoples. In the long term, it could be invoked to enhance the participation of the Adivasi in the overall process of administration and governance.

Particularly for the CHT, the most important policy advance in recent years is without a doubt the signing of the CHT Peace Accord of 1997. It brought the indigenous guerrillas back to normal life, and established a basis for limited self-government with significant focus on the hill people. This has suffered some setbacks as explained in the previous sections of this report. The implementation of the Accord remains among the major challenges for the indigenous peoples of the CHT, and indirectly, for the indigenous peoples of the plains.

D. Major Policy Challenges

Among the most important policy challenges are: (a) the implementation of the CHT Peace Accord of 1997; (b) the execution of the PRSP through sector policy reforms and development programs; and (c) the implementation of international human rights treaty provisions dealing with the rights of indigenous peoples.

The Constitution of Bangladesh echoes many, if not all, of the provisions of the said policies, albeit in different terms. The section "Fundamental Principles" or "Fundamental Rights" reflect these ideas. After all, the Bangladeshi Constitution refers to internationally recognized basic human rights and fundamental freedoms as "fundamental rights." Perhaps it may be strategically more effective to refer to the constitutionally recognized rights, whenever the treaty-based rights are also recognized under the Bangladesh Constitution, rather than to invoke international law. When one invokes national constitutional law, one refers to "justiciable" rights that have more "teeth" than international human rights law.

As for the CHT Peace Accord of 1997, its values in bringing long-term peace and stability to the CHT and all of Bangladesh could hardly be denied whatever its legal status is at the moment. Whatever is anyone's view on the contents of the agreement, the Accord has given birth to laws, institutions, and processes that could not be easily undone. It is a political, as well as an administrative and social reality. The sooner all concerned accept this, the sooner would there be peace, justice, and stability for Bangladesh. The faithful implementation of the Accord could also have a positive impact on the situation of other indigenous peoples in Bangladesh.

VI. Recommendations and Conclusion

Individual interviewees and participants to the workshop and FGD have suggested recommendations for national and international decision makers. These are classified as "national" and "international" perspectives as follows:

A. *National Perspectives*

- Constitutional recognition of indigenous peoples, recognition of their traditional right to land and control over natural resources thereby recognizing their right to self-determination;
- Prevention of land alienation and restoration of possession of alienated lands;
- Establishment of an Advisory Body or National Commission for Indigenous Peoples;
- Establishment of a separate Land Commission for indigenous peoples in the plains;
- Recognition and facilitation of the traditional social institutions of indigenous peoples;
- Implementation of the CHT Peace Accord of 1997;
- Sensitization of the government in the area of data collection and data disaggregation for the integral development of indigenous peoples;
- Assurance of full and effective participation of indigenous peoples in all levels of development programming;
- Abide by the principle of free, prior and informed consent of indigenous peoples;
- An advocacy cell to raise indigenous issues at the national and international level;
- A policy guideline for development of indigenous populations;
- Research and documentation on the number of indigenous communities, their ethnographic identity, and issues like land, human rights, and education in the mother tongue;
- Proportionate representation in the local government and national parliament;
- Support for indigenous youth and women;
- End to militarization and human rights violation against

indigenous peoples;

- Awareness building among Bengali majority society on indigenous issues;
- Access to justice and law;
- Promotion of respect towards cultural diversity of indigenous peoples;
- Special measure to alleviate the extreme poverty of indigenous communities;
- Steps towards greater access to information;
- Steps towards sensitization of the country offices of the UN specialized agencies on indigenous peoples' causes.

B. International Perspectives

In this section, the recommendations are directed towards the UN and its agencies. The participants suggest that the UN consider the following:

- Request its agencies, the governments, and indigenous peoples to submit progress reports on the implementation of recommendations;
- Take measures in considering indigenous peoples' issues and concerns while engaged with the government in data collection and disaggregation;
- Formulate mechanisms for monitoring the implementation of treaties, accords, agreements, and other legal arrangements made between governments and indigenous peoples;
- Initiate a regional conference on the concept of "indigenous peoples" particularly in Asia as some governments of this region have been denying the existence of indigenous peoples in their countries;
- Initiate a country visit by the Special Rapporteur on Human Rights and Fundamental Freedoms to assess the situation of indigenous peoples and play a positive role in implementing intra-state peace agreements between gov-

ernments and indigenous peoples such as the CHT Peace Accord of 1997;

- Conduct a detailed study on militarization, land dispossession, transmigration of the mainstream population to indigenous territories and their impact on indigenous peoples;
- Support studies on the forcible demographic changes perpetrated in indigenous peoples territories through state-sponsored population transfer programs as observed in the CHT and other regions;
- Monitor the work of its specialized agencies and other development institutions engaging in activities on indigenous lands;
- Recommend sustainable environment and forest management programs at the local, national, regional, and international level and take into consideration the indigenous peoples sovereignty over their lands and territories;
- Encourage all governments, including the Government of Bangladesh, to (a) withdraw their various restrictions in such human rights treaties as the Human Rights Covenants, and CEDAW, and (b) ratify ILO Convention No. 169 and the treaty on International Criminal Court;
- Encourage reforms within the ILO system to (a) enable indigenous peoples to have formal access to the body and (b) play a more direct role in helping monitoring compliance with Convention No. 169 and Convention No. 107;
- Support indigenous organizations in putting pressure upon the government of Bangladesh to (a) respect international human rights standards with regard to indigenous communities and (b) implement the CHT Peace Accord of 1997 without any further delay;
- Appoint a Special Rapporteur at the regional level;
- Create effective mechanisms within the UN to monitor the treaties between indigenous peoples and states;
- Take steps to demilitarize indigenous territories;
- Translate the UN conventions, international declarations,

treaties, laws concerning indigenous peoples in Bengali language;

- Take steps towards a region-base policy guide for development and donor agencies;
- Allocate adequate funds for indigenous peoples' organizations to advocate for their fundamental human rights.

C. Conclusion

The indigenous peoples of Bangladesh have been facing an uncertain future. For a long time, the indigenous peoples have suffered from serious violations of human rights, land grabbing, eviction from their territories, and social and cultural marginalization. The major obstacle in establishing the rights of indigenous peoples in the country is the lack of political will.

During the first International Decade of the Worlds' Indigenous People, the Government of Bangladesh did not take any initiative to recognize the Indigenous People's Decade's programs and objectives. The goal of the Indigenous People's Decade was to strengthen international cooperation for the solution of problems faced by indigenous peoples. The theme of the Indigenous People's Decade was "Indigenous people: Partnership in action." The indigenous peoples did not see any result from government initiatives. The indigenous peoples had no access to development activities taken by the government. Nevertheless, the indigenous peoples, NGOs, donor communities, civil society organizations, and the media promoted the issues of indigenous peoples in the country.

The major achievement of the indigenous peoples of Bangladesh during the Indigenous People's Decade was that they have become more united in making their voices heard at the national and international arenas. During the second Indigenous People's Decade, the indigenous peoples of Bangladesh expect to raise greater awareness and continue advocating for their rights. It is important to sensitize civil society, NGOs, the media, and the majority in society regarding indigenous issues.

However, there is uncertainty if the government would give constitutional recognition of indigenous peoples in the future. This report includes some of the key recommendations. In Bangladesh, the indigenous peoples have been struggling for their rights for a long time. This struggle should be strengthened in the Second Decade.

Endnotes

[1] Other indigenous peoples are located mainly in the "plains" in the border regions in the northwest (Rajshahi-Dinajpur), central north (Mymensingh-Tangail), northeast (Greater Sylhet), south and southeast (Chittagong, Cox's Bazar, and Greater Barisal). There are significant differences in the social, political, cultural, and economic situation of the various indigenous peoples. However, the differences are more striking between those living in the CHT and those in the plains.

[2] This includes dams, forest reserves, protected areas, national parks, eco-parks, tourism, settlement of government-sponsored non-indigenous migrants, and establishment of military bases and training centers.

[3] This includes 11,444 acres in North Hanger Mouza, Sualok Mouza and Rengkhyong Mouza and 19,000 acres in South Hanger Mouza, Trankaputi and Harinjhiri Mouza.

[4] The abduction of Ms. Kalpana Chakma, 23 years old, a women rights activist, and Organizing Secretary of Hill Women Federation illustrates military violence against indigenous women in CHT. The members of the Bangladesh army abducted her on 12 June 1996 from her home at Lalyaghona village. It was feared that she might have been killed if she did not agree to marry an army officer, who led the abduction.

[5] Includes the DCs, SPs, Hill District Councils, CHT Development Board, Pourashavas, Upazila Council, different Departments, Directorates and Ministries of the Government.

[6] Parbattya Chattagram Jana Samhati Samiti.

[7] A related incident shows the government's discriminatory policy. The government refused to issue a Government Order for Jyotirindra Bodhipriya Larma, Chairman of the CHT Regional Council and the President of the PCJSS (who signed the CHT Peace Accord 1997 with the GOB to end the armed conflict) to attend the 3rd Session of the UN Permanent Forum on Indigenous Issues scheduled from 10th to 21st May, 2004. It is a violation of basic fundamental rights enshrined in the Constitution.

[8] It has also been reported that the indigenous peoples of northwestern

Bangladesh have rejected the government's offer to set up such a center because they wished to call it an Adivasi cultural institute, while the government insisted to call it a "tribal" cultural institute.

[9] Examples are as follows: the eviction of the indigenous peoples in the name of establishment of Madhupur Eco-park and Muroichara Madhabkunda Eco-park in 2000-2001; the brutal killing of Piren Slan by the police and forest guard during protest against the said eco-park in 2000; communal attack on 14 villages of indigenous peoples in Mahalchari in 2003.

[10] The first part of this section is based upon Roy, Raja Devasish (2006), "The ILO Convention On Indigenous And Tribal Populations, 1957 And The Laws Of Bangladesh: A Comparative Review," A study conducted for the ILO Office, Dhaka and the Project to Promote ILO Policy on Indigenous and Tribal Peoples, July.

[11] One of the co-author's interviews with Promode Mankin, MP, several times, from 1993 to August 2006. Similar views were expressed by Mankin at a National Consultation on ILO Convention No. 107 and Indigenous Peoples' Issues in Bangladesh held in Dhaka on 26 June 2006, and attended by all three co-authors of this research.

[12] Mustafa Ansari v. DC, CHT & Another (7 DLR, 1965, 553). This law—rule 51 of the CHT Regulation—allowed the Deputy Commissioner to expel a "non-native" from the CHT if his presence was considered "injurious to the peace or good administration of the district."

[13] Writ Petition No. 4113 of 1999 (Shamsuddin Ahmed v Government of Bangladesh and Others) and Writ Petition No. 2669 of 2000 (Mohammed Badiuzzaman v Government of Bangladesh and Others) in the Supreme Court of Bangladesh (High Court Division). The first-named case has reportedly been closed due to the death of the petitioner, sometime in 2005.

[14] Neighboring countries Pakistan and India are also signatories to this Convention, as are Angola, Belgium, Brazil, Cuba, Dominican Republic, Egypt, El Salvador, Ghana, Guinea-Bissau, Haiti, Iraq, Malawi, Panama, Portugal, Syria and Tunisia. The countries that have ratified the more progressive ILO Convention on Indigenous and Tribal Peoples (Convention No. 169) are: Argentina, Bolivia, Brazil, Colombia, Costa Rica, Denmark, Dominican Republic, Ecuador, Fiji, Guatemala, Honduras, Mexico, Netherlands, Norway, Paraguay, Peru and Venezuela. Nepal is known to be seriously considering ratifying Convention 169.

[15] The Human Rights Council adopted the draft of this Declaration as submitted by the UN Commission on Human Rights in June 2006 and the UN General Assembly was expected to adopt the Declaration by the end of 2006. If adopted, the declaration would significantly raise the international standards on indigenous peoples' rights through a more equal application of human rights law.

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3

An Assessment of the First International Decade of the World's Indigenous Peoples in Asia: A Bhutanese Perspective

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with the collaboration of *Dawa Lhamo**

I. Introduction

Bhutan is a mountainous Himalayan kingdom of 39,600 square kilometers with a population of 672,425 (Census 2005) including foreign nationals. Bhutan's population of 552,996 is small especially in the context of Asia where some towns in other countries would have a bigger population. Bhutan is divided into 20 districts called *dzongkhag*. Until 1991, Bhutan had a centralized approach to development policies and activities. The creation of the village and district assemblies in 1981 and 1991 were the first moves towards decentralization that had been gathering momentum in Bhutan. The population and economic census which was carried out in 2005 was partly designed to address the "decentralization imbalances" as well as to get feedback from the villagers on issues that concern them.

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The use of the term "indigenous peoples" in the context of Bhutan, and the Himalayan countries in general, is not appropriate for the following reasons. Firstly, this term might indeed be applicable to in countries like Australia, Canada, South America, South Africa, or the USA where sizeable migrant communities settled at well-known points in history. However, the Himalayas, particularly Bhutan, have very little knowledge of the historical migration of people into the area. We could only guess what happened based on the ethno-linguistic survey. It is impossible to date migrations in many places. Therefore, how do we define "indigenous populations" in this context? Who is "indigenous" when historical records are often non-existent?

Secondly, some groups which consider themselves "indigenous" may not actually be so after scientific investigations. For example, the Monpas of Bhutan consider themselves "indigenous." However, on the face of linguistic evidences that say otherwise, van Driem (1998:870) writes, "The Gonduk and the Lhokpu and perhaps the Tshangla appear to represent the oldest populations." Thirdly, the term is also ethnocentric and patronizing as powerful countries imposed the term upon other people without taking into consideration other countries' histories.

After the workshop in Thimphu on 8 May 2006 to discuss matters pertaining to this research, the participants decided that it would be more appropriate to use the term "socio-cultural groups." While it may also be an imperfect terminology, the alternative terms such as "tribal groups" and "ethnic minorities" used in neighboring countries were considered demeaning, inappropriate, and too loaded with legal definitions. Thus, they are not applicable in the case of Bhutan (see Box 1).

A. Research Objectives

This paper is part of the project called Assessment of the Decade of Indigenous People in Asia, 1995-2004. The International Centre for Integrated Mountain Development (ICIMOD) in collaboration with the Tebtebba Foundation in the Philippines conducted the assessment for the International Fund for Agricultural Development (IFAD). This assessment covers 10 countries, including Bhutan.

Box 1. Summary of Discussion on the Term "indigenous peoples"

The question of whether the term "indigenous" is acceptable in the Bhutanese context depends on whether all ethnic groups would be subsumed or if it refers only to original inhabitants. If the term "indigenous peoples" is used with reference to all ethnic groups with a clear definition of what it means, then the term "indigenous peoples" can be used in the Bhutanese context.

Some contend that the word "indigenous peoples" in an anthropological sense has a negative connotation, as the notion of indigeniety is a colonial construct. Within this frame of reference, the term "indigenous peoples" is applicable only to people within some countries in Asia and Africa, which were colonized.

The anthropological term for original inhabitants is aboriginals. However, some feel that this is more applicable to the western context.

The debate around the term "indigenous" is a discussion of history—for it is linked to the issue of migration through different periods of history leading to some communities being referred to as "natives" as opposed to others.

Others argue that even the use of the term "ethnic minority" is not acceptable as it too is demeaning, as the term "ethnic" has racial overtones.

The term "indigenous" has become too politicized in some countries and is invoked to legitimize certain claims, particularly in relation to land. However, these contentions have not arisen in Bhutan. Thus, the term "ethnic groups" would be more appropriate to the Bhutanese context. The definition of the term "indigenous" as given by the UN Special Rapporteaur—Cobo, is not applicable to Bhutan.

After a consensus emerged that the term "indigenous" is not appropriate to the Bhutanese context the discussion on whether to use the term "ethnic" continued. In the Constitution of Bhutan, the term equality does not use the term "ethnicity." If it is not used in the Constitution then perhaps it should not be used at all.

A broad agreement emerged that the assessment in Bhutan would use the phrase "socio-cultural groups."

This research aims to discuss the following: (1) it surveys the various groups in the different regions of Bhutan, namely the high northern regions, the central valleys, and the southern belt. The survey aims to avoid a misinterpretation of this assessment, considering that the different peoples of Bhutan are relatively unknown outside the country; (2) it engages in policy analysis; and (3) it provides a situational analysis. The paper ends with a concluding section.

B. Methodology

As we had to draw a line in the maze of the Bhutan's ethnic diversity, we decided that this assessment would concentrate on peoples with small populations (between 1,000 and 3,000) who consider themselves as distinct socio-cultural groups. However, as earlier explained, the terms "indigenous peoples" or "ethnic groups" do not exist in Bhutan's culture and context, and therefore there are no special policies of the Royal Government of Bhutan that specifically address such groups.

Moreover, there are issues of "indigenous peoples" that seem inapplicable in Bhutan. For instance, land issues and discrimination are at the core of many claims by indigenous groups in other countries. As Cobo (1987) stated, "[I]t is essential to know and understand the deeply spiritual special relationship between indigenous peoples and their land as basic to their existence as such and to all their beliefs, customs, traditions and culture. […] Their land is not a commodity which can be acquired, but a material element to be enjoyed freely" (Cobo, 1987). However, these statements do not apply in the case of Bhutan for two main reasons: (1) there are no historical records on which to base the terminology "indigenous peoples" in Bhutan, although the linguistic survey might provide some information; and (2) Bhutanese do not have an economic story of land grabbing or spoliation between social groups. In fact, when the third King abolished serfdom in the mid-1950s, he took land from the large estate owners and redistributed them to the serfs.

Box 2. List of Organizations Visited

The following officials from different institutions and organizations were interviewed in March 2006.

1. Tarayana Foundation, (under the Patronage of Her Majesty the Queen Ashi Dorji Wangmo Wangchuck) Ms. Chime Paden Wangdi;
2. Youth Development Fund (under the Patronage of Her Majesty the Queen Ashi Tshering Pem Wangchuck), Ms. Gama Namgyal;
3. Renew Foundation, "Restore, Empower, Nurture Women" (under the Patronage of Her Majesty the Queen Ashi Sangay Choden Wangchuck), Mr. Gyeltshen;
4. National Women Association of Bhutan (NWAB);
5. UNICEF;
6. World Food Program, Mr. Gerald Daly;
7. World Health Organization, Mr. Norbu Wangchuk;
8. UNDP, Mr. Nicholas Rosellini;
9. Royal Society for protection of Nature, RSPN, Ms. Rinchen Wangmo;
10. National Commission for Women and Children, Dr. Rinchen Choephel;
11. DANIDA, Ms. Marie Mathes;
12. SNV Dutch Cooperation, Mr. Thinley Dorji;
13. Save the Children USA, Ms. Kunzang Wangmo and Mr.Galey;
14. WWF, Mr. Vijay Moktan;
15. Helvetas, Mr. Sonam Paljor.

It must be noted that there is no specific data related to any particular ethnic or linguistic group. All data that the Royal Government of Bhutan has collected are by districts (dzongkhags) or by *gewogs* (village blocks) which are at the lower echelons. Other data are organized according to sector (education, health, sanitation, etc.) or age. This is clear from official documents, which government commonly uses including the Ninth Five-Year Plan, Good Governance for Development, the Ninth Round Table Meeting of

15-16 February 2006, the Millennium Development Goals, the Bhutan National Human Development Report, 2005, Good Governance Plus documents, and the Population and Housing Census Report and Indicator Maps of Bhutan of 2005.

We selected the following groups for our interviews: the Lhops (Samtse district), the Monpas (Zhemgang district) often considered as "indigenous groups," the Layaps (Gasa district), the Lunanaps (Gasa district), and the Merak Saktengpas (Trashigang district). We chose them because they are considered as distinct socio-cultural groups by the Bhutanese people and by themselves. They also comprise a small number (between 1,000 and 3,000) in the population.

ICIMOD is a well-known organization in Bhutan and officials were very receptive to our request for interviews. After explaining the purpose of our visit, we proceeded with the interviews.[1] It must be noted here that all the institutions and organizations that we approached received us warmly and explained thoroughly the policies and projects. Box 2 lists the institutions we visited and interviewed for this assessment. We conducted the interviews before the workshop of 8 May 2006. Some topics discussed in the interviews also emerged in the workshop. The terminology used here reflects the ICIMOD requirements and the pre-workshop debate, which led to the adoption of the term "socio-cultural groups."

II. Bhutan's Ethnic and Linguistic Mosaic: A Background

For a long time, the Western world saw Bhutan as a mysterious and elusive country. Roughly the size of Switzerland, Bhutan is small and sparsely populated if compared with its giant neighbors China and India. Its whole population of 672,425 (Census 2005) is roughly the size of a large town in Asia. This small population, however, is made up of a variety of groups that make up the ethnic and linguistic mosaic of this country. From the yak herders of the north to the orange growers of the south, Bhutan can boast of a fascinating kaleidoscope of populations on a small surface.

Box 3. The Origin of Druk Yul

The name *Druk yul* itself has an interesting story of origin. It is said that in the 12th century in Tibet, a monk called Tsangpa Gyare Yeshe Dorje wanted to build a monastery. When he was at the chosen spot, he heard the thunder, which was believed to be the roar of a dragon. Taking this as a good omen, he decided to call his monastery Druk, which means the thunder or dragon. As is often the case in Tibet, the name of the religious school he founded took the name of the monastery and his followers were called "Drukpas." Later in the 17th century, the Drukpa religious figure, the Shabdrung Ngawang Namgyel, unified Bhutan, which became Druk Yul and the name Drukpas was given to all its inhabitants.

Most of the population in Bhutan comes from the Mongoloid stock. They speak languages of the Tibeto-Burman family.[2] However, there are also people of Indo-Aryan stock in the south who speak languages of the Indo-Aryan family. The citizens of Bhutan are called *Drukpas*, a term that comes from *Druk Yul* (see Box 3).

Reading from stone tools and other archeological findings retrieved from the ground, Bhutan may have been inhabited before 2000 B.C. To date, the absence of archeological excavations, or extensive linguistic survey, or DNA analysis make it difficult to know which populations inhabited Bhutan the earliest, and in what sequence. Therefore, it will be premature to try to paint here a scientific and sequential picture of Bhutan population settlements. For some populations though, DNA survey analysis undertaken by the Royal Government of Bhutan with the University of Leiden provides clues of linguistic or historical nature. However, these efforts are not yet completed.

For clarity, this paper shall describe the populations of Bhutan in the following section. The description shall be according to three main geographical zones: (1) the high northern regions, (2) the central valleys, and (3) the narrow southern belt going through each zone from west to east.

A. The High Northern Regions

The high northern regions are situated on the slopes of the highest range of the Great Himalaya, which forms the border around Tibet. It is a region where the people live in altitudes between 3,500 to 5,000 meters. It is cut from the central valleys by high passes and is characterized by its harsh climate with snow in winter and abundant rain in summer. Only barley and high altitude wheat grow in this whole area, which is not suitable for rice cultivation. It is essentially the domain of yaks, which feed on grass and flowers from the pastures and high altitude dwarf bamboos (*yushania microphylla*).

Three main areas compose the northern belt: Lingshi, Laya and Lunana. The communities inhabiting these areas are characterized by their pastoralist tendencies. They are yak-herders who sometimes live under a black yak hair tent, and sometimes in a house, which also doubles as a store. In the summer, younger members of the family move to yet higher altitudes with their herd. This is the season when they prepare butter and hard cheese that they trade for cereals and rice in the central valleys. In October, before the passes are closed with snow, they come down to the central valleys to sell their dairy products and yak meat, which fetch a high price in these lower regions. The cash system has replaced the barter system of old. The villagers use the cash they earned for buying cereals, cutlery, and salt. They then go back before the onset of winter.

Before 1959, these villagers traded and bartered a lot with Tibet. With the closure of the border, they have turned to the central valleys of Bhutan for their supply. Recently, trade with Tibet has resumed on a small and unofficial scale, especially in Laya. They benefit from the great demand for Yartsha Goenbub, a fungus/caterpillar (*cordyceps sinensis*) from Chinese and Japanese markets. Government permitted them to harvest this product since 2004 under specific regulations. A kilo of this fungus/caterpillar costs up to US$2,000 in Bhutan, and $5,000 in the international market. People from the whole of Northern Bhutan harvested 190 kilograms in 2005.

As for their language, the people of Lingshi speak in slight variation from Dzongkha, a kind of patois. The people of Laya and Lunana on the other hand speak dialects of Dzongkha that are far different from the language of mainstream Dzongkha speakers.

The Lingshi and Lunana people wear the Bhutanese dress: *go* for men and *kira* for women. The women of Laya have retained their very distinctive dress made partly of yak hair fabric, partly of sheep wool and woven on a long horizontal back strap loom. They wear a black skirt with brown vertical stripes, a black jacket, a very particular conical pointy hat made of bamboo and perched at the top of the head and a lot of silver jewelry including spoons hanging in the back. They keep their hair at shoulder-length, something unusual in Bhutan where in the countryside women traditionally have short hair.

B. The Central Valleys

These valleys are located at altitudes that go from 1,000 meters (the height of Trashigang) to 2,800 meters (the height of Bumthang and Ha). Their ecological system is therefore very diverse going from semi-tropical to alpine with monsoon. Traditionally, the central valleys were divided into three regions on historical and linguistic basis: west, central, and east. However, the reality is much more complex if we take into account the linguistic and economic distinctions.

In the past, these regions are distinct "micro-worlds" separated from each other by mountains with passes over 3,000 meters. In addition, while most of these regions traded either with the north (Tibet) or with the south (India), there was little communications between these regions with the rest of Bhutan.

Today, with the development of infrastructures and roads, goods are widely exchanged between regions hitherto unconnected. The Ha, Paro, Thimphu, and Punakha/Wangdue Phodrang comprise the western valleys. The people of these valleys are called "Ngalong," which means "the first risen." This name refers to the conversion to Buddhism, which, according to the Bhutanese popular tradition, first took place in this western region. Rather than

"Ngalong," western Bhutanese prefer to call themselves by their valley of origin, namely Ha, Wang, Paro or Shar.

It is not clearly known where the people of western Bhutan originally came from. However, it seems likely that they migrated from Tibet in various waves starting maybe in the 6th or 7th century. Dzongkha, "the language of the fortress," is spoken in this region and is a branch of the Tibeto-Burman family. It differs only slightly from valley to valley, and is intelligible all over western Bhutan.

1. The Central Regions

The east of Wangdue Phodrang where the Black Mountains extend and where the 3,400-meter high Pelela pass is found is considered the border between the western regions and the center and the eastern regions of Bhutan. In the 19th century, the governor of Trongsa had jurisdiction over central and eastern Bhutan.

This region is home to an amazing and intricate network of languages, some spoken only by a few hundred people, making Bhutan a linguistic hot spot. Close to the Pelela but still on the western side of the Black Mountains and on the southeast of Wangdue Phodrang, there are a few high altitude valleys. One of the best known is Phobjika whose residents speak a dialect of Nyenkha or Henkha. These languages belong to the Bumthang group of languages, which seem to be a form of archaic Tibetan.

In these valleys, the land is not very conducive for agriculture but potato cultivation has given a boost to the local economy. Beyond the Pelela is the region of Sephuthat, which extends to the north in the direction of Lunana. There, the land is also not favorable for cultivation. Instead, bamboo weaving is widely practiced. People keep yaks and sheep that they move from the Pelela slopes to higher altitudes in summer. Referred to as "Lap" or "people of the mountain passes," they speak a language called Lakha or Tshangkha belonging to the Dzongkha group.

Moving east, one arrives in the valley of the Mangde River, where Nyenkha (also called "Mangdekha" in reference to the river) is spoken. It is the region of Trongsa, which has great importance in the history of Bhutan. Forested and known for its good arable land, this region could not be examined by itself but in relation

with Bumthang. Owing to its lower elevation than Bumthang (2,200 meters), Trongsa was the winter ground and residence of the nobility of Bumthang. South of Trongsa, mansions dominate the rice fields and the lush forest serves as the winter pasture for part of the cattle coming from Bumthang.

The Yuto-la pass (altitude: 3,400 meters) which separates Trongsa from Bumthang was never a problem for the sturdy cattle herders. While Trongsa had rice, Bumthang could not grow it due to its high elevation. Its rice supply came from Trongsa. The potato that was introduced in Bumthang only over 20 years ago has considerably improved the living standards of Bumthang.

The link between Bumthang and Trongsa is reinforced by the similarity in their languages. The language of Bumthang is similar to the dialects of the Trongsa region, namely the Nubikha and Mangdekha belonging to the Bumthang group. Moreover, Bumthang has historical and linguistic links with the Kheng in Zhemgang district and Kurtoe (Lhuntsi district) in the north-east.

Bumthang is divided into four valleys namely Chume, Chökhor, Tang, and Ura, which are separated from each other by dense coniferous forests. The villagers speak slightly different dialects. The Bumthang languages are classified under the East Bodish linguistic group.

Chume and Chökor are the lowest valleys of Bumthang at 2,800 meters and 2600 meters, respectively. The main agricultural product is winter wheat and buckwheat, the staple diet in Bumthang. Tang and Ura (with altitudes of 3,000 meters and 3,400 meters, respectively) were devoted to animal husbandry with large flocks of sheep, mostly used for their wool and yak herds.

In the north of the Chökhor valley, a small group of yak herders lives in the area of Dur. They call their language "Brokkat" or "the language of the herders," which is of the central Bodish group similar to Dzongkha according to G. van Driem (Van Driem, 1998:8-9). Although the origin of the inhabitants who populated this region at that time is still unknown, myths, language and history seem to point to several waves of migration from Tibet from the 7th century AD, and maybe more importantly, in the 9th century at the time of the collapse of the monarchy in Tibet.

The Bumthang region is also linked to Kheng, which is situated south of Trongsa and Bumthang. Today, it covers part of the districts of Zhemgang and Mongar. The Kheng region is a large region stretching to the Indian border in the south. It enjoys a semi-tropical climate with dense deciduous and semi-tropical forests. Rice cultivation, except in some pockets, is not practiced much. Instead, the agricultural pattern is slash and burn for maize plantation and gathering of wild forest products. Bamboos, cannabis, and nettles populate the forest undergrowth. Kheng is partly populated by people who came from Bumthang. It must be noted that there is linguistic proximity between the languages of Kheng and Bumthang.

A small group called Monpas that lives in Kheng is considered one of the aboriginal groups of Bhutan.[3] It may be too early at this stage of research to know if they are really aboriginals. Nevertheless, their language and living patterns hint at a very early migration. This is corroborated by the fact that their migration is not recorded in the Bhutanese historical texts, therefore stating that they could have arrived before the historical period. The Monpas live on the west bank of the Mangdechu, in the south of the Trongsa district, and in the Wangdue Phodrang district south of the Black Mountains. Their domain is the forest where they obtain a large part of their subsistence and they speak a language called "Monkha" or "Olekha," belonging to the East Bodish group (i.e., Khyengkha).

East of Bumthang is the Lhuntsi district in the north and the Mongar district in the south. Before the road from Bumthang to Mongar was built in the late 1970s, the most important trail went from Bumthang to Lhuntsi dzong via the Rodung la pass. Links were strong between Bumthang and Kurtoe, "the upper Kuri river," the region that goes from Lhuntsi dzong and the west of the Kurichu river to the northern border. The language is a dialect of the Bumthang group and the religious and economic ties were constant between Bumthang and Kurtoe. Because Kurtoe is lower than Bumthang, rice grew and could be exchanged with cattle products from Bumthang or could be used to pay the religious men of Bumthang coming to perform rituals in Kurtoe in winter.

The south of the present Lhuntsi district and north of Mongar district was called Kurmé or "the lower Kuri river." People who speak a language related to Dzongkha inhabit this place. This is an

important note in this environment of non-Dzongkha related languages. Called by outsiders "Chöcha Ngachakha," in reference to the way "you" and "I" are pronounced, their language is known as "Tsangmakha" or "Tsakalingkha" (which came from the names of two villages).

Close to this area and north of Mongar are a few villages where Chalikha (from the name of the village of Chali) is spoken. This language also belongs to the Bumthang group, which makes the issue of the Chöcha Ngacha language even more puzzling. It is literally a pocket of people speaking a language not related to any of their neighbors.

The road goes today from Ura in Bumthang to Mongar through what could be termed "the great divide." After crossing the Thrumsingla pass at an altitude of 3,900 meters, the road suddenly plunges through a dense forest which goes from coniferous to semi-tropical as the altitude decreases to finally reach the Kurichu river which is the lowest point amongst the central valleys of Bhutan (at an altitude of 600 meters). This river marks the boundary between the Khyengkha-speaking and the Tshangla (Sharchopkha)-speaking areas. Khyengkha is spoken in the south of Ura and to the Indian border in the south and to the east of Ura up to the Kurichu river.

There is, however, one exception—the relatively inaccessible village of Gongdu in the south of the Mongar district, which could be reached by two days walk from Gyelpoizhing, and two days walk from the Indian border. This village and a few villages in the vicinity form a small pocket of about 1000 people who speak a very different language—the Gongdupekha. Although belonging to the Tibeto-Burman family, this language has no connection either with Khyengkha or Tshangla (Sharchopkha), or even to any other languages of Bhutan or Nepal. It probably forms a whole sub-group by itself (Van Driem, 2004: 321).

2. Eastern Bhutan

Eastern Bhutan is lower and has a warmer climate than any other regions of Bhutan, except the south. It is extensively populated. Land is cultivated and planted with rice and maize, which is the staple diet of the eastern Bhutanese. Most of the valleys are

simply made of riverbeds and the villages are perched high up along the slopes. Eastern Bhutanese used to practice shifting cultivation but the Royal Government of Bhutan now discourages this practice. They also keep cattle but not as much for meat as for dairy products. Because the weather is not too severe in winter, the eastern Bhutanese does not have the habit of migrating to the south with their cattle. In winter, they would go to the marts near the Indian border or to Assam in order to trade.

Sharchopas or "people of the eastern side" populate most of eastern Bhutan, including the south. There is no trace of their migration to Bhutan in the historical texts, which means that they may have migrated in proto-historic times. They speak a language known as "Sharchopkha" or "Tshangla." It is spoken with some variations in Mongar, Trashigang, Pemagatshel, and Samdrupjongkhar districts. It is also spoken beyond the borders of Bhutan in the Dirang district of Arunachal Pradesh as well as in Pemakoe, southern Tibet. This language is said to belong to the Tibeto-Burman family and might constitute a sub-group by itself (Van Driem, 1998:27). Like most of the languages of Bhutan, Tshangla (Sharchopkha), also has a certain words borrowed from Tibet especially in the religious vocabulary. The eastern Bhutanese are devout Buddhists who are known for the quality of the cotton and silk that women produce on the back-strap loom. However, the Sharchopas are not the only ethnic group in eastern Bhutan.

People whose language is very different from that of their neighbors, the Sharchopas, inhabit the northeastern district of Trashiyangtse, which extends from the north of Trashigang to the Tibetan border. Called "Dzalakha," it is a Tibeto-Burman language of the east Bodish branch. It is also spoken along the river Khoma in the east of Kurtoe (Lhuntsi district) which is contiguous to Trashiyantse. It is it known there as "Khomakha," the language of the village of Khoma. Although the Lhuntsi district, together with Kurtoe and the east of Kheng are generally considered part of Eastern Bhutan, they belong to central Bhutan on linguistic and historical grounds.

In the extreme east of the Trashigang district, at the border with Indian state of Arunachal Pradesh, lie the two high valleys Merak and Sakteng. These valleys form a cultural and ethnic entity because they are home to a particular people numbering

around 3,000 that are not connected to the Sharchopas. They are the "Brokpas," a term that in the context of Himalayan culture simply means "pastoralists" or "herders." However, in Bhutan, the term seems to apply only to the people of Merak and Sakteng. Other herders are called by the same name but with its Dzongkha pronunciation "Bjop." The eastern Bhutanese call them "Brami" or "the other people," and their language is called "Bramilo."

The Merak and Sakteng people call their language "Brokpaké" and it has been classified under the central Bodish group, like the Lakha of the Black Mountains and the Brokkat of Dur in Bumthang (Van Driem, 1998:7). The people of Merak and Sakteng are yak and sheep herders. They also trade for commodities with Tawang in Arunachal Pradesh. Some of them also migrate with their flocks to the upper Trashigang region for the Saktengpas or to Khaling for the Merakpas in winter.

The Saktengpa and Merakpa are famous for their unique dress. The women wear a short poncho-type dress and a red jacket woven in its lower part with geometric or animal designs. The men wear leather leggings and woolen trousers, their upper garments made of sleeveless hide vests, worn with the hide outermost during the rain, over long-sleeved woolen tunics. Both sexes wear a distinctive hat made of yak felt with prongs sticking out, which keep the rain from running onto their faces.

Very close geographically and culturally to the Saktengpa and the Merakpa are the Dagpas. They wear a dress that is very similar to the Saktengpas. They speak a dialect of Brokpaké (Van Driem, 1998:8). They form a small group of herders who constitute part of the population situated between Sakteng and Trashigang, south of Trashiyantse district. Further research is needed to ascertain if they are different from the Merak and Sakteng people or if they are just a "branch" of the same people.

Contrary to G. van Driem who thinks that the Brokpaké (also called "Northern Monpa") belong to the central Bodish group and might be close to an archaic Tibetan, researchers such as M. Aris (1979) and B. Michailovskyseem (1994) argued that it is the closest relative to Bumthangkha and belongs to the proto-east Bodish branch of the Tibeto-Burman family.[4]

Tibetans who arrived in Bhutan in the 1950s in the aftermath of the upheaval in Tibet live all over the central valleys. They are mostly engaged in running small businesses and therefore mostly live in the urban centers such as Paro, Thimphu, Trongsa, Jakar, and Trashigang. At home, they usually speak the dialect of their region of origin in Tibet. They also speak Dzongkha as well as the language of their adopted region. Most of them are Bhutanese citizens and since they are integrated easily into the society, mixed marriages are frequent. Men wear the Bhutanese traditional dress "go," which is very close to the Tibetan "chuba," while women still prefer to wear the Tibetan-style dress which is a sleeveless gown tied at the waist with two pleats at the back.

C. The Southern Belt

The ethnic and linguistic outlook of the narrow southern belt is very complex. The southern belt is a lowland region in the foothills of the Himalayas with elevations ranging from 100 meters to 1000 meters. Its southernmost part forms the border with the Indian states of West Bengal and Assam. Heavily forested in the past, and having a semi-tropical and monsoonal climate, people of the central valleys who feared the heat and malaria did not like this region very much. However, as earlier mentioned, there was a tradition for the people of Ha in western Bhutan to take their cattle in the region of Samtse during winter. In central Bhutan, the people of Kheng came down to the lower elevations (500 meters) in the south. The eastern Bhutanese had already settled in the lowlands of what is today the Samdrup Jongkhar district.

From the beginning of the 20th century, there was a progressive arrival of people of Nepalese descent. They came from eastern Nepal as well as from Darjeeling and Kalimpong districts in India. They settled in the region which is comprised today by the districts of Samtse, Chukha, Tsirang, Sarpang, Zhemgang, and Samdrup Jongkhar. In the Samtse district, there are some groups, which the Bhutanese consider as aboriginals. Whether this is true or not is a question that only anthropological and linguistic research could answer.

The first people examined here are the "Lhops," which means "southerners" in Dzongkha. The Nepalese call them "Doyas." Mem-

bers of this group refer to themselves as "Lhokpu." They are a small group of around 1,700 people who live in the hills of the Dorokha sub-district located in the north and northeast of Samtse. According to the G. van Driem, their language is more closely related to the eastern Kiranti languages of the Tibeto-Burman branch (such as Limbu) than to that of the Lepchas, their immediate neighbors to the west. Their language may be "the substrate language for Dzongkha in western Bhutan" (Van Driem, 2004:299). The term "Doyas" that the Nepalese use to refer to this group could be a corruption of the term "daya," which means "kind." These people were nice to the migrants who came to settle in their region. A Bhutanese academic, Jagar Dorji and an Indian schoolteacher B.D. Sharma have done studies on this group.[5]

Until today, the Lhops remain quite isolated from the changes that touched most of Bhutan in the last 20 years. A road is being constructed from Samtse to Dorokha and this will have a lot of influence on the Lhops' life. Still, the Lhops maintain their distinctive way of life today. They live in a close community and marry their cousins. They are still animists who worship local deities. They do not cremate their dead but bury them in wood and stone slab coffins, which then form a small mound. The Lhops are shifting cultivators of maize, millet and sorghum. They raise cattle, hunt fish, and gather forest products.

Today, with the introduction of two important cash crops (cardamom and orange) in their region, they supplement their income by going to work in the fields or work as porters for hire. Their distinctive style of dressing is disappearing quickly. Men and women used to wear the same kind of wrapped garment called "pakhi" made of nettle fiber. Today, they wear the generic machine-woven Indian cotton.

The Lhops appear to consider themselves as different from the "Taba Dramtöp," a small group living east of Dorokha across the A mo chu River who are called "Shar mi" or "the people of the East." Very little is known about this group, which is more or less assimilated with the Lhops. However, according to Jagar Dorji, "for some unknown reason there is an air of unfriendliness between these two groups of people. Matrimonial and social relationships between them are rare. Only in certain cases did people

dare to face the wrath of the community to seek matrimonial relations" (Dorji, 2003).

To the west of the Lhops, in the region of Denchukha along the northern A mo chu River, are the Lepchas numbering about 1,000 people and speaking a Tibeto-Burman language of the Naga group. It is not known when the Lepchas arrived in Bhutan but they probably came from Sikkim. They no longer wear the traditional Lepcha style of dress, which is similar to that of the Lhops, but instead wear the Bhutanese attire.

In the south of the Chukha districts and especially in the border town of Phuentsholing, people from the central valleys have settled permanently in the last forty years. The region of Gedu and Tala, which was sparsely populated by people coming mostly from the regions of Ha and Thimphu, have seen the migration and settlement of Sharchopas from the east due to the development of the hydro projects and dairy farms. As for Phuentsholing, it is a real melting pot, with people from all over Bhutan as well as temporary migrants from India settling there for business reasons. Many people from the Kheng region live in the Sarpang district and especially in the border town of Gelephu where even the Indian shopkeepers speak Khyengkha. In the east, Sharchopas have long populated the southern district of Samdrup Jongkhar and the border town of Samdrupjongkhar.

All the districts of southern Bhutan (i.e., Samtse, the south of Chukha and Dagana, Tsirang, Sarpang, and Samdrup Jongkhar) are home to different groups of people called "of Nepalese descent" or "Lhotsampa" which translates to "the people of the southern border" in Dzongkha. This appellation needs to be qualified because it is a "blanket term" which covers peoples of different ethnic and linguistic backgrounds. However, the term "Nepalese" is used because they all came either directly from Nepal, or indirectly from the Nepalese-speaking area of Darjeeling in India. These peoples arrived by waves into Bhutan at the beginning of this century when they were called by the Bhutanese to help and clear the forested areas of the south. They adapted to the hot climate easily compared to the Bhutanese from the central valleys. Even the British always praised them for their hard work. They progressively settled all along the southern belt of Bhutan, going up to

altitudes of 1,200 meters, especially in the south of Dagana and Tsirang districts. Even now, these groups use as lingua franca the Nepali language called *Lhotshamkha* in Bhutan, or "language of the people of the southern borders." Unfortunately, some of them do not know how to speak their original language anymore. Nepali, a written Indo-Aryan language, is widely used in Bhutan, especially in business dealings.

Among the people of Nepali origin, two of the most numerous groups are the "Bahuns" and the "Chhetris" otherwise known in India as "Brahmins" and "Kshatriyas" which are the two upper castes in the Hindu system. The groups, who spoke Nepali as their mother tongue, follow the Hindu religion and prefer not to marry outside their own caste. They are found all over the southern belt with particular concentration in the Tsirang district. The other groups are of Mongoloïd stock and originally spoke languages of the Tibeto-Burman family.

In terms of religion, some are Buddhists, Hindus, and a few are Christians. Even if they belong to one of the major religions, shamanistic practices are still alive among some of them. The Sherpas who speak a language classified as a Tibetan dialect are Buddhists. They are found mostly in the upper ranges of the Dagana and Tsirang districts. Among the "Nepalese," the Gurungs belong to the most important groups in Bhutan. They have settled mostly in the Samtse district. They are originally speakers of a language of the Bodic division of the larger Tibeto-Burman family. They are Buddhists or Hindus, but in this case, they are low in the caste hierarchy.

Like the Sherpas and the Gurungs, the Tamangs' first migration was from Tibet to Nepal at a date still unknown. They are therefore ethnically and linguistically quite akin to the central Bhutanese. Like the Sherpas (and in contrast to the Gurungs), they practice Buddhism but with a strong shamanistic component.

The Pradhans originated from the valley of Kathmandu where they constitute an important group of the Newari people. Their language is therefore a Tibeto-Burman language, but they are Hindus. They have settled all along the southern belt.

The Rais and the Limbus are also of Mongoloid stock and are said to have inhabited Eastern Nepal since antiquity. In Nepal,

they are also known collectively under the name of Kiratis. They speak Tibeto-Burman languages, which belong to the same Eastern Himalayan branch of the Bodic division.[6] In Bhutan, they are mostly settled in the Samtse district.

The Southern Bhutanese were (and still are) engaged in agriculture, especially with the development of orange orchards. However, they have also turned to the civil service and the private or business sector for employment.

D. Summary

This survey of socio-cultural groups seeks to situate this research within the context of Bhutan. It demonstrates that the country is composed of a variety of groups and languages for such a small population. None of these groups could really be called "indigenous." Most of them could in fact claim to be ethnic minorities based on linguistic criteria. Because of this complex ethnolinguistic set-up, the policy of Bhutan since the 1960s and the beginning of the Five-Year plans of development in 1961 has been of "one country and one people" in order to project and establish itself as a nation. Given the ethnic complexity of Bhutan as well as the fact that the caste system is not recognized, this policy gave all the citizens equal chances. However, this does not mean that minority rights have been suppressed. This simply means that the nation's laws and citizens' rights apply to everybody, regardless of ethnic background.

The 1985 citizenship law is very clear. The term "Bhutanese" refers to those persons who could prove that they were established in Bhutan before 1958, regardless of ethnic or linguistic origin. Bhutan's policy towards its citizens is very similar to the French policy whereby the laws and development policies transcend ethnic, linguistic or religious background and apply to everybody in the official national set-up. Like France, the state laws do not interfere in the private sphere where each community follows its own traditions.

In terms of their economic well-being, a majority of Bhutanese are still involved in agriculture and animal husbandry (69%). While this is the case, more and more look for jobs in the civil service and the private sector. These two sectors contribute to the devel-

opment of urban centers, which did not exist until the early 1970s. People with various ethnic and linguistic backgrounds now live in urban centers all over Bhutan. This restructuring of the ethnic landscape of Bhutan is further enhanced by the construction of roads, which make communication and rural-urban migration inside Bhutan easier and faster. Thirty-one percent of the Bhutanese now live in urban areas.

III. Policy Analysis

The Royal Government of Bhutan has no specific or definite policies regarding the small socio-cultural groups identified above. However, this does not imply that they are neglected or deprived of their rights. This remark is probably a paradox for some organizations.

In fact, in the framework of its development policies and poverty alleviation, all projects (in communications, health, or education) reach out to the above-defined ethnic groups. Moreover, some of these groups such as the Layaps and the Lunanaps in the north are not poor. In fact they are considered amongst the wealthiest rural Bhutanese because of trade across high valleys. Trade activities include goods coming from Tibet as well as the sale of yak products in the lower valleys of Bhutan. The Lunanaps have benefited from the legalization of the *Cordyceps* trade in 2004. They now have a considerable income by Bhutanese standards. The document from the Ninth Round Table Meeting on Good Governance for Development which includes a table of prevalence and incidence of poverty in 2003 shows that the share of the poor was 52.2 percent in the eastern region against 18.7 percent in the west, and 29.5 percent in central Bhutan. This does not follow ethnic group lines but is rather geographical (Good Governance for Development, 2006:13).

Moreover, the Poverty Analysis Report (2004), published by the National Statistical Bureau (NSB), states that 31.7 percent of Bhutanese still live in poverty. The eastern region has the highest incidence with 48.8 percent falling under this category. Poverty in

Bhutan is still a rural phenomenon. This is representative of the fact that four-fifths of this population is still dependent on agriculture.

The Bhutan Living Standard Survey (2003) calculated the national poverty line based on the cost of providing 2,124 kilo-calories per person per day, along with "non-food items." Based on this, about 32 percent of the people were categorized as living in "income poverty." However, the overall figure masks considerable disparities across the country. While the poverty rate in the western region was 19 percent, it increased to 30 percent in the central region and to almost half the total population living in the eastern region.

While the report showed no evidence of chronic food security, more than one-fourth of *gewogs* (village blocks) and towns surveyed in 2000 reported some level of food insecurities in the east. The Nutrition Survey 1999 indicated that children from the east were nutritionally worse off compared children from other regions. Lack of infrastructure and services such as farm roads, health, and communication are some of the reasons cited by socio-economic consultants for the uneven pace of development in the country. The Human Development Report (2005) ranked Bhutan at 129 out of 177 countries listed. It was placed in the group of countries with "medium human development."

Bhutanese policies target the economically disadvantaged regions and social groups regardless of ethnic origin. The Bhutan Vision 2020 document summarizes the national goal of "special measures in support of the *disadvantaged and vulnerable groups* as well as efforts to ensure that those who have been largely bypassed by the benefits of development are drawn more fully into the mainstream of the development process" (underscoring supplied).

Among the socio-cultural groups included in this assessment, Layaps and Lhops are vastly different because the former are considered wealthy while the latter are very poor. This illustrates the argument that in Bhutan, ethnicity does not necessarily equate to poverty. Especially since the end of the 20th century, the groups who are economically disadvantaged such as the Monpas and the Lhops are getting special attention from the Royal Government of

Bhutan as well as from the NGOs. This approach is incorporated in a national policy framework as seen in the Rural Access Planning Programme or Education for All.

The results of the housing and population census carried out in June 2005 and released on 28 April 2006 and its methodology are available at www.bhutancensus.gov.bt. In may be noted that the census criteria, which follow international standards, do not mention any ethnic origin. Similarly, the draft constitution of Bhutan, which is to be implemented in 2008, does not mention any ethnic minority or indigenous peoples, but considers all Bhutanese to be equal with the same rights.

The Millennium Development Goals spell out the targets to be achieved by 2015. It includes,

> *eradicating extreme poverty and hunger, achieving universal primary education, promoting gender equality, improving maternal health, combating HIV/AIDS, malaria and other diseases, ensuring environmental sustainability, developing global partnership for development (MDG, 2005:7).*

The MDG document further states that:

> *Bhutan today ranks among those countries with the highest share of public expenditure on education to GDP. The country also has high per capita expenditure to GDP. Virtually a quarter of all development expenditure, both capital and current, has been budgeted for health and education. As a result of these sustained investments into the social sector, the country's Human Development Index (HDI) has risen steadily and has grown from 0.427 to 0.583 in 2003. The country has thus moved from the category of low human development into that of a medium human development category (MDG, 2005:11).*

To illustrate, the Layaps in the north of Bhutan obtained mobile telephone facilities in early 2006. Because of their village is a four-day walk away from the main road, the equipment was brought to them by helicopter. This is because the policy of the Royal Government of Bhutan is to equip far-flung communities with communications facilities as provided for in the Ninth Five Year Plan.

The reports, which are available on the web site of UNDP Bhutan (www.undp.org.bt), provide a good coverage of different sectors. However, they are useful "topic wise" but not "ethnic wise." They reflect the national approach taken by the Royal Government of Bhutan. For instance, this approach is reflected in the policy on decentralization and parliamentary representation, as well as in the draft Constitution that would be implemented in 2008.

Decentralization and parliamentary representation. The decentralization process started in 1981 with the creation of district assemblies (Dzongkhag Yargey Tshogchung, or DYT). This was further enhanced in 1991 with the creation of "blocks" assemblies (Gewog Yargey Tshogchung, or GYT) which were intended "to empower the people at grassroots level to make decisions on their plans and enable them to adopt approaches and practices suited for their local needs" (Good Governance for Development, 2006:31).

In 1998, His Majesty the King devolved full executive powers to a Council of Ministers elected for five years through secret ballot by the National Assembly. In 2002, the National Assembly passed the revised DYT Act and GYT Act to devolve important administrative, financial, and regulatory powers to the local assemblies. Since 2002, the chairperson of the DYT assembly is no longer the district governor (Dzongda), but a representative elected amongst the DYT members.

In the decentralization process and in the elections process of the past decade, representation and decision-making at grassroots level are carried out by a vote of all the people living in the area without any system of "reserved quota" for one group or another.

Draft 2008 Constitution. In order to safeguard this policy of equitable distribution all over the country regardless of the population number, the draft constitution contains the following state policies in *Article 9* (Principles of State policy):

> *Paragraph 7. The State shall endeavor to develop and execute policies to minimize inequalities of income, concentration of wealth among citizens, and promote equitable distribution of public facilities among individuals and people living in different parts of the kingdom.*

Paragraph 8: The State shall endeavor to ensure that all the dzongkhags are treated with equity based on different needs so that allocation of national resources shall result in comparable socio-economic development.

Moreover, *Article 22* on Local Governments contains the following provisions:

Paragraph 1: Power and authority shall be decentralized and devolved to elected local governments to facilitate direct participation of the people in the development and management of their own social, economic and environmental well being.

Paragraph 3: The local Royal Government of Bhutan shall ensure that the local interests are taken into account in the national sphere of governance by providing a forum for public consideration on issues affecting the local territory.

When this research was being conducted, the National Assembly had not yet passed the NGO Act. The National Assembly was expected to pass the bill during the sessions in autumn of 2006 or spring of 2007. It must be noted that several organizations tend to call themselves "NGOs" for practical reasons, although they do not have a legal status yet.

One of the most interesting features of this assessment is that in Bhutan, there is a great cooperation between the different agencies and organizations. Probably because of their small number as well as of the small population, the organizations are very attentive to each other's projects. They also try their best not to duplicate each other's work. They cooperate so that the projects really benefit the population.

Summary of answers to the interview questions. As mentioned in the methodology, we asked a set of questions in our interview with representatives of the agencies visited for this assessment. It must be noted that there was a remarkable unity in the answers to the four questions. These answers are summarized below.

Q: What is your organization/agency/department/commission doing for minority groups in Bhutan?

A: Bhutan has a wide range of ethnic groups and there is no specific policy targeting one particular group. All the policies

of the Royal Government of Bhutan are formulated and implemented without any ethnic distinction. The policies in all districts are meant to alleviate poverty, give equal access to health and education, reduce the gender bias and gap, empower the local communities, *and* promote participatory approach and sustainable development.

Q: How would you define minority groups in the Bhutanese context?

A: To define minority groups numerically and as indigenous groups would be very difficult. If pushed to name such groups, it would probably be the Lhops of Samtse District and the Monpas of Zhemgang district. However, the Layaps, the Lunanaps, and the Merak Saktengpas, although not indigenous, are minority groups in the numerical sense and, being pastoralists, have a distinct way of life.

Q: What are your projects/policies that reach out to these particular groups?

A: The Lhops and the Monpas are reached through the normal policies implemented in their respective districts. These policies are within the framework of poverty alleviation projects. However, it is often difficult to reach them because of communications problems and their geographical location. There is a drive to improve communications so that these groups can benefit from economic and development opportunities.

Q: If you do not have any specific projects/policies regarding these particular groups, how do you think that you reach out to them? What are your alternatives?

A: The projects reach all the groups through implementation at the district and village levels. All these groups express their views through their elected representative or through village meetings. In the case of the Monpas, they could be reached through projects prepared for the Zhemgang district, which is one of the poorest districts in Bhutan. As for the Lhops, the Tarayana Foundation has activities, which are geared towards them. They also benefit from projects implemented in the Samtse district.

The last point that the interviewees made with regard to our questions was this—"Why do we want to artificially create an ethnic divide when there is relative harmony between all groups in Bhutan, and policies and rights are the same for everybody?"

The workshop on 8 May 2006 allowed the stakeholders (see Box 4) to discuss different issues. Although the terminology issue that we already explained dominated the debate, participates discussed several other points regarding socio-cultural groups and the political changes in 2008.

Education and the Dzongkha language. There was a concern from some participants the dominance of the Dzongkha language leads to the demise of other languages. They also believe

Box 4. List of participants to the workshop of May 8, 2006 held at ILCS, Thimphu

Lopen Lungtaen Gyatso, ILCS Principal

Ms. Radhika Gupta, ICIMOD

Ms. Dawa Lhamo, ILCS

Dr. Françoise Pommaret, ILCS

Ms. Marie Veno Thesbjerg, DANIDA

Ms. Parvati Bishan, Helvetas

Mr. Pema Wangdue, DDA (Dzongkha Development Authority)

Mr. Tshewang Dorje, DDA

Mr. Dorje Gyeltshen, DDA

Ms. Sonam Pelden, NCWC (National Commission for Women and Children)

Ms. Laurence Levaque, NCWC

Mr. Gembo Tshering, National Library

Mr. Ugyen Tenzin, National Library

Ms. Akiko Ueda, UNDP

Ms. Khando Wangmo, UNICEF

Ms. Noble, UNICEF

Ms. Gama Namgyal, YDF (Youth Development Fund)

that this leads to unfair job competition because the vast majority of Bhutanese do not speak Dzongkha (mother tongue of an estimated 18-20% of the Bhutanese).

A representative of the Dzongkha Development Authority (DDA) argued that the first concern is unfounded because majority of Bhutanese speak the other languages. Moreover, the DDA is spearheading studies on other languages of Bhutan. The Institute of Language and Culture Studies (ILCS) is introducing a course on languages of Bhutan in its new curriculum. The second point was also refuted, as it is well known that the best Dzongkha speakers and writers today come from regions where Dzongkha is not the mother tongue. The good performance of children in schools from all parts of the country is proof that those who do not speak Dzongkha are not necessarily disadvantaged in terms of educational preparedness.

The UNICEF representatives also stressed the need to look at education policies for children from pastoral communities. It was acknowledged that the special school year calendar already implemented was an important step forward.

Natural resources policies and tourism. The issue of access to grazing land was raised in Merak Sakteng. In the context of implementation of certain environmental policies, the people may have been denied certain rights. Moreover emphasis on agriculture, restrictions on grazing, and promotion of hybrid cattle may soon have an impact on these pastoral communities. The tourism sector is also pressing to open the Merak Sakteng areas as a source of income and local employment. However, the people seem ambivalent about the idea. Shifting cultivation is also discouraged in relation to forest protection and this has implications for communities such as the Lhops and the Monpas.

Gender and urban migration. The National Commission on Women and Children (NCWA) is working on gender issues. Women have equal rights in Bhutan but policies are gender blind. Instead of stressing equality, policies need to address the issue of equity. One issue of concern is the increasing rural to urban migration for socio-economic purposes, which affect all the regions of Bhutan. This results in an increasing vulnerability of women in an urban context where people of different backgrounds and cultures mix.

There are questions about the vulnerability of women from certain groups. For instance, a study undertaken by the Youth Development Fund (YDF) found that girls from certain remote areas in general, including the Lhops and the Merak Saktenpas, are more vulnerable.

It would be interesting to tally the more vulnerable women from rural areas with the household head pattern as published in the Census Maps 2005. In rural eastern and southern areas, the survey shows that the household heads are dominantly male. This is not the case in Central and Western Bhutan. This implies an inheritance pattern, whereby in many areas of Bhutan, women inherit their share of land and the family house while men leave.

IV. Situational Analysis

As already explained, Bhutan has a national policy covering all groups. However, Bhutan does take into consideration the specific features of its socio-cultural groups by catering to their special requests in terms of development activities and promoting them especially in the media.

Besides Dzongkha as the national language, Lhotshamka (Nepali) is the only other language of Bhutan, which is written. It is one of the daily languages of the BBS radio (Bhutan Broadcasting System). An edition of the weekly *Kuensel*, the national newspaper, is also published in Lhotshamka (Nepali). BBS radio also broadcasts daily in Tshangla (Sharchopkha), the language of the east. Both the BBS and Kuensel regularly broadcast and publish features on different aspects of life and culture of the different groups of Bhutan.

The public consultations for the Constitution carried out in each district in 2005 and 2006 were in Dzongkha, and translated in the district's dominant language (Lhotshamka [Nepali], Bumthangkha, Tshangla) in order to reach out to the people whose mother tongue is not Dzongkha.

As for the Dzongkha Development Authority (DDA) and its role in promoting the national language, it has been active in col-

lecting and documenting the different languages of Bhutan. With the assistance of Prof. George van Driem from Leiden, grammar of unique languages is being prepared. The DDA published the first English-Dzongkha dictionary in August 2006. It includes widely-used words from other languages such as Tshangla and Bumthangka (*Kuensel*, 16 August 2006).

Several institutions deal with tangible and intangible cultural heritage of Bhutan. The Division for Conservation of Architectural Heritage and the National Museum in Paro looks after the "tangible heritage." These agencies are both under the Department of Culture, Ministry of Home and Cultural Affairs. The following institutions of the Royal Government of Bhutan record the "intangible heritage"—the Royal Academic of Performing Arts (RAPA), the National Library and Archives, the Textile Museum and the Folk Heritage Museum. The RAPA, for instance, has regularly included in its national repertoire dances from all the ethnic groups of Bhutan. These agencies also fall under the Department of Culture, Ministry of Home and Cultural affairs.

The Institute of Language and Culture Studies (ILCS), which is under the Royal University of Bhutan, is also actively involved in the documentation and propagation of the nation's "intangible heritage." Under two UNESCO funded projects, it has been conducting video documentation of several little known rituals throughout the country. The ILCS also presented the candidature file of The Drametse Ngacham (a religious dance from eastern Bhutan) for the UNESCO Masterpieces of Intangible Heritage. This dance was proclaimed Masterpiece of Intangible Heritage in 2005.

The Centre for Bhutan Studies (CBS), which is a Royal Government of Bhutan think tank, has been very active in collecting and publishing stories and rituals.[7] CBS has also been active in publishing in 2004 the first monograph on the Monpas by Seeta Giri entitled "The Vital Link, Monpas and their Forests."

Two exhibitions on Bhutan were organized abroad. One was on textiles and held in the USA in 1994. The other one was in Europe in 1997-2000. Both presented cultural artifacts from different ethnic groups. The exhibition in Europe entitled "Bhutan, Mountain Fortress of the Gods" had special sections on the way of life of the Layaps, the Merak Saktengpas and the Lhotshampas.

The Lhops. Since 1999, the Tarayana Foundation has been very active in empowering and promoting the Lhops, the small ethnic group and very close-knit society who live in the southern Samtse district. In 2005, Tarayana organized an exhibition in Thimphu in order to present Lhops' culture as well as give them more exposure to the outside world. Tarayana also sponsored a study on their unique way of life and customs. Tarayana's aim was to alleviate this group's poverty and give them educational facilities in accordance with the motto of the foundation—"Helping the vulnerable and the disadvantaged help themselves."

However, Tarayana's goals and the Lhops' customs often need to be negotiated, as the Lhops have agricultural practices, which the national government discourages because they are deemed damaging to the environment. Such practices include shifting cultivation and goat rearing. The aim is to share with them development without taking out their cultural uniqueness.

With the assistance of different international donors such as Save the Children US and Helvetas, Tarayana has been sponsoring children's education through scholarships, providing agriculture tools, and supporting efforts such as starting a paper factory, nettle weaving activities, and furniture making.

The Monpas. The Tarayana foundation has also been active in the Monpa region of Zhemgang district, especially in sponsoring children education. The Jigme Singye Wangchuck National Park under the Ministry of Agriculture has been a great support in this area. The UN Development Programme (UNDP) has also been giving small grants for bamboo and cane regeneration.

The department of tourism plans to open the Nabji Khorphu area trek, which goes through Monpa areas. The tracks are being improved and the Monpas may economically benefit from this opening.

The SNV (or Dutch Cooperation) has been in Monpas since 1993. It is present in the Zhemgang district through the Integrated Sustainable Development Programme (ISDP) and with the Dzongkhag's Rural Access Planning Programme of the Ministry of Agriculture, which concern the six central districts. The SNV, through these programs, has been concentrating on rural infrastructure (roads, schools) as well as on capacity building (training

local leaders and officials in finance, management, decentralization and technical trainings). Helvetas, on the other hand, assists the Zhemgang district in Local Development Programs. The entire populations of these districts, including the Monpas, have been reached by these projects.

The people of Merak Sakteng. This group, which lives in the east of the Trashigang district, may be more prone to Sexually Transmitted Diseases (STD) and therefore may be exposed to greater threats of HIV/AIDS. Different agencies give them special attention in the context of the national health policy. The WWF, through the Wildlife Sanctuary Project of the Royal Government of Bhutan, is supporting this group. The project specifically provides capacity development for the community, supply of agricultural tools, CGI sheets for their roofs, fuel-efficient stoves, construction of a community-school at Jongkhar, and the development of mule tracks. Through the Second Eastern Zone Agriculture Programme, the SNV has also organized milk producers and farmers groups in Merak.

The Layaps and the Lunanaps. These groups are pastoralists and not poor by Bhutanese standards. The priority is on the development of communications so that they can access the main valleys. Their desire to keep their way of life has been taken into consideration. For example, mountaineering was forbidden in Bhutan in the 1980s because of their objections.

In contrast, government allowed the harvest of *cordyceps sinensis* in Lingshi, Laya, and Lunana in 2004 upon the request of local people in order to improve their economic status. A kilo of Cordyceps fetched more than $2,000 at the auctions in July 2006. This brought considerable cash income to the people of these regions. These groups also have a different school year, which takes into consideration their geographical and socio-economic constraints.

In 1999, the Public Health Division of the Ministry of Health tried to improve the water supply in Lunana, using the framework of the national rural water supply scheme. This was because 50 percent of the villagers drank contaminated water in this area. The Public Health faced opposition from the beneficiaries themselves because they had to walk for at least five days to carry the

equipment up to their village. In response, the Public Health Division is now trying to bring the equipment by helicopter.

V. Conclusion

As already mentioned, the relevance of the term "indigenous" for Bhutan and the whole of the Himalayas has been questioned considering Bhutan's characteristic as an ethnically diverse country albeit with a small population. Moreover, the policies of the Royal Government of Bhutan applied equally to all the people, regardless of ethnic background, to ensure that people live in harmony. It also avoids communal tensions that could result from favoring one group over another.

Because of the complex ethnic set-up of Bhutan, the lack of historical data and the equality policies promoted by the Royal Government of Bhutan, the assessment of the International Decade of the World's Indigenous People (1995-2004) as requested by ICIMOD presents its own particularities.

"Minority groups" in Bhutan are understood as "economically disadvantaged and vulnerable groups" and not as "ethnically different." The term "indigenous peoples" is not used, neither is the term "tribe." The researchers preferred the term 'socio-cultural groups' for this assessment.

The main issues that Bhutan wants to raise awareness about and tackle in the future are the following:

The rural-urban migration. When 40 percent of the population is below 15 years old, this implies an employment and labor issue. This means that some youth will be more vulnerable to all sorts of abuses. There should be no gender discrimination for any of the job in any sector. Government shall assist them through different programs, and it is their vulnerability, which would be the criteria for assistance, not their origin.

Rural poverty. The second issue is to alleviate rural poverty in regions, which need assistance by (a) improving infrastructure and communications, (b) building local capacity, and (c) providing in-

come-generating jobs based on local resources. The draft constitution emphasizes that "all persons are equal before the law and are entitled to equal and effective protection of the law and shall not be discriminated against on the grounds of race, sex, language, religion, politics or other status" (Art. 7.15). Furthermore, it states that the "local Royal Government of Bhutan shall ensure that the local interests are taken into account in the national sphere of governance by providing a forum for public consideration on issues affecting the local territory" (Art. 22.3).

Bhutan appears to follow closely the recommendations mentioned in the Indigenous and Tribal Peoples Convention (1989) as well as in the Indigenous and Tribal Populations Convention (1957). This is because of socio historical factors that shaped the process of development that started in 1961, and the policies that government adopted. However, Bhutan would prefer to address these groups as "socio-cultural groups."

It is very important that Bhutan, as a state member of ICIMOD is represented in the institution's discussions regarding the Indigenous People's Decade, as well as in the formulation of recommendations towards project proposals that would benefit the socio-cultural groups in Bhutan and their potential donors.

Endnotes

[1] Some of the questions we asked include the following: What is your organization/agency/department/commission doing for minority groups in Bhutan? How would you define minority groups in the Bhutanese context? What are your projects/policies that reach out to these particular groups? If you do not have any specific projects/policies regarding these particular groups, how do you think that you reach out to them? What are your alternatives?

[2] The linguistic attributions are based on G. van Driem's extensive studies in Bhutan. See bibliography.

[3] I will not deal here with the problem of the term Mon. Cf. F Pommaret, 1994 and 1999.

[4] See M. Aris (1929). Bhutan: the Early History of a Himalayan Kingdom (Aris & Philips, Warminster), 121-122; and B. Michailovsky and

M.Mazaudon (1994:546). See also Part I of R. Schafer (1966). Introduction to Sino-Tibetan (Otto Harrassowitz, Wiesbaden).

[5] See Dorji, Jagar (2003). Lhop, A Tribal Community in South Western Bhutan, and its Survival Through Time (Paro: NIE); Dorji, Jagar (2000), "The Lhops of Western Bhutan," The Tibet Journal, Vol. XXV, No. 2, Summer, 52-59; Sharma, B. Deben (2005). Lhops (Doya) of Bhutan. An Ethnographic Account (New Delhi: Akansha Publishing House).

[6] The Bodic Division comprises different branches, one of them being the Bodish branch already mentioned earlier on. Rai and Limbu languages do not belong to the Bodish section but to the eastern Himalayan section. R. Shafer, 1966, Part I, 3 and M. Gaborieau, Le Népal et ses populations, Editions Complexe, Bruxelles, 1978, 107-122.

[7] This can be downloaded from <www.bhutanstudies.org.bt>.

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4

An Assessment of First International Decade of the World's Indigenous People in India

Joseph Marianus Kujur* and *T. A. John*

I. Overview of Indigenous Peoples in India

The indigenous peoples, the original inhabitants, also known as tribals, *Adivasis*, *moolvasis*, aboriginals, hill tribes, ethnic minorities and ethnic nationalities in various parts of Asia, constitute a significant proportion of the continent. As of 2001, there are 84 million indigenous peoples in India making up 8.2 percent of the country's total population. Yet, the Government does not recognize the term "indigenous" as applicable to such people. Prabhu Dayal, the Indian delegation to the United Nations Organizations (UNO) in 1984, made a categorical statement, as follows:

> *Madam, a few statements have been made earlier during this meeting which focused on some of the problems faced by the 'Scheduled Tribes' of India. At the meetings of this very work-*

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ing group in earlier years, my delegation has repeatedly clarified that the terms Adivasis used commonly in India to designate the Scheduled Tribes cannot be equated with the term 'indigenous peoples.' The specific designation of 'Scheduled Tribes' in India has been made in keeping with the developmental requirements of certain sections of our population in favor of whom a system of positive discrimination is followed by the government in order to secure for them special privileges and to ensure their accelerated progress.

The Government of India enlists them as the "scheduled tribes" based on a "notification" by the President under Article 342 of the Constitution of India, which was passed in 1950. The characteristics considered for "notification" were "primitive traits," distinctive culture, "shyness with the public at large," geographical isolation, and socio-economic "backwardness." In the Report of Commissioner for Scheduled Castes (SCs) and Scheduled Tribes (STs) in 1952, the following features were mentioned:

(a) they live away from the civilized world in inaccessible areas —forests and hills, (b) they belong to one of three stocks— Negrito, Australoids, or Mongoloids, (c) they speak the same dialect, (d) primitive religion 'animism,' worship of ghosts and spirits, (e) primitive occupations: hunting, gathering of forest produce, shifting cultivation, (f) largely carnivorous or meat eaters, (g) primitive in dress and clothing, and (h) nomadic habits and love for drink and dance.

Seventy-five of the 698 tribal communities in India (or 10.74% of the tribes) are recognized as "primitive tribal communities." These communities have "backward" agriculture, and their literacy is below 15 percent. They do not have access to basic health services and their number is declining due to poverty, malnutrition, ignorance on health care, and illiteracy. They have low literacy, high mortality, and poor hygiene. They are mostly unemployed that they migrate to urban centers in search of work.

Their villages in rural areas lack basic services and facilities like drinking water, primary schools, public distribution shops, and roads. The tribal communities are also the worst victims of atrocities and violence, as well as national development projects. In the last five decades, development projects such as hydroelectricity,

thermal plants, industries, mines, wild life sanctuaries, military bases, and national parks, have displaced millions of "tribals" in spite of several legislations to protect their rights.

In terms of the Human Development Index (HDI), majority of these communities generally lags behind other communities.

The researchers used the term "Scheduled Tribes" (STs) as well as the terms "indigenous peoples," "Adivasis," and "tribals" in this report.

A. Objectives of the Study

The present study critically examines various policies of the Government of India, as well as the five States selected for this study, namely Andhra Pradesh, Himachal Pradesh, Jharkhand, Orissa, and Rajasthan. The policies pertain to mining, rehabilitation, education, natural resources (land, forest, and water), livelihood, health, and agriculture. The policies are analyzed in terms of their impact on Indigenous Peoples during the first International Decade of the World's Indigenous People (1995-2004) or the Indigenous People's Decade.

Specifically, this research aims to:

1. Provide an overview of the situation of the indigenous peoples in India;
2. Summarize and analyze various policies of the national and State Governments;
3. Discuss judicial interventions and human rights; and
4. Present the findings of the regional workshop on the Indigenous People's Decade in Jharkhand held in 2006.

B. Methodology

1. Sampling

The study was designed to cover all tribal regions of India. Keeping in mind the existing regional diversities of indigenous peoples, five States (mentioned above) were selected for the study.

2. Data Collection

The researchers used both primary and secondary data. They interviewed resource persons and tribal activists from Jharkhand and Delhi. They conducted a Focus Group Discussion (FGD) in Jharkhand where tribal activists and intellectuals participated and shared their experiences regarding the Indigenous People's Decade. They also conducted FGDs with specific groups within the indigenous community to enhance both the qualitative and quantitative data that were gathered. The focus groups include the women, youth, wage laborers, professionals, tribal activists, journalists, tribal leaders, and representatives from community-based organizations. The list of respondents is found in Box 1.

Box 1. List of Respondents

Delhi

1. Fr. Susai Sebastian, Executive Director, Chetnalaya
2. Ms Shimray, Programme Executive, Caritas India
3. Ravi Hemadri, Executive Director, The Other Media
4. Mr. Sebastian K.O, Programme Officer, Y.M.C.A.
5. Joe Xavier, Executive Secretary, Jesuits in Social Action (JESA)
6. Dr. Jimmy Dabhi, S.J, Executive Director, Indian Social Institute
7. Mr. Vijayan M.J, Director, Delhi Forum

Jharkhand

1. Ignatius Minz, Lawyer, Jharkhand High Court and Faculty Member at Bagaicha, an organization for peoples rights
2. Stan Lourswamy, Director, "Bagaicha" and former Director of Indian Social Institute, Bangalore
3. Shri Satnakar Gongara, JOHAR, Ranchi
4. Dominic Bara, Director, Vikas Maitri
5. Shishir Tudu, Convener, Sanvad
6. Ms Shravani, JURAV, Ranchi
7. Man Chandra Prasad, Director, Swargina Gramin Vikas Kendra, Daltganj

8. Albert Lakra, Director, Samaj Vikas Kendra, Chandwa (Latehar)
9. Amarnath Lakra, Director CASA
10. Seerat Kachhap, Bindaray Institute for Research and Social Analysis (BIRSA)
11. Ms Shanti Sawaiya, JAMAI, Ranchi
12. Dr. Kerubim Tirkey, Secretary, Social Development Centre (SDC)
13. Deokumar Dhan, Ex-MLA, Congress Party
14. Meghnath, Director, AKHRA, Ranchi

Interviewers:

1. **Delhi:** Mr. Bijulal and Ms Loy Maria
2. **Jharkhand:** Ms Pushpa Tete, Dr. Dinesh Tirkey and Anil Tirkey

The researchers also referred to published books, articles, census reports, government reports, news paper clippings, unpublished seminar proceedings, and other relevant documents.

C. Organization of the Report

This report is divided into six main parts. It begins with an introduction which discusses the context, objectives, and methodology of this research. This constitutes Part I. The succeeding sections basically follow the specific objectives outlined above.

Part II provides an overview of the situation and profile of indigenous peoples in India. Part III summarizes and analyzes various policies of the national and State Governments. This is followed by a discussion of judicial interventions and human rights in Part IV. Part V is a presentation of the findings of the regional workshop on the Indigenous People's Decade in Jharkhand.

The concluding section is found in Part VI of this report.

II. Profile of Indigenous Peoples in India

A. Profile of Indigenous Peoples

The population of India is 1.02 billion as of 2001. The tribal population is 84.5 million or 8.14 percent of the country's total population (see Table 1). Of this, 27.5 million or 32.6 percent are in the States of Andhra Pradesh, Jharkhand, Orissa, Rajasthan, and Himachal Pradesh. In our sample States, Jharkhand has the biggest proportion of "tribals" to the state population at 26.3 percent. This is followed by Orissa with 22.1 percent, Rajasthan with 12.5 percent, Andhra Pradesh with 6.6 percent, and Himachal Pradesh with four percent (see Annex 1 for list of "Scheduled Tribes" in selected States).

B. Distribution of Indigenous Peoples by Region

The indigenous peoples inhabiting India are distributed in six regions, namely: north-east, north-west, eastern-central, southern, western, and the islands. The eastern-central region of India has the highest percentage of indigenous peoples which has 52.3 percent, followed by the western region with 27.5 percent. The island region has the lowest percentage of indigenous peoples at 0.10 percent (see Table 2).

C. Need for Focusing Attention on Indigenous Peoples

Despite the substantial constitutional safeguards for indigenous peoples, the impact has been limited due to unsatisfactory implementation of policies. The indigenous peoples make the supreme sacrifice when government implements policies on land acquisition, forests, environment, mining, and industry under the garb of "national interest." State Governments override the indigenous peoples' ancestral and customary rights over natural resources (e.g., land, water, and forest), as well as their value systems (e.g., ideology, knowledge, and traditions). The government's economic

Table 1. Profile of Indigenous Peoples (IP) in the States and Union Territories of India

	State/Union Territories	Total Population in 2001	IP Population in 2001	Percentage of IPs to the State Population	Percentage of IPs to the IP population of India	Literacy rate of IPs	Percentage of rural IPs in BPL* (1999-2000)
1	Andaman and Nicobar (UT)	356,265	29469	8.27	00.03	66.8	N.A
2	**Andhra Pradesh**	**75,727,541**	**5,024,104**	**06.63**	**05.94**	**37**	**23.82**
3	Arunachal Pradesh	1,091,117	705,158	64.63	00.83	49.6	--
4	Assam	26,638,407	3,308,570	12.42	03.91	62.5	38.73
5	Bihar	82,878,796	758,351	00.92	00.90	28.8	59.68
6	Chandigarh (UT)	NO NOTIFIED SCHEDULED TRIBES					
7	Chattisgarh	20,795,956	6,616,596	31.82	07.83	52.1	--
8	Dadra and Nagar Haveli (UT)	220,451	137,225	62.25	00.16	41.2	N.A
9	Daman and Diu (UT)	158,059	13,997	08.86	00.02	63.4	N.A
10	NCTR Delhi	NO NOTIFIED SCHEDULED TRIBES					
11	Goa	1,343,998	566	00.04	00.00	55.9	N.A
12	Gujarat	50,596,992	7,481,160	14.79	08.85	47.7	29.11
13	Haryana	NO NOTIFIED SCHEDULED TRIBES					
14	**Himachal Pradesh**	**6,077,248**	**244,587**	**04.02**	**00.29**	**65.5**	**05.73**
15	Jammu and Kashmir	10,069,917	1,105,979	10.98	01.31	37.5	NA
16	**Jharkhand**	**26,909,428**	**7,087,068**	**26.34**	**08.39**	**40.7**	**--**
17	Karnataka	52,850,562	3,463,986	06.55	04.10	48.3	25.49

18	Kerala	31,838,619	364,189	01.14	00.43	64.4	24.20
19	Lakshadweep (UT)	60,595	57,321	94.60	00.07	86.1	N.A
20	Madhya Pradesh	60,385,118	12,233,474	20.26	14.48	41.2	26.26
21	Maharashtra	96,752,247	8,577,276	08.87	10.15	55.2	43.56
22	Manipur**	2,388,634	930,582	38.96	01.10	65.9	--
23	Meghalaya	2,306,069	1,992,862	86.42	02.36	61.3	--
24	Mizoram	891,058	839,310	94.19	00.99	89.3	--
25	Nagaland	1,988,636	1,769,561	88.98	02.09	65.9	--
26	**Orissa**	**36,706,920**	**8,145,081**	**22.19**	**09.64**	**37.4**	**73.93**
27	Pondicherry (UT)	NO NOTIFIED SCHEDULED TRIBES					
28	Punjab	NO NOTIFIED SCHEDULED TRIBES					
29	**Rajasthan**	**56,473,122**	**7,097,706**	**12.57**	**08.40**	**44.7**	**25.27**
30	Sikkim	540,493	111,405	20.61	00.13	67.1	--
31	Tamil Nadu	62,110,839	651,321	01.05	00.77	41.5	43.20
32	Tripura	3,191,168	993,426	31.13	01.18	56.5	--
33	Uttar Pradesh	166,052,859	107,963	00.07	00.13	35.1	34.06
34	Uttaranchal	8,479,562	256,129	03.02	00.30	63.2	N.A
35	West Bengal	80,221,171	4,406,794	05.49	05.21	43.4	50.02
	India (Total)	**1,027,015,247**	**84,511,216**	**08.14**	**100**	**47.1**	**45.86**

** Below Poverty Line.* *** Excludes Mao-Maram, Paomata and Purul sub-division of Senapati district.*
Source: 2001 Census.

policies ignore other indicators of development, such as health, education, human rights, and participation in decision making processes.

D. Trend Indicators

1. Socio-Economic Profile

Majority of the "tribals" live in rural and forest areas. Their economy is primarily based on agriculture and wage labor. About 88 percent earn their livelihood from agriculture and related activities. The remaining 5.5 percent work in construction, trade, and commerce. As many as 3.4 percent work in mining and quarrying. Only 3.2 percent are engaged in household industry and manufacturing. The number of "tribals" engaged in self-employment is relatively low. Their access to agricultural land is inadequate. Small landholdings force the "tribals" to engage in wage employment, brick kiln work, construction work, and domestic work. Their other economic activities include food gathering (including hunting and fishing), "pastoralism," handicrafts-making, plantation work, and industrial labor. There are many primitive tribal communities which are still in the hunting-gathering stage. Tribal women are mainly engaged in agriculture, collection of minor forest produce, and wage labor.

For centuries, the forests have supplemented 40 percent of the livelihood of tribal communities. The process of deforestation and restrictions upon their access to forests created a situation of food insecurity among tribal communities. According to the Ministry of Rural Development, an estimated 17,590 acres of land were alienated from "tribals" in 1999. Due to landlessness, the per capita income of "scheduled tribes" is one of the lowest in the country.

2. Gender Equality

Indigenous women face serious problems ranging from extreme poverty, malnutrition, hunger, and discrimination. They suffer human rights abuses such as killing, torture, and rape. Many indigenous women suffer from double discrimination—as indigenous

Table 2. Distribution of Indigenous Peoples (IP) in India by Region

Regions and No. of IP Communities	States/Union Territories	IPs in 1991 and percent of total Population	IPs in 2001 and percent of total population	Percentage of IPs to the total population of India in 2001 Census
North East (119)*	Assam, Arunachal Pradesh, Nagaland, Meghalaya, Manipur, Mizoram, Tripura, Sikkim	8,233,525 (12.15)	1,05,39,475 (12.47)	1.02
North West (18)*	Himachal Pradesh, Uttar Pradesh Uttaranchal, Jammu and Kashmir	506,250 (0.75)	5,11,509 (0.60)	0.05
Eastern and Central (280)*	Orissa, Jharkhand, Chhattisgarh, West Bengal, Bihar, Madhya Pradesh, Andhra Pradesh	37,056,403 (54.70)	4,42,71,460 (52.38)	4.31
Southern (120)*	Tamil Nadu, Karnataka, Kerala	2,810,825 (4.15)	44,79,498 (5.30)	0.43
Western Region (105)*	Maharashtra, Gujarat, Rajasthan, Goa, Dadra and Nagar Haveli, Daman and Diu	19,976,427 (28.15)	2,32,93,933 (27.56)	2.22
Islands (5)*	Andaman and Nicobar, Lakshdweep	74,933 (0.11)	86,790 (0.10)	0.01
Total (647)*		67,758,390	83,182,665	8.14

**Number of indigenous peoples Communities; Figures within bracket indicate percentage.*
Source: Census of India 1991, 2001.

peoples, they are oppressed by the dominant cultures and the State. As women, they face repressive practices in the larger patriarchal societies. As part of the "scheduled tribe," the women suffer the impact of globalization that brings in various forms of mining and logging operations, dam construction, and tourism development that encroach into the lands of the indigenous peoples.

In India, indigenous women play a significant role in the peasant economy. They are engaged in hoeing, transplanting, and weeding. Indigenous women are also engaged in other activities such as foraging, fishing and handicrafts. In hunting-gathering societies, it is usually the women who forage for food and other forest products while men go hunting. In addition, women undertake almost all the household chores and child-rearing.

Indigenous women's migration (along with men) to urban centers is a recent phenomenon. There, their employers do not give them the appropriate wages, benefits, and working conditions. For instance, indigenous women workers are usually paid lower wages than men in the tea plantations of Assam and north Bengal.

In terms of work participation of women, indigenous women lag behind other women. Based on 2001 census figures, 41.2 percent of the indigenous women were cultivators and 44.8 percent were agricultural laborers. There were more women agricultural laborers than men in Rajasthan (19.3%), Orissa (59.1%), Andhra Pradesh (58.4%), and Jharkhand (37.8%) while there is not much difference in Himachal Pradesh. There were also more women than men working as cultivators in Himachal Pradesh (88.4%) and in Rajasthan (71%).

Based on the 2001 census, female literacy rate has increased from 39.3 percent in 1991 to 54.03 percent in 2001, while male literacy rate has increased from 64.1 percent to 75.6 percent. In the case of "tribals," female literacy increased from 18.1 percent in 1991 to 34.8 percent in 2001.

In terms of fertility, the rate for tribal women is higher compared to the national average.

3. Sex Ratio

The sex ratio of the five States based on the censuses of 1991 and 2001 are given below (see Table 3).

Table 3. Number of Women per 1000 men in Sample States, 1991 and 2001

States	1991	2001
Andhra Pradesh	972	978
Himachal Pradesh	976	970
Orissa	971	972
Rajasthan	910	922
Jharkhand	-	941
India	927	933

Source: National Human Development, Report, 2001.

The overall sex ratio has improved in the sample States of Andhra Pradesh, Himachal Pradesh, Orissa, Rajasthan and Jharkhand in the period from 1991 to 2001, with the highest found in Andhra Pradesh (978), and the lowest at 922 in Rajasthan.

4. Health

The main health-related problems which "tribals" encounter are infant mortality, poor nutritional status, neo-natal mortality, post-natal mortality, peri-natal mortality, and poor life-expectancy, among others (Rajalakshmi, 1991). The indigenous peoples in India have higher infant mortality rate, low nutritional status, and lower life-expectancy than the national average. According to the National Family Health Survey-2 in 1998-99, the infant mortality among the "tribals" was 84 percent, a figure that is almost 30 percent higher than other ethnic groups. Due to widespread under-nutrition and poor infrastructure, maternal and infant mortality rates remain high among the tribal households.

In addition, they have high levels of reproductive tract infections, sexually transmitted diseases, and malaria. These problems are due to lack of health care facilities in their areas. Even if health care facilities are available, indigenous peoples from poor households cannot afford them.

In certain areas of Jharkhand, poverty and consequent malnutrition have given rise to many cases of tuberculosis. In fact, tuberculosis has assumed epidemic proportions in certain areas of the State. Deaths due to hunger and starvation are reported from tribal areas of Orissa and Jharkhand.

In spite of all the hurdles in providing health care facilities in tribal areas, mortality rate had nevertheless reduced significantly over the years. This is due to increase in income, improved educational attainments of parents, prevention of malnutrition and disease, availability of clean drinking water, and efficiency of rural health workers.

E. Findings from Interviews and Meetings

Of the 18 non-governmental organizations (NGOs) and other organizations interviewed in Delhi and Jharkhand, 14 were aware of the UN's declaration of the International Decade of the World Indigenous People (1995-2004). Most of them said that they heard of it through their association with other NGOs.

At a meeting on 28 June 2006 at the Social Development Centre in Ranchi, Jharkhand, 28 of the 20 participants said that they were very much aware of the initiatives taken by the UN for indigenous peoples. They were aware that two delegates from the tribal communities in Jharkhand regularly attended the meetings of the UN Permanent Forum on Indigenous Issues. Some learned about the Indigenous People's Decade from various church institutions (e.g., the World Council of Churches) while others learned about it from publications, advocacy materials, and seminars that were organized to address indigenous issues.

One participant who had been a Member of Parliament for two terms had been to Geneva to participate in the indigenous peoples' consultation. He was critical of the way the UN conducted its programs. He claimed that "some NGO's are working only for money" and that NGOs thrived on such programs. Moreover, he believed that unless the government seriously implements the Panchayat Extension to Scheduled Areas (PESA) Act of 1996, nothing would change for the "tribals." "We should make space for tribal identity," he added. He believed that the indigenous

peoples' forum was not able to serve the real cause of the "tribals." He said that "the real heart-beat of the Adivasis was to be taken care of. If we sold out to the International Monetary Fund (IMF) and World Bank (WB), Adivasis will not survive."

Another participant pointed out that even knowledgeable people were unaware of the Indigenous People's Decade. He, however, added that "We need not blame ourselves. Instead, we have to think…what has happened to the 'tribals' during the Decade." One participant said that even after 10 years, she had no idea of the Indigenous People's Decade. She thought that the Indigenous People's Decade was a failure in Jharkhand.

A participant point to three kinds of networks through which the information about the Indigenous People's Decade could have been disseminated: first, the governmental mechanism with its large network; second, the NGOs' network; and third, the network of the Church. He was disappointed that none of these networks disseminated the information.

III. Summary and Analysis of Policies

There has been a remarkable transformation in socio-economic life of indigenous peoples in India due to rapid industrialization in the last decade. The New Economic Policy of 1991 and subsequent economic reforms opened the subsistence agrarian economy of the indigenous communities to international monopoly capitalists. The Governments of Orissa and Jharkhand have already signed 86 memoranda with multinational companies (MNCs) to set up steel, aluminium, hydro and other mineral-based industries. The MNCs have started acquiring agricultural land which displaced thousands of indigenous peoples from their habitats. With support from the State Governments, the MNCs have violated all norms related to land, mines, forest, and water.

The researchers found it difficult to evaluate the impact of capitalist development on indigenous peoples owing to the paucity of disaggregated data in the five selected States. However, they assessed the government's policies on indigenous peoples using

the rights-based approach and focusing on Human Development Indicators (HDI) such as education, health, customary rights, and basic facilities.

This chapter summarizes the constitutional provisions relevant to indigenous peoples, as well as the policies which have implications for the indigenous peoples in India. Each policy is examined from the perspective of the indigenous peoples to understand whether it upholds their right to livelihood and dignity and whether the declaration of the Indigenous People's Decade has brought the indigenous peoples closer to their goals and aspirations.

A. Constitutional Provisions

The Constitution of India contains several provisions that intend to protect indigenous peoples from exploitation.[1] Article 15 prohibits any discrimination on grounds of region, race, caste, sex, or place of birth. However, Clause 4 provides an exception to this since it empowers the State to make special provisions for the advancement of socially and educationally backward classes of citizens such as the "scheduled tribes." The special provisions include: (a) reserved[2] seats in educational institutions; (b) relaxation of qualifications required for admission into such institutions; (c) providing housing accommodation to members of such classes; and (d) concession treatment for them in the matter of settlement of government lands.

As an expression of the right to equality of opportunity in employment, Article 16(4) provides for "reservation" in posts and services. Moreover, Article 23 prohibits trafficking of human beings and forced labor. Article 29 says that a cultural or linguistic minority has the right to conserve its language or culture. Through Article 46, the State promotes the educational and economic interests of the "weaker sections" of society and protects them from social injustice. Clause 4 has been "especially incorporated" so that the special provision for the "scheduled tribes" cannot be legally challenged on grounds that it is "discriminatory."

Article 164 provides for a minister in charge of tribal welfare in the States of India with substantial tribal population. Article 330

provides for the "reservation" of seats in the House of People. Article 332 seeks the "reservation" of seats in the State Assembly. Article 338 provides for a commissioner for the "scheduled tribes" appointed by the President. There are also provisions for the "scheduled tribes" in Article 371(A), 371(B), 371(C), the Fifth Schedule, and the Sixth Schedule.

The constitutional safeguards for the economic development of "scheduled tribes" are in Article 275(1) and Article 339(2). Article 275(1) provides for government assistance for the development of the "scheduled" areas, while Article 275(2) provides for the empowerment of the Union Executive to issue directives to a State to promote the welfare of the "scheduled tribes."

The term "scheduled areas" has been defined in the Indian Constitution as "such areas as the President may by order declare to be Scheduled Areas." Paragraph 6 of the Fifth Schedule of the Constitution prescribes procedure for scheduling, rescheduling, and alteration of "scheduled areas." The criteria followed for declaring an area as a "scheduled area" are as follows: (a) preponderance of tribal population; (b) compactness and reasonable size of the area; (c) underdeveloped nature of the area; and (d) marked disparity in the economic standard of the people. These criteria are not spelled out in the Constitution of India but have become well-established.

The following are the Scheduled Areas in the selected States:

1. Andhra Pradesh: Districts of Mahbubnagar, Adilabad, Warangal, Vishakhapatnam and East Godavari;
2. Himachal Pradesh: Districts of Lahaul and Spiti, Kinnaur and Chamba;
3. Jharkhand: Districts of Ranchi, Singhbhum, Latehar, Palamau, Dumka, Pakur, Rajmahal, Sundar Pahari and Boarijo and Santhal Parganas;
4. Orissa: Districts of Mayurbhanj, Sundargah, Koraput, Malkanagiri, Nawarangpur, Rayagada, Jharsuguda, Sambalpur, Keonjhar, Kandhamal, Kalahandi, Gajpati Kalahandi and Balasore;
5. Rajasthan: Districts of Banswara, Abu Road Block of Sirohi, Dungarpur and Udaipur.

B. Policies on Natural Resources and Livelihood Opportunities

The economy of the indigenous peoples is primarily agrarian. About 60 percent of their livelihood comes from agriculture while the remaining 40 percent comes from the forest. Land in majority of the tribal areas is owned by the community. However, the colonial government introduced private ownership of land and restricted the land use rights of indigenous peoples on forest, mines, and water. The economy, social life, and cultural practices of indigenous peoples are based on land which they have been losing in the century. If this trend continues, the tribes will lose their identity. To take land away from the indigenous peoples is to take their life. Displacing tribals from their original habitat and giving them cash compensation in return of their land in the name of development will lead to the disintegration of indigenous communities.

The policies that affect the livelihood of indigenous peoples are discussed below.

1. National Policies

Land Acquisition (Amendment) Bill, 1998. In 1998, the Ministry of Rural Development prepared a draft Land Acquisition (Amendment) Bill, which was approved by the Union Cabinet. This Bill was not the first of its kind because the colonial regime enacted the Land Acquisition Act of 1894 that allowed the rural population to have control over their land. However, land acquisition and land grabbing accelerated starting in the 1950s when government formulated the Five Year Plans.

The Land Acquisition (Amendment) Bill of 1998 allows the Government of India to acquire land for "public purpose" under the doctrine of "eminent domain" with the proviso of just compensation. However, acquisition of land was not accompanied by just compensation.

The present Bill is a continuation of centuries-old fight of the powerful over the resources of the powerless who are primarily indigenous peoples. By one stroke of the executive pen, the Land Acquisition Act has obliterated centuries of customary land use by

the indigenous peoples. Acquiring land from the indigenous peoples marginalizes them further. The most central issue is that the participation of both the victims and beneficiaries in the process of land acquisition are not taken into account. While there is a segment of the population that argues for better Relief and Rehabilitation Package (R&R), there is another segment which would enter into discussion about relief and rehabilitation only if the land acquisition itself is brought into strict scrutiny.

Unfortunately, amendments made on laws on resources were not intended to endow more powers upon the indigenous peoples. Rather, they are meant to relax existing laws to make land acquisition easier for the rich and powerful.

The National Water Policy, 2002. Huge dams are often constructed in tribal regions for irrigation purposes, but it is the non-tribal regions that benefit due to technical constraints in the irrigation system. Thus, these tribal regions are often denied both water and power.

The first National Water Policy was formulated in 1987. A new policy was needed because of changing social conditions. The National Water Policy of 2002 states that "water is a prime and natural resource, a basic human need, and a precious national asset. Planning, development and management of water resources need to be governed by national perspectives" (National Water Policy, 2002). Since indigenous peoples' habitats are mostly the river banks and forest areas, any national water policy ignoring them has far-reaching consequences. Unfortunately, the people were not involved in the formulation of the new policy. The overarching objective of this bill seems to be the management and control of water resources by the State.

The water policy ignores many important issues affecting the indigenous peoples. It neither examines why the original policy failed nor does it question the existing accountability mechanisms.

Need for a Comprehensive and Balanced Water Policy with Social Justice. During the past decade, parts of India (like Andhra Pradesh) have been affected by drought. Meanwhile, limited government budget led to the neglect of major irrigation systems. These resulted in dwindling growth in the agricultural sector which led some farmers (most of whom are "tribals") to commit suicide.

There is a need for water both for new irrigation projects and for drinking water. However, this may not be the government's priority. Nevertheless, it has to review its priorities in view of the requirements of "regional balance and social justice" which means prioritizing projects for backward and drought-prone areas. However, the government reasons that delays are due to the absence of huge investments required in building irrigation.

Scheduled Tribes (Recognition of Forest Rights) Bill, 2005. The Scheduled Tribes Bill is due to be presented in parliament. The bill acknowledges the "historical injustice" of not recognizing tribal rights on their ancestral lands during the colonial and post-colonial periods. In 1793 the Permanent Settlement Act was promulgated by the British for revenue. In 1894 the Land Acquisition Act was passed by the British to relax the laws on land acquisition. In 1984, when India was already independent, the law was amended not to give more rights to the "tribals" but to further relax existing laws on land acquisition from the indigenous peoples. More importantly, successive forest Acts disempowered and curtailed the rights of "tribals" over the forests resources.

The Central government vests forest rights to "scheduled tribes" where they are "scheduled."[3] Such rights include rights, such as *patta*[4] to forest lands occupied before 1980; *nistar* (usufruct) or ownership rights to forest resources, grazing rights including seasonal ones of nomadic communities; habitation rights (for those classified as "primitive tribal groups"); conversion of forest villages into revenue villages; and no eviction of "tribals" for currently occupied land until the process of determining rights is completed.

The proposed bill is a historic landmark where the rights of the "forest dwelling scheduled tribes" (FDST) have been so clearly delineated. The bill seeks to strengthen the conservation regime while ensuring livelihood and food security of the "forest dwelling scheduled tribes." Now, India has a forest cover of only about 13 percent of the landmass. Since these forests are home to majority of the "tribals," it is important to keep forest use sustainable. In this context, allocating 2.5 hectares of land to every "forest dwelling scheduled tribes" is against the principle of corporate (community) and "usufructuary" rights. Moreover, continuous cultivation without a break is counterproductive. Hence preference ought

to be given to "usufructuary" rights linked to "rotating" cultivation and swidden cultivation as opposed to permanent land tenure.

The bill stipulates that "rights of forests can be exercised only for bonafide livelihood purposes and not for exclusive commercial purposes." This militates against the ethos of self-management and self-determination of indigenous peoples because it does not permit them to determine their own future. Though the bill speaks about grassroots management through *Gram Sabhas* (GS) it is silent on the inclusion of Panchayati Raj Institutions (PRIs) at the district levels. The GS is reduced to being just ancillary to the State. The bill is also silent on the role of traditional tribal institutions.

Moreover, the bill misses out the presence of forest dwelling communities who are "non-tribal." Forest management would also require their participation. The obsolete 1927 Forest Act framed in the colonial days need to be replaced by a people-centered policy accepting the political right of the forest dwellers (and not by offering piecemeal 2.5 hectares of land to individual families).

The major objections of "tribals" to the bill came from the following:

> (a) cut off date of 25 October 1980 was problematic, and this was eventually changed; (a) traditional rights "excluding hunting;" (c) the mindset that "tribals" are responsible for destruction of flora and fauna; (d) provision for forest land with only 2.5 hectares per family; (e) talk about rights but not about "control and management" of forests and forest resources; (f) no recognition to the traditional village system—the best to protect forest; (g) no partnership/participation in decision-making process and in sharing profit from timber.

The draft bill has a lot of positive provisions. However, it needs to be examined in terms of how positive changes could occur once the State continues to be the owner of all resources. The recommendations on the bill are not specific and there is a real need for competent legal provisions to be in place for the bill to materialize.

National Policy, Packages and Guidelines for Resettlement and Rehabilitation, 1998. The Ministry of Rural Development formulated a draft policy called National Policy, Packages and

Guidelines for Resettlement and Rehabilitation (R&R) 1998, which remains unapproved by the Union Cabinet. It is significant to note that meanwhile, the Union Cabinet has already approved the Land Acquisition (Amendment) Bill of 1998.

The policy provides land for all agricultural families. It shall be mandatory for all tribal and displaced families. The government shoulders the inputs (cost of plowing, seeds, irrigation, and fertilizers). The displaced families shall also get homesteads and dwelling houses, cattle-sheds or poultry farms in their resettlement area.

The policy also provides for assistance for all non-agricultural displaced families (e.g., artisans, shop-keepers, and small traders) that they may to restart the traditional family trade. The policy ensures employment opportunities for at least one person from every affected family.

These processes unearthed two basic issues. Firstly, the Land Acquisition Bill gets a nod from the ruling elite and the rehabilitation and resettlement is thrown to the winds. Secondly, the displacement process, which totally displaces the common masses especially the "tribals" is conveniently termed "development-induced displacement." While millions of people have been displaced in the name of development, there is no urgency in resettling affected families who usually constitute the "powerless segment of the population."

Resettlement and Rehabilitation (R&R) Policy, 2003 in Relation to Indigenous Peoples. The rationale for a new rehabilitation policy is within the framework of "development and/or destruction" discourse. Had the earlier governments taken the problem of displacement seriously, there would have been policies for the rehabilitation of the Project-Affected Families (PAFs) even before they were uprooted. It is only since 1988 that the Government of India considered a national Policy on Resettlement and Rehabilitation for PAFs (Resettlement and Rehabilitation, 2004).

In the initial stage during 1988-92, the Ministry of Welfare had prepared a Draft National Policy for Resettlement and Rehabilitation of Displaced Tribals and submitted it to the Committee of Secretaries. The Cabinet Secretariat thereafter directed the Ministry of Rural Development to prepare a general policy for R&R, which would take cognizance of the plight of the "tribals." The

Ministry of Rural Development finalized and circulated the National Policy on Resettlement and Rehabilitation for PAFs. The policy inter-alia claims to provide for some special benefits for displaced "tribals," which are as follows:

> (a) Preference in allotment of land; (b) A one-time financial assistance equivalent to five hundred (500) days of Minimum Agricultural Wages or MAW for the loss of customary grazing/fishing rights/usages in addition to other R&R benefits to the tribal Project-Affected Families; (c) Resettlement close to their habitat in a compact block so that they can retain their ethnic, linguistic and cultural identity; (d) Land free of cost for community religious gathering; (e) The families settled out of the district to get higher R&R benefits to the extent of 25 percent in monetary terms; (f) The tribal land alienated in violation of the laws and regulations in force on the subject to be treated as null and void and the R&R benefits to be available only to the original tribal land owner; (g) The tribal families residing in the Project Affected Areas (PAAs) with fishing rights in the river/pond/dam to be given fishing rights in the reservoir area; (h) Foolproof mechanism to be provided consisting of representatives of PAFs, including ST, women, elected representatives, and government machinery.

One of the important issues around R&R is the "development paradigm" (Fernandes 1997:22). Displacement is considered inevitable in development. In cases where displacement is the last resort, rehabilitation is only secondary. The policy does not seem to recognize the historical, customary, and cultural rights of the tribal community. Moreover, the policy's notion of rehabilitation on a "land-to-land basis" is a contradiction since it implies that more people need to be evacuated in order to settle the newly-displaced families. The policy runs against the alternative argument that "real development is the development of the last person," which is possible if interventions by vested interests are regulated if not prevented. Thus, from the perspective of the indigenous peoples, the Resettlement and Rehabilitation Policy 2003 (or the R&R Policy 2003) simply empowers the rich and powerful at the cost of the poor especially the "tribals."

The 1984 amendment of the Land Acquisition Act which is the basis of the present R&R policy has made it much easier for

the State to acquire land. Previously, the public sector had to acquire it through the government. The private sector could not acquire it at all. Now, the amendment has made it possible for the public sector to directly acquire land, and for the private sector to do so through the government. Land can even be acquired for residential colonies (Dhagamwar, 1997:177).

The biggest lacuna in both the policies is that they take for granted the affected people. The so-called beneficiaries of R&R do not have any participation in the decision making process affecting their own future. Thus, from the Human Development point of view, the R&R policy does not fulfill any of its parameters.

Target Indigenous Peoples. Planners and administrators invariably manipulate the displaced people who are powerless. They underestimate the numbers of displaced people, treat them indifferently, pay them minimally, and do not grant them security of tenure on land. Oftentimes, after displacement and having settled in a new place, the displaced people have to move again to make way for yet another project. Apart from immediate economic loss, displacement causes social, cultural, and psychological dislocation. Displaced people (DP) lose their traditional mechanism of social control resulting in social tensions among them (World Bank, 1991).

Table 4 shows the number of displaced and rehabilitated people according to types of development project in the State of Jharkhand from 1951 to 1990. The table shows that from 1951-1990, the percentage of those displaced by various development projects in the State of Jharkhand (e.g., mining, dams, industries, wildlife, and other projects) that were not rehabilitated ranged from 70 percent to 79 percent. These figures do not account for those displaced by other causes.

Table 5 shows number of people from the "scheduled tribes" displaced in Jharklans according to the type of project that caused their displacement. The table shows that more than 40 percent of the displaced people in Jharkhand from 1951 to 1995 are "tribals." "Tribals" make up almost 90 percent of those displaced by the defense establishment, and 75.2 percent due to water projects (Ekka and Asif, 2000). The figures clearly indicate that the Adivasis are the worst affected by the so-called development projects.

Table 4. Displacement and Rehabilitation by Various Projects, 1951-90

Type of Project	No of Displaced People	No. of the Rehabi-litated	Persons Not Rehabilitated	Percentage of Not Rehabi-litated
Mines	25,50,000	6,30,000	19,20,000	75.29
Dams	1,64,00,000	41,00,000	1,23,00,000	75.00
Industries	12,50,000	3,75,000	8,75,000	70.00
Wildlife	6,00,000	1,25,000	4,75,000	79.00
Others	5,00,000	1,50,000	3,50,000	70.00
Total	2,13,00,00	53,80,000	1,59,20,000	74.74

Source: Stan Lourdsamy (1997:25).

Table 5. Total Number of "Schedules Tribes" Displaced in Jharkhand, 1951-1995

Project Name	Total DPs	Displaced Scheduled Tribes (STs)	Percentage of Displaced STs
Water Resources	2,32,968	1,75,127	75.2
Industries/ Quasi Industries	66,087 21,809	22,473 7,415	34.0
Mining: Coal Other Minerals	2,68,588 1,34,294	79,568 3,975	29.6
Defense Establishment	2,64,353	23,7147	89.7
Wildlife/National Park	5,09,918	80,867	15.8
Infrastructure Development	50,000	13,800	27.6
GRAND TOTAL	15,03,017	6,20,372	41.27

Source: Ekka and Asif (2000:95).

Displacement as a Norm. The most disturbing part of the R&R policy is its concept of displacement as a norm and not as an exception. The "resettlement zone" for one group of people in fact is the "displacement zone" for another. The administrator's responsibility is the acquisition[5] of "adequate land" for the project and for settling the Project-Affected Families. It implies that more and more land has to be acquired irrespective of the consequences. In the draft scheme for R&R, the focus is "acquiring" rather than dealing with the problem of resettlement and its concomitant culture shock and trauma.

The policy talks of the "approval" of the State Government and "consent" of the acquiring body before approving the plan. However, it does not talk about the consent of the victims. Even if the government published the draft scheme in the Official Gazette to give it wide publicity to the affected zone, it does not really reach the people.

Inner Contradictions. The policy acknowledges that "cash compensation" does not really enable the victims to obtain cultivable land, homestead, and other resources that they "had to surrender to the State." Landless agricultural workers, forest dwellers, tenants, and artisans whose assets were "acquired" are not eligible for cash compensation. The contradictions become known when government publicizes the policy through the print media[6] without considering the reality that most of the displaced among the "tribals" are illiterate and that they have no access to newspapers. The Deputy Collectors (DCs) pass the information on to the Block Development Officers (BDOs) who in return pass it on to the *Mukhias*.[7] Often, it goes unnoticed.

The policy also seeks to ensure the resettlement of the affected families with the "host community" based on "equality and mutual understanding, consistent with the desire of each group to preserve its own identity and culture." However, to resettle the displaced among the hosts will only increase tension and conflict between the two communities.

Mining Policy and Regulations – National Mineral Policy, 1993. The Central and State Governments administer and regulate the production and management of mineral resources in India.[8] The Central government made a landmark policy when it

announced the first National Mineral Policy (NMP) in 1993, which entrusted the State with the exclusive role in the exploration and development of all basic and strategic minerals. The NMP encourages private investment in the mineral sector. Some notable aspects of the policy include: (a) preference for the members of the "scheduled tribes" for the development of small deposits in schedule areas; (b) protection of forest, environment, and ecology from the adverse effects of mining; and (c) enforcement of mining plan for the adoption of proper mining methods and optimum utilization of minerals.

In 1994, a new state mineral policy focused on the development of mining sector in terms of welfare of the state. The basic objectives of the new mineral policy include:

> *(a) to explore the mineral wealth of the state expeditiously by adopting modern exploration techniques, particularly in the tribal, desert, and remote areas; (b) to exploit mineral deposits by promoting the adoption of mechanized and scientific mining with due regard to the conservation of minerals, mines safety, and the environment; (c) to increase employment opportunities in the mining sector, particularly for persons in the 'weaker section' such as the STs in the state; and (d) to demystify procedures and achieve greater transparency in decision-making.*

According to the policy, some minerals (e.g., marble and other decorative stones) that do not require large investments will be reserved for the "scheduled tribes" who would receive mining leases within a specified period. This policy aims to increase the employment opportunities for the "tribals" of the state.

Amendments to the Mines and Minerals Regulation and Development (MMRD) Act of 1994 and 1999 are products of new economic policy reforms, which have facilitated privatization and the liberalization of the economy. These led to changes in the policy and legal regime regulating the mineral sector. Further, the mining sector opened to private and foreign companies leading to privatization of the mining industry through the backdoor. The NMP has made it easier for corporations to dominate the mining economy in most parts of India (e.g., in Orissa) (Das, 2005). Thus, privatization has led to tensions between landowners and authori-

ties as well as entrepreneurs which sometimes lead to violence. The Kalinga Nagar violence is a glaring example.[9] The withdrawal of the State from its welfare responsibilities and acting as an agent for mining companies has injected a series of problems particularly in "scheduled areas" across the country.

The Mining Amendment Acts (MAA) of 1994 and 1999 would marginalize rather than benefit the tribal people in the country. From 1999-2000, the government cleared seven proposals for mine prospecting and exploration from leading international mining companies such as BHP Mineral of Australia, CRA Exploration and Phelps Dodge of USA, Metmin Finance and Holding Company of UK, and Meridien Mineral of Canada. The government issued about 65 to 70 licenses that would cover an area of more than 90 square kilometers in the states of Rajasthan, Gujarat, Maharashtra, Chhattisgarh, Andhra Pradesh, and Jharkhand. More mining activities in tribal areas would lead to further alienation and deprivation of the indigenous peoples.

Environment in Relation to Indigenous Peoples - The Biological Diversity Act, 2002. The Parliament enacted the Biological Diversity Act 2002, more commonly known as National Biodiversity Act 2002, which provides for the "conservation of biological diversity, sustainable use of its components, and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge, and for matters connected therewith or incidental thereto." This Act is important from the perspective of the indigenous peoples as they live in symbiosis with nature. It regulates access to biological diversity by providing that without approval from the National Biodiversity Authority (NBA), certain persons[10] could not obtain any biological resource occurring in India or knowledge associated thereto for research, or for commercial utilization, or for biosurvey and bioutilization. The results of research could not be transferred to certain persons without the approval of NBA. The Act further establishes a Biodiversity Management Committee (BMC) in the local area, which works with the NBA and State Biodiversity Board (SBB) on decisions relating to the use of biological resources and knowledge associated with such resources.

However, this policy is questionable on many grounds. There is very limited space for local indigenous peoples' and local experts' involvement (except constituting a BMC). There is an apparent lack of faith in the competence of local groups to make decisions. There seems to be an attempt to centralize natural resource management all over again, contravening laws that promote decentralization.

On 15 April 2004, the Ministry of Environment and Forests (MoEF) "notified" the Biological Diversity Rules under the Biological Diversity Act, 2002. Today, there is an opinion that the new rules operationalizing the Act has completely diluted whatever little space was given to the indigenous peoples. For example, the BMCs at the local level could enable local communities to have a voice in the conservation, sustainable use, and equitable benefit-sharing of biological resources. However, the new rules stipulate that the role of the BMCs is limited to preparing People's Biodiversity Registers (PBRs) which document local knowledge and bio-resources. This immensely undermines the rights of local communities as the most important stakeholders. Documentation, without any legal protection, is also an invitation to exploitation. Who will ensure that the BMC's PBRs would not be subject to theft or piracy?

Moreover, the Act lays down procedures for seeking clearances to access and use the nation's biodiversity. However, the body that grants such clearances—the NBA—is itself controversial because it has no representatives from the tribal communities or from independent NGOs, despite such requirements in the law. Therefore, while the Biological Diversity Rules, 2004 need immediate reorientation, the composition of the NBA needs serious reconsideration as well. Meanwhile, the focus will remain on fundamental issues of the law. Until this happens, addressing biodiversity conservation in its true sense remains bleak.

2. State Policies

The Orissa Resettlement and Rehabilitation of Project-Affected Persons Policy, 1994. Policy makers acknowledge that the developmental projects are likely to displace thousands of people. They also feel the need for a policy to rehabilitate and resettle the affected persons so that the latter do not suffer from adverse ef-

fects of displacement and that they regain their former standard of living. In Orissa, the government formulated a policy known as The Orissa Resettlement and Rehabilitation of Projects Affected Persons Policy, 1994.

In the case of water resources projects, for instance, the government and the affected persons would jointly conduct studies on the impact of submergence. Such researches include a socio-economic baseline survey, mapping of the area, and planning for rehabilitation and resettlement that must be close to the original area (because similar environmental conditions would facilitate the continuity their livelihood).

In this policy, the government provides prior information and issues identity cards to all displaced heads of family. The displaced families receive assistance such as transfer of people and their house building materials to the resettlement sites. Transfer or "shifting" is ensured before the impounding of the reservoir commences in accordance with the principle of "land for land" which is the main objective of the R&R. The displaced people are free to build their own houses in the resettlement site with government assistance in the form of a one-time grant. The families receive a subsistence allowance per month for a period of one year in order to compensate for the wages lost at the old site and to meet their daily necessities.

However, the policy has both positive and negative aspects. On one hand, it has provided space for people's participation through the "participatory rural appraisal exercise" with the involvement of the affected families. Moreover, the resettlement colony has civic amenities and infrastructure including medical facilities with medical staff especially for pregnant women, as well as employment. On the other hand, there are serious policy limitations as it is restricted to water resource projects only and not to all types of development-induced displacements. This shows that the government considers rehabilitation as a welfare measure and not a fundamental right of displaced people. The government has not expressed any intention to enact the policy into a law.

Draft Rehabilitation Policy for Displaced and Project-Affected Persons of Construction Projects in Rajasthan. Many times, large development projects taken up by the government

involve acquisition of private lands and other properties thereby resulting in displacement of affected people. Though the Land Acquisition Act provides for compensation for the project-affected people, it does not cover their resettlement and rehabilitation (R&R). In this regard, the Government of Rajasthan formulated a draft policy in May 1996 known as Draft Rehabilitation Policy for Displaced and Project Affected Persons of Construction Projects in Rajasthan.

The policy seeks to assist the displaced people regain their previous standard of living in the resettlement site within reasonable time. It provides for compensation within the ambit of the Land Acquisition Act. Resettlement and rehabilitation of displaced families take place in preferred areas near the periphery of their former settlements to ensure that they can maintain the existing social structures. The draft policy (unlike in Orissa which only covers water resources projects) covers all development projects such as construction of roads, irrigation dams, urban relocation, and industrial areas.

One of the important provisions of the policy is the involvement of project-affected people and the NGOs in conducting a socio-economic survey[11] and in rehabilitation work. They would generate data that would help in targeting vulnerable groups, ascertaining the social cost, drawing out a rehabilitation package, and administering it. They would also conduct a post-rehabilitation survey that would determine the pace of rehabilitation efforts for evaluation purposes.

However, one defect of the draft is the lack of provisions on the evacuation process, which is the most important phase of displacement and rehabilitation. Moreover, the socio-economic survey does not specify the role of project-affected persons and the NGOs in the process. There is also no space for project-affected persons and the NGOs in the Rehabilitation and Area Development Organization (RADO) and Co-ordination Committee for Rehabilitation (CCR). Moreover, there is also no provision of "land for land" in the draft policy. The government compensates the project-affected people for their land at prevailing market prices but is normally not obligated to allot a piece of land for them. Worse, the money is usually not enough to get an adequate piece of land. Thus, they end up being landless.

Rajasthan Mineral Policy, 2005. Rajasthan is endowed with many valuable mineral resources which are important for its economy. At present, the state produces about 42 varieties of major and 23 minor minerals. The State Government announced its first mineral policy in 1977. Ever since the state came out with a new mineral policy in 1994, there were significant changes in the production and exploration of minerals in Rajasthan. Apart from these policies, the State Government formulated various minerals regulations like the Minor Mineral Concession Rules, 1986; Granite Policy, 2002; and Marble Policy, 2002. Indeed, this is the time to incorporate new dimensions in the state mineral policies to make it employment-oriented, more practical, and people-friendly.

The Rajasthan Mineral Policy, 2005 has brought about significant changes in the exploration of minerals. The major policy objectives are as follows:

> (a) employment generation and initiatives to enhance employment opportunities in mining sector specially those to tribal and weaker section of the state; (b) steps to attract investors to establish mineral based industries; (c) mining leases of important mineral like marble, granite, and sand to give preference to the person who has already installed or willing to establish industry based on minerals, but with some leases to be reserved for tribal peoples; (d) steps to increase transparency and efficiency by e-governance to be initiated; (e) priority will be given to promote mineral-based industries in rural areas on preferential basis; (f) creation of infrastructure will be given priority for development in mining areas; (g) efforts shall be undertaken to ensure systematic exploration and exploitation of the mineral resources of the state; and (h) more care will be taken to minimize the adverse effects of mineral development on the forest, environment, and ecology through appropriate protective measures.

The policy could be credited for giving due consideration to conservation of minerals, mine safety, and other environmental aspects while adopting modern exploration techniques to explore mineral wealth of the state particularly in the tribal, desert and remote areas. The policy also aims at enhancing employment

opportunities in mining sector for tribals and "weaker sections." However, the policy encourages liberalization and globalization, which will disadvantage the marginal people. Only few mining leases and minerals, which do not require large investment, are reserved for the "scheduled tribes" while the important ones are meant for big firms and companies. From the perspective of displaced people, the "flexibility" designed to attract investors in mineral industries is not favorable to them.

Impact Assessment. Admittedly, the new mining policy has brought tremendous changes in the production of minerals, in the socio-economic front, and in infrastructure development. However, it has also caused misery to the tribal communities as they face the threat of losing their land in the name of development and mineral extraction. In the process, tribal people are alienated from their own lands and denied access to natural resources. Every year hundreds of tribal people are displaced due to mining activities but until now, neither the Central nor the State Governments have framed appropriate displacement and rehabilitation policies except Orissa (George, 2004). The absence of a sensible and realistic approach in implementing the mineral policies and irregularities in granting the mining lease has led to displacement, land alienation, and socio-economic deprivation of the tribal population.

C. Food Security, Employment, Agriculture, and the Unorganized Sector

1. National Policies

National Food for Work Programme (NFWP), 2004. Rural development schemes ensure food and livelihood security for marginalized sections. The National Food for Work Programme (NFWP), 2004 and the National Rural Employment Guarantee Act (NREGA), 2005 were formulated based on lessons learned from various programs introduced by Government of India in the past. These schemes have focused particularly on poverty eradication and employment generation and the majority of them targeted the poor. The list of important programs launched after 1994, which was aimed at poverty eradication and employment

generation among farm workers, landless wageworkers, and unemployed people are found in Box 2.

Box. 2. Employment and Poverty Eradication Programs Launched after 1994

- Prime Minister's Rozgar Yojana (PMRY) (1994-95);
- Swarnjayanti Gram Swa-Rozgar Yojana (SGSY) (1999-2000);
- Jawahar Gram Samradhi Yojana (JGSY) (1999-2000);
- Annapurna Scheme (2000);
- Integrated Rural Employment Yojana (IREY) (2000-01);
- Sampoorna Grameen Rozgar Yojana (SGRY) (2001).

These schemes are meant to help people who live below the poverty line, and they are mostly from the "scheduled tribes" or "scheduled castes." As a program for all rural poor, implementation has indirectly supported the indigenous peoples. The selected areas of implementation are tribal-dominated districts. Projects include water conservation, drought proofing and land development, flood control, and road connectivity, which support economic sustainability for the groups.

However, these schemes have not benefited the "scheduled tribes" as planned because there is no reserved component in these schemes for the indigenous peoples. Still, some schemes have some safeguards to protect the interests of the "scheduled tribes" and "scheduled castes" and have brought partial change in improving their livelihood and food security.

Selection of Districts. The Planning Commission identified a total of 150 districts for the NFWP based on criteria such as: (a) prevalence of poverty indicated by ST population; (b) agricultural productivity; and (c) agricultural wage rate. The selection of the districts suggests that economic empowerment of indigenous people remains a priority during policy formation. However, big states have more districts selected, while the north-east states that are dominated by indigenous peoples and have a high poverty rate (except Assam) have only one district each selected in their areas.

Similarly, none of the UTs (Union Territories) is part of this program.

The effective implementation of the program for ensuring equal participation of indigenous peoples is an important challenge for the government machinery and civil society.

National Rural Employment Guarantee Act, 2005. In view of widespread poverty, deaths from hunger, and unemployment in the rural areas, the government launched the National Rural Employment Guarantee Scheme (NREGS) to "absorb" the underemployed and unemployed labour force in rural areas. The scheme has different phases. In its first phase, 200 districts are selected from 27 states. However, unlike NFWP, the focus of selection of districts is chiefly based on prevalence of rural poverty, and not poverty among the "scheduled tribes."

The Act provides for livelihood security in rural areas. This was implemented by guaranteeing at least 100 days of wage employment in a financial year to every poor household with adult members who volunteer to do unskilled manual work. The Act does not contain components that are specific to indigenous peoples. But if implemented properly, it has potentials to address the unemployment problem of indigenous peoples who mostly live in rural areas.

For the first time, this Act acknowledges employment as a legal right and provides a minimum of 100 days of employment in a financial year to every rural poor person. However, the number of days is not enough for any household to sustain itself for a year. Further, the extension of days of employment is dependent on the State and Central governments' economic capacity.

While understanding the extent of poverty and its implication in different parts of India, the Act ensures weekly payment. The minimum wages are to be decided by the Central government and this could be different for the different areas. But in any case, it cannot be less than 60 rupees per day. Since work is considered as a legal right of the citizens, the state is obligated to pay unemployment allowances to an eligible applicant who is not provided employment within 15 days from the date of registration. However, the fixation of wage and unemployment rates are technical

matters that could confuse the indigenous peoples about their work and wages received.

Panchayati Raj Institutions (PRIs) have powers and functions to work for the development of indigenous peoples. However, these institutions lack the required functionaries and resources to address the problem of unemployment and poverty among the indigenous peoples. The lack of awareness among the "scheduled tribes," corruption, and the unsupportive attitude of *panchayat* bureaucrats have led to the failure of the poverty eradication programs in tribal areas. The capacity building of representatives and functionaries is essential for implementing rural development *panchayat* program in tribal areas. The capacity building program may include implementing NREGA 2005 and the Right to Information Act, 2006 with special focus on indigenous peoples. An understanding of the two Acts will facilitate awareness on right to work and to check corruption.

The Challenges Ahead. The NFWP and NREGS are welcome steps towards ensuring livelihood and food security for the poor with special reference to Adivasis. However, there are shortcomings at the level of policy formulation as well as implementation. Although, both programs give preference to Adivasis, there is no legal provision to ensure benefits for indigenous peoples in terms of resource allocation, number of beneficiaries, and follow-up evaluation to ensure their development.

In spite of the present level of widespread unawareness in rural areas, there are no proper mechanisms for dissemination of information about the programs. This can lead to manipulation of records. Although the NREGS requires awareness-building through the vernacular press, this would not be enough for the indigenous peoples residing in remote areas.

National Agriculture Policy, 2000. This policy seeks to promote technically sound, economically viable, environmentally sustainable, and socially acceptable use of natural resources. It advocates measures to control indiscriminate diversion of agricultural lands for non-agricultural purposes and seeks to use the unutilized wastelands for agriculture and afforestation.

The policy gives special attention to land resources as watersheds, to areas of shifting cultivation for their sustainable develop-

ment, and to the value of traditional knowledge. The policy seeks to develop rain-fed and irrigated horticulture, floriculture, roots and tubers, plantation crops, aromatic and medicinal plants, bee keeping, and sericulture in order to augment food supply in rural areas.

The government endeavors to move towards a regime of financial sustainability of extension services for the poor and vulnerable groups. As an effort in mainstreaming gender concerns in agriculture, appropriate functional and institutional measures are expected to be initiated to empower women and build their capabilities to improve their access to inputs, technology and other farming resources.

Majority of the indigenous peoples are landless and those who cultivate small landholdings are heavily dependent on monsoons because there are no irrigation facilities. When there is drought, people migrate to other places. The alienation of land, exploitation by moneylenders, middlemen, contractors, forest officials since the inception of colonial rule has transformed the self-sufficient tribal peasant into a mine laborer and daily wage earner. Moreover, the privatization process has an adverse impact on the indigenous peasants. In this context the National Agriculture Policy (NAP) becomes extremely relevant for indigenous peoples whose main source of livelihood is still agriculture.

The Unorganized Sector Workers' Social Security Bill, 2005. The draft Unorganized Sector Workers (Employment and Welfare) Bill 2002 has evolved into the Unorganized Sector Workers' Social Security Bill, 2005 which has now become an Act. It deals with the unorganized sector workers' employment and welfare. While this Act takes into account economic growth, it also pays attention to the employment as well as decent living conditions of the workers. The unorganized sector workers who are mainly comprised by indigenous peoples are the backbone of the Indian economy. Yet, they are victims of the existing social order as well as the emerging new economic order. This Act aims to benefit them.

This Act defines "Unorganized Sector Worker" as "a person who works for wages or income directly or through any agency or contractor; or who is self-employed; and includes all workers in

all types of occupations including agriculture, or in any place of work including the home, field or any public place" (Unorganized Sector Workers' Social Security Bill, 2005). Wage discrimination on the grounds of gender is prohibited and a woman worker is entitled to maternity benefits with wages as prescribed. Employers are liable also to pay compensation for injury on duty.

One of the terms of reference with the Second National Commission on Labor was to suggest umbrella legislation for ensuring a minimum level of protection for the workers in the unorganized sector. But the draft bill contained nothing more than an elaborate structure of boards from the Central to the panchayat level, registration of the unorganized sector workers, and issuance of identity cards. There was nothing concrete to ensure job protection, minimum wages, and social security for them. There was also no provision for action against the employers who fail to contribute to the welfare fund.

Redrafted Bill more conservative. The second draft was found to be more conservative than the first one. Though it has dropped Section 54 which authorized the government to decide on the application, modification, and alteration of existing laws,[12] it has avoided defining several terms[13] making it vague and prone to different interpretations to the detriment of the workers in the unorganized sector. There are no provisions on ensuring compliance with the bill, or on resolving disputes regarding the application of the social security and welfare schemes. Most importantly, this draft contains no provision whereby the employer-employee relationship can be established, which is one of the most serious problems faced by the workers in the unorganized sector. There is, as a consequence, no provision to protect the job security of the unorganized sector workers.

Government Schemes under Tribal Sub-Plan (TSP). The Government of India adopted the Tribal Sub-Plan (TSP) Strategy for the development of tribal areas throughout the country since the Fifth Five-Year Plan (1974-79). Under the TSP approach, entire tribal areas are covered by any one of the following programs, depending upon their population percentage: (a) Integrated Area Development Project (ITDP); (b) Modified Area Development Approach (MADA); (c) Clusters, and (d) Primitive Tribal Groups (PTGs).

The TSP approach seeks to ensure allocation of fund for tribal areas from the State Plan and the Central Ministries.

Brief Overview of the Schemes. The Ministry of Tribal Affairs extends special assistance to the TSP States and Union Territories and also to the north-eastern States of Assam, Manipur, and Tripura. These grants are meant for family-oriented income-generating schemes in various TSP areas to meet the gaps which have not otherwise been taken care of by the State Plan. The ministry provides Grant-in-Aid to TSP and tribal majority States under Article 275 (1) of the Constitution to meet the cost of such projects.

The TSP emphasizes education for indigenous peoples. The Ninth Plan (1998-2004) proposed to establish 100 residential schools patterned after the Navodaya Vidyalayas.[14] There were proposals to construct Girls Hostels, Boys Hostels, and Ashram Schools for STs. The main aim of the Vocational Training Scheme is to develop the skills of the tribal youth for future employment. There is also a provision for educational complexes for women in low literacy pockets in tribal areas. This scheme provides 100 percent financial assistance to various organizations for the purpose of establishing educational complexes in 136 identified districts in states where tribal female literacy is below 10 percent based on the 1991 census.

Grants-In-Aid to State Tribal Development Cooperative Corporations and Others. The Ministry provides grants-in-aid to its corporation, the Tribal Cooperative Marketing Development Federation of India Ltd. (TRIFED), to offset losses on account of fluctuations in prices of Minor Forest Produce (MFPs) that it markets.[15] This is to ensure remunerative prices for "tribals" who are engaged in collection of MFPs either directly or through the State Tribal Development Cooperative Corporation STDCCs and other such Cooperative Societies. This Scheme provides grants for the establishment of Village Grain Banks to improve nutritional standards and prevent deaths of the "scheduled tribes" especially children in remote tribal villages who also face starvation. As many as 27 types of projects with a focus on tribal education, literacy, medical and health care, vocational training in agriculture, horticulture, and craftsmanship are being supported by the Ministry under this scheme which are implemented through various registered NGOs.

Research and Training. Under the scheme of "Research and Training" the Ministry provides financial assistance under three components: (1) Grants to Tribal Research Institutes; (2) Award of Research Fellowship for Tribal Students; and (3) Supporting Projects on Tribes.

Monitoring and Evaluation of Efforts on Tribal Development. The Constitution of India guarantees not only the socio-economic upliftment of tribal people. It also provides for an objective evaluation of the administration and control of the Scheduled Areas and "scheduled tribes" in any State other than Assam, Meghalaya, Mizoram and Tripura (for which there are separate provisions). This includes submission of annual reports by the Governors of the States to the President of India regarding: (a) the administration of Scheduled Areas; and (b) the setting up of Tribal Advisory Council (TAC) to advice on such matters pertaining to the welfare and advancement of the "scheduled tribes."

As the nodal Ministry for overall policy, planning, and coordination of programs regarding the "tribals," the Ministry of Tribal Affairs monitors the progress and achievement made by various Ministries and Departments for 22 TSP States and Union Territories.

The government adopted the TSP and initiated various programs during the Fifth Five-Year Plan. But beyond the program approach, there were no steps to adopt a national policy for the empowerment of tribal people of India. In the contemporary scenario, the TSP and various programs under this strategy still have significant relevance for the development of "tribals." However, serious review is needed to evaluate the programs' impact on the lives of "tribals." Studies on tribal development and Five-Year Plans suggest the need to address problems in implementation in order to develop the efficiency of these welfare programs. Although the fresh guidelines for TSP in 2003 have considered the major issues, greater focus is still needed. The following are some suggestions:

- In order to improve quality of life of tribals, the implementation of TSP needs to be re-oriented towards addressing poverty and restoration of basic livelihood resources;

- For effective monitoring, manpower at the decentralized level, viz. village or block, also needs to strengthen through capacity building trainings. Such trainings should focus on the development of skills and knowledge among the concerned officials, which in turn will generate a deep understanding of the issues of tribal development;
- In accordance with the *Maharashtra* model, all TSP funds of various departments and ministries should be placed under the state Tribal Development Department; so that it may prioritize the release of funds to the programs;
- To make the implementing agency responsible and to facilitate the execution of programs, they should be made time-bound. Such an approach for educational support will lead to real changes in the lives of tribal people;
- Participation of tribals should be institutionalized in planning, implementation, and monitoring of programs so that local issues and demands will get priority;
- The infrastructural development component under various TSP programs needs further attention. Apart from restoring their accessibility to the tribal economy, focused efforts should be made to generate alternative employment opportunities and accessibility to health and educational services.

2. State Policies

There is paucity of materials on specific state legislations and policies regarding food security. The selected states have been carrying out the central policies in matters of employment, agriculture, and unorganized sector.

D. Economic Empowerment

1. National Policies

National Industrial Policy, 1991. The year 1991 was remarkable for the Indian economy due to reforms and liberalization processes that led to substantial economic growth and integration with the global economy. In order to achieve this pace of develop-

ment, the Indian Government came up with a comprehensive new industrial policy on July 24, 1991. The government decided to take series of steps in the following areas: (a) Initiative for Industrial Licensing; (b) Steps towards Foreign Investment; (c) Initiating for Foreign Technology Agreements; (d) Public Sector Policy Initiative; and (e) Use of Monopolies and Restrictive Trade Practices Act (MRTP Act).

India's industrial policies in relation to the indigenous peoples are disappointing. There is an ignorance of tribal participation in the drafting of these industrial policies. The industrial process and development have excluded them from participating in decisions pertaining to employment, costs and benefits, and their displacement and rehabilitation. The country's industrial policy completely fails to protect the rights of indigenous peoples. Despite clear provisions in the Constitution to safeguard the rights of indigenous peoples, not to mention the International Labor Organization (ILO) Conventions, the Central and State Governments have not complied with such provisions.

The Panchayats Extension to the Schedule Areas (PESA) Act, 1996 ensures effective participation of the "tribals" in the process of planning and decision-making. However, participation proved to be largely illusory given the industrial policies that have been formulated.

2. State Policies

Industrial Policy of Jharkhand, 2001. The Industrial Policy-2001 for the State of Jharkhand emphasizes that the new State was created precisely "to optimally utilize the available resources of the State in a planned manner and to accelerate the industrial development of the State." Hence, an Industrial Policy is formulated from the point of view of achieving "expected industrial growth" by creating an environment for attracting investments including foreign investment." The strategies for achieving the objectives include: (a) rationalizing fiscal concessions; (b) providing adequate good quality infrastructural support; (c) amending laws or rules for encouraging private sector participation; (d) simplifying rules, regulations and procedures; and (e) improving the quality of services to entrepreneurs—with focus on "scheduled tribes," the handicapped, and women.

The State Government also seeks to constitute a "Land Bank" at the district level to make available the required land to interested entrepreneurs to overcome the delay in land acquisition process. Waste land or degraded forest land may be leased by the State Government on a long term basis after seeking approval from the Government of India under Section 2 of the Forest (Conservation) Act, 1980. Such land may be used for plantation development and tourism purposes which could encourage forest-based tourism industries.

Furthermore, the policy makes available a Special Economic Zone (SEZ) for investors who are offered land, power, water, and communication facilities apart from a large number of tax concessions by the State Government and the Central government as incentives. This zone acts as a magnet and over a period creates a number of ancillaries. The Special Economic Zone would also have an information technology (IT) park, bio-tech park, hotels, recreation facilities, and housing with state of the art technology.

However, the promises of the government do not hold much promise for the poor, especially the "tribals." Their problems are ignored in the industrial policy which gives too many exemptions to the industrialists for setting up industries. While the objective of the policy is to improve living standards of people at large, rampant privatization and "accelerated industrialization" would ultimately cost the indigenous peoples their land and livelihood.

E. Political Empowerment

1. National Policies

Panchayat[16] Extension to the Scheduled Areas (PESA) Act, 1996. This Act seeks to ensure effective participation of tribals in the process of planning and decision-making. The 73rd Amendment of 1992 and the subsequent PESA Act, 1996 made provisions for seats for "tribals" in the local *panchayats*, proportional to their population. Based on the 73rd Amendment to the Constitution, 33 percent of the seats were reserved for women in PRIs. The post of chairperson of PRIs in "scheduled areas" was reserved for the "scheduled tribes." The objective was to have participatory local governance involving common people. Keeping the overall

issues of the tribal communities, the parliament passed the PESA, 1996 to extend the provisions of the 73rd Amendment in Fifth Schedule Areas (i.e., Andhra Pradesh, Bihar, MP, Orissa, Maharashtra, Gujarat, Rajasthan and Himachal Pradesh). Jharkhand was carved out from Bihar and Chhattisgarh from Madhya Pradesh in 2000, both of which also fell under the Scheduled Areas.

There is "reservation" for "'tribals" in local bodies according to the 73rd and 74th Amendment. They specify the "reservation" for "scheduled tribes" (including "scheduled castes") and women in every panchayat. There is no difference between the State Government and Central government's "reservation" policy for political empowerment of tribals. The Himachal Pradesh Government and Andhra Pradesh Government passed legislations known as Himachal Pradesh Panchayati Raj Act 1994, and Andhra Pradesh Panchayati Raj Act 1994, respectively. The state of Jharkhand passed the Jharkhand Panchayati Raj Adhiniyam in 2001.

Suggestions. Following are some suggestions regarding participation.

- Translation of the Panchayati Raj Act into tribal dialects and made available to all Gram Panchayats situated in scheduled areas;
- The relevant portion of the Panchayati Raj Act should be included into reading material of various non-formal and adult literacy centers functioning in tribal belts;
- For effective functioning and greater participation of tribal people, the principle of "reservation" should be extended to standing committees of the Panchayats;
- A comprehensive data base is needed on "scheduled tribes," including SCs and women, with special reference to their total numbers, socio-economic profile and their performance so that a comprehensive policy may be evolved for making their political 'reservation' in PRIs effective.

Reservation Policy in India – Constitutional and Legal Safeguards. The Constitution of India provides for "reservation" for

"scheduled tribes" in educational institutions and government jobs. This positive measure is increasingly seen as merely fulfilling certain constitutional formalities, rather than serving the interests of the target groups. In case of political "reservations," the tribal Members of Parliament (MPs) and Members of Legislative Assembly (MLAs) are constrained by party ideologies because almost all of them belong to the larger national and mainstream parties. Those belonging to regional parties which are more concerned with tribal interests, or those who have more independence, are a minority. These "positive discrimination" measures (i.e., political "reservations") have not benefited those who are really in need of such measures. This is because the whole system is largely following a development, economic, and social agenda that is not only inimical to the tribal ethos but also detrimental to the survival of indigenous peoples.

There are some factors which shape the behavior and performance of "scheduled tribes." These are:

(a) The representatives of the "scheduled tribes" do not represent their community alone but all sections of the community in the reserved constituencies. This automatically dilutes their special representative character in representing the interests of "scheduled tribes." In the absence of such an identity, other interests manifest themselves and influence members' functioning in various ways;

(b) Since every member is dependent on party backing and support for his nomination (also for re-nomination in subsequent elections), members are subjected to party discipline and directives once elected. It follows that his personal interests get identified with his party's interests rather than the interests of the "scheduled tribes;"

(c) In their social composition, the "scheduled tribes" elites are further removed from their constituents than is the case with the non-ST representatives and their constituents.

While the "scheduled tribes" improved their socio-economic status due to the "reservation" policy, their general situation has not changed in the five decades of independence. They are still the most marginalized segment of the Indian population.

Draft Tribal National Policy, 2003. This policy had been drafted by the Ministry of Tribal Affairs as an attempt to put in place a comprehensive set of principles and objectives on tribal affairs in the Government of India, and to give a coordinated direction to the efforts of tribal development. The proposed policy covered various issues[17] confronting the "scheduled tribes." The Ministry claims that the new policy on the "tribals" is the best answer available to the nagging problems of tribal development in the country.

The policy listed specific measures to preserve and promote tribal cultural heritage. For instance, to achieve the objective of education for "tribals," the policy ensures that they were included in the national program of *Sarva Shiksha Abhiyan* or "education for all" of the Ministry of Human Resource Development (HRD). The policy provides for putting up schools, hostels, and residential schools in areas where no such facilities exist. The policy encourages the use of tribal mother tongue and pedagogy and promotes the documentation of traditional knowledge and wisdom.

In health, the policy strengthens the allopathic system of medicine in tribal areas with the extension of the "three-tier" system of village health workers, auxiliary nurse-mid-wife, and primary health centers. It includes plans for expanding the number of hospitals in tune with tribal population.

The policy mandated certain guidelines for the resettlement of tribals who have been displaced from their ancestral land. It also sought the "forest villages" to be developed on par with "revenue villages" to enable the former to enjoy at least the minimum amenities and services that were available in the latter.

To develop a good data base for the affairs of the "scheduled tribes," it plans to strengthen the existing Tribal Research Institutes located in different States so that they could carrying out purposeful research and evaluation studies and work towards the preservation of the rich tribal cultural heritage. It also envisages the establishment of a national-level research institution.

A Critical Appraisal. The Draft Tribal National Policy, 2003 was unanimously rejected at the Final Declaration of the National Assembly of Tribal, Indigenous and Adivasi Peoples held in New Delhi on 21 September 2004. This position was based on a series of

consultations at various levels over a period of months.[18] It involved hundreds of tribal, indigenous and adivasi representatives along with their allies and supporters. The rejection was due to: (a) lack of consultation and participation by the "tribals" in drafting the policy; (b) the secrecy in which it was drafted; and (c) the apparent haste in which it was finalized. It had no specific reference to human rights and constitutional rights, or to international norms and standards of rights. There was no clear articulation and respect for the tribal, indigenous and adivasi peoples' status, culture, and identity as found in constitutional and international law.

While the Draft Tribal National Policy, 2003 provides "tribal development," there were contradictions in the policy. For instance, it encourages qualified doctors from the "tribal" communities to serve the tribal areas, instead of making the entire medical community take responsibility for tribal health care across the country. It is silent on issues gender, "reservations," state-center coordination in tribal affairs, and budget allocation for tribal development. The biggest contradiction is that on the one hand, the policy talked of preserving tribal "distinctiveness," while on the other, it actually homogenizes and assimilates the "tribals" into the national mainstream.

National Common Minimum Programme (CMP), 2004. The Government led by the United Progressive Alliance (UPA) claims to have taken new initiatives for Tribal Development in the National Common Minimum Programme (NCMP) which it announced in May 2004.[19] One of the six basic principles in the NCMP is to provide for full equality of opportunity, particularly in education and employment for "scheduled tribes." The Prime Minister himself reviews the progress achieved with respect of the initiatives announced in the NCMP. A high level National Advisory Council (NAC) has been set up to review the process constantly. The Ministry of Tribal Affairs has requested all State Governments to take immediate action on various provisions of the NCMP, which are related to "scheduled tribes." The State Governments have been specifically requested to:

(a) Confer ownership rights on "scheduled tribes" with respect of Minor Forest Produce (MFP), including Tendu

Patta[20] based on the provisions of the Panchayats Extension to Scheduled Areas (PESA) Act, 1996;[21]

(b) Provide safe drinking water in "scheduled tribes" habitation areas;

(c) Distribute land to landless "scheduled tribes" families; and

(d) Provide minor irrigation facilities for land owned by "scheduled tribes."

The Ministry also claims to have coordinated with concerned Central government ministries to implement various provisions of the NCMP by requesting them to:

(a) Stop eviction of "tribals" from forest areas;

(b) Seek cooperation of tribals in social afforestation and preservation of forests;

(c) Safeguard the rights of "tribals" over mineral resources, water resources, and other such resources as laid down by law;

(d) Enact legislation for providing land for landless tribal households;

(e) Employ "tribals," self-help groups of "tribals" or forest co-operatives of "tribals" in forestry operations instead of engaging contractors;

(f) Request the Ministry of Environment and Forests to give effect to the provisions of PESA 1996 to facilitate transfer of ownership rights of MFP to the "tribals," which will go a long way in ensuring viable livelihood opportunities;

(g) Reduce the number of families applying for the National Policy on Resettlement and Rehabilitation for Project-Affected Families (PAFs) from 500 families in the plains to 250 families in the Schedule V and VI areas.

Keeping the spirit of the policy in mind, the Ministry has also laid down 17 specific items constituting the entire relief package for the affected families from the "scheduled tribes" in the R&R package before according clearance for the new projects. The relief package involves allotting agricultural land, site for a home, construction grant, financial grant, land development grant, and

various other rights (including the right of fishing, and representation in the State Governments). The Prime Minister has also set up a task group in the Planning Commission to deliberate on the various possible development initiatives.

In view of all these, the big question is this: If the government is so concerned about the "tribals," why are the existing Acts not being implemented? According to the South Asian Peoples Initiative (SAPI),[22] the NCMP does not sufficiently address the problems of the tribals across the country. SAPI tries to draw the attention of the United Progressive Alliance (UPA) Government to the real demands of the priority groups. The Adivasi delegates and their collaborators from all over India had the following demands from the government in connection with their natural resources as enunciated in the NCMP:

Firstly, the control and management of the natural resources like land, water, forest, and minerals in the scheduled areas should be in accordance with the provisions of the Panchayats Extension to Scheduled Areas (PESA) Act, 1996. These resources should not be privatized for any purpose to any non-adivasi or the government, or any other company. Secondly, the Adivasis should not be dispossessed of their raiyati or ancestral land in the name of development. No development project involving displacement should be allowed until all the Adivasis who have been displaced or dispossessed in the name of developmental are compensated and rehabilitated. The Draft National Tribal Policy, R&R Policy, and other policies of this nature should be drafted and executed in consultation with the representatives of the people. Thirdly, the Adivasi community is the owner of all the natural resources of the village.

Right to Information Act, 2005. The Right to Information (RTI) Act was passed by Parliament on 12 May 2005. Now people have the right to assess any information from the government bringing about a potentially radical change in governance. The Act is an improvement from the Freedom of the Information Act, 2002. It provides for the Constitution of a Central Information Commission (CIC) and State Information Commissions (SICs) to examine complaints from any person who faces problems in getting information from public authority. The Act applies to the Central gov-

ernment, State Governments, and local bodies. The people have the right to access any material in any form[23] including information from security and intelligence agencies on matters relating to corruption and human rights violation. The people have the right to request information being furnished in the official language of the area.

The Act provides that the fees should be reasonable and in no case exceed the actual cost of copying the information. People from below poverty line households would be given information free of cost. The Act also provides that information must be provided within 30 days. To ensure accountability of officials, the Information Commissioner has been empowered to impose a penalty of 250 rupees for each day's delay in furnishing information.[24] The Information Commission could ask the public authority that has denied information to compensate the applicant for any loss incurred. Refusal to receive application for information; denial of request; knowingly giving incorrect, incomplete or wrong information; or destroying information would count as offences under this Act.

The passage of the Right to Information Act, 2005 is the result of a decade-long struggle of village people of Rajasthan, supported by social activists and civil society organizations, in their desire to check corruption in panchayats. The policy empowers the village people to check the misuse of resources meant for them.

The Act is a positive step for participative governance in urban as well as rural areas. The Act is more effective where most of the poor people live and depend on government-sponsored rural development projects for wage employment and livelihood. The RTI Act has been able to challenge the monopoly of the officials, representatives, and contractors. It is an effective tool to control corruption and ensure the accountability of the State to its people. However, due to the complexity and the lengthy process of getting information, many "tribals" could not assert this fundamental right. The ability of "tribals" to utilize RTI can be enhanced by involving NGOs, community-based organizations, and civil society groups in raising the awareness among "scheduled tribes." The members of GS should also be trained to facilitate implementation of RTI in their own context.

2. State Policies

Jharkhand Panchayati Raj Adhiniyam, 2001. The Jharkhand Panchayati Raj Adhiniyam, 2001 is said to have watered down the provisions for tribal empowerment. Ignatius Minz[25] thinks that this policy is a violation of the provisions of the Panchayats Extension to Scheduled Areas (PESA) Act, 1996. The PESA Act prescribes that the government of States with "scheduled areas" should enact appropriate law within one year of the law's approval by the President (in December 1996). Otherwise, the Central government Act takes effect automatically. The Bihar Government did not bother to enact any such law. Hence, when Jharkhand became a separate state in November 2000, the PESA Act was already in effect.

Minz says that the above turn of events is forcing the adivasi community to think that it cannot rely on anybody except itself to survive as a people. Hence the floating of the latest outfit called Adivasi Adhikar Morcha (or Adivasi Rights Forum) in September 2005 to safeguard the interests of the indigenous peoples of Jharkhand is a welcome development.

F. Education

1. National Policies

Empowerment of Indigenous Peoples through Education. Emphasizing the removal of disparities and to equalize educational opportunities, the New National Policy on Education, 1986 (and later modified in 1992) specifically provides for the education of "scheduled tribes." In order to bring the "scheduled tribes" on par with others, the following measures would be taken: (a) opening of primary schools in tribal areas whose building construction will be undertaken under the normal funds for education, as well as under the SGRY, and Tribal Welfare Schemes; (b) developing curricula and devising instructional materials in spoken tribal languages at the initial stages, with arrangements for switching over to the regional language; (c) residential schools including Ashram Schools, *Anganwadis*, Non-formal and Adult Education Centers will be opened in areas that are predominantly settled by "scheduled tribes"; and (d) formulation of incentive schemes for "scheduled

tribes" such as scholarships for higher education in technical, professional and para-professional courses. Special remedial courses and other programs to remove psycho-social impediments will be provided to improve their performance in various courses. Educated and promising youths from the "scheduled tribes" would be encouraged and trained to take up teaching in tribal areas.

Right to Education Bill 2005. The goal of Universal Elementary Education has remained elusive for more than five decades. The majority of those excluded from the ambit of schooling are children of the poor, and this further aggravates social inequalities. Acknowledging these facts, the Constitution now guarantees the right to free and compulsory education for all children between the ages of six and 14 years. The Bill is subject to the provisions of Articles 29 and 30 of the Constitution.

The bill asserts that every child has the right to elementary education that is: (a) free; (b) compulsory; (c) of equitable quality; and (d) available in her/his neighborhood. This education would be available between Grade I and Grade VIII, and provided at a recognized school. The bill implies that there will be no non-formal schools and teachers will have to possess qualifications as defined in the National Council for Teacher Education Act, 1993. Ignoring non-formal education may have an adverse effect on indigenous peoples because absorption into the formal system of education is not likely to address their issues and problems adequately.

State schools and "fully-aided" schools provide free education to all admitted children. On the other hand, "partly-aided" schools provide free education to a proportion of admitted children. "Unaided" schools and special category schools shall provide free education to at least 25 percent of the students. The government reimburses the school for the expenses. No school can conduct any screening procedure of any child or parents at the time of admission. Children shall be selected for admission in a random manner.

State schools and fully-aided schools are required to form School Management Committees (SMCs) with parents making up at least 75 percent of the membership. The other members represent the teachers, the community, and the local authority. The SMCs manage the school, including the sanction of leave and dis-

bursal of salary to teachers. They also have the power to assess teachers' performance and impose minor punishment.

The provisions of the UN declarations on "Right to Equal Access to Education" are already covered by provisions in the Indian Constitution and other government policies. However, there is a need to analyze how these polices are translated into action.

A good number of Navodaya Vidyalayas have been set up in tribal districts. It would be useful to study how far these schools meet socio-cultural needs of tribal people and to what extent the local communities are involved in the school's various activities. Such a study will throw more light on the declarations of the ILO (168) which calls for more participation of tribal communities in planning, implementing, and evaluating school program especially where the schools are set up by the public authorities in the tribal localities.

Though the Government of India has no special program or policy on educational rights and privileges of tribal peoples in response to the UN declarations, some policy statements in the Programme of Action 1993 conform to the principles in the UN declaration. For instance, there are government programs that propose the use of tribal languages in elementary and adult education program. There are avenues for local people's participation in formulating, planning, and implementing education programs at the village levels, such as the Village Education Committee. However, very few Village Education Committees have been formed or have done outstanding work. Government reports are vague with regard to the number of "scheduled tribes" that have benefited during the period, be it the formal or non-formal system of education.

The Right to Education Bill that covers the whole country (except the state of Jammu and Kashmir) has both favorable and unfavorable aspects. The formation of School Management Committees for state and aided schools is a welcome step. And because 75 percent of the members are parents, they will have genuine power in the committees.

The bill mandates automatic promotion for students. However, there are no standards for learning outcomes. It is a case of

guaranteeing graduation but not education. All state teachers are assigned to a school and would not have the opportunity to transfer to other schools.

Even though the policy makers aim for universal elementary education, the current bill does not mention any particular provision specifically for "scheduled tribes" unlike the National Policy on Education, 1986 which contain particular provisions for this group. In fact, policy makers acknowledge that majority of the excluded students are the children of the most disadvantaged people.

2. State Policies

There were no state legislations on education in the last decade.

G. Gender

Indigenous women are marginalized from subsistence agriculture. They suffer from the destruction of the environment and loss of land brought about by development projects. They also take on the added burden of heavier workload in domestic work. The loss of water and forests due to mining, logging, and other activities make it difficult for women to maintain the needed supply of water and fuel for the family. They are forced to walk long distances to fetch water or to queue for many hours with other women in the few remaining natural water sources. Wood from forests is no longer available and they are forced to buy commercial fuel. In addition, the lack of basic local services, which are supposed to be provided by the government, makes it more difficult for indigenous women to maintain the welfare of the family.

1. National Policies

Gender Equality - National Policy for Empowerment of Women (2001). The Constitution grants equality to women and empowers the State Governments to adopt measures of 'positive discrimination' for women. From the Fifth Five Year Plan (1974-78) onwards, there has been a marked shift in the approach to

women's issues from "welfare" to "development." There is a recognition that empowerment of women is a central issue in determining the status of women. The 73rd and 74th Amendments (1993) to the Constitution of India have provided for "reservation'"of seats for women in the local bodies of panchayats and the municipalities.

According to this policy, women–friendly personnel policies would be drawn up to encourage women to participate effectively in the developmental process. Since women comprise the majority of the population who are poor, poverty eradication programs of the government specifically target them. Government policy seeks to enhance the capacity of women and empower them to meet the negative social and economic impacts that may flow from globalization. It also seeks to recognize through proper documentation women's traditional knowledge about health care and nutrition. The use of Indian and alternative systems of medicine will be enhanced within the framework of overall health infrastructure available for women.

The policy also seeks to involve women in designing programs for environmental conservation and restoration. Considering the impact of environmental factors on their livelihood, women's participation is important in environmental protection. Despite these policies, however, women remain largely marginalized, poor, and socially excluded. This is especially true for women from the "weaker sections" or the "scheduled tribes."

Gender and the Tenth Five-Year Plan (2002-2007). The Tenth Five Year Plan (2002-2007) has special significance in the context of the program, Gender Perspectives to Eliminate Gender Discrimination. This is because it follows the announcement of the National Policy on Empowerment of Women, 2001. The plan has been touted by women as an instrument that could translate policy into action.

Analysis and Critique of the Policy and Plan. The process of mainstreaming gender does not seem to have received adequate attention in the various national policies announced in the last decade. Based on the important policies in the last decade,[26] government saw the need to incorporate measures to impact women and men distinctly. However, the resolve to achieve the goal of

changing the differential social status accorded to men and women seems weak. This is particularly significant in the case of the National Health Policy and National Agriculture Policy. The Tenth Plan therefore had to incorporate gender perspectives in all sectors for greater social and economic development.

Gender Budgeting in Context of Indigenous Women in the Decade. The government has announced its intention to gradually introduce the concept of "gender budgeting" in line with the basic principles of governance in the Central government's National Common Minimum Programme. This means that the budget data will in due course be presented in a manner that highlights the gender sensitivities in the budgetary allocations.[27]

The practice of analyzing the annual budget from a gender perspective has now become a regular feature in government programming. The proportion of allocation for programs on women was 0.84 percent in 2003-04 at 36.65 trillion rupees. Higher budgetary allocation does not necessarily translate into higher expenditure on women. The actual expenditure is much less than the initial allocation and sometimes lesser than the revised decreased allocation.

The share of programs specifically targeted for tribal women in total national government expenditure was only 0.69 percent in 2002-03. This went up to 1.10 percent in 2003-04. The proportion of expenditure against budget allocation for tribal women in 2002-03 was a meager 0.58 percent.

Recommendations. There is a need to strengthen the gender-based database within the tribal population and within the relevant departments and ministries. Given the significant gender disparities in India, it is important that budgets of government provide some idea of how much of the budgetary allocation is earmarked for the benefit of women. This helps in their re-appropriation for other purposes. Sectoral analysis of budgetary allocations and their impact on women needs to be undertaken. The important sectors to be covered should include education, health, forestry and agriculture.

Proposal for Amelioration and Welfare of Tribal Women. The main reasons for the plight of tribal women are: (a) lack of inte-

grated programs; (b) weak implementation and sustainability of programs; (c) failure to mainstream backward and tribal communities and repressed people into the national development process; (d) centre-oriented programs rather than community-based and participatory programs; (e) little attention to human resource development; (f) lack of encouragement for development and modernization of traditional occupation and skills; and (g) lack of effective institutional mechanisms.

There is a need for the Government of India as well as non-government organizations to address the problems of tribal women in terms of awareness-creation, income generation, and implementing educational programs.

Neglect of indigenous women's welfare is evident in the government's inadequate provision of social services. A comprehensive evaluation of the impact of development policies on tribal women has not been possible owing to the paucity of tribal data for different population groups. In this report, analysis of data reveals the relative position of women from the 'scheduled tribes' vis-à-vis other population groups.

2. State Policies

No state legislations and policies could be traced on empowerment of women during 1995-2005, which was declared as the Indigenous People's Decade.

H. Health

"Tribals" display a far less healthy status compared with the rest of the population. Their own beliefs, illiteracy, poverty, and lack of access to scientific information contribute to this low health status. The adverse effects of privatization and gradual decline of government spending in the social sector including health can not be ignored.

1. National Policies

National Health Policy, 2002 and Health Status of Indigenous Peoples. The National Health Policy (NHP), 2002 was initiated by the Ministry of Health and Family Welfare of the Government of India. An earlier edition of National Health Policy was formulated in 1983. Significantly, the government constituted the National Health Sub-Committee within the National Planning Committee as early as 1948. While the number of policies increases, the health status of the masses deteriorates. The Prime Minister of India announced that "[W]e will continue to strive for improving their quality of life through greater access to education and health facilities, employment opportunities and income." However, these proclamations at the most remain good intentions.

In the spirit responding to the health needs of the poor and under-privileged, the NHP, 1983 aimed to provide "health for all" by the year 2000 through the universal provision of comprehensive primary health care services. National averages with respect to most indices are at unacceptably low levels. The wide inter-state disparity implies that access to public health services is nominal and health standards are grossly inadequate for vulnerable sections of society in several states. Despite the policy's emphasis on establishing more public health institutions at the local level, facilities remain insufficient.

One of the principal objectives of NHP, 2002 is to evolve a policy structure which reduces these inequities and to allow fairer access to public health services, especially for the disadvantaged sections of society who live in deteriorating environmental conditions. Such conditions pose health risks brought about by unsafe drinking water and unhygienic sanitation. Challenges include lack of statistics on major diseases.

Budget/Funding. Governments in developing countries generally spend little for health. "Health Systems in poor countries are severely under-funded for meeting the (Millennium Development) Goals" according to the Human Development Report 2001.

Table 6 reveals that in 1998-99, expenditures for health and general development in the selected states were not proportional to the size of the tribal population. In the states with larger tribal

population like Orissa (22.19%), Rajasthan (12.57%), and Andhra Pradesh (6.63%), the development expenditure ratio was not consistent with the population. Thus in Orissa, where there is a large number of "scheduled tribes," health expenditure ratio was only 5.58 percent, while the ratio for Rajasthan and Andhra Pradesh was 6.42 and 8.45, respectively.

Table 6. Proportion of Public Spending for Health and General Development in Selected States, 1998-99

States	Health (per cent)	Development (per cent)
Andhra Pradesh	8.45	66.11
Himachal Pradesh	6.38	68.84
Orissa	5.58	59.94
Rajasthan	6.42	63.83
Jharkhand*	--	--
Central Govt. contribution	5.78	61.76
India	1.80	34.90

Source: Human Development Report 2001, Planning Commission, New Delhi.

Emerging Concerns and Suggestions. There is rampant misuse, diversion, and non-utilization of funds meant for indigenous peoples. Draft National Policy wants to "encourage qualified doctors from tribal communities to serve tribal areas." The problem of "tribals" should be treated as the problem of the entire country and not only of the "tribals." Hence, catering to the health requirements of tribal communities should not be the responsibility of tribal doctors only but of all who are qualified in the field of medicine.

Formulation of health programs for health under the Draft National Policy must consider issues of availability, accessibility, acceptability, and adaptability. Serving in the rural areas for a period of ten years, with five years exclusively served in Tribal Sub-Plan (TSP) areas, must be made mandatory for all government doctors. All the vacancies of medical staff in the TSP areas need to be filled up within a specified time frame. The government should provide additional benefits to medical staff working in TSP areas

and concomitant budgetary allocations need to be made under the TSP.

The government needs to promote traditional health care and protect vital medicinal plants, animals, and minerals necessary to the full enjoyment of health of indigenous peoples. The Traditional and Alternative Medicinal Act should be adopted with a view to: (a) improve the quality and delivery of health care services to the indigenous peoples through the development of traditional and alternative health care, and to integrate it into the national health care delivery system; and (b) to seek a legally workable basis by which indigenous peoples would own their knowledge of traditional medicine. The government would provide resources to enable the indigenous peoples to design, deliver, and control such services so that they may enjoy the highest attainable standard of physical and mental health.

Tribal areas have higher levels of morbidity and mortality. Tribal populations have higher levels of genetic and hematological disorders, some of which are due to existing social and cultural practices such as consanguineous marriages.

For the first time, the Ninth Plan (1997-2002) uses the term "tribal health" in the document. It has also identified the following as major contributors to the indigenous peoples' increased disease burden: (a) poverty and consequent under-nutrition; (b) poor environmental sanitation, poor hygiene and lack of safe drinking water, leading to increased morbidity from water borne infection; (c) lack of access to health care facilities leading to increased severity and duration of illness; (d) social barriers preventing utilization of available health services; and (e) vulnerability to specific and endemic diseases.

The Ninth Plan Working Group Report[28] states that the common problems among indigenous peoples include: (a) nutrition deficiency among the children; (b) anemia among the mothers; (c) hematological disorder; (d) sickle cell; (e) seasonal diseases like diarrhea among children below five years old; (f) malaria; (g) tuberculosis; (h) skin diseases; and (i) goiter.[29]

2. State Policies

Andhra Pradesh. Only 30 percent of the tribal population has access to safe drinking water as compared to 75 percent in other areas. In the absence of easily accessible safe drinking water, the "tribals" not only suffer from various illnesses (like diarrhea and dysentery). They, especially the women, also suffer the hardship of fetching water from distant sources. Thus, there is a need for greater investment and expenditure on developing sources of water.

Rajasthan

Rajasthan Health Systems Development Project: Indigenous Peoples Plan. The Rajasthan Health Systems Development Project for India (2003) aims to improve the health status of its population. The project improves the quality and access to health care. One of its three main components focuses on the poor and tribal populations who live below the poverty line. It also incorporates tribal medicine and uses innovative mechanisms to reduce financial barriers to health care.

Claims of State Government. The Indigenous Peoples Development Plan for the Rajasthan Health Systems Development Project for India identifies the "tribals" as agricultural laborers and cultivators involved in forest-related occupations. They depend on common property resources like land, water, and, forest. A tribal development plan has been proposed to address the issue of poor access to health care in the State. The Government of Rajasthan seeks to ensure that there are specialists and trained doctors. In order to increase access to health care services, there is a need to expand mobile health services. An incentive package would be developed to encourage doctors and other medical staff from the public and private sectors to work in these areas.

In general, there is little information available about the situation of "tribals." This suggests that, on the one hand, various health systems are unable to provide quality services. On the other hand, "tribals" could not access these services wherever they may be available. Unless inequalities in the structures of society are addressed, legal measures alone will not make a difference in protecting the human rights of indigenous peoples in India.

I. Main Problems and Issues of 'Tribals'

1. Crisis of Identity

In Shri Satnakar Gongara's[30] opinion, crisis of identity is the main problem of the indigenous peoples. Identity for them is inclusive of their history, society, culture, economy and political consciousness.

2. Indian State and Indigenous Peoples' Communities

According to Ravi Hemadri,[31] State policy does not give due recognition to the indigenous peoples' identity, as well as their historical, cultural, and ethnic uniqueness. This flaw in policy is aggravated by the State's project of assimilating the indigenous peoples with the so-called "mainstream" in order to build a national polity. This project, however, is not based on democratic dialogue and processes. The military uses indiscriminate force as a response to public protest to this policy. This act is "legal" based on the Armed Forces Special Act 1958. Such situations forestalled all available options for a democratic dialogue in a post colonial country, and led to a situation of constant strife.

3. Indigenous Peoples and Autonomy

Ravi Hemadri raises a question regarding the local demand for complete autonomy. The state response to this dominant demand was to appropriate common resources for private purposes, increasing influx of non-tribals to indigenous areas leading to massive land alienations through coercive means, and destruction of the natural environment of the indigenous communities.

Regarding the problem of displacement, Man Chandra Prasad[32] says that Jharkhand is the state where there is maximum displacement in India. Tribals are bound to face displacement because their mineral-rich lands are targets of development projects. The government does not take measures to rehabilitate them. Encroachment into indigenous territories continues even today. The government has not taken measures to prevent illegal appropriations of land and resources of the indigenous communities.

4. Militarization of indigenous Peoples' Areas

According to Ravi Hemadri, it is unfortunate that the indigenous peoples' political expression took the form of armed militancy in different areas. But this was in response to two conditions: (a) as direct response to the atrocities by the armed forces; and (b) the transformation of local strife between communities among the indigenous peoples through armed conflict. The latter case is due to the military's curtailment of the indigenous peoples' democratic aspirations. There is an observation that the military has dominated the indigenous peoples everyday life.

Parallel to this is the situation in Chhattisgarh where under the *Salva Judum,* the military recruits children under 18 years old as special police officers. These children are then used as front liners in situations of "encounter." This escalation in violence also has to do with the massive mining operations, with direct negative impact on the livelihood of indigenous communities. It is alleged that the mining groups promote situations of conflict between local people in their effort to divert the public attention from their mining operations.

5. Policies and Legislations in Relation to Indigenous Peoples

Shri Satnakar Gongara from JOHAR, who represented India at the Indigenous Peoples' Conference held at Geneva, thinks that the Draft National Policy is not in favor of the Adivasis. Many leaders were opposed it because it did not evolve from the people. But many of the NGOs were ignorant about the Draft National Policy. He also says that there are land-related laws that are favorable to Adivasis such as the Chotanagpur Tenancy (CNT) Act 1908 and Santal Pargana Tenancy (SPT) Act 1912. However, the Land Acquisition Act and Land Acquisition Amendment Act are not at all in favor of Adivasis. While the governor has a special right to safeguarding the land rights of indigenous peoples based on the provisions of the Fifth Schedule, he has never made use of this right.

6. Suggestions to Improve the Status of Indigenous Peoples

According to Susai Sebastian,[33] education, enforcement of laws, and protection of basic human rights could pave the way for the empowerment of "tribals." Sebastian thinks that there are generally many laws for the betterment of "tribals" but these laws have not changed the situation of "tribals" due to lack of political will in their implementation. Jimmy Dabhi[34] suggests that the Gram Sabhas should have a say in matters of education, health, and development.

IV. Judicial Interventions and Human Rights

A. Indigenous Peoples and Judicial Interventions

The Indian judiciary is known for its proactive role in the political system. It has often been referred to as the "most powerful apex court." A cursory study of judicial judgments reveals that it has gone beyond the traditional role of the final arbiter of the Constitution. Triggered by Public Interest Litigations (PILs), it has created its own powers and defined its role by creative interpretation of the Constitution and directing the executive in major policy matters. The new activism of the courts has generated a belief in the public mind that the judiciary could be relied upon to ensure the rights of the citizens, and it is an alternative resort when the legislature and executive branches of government fail them.

The judiciary has been at the forefront in protecting the rights of the marginalized sections of Indian society. But in the last decade, a few major judgments were made against the 'tribals' betraying lack of sensitivity to indigenous peoples' rights. A quick review of major judgments over the last decade is given below:

1. Reasserting Constitutional Obligation and the Rights to Land

Two major judgments under this category are the Samata judgment and the BALCO judgment. While the Samata judgement

asserted the rights of the "tribals" over their land and resources as enshrined in the Constitution (Fifth Schedule), the BALCO judgment overruled the former judgment.

The Samata Judgement. This decade saw one of the most important judgements on the rights of the "tribals" in the major case Samata versus the State of Andhra Pradesh. Through this major judgment, the Supreme Court upheld the rights of the "tribals" enshrined in the Fifth Schedule of the Constitution.

Samata, an NGO working closely with "tribals" in Srikakulam, Visakhapatnam, and East Godavari districts of Andhra Pradesh, filed a case in the local courts and later in the Andhra Pradesh High Court in 1993 against the State Government's move to lease tribal land to mining companies. When the High Court dismissed the case, Samata filed a Special Leave Petition at the Supreme Court. After a four-year legal battle, it won a historic judgment in 1997 which declared null and void the transfer of land in the Scheduled Areas for private mining, and upheld the Forest Protection Act of 1980 that prohibits mining in reserved areas. The Supreme Court ruled that the state should adhere to the laws and principles governing the tribal areas. It also recognized the (73rd) Amendment to the Constitution and the Panchayat Extension to Scheduled Areas (PESA) Act, 1996 that recognized the competence of Gram Sabhas to safeguard community resources and reiterated the Adivasis' right to self-governance.

The BALCO Judgment. Despite the directions given by the Supreme Court to undo the injustices of history, the Samata judgement was deliberately ignored for a long time. However, the issue of leasing land categorized under Fifth and Sixth Schedule came up again in the Bharat Aluminium Limited Company (BALCO) case.

In between, there were moves within the State machinery itself to overrule the Samata judgment by amending the Fifth Schedule. However, as the BALCO employees union took the case to court, the judiciary made a major ruling that affected the lives of thousands of Adivasis in India. Though the case the BALCO Employees Union versus Union of India was about transfer of shares of public service undertaking, the judgement made a major ruling with regard to transfer of land in the tribal area.

The BALCO judgement noted strong reservations with regard to the correctness of the majority decision in Samata's case. According to the BALCO judgement, the Samata judgement had not only interpreted the provisions of Section 3(1) of the Andhra Pradesh Schedule Areas Land Transfer Regulation 1959 but had also interpreted the provisions of the Fifth Schedule of the Constitution. The BALCO judgement noted that the said decision was not applicable in the present case because the law applicable in Madhya Pradesh was not similar or identical to the said section of the Andhra Pradesh regulation. The judgement further stated that the provisions of the Madhya Pradesh Land Transfer Code, 1959, Section 165 in particular, were not at par with the said section of the Andhra Pradesh regulation (Sreedhar, n.d.).

The decision completely overlooked the very basic spirit of the Samata judgement. The sale of BALCO to a private entity violated the laws of the land. Two policy issues came up arising from this decision. First, at the time of BALCO'S inception, the land was acquired from the local tribal people living in Korba. When the land was acquired from them, they were told that the land was needed for a "public purpose." However, the moment that it is no longer a public sector unit, its character changes. It becomes a private entity. Through this judgement, it became permissible to transfer land that belonged to tribal people to a non-tribal entity.

Second, the BALCO sale violated provisions of the Land Acquisition Act (a Central government Act), which lays down procedures to be followed for the compulsory acquisition of land. BALCO acquired the land under Section 4 and Section 6 of the Act. When the government sought to acquire the land, it stated that this land was required for a public purpose. Now, Section 44(a) of the same Act says that if the public purpose for which the land was acquired ceases to exist, then the land must be returned to the person or the authority from which it was taken (Frontline, 2001).

Unfortunately, however, when these issues were raised publicly, the emphasis shifted from tribal entitlement to disinvestment. Even after the directions of the Supreme Court with regard to land in the Scheduled Areas, the period from 2000 onward saw the government of different States embarking on numerous mining leases to MNCs to exploit mineral resources in "scheduled areas."

This is particularly the case in Andhra Pradesh, Jharkhand, Chhattisgarh, and Orissa.

The said decision implies that a few executive orders and amendments in the legislations could overrule the decision of the apex court.

2. Rights to Habitat

Case in Relation to Forests in the Andamans. A major case in relation to forest that has affected the lives of the "tribals" is the "Godavarman versus the Union of India and others" (WP No 202 of 1995). The Supreme Court has been hearing this case for the past 11 years. Meanwhile, more than 800 "interlocutory applications" have been filed. The case has already resulted in several interim orders, which have affected the lives of the "tribals." To study the pros and cons of the case, the Supreme Court has set up a Central Empowered Committee (CEC), which has authority to look into the cases and give orders with regard to cases filed in this regard.

Judgment Ensuring the Jarawas' Rights. In 1999, three organizations (Society for Andaman and Nicobar Ecology (SANE) in Port Blair; Bombay Natural History Society based in Mumbai; and Kalpvriksh in Pune) filed an interlocutory application requesting the court to ban the felling of trees and other non-forest activities in Little Andamans. Two years later, in October 2001, the court passed a significant order,[35] prohibiting the cutting of any naturally grown trees and the closure of Andaman Trunk Road that runs through the forest of Jarawa Reserve. The court intervention was the most positive step in respecting the Jarawas' rights and ensuring their long-term survival.

Violation of Court Orders by the Administration. The Andaman administration ignored the apex court order mentioned above and the road continues to be operational. This is justified based on a parallel legal process initiated in 1999 before the Port Blair bench of the Calcutta High Court. It is not clear how the Calcutta High Court could give approval to a policy that violates of Supreme Court orders (Sekhsaria, 2005).

Tribes as 'Encroachers.' As an appendage to the previous order pertaining to the Jarawa Reserve, another intervention peti-

tion[36] was filed by Harish Salve pointing to the gravity of encroachment in other states. The Central Empowered Committee (CEC), drawing a parallel between encroachment in Andamans and other regions, ordered the State Governments to reply to the issues in Feb 2002. It was in reply to these queries that the Ministry of Environment and Forest (MoEF) took the drastic step of removing the "encroachers."

In May 2002, in response to recommendations of the Central Empowered Committee (CEC), the Ministry of Environment and Forest (MoEF) issued an order to all State Governments and Union territory to remove all encroachments from forests. States like Assam and Maharashtra embarked on major eviction drives. The forest departments of the said states razed scores of tribal houses.

Paradoxically, an application filed to protect the tribes of Andamans ultimately ended up defining "tribals" in other parts of the country as "encroachers" of the forest. The rights to habitat granted to the "tribals" in the forest protection acts simply ceased because of this Supreme Court order. Communities, which had lived in the forest habitat for centuries and whose symbiosis with the forest habitat is recognized in the National Forest Policy 1988, were transformed into encroachers to be evicted summarily.

The Case of Bauxite Mining. Another case filed against a mining company (the Vedanta Alumina, Ltd.) also comes under the purview of the Central Empowered Committee (CEC). The company engaged in bauxite mining was operating in densely forested Niyamgiri forest, at Lanjigarh, Kalahandi district, in Orissa. The committee also noted that the land was forcibly taken away from the "tribal" in Bandagudha and Rengopali villages. In this case, the CEC issued a report on 21 September 2005 recommending the revocation of environmental clearances given to Vedanta Alumina Ltd. Vedanta operates a one million-ton aluminium refinery in the Niyamgiri forests in Lanjigarh, Orissa. The CEC found that Vedanta had falsified information to obtain clearances (received on 22 September 2004) from the Ministry of Environment and Forests (MoEF). The decision of the Supreme Court came as a relief to the "tribals" evicted from the region.

3. Displacement and Resettlement

The displacement of "tribals" due to mega development projects has been a major issue for the last two decades. Groups working for the rights of the displaced people have gone to court to restore the rights of the Adivasis. One of the major cases in this regard is the case filed by Narmada Bachao Andolan (NBA) with regard to the Sardar Sarovar Project (SSP).[37]

Tribals and Regularization of Land. The writ petition filed in the Supreme Court by Pradip D. Prabhu against the State of Maharashtra and was disposed of on March 7, 1995 supported the views of landless "tribals."' It sought to direct the State of Maharashtra to appoint responsible officers in districts to examine the claim of Adivasis who possessed the land and decide their claims for regularization in accordance with law. The verdict declared that for regularization of land, "tribals" should be heard by the officers concerned.[38] The Supreme Court directed the State Government to survey the cultivations of Adivasis in forests and give them land titles for old cultivated fields.

The Common Minimum Programme of the government clearly states that the eviction of "tribals" and other forest dwelling communities from the forest should be discontinued. However, the Adivasis have constantly been living under the threat of eviction despite government assurances in the last decade. The period saw a major eviction drive in 2002, with the support of the judiciary and executive, carried out throughout the country after a Supreme Court ruling to evict encroachers from the forestland. In this context it should be remembered that a major policy decision taken by the government in September 1990 to regularize forest villagers and grant title deeds to the forest dwelling Adivasis were not implemented by the Forest departments of the states.

Continued Land Alienation. Two cases pending in the Supreme Court with regard to alienation of tribal land are discussed below:

Andhra Pradesh has one of the worst recorded cases of land alienation. Non-tribals occupied more than 50 percent of tribal land in the "scheduled area." The successive governments have attempted to dilute the Land Transfer Regulation Act, 1959 with an amendment that prohibited eviction of non-tribals from the

tribal areas. However, this was scuttled by the High Court and the case is still pending.

Two decades and more have elapsed since the Kerala Government passed the Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act in 1975. Yet successive State Governments have not implemented these laws. Amendment Bills in 1996 and 1999 have sought to circumvent or dilute the provisions of the Act. On a petition moved by Nalla Thampi Thera, the High Court of Kerala Court rejected both the 1996 and 1999 amendment Bills. In 2000 and 2001, the State Government filed writ appeals before the Supreme Court of India to get a stay on High Court verdicts. Petitions by Nalla Thampi Thera and "Niyamavedi" Kochi against these stay orders are still pending before the Apex court (Prabhakaran, 2003).

B. Human Rights Situation of Indigenous Peoples in the Last Decade

On the outset, it would be helpful in defining the contours of the understanding of the post independent Indian state on human rights of the indigenous peoples. The state has not upheld a public position that there are indigenous communities in India. After the independence of India, the Constitution, with its profound expression "We the people of India" strongly indicated the desire for equal status for all the citizens. However, Articles 14 to 28 of the Constitution indicated strongly the need for constant and proactive state intervention to eradicate all forms of exclusions, atrocities and customs, which essentially violated the dignity of people belonging to certain social groups. It is understood that the indigenous peoples of the country were the affected group. They were forcefully excluded from participation, political and economic activities, and decision-making that they need special consideration from the State.

A comparative reading of the Indian Constitution with the Universal Declaration of Human Rights indicates how the makers of the Constitutions of an emerging republic of that period were keen on incorporating the universal concerns for human rights across the world. Thus, evaluating and reviewing the activities of

the State in relation to its policies on indigenous peoples would require the use of benchmarks such as constitutional and legal provisions for protecting human rights of the indigenous peoples in India. The experience of the Indigenous peoples in British India punctuated with constant militant rights struggles also suggested the special care required from the State agencies in their treatment of indigenous peoples.

1. "Starvation Death"

At least 50 million Indians are on the brink of starvation and over 200 million Indians are underfed (Ramachandran, n.d.). Starvation deaths, epidemics, and malnutrition are the most glaring problems in most of the tribal hamlets in India. There are such reports even from states like Kerala and Maharastra where the human development indicators are relatively positive. Among the states selected for this study, Orissa, Rajastan, and Andhra Pradesh have cases of "starvation deaths" reported.

In 2002, at least 40 "tribals," mostly children, were reported to have starved to death over a span of a month in Baran in Rajasthan.[39] In 2001, 21 deaths were reported from the tribal region of Kashipur in Raygada district of Orissa.[40] In Andhra Pradesh, drought and poverty have pushed tribals to starvation death.[41] This is not a unique phenomenon confined to the places mentioned above, but starvation and related deaths are common in most of tribal hamlets in all the three states mentioned above.

The "starvation deaths," however, are a reflection of a deeper issue of widespread poverty and hunger in these regions. A study conducted by the Centre for Environment and Food Security (CEFS) revealed that 99 percent of tribal households in Rajastan and Jharkhand are facing chronic hunger (CEFS, 2005). Poverty in these tribal hamlets is nothing but a reflection of the changes in the food grain pricing policy of the government and the failure of the government in ensuring food security for the marginalized people. Research has shown that most of the tribals cannot afford to buy grains through the Public Distribution System. They are forced to depend on ineffective substitutes like mango kernel and grass (CEFS, 2005). In the case of Rajastan, a state affected by chronic drought for consecutive years, government relief measures hardly reached the affected areas.

There is also an observation that the government's mechanism of categorizing people as living below or above the poverty line is flawed. The State Government denies the reality of "starvation deaths" arguing that such death occurs only when a person dies with an empty stomach. This official definition virtually makes recording of starvation deaths nearly impossible. Starvation deaths are taking place against a backdrop of 60 million tons of food grain in the buffer stock and rotting in the Food Corporation of India (FCI) (Jha, 2002).

2. Dispossession of Land

Over the years, the tribes have witnessed losing both community and individual control over their land. One must bear in mind that tribal land alienation does not only refer to individual land holdings, but also to common property holdings like forests and other resources. "Tribals" in general have to face alienation from land due to various reasons such as lack of records, manipulation of records, illegal or *benami* transactions,[42] and leasing or mortgaging of the land so that the money lender gradually acquires possession of the land.

Reports received from various states indicate that 375,000 cases of tribal land alienation have been registered, covering 855,000 acres of land. Of these cases, 162,000 cases have been resolved in favor of the "tribals" covering a total area of 447,000 acres. On the other hand, the Courts have rejected 154,000 cases covering an area of 363,000 acres by on various grounds. This is only the tip of the iceberg as these data reveal only the cases registered through the courts (Ministry of Rural Development, n.d.).

The case of Andhra Pradesh is a classic example of encroachment into tribal land using the legal and state systems. From 1997 to 1998, the Department of Rural Development of the Government of India commissioned a number of state-specific studies on land alienation. The Andhra Pradesh report notes that non-tribals own more than half the land in the "scheduled areas" of the state today. The specific figures are as follows: 52 percent in Khammam district; 60 percent in Adilabad district; and 71 percent in Warangal district. These are official figures based on land records, and would not include benami holdings. Note that the region's "tribal to non-

tribal ratio" had dropped from 6:1 in 1950 to 2:1 in 1991 according to the 1991 census. This demographic change has been largely brought about by official policies (Saxena, n.d.).

3. Development-Induced Displacement

According to a paper on tribal people prepared by the National Advisory Council (NAC), more than nine million tribal people were displaced by development projects in the country over the last 50 years, and only 60 percent of them have benefited from any sort of rehabilitation. Tribals are subject to development-induced displacement in the following ways:

Industrial development. Although the State Government has opened up the state for industrialist from 1995 onwards and has displaced thousands of people, the draft rehabilitation and resettlement policy was enacted only in 2005.

Big dam projects. Andhra Pradesh also has a history of injustice towards displaced people. The government has failed to do justice to displaced people in the Nagarjuna Sagar project, Sreerampadasagar project, Srisailam project, lower Manair dam, and Singoor project.

Sanctuaries and national Parks. Sanctuaries projects are also major causes of dislocation. The State Government has declared over eleven sanctuaries in the state over time. The repercussions include sudden ban on shifting cultivation, cattle grazing, and firewood collection without considering that people in the area depend on the forest for shifting cultivation and seasonal collection of forest produce for generations. The state is practically pushing away the "tribals" from all possible source of livelihood. "Tribals" have been protesting against this policy in almost all the region (Sarangai, 1999).

Large Irrigation Projects. The government has currently embarked on an ambitious scheme to take up large irrigation projects across major rivers. Polavaram is perhaps the largest among these. These major projects would displace thousands of people from their homeland. The proposed Polavaram project itself threatens to displace over 100,000 people, half of whom are "tribals" (Reddy, 2006). The project would submerge over 276 tribal villages in the tribal areas of East Godavari, West Godavari and Khammam districts.

The State Government has also given franchise to the Jindal group of companies to mine bauxite over vast tracts in the Visakhapatnam district. It consulted neither the adivasi Gram Sabhas nor the Tribal Advisory Council before hastily involving the companies (Sarma, 2006). Though the government has proposed a rehabilitation package, it fails to incorporate the truth that many of the tribals are living there without land titles and deeds, while many of them have been cultivating the forestland for decades (Rao, 2006).

Tourism Industry. The development of tourism too played a role in alienating the tribal people from their lands. For example, government took over areas of tourism interest, such as the Borra caves reducing the tribal people settled in the area to mere contract workers (Krishnakumar, 2004).

The Government of India has passed a National Rehabilitation Policy on 17 February 2004. The policy recognizes the limitations of cash compensations and has stated that the "system of extending cash compensation does not by itself, in most cases, enable the affected families to obtain cultivable agricultural land, homestead, and other resources which they have to surrender to the State." Yet, all that the policy extends to the displaced people is some extra cash without livelihood support. The only exception was the case of the Telugu Ganga project, where the Government of Andhra Pradesh adopted a better resettlement plan.

4. Rights to Access Forest Produce

The livelihood of "tribals" is closely intertwined with forests and forest products. Over the years, however, major policies followed by the government have distorted the rights granted to "tribals." Government policies, like preference for human-made plantations in place of mixed forests, diversion of Non-Timber Forest Products (NTFPs) and forests to industries, nationalization of NTFPs, and exploitation by government agencies and contractors in marketing of NTFPs, have in fact adversely affected the lives of "tribals." In many of the states, the government has set up tribal cooperatives to ensure remunerative prices for tribal products and to ensure protection from the exploitation of private traders. Unfortunately, these cooperatives and other nationalization measures

presumably set up for helping the "tribals" became another agency of exploitation as most of the tribal products were procured far below the market prices.

5. Exclusion from Basic Facilities

"Tribals" lag behind other communities in measures of basic human development indicators like health and education. The gap between the national average in literacy and the averages for tribal men and women is increasing. Thus is despite the fact that the largest proportion of centrally sponsored programs for tribal development is in education. This sector tends to dominate budgetary allocations in State Governments too (Saxena, n.d.). It is quite clear that these budgetary allocations hardly reach the "tribals."

Epidemic and malnutrition are constant features of tribal life. A study conducted by Integrated Rural Development Programme (IRDP) in 1987 with its follow up in 1999 reveals that over the period of 12 years, there is not much change in the nutrition status of "tribals" (Saxena, n.d.). The failure of the government to provide essential food security through the Public Distribution System (PDS) and the primary health care system is an important reason for the continuing poverty of the "tribals."

V. Peoples' Perception of the Indigenous People's Decade, 1995-2004

A. Report on the Zonal Meeting on Indigenous People's Decade held at Social Development Centre, Purulia Road, Ranchi, Jharkhand on 28 June 2006

The zonal meeting in Jharkhand was held at the Social Development Centre (SDC), Purulia Road, Ranchi in Jharkhand on 28 June 2006. More than 28 participants discussed four areas of interest, namely:

1. Knowledge about the Indigenous People's Decade 1995-2004 and the role of the media to make the decade popular;
2. Program organized by various organizations in the name of the indigenous peoples on the occasion of International Indigenous People's Day on 9 August;
3. The Impact of the Declaration of the Indigenous People's Decade by the UN (What is the social, cultural, political and economic impact of the decade? What programs have been conducted in the name of the decade? What has been the status of the human rights during the decade?)
4. Suggestions and recommendations for the second decade?

1. Knowledge about the Indigenous People's Decade 1995-2004

Some of the participants were aware of the initiatives taken by the UN for indigenous peoples. They were aware of the fact that two delegates from the tribal communities in Jharkhand, namely Ratnakar Bhengra and Ram Dayal Munda used to attend the UN Permanent Forum for Indigenous Peoples' meeting at the UN regularly. Some others learned about the Indigenous People's Decade through various Christian institutions. Moreover, there were also publications of booklets and advocacy materials to promote the interests of the "tribals." Seminars in the name of indigenous peoples were also organized on a regular basis to highlight their issues and problems. One of them said that he learned about the UN declaration through the World Council of Churches. Another participant said that even after 10 years, she had no idea of the Indigenous People's Decade. She said that the Indigenous People's Decade was a failure in the context of Jharkhand.

2. Programs Organized by Various Organizations on the Occasion of International Indigenous Peoples Day on the 9th of August

Literature, poems, and slogans about *Adivasi* values and social life were circulated. There were also researches presented. The purpose was to bring awareness about the plight of the *Adivasis* in

India in general and in Jharkhand in particular. Incidents like "Tapkara Police Firing"[43] killing eight people (including seven *Adivasis*), were also highlighted through advocacy and campaign materials. Demonstrations were held at Ranchi to protest the Jharkhand Industrial Policy, evictions of tribals from forest areas, and police atrocities. Another objective was to express to the State Government the organizations' demand from for 60 percent "reservation" for "tribals" and to hold Panchayati Raj elections to strengthen Gram Sabhas.

"Chetnalaya" is an organization established in 1970 by the Catholic Archdiocese of Delhi for the purpose of helping the marginalized people that may or may not include tribals. Susai Sebastian, Director of Chetnalaya, narrated how various activities were organized every year in Delhi to mark the Indigenous International Day on 9 August. Chetnalaya runs a crisis centre for domestic workers in Karol Bagh which houses many girls from states like Jharkhand and Chhattisgarh who come to Delhi as domestic help but end up as victims of trafficking. The organization also organizes workshops and seminars for tribal women and trains them for income generation. Chetnalaya, keeping in mind the condition of the domestic workers, is trying to work out a bill that supports the rights of the domestic workers.

Caritas India, established in 1962, is the national organization of the Catholic Bishops Conference of India and deals with social concerns. The organization strives to "restore human dignity of the poor and the marginalized through an empowerment process." Mrs. Shimray, the program Executive Officer at Caritas India said that her organization contributed to some extent in spreading the message of the Indigenous People's Decade. According to her, Caritas supports both tribal and non-tribal-related issues. The organization strives to sensitize the people through its various awareness and empowerment programs in the northeast region. It also organizes self-help groups for women so that they can empower themselves and then lead others later. Caritas also runs self-managed tribal hostels to educate 'tribals' from Orissa, West Bengal, and the northeast.

The Young Men's Christian Association (YMCA) is an organization that implements welfare programs as well as sports activities. It supports Ayurveda and educational centers that impart pro-

fessional training. Mr. Sebastian, the Program Officer at YMCA in New Delhi narrated the program his organization conducted for the indigenous peoples during the decade of the indigenous peoples. When 1993 was declared the International Indigenous Peoples Year, the YMCA organized a cultural festival for "tribals." It also organized workshops and seminars on tribal issues to mark the Indigenous People's Day. Ever since the declaration of the Indigenous People's Day, the organization has celebrated the "Karam" festival of "tribals" every year. It has also been organizing a youth exchange program for "tribals" regularly. The organization caters to both "tribals" and "non-tribals." But in the past few years, it has dealt with the "tribals" specifically with their cultural and domestic issues. The institution is also lobbying to bring a bill in the parliament that deals with the security aspect of the domestic work.

3. The Impact of the UN Declaration of Indigenous People's Decade

The important question is whether the Indigenous People's Decade had any impact on the life of the indigenous peoples. The participants found the response of the government very discouraging as there were many incidents of human rights violations during the Indigenous People's Decade. Thousands of people were displaced. Many *sarnasthal* (Sarnas' place of worship) were destroyed. People like Dilip Singh Judeo indulged in *gharwapsi* (homecoming) of the tribal converts, which in fact was a conversion to Hinduism and not a real "homecoming." There were also court verdicts which were unfavorable to "tribals."

Despite the presence of 30 Adivasis (out of the 81) members of the Jharkhand Legislative Assembly, the indigenous peoples have not succeeded in their demand to hold panchayat elections in the state.

According to one of the participants, the Indigenous People's Decade's vision was still incomplete. Also, it has not been communicated to the grassroots. The International Confederation of Indigenous and Tribal People (ICITP) was formed in 1993 precisely to further the UN vision but it could not fulfill the expectations of the UN. As much as 90 percent of the work was not done at the grassroots. At one point, the participant added, about eight

to 10 delegates from Ranchi participated in the UN consultation on indigenous peoples. The question, however, was whether their participation in the UN was of any use to the tribal communities at large.

B. Findings from the Interviews in Delhi and Jharkhand

Mr. Vijayan, the Director of Delhi Forum recounts that it was not a voluntary initiative of the UN but the UN was pressed to make such a declaration for the indigenous peoples. He believes that the emergence of the indigenous peoples' forum in India was an essential contribution of the Indigenous People's Decade. However, he was critical that the "UN is a devastated body in terms of the issues concerning India and the policy level decisions." He added that "the UN's forum for Indigenous Peoples has a 'mocking' representation because it is not adequately represented." However, Vijayan was concerned that there were very few NGOs who represented the problems of the indigenous peoples due to a lack of political clarity. He further said that these NGOs have counted problems that were not existent in reality. Holding annual conferences and seminars is not the solution, according to him. "Ultimately the indigenous peoples are disillusioned and are compelled to join hands with Naxalites," he observed.

Susai Sebastian of Chetnalaya learned about the Indigenous People's Decade from his readings. Ms Shimray of Caritas India, who was very aware of the UN declaration, doubts about the implementation of programs. She fears that it might face the same fate as the other UN initiatives. Despite the ambiguity, she still feels that such a declaration was essential and calls for support from NGO's not only to create awareness but also to assist in its implementation.

Ignatius Minz, a tribal lawyer practicing in the Jharkhand High Court said that he did not hear anything about the Indigenous People's Decade. However, he knew about the Indigenous Peoples Year 1993, which was declared by the UN. He did not directly participate in any of the activities sponsored by the UN although he claims to have seen some organizations like ICITP and YMCA organize cultural programs and rallies on 9 August every year to

commemorate the day. He says that some organizations held meetings and seminars on the occasion highlighting the problems and issues of the indigenous peoples.

Fr. Stan Loudswamy, a Jesuit, author, columnist and activist said that he knew about the Indigenous People's Decade. He has been in touch with "friends" from Jharkhand like Ram Dayal Munda and Mr. Bhengra from indigenous organizations in Jharkhand who have been representing the "tribals" at the UN. "When they come back having attended the meeting, we come together to have discussions on the issues of the indigenous peoples," says Fr. Stan.

Stan said that he was particularly interested in the UN because it provided a platform for innumerable indigenous peoples all over the world. Very often many problems cannot be settled at a micro level but at the macro level. The platform provided by the UN for indigenous peoples is a very positive development. He thinks that the Indigenous People's Decade was needed as people had been asking for it for more than 10 years prior to the declaration of the Indigenous People's Decade. People had also been asking for a Permanent Forum of Indigenous Peoples at the UN.

Dominic Bara, Director Vikas Maitri in Jharkhand, said that he had heard of the International Year of Indigenous People in 1993 but he was unaware of the Indigenous People's Decade. Nevertheless, he learned about the Indigenous People's Decade later through print media and his interaction with intellectuals. But he does not remember any special program in the name of indigenous peoples specifically under the aegis of the UN. What people in Jharkhand are concerned, as he said, is their overall development.

Shishir Tudu, the convener of the "Samvad," came to know about the Indigenous People Decade through his interactions with NGOs. Being a journalist, he was aware of the International Year of the Indigenous People in 1993. He was aware of the first Indigenous People's Decade as well. Shishir Tudu said that there were some organizations which tried to highlight the problems of the indigenous peoples and organized program regularly. He participated in a program on 9 August which was declared by the UN as the Indigenous People's Day.

Mr. Seerat Kachhap of Bindaray Institute for Research and Social Analysis (BIRSA) came to know about the Indigenous People's Decade through Jharkhandis Organization for Human Rights (JOHAR) and later attained more information about it through JOHAR's publications and reports. Mr. Seerat was aware that the Indigenous People's Decade started in 1995. He was also aware that it aimed to promote the rights and aspirations of the indigenous peoples all over the world, as well as to implement the recommendations made for indigenous peoples in international conferences held in the early years of the decade. However, he thinks that it is not enough to have an Indigenous People's Decade or an Indigenous People's Day. He said that all the indigenous peoples of the world should come together and confederate. The UN could facilitate the process.

Seerat is also aware that the "tribals" have failed to convince the government to consider them as indigenous peoples. Thus, the "tribals" should continue to pressure the government on this demand. He also suggests that the UN Permanent Forum should be removed from New York and be shifted to any South American country or to the African continent as US capitalist forces are the biggest enemies of the indigenous peoples. The Forum should be developed as an independent council for indigenous peoples other than the Economic and Social Council (ECOSOC).

Albert Lakra, Director of Samaj Vikas Kendra expressed his ignorance about the declaration of the Indigenous People's Decade. He said that he had heard about the International Year of the World's Indigenous People 1993 and had participated in some cultural festivals. Mr. Kachhap, on the other hand, was aware that 9 August is the International Day of the World's Indigenous People. However, his state did not observe officially the Indigenous People's Day.

C. Suggestions and Recommendations for the Second Indigenous Peoples Decade

1. Research on Tribal Matters

Himanshu Kachhap emphasized the need for research on problems of "tribals." "We should know our tribal history—from

where we came, the values, culture and customs, of the tribals," he said. He opined that research should not have an adverse impact. "Many people," he said, "wanted a change of tribal culture."

Some in the group thought that they should keep away from politics. But there was another group that was convinced that tribal empowerment was not possible without involvement in politics. Sawanya was of the view that despite policies to safeguard "tribals," these policies have not been effective. Hence they had incidents like the Kalinga Nagar Police Firing on and killed 13 Adivasis. "Tribals" were also fired at in a factory in Birmitrapur in Orissa. The Tapkara firing also saw a massacre of eight people. "Unless the celebrations on 9 of August highlighted these issues, there was no use for the celebrations," Sawanya said.

2. Political Education for Tribal

Kachhap opined that political education should be given to "tribals." Stan also endorsed the idea that politics should facilitate people's rights and dignity and should not become a tool in the hands of powerful vested interests.

Walter expressed his shock over some NGOs' practice of holding their meetings on the issues of the poor and "tribals" in Five Star hotels. He, however, acknowledged that there were other NGO's which were consistently working for "tribals." "We should recognize the true leaders and we should work concertedly."

Shri Satnagar suggests that first of all, the Adivasis should unite, organize, and start a movement to assert their rights. Adivasis should be aware of government policies and programs and take part in decision making. If the Adivasis want to survive, they should be ready to counter the evil designs of the government. They should strengthen their organizational structure to pressure the government or even enter politics.

3. Budget Allocation to Promote Culture

Pushpa Tete suggested that the budget for tribal languages should be allocated for the promotion of tribal culture. Nitisha said that the "tribals" of India should be recognized as indigenous peoples. Satnakar Gongara points out that the "tribals" should be

included in policy making. Tribal languages should be recognized. The policies which are not favorable to the "tribals" should be changed or amended immediately. Information regarding legislations, policies, and programs should be disseminated to the indigenous peoples.

Xavier Dias called to organize 100 organizations for a nationwide live telecast to assert tribal identity. He also said that the term "vanvasi" should be done away with for good as it is derogatory to the "tribals." The term *vanvasi* encapsulated a Hindutva ideology of Hindu*ising* tribals. He said that "we should continue pressuring the government to declare the 9th of August as a public holiday or else we should be ready for non-cooperation movement to press our demand." Last year, according to Dias, the 9 of August was celebrated in places. He felt that "tribals" should work together to make their dreams come true.

4. Right to Self Determination

Stan was of the view that "tribals" should emphasize self-determination at the local level. The government did not want to empower "tribals." "If there was real commitment on our part," Stan opined, "government would work towards tribal empowerment." Stan gave a call to identify the real issues of the indigenous peoples of Jharkhand. He also said that "tribals" should decide who they would support and whose support they would take in furthering the cause of the indigenous peoples.

P. N. Surin, a retired magistrate, opined that not even one percent of "tribals" might know about the Indigenous People's Decade. In his view, some state policies were good in paper but there was no honest implementation that could lead to results. For example, as early as 1954, four tribal languages have been recognized, but there was no follow up. He perceived the environment of Jharkhand as totally anti-tribal; all legislations are totally against the "tribals." There were so many incidents of displacement and tribal land was being alienated illegally.

5. Strict Implementation of Favorable Laws

Government should strictly implement laws favorable to the Adivasis. There should be panchayat elections following the provisions of the PESA, 1996. The Gram Sabhas should be empow-

ered. Memoranda of Understanding (MoU) signed by the government with MNC that endanger the existence of "tribals" should be cancelled immediately. Tribal issues should be given top priority. Solid policy regarding migration and displacement should be formulated. There should be package for domestic working girls so that women migration can be stopped, suggests Satnagar.

6. Collective Rights of "Tribals"

P. N. Surin believes that the collective rights of indigenous peoples to land, forest, water and other natural resources should be respected. He said that though the "scheduled areas" had special provisions for "tribals," these had been completely violated by the State.

7. Self Rule for Development

Salkhan recommended *Hasa* (land), *Bhasha* (language) and *PESA* (Panchayat Extension in Scheduled Areas) for the prosperity of the "tribals" in Jharkhand. He suggested that "tribals" should talk to everyone and that they should be the nucleus of everything. According to him, "tribals" should have alternate political power. They should come together in the name of *adivasi*ness. "Wherever displacements are taking place," he said, "we should come together to oppose them." He was strongly in favor of supporting the movements.

Salkhan emphasized five points: (a) there should be a sense of urgency among "tribals" to safeguard their rights; (b) there should be coordination between social, economic and political power; (c) there should be a link between micro and macro vision and action in the context of Jharkhand because the national parties cannot do this; (d) there should be a strategic approach and priority; and (e) there should be a united mass agitation and action against land alienation and any regime supporting anti-tribal activities.

VI. Conclusion and Recommendations

A. Summing Up

This evaluation study: (a) provided an overview of the situation of the indigenous peoples in India; (b) summarized and analyzed various policies of national and State Governments which have bearing on the survival and livelihood of indigenous peoples; (c) discussed judicial interventions and human rights; and (d) presented the findings of the regional workshop on the Indigenous People's Decade in Jharkhand held in 2006.

The first chapter provided the context of the research, including the objectives and methodology.

The second chapter discussed the profile of the indigenous peoples, examining their demographic, socio-economic, political, educational, and health profile. It highlighted the plight of the indigenous peoples in the five states, namely: Andhra Pradesh, Jharkhand, Himachal Pradesh, Orissa and Rajasthan, which have special provisions for the indigenous peoples. Discussion included human development indicators in relation to indigenous peoples and showed that indigenous peoples lag behind all other ethnic groups of India in terms of human development index and gender development index. The poor infrastructural development and inaccessibility in tribal inhabited regions has further multiplied their problems in five decades of planned development. The basic amenities of life, like drinking water, health, sanitation, primary education and public distribution systems are inaccessible to tribal villages. This has resulted in a high infant mortality, maternal mortality and overall health related problems of indigenous peoples.

The third chapter presented a brief summary of each of the policies either on the indigenous peoples or policies affecting them. The policies are examined according to the following topics: (a) constitutional provisions; (b) natural resources; (c) food security; (d) economic empowerment; (e) political empowerment; (f) education; (g) gender; and (h) health. This chapter critiques the policies of the government from the perspective of the indigenous peoples. The hopes and aspirations of the UN Decade in areas of

equality, freedom and dignity, despite so many policies in the name of the indigenous peoples, seem to have taken a back seat.

One thing has been observed in all the policies affecting indigenous peoples. Each preamble is invariably very positive about upholding the life and dignity of people in general and of indigenous peoples in particular. But if one carefully reads between the lines, one finds that these policies do not have anything concrete to offer. For example, all the policies concerning land, forest, water, mining, industries and rehabilitation, claim to make certain provisions for indigenous peoples but the reality is that each of them takes away the rights of the indigenous peoples. The focus of policies is commercial rather than a holistic development of all. If we scrutinize the objective of the Indigenous People's Decade on this count, the results would be disappointing due to the threat to the indigenous peoples' survival which had never been as acute as it is today.

The fourth chapter presented three trends, which have emerged from the analysis of judicial interventions and human rights in relation to indigenous peoples. Firstly, it is revealed that in the last decade, some of the judicial interventions had been favorable to tribals. Secondly, despite the fact that some of the court verdicts were favorable to tribals, these were either ignored by the enforcing agencies or nullified by vested interests in course of time. Thirdly, irrespective of constitutional and legal safeguards for the indigenous peoples, human rights violations continue in relation to their livelihoods, identity, dignity and survival.

The fifth chapter documents people's voices, their hopes, aspirations, dreams and frustrations. The chapter is a report of a regional meeting held at Ranchi in Jharkhand. The voices from the field reveal that while the plight of the indigenous peoples in India in the "Decade" seems to have improved in the areas of education, health, and gender, it has in fact worsened in terms of human rights and their customary right to natural resources. Human and constitutional rights of indigenous peoples have been constantly violated not only by vested interests such as the capitalists and industrialists but also by the state. Often, the state comes across as the biggest perpetrator of human rights violations as far as the indigenous peoples are concerned. This is clearly seen in evictions of "tribals" from forest areas and signing of memoranda

by States with multinational companies which displace millions of indigenous peoples from their habitat. And all this has happened despite the UN declaration of the Indigenous People's Decade.

B. Conclusions and Suggestions

1. The First Indigenous People's Decade

The question whether there has been any qualitative change as a result of the declaration of the Indigenous People's Decade is rather complex. The government has officially not recognized the indigenous peoples' existence in India. However, if there are so many legislations and policies in their name, one may infer that the UN declaration implicitly puts pressure upon the Indian government so that the latter could not ignore the issues and problems pertaining to the indigenous peoples. Nevertheless, the situation of the indigenous peoples has only deteriorated due to the processes of liberalization and globalization.

The relevant question, therefore, is whether the declaration of the Indigenous People's Decade has conditioned the policies and program of the government in favor of the indigenous peoples. The following conclusion can be drawn from our study:

- Indigenous peoples in India in general and those in the Scheduled Areas in particular are living in a pathetic condition. Their socio-economic status is far behind that of other communities;
- One can see little impact of the UN declaration in terms of some policies. One can also find space for international solidarity with the indigenous peoples' cause. However, this consciousness has been limited to the circle of the indigenous intelligentsia and the NGOs. The level of awareness about the UN activities among the common people has been very low;
- No significant changes can be observed in the quality of life of indigenous peoples during the Decade; rather, one can see their situation deteriorating;
- Various policies and programs of the Central and State Governments have not been formulated with the clear

objective of ameliorating the indigenous peoples conditions.

- Whatever policies there are that could be considered as advantageous to the indigenous peoples are not implemented properly;
- Policies and laws have been enacted for the betterment of the indigenous peoples but the stakeholders themselves are ignorant of them. They do not have a voice in the decision making process. Hence, there is hardly any common Indigenous Person, barring a few associated with the NGOs, who know about laws and polices meant for them;
- The UN-declared Indigenous People's Decade (1995-2005) was publicized in urban areas but did not reach tribals at the grassroots.

What appears to be clear is the deliberate denial of indigenous peoples in India in order to avoid embarrassment on the part of the government considering the sad plight of the indigenous peoples as a result of rampant industrialization and militarization of tribal areas. The fulfillment of the main objectives of the First International Decade of the World's Indigenous People has not been satisfactory. That is why the UN declared the second consecutive International Decade of the World's Indigenous People. Concrete strategic measures need to be taken to address indigenous peoples' issues.

2. Recommendations for the Second Indigenous Peoples' Decade

Collective Model of Development. The main problems of the indigenous peoples in rural India are migration, displacement, depletion of livelihood sources, alienation of land, crisis of identity, and so on. If there is seriousness in addressing these problems, one has to find another model of development which is collective and communitarian rather than individualistic. This would mean setting up cooperatives, vocational training centers, educational support for indigenous children, and the like. Communal rights of indigenous peoples need be respected in terms of land, forest, water and other natural resources.

Priority to Agriculture Sector. Tribal economy is primarily peasant economy. If migration of tribals has to be checked, priority should be given to develop agriculture and related industries.

Participation of "Tribals" in Decision-making Processes. Efforts have to be made for the "real" political empowerment of tribals so that they can shape their own destiny.

Research on Tribal Issues. There is a need for research on issues and problems of tribals, including their history, identity, social life, economy, politics, and so on. This would facilitate the process of finding an alternative for tribal development.

Political Education for "Tribals." Tribals' entry into politics is a prerequisite for addressing their problems. "Tribals" should advocate inclusion of their issues and concerns in UN policies and programs. Politics should facilitate the assertion of the rights of "tribals"; it should not become a tool in the hands of powerful vested interests. True leaders should be identified and work concertedly towards assertion of their identity and dignity.

Evolve Mechanism to Pressure the Government. A mechanism should be evolved to maintain pressure on the government to recognize the tribals of India as "Indigenous Peoples." One of the ways in which this can be done is to mobilize and support regional tribal groups which are part of movements for self assertion at the local level.

All this should be in view of giving indigenous peoples a dignified life through social, economic and political empowerment. If that comes through, the indigenous peoples will be able to preserve, protect and promote their identity and culture even while competing with the so-called mainstream society of the country.

Endnotes

[1] For example, Articles 15(4), 15, 16(4), 19(5), 23, 29, 46, 164, 330, 332, 338, 339(1), 371(A), 371(B), and 371(C).

[2] More popularly known as "reservation."

[3] Based on the notification of the President of India in 1950, Scheduled Tribes are "scheduled" in specific states and as such are recognized as Scheduled Tribes only in those states.

[4] In common parlance "a land record;" it was also known as a premodern institution under which a zamindar as a rent collecting agent of the state used to issue a letter on behalf of the state offering a bloc of land to a raiyat under certain terms and conditions.

[5] The fact that the policy talks of "acquiring" land shows that the land does not belong to the government and hence it has to have "power to acquire land" through the Land Acquisition Act of 1894 or "purchase land from any person through consent and may enter into an agreement for this purpose."

[6] This is done by publishing in at least two daily newspapers, one of them being in the local vernacular having circulation in villages or areas which are likely to be affected. It is also done by "affixing a copy of the notification on the Notice Board of the concerned Gram Panchayats (GP) and other prominent place or places in the affected zone."

[7] Head of a panchayat.

[8] This is based on Entry 54 of the union list (list-I) and Entry 23 of the state list (list- II) that comes under the Seventh Schedule of the Constitution of India.

[9] In Kalinga Nagar in Orissa, 13 "tribals" were killed by the Orissa police while acquiring land.

[10] (a) a person who is not a citizen of India; (b) a citizen of India, who is a nonresident as defined in clause (30) of section 2 of the Incometax Act, 1961; (c) a body corporate, association or organization (i) not incorporated or registered in India; or (ii) incorporated or registered in India under any law for the time being in force which has any non Indian participation in its share capital or management.

[11] The survey includes information about: (a) the resource base including land, water, and forest; (b) the economic base of the affected areas including the modes and magnitude of production, consumption patterns, and allocation of various productive resources; and (c) the social milieu structure, norms, customs, cultural centers, traditions, patterns of leadership, and institutions of social networking.

[12] Examples include the Minimum Wages Act, Payment of Wages Act,

Payment of Bonus Act, Equal Remuneration Act, Contract Labour Act, Maternity Benefit Act, Child Labour Prohibition Act, and Workmen's Compensation Act.

[13] Terms include "dispute," "self-employed worker," "contractor," "principal employer," etc.

[14] Navodaya Vidyalayas were started by the Government of India to provide free education to talented students from rural background in every district of India.

[15] The grants-in-aid under article 275(1) of the Constitution of India and specific schemes such as Tribal Sub-Plan launched in 1974 have been the key instruments of the Government of India to translate the Constitutional guarantees into reality. In 1997, the Programme Evaluation organization of the Planning Commission of India undertook a study on grants-in-aid under article 275(1) from 1992-93 to 1995-96 and found that the flow of funds from the State to the project authorities was not according to the guidelines. Most of the States had used the funds for infrastructure facilities like irrigation, roads, bridges, school buildings and the like while the funds were intended for the resettlement of "tribals" practicing shifting cultivation, development of forest villages, and medial assistance to "tribals" suffering from specific diseases, among others.

[16] Panchayats constitute the third tier of governance.

[17] Includes the following issues: formal education, traditional wisdom, health, displacement and resettlement, forest villages, shifting cultivation, land alienation, intellectual property rights, tribal languages, primitive tribal groups, scheduled tribes and scheduled areas, tribal administration, research, participation, and assimilation.

[18] Regional consultations were held in North Eastern region (2-4 June 2004 at Village Akajan, Assam), Eastern region (24-25 July 2004 at Ranchi, Jharkhand), Southern region (4-6 September 2004 at Bangalore, Karnataka), and Western region (9-10 September 2004 at Ahmedabad, Gujarat).

[19] "New Initiatives for Tribal Development in the Common Minimum Programme," in Janjatiya Jagran (15th October, 2004, vol. 1, pp. 1 and 3).

[20] Leaves used to make country cigarette called "bidi."

[21] An instrument for empowering "scheduled tribes" and for ensuring involvement of local communities in management and control of natural resources.

[22] The SAPI was floated as a non-formal forum of and for the marginalized communities to mobilize and organize their leadership to participate in World Social Forum (WSF) 2004.

[23] Including records, documents, memos, emails, opinions, advises, press releases, circulars, orders, logbooks, contracts, reports, papers,

samples, models, data held in any electronic form from public authorities.

[24] Subject to a maximum of 25,000 rupees.

[25] A tribal lawyer practicing in the Jharkhand High Court.

[26] National Population Policy, 2000; the National Agriculture Policy, 2000; the National Health Policy, 2000; the National Education Policy, 1986 (revised in 1992).

[27] The Tribune January 2, 2006.

[28] MoW, 1996:31.

[29] Further, high incidence of malnutrition is observed among tribal groups in Koraput, Balangir, Kalahandi, Sundergarh, Kandhamal, and Gajpati district of Orissa; Bhils, Saharias, and Garasias of Rajasthan; the Padhers, Rabris, and Yerukulas of Andhra Pradesh.

[30] JOHAR, Ranchi, (Interview).

[31] Executive Director, The Other Media, (Interview).

[32] Director, Swargina Gramin Vikas Kendra, Daltganj, (Interview).

[33] Executive Director, Chetnalaya, (Interview).

[34] Executive Director, Indian Social Institute, (Interview).

[35] A Bench composed of Justices B.N. Kirpal, Santosh Hegde, and Ashok Bhan.

[36] Interlocutory Application No.703 in Writ Petition No. 202/95.

[37] The major cases with regard to the Sardar Sarovar Project are: (i) Pradip Prabhu vs Government of Maharashtra, Supreme Court, 1995; (ii) Narmada Bachao Andolan vs Union of India [minority Judgement], Supreme Court, 18 Oct 2000; (iii) Narmada Bachao Andolan vs Union of India [review Judgement], Supreme Court, 29 March 2001; (iv) Narmada Bachao Andolan vs Union of India, Supreme Court, 16 April 2004; and (v) Narmada Bachao Andolan vs Union of India, Supreme Court, 15 March 2005.

[38] Justice Kuldip Singh, N Venketachalia and S Sagir Ahmed, March 7, 1995.

[39] Hunger deaths in Rajasthan, India, amid plenty, <http://www.mindfully.org/Food/Hunger-Deaths-Amid-Plenty22oct02.htm/>. A joint fact finding report carried out by People's Union for Civil Liberties, Sankalp and the Bharat Gyan Vigyan Samiti, Rajasthan is available in the above link.

[40] Orissa: Probing Starvation Deaths [Editorial], EPW, August 24, 2002.

[41] Oct 6, 2004, The Hindu reports death of Lambada tribals in village of Machareddy mandal, a village covered under the governments food assurance programme.

[42] "Benami" means "without name." In this case, land often remains in the name of original land holder but the person is reduced to a mere share cropper or bonded laborer.

[43] Police fired at a gathering of "tribals" in Tapkara outpost under the Torpa police station in Ranchi district of Jharkhand on 2nd February 2001 killing seven tribals and a Muslim, who were protesting high-handedness of the police.

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ANNEX

Annex 1. Scheduled Tribes of the Selected States

Andhra Pradesh

(1) Andh; (2) Bagata; (3) Bhil; (4) Chenchu, Cenchwar; (5) Gadabas; (6) Gond, Naikpod, Rajgond; (7) Goudu (in the Agency Tracts); (8) Hill Reddis; (9) Jatapus; (10) Kammara; (11) Kattunayakan; (12) Kolam, Mannervarlu; (13) Konda Dhoras; (14) Konda Kapus; (15) Kondareddis; (16) Kondhs, Kodi, Kodhu, Desaya Kondhs, Dongria Kondhs, Kuttiya Kondhs, Titiria Kondhs, Yenity Kondhs; (17) Kotia, Bentho Oriya, Bartika, Dhulia,Dulia, Holva, Paiko, Putiya, Sanrona, Sidhopaiko; (18) Koya, Goud, Rajah, Rasha Koya, Lingadhari Koya (ordinary), Kottu Koya, Bhine Koya, Rajkoya; (19) Kulia; (20) Malis (excluding Adilabad, Hyderabad, Karimnagar, Khammam, Mahbubnagar, Medak, Nalgonda, Nizamabad and Warangal districts); (21) Manna Dhora; (22) Mukha Dhora, Nooka Dhora; (23) Nayaks (in the Agency tracts); (24) Pardhan; (25) Porja, Parangiperja; (26) Reddi Dhoras; (27) Rona, Rena; (28) Savaras, Kapu Savaras, Maliya Savaras, Khutto Savaras; (29) Sugalis, Lambadis; (30) Thoti (in Adibalabad, Hyderabnad, Karimnagar, Khammam, Mahbubnagar, Medak, Nalgonda, Nizamabad and Warangal districts); (31) Valmiki (in the Agency tracts); (32) Yenadis; (33) Yerukulas.

Himachal Pradesh

(1) Bhot, Bodh; (2) Gaddi (excluding the territories specified in sub-section (1) of section 5 of the Punjab Reorganisation Act 1966 (31 of 1966), other than the Lahul and Spiti district); (3) Gujjar (excluding the territories specified in sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966); (4) Jad, Lamba, Khampa; (5) Kanaura, Kinnara; (6) Lahula; (7) Pangwala; (8) Swangla.

Jharkhand

(1) Asur; (2) Baiga; (3) Banjara; (4)Bathudi; (5) Bedia; (6) Binjhia; (7) Birhor; (8) Birjia; (9) Chero; (10) Chick Baraik; (11) Gond; (12) Gorait; (13) Ho; (14) Karmali; (15) Kharia; (16) Kharwar; (17) Khond; (18) Kisan; (19) Kora; (20) Korwa; (21) Lohra; (22) Mahli; (23) Mal Pahariya; (24) Munda; (25) Oraon; (26) Parhaiya; (27) Santhal; (28) Sauria Paharia; (29) Savar; (30) Bhumij.

Orissa

(1) Bagata; (2) Baiga; (3) Banjara, Banjari; (4) Bathudi; (5) Bhottada, Dhotada; (6) Bhuiya, Bhuyan; (7) Bhumia; (8) Bhumij; (9) Bhunjia; (10) Binjhal; (11) Binjhia, Binjhoa; (12) Birhor; (13) Bondo Poraja; (14) Chenchu; (15) Dal; (16) Desua Bhumij; (17) Dharua; (18) Didayi; (19) Gadaba; (20) Gandia; (21) Ghara; (22) Gond, Gondo; (23) Ho; (24) Halva; (25) Jatapu; (26) Juang; (27) Kandha Guada; (28) Kanwar; (29) Kharia, Kharian; (30) Kharwar; (31) Khond, Kond, Kandha, Nanguli Kandha, Sitha Kandha; (32) Kisan; (33) Kol; (34) Kolah Loharas, Kol Loharas; (35) Kolha; (36) Koli, Malhar; (37) Kondadora; (38) Kora; (39) Korua; (40) Kotia; (41) Koya; (42) Kulis; (43) Lodha; (44) Madia; (45) Mahali; (46) Mankidi; (47) Mankirdia; (48) Matya; (49) Mirdhas; (50) Munda, Munda Lohara, Munda Mahalis; (51) Mundari; (52) Omanatya; (53) Oroan (54) Parenga; (55) Oaroja; (56) Pentia; (57) Rajuar; (58) Santal; (59) Saora, Savar, Saura, Sahara; (60) Shabar, Lodha; (61) Sounti; (62) Tharua.

Rajasthan

(1) Bhil, Bhil Garasia, Dholi Bhil, Dungri Bhil, Dungri Garasia, Mewasi Bhil, Rawal Bhil, Tadvi Bhil, Bhagalia, Bhilala, Pawra, Vasava, Vasave; (2) Bhil Mina; (3) Damor, Damaria; (4) Dhanka, Tadvi, Tetaria, Valvi; (5) Garasia (excluding Rajput Garasia); (6) Kathodi, Katkari, Dhor Kathodi, Dhor Katkari, Son Kathodi, son Katkari; (7) Kokna, Kokni, Kukna; (8) Koli Dhor, Tokre Koli, Kolcha, Kolgha; (9) Mina; (10) Naikda, Nayaka, Cholivala Nayaka, Kapadia Nayaka, Mota Nayaka, Nana Nayaka; (11) Patelia; (12) Seharia, Sehria, Sahariya.

5

An Assessment of the UN International Decade of the World's Indigenous People in Northeastern India

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This report is an assessment of the UN International Decade of the World's Indigenous People (or Indigenous People's Decade). It will also discuss diversity, conflicts and other events as the occasion arises because they represent the challenges and problems faced by the region. Specifically, this report is organized according to the following topics: (a) The indigenous peoples in northeast India; (b) Autonomy and the indigenous status in northeastern India; (c) National and northeast Policies and the indigenous issue; (d) Official policies and the indigenous peoples of Asom; (e) Awareness of and reaction to the Indigenous People's Decade; and (f) Conclusion.

I. The Indigenous Peoples in Northeast India

The geographical area called Northeast India comprises the states known as the "seven sisters," namely Arunachal Pradesh, Asom,[1] Manipur, Meghalaya, Mizoram, Nagaland, and Tripura.[2]

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There is diversity among the seven states. Some areas in the region have witnessed ethnic clashes and other conflicts for more than 50 years. Conflicts result from demands for socio-economic equality, regional autonomy, or from competition over land and political rights. Some people demand sovereignty, which does not necessarily mean independence. These conflicts indicate the ethnic and cultural diversity in the region.

A. The Northeast as a Region

Northeast India accounts for nine per cent of India's geographical area. According to the 2001 census, the seven states have a total population of more than 38 million or 3.6 percent of India's total population. The region's decadal population growth rate declined from 27.4 percent in 1981-1991 to 25.29 percent in 1991-2001. Nevertheless, the figure is higher than the national average of 21.54 percent (see column for "% decadal growth, 1991-2001" in Table 1). Among the seven States, the decadal growth for 1991-2001 varied from a low of 16.03 percent in Tripura to a high of 64.52 percent in Nagaland. It declined in Mizoram, Meghalaya, Asom, and Tripura and increased marginally in Nagaland and Manipur by 8.3 and 0.7 points respectively. High population growth rates could be due to large families and the influx of immigrants from outside the region.

Nearly 54 percent of northeast India is recorded as forests that range from the tropical forests in the plains to the sub-tropical, temperate and alpine ecosystem in the hills (FRI, 1999). They contain more than a third of India's biodiversity, which depends on its unique climatic and topographic conditions. Together with Myamnar, it is one of the world's 25 mega-biodiversity zones and one of 18 biodiversity hot spots. The region is also strategically important because all seven States border on one or more neighboring countries of Bangladesh, Myanmar, China, and Bhutan. The border stretches to over 1,450 kilometers.

Table 1. Total Population and Decadal Growth in the North Eastern Region

States	Total Population		% decadal growth	Tribal Population	Tribal % to Total Population
Region/States	*1991*	*2001*	*1991-2001*	*2001*	*2001*
India	**846387888**	**1028737436***	**21.54**	**84,326,240**	**8.20**
Arunachal Pr	864558	10,97,968	26.21	705158	**64.22**
Assam	22414322	266,55,528	18.92	3308570	**12.41**
Manipur	1837149	22,93,896*	24.86	741141**	**32.31**
Meghalaya	1774774	23,18,822	30.65	1992862	**85.94**
Mizoram	689756	8,88,573	28.82	839310	**94.46**
Nagaland	1209546	19,90,036	64.52	1774026	**89.15**
Tripura	2757205	31,99,203	16.03	993426	**31.05**
North East	**30,682,752**	**38,444,026**	**25.29**	**10,354,493**	**26.93**

** Including the estimated figure of Mao-Maram, Paomata and Purul sub-divisions of Senapati district.*

***Excluding the population of Mao Maram, Paomata & Purul Sub-divisions.*

Source: Registrar General and Census Commissioner (1991, 2001a, and 2001b).

B. The 'Tribals' of Northeast India

More than 10.3 million of India's "tribals" live in northeast India. This number represents 12.28 percent of India's 84.3 million "tribals" or 27.68 percent of the population in the region. They are neither homogeneous nor equally distributed among the States. In 1991, tribal populations made up 94.7 percent in Mizoram, 87.7 percent in Nagaland, 85.5 percent in Meghalaya, and 34.4 percent in Manipur. In Arunachal Pradesh, their population declined from over 90 percent in 1951 to 69.8 percent in 1981. It further declined to 63.6 percent in 1991, and then rose slightly to 64.22 percent in 2001.[3] In Tripura, their population declined from 58 percent in 1951 to 30.4 percent in 1991, and then increased slightly to 31 percent by 2001 (see Table 1).

"Tribals" make up a minority in the populous States of Manipur, Tripura and Asom even though there are districts where they make up a majority (see Annex 1, Table A). In States where they are a minority, the tribals feel discriminated against by the majority. In Asom, the Mizo struggled against what they considered "Assamese domination" and got their State as the Naga had done earlier (Fernandes 2005a:91-92). Demands for autonomy by some tribes resulted in the extension of the Sixth Schedule[4] to the Karbi and the Dimasa, the formation of Meghalaya in 1972, and the Boro Territorial Council in 2003. The Naga have been demanding the inclusion of all the Naga-inhabited areas in Nagalim (or "Greater Nagaland").

The Government of India recognizes many of the tribal groups as "scheduled tribes" (see Box 1 for the list of main tribal groups of the region). Some of them (like the Boro and Dimasa) live in the plains but most of them inhabit the hills. The tribes also vary in number and in proportion to the majority population.

There is diversity in their origins. Many of those who are indigenous to northeastern India belong to the Mongoloid stock and speak Sino-Tibetan languages. However, there are also non-Mongoloid groups like the ethnic Assamese and some Bengali communities who consider themselves indigenous to the region. Among the other inhabitants of Asom are the *Adivasi* and other plantation laborers who immigrated from Jharkhand, Chattisgarh, Orissa

and their neighboring areas in the 19th and early 20th centuries and the more recent Bihari, Bangladeshi, and Nepali immigrants. The Bengalis who make up the majority in Tripura are post-1946 Hindu immigrants from the present day Bangladesh. It is important to understand this diversity because it is one of the major causes of the conflicts in the region.

Box 1. Ethnic Groups Recognized as Scheduled Tribes

Arunachal Pradesh

Arunachal Pradesh has more than 80 ethnic groups but only 12 are recognized as "scheduled tribes": 1. Abor, 2. Aka, 3. Apatani, 4. Dajla, 5. Galong, 6. Khampti, 7. Khowa, 8. Mishmi, 9. Mongba, 10. Any Naga Tribe (Wancho, Tangsa, and Nocte), 11. Sherdukpen, 12. Singpho.

Nagaland

Five groups are listed as "scheduled tribes" in Nagaland: 1. Garo, 2. Kachari, 3. Kuki, 4. Mikir, 5. Nagas.

Manipur

The tribes in Manipur can be broadly categorized as Naga groups, Kuki-Chin-Zomi and others. Twenty-nine of them are recognized as "scheduled tribes": **A. Nagas:** 1. Anal, 2. Angami, 3. Chiru, 4. Chothe, 5. Kabui, 6. Kacha Naga, 7. Koireng, 8. Lamkang, 9. Mao, 10. Maram, 11. Maring, 12. Monsang, 13. Moyong, 14. Sema, and 15. Tangkhul. **B. Kuki-Chin-Zomi**: 16. Aimol, 17. Gangte, 18. Hmar, 19. Vaiphei, 20. Koirao, 21. Kom, 22. Any Mizo (Lushai), 23. Paite, 24. Purum, 25. Ralte, 26. Suhte, 27. Simte, 28. Suhte and 29. Thadou (Kuki).

Meghalaya

In Meghalaya, 17 ethnic groups are recognized as "scheduled tribes": 1. Boro, 2. Kachari, 3. Chakma, 4. Dimasa, 5. Garo, 6. Hajong, 7. Hmar, 8. Khasi, 9. Jaintia, 10. Koch, 11. Any Kuki Tribe, 12. Lakher, 13. Man (Tai speaking), 14. Any Mizo, 15. Mikir, 16. Any Nagas, 17. Pawi, Rabha, and Synteng.

Mizoram

The word Mizo refers to the people, and Ram, the land. The State has 15 ethnic groups listed as "scheduled tribes:" 1. Chakma, 2. Dimasa, 3. Garo, 4. Hajong, 5. Hmar, 6. Khasi, 7. Jaintai, 8. Any

Kukis, 9. Lakher, 10. Man (Tai speaking), 11. Any Mizo, 12. Mikir, 13. Any Nagas, 14. Pawi, and 15. Synteng.

Tripura

Nineteen groups are recognized as "scheduled tribes" in Tripura: 1. Bhil, 2. Bhutia, 3. Chaimal, 4. Chakma, 5. Garo, 6. Halam, 7. Jamatia, 8. Khasi, 9. Any Kuki, 10. Lepcha, 11. Lushai, 12. Nag, 13. Munda, 14. Naotia, 15. Orang, 16. Reang, 17. Santhal, 18. Tripuri, Trupiri, Treppera; 19. Uchai.

Assam

Assam has some 23 "scheduled tribes": 1. Chakma, 2. Dimasa, 3. Garo, 4. Hajong, 5. Hmar, 6. Khasi, Jaintia, Synteng, Pnar, Bhoi, 7. Any Kuki tribe, 8. Lakher, 9. Man (Tai speaking), 10. Any Mizo (Lushai), 11. Mikir, 12. Any Naga, 13. Pawi, 14. Sytheng, 15. Barmans, 16. Boro, 17. Deori, 18. Hojai, 19. Kachari, 20. Lalung, 21. Mech, 22. Miri, 23. Rabha.

(Source: Shimray 2006:7)

C. Tribal Economy and Land

Most traditional tribal economies center on shifting or wet rice terrace cultivation with a tree-based agro-ecosystem that is home to a variety of indigenous wild as well as cultivated crops, plants and animals. These systems are:

> *closely linked with a variety of natural forested ecosystem types, ranging from dry deciduous to humid rainforest systems. They live in harmony with their natural environment obtaining a variety of resources that may provide cash income. They are also involved with a wide range of land-use activities, chiefly for food production, from shifting agriculture on one extreme to a variety of sedentary agro-ecosystem types on the other. All these agro-ecosystem types have close interconnection both with natural forest and with complex village ecosystem (Ramakrishnan 1999:176).*

Most tribes depend on subsistence agriculture with the forests supplementing it.

> *The forest, rangelands and farming systems were managed by the tribal societies as multiple systems. They met their needs*

through a long tradition of carefully maintaining forest resources. The cultural beliefs…contributed a lot to biological diversity and environmental protection, along with materials such as food, shelter, medicine, plants and many social customs and religious rituals. The principle of co-existence between the natural environment and human beings is thus developed and presented as a distinctive physical phenomenon in this mountain region. (Aier and Changkija, 2003:334).

Due to the people's high dependence on land, immigration as well as development projects cause land shortages, which in turn lead to conflicts.

1. The Role of Land in Conflicts

Conflicts, which are found in most states, are offshoots of unequal power relations among the ethnic groups. Conflicts are expressions of aspirations for protection of ethnic territories and resources, not for political independence. For example, Manipur faced social turmoil and political instability that included ethnic clashes between the Naga and Kuki, between the Meitei and Pangal, and between the Paite and Kuki in the 1990s. The year 2001 saw tensions between the Naga and Meitei with the latter opposing the demand for the political integration of all the Naga areas. Integration is an effort to control land and jobs (Shimray 2006:12). Land is central to the Bodo-Santhal (Roy 1995) and the Dimasa-Hmar tension in Asom (*The Telegraph,* 23 April 2003), the Tripura tribal demand for a homeland (Bhaumik, 2003:84-85) and other conflicts. At stake is their livelihood of land, water and biodiversity around which they have built their culture, economy and identity.

2. Immigration and Conflicts

Immigration is an important cause of land alienation, which then leads to conflicts. Immigrants encroach on tribal lands, which lead to land shortages. Immigration is not new to northeast India. For over a thousand years, nomadic communities from East and Southeast Asia settled in the region and integrated with the local people. Although there were a few conflicts, immigration did not cause a major loss of livelihood because resources were abundant.

The myths and languages spoken in the region substantiate the claim that it is a region of immigrants. For example, a legend of the Mizo traces their origin to Singlung in China. The Khasi seems to have come to the present-day Meghalaya from Annam in Cambodia because they speak a Mon-Khmer language of that region (Ghosal, 2003:47). Their myth indicates that they were forced to move out of their habitat after a conflict.[5] The forest conservation myths of the Angami indicate that they migrated to the region after the clan got an identity of its own. When they came to their new habitat, their main concern was the village, not the clan. So they built beliefs in the spirits of the village and of the forests, not around the origin of the clan as a whole (Kekhrieseno, 2002:179-180).

The region continued to be an immigration area in the 19th and 20th centuries. The difference is that it resulted from deliberate British policies, which caused many conflicts. Prominent among the immigrants are the *Adivasi* and other tea garden workers. Impoverished by the policy of Permanent Settlement 1793, they were displaced from Jharkhand and neighboring regions and were brought to Asom as indentured labor to work in its tea gardens. Such policies displaced people all over South Asia (not just in Jharkhand) and migrated to different British colonies including South India, Sri Lanka, the present day Bangladesh, the Caribbean islands, Fiji, Mauritius, and East and South Africa (Sen, 1979:8-12). In Asom, the Ahom, Bodo-Kachari, Koch and others lost their land due to the Assam Land Rules 1838, which was meant to make land acquisition easy for tea gardens and mining (Barbora, 1998).

The British themselves also brought immigrants to the region. Since the British system of administration was substantially different from that of Asom, they brought with them Bengalis who were conversant with it (Gopalakrishnan, et al., 2002: 52-53). This affected several tribes. The Bengali service class of clerical and semi-skilled workers who came as administrators and railroad workers used the Bengali language as the medium of instruction in the Barak Valley. This affected the Dimasa who had to struggle to retain their cultural traditions, history and identity. Today, they are reacting to what they consider as imposition of an alien ethos and are trying to re-invent their origin by "going back" to their

traditional culture and identity (Fernandes and Barbora, 2002a:56-58). The link between immigration, cultural hegemony, and land loss that began in the colonial age continues today.

The region witnessed massive immigration of Bengali Hindus at the Partition and of Tibetans in 1959 (Subba, 2002). Since the late 1970s, Bangladeshi Muslims as well as Hindus from Bangladesh and Nepal came to the region. Because of the immigration of Bengali Hindus the tribal population of Tripura has declined from 58 per cent in 1951 (Sen 1993:13) to 31 percent today. According to estimates, there are more than 200,000 Burmese refugees in Burma's neighboring countries. Over 40,000 of them are in northeast India, mostly in Mizoram (Das, 2002:75).

The number of each group is difficult to know but the 2001 census indicates that Asom has about 1.6 million Muslims of Bangladeshi origin and some 2.4 million Hindus from outside the region, mostly of Bihari and Nepali origin (Fernandes 2005b:3238).

The push and pull factors facilitate immigration and encroachment. The push factors are poverty, feudalism, and lack of land reform in the immigrants' place of origin (i.e., Bihar, Nepal, or Bangladesh). The first pull factor is the legal system that recognizes only individual ownership and thus encourages encroachment on the tribal communal property resources (CPR), which the formal law treats as State property. The decline in Tripura's proportion of tribal land since 1951 is rooted mostly in the encroachment of Hindu Bangladeshis who first came in 1946. Their influx continues. They have acquired Indian citizenship and have become its dominant community (Bhaumik 2003:84). The second pull factor is the need for cheap labor. The immigrants work in construction and other areas at wages lower than the local people receive.

Aside from immigration, the separate histories of the local people and the immigrants add to the tension. Most immigrants who are agricultural laborers know the cultivation techniques, which they use to grow tree crops on the fertile land they occupy and make them prosper. Most people of northeastern India engage in single crop economy. The sharecropper system that developed in regions like Asom discouraged the peasants from growing a second crop since half or more of what they grew went to the *zamindar*[6] (Majumdar, 2002:107-108). *Jhum*[7] on which the Hill

areas depended kept the tribes at single cropping. Conflicts results when the local people try to defend their livelihood by reacting to all outsiders who they feel prosper at their cost. When the shortages overtake them, they compete among themselves for the scarce resources.

3. Land and Land Laws

Changing land laws and land relations have to be seen in the context of such threats to their livelihood. Changes in immigration and in land laws began in the colonial age and intensified after 1947. Nineteenth century colonial expansion and post-independence State formation left many tribes divided into different States. For example, the Nagas are in Asom, Manipur, Arunachal Pradesh, and Nagaland. The same is true of the Garo, the Boro and others. The concept of State territorial politics was imposed on them (Shimray, 2006) and created more conflicts and tensions.

Land alienation intensifies the shortages. However, in States like Nagaland where it is not easy for outsiders to get land, land alienation is within the tribe. Their elite that monopolize their land and other assets are able to divert attention from the issue by concentrating only on the outsiders and immigrants (Barbora, 2002).

The tendency to view the nation from the perspective of the center rather than the periphery also has implications for land relations in the region. For centuries, the predominantly community-based tribal customary laws and management systems have treated natural resources as renewable. It has built a culture and an economy based on their sustainable use. However, India's laws are individual-based and founded on the principle of the State's eminent domain. In this view, land is only a commodity for cultivation and construction. Formal law ignores the tribal worldview that natural resources belong to an ecosystem with the local community at its center.

Such was the prevalent view when the colonial regime enacted land laws in the 19th century, which aimed to exploit the resources of South Asia to suit the needs of the changing British economy. The British turned the colony into a supplier of capital and raw material for the British Indus-trial Revolution and a cap-

tive market for its finished goods. The British monopolized land for the coal mines, coffee and tea plantations, railways, roads and other schemes. The principle guiding the land laws was the State's eminent domain.[8] Its first facet is that land without an individual *patta*[9] is State property. The second is that the State alone has the right to define a public purpose and deprive even individual owners of their assets. This power is overriding (Ramanathan, 1999:19-20). The process of turning land into a commodity and facilitating its transfer began with the Permanent Settlement 1793, continued in the Assam Land Rules 1838 and other laws, and culminated in the Land Acquisition Act 1894 that remains in force today (Upadhyay and Raman, 1998).

The colonialists left the Hill areas untouched since they needed them more for their taxes and handicrafts than for land. For example, after the conquest of Manipur in 1891, they kept the dual administration intact. They kept the Hill areas directly under the British Crown and entrusted village administration to the chieftain. The Manipuri (Meitei) Maharaja was recognized as the sole ruler of the valley and claimed absolute ownership of all its land but the British exercised more control over it than over the Hills (Guite, 2000). Changes affecting them began with The Assam Land and Revenue Regulations 1886 (AL&RR) that superseded the Settlement Rules of 1870 and 1883. They became the basis for others since the need to occupy tribal land arose mainly after 1947. The AL&RR was promulgated in Manipur and Tripura as the Manipur Land Revenue and Land Reform Act, 1960 and the Tripura Land Reform and Land Revenue Act, 1960 without changing its basic structure (Das, 1968:13).

Most tribes in Arunachal Pradesh vest land management to the village community. Some have individual land whose owners have a right to parcel it out but under many restrictions such as a ban on transferring or selling land to persons outside the tribe or village. The Sadiya Frontier Tract Jhumland Regulation, 1947 was enacted to regulate the rights and liabilities around *jhum land* over which a community had a customary right. It is not transferable to another community or individual except with the permission of the Land Conservator or Deputy Commissioner (Shimray, 2006).

Nagaland does not have comprehensive land laws because its civil affairs are run according to their customary laws. Only a few

acts exist such as the Nagaland Jhum Land (NJL) Act, 1970 and the Nagaland Village and Area Council (NVAC) Act, 1978. The NJL Act is the same as the Frontier Tract Jhum land Regulation, Arunachal Pradesh. The NVAC Act bans transfer of land outside the tribe without the consent of the village council. Customary laws regulate the remaining land relations among them.

D. Conclusion

The present introductory chapter has discussed the background of northeastern India, which is the context of the indigenous issue. This chapter shows the link between the tribal economy, culture and identity, and the threat emanating from immigration, land encroachment, and the individual-based legal system. Land is thus central not merely to tribal culture and identity but to the ethnic conflicts for which northeastern India is known for.

The next chapter details how land laws evolved. It discusses their implications for the indigenous status of peoples of the region, and their reactions to what they consider as threats to their land, culture, and identity. Autonomy is one of their demands, which is discussed in the next chapter.

II. Autonomy and the Indigenous Status in the Northeast

A. Protective Mechanisms

The previous section summarized the land laws, their colonial origin, and the threat they posed to tribal livelihood. It also showed the contradiction between customary law and formal laws. The tribal communities' reactions to the formal laws led to some compromises and protective measures from the State, which took three main forms: (a) recognition of their customary law, (b) the Sixth Schedule, and (c) laws banning tribal land alienation. Because of these measures, the northeastern tribes lived under four types of administration. Some run their civil affairs according to their cus-

tomary law, a few operated under the Sixth Schedule, another group has autonomous district councils without the Sixth Schedule, and the rest do not have a specific system but for a few modifications in their favor. This section discusses the first two protective measures. The third measure has been discussed, and shall be elaborated further in the next section.

"Recognition of customary law" and the "Sixth Schedule" are not identical. The former is integral to the identity and tradition of tribal communities. The latter, which was meant originally for the Hill areas of Asom, was extended later fully or partially to some other tribes. Both, however, resulted from tribal resistance and struggles.

1. The Customary Laws

The Constitution was amended in 1963 to introduce Article 371A to bring civil affairs in Nagaland under the tribal customary laws. Article 371G introduced in 1986 conferred the same powers on Mizoram. These moves were the result of their struggle for autonomy and identity. Intrinsic to autonomy were customary law and the community ethos but these do not mean that all the tribal traditions were CPR-based. While there is individual, clan, or village ownership, all these were held in the name of the community.

To give a few examples, the Angami of Nagaland have village and clan land as well as individually owned terrace fields that only men can inherit. Women have some rights over land that is used for secondary shifting (jhum) cultivation (D'Souza, 2001a:21-22). Moreover, The Tangkhul village head of Manipur owned all land in theory. In practice, land is either individually owned or community-owned. These are then further sub-divided into various categories (Ruivah, 1987:55-56).[10]

Thus, each tribe has its own customary law which incorporated a system of natural resource management that ensured inter and intra-generational equity. Even when ownership was partly individual, they treated the resource as their community livelihood that came from their ancestors and which they could use according to their needs but had to preserve for posterity according to ecological imperatives (Baviskar and Attwood 1998:255-

264). Such constructive dependence made the resource renewable. Moreover, customary law was not limited to land, natural resource management, and inheritance. It applied to every sphere of their life such as marriage, children's upbringing, and conflict resolution.

Thus, Articles 371A and 371G gave the Naga and Mizo full control over their civil affairs. Even the courts may not interfere with it.[11] Though the said provisions accord constitutional recognition only to the Naga and Mizo, customary law is not limited to them. Most tribes run their civil affairs according customary laws without reference to the civil authorities.[12] Today many tribes are documenting their customary laws because they consider them central to their identity. Among them are the Aka of West Kameng district in Arunachal Pradesh (Fernandes, et al., 2005:22), the Boro of Asom and the Tangkhul Naga of Manipur (*The Assam Tribune,* September 20, 2005). In February 2004, the Arunachal Pradesh Assembly passed a resolution demanding that the customary laws of its tribes be recognized and that the Sixth Schedule be extended to them (*The Hindustan Times,* 17 February 2004).

This process is intrinsic to an identity search but it does not always make the law just from a class and gender viewpoint. Most tribes are patriarchal. Modernization has strengthened patriarchy among them and has modified their customary laws. For example, many Garo and Khasi men want to change inheritance laws in favor of men but are not ready to share with women social power that is under their control. As a result, for some years after its formation, the Meghalaya Assembly did not have a single woman. Today there are three among its 60 members. Two thirds of the Angami graduates and post-graduates are women but since men insist on adhering to the tradition of the husband being better educated than the wife, many women are forced to remain unmarried (Fernandes and Barbora 2002a:161-162).

Thus, the interface between the two systems has modified the customary laws of many tribes but its extent depends on the nature of their contact with other societies. It also has some negative consequences. For example, individual based land laws on their system led to losing their land to development projects. A study shows that Asom has used 1.43 million acres for development

projects from 1947 to 2000 and has deprived over 1.9 million persons of their livelihood. However, official sources account for only 390,000 acres and some 380,000 displaced persons (DP) or otherwise deprived of their livelihood without physical relocation. The remaining more than one million acres are common land that the formal laws consider State property (Fernandes and Bharali, 2006:107-108).

2. The Sixth Schedule

The Sixth Schedule applies to Meghalaya and the North Cachar (NC) Hills and Karbi Anglong districts of Asom. It recognizes community ownership of land and forests but transfers power over land from the village to the District Autonomous Council (DAC) that controls most departments except rehabilitation, law and order and elections (Fernandes, et al., 2005:22-23). It has its origin in the colonial laws such as the Scheduled District Act 1874 and The Assam General Clauses Act 1915 that protected tribal practices by restricting the application of provincial laws in the Hill areas. The Montague-Chelmsford Reforms 1919 made similar provisions. The 1930 Indian Statutory (Simon) Commission recommended the protection of tribal customary rights. The Government of India Act 1935 accepted it and divided the Hills into "excluded" and "partially excluded" and stipulated that no Act of the Central or Provincial Legislature apply to them unless the Governor so decided (Roy 1995:24-26).

Very few national leaders understood the uniqueness of northeastern India but some slowly realized the need for corrective measures to satisfy the tribes. It was first expressed in the Sixth Schedule for the Khasi, Jaintia, Garo, Naga and Mizo Hills that were considered "unadministered" (Fernandes 2005a:96-97). The assimilationist stand of the freedom fighters initially excluded the "plains" tribes. For example, Gopinath Bordoloi, a member of the Constituent Assembly, did not want to include the Boro because he believed that eventually they would assimilate with the ethnic Assamese (Roy 1995:41-43). Later, circumstances forced Asom to extend the Sixth Schedule to Karbi Anglong and NC Hills when their inhabitants demanded a State of their own or wanted to join Meghalaya (Phukan, 1990:8-9).

As the situation demanded, intermediary provisions were made for some tribes. To cope with the insurgency in Tripura, the government introduced the District Autonomous Council (DAC) to its tribal areas. Some tribes of Asom like the Rabha and Tiwa (Lalung) have DACs. A clause in the 2003 Accord with the Boro Liberation Tigers is the creation of a Boro Territorial Council. However, all of them are without the Sixth Schedule. Thus, the DAC is integral, but is not limited, to the Sixth Schedule. Moreover, elements that are specific to the Sixth Schedule such as control over land have not been granted to the DACs outside the Sixth Schedule areas. In 1971 the Central Parliament passed a law granting DACs to the hill areas of Manipur but it has not been implemented since neither the tribals nor the inhabitants want it (Shimray 2006:14).

To some extent, the Sixth Schedule is a deviation from the customary law. It began in the colonial age when its regime modified the tradition that prevented transfer of land without the consent of the village council. Instead, it opted for an elected village leader (or *gaonburah*) who is rarely the same as the traditional chief, and not has most of the powers over land. While customary law continues to respect the village council, the Sixth Schedule gave importance to the gaonburah. This made land alienation and acquisition relatively easy (Fernandes and Pereira 2005:141-146). That is why some say that the Sixth Schedule is a modification of the formal law with a few elements from the tribal customary law while others think that it is based on their tradition with some sections of the formal law added to it (Fernandes 2005a:97-98).

3. The Origin of the Protective Measures

Whatever its interpretation, both the Sixth Schedule and recognition of the customary laws as well as measures like the reservations and the Tribal Land Alienation (Prohibition) Act are integral to positive discrimination. They are the State's response to tribal struggles for their livelihood and identity in the 19th and early 20th century India. The myth of the civilizing mission of the foreigners, which was propagated in order to legitimize colonial occupation for economic exploitation, had special implications for the resource rich tribal areas. This led to the struggles and resulted in the protective mechanisms (Aosenba, 2002:63-70).

Since the colonialist needed the Hill areas not for land but for taxes and merchandise, he allowed the tribes to be autonomous. Still, colonial intervention destabilized their lifestyle. Commercial inputs like monetization weakened their communities. Because of the lure of money, the Maharaja invited the Bengalis to Tripura as early as the 16th century. They felt the impact mainly in the 19th and 20th centuries after the British regime intensified the commercial processes and when other chiefs invited the Nepali to the area for trade. However, some tribal communities resisted this "intrusion" (Ghosal 2003:49). For example, the tension between the Boro and the Assamese and other merchants began with the Udalguri mart attaining importance. Since the Boro were less familiar with the monetary economy than the merchants did, they slowly lost their land to them since agricultural produce was the main commodity traded (Roy 1995:41-42). Added to economic destabilization is the perceived or real attack on their culture and identity. The Aka, Miri, and Naga also resisted this disruption (Mackenzie, 1995) though there is little recorded official history of the freedom struggle.

The main reason for omitting them seems to be that they reacted both to the colonialist and to his dominant class Indian collaborators. The latter who led the nationalist movement considered them revolts, not a part of the freedom struggle. However, the colonialist ensured commercial peace by isolating the tribes from their neighbors. When the unrest spread, he introduced the Inner Line Permit (ILP) that he presented as protection from the outsiders. In practice, it meant to protect the Asom tea gardens from the Naga who raided them regularly. From 1849 to 1950, the colonizers sent 10 expeditions to subdue the Naga but the raids continued. Nineteen raids by the Angami alone from 1854 to 1865 killed 232 persons including some British officers. In reaction, the regime carved out a Naga Hills district in 1866, granted the ILP in 1873, and occupied Kohima in 1879-1880 both to subdue the Angami and to have a base to attack the rest of Nagaland and control its commerce (Aosenba, 2002:12-20). The colonialist took such steps also because he considered the northeastern region a buffer zone against China and Burma (Doley, 1998:15-16). When the unrest continued, the British tried to reduce harm to its commercial interests by recognizing the people's customary laws through the Scheduled District Act of 1874.

Missionary intervention also influenced the people's lifestyle. Except for the military chaplains, very few Anglicans came to the northeastern region. First, those who came were mostly of non-British origin or from denominations like the Welsh Presbyterians. The fact that they differed from the colonialist in both nationality and religion gave these missionaries the freedom to follow an approach that was different from that of the official church. Second, religious objectives also had unintended social consequences. For example, they brought tribal Christians together for Sunday worship at a time when their communities were on the verge of breaking up because of the disruption caused by the dominant Bengali and colonial interventions. The Christianized "tribals" turned this religious event into a social act of rebuilding their communities.

Third, the missionaries opened schools that brought children of warring tribes together under the same roof. The schools played two social roles: (1) They created new leaders different from the traditional chiefs; (2) Children from hitherto warring tribes were forced to interact with each other on a day-to-day basis. Through this process, they developed a belief in their common origin, began to view themselves as one and developed a new identity. For example, 27 tribes slowly developed a new Naga identity and in 1918 founded the Naga Club that later became the Naga National Union. Eventually it became a political base of their nationalist movement (Sanyu, 1996:115-116).

These processes put the missionary in opposition to the colonialist and to the traditional chiefs. The former opposed him because his commercial enterprise depended on collaboration with the local leaders while the schools created new leaders. The process of bringing many tribes together under the same roof was a threat to the colonialist whose control of his subjects depended on division among them. The traditional chiefs opposed him because both the morality he preached and the new leaders the schools produced were a threat to their power. Though eventually they too converted, the difference of approach persisted (Sen 1992:37-40).

During the freedom movement, most traditional chiefs supported the British while the new leaders joined the freedom fighters. They were united in their effort to protect their resources and

identity but they understood them differently. The former claimed that their "un-administered" territories were sovereign while the latter wanted autonomy within India (Sanyu, 1996:131-134). However, most freedom fighters lacked an understanding of a pluralist India. In their thinking, India was Aryan and Dravidian. The Mongoloid stock was marginal in this view and autonomy was foreign to their understanding of the administration.[13]

Most tribal leaders of the region felt ignored. Even the new leaders who wanted autonomy felt that they did not benefit from the British regime on one hand, and the national leaders did not understand their issues on the other. Thus, the new leaders remained ambiguous while the traditional chiefs veered towards sovereignty. However, very few of them made territorial claims. Most rejected the assimilationist stand and reacted to what they considered cultural homogenization. Those who were less politically conscious were not as vociferous but they too demanded autonomy and protection of their identity. Before 1947, many of them tried to dialogue with the national leaders who turned out to be lacking in understanding that the centerpiece of the northeastern tribes' history was autonomy. The failure of the national leaders to accept this need eventually led to nationalist struggles. For many years after 1947, national leaders failed to understand their aspirations. A few of them later realized the need to respond to the tribes' aspirations (Fernandes, 2005a).

Both the recognition of the customary law and the introduction of the Sixth Schedule was the State's response to tribal resistance to what they considered attacks on their autonomy and identity. Initially, the government recognized the customary laws of the hill tribes. Later, the government recognized the Karbi and Dimasa as hill tribes and granted the Sixth Schedule, plus a five per cent quota in State Government jobs. Other tribes have won a DAC or a territorial council without the Sixth Schedule. Through their struggles, the leaders led the region slowly towards the protective measures (Fernandes 2005a:94-97). Today some Asom tribes want the hill tribe status and others want their customary law to be recognized or the Sixth Schedule granted to them.

B. The Indigenous Issue

According to the United Nations (UN), the world has at least 5,000 indigenous groups with a population of 300 million living in more than 70 countries. However, the UN has never defined the word "indigenous." The concept was born in the Americas and Australia-New Zealand where a clear line divides them from the conquerors. In South Asia "the majority populations have lived in the area for millennia" (Sanders 1993:126). This is the backdrop of the UN Decade.

1. The Indigenous Peoples and Recent Decisions

The discussion in this report will be restricted to northeastern India but one cannot ignore some conventions signed while the UN was debating the indigenous issue, especially the General Agreement on Tariffs and Trade (GATT) of 1994 that later became the World Trade Organization (WTO) and the Convention on Biodiversity (CBD) signed at the 1992 Rio de Janeiro Earth Summit. These instruments have implications for the indigenous peoples of the region.

The CBD urged governments to commit themselves to maintain ecological balance and biological diversity through a sustainable use of the genetic resources and an equitable and fair sharing of their benefits. As a result, world leaders agreed on a comprehensive strategy for sustainable development (Biodiv.org/doc/publications/ accessed on 26 May 2006). The CBD gives credit to farming and indigenous communities for preserving biodiversity over the centuries and developing knowledge systems around it. However, it ends by saying that ownership of these resources rests with the sovereign States. Thus, the communities that have developed and preserved these resources are denies their rights over these resources (Rao, 1992:331).

Similarly, the GATT, especially the Trade Related Intellectual Property Rights (TRIPS) signed at Marrakesh, Morocco on 15 April 1994, denies them the same rights (www.wto.org /english/docs_e/ legal_e/ accessed 25 May 2006). Including traditional knowledge in the public domain allows the biotechnology owning companies to take control of it without considering the rights of communities.

Already, the US government refused to sign the CBD in 1992 for fear that American biotechnology-owning companies would be denied access to biodiversity (McCarthy 1993:65).

These conventions are a threat to the northeastern communities, which are among the world's 25 mega-biodiversity zones and 18 biodiversity hotspots.

During the Indigenous People's Decade, the government formulated new policies for northeastern India and for the country as a whole. These policies include a draft national tribal policy, a rehabilitation policy, and a bill on the rights of the "scheduled tribes" over the forests. Of special relevance to the northeastern region is the plan to build 48 major dams in the region. On 14 March 2002, the Minister for Power outlined the in the *Rajya Sabha* (Parliament of India) the government's plan to build 10 major hydroelectric dams in the region with an estimated hydro-power potential of 58,971 megawatts or 38 percent of the country's total (*The Assam Tribune,* March 15, 2002). On 24 May 2003, former Prime Minister A.B.Vajpayee launched the 50,000-megawatt Northeast Initiative (*The Telegraph* May 25, 2003). In order to achieve this objective, the government is studying 48 dams, and is preparing a list of 156 dams (Menon, et al., 2003).

This decision has serious implications for the indigenous peoples of the region because the government plans to construct most of these dams in the tribal areas. The list indicates that of the 156 possible dams in seven States of the region, 59 would be in Arunachal Pradesh (Menon, 2003). Other projects would be in the tribal areas, such as the Gas Cracker Project in Asom, uranium mining in the Khasi Hills of Meghalaya, and the Bairavi dam in Mizoram.

2. The Indigenous Issue in India

The indigenous issue, immigration, land, lack of investment and the protection of culture and identity are related issues.

Many of "scheduled tribes" in "mainland" India claim the "indigenous" status based on their claim as first inhabitants of the region, though no South Asian country grants it to them. The objection in India is on three counts. The first is on chronology. It is difficult to prove that any group was in India before the others

though some communities pre-existed the Aryans and even the Dravidians. As the Indian ambassador is reported to have said at the meeting of the UN Working Group on the Indigenous Peoples discussing Convention 169, that there has been so much ethnic mixing in India that it is difficult to identify any group as chronologically the first (Sanders 1993:127). Very few tribal leaders deal with this issue. Most of them stick to chronology that is easy to accept in the Americas and Australia-New Zealand but is not as clear in older civilizations like that of India.

Secondly, many Dalit groups (or untouchables) contest the indigenous status of some Dravidian origin tribes like the Oraon but claim it for themselves on the plea that they have been in the country for centuries before them. Some Tamil political parties claim that the Dravidians are indigenous to India and that the Aryans who came from outside imposed Brahminism on them. Finally, some fundamentalist groups claim that the Aryans too are indigenous (Lal, 1996:190-192).

This limited focus on chronology makes the indigenous issue problematic. There is a need for new criteria to define the term in the sub-continent.

Other problems are due to the terminology. The ILO Convention 169 of 1989 speaks of sovereignty and self-determination. National governments interpret it as secession and independence. A few tribes like the Nagas did speak of independence for many decades but now interpret it as "very high autonomy" (e.g., the ULFA and some Boro groups). The few who speak of independence leaves an impression that it is a point of negotiation and that they would eventually accept a type of autonomy that is yet to be fully spelled out.

3. The Indigenous Issue in Northeastern India

Sovereignty is a topic discussed almost exclusively in northeastern India, but not among the tribes of "mainland" India. In northeastern India, chronology is crucial to the "indigenous" debate but the cultural and political factors give it a specific color. Land and forests are central to the debate because they are not merely economic assets but are at the center of their culture, religion, and identity. This explains why most tribal families retain

control over their land even when they take up a job in the administration as their main livelihood. This also shows why it is the main cause of ethnic conflicts (Fernandes and Pereira 2005:145-146).

Immigration is another topic in the debate as a cause of the alienation of land, water, and biodiversity. Given the close link between land, culture, and identity, they view land shortages that the immigrants cause as an attack on their identity.

Linked to the feeling of attack on their culture and identity is the homogenizing trend of the dominant "one State one nation" thinking of the Indian State and the tendency "to take the degree of Aryan*ization* as the measure of Indian*ization*" (Datta, 1990:41). The people of the region consider themselves different from the rest of India. Amid the threats to their resources, they feel the need to come together to safeguard their livelihood or to take advantage of modern inputs (Roy Burman, 1985:xii-xiii). The reaction to real or perceived discrimination expresses itself in terms of nationality, identity, and ethnicity. The defense of their livelihood, protection of their identity, and sub-nationalism merge into one (Datta, 1990:42). The next step is identity expansion. Since individual tribes are too small to demand their rights, several tribes merge to develop a new identity, as did the Naga in the early 20th century and other clans later.

4. Dominant-Subaltern Relations

The dominant-subaltern relations come to the fore on this issue because the discussion in the region is not on indigenous peoples of India as a whole but only on those of northeastern India. In 1826, the Burmese emperor signed the Yandabu Treaty, which handed the region over to the East India Company. The communities that lived in the region prior to 1826 are recognized as indigenous to the region although others may disagree. For example, a section of the Boro claim that they and other Kachari groups are the first inhabitants of Asom and ruled over it for some centuries, and that the Ahom, the ethnic Assamese and others came to the State long after them (Daimary, 2002:1).

Those who claim that the indigenous status applies to all the pre-1826 communities include the non-tribal Meitei who domi-

nate the Imphal Valley, the Tai Ahom who ruled much of Asom before the British annexed it, the ethnic Assamese and others. This claim creates conflict primarily with those who have come from the rest of India after 1826 like the Adivasi and other tea garden workers who have been in Asom for 150 years but are still considered as "outsiders" until today. Moreover, it creates conflict between the tribal and non-tribal groups since the former consider themselves the real indigenous peoples because of their tribal status. Such claims are made possible by the fact that northeastern India is a region of immigrants.

While there are differences between the tribal and non-tribal communities on the issue of indigeneity, they unite in rejecting the claim to indigenous status of most immigrants who arrived much later in the region like the Bangladeshi Muslims. Other regions also rejected immigrants, such as the Biharis in much of Asom especially Karbi Anglong, and the Bengali Hindus in Tripura. Most of these post-independence immigrants also do not accept the claim to "indigenous" status of the "earlier immigrants" like the Adivasi and others who were forced to migrate to Asom as indentured labor after their impoverishment by the Permanent Settlement 1793. The Adivasi have lived in Asom since the 1850s but they are considered as "outsiders"[14] until now. Others reject the Chakma who came from the erstwhile East Pakistan after their displacement by the Kaptai dam (IWGIA, 2002:344). For example, during the Itanagar meeting with some tribes of Arunachal Pradesh on 6 June 2006, most participants did not want to discuss the Indigenous People's Decade because the UN had allowed some Chakma representatives to attend the meetings of the Working Group of the Indigenous Peoples at Geneva. They want the Chakma expelled from their State and they refused to deal with Chakma supporters.

The rejection of the *Adivasi* as "indigenous" is the first step in the intra-regional ethnic conflicts that spread slowly to the "indigenous communities" that lived in the region prior to 1826. Land shortages strengthened identities. Every community rewrites its history to claim that it was the first settler in a given area, and thus claims exclusive rights over its resources. Ethnic conflicts result from such hardened identities and exclusive claims. All have their origin in competition for land and jobs.

C. Conclusion

This chapter has dealt with the context in which the indigenous consciousness grew among the tribes of northeastern India and the concessions that the national leaders made in order to limit its damage. It argued that both the protective mechanisms and the debate on the "indigenous" status of certain groups are different in the region from that in "mainland" India. The failure to understand the uniqueness and specificity of certain groups led to nationalist struggles among some groups. Even the "indigenous" issue could suffer if its specific interpretation in northeastern India is ignored and a single view imposed on all. Some national and State leaders eventually understood the issues of the tribes of northeastern India that they formulated some protective measures for the people of the region.

III. National and Northeast Policies and the Indigenous Issue

The central and State Governments have formulated policies during the past decades. This section is about them especially those formulated during the last decade. The discussion shall focus on national policies and those that are common to northeastern India.

A. The Draft National Tribal Policy

The Minister for Tribal Affairs of the Government of India released the second draft of the National Tribal Policy on 21 July 2006 with a request to send comments to the Ministry by August 10 of the same year. It was an improvement from the first draft of 2004. This shows that the Ministry has taken the criticisms seriously and has modified many items.

1. The First Draft

The first draft of 2004 began by stating that Nehru's Panchsheel, the sole document on the "tribals" until now is "long on generalities and short on specifics" and that the draft "seeks to bring Scheduled Tribes into the mainstream…without disturbing their distinct culture." Then, it ended by saying that assimilation is its objective. Furthermore, it contained condescending statements such as "primitive tribes" or that tribal land is alienated because tribes are "simple people." Most official documents use the term "primitive" but a document coming from a Ministry whose objective is to uphold tribal interests could not be condescending (Krishnakumar, 2004).

The draft policy also said that, "the tribals involved in shifting cultivation do not seem to have any emotional attachment to the land as an asset or property needing care." Indeed, around 90 percent of "tribals" practice jhum in northeastern India. Studies have shown that jhum is in fact integral to the tribal tradition of sustainable natural resource use (Gangwar and Ramakrishnan, 1992). However, commercialization, reservation of forests, and population growth resulted in a shorter jhum cycle, which made it destructive.

Other limitations of the draft include the following. Solutions to displacement and impoverishment caused by development projects were meant for the Fifth Schedule areas, ignoring similar threats to northeastern India. It also treats intellectual property rights issues in passing. There were no planned consultations for northeastern India to discuss the draft policy.

2. The Revised Draft

The Minister for Tribal Affairs released a new draft on 21 July 2006 (see http://tribal.nic.in/finalContent.pdf), which is not much of an improvement from the first. This draft recognizes the diversity and commonality among the 700 tribes, as well as the difficulties of realizing their aspirations as expressed in the protective measures thereby benefiting only a minority of the tribals. It recognizes that tribal communities confront problems such as poor infrastructure and land alienation. It explains that tribals join insurgent movements because of the failure of the Panchayat Ex-

tension to Scheduled Areas (PESA) Act of 1996 to address these problems. Finally, it says that the State should ensure that the social fabric of the nation is not destroyed at it pursues economic growth—an indirect acknowledgment that liberalization has left the tribals behind.

The draft policy elaborates strategies to reorient the existing institutional arrangements to the needs of tribal communities. These include constructing an index for tribal development, preparing a tribal-centric strategy, strengthening Integrated Tribal Development Programmes, introducing single line administration, adapting the Tribal Sub-Plans to the changing times, and devising a personnel plan. It proposes to amend the anti-alienation State laws to prevent land alienation and to restore alienated land. It also addresses the problem of displacement that leads to poverty.

Statistical data in the draft policy shows the neglect of tribal health and education. With literacy rates and infant mortality rates worse that the general population, it suggests the need to improve the school and health infrastructures. The policy makers also see the need to stop tribal migration caused by poverty.

3. A Critique of the Second Draft

The second draft shows that policy-makers tried to respond to the criticisms of the first draft of the national tribal policy. It is an improvement over the first draft but some major shortcomings remain. The policy-makers still want tribals to be integrated with the "mainstream" while protecting their identity. The assumption that there exists an Indian "mainstream" that is the "center" with which peripheral tribal communities must integrate makes pluralism difficult to achieve. A pluralistic State is formed through an alliance of different nations, not through their integration with one center. This is all the more difficult in northeastern India where tribal identity is very important.

The draft has improved when it comes to addressing the land issue with Section 6.1 recognizing that land alienation is due to insecurity of tenure. It suggests prevention by amending the State laws and restoring alienated land. Thus, the policy makers realize that land is the center of tribal life, culture and religion. They acknowledge that implementation of laws meant to prevent land

alienation is week and that the State Governments have failed on this count. One possible reason for this failure is the policy makers' limited understanding of "land alienation." They assume that it occurs only between "tribals" and "non-tribals" when actually takes place between "tribals" themselves.[15] Alienation through mortgage and sale happens within the tribe. Studies confirm that alienation within the tribe is common in the region and has given birth to "hidden absentee landlordism" in some tribes (Barbora, 2002).

Land alienation within the tribe is the result of indebtedness. Poverty pushes them to borrow money from other tribals for their educational and health needs. The distance of education and health facilities from their villages further aggravates their situation. They then mortgage so much land for this purpose. Thus, improving access to such facilities and providing sources of credit is part of the solution (Fernandes and Pereira 2005:141-150). Yet, the draft policy does not suggest a strategy to get over these constraints.

In general, there is a problem with the fundamental assumptions of the draft policy regarding tribal communities. It does not seem to believe that tribal communities can make their own decisions, and that development programs should be decentralized to them.

4. The Northeast in the Draft Policy

It is significant that the second draft pays some attention to northeastern India considering that most national policies do not. It refers to the Sixth Schedule, customary law, and measures to prevent tribal exploitation. This awareness of tribal ethos is an improvement over the first draft. However, despite the references to the Sixth Schedule and customary law, it does not pay adequate attention to the specificity of the region such as the role of customary law, predominance of communal property resources, and land alienation caused by individual property laws. For instance, most land for the 13 dams sanctioned by the Planning Commission, aside from 35 others are communal property areas. Fifty-nine of the 156 possible dams in northeastern India would be located in Arunchal Pradesh where communal property resources are the norm.

The first draft treated these issues in passing. The second draft is an improvement in the sense that it mentions some of these problems. However, the draft stops short of really addressing these issues in northeastern India.

B. Other Central Laws and Policies

In the last decade, the central government initiated other measures regarding forests such as the Forest Rights Bill, 2005. A Rehabilitation Policy was promulgated in 2004 and revised later by the government. This section will study some of these measures.

1. The Forest Rights of the Scheduled Tribes Bill, 2005

Introduced against the wishes of the Indian Forest Authorities, this Bill starts from the premise that involving the "tribals" in management is the only way to save the forests. While persons active in the Fifth Schedule area supported the bill as a step in undoing the historical injustice done to the tribals, nature-oriented environmentalists and conservationists opposed it.

Moreover, many feel that the Bill does not pay attention to the Sixth Schedule areas because of the following: (a) The Bill does not reflect the northeastern context in its statement of objectives. Much of the region is administered under the provisions of Article 371A and Article 371G or the Sixth Schedule that recognize tribal community rights over forests. Yet the Bill deals only with individual rights which apply to the Fifth Schedule areas; (b) the Bill is too narrow in its formulation and does not reflect the spirit of its objectives to comprehensively address the historical injustice and the collective rights of the tribals and forest dwellers because it only addresses the rights of the "scheduled tribes."

2. The Rehabilitation Policy

India has some 60 million so-called DPs and PAPs (or "displaced persons" and "project-affected persons") affected by "national development" from 1947 to 2000. The Ministry of Welfare took the first step and appointed a committee to draft the policy.

The committee believed that the policy should apply to all the DPs and not just tribal communities.

In 1993, the Ministry of Rural Development prepared a new draft and revised it in 1994. Thousands of DPs, PAPs, social activists, and researchers formed an alliance to study the policy and prepared an alternative proposal in October 1995. They found much of its 1998 draft acceptable but the Ministry also prepared amendments that went against most of their principles.

The policy promulgated in 2004 should have built on these drafts but it is watered down compared even to the 1994 draft, which was considered the worst version. It applies to projects that displace 500 or more families en masse in the plains and 250 in the Hills or "scheduled areas." It excludes much of northeastern India where projects would displace fewer families or would alienate land but not houses. Displacement caused by dams would not be high in the low density Arunachal Pradesh but the projects would use tribal land anyway (Menon, 2003). For example, the Supreme Court wants a replacement to the 48 hectares of wildlife sanctuary that would be submerged by the Lower Subansiri dam. The project would affect 5,000 persons though it may not displace as many (Rina, 2006).

The 1998 draft had made the principle of "land for land" mandatory for tribals but the National Policy on Resettlement and Rehabilitation for Project Affected Families, 2003 (or NPRR 2003) says that this depends on the availability of government land in a given district. The "availability" clause is a way for bureaucrats to escape their responsibility (Fernandes 2004b:1191). Rehabilitation is not mandatory so that most projects ignore it or do not give it importance. The draft policy only speaks of resettlement, a one-time physical relocation with or without other support, and not rehabilitation, a process that continues years after resettlement. Rehabilitation is crucial to the "tribals" who make up more than 40 per cent of the displaced people in India, and about two-thirds in the northeastern region.

3. The Alternative Draft

The government is revising the rehabilitation policy. Most changes in the policy are acceptable. Based on Article 21 that recognizes the right of every Indian to "a life with dignity," the alternative draft considers rehabilitation a right of the displaced

people. It also accepts other principles like the "prior informed consent" and "improving the lifestyle of the displaced people." The alternative draft also provides for gender justice.

There are still weaknesses in the alternative draft. For example, it considers "replacement value" the basis of compensation but it does not define the concept. It also accepts the principle that the DPs/PAPs should be the first beneficiaries and that they "must be helped to do so." However, education in northeastern India is geared towards administrative jobs and not for the secondary sector (e.g., manufacturing). Furthermore, it does not specify the Sixth Schedule or northeastern India.

While there may be many shortcomings, they do not warrant the rejection of the alternative draft policy on the rehabilitation of displaced people.

C. The Draft Forest Policy of the Northeast

All Bills have been studied in the preceding sections. They pay inadequate attention to the region where the tribes make up a majority in four States. "Tribals" have a symbiotic relationship with the forests. However, the forests are vanishing at an unprecedented rate because of urbanization, industrial or commercial interests, mega projects, and population growth. As a result, the tribal communities (including those of northeastern India) have been marginalized despite the Constitutional provisions for a comprehensive framework for their socio-economic development.

1. The Nature of the Forest Policy

In the above context, the Ministry of Environment and Forests (MEF) drafted a forest policy for the region in 2001. It published the draft policy, which has not been promulgated, on its website in 2004. It states that the region's rich forests are threatened by uncontrolled logging, low income from timber, and soil erosion. It aims to maintain environmental stability, conserve the natural heritage of the region, and meet genuine livelihood needs. The draft policy suggests forest management based on increased forest cover especially on the slopes and riverbanks. It further suggests better

protection of the ecosystem through parks and sanctuaries, tree farming, and by growing fodder and other non-timber forest products (NTFP) to support people's livelihood. It restricts activities that could adversely affect the slopes. It states that the State forests should work according to this policy and that other forests should be managed according to a work plan prepared with the Forest Department.

The draft policy further recognizes the symbiotic relationship between the tribes and the forest, and suggests the creation of a forest development agency. It proposes to replace contractors with tribal cooperatives or village councils, and ensure a minimum price for the produce of "tribals." It encourages individuals and families to grow non-timber forest products in order to improve the tribal quality of life. It considers jhum a threat to the forest and proposes to control and eventually eliminate it. It considers encroachment, grazing, and forest fires as the other threats.

The policy makers see forest-based industries as both a need and a threat to the forests. Thus, they suggest that no new industry should be set up that would use existing forests. Instead, all industries should generate their own raw material. The policy support village and community-based units using timber judiciously.

2. A Critique of the Policy

This critique is based on the belief that the region needs a new policy. The policy should aim to: (a) establish a regional policy for the development of the seven States to act as a mechanism to guide their policies for community-based conservation; (b) facilitate communication among the government officials, foresters, researchers and NGOs in order to ensure that the people of the region become its final beneficiaries; (c) document forest conservation systems in northeastern India in order to evolve a framework for CFM[16] and other forms of forest management in each State; and (d) develop trans-regional exchange with Lower Mekong in order to identify a common and effective CFM policy and strategies.

The draft forest policy does not live up to the above objectives because of its predominantly commercial orientation. Nevertheless, it is an improvement from the national policy in many re-

spects. It gives greater importance to the people's livelihood and forest conservation than the national policy does. It supports the involvement of local communities in forest conservation while the national policy only talks about joint forest management (JFM) as the solution. It wants the forest area to be increased but without encroaching on agricultural land, a provision that is absent in national policy.

The income orientation remains strong in the draft policy. Indeed, the tribes do need income for their new needs and expenses such as education. So that when expenses grew, they began to cut trees in the forest to earn additional income (D'Souza, 2001a:47-48). Thus, there is should be a balance between responding to the need for food and other necessities, and conservation of the forests. However, the draft policy does not address this needed balance.

The draft also presents jhum as destructive and this goes against the tradition of the tribal communities. It is important to understand the concept of "forests as people's sustenance" and incorporate commercial and conservation needs within that perspective.

3. The Supreme Court Judgment

Due to unemployment and lack of opportunities to earn income in northeastern India, smuggling timber had become a major alternative source. Nature-oriented environmentalists, who did not understand the reason behind timber smuggling, approached the Supreme Court to seek a ban on logging. In 1996, the Supreme Court banned logging and transport of raw timber in the region, effectively imposing the ban without providing for alternative sources of income. In some cases, the result was the opposite of what the policy intended. For example, during the meeting at Smit on 19 May 2006, the village headmen stated that the Supreme Court ruling convinced them that they could not get any more income from the forests. The villagers then decided to cut down all the trees.

Moreover, the Garo people told the researchers that poverty has increased enormously after the logging ban because it deprived them of their only sustenance without alternatives. The

Garo people cut trees "illegally" for the non-Garos who have opened furniture shops at Mendipathar for which they are punished every now and then. Some people believe that the Garo insurgency began after the ban on logging which caused extreme poverty.

D. Land Laws and Policies

Land is the more important tribal resource than forests because land includes forests, water sources, and other communal property resources. However, since laws treat land and forests separately, this section shall also discuss them separately as well.

1. Land Laws in Tribal Minority States

The tribal minority states in northeastern India are Manipur, Tripura, and Asom.

Manipur had dual administration in the colonial age. The British regime called the Hills "un-administered" but actually kept them under control. While the Manipuri Maharaja claimed absolute ownership of the Valley, it was a vassal of the colonial rulers in reality (Guite, 2000).

Changes began with the Assam Land Rules for Special Cultivation 1838 (amended in 1876). The objective of the 1838 rules was to make land acquisition easy for British tea plantations, and later, for mining companies and oil exploration.

Land regulations were changed in 1947 with the introduction of the Assam Land and Revenue Regulations 1886 (AL&RR 1886) in the Valley and the Manipur State Hill People's Regulation Act being enacted for the Hills. When the Manipur Land Revenue and Land Reforms Act 1960 (MLR&LR 1960) replaced AL&RR 1886, the tribal majority areas were excluded from its purview. Through amendments, it was extended to the Valley areas including Imphal, Thoubal, and Bishnupur districts and to villages in the plains of the Hill districts of Churachandpur and Senapati.

In 1956, the parliament passed the Manipur Village Authorities (MVA) Act for Manipur's Hill areas. The law required every

village with 20 or more tax-paying households to have a village authority. It limited the position and power of the village chief who, until then, functioned as the court together with the MVA. However, the MVA authorized the Governor to appoint two or more members of the Village Authority for this purpose. Then, the Legislative Assembly passed the Manipur Hill Areas Acquisition of Chiefs' Rights Act, 1967 that further stripped the chief of his powers.

In 1971, the parliament created the Autonomous District Councils outside the Sixth Schedule through the Manipur (Hill Areas) District Council Act. However, the DACs[17] were moribund. "Thus the autonomy granted to the district councils under the act is only in name" (Devi, 2000:182).

Every now and then, the MLR&LR extends to the tribal areas in order to make it legal for non-tribals to get land in their territory. This has continued during the UN Decade of the Indigenous Peoples. In the 1990s, a proposed amendment suggested to omit the words "except the hill areas thereof in Section 2" that states, "It extends to the whole of the State of Manipur except the hill areas thereof." This would have made the Act absolute in the whole State. The proposed amendment was abandoned because of opposition.

The MLR&LR (Sixth Amendment) Bill introduced in 2005 proposed to insert Section 13(B), which states, "the State Government may make rules for regulating and controlling jhum or migratory cultivation for protection of environment…" The Naga tribes reject it for fear of legalizing tribal land alienation. Instead, they demand the extension of the Sixth Schedule to their areas.

The Tripura Land Revenue and Land Reforms (TLR&LR) Act, 1960, which is the most comprehensive land law of Tripura, repealed all land laws. All land became State property. Section 187 imposed restrictions on transfer of tribal land to non-tribals without the prior permission of the District Collector. While there were amendments to protect tribal land including restoration of transferred land, the implementation of the law is weak. Of the 28,999 cases of land restoration filed before the Revenue Department as of March 2001, only 8,636 restoration orders were issued, and only a few acres have been actually restored (Shimray, 2006).

2. Land Laws in the Tribal Majority States

Mizoram. In Mizoram (Lushai Hills), the village chief, as the owner of all lands, granted homestead and arable land to each family. The British retained the chief and got him to collect the house-tax under the Chin Hill Regulation. After the merger of Lushai Hills with Asom in 1947, the Asom Assembly enacted the Assam Lushai Hills District (Acquisition of Chiefs' Right) Act to vest all land rights in the State by paying compensation to the Chiefs. However, "the legislature of the State passed no law on land…[instead] the District and Regional Councils, in exercise of [their] powers under the Sixth Schedule, enacted a large number of laws on different aspects of land" (Das, 1968:173). Such laws included the Mizo District (House-sites) Act, 1953; Mizo District (Land and Revenue) Act, 1956; and Mizo District (Transfer of Land) Act, 1963.

The British allowed the chiefs of the Garo, Jaintia, and Khasi Hills to run their civil affairs. The 1950 Constitution turned them into Sixth Schedule areas with a DAC[18] that has powers to make laws on land. Thus, the Khasi DAC enacted (a) United Khasi and Jaintia Hills District (Land Revenue) Act, 1954 and (b) United Khasi and Jaintia Hills District (Transfer of Land) Act, 1953. The Garo DAC passed (a) the Garo Hills Autonomous District (Land and Revenue) Regulation, 1954, and (b) the Garo Hills Autonomous District (Transfer of Land) Act, 1954. These laws banned the transfer of tribal land to non-"tribals" without the prior permission of the Deputy Commissioner.

Nagaland. Nagaland does not have a comprehensive land law since it comes under Article 371A but it has laws such as the Nagaland Jhum Land Act, 1970 and the Nagaland Village and Area Council (NAV&AC) Act, 1978. Section 15:1G of the NV&AC Act bans the "transfer of immovable property...without the consent of the village council. Written records of this shall be maintained by the village council." Customary law regulates all land, which most Naga tribes divide into four types: (a) common village land or community; (b) clan; (c) individual; and (d) Morung.

Arunachal Pradesh. Arunachal Pradesh does not have laws protecting tribal land but it has a few related administrative rules from the colonial age. Most of the tribes manage their land ac-

cording to tradition but the formal law does not recognize it. Customary law differs from tribe to tribe.

The Sadiya Frontier Tract Jhumland Regulation, 1947 bans the transfer of jhum land to another community or person without the permission of the Land Conservator or Deputy Commissioner. Still, land alienation is not difficult in the absence of recognition of customary laws or non-inclusion in the Sixth Schedule.

Meghalaya. After Meghalaya became a State, the power to make laws on land transfer was transferred to its legislature under the Meghalaya Transfer of Land (Regulation) Act, 1972.

3. A Critique of the Land Laws

One sees two opposing trends in the laws summarized above. There are laws that try to protect tribal land, while there are others that try to control it. In Manipur, there was a failed attempt to remove the exemption granted to the tribal areas from the land laws. In Tripura, the Act meant to restore alienated land to its owners has not been implemented. The ambiguity of laws in Arunachal Pradesh and Asom makes land alienation easy.

Looking at these trends, one must note that the land laws summarized above have a colonial origin. In Asom, the British regime needed land for plantations and mining and so they introduced new regulations to make land acquisition easy. The laws that alienated land from the people of Asom started with the Assam Land Rules, 1838; Assam Land and Revenue Regulations, 1886; followed by the Land Acquisition Act, 1894. The crucial role that land plays in ethnic relations explains the extension of the AL&RR from Assam to Manipur and Tripura. This law maintains the structure of the colonial laws that make land alienation possible.

Land alienation has been a major issue in Tripura where Bangladeshi refugees and other immigrants have encroached on more than 60 percent of tribal land, most of it communal property resources (Bhaumik 2003:84-85). The insurgency in Tripura is mainly the result of land loss, which is the main reason why many tribes are demanding the Sixth Schedule. What the tribes in Tripura have are DACs without the Sixth Schedule (similar to the Rabha in Asom).

The non-recognition of the customary law of tribes in Arunachal Pradesh has made immigration and land encroachment easy. As a result, the tribal proportion in Arunachal Pradesh has declined from more than 90 percent in 1951 to below 64 percent in 2001 (Fernandes 2005b:3238).

4. Displacement, Land Laws, and the Sixth Schedule

In the past, development projects have displaced thousands of people from their communal property resources (CPRs) without compensation. For example, the Rongmei of Manipur lost their CPRs to the Loktak project in the 1970s without being counted among the DPs/PAPs or compensated for them (Fernandes and Bharali 2002:56-57). By the late 1960s, the tribes of Tripura had lost more than 60 percent of their land to Bengali Hindu immigrants from the erstwhile East Pakistan who occupied their land that the law considered as State property.

Amid the conflicts between the tribals and settlers, the State announced the Gumti dam that submerged a significant portion of land. Despite protests, the project forced people out of their land and displaced 2,558 *patta*-owning families, although it excluded 5,500 to 6,000 CPR-dependent families. The displacement forced them into jhum cultivation in its catchments area and turned them into "enemies of nature." These problems are considered the main cause of their uprising (Bhaumik, 2003:84-85).

Protection of land becomes easier if the law recognizes community rights and the people are aware of it. For example, the people's resistance to efforts to acquire land for uranium mining at Domiasiat in the Khasi Hills resulted in a stalemate with the State. The State argued for national security while the people asserted their right to security of life and livelihood. The State was unable to acquire their land because they come under the Sixth Schedule that does not permit its takeover without their consent. This illustrates that the Sixth Schedule could make it possible for a community to protect its livelihood.

In general, however, one should ask why colonial land laws that lead to alienation are being strengthened, or why they are being extended to tribal areas. Many of these measures were in fact taken during the Indigenous People's Decade.

5. The Sixth Schedule and Individual Orientation

Even the protective mechanisms can be of little use if the government imposes an individual ethos on land. The government could support the production of commercial crops but if it does not attend to marketing, the result is greater exploitation and impoverishment as illustrated in the examples from the Garo Hills in Meghalaya and the North Cachar (NC) Hills in Asom, which are both under the Sixth Schedule.

In the Garo Hills, the Rubber Board gave subsidies and loans to encourage growing of rubber. However, they gave assistance only to individual landowners in this community-based tribe. The recipients were the "head of the family," which both the government and financial institutions meant the men in an otherwise matrilineal tribe. These moves facilitated land alienation in the area. A study done in 2004 showed that around 35 percent of the people in the East Garo Hills were landless. Class formation and income disparities are visible. Patriarchy was strengthened as indicated by men questioning female inheritance in the 1980s. Today some are demanding male inheritance (Fernandes and Pereira 2005:119).

The Dimasa of NC Hills is a dual-descent tribe. Their Hindu*ization* by the Bengali administrators who accompanied the British colonialist has exposed them to the dominant cultures but they have retained their internal autonomy. Today their elite are moving towards *pattas* partly due to the individual values imparted in schools and partly because the Coffee Board gave subsidies to individual owners for coffee plantation (Barbora, 2002:1287).

It is, however, possible to introduce commercial production without changing land ownership pattern as illustrated by the efforts of the International Fund for Agricultural Development (IFAD). The IFAD effort to grow oranges in some villages of the NC Hills shows that new land use and modernization of their tradition are possible without introducing inequalities in their society.

E. The Northeast Industrial Policy 1997

1. Features of the Policy

Low investment and backwardness in the secondary sector (i.e., manufacturing) result in high unemployment. In view of this, Prime Minister PV Narasimha Rao announced on 27 October 1996 that the government would take new initiatives for industrial development. The Ministry of Industry and the Planning Commission gave the initiative a concrete shape and the State Governments approved the Industrial Policy and incentives for the Region. It came into force on 24 December 1997. The policy's main objective was to encourage investment and thus accelerate industrial development through subsidies and loans for industrial units. Its main features are: (a) development of industrial infrastructure; (b) transport subsidy; (c) fiscal incentives to new industrial units and for substantial expansion; (d) an interest subsidy of three per cent on the working capital loans for 10 years; (e) a one-time grant of 200 million Indian Rupees to the Northeast Development Financial Corporation, Ltd (NEDFi); and (f) development of the village and small industries sector.

2. A Critique of the Policy

Investment is required but in a region of high unemployment, job creation has to be basic to any approach to industry. However, other than saying that the policy would generate employment, it is silent on how this would happen.

The policy provides for subsidies to small entrepreneurs (e.g., financial assistance of 100 million Indian Rupees for each center) but has no provision to make the schemes known. As a result, there is a danger of the schemes reaching the outsiders who are already controlling the economy.

The industrial policy could not proceed without developing the infrastructure. Today the infrastructure focuses on transporting raw material outside the region and importing finished products from the rest of India. A new approach is required to the transport infrastructure to facilitate production and the marketing of finished products. The policy encourages investment but lacks

a comprehensive industrialization perspective that deals with social impacts.

As it is, the "tribals" work under two disadvantages. Firstly, most of them live on the CPRs that the law considers State property. The Asom study shows that their land is the first to be taken over. Secondly, the tribals, especially those of Asom, Manipur, and Tripura (where they are a minority), have less access to entrepreneurship and skills training for jobs in industries than others. The approach to industrialization has to change in order to combine productivity with employment and to ensure access to benefits by tribal communities. The present system of capital and resource-intensive investment ensures land alienation, but it could not solve the problem of unemployment.

F. Conclusion

This section has analyzed various national and State policies from the point of view of the indigenous peoples. Its objective was to see whether these policies and approaches could facilitate economic growth with justice to the "tribals" who are among those who are excluded from the benefits of development. The policy makers claim that these approaches are motors of rapid social and economic development but their perspective seems to be mainly urban. It is difficult for the "tribals" to benefit from economic development that is aimed at towns and cities. The tribal elite may get some benefits but not the majority.

If the benefits do not reach the lowest strata of the people, there is the danger of competition, which could lead to ethnic conflicts. To avoid conflicts, the intended beneficiaries should be aware of the policies. For example, the educated tribal youth have to be aware of the subsidies, methods of production, and marketing of industrial products. There is a need to introduced mechanisms that would ensure that benefits reach the tribal and other communities that presently do not benefit from development.

The policies have a few good points and many shortcomings. They are largely geared towards serving the needs of commerce and industry and ignore tribal aspirations. Some policies try to right the historical injustice done to the tribals but they deal mainly

with the tribes in the Fifth Schedule areas and all but ignore north-eastern India. Some policies could not be rejected outright. They should be reviewed and reworked from the tribal perspective.

IV. Official Policies and the Indigenous Peoples of Asom

This section focuses on Asom, and discusses its main features, its policies on agriculture and forests, as well as its policies on industry and information technology.

A. The Main Features of Asom

Though the 78,348 square kilometers that form Asom are only 2.4 percent of India's geographical area (Director of Economics and Statistics 2003:2,54-55), its location is strategic because it borders Bangladesh to the southeast and Bhutan to the north. Within India, it is bounded on the north and east by Arunachal Pradesh, on the east by Nagaland and Manipur, on the south by Meghalaya, Mizoram, and Tripura, and on the west by West Bengal. Three out of the four tribal majority States were carved out of it—Nagaland in 1963, Meghalaya in 1972, and Mizoram, which became a Union Territory in 1972, and a State in 1987.

The number of districts has increased from six (in the 1940s) to 27 at present. The Sixth Schedule was introduced in Karbi Anglong and N.C. Hills in 1972. Three districts that formed the Boro Territorial Council in 2003 split into six. The 27 districts are divided into 45 sub-divisions, 134 revenue circles, and 131 Community Development blocks. Only Karbi Anglong and N.C. Hills have a tribal majority. They are considered hilly. The remaining 25 districts are in the plains. The Hill areas cover 15,322 square kilometers or about a fifth of the State's land area. Asom is divided into two distinct natural regions, the Brahmaputra Valley and the Barak Valley (Registrar General and Census Commissioner 2001:CDs).

1. The People of Asom

The people of Asom belong to the Dravidian, Mongoloid, Austeroid and Aryan stocks that entered the Brahmaputra and Barak Valleys at different times. Dynasties like the Kamata, Bara-Bhuyan, Kachari, Chutia, Ahom as well as tribal chiefs have ruled over it. Burma invaded Asom in 1750 and dominated the eastern half of the Brahmaputra valley until 1823. In 1824, the East India Company entered into defense agreements with the Jaintia and Cachar kings against them. The Anglo-Burmese War began with the Burmese entry into Cachar on 5 March 1824 and ended with the Yandabu treaty of 24 February 1826 (Dihingia, 1993:17). Thus, the colonialists ruled Asom for 121 years during which most policies concerning the tribals evolved.

From a population of 22.4 million in 1991, the population of Asom rose to 26.6 million (or 2.59 percent of India's population) in 2001. Both in 1991 and 2001, Asom ranked thirteenth in population size in the country. There were 13.7 males and 12.8 million females. The sex ratio was 923 (i.e., males for every 1000 females) in 1991. This was lower than the national average of 927. In 2001, the sex ratio was 935, which was marginally higher than the national average of 933. It is 1,000 in Bongaigaon, 1,002 in Barpeta and 1,003 in Cachar. The sex ratio was 944 in rural areas, and 872 in urban areas (Fernandes and Bharali, 2006:29).

2. Population Growth and Immigration

Table 2 shows that the population growth in Asom is higher than the national average. Immigration from outside the State seems to be the main reason. Table 3 shows the decadal growth from 1901 to 2001. The additional population in each decade calculated based on the national average gives an idea of the number of refugees and immigrants. For example, in 1951-60 the population growth was 34.98 percent against 21.64 percent in India as a whole. The issue of immigrants has continued to trouble Asom.

Table 2. Area (in sq. km) and Population in Asom by district in 2001

District	Area	Total Population			Rural	Urban	Dalit %			Tribal %		
		Male	Female	Total	%	%	T	R	U	T	R	U
Dhubri	2838	841,044	796,300	1,637,344	88.2	11.8	3.9	2.3	15.4	2.0	2.2	.4
Kokrajhar	3129	466,191	439,573	905,764	92.9	7.1	3.4	2.9	10.9	33.7	24.8	18.6
Bangaigaon	2510	465,240	439,595	904,835	87.9	12.1	10.3	10.0	12.0	12.2	13.4	3.7
Goalpara	1824	420,251	401,784	822,035	91.9	8.1	4.8	4.3	10.7	16.0	17.2	2.6
Barpeta	3245	848,578	798,623	1,647,201	92.3	7.7	5.7	5.0	13.9	7.5	8.0	.9
Nalbari	2257	592,375	556,449	1,148,824	97.6	2.4	7.5	7.4	13.3	17.6	18.0	.7
Kamrup	4345	1,326,381	1,195,343	2,522,324	64	36	6.8	7.3	5.9	9.9	13.5	3.6
Darrang	3481	773,861	730,459	1,504,320	95	5	4.6	4.2	11.2	16.6	17.2	5.6
Sonitpur	5225.2	871,568	809,945	1,681,513	89.5	10.5	5.2	5.1	6.3	11.6	12.8	1.6
Lakhimpur	2277	455,691	433,319	889,010	92.7	7.3	7.9	8.1	5.1	23.5	25.0	5.0
Dhemaji	3237	294,643	277,301	571,944	93.2	6.8	5.3	5.3	5.1	47.3	49.5	16.5
Morigaon	1704	398,926	377,330	776,256	95.1	4.9	12.9	12.8	14.4	15.6	15.8	11.3
Nagaon	3831	1,190,950	1,123,679	2,314,629	88	12	9.3	9.5	9.5	3.9	4.3	.6
Golaghat	3502	490,286	455,993	946,279	91.4	8.6	5.4	5.5	4.8	9.9	10.6	3.1
Jorhat	2851	517,015	482,206	999,221	86.9	13.1	7.9	8.2	6.5	12.3	14.6	1.3
Sibsagar	2668	545,476	506,260	1,051,736	90.8	9.2	3.4	3.1	6.8	3.9	4.2	1.4
Dibrugarh	3381	613,555	517,517	1,185,072	80.7	19.3	4.1	3.5	6.4	7.5	8.2	4.2
Tinsukia	3476.0	601,099	548,963	1,150,062	80.5	19.5	2.7	2.2	5.0	5.8	7.0	1.2
Karbi Ang	10434	422,350	391,061	813,311	88.7	11.3	3.6	3.7	2.8	55.7	57.8	39.0
NC Hills	4888	99,822	88,257	188,079	68.4	31.6	1.8	1.3	2.9	68.3	81.2	40.4
Karimganj	1839	517,680	490,296	1,007,976	92.7	7.3	13.0	12.9	13.8	.3	.3	.5
Hailakandi	1327	280,513	262,359	542,872	91.9	8.1	10.9	11.1	8.5	.2	.2	0.1
Cachar	3786	743,042	701,879	1,444,921	86.1	13.9	14.4	18.2	9.3	1.3	1.5	.2
Asom	**78438**	**13,777,037**	**12,878,491**	**26,655,528**	**87.1**	**12.9**	**6.9**	**6.7**	**7.9**	**12.9**	13.6	**4.5**

Source: Director of Economics and Statistics 2003: 6-7; Registrar General and Census Commissioner 2001. pp. 108-109.

Table 3. Decadal Population Growth Rate in Asom, 1901-2001.

State/Districts	1901-11	1921-31	1931-41	1941-51	1951-61	1961-71	1971-91	1991-00
India	5.75	11	14.22	13.31	21.64	24.80	54.14	21.64
Asom	16.99	19.91	20.40	19.93	34.98	34.95	53.26	18.92
Dhubri	29.97	15.76	14.83	9.25	27.62	40.51	56.57	23.42
Kokrajhar	29.97	15.76	14.83	9.25	46.18	54.30	76.78	15.05
Bangaigaon	29.94	15.94	14.97	9.31	60.81	40.29	64.64	12.23
Goalpara	29.97	15.76	14.83	9.25	37.10	45.88	54.12	23.07
Barpeta	20.02	69.02	44.06	18.77	32.62	35.81	43.02	18.53
Nalbari	13.33	27.92	29.43	17.89	49.62	42.02	49.27	11.98
Kamrup	11.10	9.38	19.21	17.17	37.73	38.80	65.72	25.75
Darrang	-.25	26	35.30	24.13	44.75	43.24	55.63	15.79
Sonitpur	24.33	20.50	19.73	24.26	35.82	27.62	57.14	17.8
Lakhimpur	26.29	23.91	22.70	17.94	50.46	43.39	56.29	18.34
Dhemaji	26.29	23.92	22.69	17.94	75.21	103.42	107.50	18.93
Morigaon	15.84	41.35	15.37	36.65	37.89	37.51	50.90	21.29
Nagaon	15.84	41.35	15.37	36.65	35.91	38.99	51.26	22.3
Golaghat	16.55	18.29	1.27	19.76	26.04	30.85	58.12	14.21
Jorhat	16.90	8.88	15.27	14.87	24.17	17.47	33.10	15.84
Sibsagar	13.41	14.44	15.64	15.98	23.36	19.47	38.76	15.95
Dibrugarh	26.29	23.91	22.70	17.94	30.64	22.93	37.78	12.43
Tinsukia	26.29	23.92	22.70	17.94	35.92	31.02	47.03	19.52
Karbi Ang	NA	NA	NA	30.96	79.21	68.28	74.72	22.57
NC Hills	33.12	13.60	13.75	6.16	36.95	40.00	98.30	23.47
Karimganj	12.94	5.91	9.52	29.87	22.96	25.13	42.08	21.35
Hailakandi	16.09	7.08	10.29	17.48	27.23	23.61	45.94	20.92
Cachar	12.33	7.60	13.08	23.92	22.60	23.96	47.59	18.66

Source: Registrar General and Census Commissioner of India 2001a: 123-128.

The census shows that the Muslim proportion in Asom rose from 24.03 percent in 1971 (Saikia, 1976:97) to 30.02 percent in 2001. That difference is equivalent to 1.9 million Muslims in the 2001 Asom population of 26.6 million. Not all of them are immigrants. One can put the number of Bangladeshi Muslims in Asom at about 1.7 million (Fernandes 2005b:3238) in an estimated total of three to four million immigrants during three decades. The rest are from the Gangetic Plains or Nepal. The difference in the population is visible from the early 20th century. In 1941 to 1951, the growth rate of Asom was 19.95 percent against the national rate of 13.31 percent. In 1971 to 1991, it was 53.26 percent against 54.14 percent. In 1991 to 2000, however, it was only 18.92 percent because the inflow may have stopped. The change in the 1940s and 1950s is mainly because of East Pakistani refugees while later growth could be attributed mainly to immigrants from Bangladesh, Bihar, and Nepal.

Whatever their origin, the immigrants can cause a demographic imbalance and affect land ownership. Of importance is the fact that Asom has three to four million immigrants. Focus on the Bangladeshi Muslims gives the issue a "nationalist" and communal color and diverts attention from the fact that all the immigrants, whatever their origin, encroach on land and cause conflicts. It shows the need to understand the number of immigrants, irrespective of their origin (Table 4).

The number of districts with Muslim majority rose from four in 1991 to six in 2001 (Census CDs, 2001).

Table 4. Growth Rate & Additional Population Asom

Decade	India	Assam	Difference (%)	Extra Population
1941-50	13.31	19.95	6.64	444534
1951-60	21.64	34.98	13.34	1071049
1961-70	24.80	34.95	10.15	1099989
1971-91	54.14	53.26	-.88	-128701
1991-00	21.34	18.92	-2.42	-542427
Total Excess in Asom from 1941-2000				**1,944,444**

Source: Registrar General and Census Commissioner of India 2001a: 123-128.

3. *Dalits* and Tribals in Asom

Among the four castes of Brahmin, Kshatriya, Vaishya, and Sudra, there are several local divisions. Low castes (dalits or untouchables) have been subjected to socio-economic and political disabilities. Today, they are called Scheduled Castes (SC) based on Government of India (Scheduled Castes) Order 1936. Article 341 of the Indian Constitution empowers the President to specify the castes or races or parts or groups within castes that are deemed SC. The SCs like to identify themselves as Dalits and STs as tribals (as also used in this report). Article 342 provides the same for the tribes (i.e., Scheduled Tribes or STs). The list of SCs and STs is published under the Scheduled Caste and Scheduled Tribe List Order 1956.

Asom has 16 Dalit groups[19] with Namasudra as the biggest in population. The smallest is Lalbegi. The Dalit proportion of the population was 6.59 percent in 1961, 6.1 percent in 1971, 7.4 percent in 1991, and 6.9 percent in 2001. Cachar district has 14.7 percent of the State's Dalits followed by Karimganj with 13 percent and Morigaon with 12.9 percent. In 1971, 90.61 percent of the Dalit were in rural areas. That proportion has declined marginally to 85.09 percent in 2001 (Registrar General and Census Commissioner of India 2001: CDs).

Unlike in the Fifth Schedule areas, the Sixth Schedule regions distinguish between the plains and hill tribes, list them separately and accord them special privileges. Asom has nine plains tribes[20] and 14 hill tribes.[21] It has a total of 65 tribes and sub-tribes, nine of them in the plains and 56 in the Hills. The Karbi, Dimasa, and other hill tribes in Asom, are entitled to five percent of the State Government jobs.

4. Key Social Indicators in Asom

In order to situate the policies within the context of the State's social development, this section discusses some human development indicators such as health status, education, and poverty level. Compared to other tribes of the Hindi region, some tribes of Asom are better, although worse than the national average.

For instance, its literacy rate of 63.25 percent is lower than the national average of 65.2 percent but higher than that of Bihar

and Uttar Pradesh (UP). Asom's per capita income was 10 percent higher than the national average in 1950-51 but had fallen 20 percent below in 1990 mainly because of poor agricultural productivity and low investment.

In 1997-98, 57.15 percent of the Asom population lived below the poverty line (BPL) against the national average of 51.23 percent (D'Souza, 1999:12). Some attribute the high poverty rate to the immigrants coming from rural agricultural families. However, this is doubtful because most of them prosper owing to the fact that they are agricultural laborers who know the techniques. They grow tree crops on the encroached land, and use the irrigation facilities.

Four decisive factors indicate a State's health status. These are: (1) maternal mortality rate (MMR); (2) infant mortality rate (IMR); (3) life expectancy; and (4) health care institutions. The MMR of Asom was 401 for 100,000 live births in 1997 against the national average of 407. IMR per 1,000 live births was 92 in 1991 and 76 in 2001. The national average is 71.25. Life expectancy at birth is 54.93 years, which is lower than the national average of 59 years (Director of Economics and Statistics 2001-02:201). Life expectancy is 54.6 years for males and 55.3 for females. The national averages are 60.6 years and 61.7 years, respectively.

Asom has only 4.8 hospitals or health centers for every 100,000 persons. The situation is better in NC Hills with 9.9 health centers, Karbi Anglong with 8.1 and Nalbari with 7.5. Things are worse in Hailakandi with 2.2 health centers, Cachar with 3.2 and Karimganj with 4.2. Asom has only 5.74 beds (per 10,000 persons) against the national average of 7.16. N.C. Hills ranks first in this respect with 14.98, followed by Dibrugarh (13.38), Kamrup (12.43) and Sonitpur (11.77). Goalpara is the worst with 1.48 (Agarwala and Hazarika, 2004:136-137). Access to immunization and other services is low. Only five percent of women in Asom have antenatal check up, which is lower than the national rate of eight percent (Behal and Goswami, 2003:14).

The passing rate for the High School Leaving Certificate (HSLC) Examination indicates the status of education. In 2003, the general passing rate was 53.29 percent. The passing rate of the dalits was 39.64 percent, while it was 27.9 percent for the "tribals" and

21.67 percent for the tea garden laborers. Jorhat district has the highest literacy rate at 76.3 percent but it has the dubious distinction of the highest illiteracy (41%) among the children of plantation laborers (Fernandes and Bharali, 2006:32). In terms of facilities, Asom has 1.23 high schools per 10,000 people, which is very low.

Energy consumption is another indicator of the development of a State. Out of 24,685 Asom villages, 77.13 percent were electrified as of 31 March 2003. Nalbari tops the list (99.63%), followed by Kamrup (94.92%) (Director of Economics and Statistics 2001-02). Electric power reaches the villages although there is no guarantee that every house gains access.

Another indicator of development is work rate participation (WPR). In 1971, 28.35 percent of the Asom population was mainly. This is lower than the national average of 32.9 percent. In 1991, WPR was 36.08 percent against the national average of 37.5 percent. WPR declined marginally to 35.8 percent in 2001. The improvement in 2001 is because of education and the new definition of WPR that includes some types of work done by women at home.

B. Asom Policies on Agriculture and Forests

This chapter will analyze Asom's policies on forest, agriculture, information technology, and industry. The first two are discussed together first since they relate to land.

1. Land and Land Use Pattern

Asom's policies include the Agriculture Policy and the Assam Agriculture Procedure Market Bill, 2004. About 70 percent of the Asom population depends on the primary sector (e.g., agriculture). This motivated the State to come up with these measures. Rural land in Asom is sub-divided into forests, barren and uncultivable, area put to non-agricultural use, cultivable waste, permanent pastures, grazing and under miscellaneous use, trees and groves, fallow (other than current fallow), current fallow, and net area sown. The urban area has land under municipalities,

town committees, and other bodies (Gopalkrishnan, 2000:9). In practice, however, land is divided into fewer types (Table 5).

Table 5. Area by Land Use in Asom, 1999-2000.

Land Type	Area (hectares)	%
Net Area Sown	2734461	35
Forest	1931631	25
Not Available for Cultivation	2530925	32
Other Uncultivable Land Excluding Fallows	477368	6
Fallow Land	175620	2
Total	7850005	100

Source: Director of Economics and Statistics 2003:61

Moreover, the categories used in the Sixth Schedule areas differ from those of the rest of Asom. The five categories used in the Sixth Schedule areas are: (1) state reserve forest; (2) autonomous council reserve forest; (3) unclassified reserve forest; (4) revenue land; and (5) wet paddy land. Unclassified forest is further divided into "hill" and "low-lying." Many tribals use the hills for jhum and the low-lying forests for other cultivation. They can get ownership over the low-lying areas by applying to the DAC. The Mikir Hills Land and Revenue Act, 1953 recognized the tribes in the Sixth Schedule areas their rights over land settlement and assessment. As a result, the DAC is the supreme authority to decide on land issues (except in the State Reserve forests) including the transfer of land to other agencies. Only the wet paddy land can have periodic or temporary pattas and no one could take it away without compensation (Bordoloi, 1986:124-125).

The land area comprises 25 percent forests, and 35 percent sown area. Thirty-two percent of the land is not available for cultivation, six percent is "other uncultivable land excluding fallow," and two percent is "fallow" (Table 5). In 1997-1998, the percentage of cultivable land to the total land area was 43.15 percent. Of the total cultivable land, 82.11 percent was sown (Agarwala and Hazarika, 2004:31). The area under cultivation has declined. Land not available for cultivation has risen from 29.84 percent in 1975-76 to 32 percent in 1999. Fallow land that includes cultivable

wasteland, current fallow and fallow other than current fallow has decreased from 4.96 percent in 1975-1976 to two percent in 1999-2000 (Mali, 1989:54). The forest area has declined from around 39 percent in the early 1970s to 25 percent today (Gopalakrishnan, 2000:85). One reason is the encroachment by the landless as well as by the well-to-do rural families that use political pressure to gain additional wealth. Another reason is the use forests for development projects (Barua, 1990:63).

The percentage of the population engaged in agriculture has declined. In 1951, agriculture contributed 66.4 percent to the State's income. That year, 79 percent of the population engaged in agriculture. This went down to 78.5 percent in 1961 and to 77.7 percent in 1971 (Bhattacharya, 1998:13). In 1980-1981, agriculture contributed 47.5 percent of the State Domestic Product (SDP). In 2001-2002, 53 percent of the population engaged in agriculture contributed 34.7 percent to the SDP. The share of the secondary sector (e.g., manufacturing) has risen marginally from 12.6 percent in 1980-81 to 14.7 percent in 2001-02. The contribution of the tertiary sector (i.e., services) has grown from 39.9 percent in 1980-81 to 50.6 percent in 2001-2002 (Planning Commission 2002:26). The decline in the primary sector is both because less land is cultivated and because of a slightly faster growth of the other sectors (Director of Economics and Statistics 2003:12).

2. Assam Agriculture Policy 2004-2005

Asom has fertile land and is rich in biodiversity. It could tap agricultural and allied products for its fast economic growth. In order to focus on the food sector, horticulture, animal husbandry, and fisheries, the State adopted a policy that took into account developments at the national and international levels in 2004. Its main thrusts were:

(1) to shift farmers from mono cropping to multiple cropping, and to diversify into plantations and horticulture including commercial plantation of bamboo, and allied sectors like animal husbandry and fisheries, facilitating adoption of contract farming;

(2) to develop organic farming; taking post-harvest technology to the people; encouraging private initiatives in agri-

culture and allied sectors; strengthening physical connectivity in the rural areas leading to the development of social, economic and technological connectivity; and development of national and international markets for its agro-produce;

(3) to develop and use people-centered organizations for the use of information communication technology (ICT) to develop a suitable database of land records, providing extension services, etc.

Based on this policy, the State launched the following measures:

National Horticulture Mission. The State is implementing the central government-sponsored mission for integrated development of horticulture since 2001-2002.

Micro-irrigation. The implementation of farm-water management scheme was slow over the years due to different subsidy patterns. This scheme attempts a subsidy pattern similar to that of the Government of India.

Dry Land Agriculture. The National Watershed Development Programme for rain-fed areas (NWDPRA) would be implemented under restructured guidelines. The State has identified 203 projects, each covering 500 hectares. Twenty-three of them are being implemented.

Agricultural Technology Management Agency (ATMA). The State has started implementing the World Bank-funded ATMA project in order to reform the agricultural extension system. Eleven districts have been identified for this project.

Flood Control Measures. These include community nurseries, increased seed rate for delayed cultivation, planting specific varieties, closer spacing with increased number of seedlings per hill, and pre- and post-flood paddy varieties in flood prone areas.

Drought Control Measures. These measures aim to ensure irrigation and the availability of desired variety of seeds for direct seeding, and availability of potash and fertilizers, among others. Other measures include assistance for setting up of a phyto-sanitation center in the state. At present the depart-

ment issues phyto-sanitation certificates to the exporters of black tea, oranges, pineapples, ginger, and lemon to Bangladesh. However, the State's quarantine facilities and other methods need to improve.

Seed Plan. In 2002, the Asom Government constituted a committee under the leadership of the Vice-Chancellor of the Assam Agricultural University and tasked it to suggest a comprehensive seed production plan for its important crops. In a report submitted in May 2003, the committee recommended a bigger number of registered seed growers to achieve the production target of certified seeds and related activities. It also recommended standard packaging materials for seed storage. The proposed Seed Act would regulate the sale, import, and export of seeds and planting materials. The Assam Agricultural University has documented the major crops of Asom. In view of the genetic, physical, and physiological deterioration of seeds, farmers are persuaded to replace the seed periodically. The high yield variety (HYV) suitable for specific situations would be adopted extensively.

3. Assam Forest Policy, 2004

Asom, like the rest of northeastern India, is a mega-biodiversity zone with unique flora and fauna that create the conditions required for the sustainable growth of forestry. However, the State has been losing its biodiversity as well as some of its tree cover due to the following: (1) massive population growth and organized encroachment in the reserve forests, at times supported by groups of armed militants; (2) grazing and poaching in the protected areas; and (3) throughout the 60s and 70s until today, the reserve forests are targeted as the most suitable space for the rehabilitation of human and cattle population.

Hitherto, the conservation and protection of forests was the sole responsibility of the Forest Department. With the aforementioned major problems, the State Government realizes the urgency of adopting new strategies to protect the forests. Accordingly, it prepared a comprehensive forest policy that came into effect in December 2004.

Some of its basic objectives are: (1) restoration of the ecological balance that has resulted in the deterioration of the forests; (2) conserving Asom's natural heritage by preserving its natural forests and wetlands with a variety of flora and fauna that represent its unique biodiversity and genetic resources; (3) enhancing the quality of the forest cover in its denuded and degraded land through people's involvement and a symbiosis of traditional knowledge and modern technology; (4) creating a massive people's movement with special involvement of women to achieve the objectives and minimize pressure on forests under a community based program; (5) understanding the forest dynamics and encouraging researchers from the region to undertake quality research on forest conservation and its suitable use; (6) its principal aim is to ensure progressive sustainable development of the forests of Asom to meet the twin objectives of environmental stability and ecological balance together with improved livelihood support system for her people.

An underlying assumption of the policy is the forest-tribal symbiotic relationship. It emphasizes that while protecting the customary rights and interests of the forest dwelling tribals and Dalits, the forest Department would help the tribals to be partners in their management, protection, regeneration, and development.

4. A Critique of the Policies

The policies depict Jhum as evil and destructive when it is the lifeline of most tribes. The alternatives suggested by the policies are weak. It is true that much of jhum become destructive but abandoning it without viable alternatives is a recipe for disaster. It needs alternatives to ensure livelihood replacement (Rangarajan, 1996:124-126). The policies suggest community forest management but distrust the communities' ability. Nevertheless, protecting the forests requires joint ownership, decision-making, and benefit-sharing system (Guha and Gadgil, 1996).

Thus, the policies fail to put their good points together into a compact whole because of the priority given to the commercial forces and income. They are important but the people's rights and the role of the tribal community in conserving resources are equally important.

C. The Industry and IT Policies

This section discusses policies pertaining to industry and information technology (IT). These policies emanate from the present climate of liberalization and the desire to push Asom towards economic growth.

1. Assam Industrial Policy 2003

Agriculture and technology are basic for the progress of a State. Finding the old approach unsatisfactory, Asom formulated an Industrial Policy that would be valid for five years, and came into force on 1 October 2003. The policy aims to increase the share of the Industrial sector in the State Domestic Product, ensure the development of an adequate and appropriate infrastructure for industrial growth for Asom, ensure industrial development in backward regions of the State, promote rural handicrafts, establish medium and large-scale industries to create an industrial base, and encourage incentives for effective implementation.

The State has accordingly appointed a committee headed by the Director of Industry and Commerce. Its major task is to scrutinize the applications and approve deserving cases for the eligibility certificate. With this policy, the government hopes to pave the way for the accelerated economic growth of Asom.

2. Assam Information Technology Policy 2000

IT plays a key role today and is one of the fastest growing sectors in the world economy. Recognizing that IT applications have become all pervasive, the Asom Government has formulated an IT policy with the following objectives: First, to accord primacy to the IT industry in the State's socio-economic development. Second, to use IT technology at the governmental level to provide better services to the citizens of the state. Third, to serve as an important tool to enhance employment and absorb a major portion of the educated but unemployed people in the State. Fourth, to set up training institutes in the private and joint sectors in order to prepare skilled humanpower within the existing system. Fifth, to develop appropriate networks between departments

and spatially spread out administrative hierarchies through well-designed database management systems.

Sixth, to encourage and accelerate the use of information technology in schools, colleges and educational institutions in the State to enable the youth to acquire necessary skills and knowledge in this sector making them highly employable. Finally, to have connectivity among all its offices in a year to improve its governance and develop the local language so that in training programs government employees can use IT to enhance productivity.

3. A Critique of the Policies

The industrial policy emerges from the continuing backwardness of the State while the IT policy is conditioned by the need to catch up with others who have made progress in this sector. In this sense, the policies of Asom are not different from other policies in the region that are trapped in the vicious circle of poverty, ethnic rivalry, industrial backwardness and massive unemployment.

Chief Minister Tarun Gogoi stated in August 2001 that Asom had an unemployed backlog of two million. According to the State's Economic Survey 2003-2004, the employment exchanges had 1.57 million registered job seekers in late 2003, against 1.52 million in late 2001 (*The Times of India,* 16 June 2004). Subsequent economic surveys gave similar figures until December 2005. These figures may even be underestimations since they exclude the rural and informal sector (Rayappa, 1992:362-363).

The policy states that it will generate employment but does not say how. This omission is particularly significant for the "tribals" because they live under the two disadvantages of sustaining themselves on the CPRs, and limited access to education and jobs. The mechanization the industries means that the State may not generate employment as what happened in Gas Cracker project. Moreover, the industrial policy focuses on sophisticated technology and high investment. As a result, there is every danger that the policy would only cater to the elite, and there would be no employment for the "tribals" who need special training to be able to compete for jobs in the industry.

The tribals could be integrated in the process of industrialization only through small enterprises. While the policy provides for

subsidies, it does not pay adequate attention to training needs and employment generation. Like the northeastern India policy, the Asom policy neither says how it will prevent the outsiders' possible monopoly of the economy. Nor does not say how it will prevent the transfer of tribal land to outsiders. The low employment of the local people was a major factor in the Assam Movement. The situation has not changed substantially though the level of education has improved enormously.

Thus, the point of reference of both the industry and the IT policies is the market and the corporate sector. This approach may result in the modernization of Asom but the policies lack clarity on the principle of how the economic and social components would be combined in the effort to industrialize the State. A State policy has to supplement the profit-orientation of the private sector with a clear social orientation. Neither policy does it. One sees the need to industrialize the State and improve its communications network but financial investment has to go hand in hand with the social component of employment generation and support for the indigenous communities.

D. Conclusion

This chapter has analyzed some policies of Asom in order to see whether they can be agents of economic growth combined with the social good of the people of the state, especially the tribal communities. The data indicate that they can support investment but fail on the social front. In particular, they may not benefit the "tribals." Their perspective seems to be mainly urban. It would be difficult for the tribals to benefit from the type of economic development aimed at towns and cities. The tribal elite may get some benefits but not their masses. Even the forest policy is concerned more about the commercial sector than the people.

The policies were adopted in the hope that citizens would benefit from them. To achieve this goal, there is a need to review or adopt new policies from the perspective of the "weaker sections" like the "tribals." For instance, the agriculture policy is a strategy for development but the affected lowest strata are not aware of it. A purely commercial orientation is not of much use to

the predominantly jhum cultivators. The policy needs a social perspective aimed at the development of the weak.

V. Awareness of and Reaction to the Indigenous People's Decade

A. The Tribes Interviewed

Four States and a few tribes in each of them were chosen for the study according to two criteria: the legal status of the State, and awareness of the Indigenous People's Decade. The latter was based on either prior knowledge or preliminary interviews.

Nagaland is a tribal majority State coming under Article 371A that brings its civil affairs under their customary law. Meghalaya is a predominantly tribal State coming under the Sixth Schedule. Asom has a tribal minority but two of its districts come under the Sixth Schedule and one has a territorial council. Arunachal Pradesh has a tribal majority with most of its tribes running their civil affairs according to the customary law but the formal law does not recognize their right over their CPRs. They do not have the Sixth Schedule or DAC though its Legislative Assembly has demanded it in 2004.

The representative nature was the reason for choosing the tribes. The Karbi, Dimasa and the Boro are three of the biggest tribes of Asom. Two of them come under the Sixth Schedule and one has the BTC. The three tribes interviewed in Arunachal Pradesh account for about 50 percent of the State's tribal population.[22] The Khasi and the Garo are the main tribes of Meghalaya. In Nagaland, the Angami are a politically conscious tribe. The organizations interviewed had organized the Indigenous People's Decade celebrations.

B. Interviews and Group Meetings

The researchers interviewed 118 persons from 10 tribes in order to establish the extent of their knowledge, as well as to identify the issues that matter to them. Those interviewed were the Dimasa of Asom, the Khasi and Garo of Meghalaya, the Angami and a set of other Nagas of Nagaland, and the Nocte, Galo and Nyishi of Arunachal Pradesh[23] (see Table 6).

The researchers interviewed the representatives of various groups. They held meetings in the following places and dates in 2006: at Smit in the Khasi Hills with 12 Khasi village headmen on May 19; at Haflong in NC Hills with a cross section of the Dimasa on May 21; at Mendipathar with a Garo group on May 23; at Barama, Nalbari with leaders of the All Boro Students' Union and another Boro group on June 30; at Diphu in Karbi Anglong with a cross section of Karbi teachers and social workers, and student leaders on July 11; at Udalguri with a cross section of Boro leaders on July 12; and at Itanagar with representatives of the three tribes of Arunachal Pradesh on July 6.

The researchers administered a structured questionnaire to 20 purposively chosen persons for every tribe, which targeted the village council leaders, women, youth and student leaders, and a cross section from the tribe.[24]

It was difficult to achieve a gender balance in the sample, which was made up of tribal leaders. Palizi in Arunachal Pradesh has an Aka woman village president but no other tribe in the studied areas has female village leaders. All other tribes and villages only have men in these positions. Only women's organizations have women leaders. To achieve gender balance in the sample, the researchers interviewed a cross section of "other" women including members of the Village Development Board and the cooperative.

The researchers considered the three tribes of Arunachal Pradesh as one. Similarly, the 24 Angami in Nagaland are taken as one, while the remaining Naga respondents are considered as a second group that comprise students and other leaders who were aware of the Indigenous People's Decade and had organized events

Table 6. Profile of Respondents.

Category	Dimasa		Khasi		Garo		Angami		Other Naga		AP Tribes		Total		
Gender	**M**	**F**	**M**	**F**	**M**	**F**	**M**	**F**	**M**	**F**	**M**	**F**	**M**	**F**	**T**
VC Leader	5	0	2	0	1	0	1	0	1	0	3	0	**10**	**0**	**10**
VC Member	0	0	2	1	0	0	6	0	3	0	2	0	**11**	**1**	**12**
Women Leader	0	1	0	5	0	0	0	5	0	1	0	3	**0**	**12**	**12**
Youth Leader	1	0	2	1	1	0	0	0	0	0	5	0	**4**	**1**	**5**
Student Leader	1	0	0	2	2	1	3	1	5	1	2	0	**11**	**5**	**16**
Others	0	0	7	3	5	10	5	3	2	3	9	1	**19**	**19**	**38**
Total	**7**	**1**	**13**	**12**	**9**	**11**	**15**	**9**	**11**	**5**	**21**	**4**	**76**	**42**	**118**

to celebrate it. In its forefront was the Naga Peoples' Movement for Human Rights (NPMHR) that both organized some events in the State and spread the message to others. For example, some Karbi student leaders had heard about the Indigenous People's Decade during a training program organized by NPMHR.

C. Knowledge about the Indigenous People's Decade

Before the interview, the researchers explained to the respondents the purpose of the Indigenous People's Decade. The first question was about their awareness of the Indigenous People's Decade. Thirty-seven out of 118 respondents (31.36 per cent) knew about it (see Table 7). Of the 37, 11 were women and 26 were men. Only a few Khasi leaders residing in Shillong were aware of the Indigenous People's Decade. Moreover, only one man from the group of 15 Garo villagers who attended the meeting at Mendipatar knew about the Indigenous People's Decade through newspapers. In Arunachal Pradesh, the knowledge about the Indigenous People's Decade was limited to the Itanagar. Among the 20 Boro leaders who attended the Udalguri meeting, two had heard of the Indigenous People's Decade. Indeed, many respondents were learning of the Indigenous People's Decade for the first time during the meetings.

None of the 12 Khasi village headmen at the meeting on 19 May 2006 at Smit knew about the Indigenous People's Decade. Two Dimasa leaders had heard of it so did some Khasis from Shillong.[25] Only 11 of the 25 "tribals" of Arunachal Pradesh[26] knew of the Indigenous People's Decade, and they were active on this front. This is not surprising because most of them belong to politically active civil society organizations that took an active part in the celebrations.

While some respondents are unaware of the Indigenous People's Decade, some were aware of it. For instance, awareness is relatively high among the Angami. Nine of the 24 (including five women) respondents knew of the Indigenous People's Decade. Eight of the 16 "other Nagas" also knew of the Indigenous People's Decade and in fact had organized some programs around it. The fact that, nearly 40 percent of the villagers in Jakhama had heard

Table 7. Those who have heard or not heard of the Indigenous People's Decade.

Category	Dimasa		Khasi		Garo		Angami		Other Naga		AP Tribes		Total		
Knowledge	Y	N	Y	N	Y	N	Y	N	Y	N	Y	N	**Y**	**N**	**T**
VC Lead	1	4	1	1	0	1	1	0	0	1	3	0	**6**	**7**	**13**
VC Member	0	0	1	2	0	0	1	5	3	0	0	2	**5**	**9**	**14**
Women Leader	0	1	0	5	0	0	3	2	1	0	0	3	**3**	**12**	**15**
Youth Leader	0	1	3	0	0	1	0	0	0	0	5	0	**8**	**2**	**10**
Student Leader	1	0	1	1	0	3	2	2	1	5	2	0	**7**	**11**	**18**
Others	0	0	2	8	0	15	2	6	2	3	1	9	**7**	**41**	**48**
Total	**2**	**6**	**8**	**17**	**0**	**20**	**9**	**15**	**7**	**9**	**11**	**14**	**37**	**81**	**118**

of it shows their high level of education and political consciousness.

Moreover, the level of awareness was different among individuals who were interviewed outside the Scheduled Areas. Awareness of the Indigenous People's Decade was somewhat high among them because they had taken part in the celebrations. They told the interviewers that the Khasi had started celebrating their indigenous status in as early as 1993, which was the UN International Year of the World's Indigenous People.

D. The Source of Knowledge

Most of those who knew of the Indigenous People's Decade belong to politically conscious civil society groups who learned about it through official channels. A few learned about it through the NPMHR, which in turn got information from the Asian Indigenous Peoples Pact (AIPP). Others learned through the newspapers. It is understandable that the Central or State Governments did not publicize because they do not recognize the existence of indigenous peoples in India. However, the UN bodies seem to have failed to publicize it among those concerned. They seem to have limited their communication to a few civil society groups that are in touch with them and the latter did not seem to have done enough to disseminate the information.

The only other source of information about the Indigenous People's Decade was the human rights network that was interacting with the UN Commission for Human Rights, which includes the Indigenous Division. Until early in the decade, there was a Northeast Coordination Committee on Human Rights and it helped in disseminating the information. However, it ceased to exist when the government blacklisted it for its work in Asom and Manipur.

E. The Extent of Knowledge

Though the human rights groups of Nagaland made an effort to spread the knowledge about the Indigenous People's Decade, many of those who are aware of it do not know the details (see

Table 8). Most of those who know it are also politically active and are fairly well educated, such as the Angami who have been in the forefront of the Naga Nationalist Struggle. Moreover, Jakhama has many State and Church-run schools and has two university colleges in its neighborhood. As a result, both education and political consciousness are high among them.

F. Is Such a Decade Needed?

Most of the respondents do not think that a second Indigenous People's Decade is needed. This might be because most of them did not know about it. Only 19 of the 93 respondents (excluding the 25 from AP) were enthusiastic about the idea and wanted it to continue in its present form. However, many other respondents and a bigger number of those interviewed outside the structured interview schedule favor it. For example, eight of the 15 Khasi respondents thought that a second Indigenous People's Decade is needed. In general, some felt that it served no purpose while others wanted it to continue in another form.

Many respondents from both the structured and individual interviews, as well as those from the meetings felt that the Indigenous People's Decade's emphasis on sovereignty and autonomy issues are important but not enough to mobilize the ordinary people who are concerned about their livelihood and the effect of official decisions. For example, the village headmen at Smit wanted to see some action around the issue of logging during the second Indigenous People's Decade.

Thus, most want the Indigenous People's Decade to continue but not in its present form which they consider elitist or geared to the needs of the urban middle class. They want it to reach the ordinary tribal who is concerned about the deterioration of the environment and impoverishment. They want to preserve nature but as livelihood, not merely as trees and wildlife. Many are aware that their identity is linked to nature and that jhum has become destructive today. Therefore, they want a search for alternatives to be part of the efforts in the next Indigenous People's Decade. In other words, they want the Indigenous People's Decade to come down to their level.

Table 8. What do they know about the IP Decade?

Category	Dimasa		Khasi		Garo		Angami		Other Nag		Total		
Gender	**M**	**F**	**M**	**F**	**M**	**F**	**M**	**F**	**M**	**F**	**M**	**F**	**T**
None	5	1	7	10	9	11	11	4	4	4	36	30	66
Rights Awareness	2	0	0	0	0	0	0	0	5	1	7	1	8
Rights Protection	0	0	3	1	0	0	2	2	2	0	7	3	10
Awareness though Government ignores it	0	0	0	0	0	0	2	1	0	0	2	1	3
Only a Decade	0	0	3	1	0	0	0	2	0	0	3	4	7
Total	7	1	13	12	9	11	15	9	11	5	55	38	93

G. Programmes of the Indigenous People's Decade

Because the government does not recognize the existence of indigenous peoples in India, no State or agency implemented any scheme in the name of the Indigenous People's Decade. The government implemented only regular schemes including self-help groups (SHG), Swarna Jayanti Gram Swarozgaar Yojna (SGSY), and the Integrated Child Development Scheme (ICDS). SHGs are promoted by IFAD and other agencies. Most SHGs began as micro-credit units and then went on to tackle other issues. Many of them are concentrating on agriculture or other income generation schemes as groups. They have thus become tools of community building at a time when their communities show signs of breaking up due to land alienation.

While the State has not initiated any new policy, some "routine" measures have made an impact on the indigenous peoples. One of them is the Supreme Court ban on timber logging. Nevertheless, many respondents felt that the Indigenous People's Decade could not be meaningful if it is not linked to the livelihood issues.

H. Some Initiatives of IFAD and Others

A few private initiatives are directly linked to the Indigenous People's Decade. For instance, the efforts of Jirsong Asong in Diphu, the Mendipathar Cooperative and IFAD may be independent of the Indigenous People's Decade but the participants at the meetings considered them as meaningful and wanted them to continue with some adaptations.

The IFAD is active in Asom, Manipur, and Meghalaya mainly among jhum cultivating tribes. Traditionally, jhum was a viable practice with a 12-18 year cycle but land alienation, reservation of forests and a bigger population have resulted in a shorter cycle of 3-5 years in many areas. This has led to poor soil fertility, depletion of forests, land degradation, and loss of biodiversity. The IFAD "Northeast Region Community Resource Management Project" jointly planned with the Government of India aims at improving

the livelihood of vulnerable groups in the region through resource management to contribute to environmental preservation and restoration.

In Asom, IFAD is involved in two clusters of five villages each in the Amren Block of Karbi Anglong and five villages in the NC Hills. Its aim is to improve the livelihood of the vulnerable groups living in the uplands through improved management of the natural resource base and by reorienting the existing development framework to make it more responsive to the needs of the marginal groups by stressing participatory development and building grassroots institutions. It involves helping the villagers to set up SHGs for natural resource management and grassroots level development (Northeastvigil.in/archives/ accessed on 26 May 2006). In Karbi Anglong, IFAD supports the planting of ginger, pineapples, and medicinal plants. In the NC Hills, it encourages the planting of oranges. Some persons in Chotawapu village, NC Hills, have taken to piggery, goat and cattle rearing or poultry keeping. They are within their reach and they can grow them without any major investment and change in the land owning pattern. Some participants spoke of a few initiatives in the Garo Hills but they did not know much about it other than that they encouraged animal husbandry and SHGs since it is a recent initiative.

The IFAD approach was discussed with the Khasi village headmen and individuals as well as with groups and individuals in Karbi Anglong, the NC Hills, and the Boro area. The Khasi and the Boro had only heard about it from others while the Karbi and the Dimasa knew of it. Most of them find its participatory approach helpful but had questions about its implementation mechanisms. They are happy with crops such as ginger, pineapples and oranges that are within their reach but added that IFAD also encourages oil seeds called *pachauli* and other crops such as *ellovera* and *jethropha*. Individual interviewees as well as participants of group meetings were unanimous that their communities do not have the expertise required to grow such exotic species. Some even thought that IFAD uses its participatory approach to motivate them to cultivate these crops and it thus becomes an indirect imposition. These species do not have a local market and they have to depend on outsiders both for their production and for marketing. The criticism about lack of a marketing approach did not stop at the "ex-

otic species" but went beyond them also to species such as oranges whose production is within their reach. Most interlocutors felt that without a marketing strategy, even these species are bound to fail in the long run since in its absence middlemen exploit them and pay them a low price. Thus, it does not improve their lifestyle.

I. Efforts in Marketing

The opposite is the case of the Mendipathar Multipurpose Cooperative Society that is involved in marketing. It came on the scene to help the rubber growers to market their produce. In the 1980s, the Rubber Board motivated many in the East Garo Hills to grow rubber but the middlemen offered it 15 Indian Rupees per kilo. From rubber marketing, it spread to other commodities. Though individual land ownership had caused major problems among the Garo, the sponsors decided to focus only on marketing in order not to dissipate their energies by attempting to change it. Instead, they built a community-based democratic decision-making, and profit sharing marketing system around individual owners. Now, it is a multipurpose cooperative that competes in the market. It keeps the sale price of goods lower than what the other merchants offer but gives a higher price for their produce (Fernandes and Pereira, 2005:202-203).

Despite its effort to combine individual and community dimensions, its organizers feel that they have to go beyond the cooperative to revive the SHGs. The subsidy mentality linked to rubber plantation continues even today and the community runs the risk of viewing the cooperative only as an economic measure. This can reinforce individualism and prevent them from taking initiatives for their own development. During the meeting of May 23, development activists said that such dependence on State subsidies is one of the reasons for poverty among the Garo. An official said that because of it they are unable to articulate their felt needs. NGOs and other groups need to work on these issues. IFAD that has entered the Garo Hills recently has appointed village community coordinators. It is too early to say anything more other than that the coordinators may be able to play a role in introducing a strong self-help and community dimension in their work in this region by helping them to revive their livelihood as a group.

To succeed, IFAD and the Medipathar cooperative have to work in parallel with the efforts at Langting whose organizers began with SHGs. A consumer co-operative emerged from them in some villages but they prefer to call it a community market, not a cooperative because they consider it a way of strengthening the Dimasa community, not mainly as an economic enterprise. As a community, the people bought and stored rice and other produce immediately after the harvest in 2004 and prevented the middlemen from buying them at a low price and selling them back to them at a high price during the lean months. They are looking at the possibility of several villages coming together in the cooperative since their economies are complementary. The SHGs are also trying to introduce new crops through experimental farms run on a group basis. The experiments are in their infancy but the effort to combine the community and economic components is worth watching.

Jirsong Asong in Diphu has facilitated about 250 SHGs in the Karbi Anglong and North Cachar Hills districts. However, its efforts are constantly hampered by relief efforts after both the annual floods and regular conflicts. That reduces the amount of time it can devote to constructive work. However, it has been encouraging the SHGs to go beyond micro-credit to economic projects as communities, not as individuals. Some groups have taken up agriculture; a few have got into bamboo and other handicrafts or into petty business. They are yet to get into marketing of the produce because the agency has not had time to train them for it.

Some of these efforts are the beginnings of a possible solution, not the final answer. They show that to succeed, an alternative has to combine tradition with modernity. One could not accept the romantic view of the past being perfect nor can the people be asked to abandon their rich culture in the belief that only what is modern is good. When their community, culture and identity are under attack, the challenge of the State and of the civil society is to strengthen their community. Some of the above solutions attempt to deal with this issue. IFAD needs to study such efforts and combine them with its participatory approach. Mendipathar focused on marketing, Chotapawu on production and Langting is trying to get over the possible shortcomings of the other two by combining marketing with the SHGs.

J. Celebrations of the Indigenous Decade

There were four main celebrations of the Indigenous People's Decade in northeastern India. In Shillong, it began with the Indigenous People's Year in 1993. The person who organized it thinks that it revived the indigenous spirit in his community and renewed their self-confidence because of the knowledge that international agencies were aware of the issues they faced. Although the indigenous movement started much earlier, the declaration of the Indigenous People's Year and Indigenous People's Decade helped them forge solidarity with an international struggle.

Those who were not active in the celebrations have serious reservations. Their main criticism is that the indigenous issue involves controversies between the DAC and the tribal leaders on one hand, and between the leaders and the Central Government on the other. They see the need for the State to get involved but they feel that unless the issues affecting the people's day-to-day life are taken up, the celebrations will remain a festival that will not fundamentally change their lives. They feel that the issues of identity and autonomy are important but they have to be experienced in their day-to-day life and they see no signs of the leaders who organize them interacting with the common tribals on these issues.

NPMHR and the Naga Students' Federation seem to have started organizing similar celebrations around 1998 but seem to have involved a bigger number than among the Khasi in order to bring the macro-issues to the fore. They also celebrate the day of the Indigenous People's Day on August 9 although awareness remains low among people outside the organizations.

K. Presence at International Meetings

Some people were critical of northeastern India's participation at the meetings of the Indigenous People's Division in Geneva in July and of the Permanent Forum at New York in May in 2006. Many felt that two or three groups of non-tribal indigenous peoples that went from the region dominated the sessions instead of advancing the agenda of the "tribals." Some objected to the pres-

ence of the Adivasi and Chakma. There were questions about the representation of indigenous peoples and the concept of "indigenous." Some feel that those who could do more for the tribal communities were excluded from these meetings. The traditional leaders as well as the elected representatives should be invited to them, so also a few others who can be of use to the whole community. Some of them had asked to be invited to the meetings. There were strong criticisms of limiting invitations to organizations with links to organizations like ICITP, MPHRC, and NPMHR. Most other participants from this region are non-tribal persons.

It was recognized that without state recognition of the indigenous status of the tribes, the celebrations and attendance at the UN meetings become a monopoly of a few individuals.

L. International Celebrations

Two international but uncoordinated events took place in northeastern India. The MPHRC and Naga Women's Union of Manipur organized the first event with support from the AIPP. The IWGIA funded the event held at Shillong on 24-26 February 2005. The second was organized by the Indian Confederation of Indigenous and Tribal Peoples (ICITP) and funded by the International Caucus on Education for Indigenous People. It was held at Guwahati on 26 February to 6 March 2005. Representatives of the Philippines-based Tebtebba and other Asian groups attended the first event. The latter event also had some international representatives from other Asian countries.

The objective of both the meetings was to look at the UN Millennium Development Goals from the perspective of the indigenous peoples and make suggestions for the UN Permanent Forum for the next three years. However, there was not merely lack of coordination but even open tension between the two. Several persons linked to ICITP wrote on the internet a letter questioning the organization of a meeting without a wider consultation and accusing the organizers of inviting only a closed circle of people. Some respondents who were invited to these meetings said that they were not allowed to meet the leaders of foreign indigenous networks like Tebtebba without some of the local organizers being

present. Therefore, they could not hold a serious discussion with them.

M. Conclusion

The interviews indicate an extremely low awareness about the first Indigenous People's Decade. Those who knew did not fully understand it. Most respondents and participants at the meetings and interviews did not oppose the UN Indigenous Decade as such but questioned its relevance in its present form. They felt that only a few persons belonging to the international circuit are involved in it by attending UN meetings where they take up macro-issues such as sovereignty and autonomy. These issues are important but they could not have a long-term impact if they did not reach the ordinary people. It is important to go beyond the civil society to the traditional and elected leaders.

In the context of the questions about the meaning and relevance of the first Indigenous People's Decade, the leaders as well as ordinary people were asked whether they feel that there should be a second Indigenous People's Decade. This is the subject of the last section.

VI. Do We Need Another Indigenous Peoples' Decade?

A. The Nature of the Responses

Table 6 in the previous section gave the number and type of respondents. They commented on the Indigenous People's Decade's activities. First, an event like the Indigenous People's Decade is needed but it should serve the needs of the ordinary people and should not stop at macro-issues of a few activists who attend international meetings and organize celebrations. Secondly, traditional leaders and the Central and State Governments should be involved. Thirdly, there should be information dissemination about the Indigenous People's Decade. NGOs involved in the pro-

cess should work in collaboration with the traditional and elected bodies. The State should take up some projects according to local needs.

1. The Type of Organization

The first suggestion concerned the approach to the Indigenous People's Decade. Most of those who knew about it felt that the UN invites only a few civil society groups that monopolize its celebration and attend its meetings. Some say that the indigenous elite have co-opted and monopolized this issue, and have excluded the "tribals" and the ordinary people. A few even thought that the "indigenous" discourse tends to become a backdoor entry to race-based discrimination and politics. They see the danger of a reverse discrimination to compensate for what the "tribals" suffered for centuries. They were angry with the tribal elites but much more so with the non-tribal dominant groups that impose their own politics on the tribes in the name of the indigenous issue and identity. Some also felt that the exclusivist claims of each community are a major reason for ethnic conflicts.

Many respondents want the next Indigenous People's Decade to take the "indigenous" discourse back to the ordinary people, including other discourses on "identity," "autonomy," "self-determination," and "sovereignty." Interpretations of these concepts changed according to the respondents' political stance. As one leader said, "the co-opting mechanism should stop. The next decade should help the indigenous people at the grassroots level, not the elite." Most individual respondents and others who knew about the Indigenous People's Decade wanted the term "indigenous" to be better understood if the Indigenous People's Decade is to reach the ordinary people. In northeastern India, it has to deal both with chronology and identity and they want to bring it down to their daily life.

2. Identity and Livelihood

Economy and identity get priority in the mind of those who want these issues to reach the grassroots. Most respondents linked the issue of identity to their livelihood. Their loss of livelihood is due to deforestation and land alienation to new projects. To ad-

dress this problem, the Khasi village headmen would like to join hands with the local communities and plan a reforestation and land regeneration scheme. They would like IFAD to join their communities in the task of linking their identity with the natural resources and livelihood regeneration. On the other hand, the Boro's main demand was infrastructure building to encourage investment, production, and marketing in their area.

The Boro and Khasi differed in opinion on the issue of infrastructure development and the type of development they envisaged. Some of them thought in terms of big companies. Others want to revive the local economy and insist that the objective of developing roads is not to transport raw materials from their area to the rest of Asom or India. They want an infrastructure for growing new crops, processing them, and marketing the finished products. Similarly, education should support the development of local technology, not just to prepare workers for the big companies. There is a need to focus on technical education meant for their local needs. Some big companies are needed but no development is possible without the local communities developing their own land-based economy that includes new crops, processing, and marketing of the products.

3. The Main Suggestions from the Respondents

Most of the respondents want education and health to get first priority. They would begin with formal education but go beyond to prepare their communities for the type of development that they want. A few Karbi leaders wanted better access to formal education. Some Khasi leaders wanted official benefits and financial aid to traditional leaders without any interference from the State Government.

Others want to prepare communities for improving their land use, regenerate their natural resources, and identify and update their traditional technologies. They want to have the capacity to grow and process new crops. They would not abandon formal education but they want it to adapt to new needs. Some participants wanted even just a few boarding schools for formal education as well as for technical training.

All the respondents agreed on the need to protect their culture, traditions, and identity but with the view of the future. Arguing that no development is possible without solving the ethnic conflicts, they suggested that external agencies interact with them in order to bridge the gap between different indigenous communities of the region. Neither the State nor the indigenous communities could solve the problem by themselves because the conflicts are a complex issue. They know that an end in the conflicts would produce more productive jobs and regeneration of their resources. Many more steps need to be taken and they want an outsider agency to assist their leaders to come together for a dialogue.

The grassroots leaders believe that beyond the issues of sovereignty and autonomy is the need for economic autonomy at the local level.

B. The Role of Civil Society

Some agencies have been mentioned and many more could be identified. It is important for IFAD to take the lead in bringing them together to work for a common objective. Its first step is to develop a common perspective of the civil society members who want to get involved in the process. They need a perspective for northeastern India as a whole and for each area separately. The next step is to reflect with the local leaders about the situation in each area and the approach required in each locality. Based on these reflections, they have to develop approaches and mechanisms for implementation that are adapted to their needs.

1. Approach to Development

During the discussions, the participants realized the commonalities in the solutions to the problems they face in the region. First, they realized that in the context of massive land alienation and unemployment, capital-intensive and resource-intensive mega-industries are not the solutions. Instead, they agree that the main solution is the regeneration of the natural resources and revival of the local economy that begins at the local level.

Second, these solutions are linked to the capacity and identity of each community. In other words, identity becomes a local or micro-phenomenon and does not remain a macro-issue. This means that identity continues to be linked to land, natural resources, and the economy but in a "new" form because of updated land use and traditional techniques, which is achieved through modern inputs. Their externals and value system may remain old but their contents have to be new. For example, the externals are natural resource regeneration but the crops should meet the needs of a modern economy. For the economy to be within their control, the type of new crops should not destroy their culture of renewable natural resource management, particularly of land and forests.

Third, solution should not stop with production but should include processing and marketing. They cited the experiences of the Dimasa, Karbi, and Garo who grew new crops but which they could not market. Moreover, they have to compete with those who presently control the markets as communities (not as individuals) to get the value of their labor. Basic to this approach is to free them from the need to sell perishable commodities at throw-away prices, which happens when they need money for their children's education. They need an easy informal credit system that is community-based but not necessarily a cooperative in the formal sense. This is where the SHGs and other community-based units become relevant.

Fourth, this approach should have a strong training component. The indigenous communities have a tradition of a subsistence economy. Many of their members have made the transition to modern systems through education that prepares them for jobs in the administration. However, they have not competed with a market system controlled by outsiders and is designed to buy their produce at a low price and sell them at a high price. To compete with this system the tribals who do not have such a tradition need much more than marketing techniques. Through training, they could develop the confidence to compete, which they could not do as individuals but only as a community.

Fifth, an important mode of acquiring self-confidence is modernizing their tradition, not replacing it. The very act of revalorizing it can be a major step in building up their self-confi-

dence. They have been made to believe that they are a backward people who need to modernize. Much of their education has trained them to accept the "modern" and reject the "traditional." The efforts of civil society should focus on helping them develop the self-confidence and ability to decide in "going back to their past" and embracing the "modern."

Finally, self-confidence is also required for risk-taking. Developing an identity and a new community-based economy involves new knowledge and technology. It is a risk they face and the civil society organizations have to support them in their efforts without taking over the leadership. Thus, the role of the civil society is to treat the tribal people as equals' and to help them identify their strengths and weaknesses so that they may fill the gaps.

2. Some Concrete Suggestions

The first concrete suggestion that came from the people is that they need to be trained to grow new crops without major changes in their landowning pattern and techniques. The species have to be new but those that they feel confident to grow (like oranges, ginger and others). Growing crops should be seen in relation to maintaining soil fertility and limited land. The goal should not only be improving incomes but also the regeneration of forests and of their land as the sources both of income and of their identity and culture.

3. The Indigenous Issue

An issue that has troubled northeastern India is that of the definition of the term "indigenous." On one hand, there is the danger of some dominant groups monopolizing the discourse. On the other hand, there are tribes like the Chakma and those coming under the generic name of Adivasi who are not even included in the Schedule. They are not considered indigenous to northeastern India.

There is difference in the "cut-off" date for defining who is "indigenous." Some groups refer to 1826. Others consider 1951, or 25 March 1971.[27] Others, like the Boro-Kachari leaders, speak of themselves as the first inhabitants without fixing any cut-off date. Common to all of them is the use of chronology as the only

criterion for the indigenous status. However, no conflict could be solved as long as chronology remains the sole criterion. Alternatives have to be found in defining the "indigenous."

One possibility was suggested at the National Meeting on the Tribal Policy held at Guwahati on 6-7 August 2006. The participants felt that all the groups in northeastern India had a legitimate right to claim an indigenous status but not all of them are tribals. One has to develop definite criteria for a group to be recognized as "tribals" or "indigenous tribals." Other communities that have lived in the area prior to 1826 would then be considered "indigenous" but not "tribal." The criteria would include culture, language, and dependence on community resources, which are similar to the criteria used by Anthropological Survey of India when recommending a tribe for inclusion in the Schedule.

4. Sovereignty and Self-Determination

The sovereignty issue is one point of tension between the indigenous peoples and the State in South Asia. Its main reason is that until recently, "sovereignty" was considered "independence"' and "self-determination" as the right to secede. Many nuances have been introduced in this thinking in the last few decades. After a two-decade long struggle, the Mizo leaders accepted to be a State within the Indian Union but their civil affairs are managed under Article 371G. The NSCN-IM has been speaking of a State with its own Constitution that begins with a reference to the Indian Constitution. The nature of this reference is yet to be defined but this is the beginning of autonomy within the Indian Union. It is called "sovereignty" and its understanding is evolving slowly but it is clear that the NSCN-IM has moved away from the Phizo doctrine (Bhushan, 2006).

At the Udalguri meeting of July 12, persons close to the NDFB stated unambiguously that the Boro territory was never ceded fully even to the British regime and that they had a right to be independent. However, one gets the impression that it is a point of negotiation. ULFA, too, began with "sovereignty" understood as "independence" but its 2005 manifesto refers to the nation of Asom within which there are many smaller nations all of which have to be respected. The regime wants control over its economy,

especially the tea gardens. However, without defining autonomy and sovereignty clearly, it hints at a distinction between a nation and a State. Political autonomy is required in the rebuilding of their traditional administrative systems but very few of them spoke of a sovereign or independent nation.

Many respondents spoke of local autonomy by which they meant both economic and cultural sovereignty. This control also means the right to develop a culture and an identity of their own that combined self-respect and community building with their traditional institutions that have to be adapted to modern needs.

C. Conclusion

This chapter has brought together the suggestions made by the respondents for the second Indigenous People's Decade. Only a few of them, especially those who were involved in the celebrations of the first Decade, would like to continue the same pattern. Very few said that they did not need a second Indigenous People's Decade at all. Most wanted another Indigenous People's Decade in a new form. The issues raised during the first Decade such as identity, sovereignty and autonomy should not remain at the international or national level but should come down to the grassroots and each community should see results and benefit from its fruits.

This brought the issue of their economy and natural resources and their link to identity and autonomy. These issues should be moved away from the arena of ethnic conflicts. Identity has to be rebuilt around their environment without turning it into a purely political or economic issue. The "indigenous" issue needs to be revisited in order to avoid possible conflicts between the tribal and non-tribal communities. Thus, northeastern India retains its right to be considered different from "mainland" India. This involves redefining "sovereignty" and "self-determination." These concepts are now viewed as cultural, economic, and political autonomy and not independence. This could be the first step in solving some ethnic conflicts.

Endnotes

[1] Used interchangeably with "Assam" in the tables and text.

[2] Although the North Eastern Council (NEC) includes the state of Sikkim as part of its jurisdiction aside from the seven States, this report concerns only the latter.

[3] References to Table 1 are only for the year 2001 which are in boldface.

[4] The "Sixth Schedule" comprises Article 244(2) and Article 275(1) of the Indian Constitution, entitled "Provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram" <http://www.commonlii.org/in/legis/const/2004/33.html>.

"Prior to the arrival of the British the tribal areas were relatively undisturbed…Imposition of regular taxation through the passage of the Bengal Permanent Settlement Act of 1793 marked the beginning of unrest and rebellions in all tribal areas of the country, depending on when the Act was operationalized. Widespread tribal resistance movements compelled the British administration to negotiate workable peace in the tribal areas and this led to the concept of partially or completely excluded areas of administration in British India. These became the Fifth Scheduled and Sixth Scheduled areas in post-independence India after the promulgation of the constitution in 1950…The constitution re-designated the earlier partially excluded areas as Scheduled Areas and wholly excluded areas as Tribal Areas, and the tribal people in general as Scheduled Tribes after their specification in terms of groups and their geographical location. In Hindi, the terms used are anusuchit kshetra for Scheduled Areas and anusuchit janajati for Scheduled Tribes. Thus, avoidance of using the more popular term Adivasi (the first settlers) had already begun with the drafting of the constitution.

…The most distinctive features of the Constitution with reference to the tribal people are the Fifth and Sixth Schedules, which are solely devoted to the administration of the scheduled and the tribal areas of the country" (underlining supplied) (Munda, 2002).

"The Fifth Schedule covers Tribal areas in nine states of India namely Andhra Pradesh, Jharkhand, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Chattisgarh, Orissa and Rajasthan. The North Eastern states such as Assam, Meghalaya, Tripura and Mizoram are covered by the Sixth Schedule and not included in the Fifth schedule" <http://www.mmpindia.org/Fifth_Schedule.htm> Accessed December 7, 2008.

[5] According to their tradition, they are people of the seven huts that broke from the 16 huts of heaven and landed in the Khasi Hills. See Khonglah, 2002:161-162.

[6] In parts of North India (e.g., Uttar Pradesh), a zamindar denoted a large landowner with full proprietary rights. More generally in North India, zamindar denoted the cultivator of the soil or joint proprietors holding village lands in common as joint heirs. In Marâthâ territories, the name was generally applied to all local hereditary revenue officers (Encylopedia Britannica), accessed November 30, 2008 at <http://www.britannica.com/EBchecked/topic/655661/zamindar>.

[7] Shifting cultivation in the Northeast, called jhum, is under stress because of conflicts and industrialization (Ananthanarayanan, 2008), accessed November 30, 2008 at <http://www.indiatogether.org/2008/jun/agr-jhum.htm>.

[8] This was also called terra nullius (nobody's land) in Australia. Colonization of native land there and in the Americas is based on the principle that land without an individual title belongs to none. As such, anyone can occupy it. Indian land laws continue to be based on the American version of eminent domain even though the Australian judiciary declared this principle as unconstitutional in 1992 (Brennan 1995:4-5).

[9] Patta lands are the private lands of the tribals, on which the tribal people possess the government record of ownership (Patta) (Baisakh, 2006), accessed November 30, 2008 at <http://www.indiatogether.org/2006/dec/soc-pattalaw.htm>.

[10] For other examples, see Majumdar 1987:158-159; Fernandes and Bharali 2002:22-23; Goswami n.d.(a):36-37; Saha, 1987:21-23; and Roy 1995:27.

[11] See D'Souza (2001b) for an example involving the Jakhama village in Nagaland and Kohima town.

[12] For example, near Tawang in Arunachal Pradesh, a village council allowed an adopted daughter to inherit land with no reference to the civil authorities (Barooah, 2002). The community recognized it. If one of the parties had approached a court of law, it would not have been bound by the decision. In Nagaland and Mizoram, the court cannot entertain such a petition.

[13] In fact, some members of the Constituent Assembly stated that if they were not integrated, the Mongoloid tribes would side with Burma or China. Thus, most of them did not trust the northeastern tribes to be loyal to an "Aryan" India (Daimary 2002: 15-16).

[14] As recent as May 2004, a candidate in the Parliament elections appealed to the voters to reject his opponent, a garden worker, as an "outsider" (The Telegraph May 5, 2004). This rejection is one of the reasons why the "tribals" of the region do not want to be called Adivasi. Even some of those who see the need to include them in the "Schedule" oppose the use of the term.

[15] Already in December 1996, the Apex Court had said in its judgment

on the Bastar case that if a tribal uses his political or economic power to take over land from other tribals, he is to be considered a non-tribal under the laws preventing tribal land alienation. It thus acknowledged that alienation occurs within the tribe.

[16] Community Forest Management.

[17] District Autonomous Council.

[18] District Autonomous Council.

[19] These are the Bansphor, Bhuinmali or Mali, Brital-Bania or Bania, Dhupi or Dhobi, Dugla or Dholi, Hira, Jalkeot, Jhalo-Malo, Kaibarta or Jaliya, Lalbegi, Mahara, Mehtar or Bhanji, Muchi or Rishi, Namasudra, Patni and Satradhar.

[20] These are: (1) Barman, (2) Boro, (3) Borokachari, (3) Deori, (4) Hojai, (5) Kachari, Sonowal, (6) Lalung, (7) Mech, (8) Miri, and (9) Rabha.

[21] These are: (1) Chakma, (2) Dimasa Kachari, (3) Garo, (4) Hajong, (5) Hmar, (6) Khasi, Jaintia, Synteng, Pnar, War, Bhoi, Lyngngam, (7) Any Kuki Tribe (37 groups), (8) Lakhar, (9) Man, (10) Any Mizo Tribe, (11) Mikir (Karbi), (12) Any Naga Tribe (13) Pawi, and (14) Syntheng.

[22] The attempt to interview the small Aka and Miji tribes in West Kameng failed once because of a five-day bandh and the second time because of a landslide.

[23] Because of the identity of their views, the three AP tribes are treated as one.

[24] The interview with the Dimasas was stopped since no one from the group heard of the Indigenous People's Decade.

[25] Some respondents also said that the Zo Reunification Organization (ZORO) held activities to celebrate the Indigenous People's Decade. Zo is the name of the Mizo who have been divided into different groups by the international boundaries of India, Myanmar, and Bangladesh. ZORO is their organization aspiring to reunite all of them (Sailo, 2006).

[26] The tribes represented were the Galo, Nyishi, and Nocte.

[27] In the context of the controversy around the Bangladeshi immigrants, the Assam Accord 1985 took 25 March 1971 as the cut off date for citizenship. In the same context, some refer to the 1951 census as the cutoff point, which marks the end of the Partition refugees and beginning of immigrants.

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ANNEX

ANNEX 1. Table A. Tribal Proportion in northeastern India by District, 2001.

Sl. No.	State & Districts	Tribals as % of Population	Sl. No.	State & Districts	Tribals as % of Total Population	Sl. No.	State & Districts	Tribals as % of Total Population
	Arunachal	***64.22***		***Assam***	***12.41***		***Assam Continued***	
1	Tawang	**74.99**	1	Kokrajhar	33.67	14	Tinsukia	5.84
2	W Kameng	49.53	2	Dhubri	1.98	15	Dibrugrarh	7.45
3	E Kameng	**86.71**	3	Goalpara	16.03	16	Sibsagar	3.94
4	Papum Pare*	**56.56**	4	Bongaigaon	12.23	17	Jorhat	12.32
5	Lsubansiri	**90.09**	5	Barpeta	7.48	18	Golaghat	9.92
6	Usubansiri	**89.53**	6	Kamrup	9.92	19	KarbiAnglong	**55.69**
7	West Siang	**81.72**	7	Nalbari	17.63	20	NC Hills	**68.28**
8	East Siang	**69.13**	8	Darrang	16.60	21	Cachar	1.28
9	Upper Siang*	**78.21**	9	Marigaon	15.55	22	Karimganj	00
10	Dibang	46.48	10	Nagaon	3.86	23	Hailakandi	00
11	Lohit	38.18	11	Sonitpur	11.60			
12	Changlang	36.15	12	Lakhimpur	23.49			

13	Tirap	**83.66**	13	Dhemaji	47.29		***Manipur***	***34.2***
	Meghalaya	***85.94***		***Mizoram***	***94.45***	1	Senapati	**78.45**
1	West Garo	**76.61**	1	Mamit*	**93.41**	2	Tamenglong	**95.38**
2	East Garo	**96.54**	2	Kolasib*	**89.78**	3	Churachandpur	**93.23**
3	SouthGaro*	**95.67**	3	Aizawl	**93.23**	4	Ukhrul	**95.53**
4	West Khasi	**98.01**	4	Champal*	**96.8**	5	Chandel	**91.93**
5	Ri Bhoi*	**87.02**	5	Serchhip*	**98.08**	6	Bishnupur	2.94
6	East Khasi	**77.49**	6	Lunglei	**95.29**	7	Thoubal	1.17
7	Jaintia	**95.96**	7	Lawngtlai	**95.4**	8	Imphal West	4.75
			8	Saiha*	**96.21**	9	Imphal East*	6.25
	Nagaland	***89.14***		***Nagaland Continued***			***Tripura***	***31.05***
1	Mon	**93.92**	5	Wokha	**95.50**	1	West Tripura	25.25
2	Tuensang	**96.03**	6	Dimapur*	**60.69**	2	South Tripura	37.72
3	Mokochung	**93.78**	7	Kohima	**90.54**	3	Dhalai*	**54.02**
4	Zunheboto	**96.07**	8	Phek	**96.47**	4	North Tripura	25.46

6

Ethnic Minorities in Southwest China: An Assessment of the International Decade of the World's Indigenous People

The Center for Biodiversity and Indigenous Knowledge
Yunnan, China

I. Introduction

The conclusion of the First International Decade of the World's Indigenous People (1995-2004) offers an opportunity to not only assess the outcomes of the Indigenous People's Decade and acknowledge its successes and shortcomings but also plan for future strategies that could advance the cause of indigenous peoples. An assessment of the first Indigenous People's Decade is even more necessary as the United Nations has already declared the second Indigenous People's Decade. Reflecting on the successes and failures of the first Indigenous People's Decade would be critical in ensuring meaningful second decade.

The International Fund for Agricultural Development (IFAD) entered into an agreement with the International Centre for Integrated Mountain Development (ICIMOD) to undertake an assessment of the Indigenous People's Decade in 10 countries in Asia,

namely Bangladesh, Bhutan, China, India, Nepal, Cambodia, Indonesia, Philippines, Thailand, and Vietnam. The assessments focused on the following key areas:

(1) *Policy analysis*. This is an analysis of national policies pertaining to ethnic minorities in Southwest China, as well as policies of selected provinces in the said region;

(2) *Situational analysis*. This is an analysis of the role of the media, civil society organizations, and the judiciary in upholding the rights of ethnic minorities. It includes a description of ethnic minorities and a history of their struggle; and

(3) *Program analysis*. This is an analysis of selected programs of the government and donor agencies through secondary review of literature reflecting on the achievements and shortfalls of these programs.

The Center for Biodiversity and Indigenous Knowledge (CBIK)[1] prepared this report for ICIMOD in order to complete the China component of the regional assessment.

A. Objectives of the Research

This report aims to review and assess the changes that have affected the ethnic minorities of South West (SW) China over the last 10 years. Specifically, it includes the following:

1. Review of the governance context;
2. Discussion of the changes in welfare indicators;
3. Description of policies and programs that the government has implemented in ethnic minority areas; and
4. Assessment of China's commitments under international conventions.

B. Research Methodology

A full assessment of the status of ethnic minorities in China is beyond the scope of this research given the time and resources available. To date, no such assessment is publicly available from any international development agency working in China.[2] CBIK and ICIMOD agreed to restrict the scope of this assessment on SW China. The justification for this geographical restriction is as follows:

> There are several definitions of the geographical scope of SW China. The narrowest definition of SW China shows that it comprises only the provinces of Yunnan, Guizhou, and Sichuan. In other definitions, the region includes Xizang (Tibet) Zang (Tibetan) Minority Autonomous Region, the Guangxi Zhuang Minority Autonomous Region, and Chongqing Municipality. Until 1998, Chongqing Municipality was part of Sichuan while Guangxi is considered part of southern China, linked more closely to Hunan and Guangdong.

This report focuses on four provinces of SW China, specifically Yunnan, Guizhou, Sichuan, and Guangxi. The research team started from mostly secondary sources. Specifically, they reviewed (1) relevant policies and programs, (2) China's related international commitments, and (3) data on changes in welfare. Then they gathered more data on changes in welfare, changes in the ethnic minority autonomy law, and policymaking processes affecting ethnic minorities.

Three Chinese researchers based at the Yunnan Academy of Social Sciences wrote the background papers that summarized these data. The research team interviewed five prominent Chinese researchers, an official of the World Bank (Beijing office), and more than 20 officials of local and provincial offices. In order to avoid repercussions from any potential political implications of this report, it does not name the interview respondents, specific agencies, and the authors of the background papers. However, the research team submitted a list of names to ICIMOD. Dr. Andreas Wilkes, Director of Programs at CBIK, gathered and integrated the information into the final report.

C. On the term 'Indigenous Peoples'

China does not officially recognize that its citizens include "indigenous peoples" as the term is used in discourses in the international arena. In a statement sent to the UN Working Group in 1995, China claimed that "the question of indigenous peoples is the product of European countries' recent pursuit of colonial policies in other parts of the world….there is no indigenous peoples' question in China" (Niezen 2003:231).

By the criterion of "indigeneity," the Han Chinese majority could also be considered indigenous to China. The current global concern with indigenous peoples derives largely from a post-colonial re-assessment of social inclusion in formerly colonial nations. While China did experience adverse engagements with the major colonial powers including Japan, it was never fully colonized in the same way as the other countries. The official government terminology is "ethnic minorities"—a term that Chinese society widely accepts. The Chinese government officially recognizes 55 ethnic minorities in addition to the Han majority.

Despite this formal position of the government, China has engaged in international fora on indigenous peoples' issues in recent years. This implies that China sees the relevance of indigenous issues for its own ethnic minorities. China is a signatory to the Convention on Biological Diversity, which has articles referring to indigenous peoples' rights. It regularly reports its accomplishments to the Convention of Parties. It uses the term "ethnic minorities" or "ethnic cultures" in these reports (e.g. SEPA 2005). The latter term is ambiguous because it may also refer to the culture of the ethnic Han majority. Nevertheless, the use of these terms in formal statements indicates that the government does not reject wholesale the discourses on indigenous peoples in China. This also provides opportunities for international agencies to engage in discussions with Chinese government agencies.

II. The Governance Context

To understand the wider governance context in China is to understand the laws, policies, and programs and their specific impacts on both ethnic minorities and the national population in general. This understanding corrects the mistaken perceptions that policies affect only the ethnic minorities.

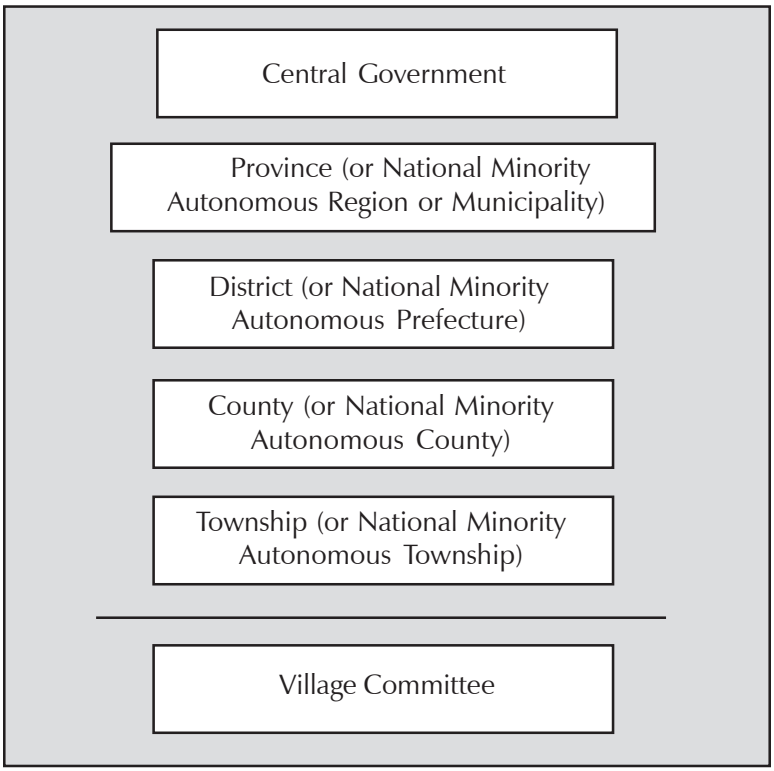
This section outlines the institutional structures of governance in China, including: (a) hierarchical organization of government; (b) the organization of central government; (c) organization of the local government; (d) legal and judicial institutions, and two institutions of particular relevance to ethnic minorities; (e) the State Ethnic Affairs Commission; and (f) the Minority Area Autonomy Law. The final section (g) assesses the features of institutional, legal, and policy processes that are of particular relevance to the welfare of ethnic minorities in SW China.

A. The Hierarchical Organization of Government

China's political hierarchy consists of a system containing five levels (see Fig. 1). The Village Self-governance Law of 1998 defined village committees as self-governance agencies and not part of government. In fact, the district or prefecture levels of government are commissions of the provincial government. In addition to the government administrative system, the Communist Party, People's Congress, and Political Consultative bodies exist at each administrative level. It is worth noting that while the People's Congresses are constitutionally empowered as the highest decision-making body at each level, the Communist Party is in fact the most influential organization at all levels.

Within China there are 22 provinces (including Sichuan, Yunnan and Guizhou), four municipalities directly administered by central government, and five autonomous regions of ethnic minorities (including Guangxi Zhuang Autonomous Region). Table 1 gives the number of ethnic minority autonomous administrative areas within the four provinces covered in this research.

Figure 1. Government Administrative Levels



B. The Organization of the Central Government

China's state power structure includes: (a) National People's Congress (NPC) equivalent to a parliament in many other countries; (b) the State Council (SC) or the Central People's Government, which is the highest body in the executive arm of government; (c) the Supreme People's Court (SPC); and (d) the Supreme People's Procuratorate (SPP), which is responsible for supervision of discipline within the government (see Table 2).

In addition to the structures of government, there is also a People's Political Consultative Congress (PPCC), a consultative organization where the Communist Party and eight other political parties are represented. The PPCC also monitors government work.

Table 1. Number of Ethnic Minority Autonomous Administrative Areas in SW China

Yunnan	There are eight minority autonomous prefectures and 20 minority autonomous counties outside those prefectures, totaling 78 minority autonomous county level units (65 percent of all counties in the province). There are 197 minority autonomous townships.
Sichuan	There are three minority autonomous prefectures and three minority autonomous counties outside those prefectures, totaling 51 minority autonomous county level units (40 percent of all counties in the province).
Guizhou	There are three minority autonomous prefectures and 11 minority autonomous counties outside those prefectures, totaling 43 minority autonomous county level units, and 253 minority autonomous townships; 33 percent of the province's prefectures are minority autonomous prefectures; 19.6 percent of counties are minority autonomous counties; and 50 percent of all townships are minority autonomous townships.
Guangxi	Regional Autonomy in Guangxi has been granted to the Zhuang minority. Guangxi Autonomous Region has 14 prefecture-level cities, seven county level cities, 57 counties, 12 minority autonomous counties and 61 out of 576 townships are minority autonomous townships.

However, unlike the NPC, it has no constitutional authority to enforce its recommendations and suggestions. The conduct of all of these agencies is subject to the National Constitution (1982, latest revision in 2004). The Preamble to the Constitution states that:

> *The People's Republic of China is a unitary multi-national state built up jointly by the people of all its nationalities. Socialist relations of equality, unity, and mutual assistance have been established among them and will continue to be strengthened. In the struggle to safeguard the unity of the nationalities, it is necessary to combat big-nation chauvinism, mainly Han chauvinism, and also necessary to combat local-national chauvinism. The state does its utmost to promote the common prosperity of all nationalities in the country (National Constitution, 1982).*

Article 4 of the Constitution states that:

> ***All nationalities in the People's Republic of China are equal.*** *The state protects the lawful rights and interests of the minority nationalities and upholds and develops the relationship of equality, unity and mutual assistance among all of China's nationalities. Discrimination against and oppression of any nationality are prohibited; any acts that undermine the unity of the nationalities or instigate their secession are prohibited. The state helps the areas inhabited by minority nationalities speed up their economic and cultural development in accordance with the peculiarities and needs of the different minority nationalities. Regional autonomy is practiced in areas where people of minority nationalities live in compact communities; in these areas, organs of self-government are established for the exercise of the right of autonomy. All the national autonomous areas are inalienable parts of the People's Republic of China. The people of all nationalities have the freedom to use and develop their own spoken and written languages, and to preserve or reform their own ways and customs (National Constitution, 1982). [Bold type in the original]*

Table 2. Governance Structures and Functions in China

Structure	Functions
National People's Congress (NPC)	Headed by Chairperson and Standing Committee, Organized by People's Deputies. It is given power to govern the government and to make laws, and supervises the State Council, Supreme Court and the Procuratorate
President	Elected by NPC; representative of the state; promulgates laws and proposes heads of SC and PSC
State Council (SC)	Headed by Premier, Proposed by the President and elected by NPC
People's Supreme Court (PSC)	Proposed by the President and elected by NPC
People Supreme Procuratorate (PSP)	Proposed by the President and elected by NPC
National People's Political Consultative Congress (NPPCC)	No state power (consultative organization)

1. The National People's Congress (NPC)

The National People's Congress (NPC) is the highest organ of state power. It is equivalent to the parliament in many other countries. Its permanent body is the Standing Committee of the National People's Congress. The NPC and its Standing Committee exercise the legislative power of the state. The NPC is composed of deputies elected from the provinces, autonomous regions, and municipalities. There are now about 3,000 deputies.

Article 59 of the constitution stipulates that all the minority nationalities are entitled to representation. The constitution also states that ethnic minorities are "entitled to appropriate representation" in the Standing Committee of the NPC. According to the relevant law, the Standing Committee of the NPC decides the number of ethnic minority representatives at the NPC based on population size and distribution of ethnic minorities. It also stipulates that minorities with small populations be assured of one repre-

sentative each. According to press reports on the 2006 NPC meetings, ethnic minorities have a quota of 12 percent of NPC's membership even if they account for only 8.41 percent of China's population. The actual number of representatives could be higher because some ethnic minorities are also elected from other constituencies irrespective of their ethnicity. The NPC has a special ethnic minorities committee to deliberate on ethnic minority issues. (The specific functions and powers of the NPC are in Appendix 1.)

2. The State Council

The State Council is the highest executive organ of the state. It could be considered equivalent to the cabinet in many other countries. The State Council is composed of the Premier, the Vice-Premiers, the State Councillors, the Ministers, the Auditor-General, and the Secretary-General. The Premier assumes overall responsibility for the work of the State Council. The Ministers assume overall responsibility for the work of the ministries and commissions. (For a list of ministries represented in the State Council, see Table 3). Of these is the State Ethnic Affairs Commission, the central government agency responsible for ethnic affairs and socio-economic development in ethnic minority areas (described in section E). (The functions and powers of the State Council are in Appendix 1).

The constitution stipulates that national law should include the administrative rules and regulations enacted by the State Council, which have nationwide application. Thus, the rules and regulations issued by the State Council are often referred to in court cases. The ministries and commissions under the State Council have the authority to issue orders, directives, and regulations in accordance with national law and the State Council's administrative rules and regulations.

Ministerial regulations and rules are more limited in nature and their application is generally within the sphere of the function of the ministry in question. Most such regulations are in fact detailed regulations concerning the implementation of the decisions of the State Council. As central government agencies issue implementation regulations, each province (or autonomous region) will

then issue supplementary regulations for local implementation.

The State Council has an Office of Legislative Affairs, which is responsible for drafting laws and regulations. It is also responsible for examining the implementation of laws and regulations. It consults scholars, experts, and relevant ministries (like the State Ethnic Affairs Commission) during this process.

Table 3. Members of the State Council

• Ministry of Foreign Affairs • Ministry of National Defense • Ministry of Education • Ministry of Science and Technology • Ministry of Public Security • Ministry of State Security • Ministry of Supervision • Ministry of Finance • Ministry of Civil Affairs • Ministry of Personnel • Ministry of Justice • Ministry of Labor and Social Security • Ministry of Land and Resources • Ministry of Health • Ministry of Construction	• Ministry of Railways • Ministry of Communications • Ministry of Information Industry • Ministry of Water Resources • Ministry of Agriculture • Ministry of Foreign Trade and Economic Cooperation • Ministry of Culture • State Development and Reform Commission • State Economic and Trade Commission • State Commission of Science, Technology and Industry for National Defense • State Ethnic Affairs Commission • State Family Planning Commission • People's Bank of China • National Audit Office

3. The Communist Party of China

In addition to the structures of government, the Communist Party of China (CPC) is a major locus of power, with important roles in strategic policy development. Party members often hold key government positions at all levels. Through its Organization Department, the Party makes crucial decisions on who occupies what position within the government. The CPC Constitution ex-

plicitly states that the Party is subject to the rule of law, including the National Constitution.

The Party's highest body is the National Congress of the Communist Party of China, which meets at least once every five years. The Party also has a Politburo Standing Committee with nine members, a Politburo of 22 members, and a Secretariat, which is the principal executive agency of the Party. It is headed by the General Secretary.

The Party influences government policy not only through its own policy statements, but also through the operation of "leading groups" which include high ranking Party members with positions in government agencies. The Party agencies are also involved in decisions over personnel appointments within the government. There is no regulation in the Communist Party, which states that Party leaders in minority autonomous areas must come from the ethnic group that has local area autonomy.

C. Local Government

In administrative terms, each level of government is responsible to the immediate higher level of government. Formally, however, the law decrees that the government at each level is responsible to the People's Congress at that particular level. For example, the township People's Congress is the governing agency at the township level. The electorate directly elects the township People's Representatives.

The key stage in the election of the township People's Representative is the formal approval of candidates. Any political party, social organizations, or 10 or more voters could recommend candidates according to regulations. However, because the farmers' organization is not strong enough, grassroots Communist Party organizations usually dominate the recommendation of candidates. Thus, the township Communist Party is the real center of power at this level because most township People's Representative Congress directors and township governors are Communist Party members. The township governor is often a deputy Party Secretary. The director of the township People's Congress is often a deputy

secretary of the township Communist Party Committee. This means that the Communist Party heavily influences the election of the township governor.

Electing the township governor (every three years) and inspecting the annual work report and budget of the township government are the most striking roles of the township People's Representative Congress. A similar relationship between the People's Congress and government exists at each level. Legally, the representatives elect the township government at the first meeting of the People's Congress and not as ordered by the superior level of administration. In practice, the township government is *both* the executing agency of the township People's Representative Congress *and* the implementing administrative agency of the superior level of government. However, the township government usually prioritizes the administrative orders from the superior level of government. (The legally defined functions of township government are listed in Appendix 1.)

D. Legal and Judicial Institutions

A quorum in the NPC may propose a legal bill and place it on the agenda of a NPC session. Then the relevant NPC Standing Committee provides information for the debate. The Law Committee is in charge of gathering views during the deliberations and revising the draft for further consideration by the NPC. The NPC adopts laws and decisions by a majority vote of all the deputies. They vote by ballots or a show of hands. However, amendments to the Constitution require a ballot. The NPC Standing Committee uses similar procedures. The State Council and its ministries and commissions prepare the draft laws after seeking the opinions of scholars and experts.

Chinese law can be divided into four types: (1) the Constitution; (2) laws adopted by the NPC and its Standing Committee; (3) administrative regulations adopted by the State Council; (4) and local regulations adopted by the People's Congresses of provinces, autonomous regions, and municipalities. Most of the laws adopted by the NPC and its Standing Committee are general in nature and are therefore usually supplemented by more detailed

rules and regulations promulgated by the State Council ministries. Rules and regulations enacted by the State Council or relevant ministries deal with specific matters, especially economic activities, and have nationwide application.

In 1979, the central government focused on economic modernization. In 1982, it promulgated a new constitution. In the years that followed, the government announced many new laws that aimed to set the "rules of the game" for the promotion of economic development. Between 1978 and 1989, the NPC, its Standing Committee, and the State Council formulated more than 450 laws and regulations. Of these, 350 dealt with economic management.

In the 1990s, the government announced new laws pertaining to regulatory framework for economic production, and laws on the rights of special groups such as women and children. In 2001, government made important revisions to the Minority Area Autonomy Law (see section F).

A number of legal measures ensured the separation of the economy from government administration and politics. Such measures include the Administrative Penalty Law and the Administrative Procedure Law, which restrain government officials from inappropriate intervention in the management of enterprises and other legal entities. However, many key concepts remain unclear in Chinese law, notably the concept of a "legal person" and of a "village collective." The status of "law" is also unclear. In general, following the Marxist perspective, "law" reflects the will of the "ruling class," which is assumed as the will of the people in a socialist society. Owing to these factors, accountability of the government, the judiciary, and lawmakers sometimes remain problematic in China.

One of the few laws on political reforms that the government adopted is the law on village self-governance.

The National Constitution defines the People's Courts as the judicial organs of the state. The People's Procuratorates are the state organs for legal supervision. The People's Congresses create and supervise the judicial and the procuratorial organs of the state. Formally, the courts are accountable to the People's Congress and not to the government.

The courts exercise judicial power at four levels: (1) Basic People's Courts; (2) Intermediate People's Courts; (3) Higher People's Courts; and (4) the Supreme People's Court (plus special courts). Around 3,000 Basic People's Courts have been established at the county level in China. A Basic People's Court is composed of a president, vice presidents, and judges. Every Basic People's Court has a criminal division, a civil division, an economic division, and an enforcement division. Each division has a chief judge and deputy judges.

Intermediate People's Courts are mostly at the prefecture or provincial level. There are around 400 Intermediate Courts. Higher People's Courts are mostly at the provincial level. The Supreme People's Court is the highest judicial organ in the hierarchy of the courts. It supervises the administration of justice by the courts at lower levels and by the special courts. It is responsible to the NPC and its Standing Committee.

Chinese law allows two instances of trial: the *first instance*, and an *appeal*. The Basic Courts serve as the courts of first instance. The Intermediate Courts and Higher Courts serve as courts of appeal, but may also serve as courts of first instance. Important cases or cases that involve a legal person from a higher level of administration may be referred to Higher Courts, generally within the local area.

Government agencies, lawyers, and courts try to promote out-of-court conciliation between the parties involved. The court makes a judgment if the parties could not reach an agreement. Conciliators in each village, the township government, and the local court provide conciliation services. Thus, many local disputes (e.g., over land rights) do not reach the courts but are mediated at the grassroots.

According to the constitution, the courts have independent judicial power. They are not subject to interference by government administrative agencies or other organizations. All cases in the courts are heard in public and the accused have the right to defense. In practice, however, the staff of the courts at the county level may be neighbors and friends of the staff of the other county bureaus. Thus, it is sometimes difficult for farmers to get a fair hearing at their local court. If villagers wish to sue the local government, the most common practice is for them to send a petition to

the provincial level to gain the leaders' support and to use the leverage of the provincial administrative (rather than legal) authorities to gain compensation or redress.

According to the law, citizens of all minority ethnic groups may use the written and spoken languages of their own ethnic group in court proceedings (Article 134 of the National Constitution). If a party is not familiar with the spoken or written languages commonly used in the locality, the courts are obliged to provide translation, though how often this occurs is yet unknown. In minority autonomous areas, all may use the local language during court proceedings.

E. The State Ethnic Affairs Commission

The State Ethnic Affairs Commission (SEAC) is the ministerial body charged with overseeing affairs concerning ethnic minorities. There are also Ethnic Affairs Commissions at each administrative level down to the county level. The Ethnic Affairs Commission has no permanent presence at the township level or below.

The SEAC is responsible for ethnic minorities' work under the guidance of the State Council and the Party's decisions. According to the SEAC documents, the commission's work is to promote development, ethnic unity, social stability, and national unity. These are key principles, which underlie all government statements on policies and actions in relation to the ethnic minorities. Economic development is considered as a key to maintaining good relations between ethnic minorities and between the minorities and the majority Han. The inseparability of ethnic minority peoples and ethnic minority areas from the Chinese state is a fundamental tenet in Chinese internal and external politics.

"Ethnic work"[3] has economic and social aspects, and requires coordination between various line ministries of the government. The SEAC has a committee structure that ensures that committee members from various government agencies are responsible for following the Party's ethnicity policies, improving the autonomy system in the minority area, and promoting equality and unity.[4] Each agency has a distinct responsibility within the sphere of "ethnic work."

F. Minority Autonomous Areas

In the 1950s, a system of minority area autonomous governance was established in areas with significant concentrations of ethnic minorities. This was enshrined in the National Constitution and the Ethnic Minority Area Autonomy Law (1984, revised 2001). The provisions for minority area autonomy are also found in Section 6 of Chapter 3—entitled "The Structure of the State"—of the National Constitution. The provisions for "autonomous governance"—subject to the principles of maintaining state territorial unity, ethnic equality and ethnic unity—include the following:

(1) In areas where a high proportion of the population is ethnic minorities, autonomous governance institutions can be set up (e.g., Minority Autonomous Areas at the province level, Minority Autonomous Counties and Minority Autonomous Townships);

(2) These regions are governed by the local People's Representative Congress and government, with the latter responsible to the former, and both obliged to comply with the directives of the State Council;

(3) The director and deputy director of the Congress must be of the ethnic group, which is exercising autonomous governance. No strict quotas for numbers of representatives or officials are set, but the law states that these must "in so far as is possible" be from the ethnic group, which is exercising autonomous governance;[5]

(4) The autonomous governance organs are empowered to exercise the same governance rights as other organs at the same administrative level. Additional rights include:

   (a) The right to govern the political matters of the area: if decisions of higher levels of government do not suit the conditions of the minority autonomous area, then the autonomous governance agency has the right to appeal to the higher level to have the decision overturned or not implemented.

   (b) The right to govern local economic development—within the constraints of the national plan, the local

government governs local economic development. This includes the legal right to exploit, manage and protect local environmental resources. The Constitution and Law also empower local governments to develop the economy in ways that suit the special characteristics of the locality, but the overall guidance is important in productivity and material living standards.

(c) The right to cultural self-development—in practice this is mainly limited to the right to use ethnic minority languages in local government. "Developing culture" is in practice understood as promoting literacy in Han Chinese language and mainstream education.

(d) Special preferences for the recruitment and promotion of ethnic minority cadres.

Some years after the promulgation of the national law, each province and autonomous region developed its own local regulations. For example, Yunnan has produced five such regulations (see Box 1). Thus, many local regulations supplement the National Constitution and the Minority Area Autonomy Law. In addition, provincial and local governments issued ordinances relating to the implementation of the Minority Area Autonomy Law. (see Box 2 for examples from Yunnan).

Box 1. Yunnan Laws to Supplement the National Constitution and Minority Area Autonomy Law

1. Regulations for Ethnic Minority Work in Townships in Yunnan (1992, revised in 2004);
2. Regulations for the promotion of progress in science and technology in Yunnan's ethnic minority autonomous areas (1993);
3. Regulations on urban ethnic work in Yunnan (1999);
4. Regulations on the protection of folk culture in Yunnan (2000); and
5. Method for implementation of the minority autonomy law of the PRC in Yunnan (2004).

Box 2. Yunnan Ordinances to Implement the Minority Area Autonomy Law

1. Decision on doing ethnic work well under the new conditions (1999);
2. Decision on fostering ethnic minority cadres (2001);
3. Recommendations on dealing with ethnic unity issues correctly under the new conditions (2002);
4. Notification on adopting special measures to hasten the pace of development of 7 ethnic groups with small populations (2002);
5. Decision on further strengthening ethnic minorities work and socio-economic development in ethnic minority areas (2005).

Although there are many ethnic minority autonomous area (e.g., townships, counties, and prefectures), it is relatively rare for local governments to enact local regulations that have any significant impact on the livelihood of ethnic minorities.[6] It is even rarer that local governments would appeal to superior levels to revoke a decision because it does not suit local conditions. Many officials are unwilling to risk their own political careers because their promotion depends on the favor of superior level agencies. Many officials freely state that "autonomy only exists in name."

In addition, as elsewhere in China, real power is with the Communist Party Secretary at each level who need not come from the ethnic minority that exercises local autonomous governance. Many cadres have risen to their position by virtue of their success within the mainstream Chinese education system. Officials do not necessarily represent the interests of ethnic minority villagers. While the People's Congress provides for representation of ethnic minorities at each level, an increasing number of ethnic minority representatives in the Congresses are government-employed officials who happen to be members of ethnic minorities. Therefore, the representation system does not necessarily provide ethnic minority villagers with a channel of representation that is independent of the government system.

The government formulated the original ethnic Minority Area Autonomy Law under conditions of a planned economy in 1984. Given that some contents no longer suit the more market-ori-

ented economy that subsequently took shape, the government came up with a revised version in 2001. This has taken the system of minority area autonomy from a position of an "important" to a "basic" system of government. It now has the same status as the system of the People's Congress and the multi-party consultation system has become a basic element of China's political system.

The Minority Area Autonomy Law now has the status of a "basic law"' in China. The revised law states that higher levels of government should support the autonomous administrative units, which provide a legal basis for giving preferential support for the economic development of ethnic minority areas. For example, Yunnan's implementing regulations (formulated in 2004) stipulates that "when a superior state agency sets economic and social development plans, it should account for the special characteristics and needs of ethnic minority autonomous areas." Article 7 stipulates that superior levels of government should listen to the opinions of the ethnic affairs commission.

The Yunnan implementation regulations also removed the requirement for lower level governments to match the project funds given by superior levels. Instead, an extra five per cent is given on top of the same amount usually given to non-minority areas. The amount could be higher if the area is an officially designated "poor area" (Article 9). Article 12 also states that a portion of the value added tax submitted from minority autonomous areas to central government should be returned for use in that area.

Yunnan's implementation regulations state that education departments at superior levels must increase their funding support for education in minority areas, including funding for students' boarding at schools. The provisions also make six years of education (primary and lower middle-school education) free for students from the following areas: frontier townships, Yunnan's 15 indigenous ethnic minorities, and from Tibet.

G. Summary of Key Points

China's Constitution accords the same rights to ethnic minorities and other citizens. In addition, the Constitution provides for ethnic minorities' representation in the People's Congress, the highest decision-making body in the nation.

China has a system of autonomy for areas with a concentration of ethnic minorities. This system ensures that local government leaders are from the local ethnic minority. It also gives rights to autonomous governments in ethnic minority areas so that they may promote local economic development and exercise their cultural expression such as the use of minority languages in official work.

The State Ethnic Affairs Commission (SEAC), a member of the State Council, is a central government agency responsible for ethnic affairs and socio-economic development in ethnic minority areas. There are 17 other ministries comprising the commission's committees. Other ministries consult with the SEAC regarding legal and policy changes that affect ethnic minority areas.

Nevertheless, there are some issues. Firstly, the Communist Part of China (CPC) does not require that officials are ethnic minorities. In practice, Party Secretaries are often more powerful than government leaders at each administrative level. Secondly, ethnic minorities have representatives in the People's Congress system but many are in fact government-employed officials. Thus, ethnic minorities do not have a channel for political participation that is fully independent of the government. Thirdly, autonomous governments do not use their powers despite ethnic unity and social stability.

There was progress made for ethnic minorities within the last 10 years. This is most significant in the revision of the Minority Area Autonomy Law (2001), which now has the status of a "basic law" within the Chinese legal system. The formulation of implementing regulations at the provincial level provided the legal and policy support for strengthening the implementation of the autonomy law. It also ensured the preferential treatment for ethnic minority areas—especially poor ethnic minority areas.

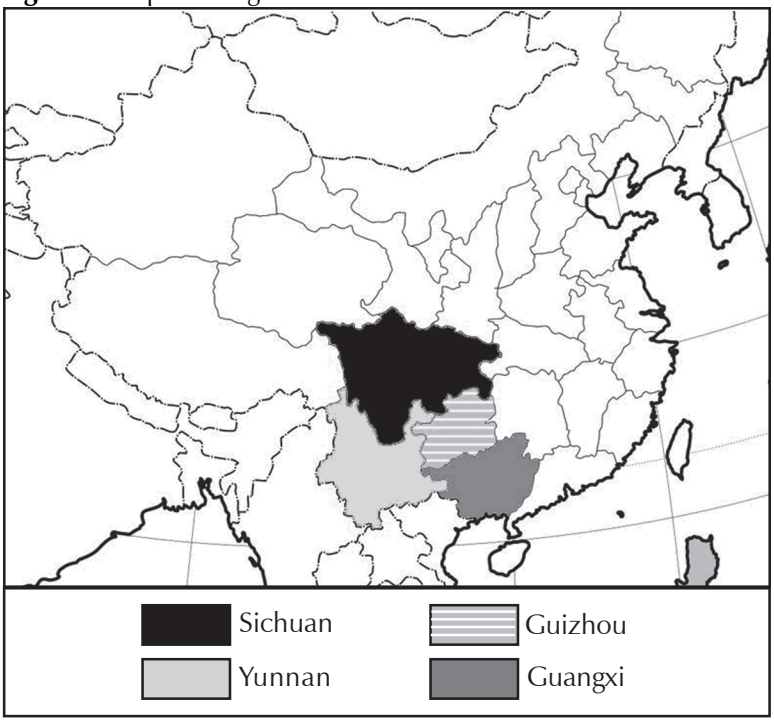
III. Trends in Welfare of Ethnic Minorities

The previous chapter outlined the institutional context in which laws and policies affecting ethnic minorities in SW China are made. This chapter provides an overview of the "social inclusion" of ethnic minorities in China, a backgrounder on the ethnic minorities of SW China, and reports on the status of and trends in the welfare of ethnic minorities in the region over the last 10 years.

A. Social Inclusion of Ethnic Minorities: An Overview

China is a geographically vast country with a large and diverse population. Its 55 officially recognized ethnic minority groups[7] are spread across all areas of the country. More than half of China's minority populations live in Southwest China, which includes the provinces of Yunnan, Guizhou, Sichuan and Guangxi[8] (see Figure 2). The total minority population in the region is around 48.75

Figure 2. Map showing location of SW China



million, accounting for about 45 percent of ethnic minorities in China and 23 percent of the population of the four provinces. These provinces have a total land area of approximately 1.28 million square kilometers, which is slightly larger than Vietnam, Laos, Cambodia and Thailand combined (calculated at 1.26 million sq km).

Historically, many areas of SW China had limited contact with Han culture prior to 1949. Under the governance system of the Qing dynasty (pre-1911), headmen from the local ethnic groups served as the local representatives of the Qing government. Their most significant roles were collection of taxes and suppression of conflict or rebellions. The Republican period (1911-1949), which was the predecessor of the current administrative system, was developed based on counties, townships and districts. Han officials came to serve as governors, though local ethnic minorities who had received sufficient Han education served as local governors as well. Han language education also spread during this period in many ethnic minority areas.

Since the founding of the People's Republic in 1949, ethnic equality has been high on the state's agenda, particularly with the promulgation of the new constitution in 1982, which explicitly recognized equal citizenship rights for ethnic minorities. However, a historical review reveals that the dominant discourses of the day have influenced the way society views ethnic minorities, and how the ethnic minorities viewed themselves in society.

The imposition of Communist Party rule in the early 1950s generally involved a combination of co-optation of ethnic minority leaders, and undermining of traditional authority and religious structures. In some cases, this was deliberate in order to gain political control. In many cases, the new government's economic development pursuits (e.g., new technologies and production methods like cooperativization) undermined the traditional political structures and cultural beliefs (see Box 3).

Box 3. Agricultural Development and Dulong Culture

The Dulong River is a unique ecological zone in Yunnan, characterized by its steep valley slopes and high rainfall due to its location at the intersection of the Tibetan and Indian sub-continent climate zones. Traditional agricultural production of the Dulong people was based on swidden cultivation in which the planting of *Alnus nepalensis* trees was crucial to the maintenance of soil fertility and forest cover. In 1949, almost three quarters of land cover was *Alnus Nepalensis* forest—potential swidden land—and 16 percent was cultivated swidden land. The rotation of swidden land was governed by clan organizations. In 1952-3, the government developed paddy fields to demonstrate irrigated rice cultivation to the Dulong, but since the water flowing from the high valley sides was too cold, yields were lower than with traditional cultivation methods for upland rice. More significantly, the creation of permanent paddy fields removed land use management from the purview of the traditional elders. The felling of forest required for the construction of fields also undermined the authority of the religious leaders who insisted that the forests close to the river were necessary as abodes for spirits. Beliefs in forest and mountain spirits—that are an essential part of Dulong traditional management of natural resources—gradually began to disappear.

By the 1990s, population increases placed great pressure on arable land. However, villages lacked any management mechanism for ensuring the sustainable use of forest and land resources. The land use classifications employed by the local government in its attempts to improve land use were based on the national arable land and forest tenure laws. Local people cannot specify which forest is "collective forest" and which one is "state forest." Their own perceptions of tenure are still based on clan or household ownership of "hunting land," "swidden land," etc. However, clan structures are not included in the political or administrative structures used by the state to manage resources. Thus, villagers are left with ineffective mechanisms for improving their own use of natural resources.

Adapted from: Luo (2004).

The Anti-Rightist Movement of 1957 and the Cultural Revolution (1966-76) also saw concerted efforts to attack and undermine traditional beliefs throughout China. In particular, religious and healing systems were attacked as "superstitious" and thus, outlawed. During this period, many indigenous specialists were persecuted or killed. Many ceased from their traditional practices. With it also ended the transmission of traditional knowledge and culture to the next generation. Although the government granted special privileges to the ethnic minorities following the Liberation in 1949, this did not necessarily mean that preserving their culture and traditional practices received the same attention.

In many ways, ethnic minorities have been systematically disadvantaged within the regional and national culture. The case of education illustrates this. Despite the use of ethnic minority language in education in some areas, education often focuses on the transmission of knowledge and values from mainstream Han culture. Indigenous knowledge is considered "unscientific" and so not utilized. State-legitimized cultural expression is mostly limited to artistic performance. Thus, in general, it is hard for members of ethnic minorities to be able to express and transmit the meaningful value of their culture outside the private realm.

It is hard to seek support from state agencies in formally acknowledging that indigenous knowledge, cultural beliefs, and traditional institutions play a positive role in contemporary livelihood. State discourses on ethnic minority areas stress the right of ethnic minorities to subsistence and to development, but it implicitly means the adoption of "modern" or "scientific" practices, which are more associated with Han culture. As the Tenth Five-Year Poverty Reduction Plan Outline (State Council 2001) stated, "feudalism and superstition and backward living customs should be rooted out." Whether a specific practice is "backward" or not is a subjective question. Dominant discourses influence the answers to this question as well as the actions of the state.

The impact of this particular form of social inclusion differs between areas and ethnic groups. The culture of some ethnic groups (e.g., Bai and Naxi) has been closer to Han culture for hundreds of years, and members of some ethnic groups have excelled within the Han-dominated system. The Naxi, for instance,

has been able to influence central and provincial governments to achieve some public recognition for their *Dongba* (a type of animist shaman) and associated religious practices that were once branded "superstition." In general, however, mainstream Han discourses coupled with state capacity mean that ethnic minority groups have limited choices about their future.

One reason for the dominant discourses about minority culture is that their history is inseparable from that of their relations with the Chinese empire and the subsequent modern state. Harrell (1995) has persuasively argued that since the Han dynasty, the relations between the Han (or the central authorities of China) and its peripheral peoples can be characterized as a "civilizing project"—

> *a kind of interaction between peoples, in which one group, the civilizing center, interacts with other groups (the peripheral peoples) in terms of a particular kind of inequality. In this interaction, the inequality between the civilizing center and the peripheral peoples has its ideological basis in the center's claim to a superior degree of civilization, along with a commitment to raise the peripheral peoples' civilization to the level of the center, or at least closer to that level (Harrell, 1995:4)*.

In this sense, the relationship between China's majority and minority peoples is not so different from the situation of indigenous peoples vis a vis the dominant societies elsewhere in the world.[9]

Formally, China has 55 officially recognized ethnic minorities. These ethnic categories were determined through a formal process of "ethnic identification,"[10] which began in the early 1950s. The last ethnic minority to be formally recognized was the Jinuo in 1979. The ethnic identification project was initiated in order to establish exactly how many different nationalities there are in China, so that each group could be represented in the National People's Congress in accordance with the 1953 Election Law, (Mullaney 2004a:198; 2004b:211).

In theory, the process was guided by Stalin's principles of what constitutes a nation (i.e., common language, common economy, common territory, and common psychology (see Gladney 1991).

Research has shown that in practice, the identification of an ethnic minority relied on other factors. Undertaken with the purpose of producing a scientific enumeration and classification of the ethnic groups of the nation (Lin, 1984), many saw it play a defining role in shaping the nature of the whole domain of ethnic identity in China. Case studies revealed the dynamics of identity, including cases where this project has "created" new ethnic groups from previously amorphous ethnic groups. This was the case of the Hui (Gladney 1991), Zhuang (Kaup, 2000) and Bai (Wu, 2002). These were cases of geographically dispersed groups with hitherto weak "we-group" identification, which subsequently developed identities as part of wider ethnic groups, such as the Yi (Harrell 2001) and Miao (Diamond, 1995; Tapp, 2002). Some of those who were defined as a separate nationality have in fact retained very weak awareness of their distinctiveness from the Han, such as the Tujia (Brown, 2001).

Western scholars have frequently noted the disjuncture between the minorities' lived experience of ethnicity and the state's categories and definitions of ethnicity. Some members of ethnic minority groups currently dispute their formal identification as subbranches of other ethnic minorities (e.g., Harrell, 1990, 1996, 2001; Cheung, 1996; Schein, 2000).

In theory, the ethnic identification process is still underway. However, current ethnic politics in China means that it is unlikely that the state will officially recognize other groups in the near future.

Today, there are dominant discourses on the relationship between ethnic minority culture and development in SW China (Wilkes, 2005). In brief, the mainstream academic and government discourse on ethnic diversity in SW China highlights the ordering of relationship between ethnic minorities and a culturally advanced, "modern" and "scientific" Han. This discourse places a premium on incorporating ethnic minorities in conventional economic development processes. Ethnic minority culture is considered "backward," while the state and the Han are portrayed as the sources of growth and improved well-being. Specific practices supported by this discourse include, for example, the extension of modern agricultural technologies and promotion of formal education.

A second discourse that emerged since the late 1990s is related to the development of tourism markets and the cultural sector, in which ethnic minorities' culture is not taken as a sign of "backwardness" but is seen as a "resource" to fuel economic development. Elements of ethnic culture are "commodified." This is the reason why ethnic minority culture has found room for expression in recent years. However, it is mostly circumscribed within the sphere of commercial, artistic, and tourist spectacle. The specific practices promoted through this discourse (e.g., commercialization of handicrafts, song and dance, etc.) raise issues about the appropriation of minority cultures by others and the equitable distribution of benefits in the commercialization process.

In contrast, some scholars and non-governmental actors emphasize that ethnic minorities' cultures have their own rationality, and that they could be potential sources of "endogenous development" of a very different type from that which the government promotes. Proponents of this view stress the need for inter-cultural dialogue as a premise for consensual and respectful decision making in minority areas (see Wilkes, 2005). Such discourses supported specific practices such as participatory approaches to natural resource management and technology development, eco-cultural tourism, etc. However, this is still a minority view and is not widely influential in scholarly, government, or public realms.

It is important that international organizations engaged in promoting social, cultural, and economic development in minority areas of SW China are aware of the existing discourses, which frame these issues, as well as the relationships between actors involved. Only with such awareness can international agencies position themselves with regard to the Chinese state and non-state actors in ways that enable them to move beyond the dominant, mainstream approaches, and into niches that are supportive of more progressive and beneficial development processes for the ethnic minority.

B. Ethnic Minorities of Southwest China

Table 4 provides summary data on the composition of ethnic minority populations in SW China.

Ethnic minorities in SW China pursue a variety of livelihood. Livelihood types include paddy cultivation (e.g., Dai), rotational agriculture (e.g., Nu, Lisu, Dulong, Hani, Jinuo, Bulang, Miao), agro-pastoralism (some Yi, some Nu, Tibetans, Naxi), mixed farming (Bai, Naxi, some Yi), hunting and gathering (some Lahu, Dulong, Lisu), and trade and commerce (some Hui). Many ethnic groups have practices, which form part of their productive and cultural systems, such as the cultivation of indigo among the Yao people (Huang, 2001), cultivation of Cunninghamia among the Miao (Tapp 2001), and raising of yaks among Tibetans to mention a few. Many of SW China's ethnic groups have rich indigenous knowledge on environmental management (see e.g., Xu et al., 2001 and 2004). Almost all ethnic minorities are highly dependent on natural resources for their livelihood and cultural practices. Nevertheless, they also rely on other assets and resources for their core livelihood.

Ethnic groups practice distinctive cultural beliefs such as Daoism among the Yao (Xu, 2006), Dongba religion among the Naxi (Chao, 1996), and Buddhism among the Tibetans and Dai. They celebrate folk festivals such as the Huobajie among the Yi (Alei, 2003), Gatangpa among the Hani (Zeng, 2006), Xianhuajie among the Nu (Liu, 1999) and Kaquewa among the Dulong (Li, 1999). These cultural expressions relate closely to indigenous social institutions,[11] performance art, as well as a range of material heritage of great cultural importance. These cultural expressions also relate to environmental management. For example, the Dongba religious rituals of the Naxi often aim to restore harmonious human-environment relations (Yang 2001), as do many rituals among the Tibetans (Zhang 2004).

There are inter- and intra-group differences due to differences in how they respond to policy,[12] how they interact with the environment, how they exploit economic development opportunities, how they engage with formal education, and how they develop tourism markets.

Table 4. Ethnic Minorities of SW China

Region	Ethnic groups and populations	Notes
Guangxi	Zhuang (15,531,100), Yao (1,459,500), Miao (459,500), Dong (318,100), Mulao (166,400), Maonan (72,500), Hui (30,000), Jing (18,200), Yi (7100), Shui (13,500) Gelao (2800)	Total minority population ca. 13.8 million). Ethnic minorities make up 38% of the population, the highest proportion of any province in China.
Sichuan	Yi (1,787,000), Zang [Tibetan] (1,088,000), Qiang (196,000), Miao (534,000), Hui (108,000), Menggu (27,000), Lisu (16,000), Man (12,000), Naxi (9000), Tujia (1,077,000), Bai (7000), Buyi (7000), Dai (6000), Zhuang (5000)	Sichuan has about 4.3 million ethnic minority people (<5% of provincial total population), with concentrations in Ganzi Tibetan Autonomous Prefecture, Aba Tibetan AP, Liangshan Yi AP, and eight autonomous counties. It has the second largest population of Tibetans in China.
Guizhou	Miao, Buyi, Dong, Tujia, Yi, Gelao, Qiang, Man, Yi, Mulao, Shui. Hui, Bai, Yao, Zhuang, Maonan, Menggu	Minority population ca. 13.3 million (ca. 37% of Guizhou's total population), thus accounting for 11% of all minority people in China.

Region	Ethnic groups and populations	Notes
Yunnan	Yi (4,705,700), Bai (1,505,600), Hani (1,425,000), Zhuang (1,144,000), Dai (1,142,100), Miao (1,043,500), Hui (643,200), Lisu (609,800), Lahu (447,600), Wa (383,000), Naxi (295,500), Yao (190,600), Jingpo (130,200), Zang (Tibetan) (128,400), Bulang (90,400), Buyi (54,700), Achang (33,500), Pumi (32,900), Menggu (28,100), Nu (27,700), Jinuo (20,700), De'ang (17,800), Shui (12,500), Man (12,200), Dulong (5,900)	One third of Yunnan's population are ethnic minorities (13.84 million), and with 25 ethnic groups, it has the richest ethnic diversity in China.

Population data for Guangxi and Sichuan are from 1999, for Yunnan from 2000.

It is often not possible to generalize about individual ethnic groups, nor about ethnic minorities in SW China as a whole because of lack of data that are disaggregated according to ethnicity. Moreover, there are few studies on trends in welfare and policy impacts. Despite these shortcomings, the researchers attempt to provide a summary of trends in various indicators of welfare below. The data are disaggregated by province.

C. Trends in Welfare Indicators

Specific data on trends in some basic indicators of welfare appear in Appendix 2. This section summarizes some of the trends discernable based on very incomplete data.

1. Trends in Welfare in Yunnan

Over the last 10 years, indicators of income (annual per capita net income and net per capita GDP) in ethnic minority areas have been rising at a faster rate than the rate of increase of the provincial average. In 1995, average per capita net incomes in minority autonomous areas were 62 percent of the provincial average. In 2004, they were 89 percent of the provincial average.

Per capita grain availability has also been rising (1995=323 kg, 2004=338 kg). Minority areas had higher per capita grain availability than the provincial average between 1995 and 2003, but lower than the provincial average (343 kg) in 2004. It is likely that this was due to the implementation of natural resource management policies (see IV-B).

Primary school enrollment rates in minority areas have always been lower than provincial average over the same period, but there was an increase between 1995 and 2002. In 2003 school, enrollment rates fell slightly. Ethnic minorities' participation in formal education decreases at each level of education, that is, ethnic minority students are more likely than their Han counterparts not to enroll in educational programs at higher education levels (see Table 5, Appendix 2).

There are significantly higher dropout rates in some minority areas than in others. Dropouts are largely concentrated in rural, ethnic minority areas. With regard to male-female inequality in school enrollment, only some minority areas are female students more likely to drop out of either primary or lower secondary school than male students are (see Table 6, Appendix 2). However, in terms of literacy rates, other data consistently shows that adult women are more likely to be illiterate than adult men in ethnic minority areas (Yang, 2006).

The availability of medical institutions and hospital beds has been higher in minority areas than the provincial average from 1997-2001. However, there is a lower availability of medical professionals per capita and per bed than the provincial average.

While indicators of welfare generally show a rising trend over the last 10 years, most indicators have been lower than the provincial average and some indicators show deterioration in welfare and access to services since 2003.

2. Trends in Welfare in Sichuan, Guizhou, and Guangxi

With the exception of per capita grain and meat yields, indicators of welfare among ethnic minority areas in Sichuan are all lower than the average for poor areas nationwide in 2001. Over the last 10 years, income levels have been rising, and the rate of increase has been slightly higher than the rate of increase of the provincial average.

Indicators of welfare in ethnic minority areas of Guizhou have been rising slower than the provincial average. In 2004, ethnic minority areas' net per capita incomes were 90 percent of the provincial average, compared to 94 percent in 1998.

Indicators of welfare in ethnic minority areas of Guangxi have shown a rising trend over the last 10 years, especially after 2000. However, further data disaggregated by ethnic groups within Guangxi are unavailable.

D. Welfare in a Comparative Perspective

1. Quantitative Change

The four provinces of SW China are among the main areas where poverty is concentrated in China. Of China's 592 "poor" counties in the early 1990s, 180 (or 30%) are in these four provinces, and 258 are ethnic minority counties. Of this 258 ethnic minority counties, 224 or (97%) are in the western provinces of China. Moreover, the four provinces of SW China had 128 poor minority counties (Yunnan 44, Guizhou 36, Guangxi 28 and Sichuan 20) prior to 2000. This accounted for 71 percent of all nationally designated poor counties in SW China.

These figures show the high incidence of poverty within ethnic minority areas in general, and in SW China in particular. Here are some specific illustrations.

Yunnan has 15 ethnic minority groups with a poverty incidence of about 40 percent or around two million people who live in frontier regions. These areas have adverse environmental conditions, poor transportation infrastructure, and a weak economic base. Yunnan also has seven ethnic groups with populations below 100,000 half of which live below the official poverty line. Poverty rates among the Nu, Dulong and De'ang are particularly high.

In Guizhou, poverty is concentrated in the ethnic minority areas of Qiandongnan and Qianxinan where the poverty incidence is 81 percent and 88 percent, respectively.

In Sichuan, there are 36 nationally designated poor counties, of which 20 are ethnic minority counties. The province also designated 10 ethnic minority counties as poor. Together these countries account for almost half of the poor counties in the province, and 60 percent of the ethnic minority counties in the province. These counties are concentrated in Aba, Ganzi and Liangshan prefectures. In 2002, the average net per capita income in these three prefectures was less than 60 percent of the provincial average, and less than 40 percent of the average for Chengdu, the capital of the province.

2. Qualitative Dimensions of Quantitative Change

The preceding sections have focused on reporting quantitative data on changes in ethnic minorities' welfare in SW China. Over the same period, significant qualitative changes have occurred in many domains. Two examples illustrate this.

Firstly, grain production and availability has been increasing significantly over the last 10 years contributing to better nutrition and to household incomes. This was achieved through the increased application of modern technologies in the agricultural sector, including the extension of high-yielding hybrid varieties of rice, maize, and other crops. Other technologies include the use of chemical fertilizers and pesticides, as well as plastic sheeting for

enhancing the growth of maize sprouts in upland areas. While these technologies increased crop yields, they also have negative impacts on agro-biodiversity and on farmers' control of the genetic base of their farming systems.

In Guangxi, for example, reforms in agricultural research organizations have led to a stronger profit-orientation in their research priorities. They are almost solely interested in producing profitable hybrid of seeds, which the farmers must buy each year. Song (1998) reports that prior to the 1990s, around 20 percent of available maize varieties were open-pollinating varieties that the farmers could use for their own breeding activities. However, no such varieties were released from 1991-1996. The farmers became dependent on formal seed supply institutions. This widened the gap between breeders' support and farmers' diverse needs, which has a particular impact on farmers living in marginal production environments that are not the foci of formal breeders' activities. There has also been significant erosion of the crop genetic base through the loss of local land races over recent years (GEF/UNEP 2006).

Secondly, in the field of education, a series of supportive policies (including elimination of fees in some areas) have improved school attendance rates in ethnic minority areas. However, there are concerns over the content of school education. In some areas, they have produced bilingual textbooks, which were sometimes used although this is often restricted to specified schools within those areas.[13] In 2000, for example, only 20 percent of students in minority autonomous areas in Sichuan province received bilingual education while the rest followed the mainstream Han language education. Of the 20 percent, 85 percent attended schools, which taught most of the courses in Han Chinese (Sichuan Almanac 2000:244).

The contents of bilingual textbooks are supposed to reflect the culture of the specific ethnic group using them. However, majority of ethnic minority students use textbooks that have no basis in their own culture because such books follow the national and provincial standards. Thus, the whole education experience weakens the students' identification with their own culture and instead strengthens their identification with mainstream culture.

Ethnic minority students are less likely to proceed beyond primary education due to a combination of factors. This results in a certain kind of "marginalization" in which many ethnic minority students are neither well prepared for wider engagement in mainstream economy and society nor well acquainted with their own cultures.

The international community recognizes China as one of the few nations making significant progress in achieving its targets based on the Millennium Development Goals (MDG). However, some international agencies recognize that the MDG's quantitative focus may divert attention from key issues of indigenous peoples and instead lead to further marginalization of ethnic minorities. It is particularly important to address the qualitative dimensions of development when considering the social and economic development of ethnic minorities in SW China.

E. Summary of Key Points

The main indicators of welfare show a trend of general improvement over the last 10 years. The number of people living in poverty, including the number of ethnic minorities, has been declining (although disaggregated data is mostly unavailable on the latter). Several indicators reveal that ethnic minorities in SW China are systematically disadvantaged compared to non-minorities. This is revealed by: (a) the prevalence of poverty among ethnic minorities; (b) lower rates of school enrollment in ethnic minority areas than in non-minority areas; and (c) lower proportions of health professionals per unit of population in ethnic minority areas than in non-minority areas. However, it is worth noting that income poverty measures in some areas declined after 2003. It is likely that this reflects the impact of widely implemented natural resources policies at that time.

Improvements in quantitative measures of welfare do not reflect important qualitative changes in livelihoods and living standards in ethnic minority areas of SW China. The qualitative dimensions of development must be addressed to support future development in these areas.

IV. Policy and Program Analysis

The vast majority of the nation's laws and the state's policies are relevant to the lives of ethnic minorities. Various state agencies and the provinces also implement thousands of program and projects, which are relevant to ethnic minorities in SW China. Since it is not possible to give an exhaustive analysis of all the policies, this section focuses on policies and programs in the sectors of poverty-alleviation, natural resources management, and resource rights. This section also discusses the conflicting knowledge systems and other programs and policies.

A. Poverty Alleviation Programs

The previous section argued that poverty in the four provinces of SW China is concentrated in ethnic minority areas. It also showed that most poverty-alleviation measures covered these regions. In addition, each province has initiated measures targeted at alleviating poverty in ethnic minority areas. Poverty-alleviation policy in China underwent two main phases over the last 10 years, and policies and program in the provinces of SW China followed suit.

1. Poverty Alleviation between 1994 and 2000

From 1994 to 2000, China set the 8-7 Poverty Alleviation Plan, and the provinces made their own corresponding plans that placed poverty-alleviation high on their agenda. In contrast to poverty-alleviation work of the 1980s, the plans set in the mid-1990s introduced the concept of "poverty-alleviation measures at the household level" and made a clear distinction between relief work and development-oriented poverty-alleviation.

Yunnan. In 1994, Yunnan targeted 73 poor counties and 506 townships to support. Five main programs involved financial investment, soil and water conservation, electrification, road construction, and reforestation. New institutional mechanisms accompanied the plan (e.g., management by targets system).[14] In 1997,

Yunnan added three major programs on micro-credit, resettlement, and housing construction.

Sichuan. Sichuan also set up institutional responsibility systems in which the party secretaries and other leaders of each city and county had clear responsibilities for poverty-alleviation. One major program was the export of surplus labor from poor areas to urban areas. In the southern area of Sichuan (Wumeng), the government made large investments in road infrastructure to facilitate the extraction of minerals. Sanitary water supply projects were the focus in arid areas of Sichuan. The projects focused on house construction (including separation of people from livestock) in the west of Panzhihua where natural conditions are poor. The government implemented special livestock and fodder programs in the northwestern pastoral areas.

Poverty-alleviation programs were also linked to institutional development at the village level, the promotion of village collective enterprises, and to family planning.

Guizhou. The central government provided a large amount to fund poverty-alleviation in Guizhou between 1994 and 2000. The government established management responsibility systems. Guizhou's 48 nationally designated poor counties improved more than 400 thousand hectares of arable land annually. This covers about 2.5 million households.

Between 1998 and 2000, the government allocated almost 1.9 billion Yuan of micro-credit funds to support more than 1.47 million households to develop animal husbandry and other activities. Ninety-two thousand Communist Party members provided support to 125,000 poor households. Between 1996 and 2000, urban areas donated funds to implement 117 projects in Ningbo, Dalian, Qingdao, and Shenzhen. Through the construction of 83 primary schools under the Hope Project, 7,047 students were able to attend school.

Guangxi. In Guangxi, the government focused on institutional development and cooperative economic enterprises in 4,035 administrative villages. Between 1998 and 2000, the government provided 320 million Yuan of micro-credit to more than 200,000 households across the whole province. From 1997, Guangxi put effort into biogas, constructing more than 100,000 facilities per

year. Sanitary water supply systems, replacement of thatched housing, road, electrification, TV schools and health clinics were implemented on a large scale. Between 1993 and 2000, more than one billion Yuan was spent to resettle about 210,000 poor people living in adverse natural environments.

Summary. Large amounts of money were invested in poverty-alleviation programs in all provinces of SW China during this period. Investments in infrastructure construction were a major focus of many of these efforts.

2. Poverty Alleviation Program between 2001-2005

Efforts of the preceding years led to great achievements but many of the poor were later back to a state of poverty due to natural disasters that affected their incomes. In 2000, the Poverty Alleviation Office of the State Council produced a Strategy for Poverty Alleviation (2001-2010) that served as basis for the 10-year plans of the provinces. It is noteworthy that this Plan and the accompanying White Paper on Poverty Alleviation (2000) devoted a whole section on poverty-alleviation in ethnic minority areas. Thus, after 2000, poverty-alleviation in ethnic minority areas received significant attention.

In Yunnan, the overall plan focuses on 73 designated poor counties including 51 autonomous minority counties. There were 100 ethnic minority townships and 100 frontier ethnic minority townships with a total of 4000 poor villages and 5,000 poor hamlets selected for the plan. The plan includes the resettlement of about 200,000 people from adverse natural environments by 2010.

Three foci for work in this period are: (1) resolving basic needs of those living in absolute poverty; (2) increasing incomes in poor areas; and (3) basic infrastructure and environmental rehabilitation in poor rural areas. In early 2003, there was a new plan for the subsequent five years (2004-2008) that focused on house construction, arable land improvements, resettlement, and labor export from poor areas.

Since 2000, Sichuan has put great efforts into house reconstruction, resettlement, education and health care, with special program for the pastoral areas. Other measures supported with fiscal funds include technology extension, enterprise and sectoral

support, subsidized loans, micro-hydropower, conversion of farmland to forest, and special funds for minority areas. The government has invested more than 262.6 million Yuan each year accounting for two-thirds of the annual funds of the central government available for discretionary allocation. In 2005, this form of support ceased, and the focus shifted to poor villages each of which would receive more than 400,000 Yuan.

In Guizhou, the government allocated fiscal funds of more than 50 million Yuan for 100 townships identified for key poverty-alleviation projects. The projects include resettlement, arable land improvement, tax exemption, and scholarships. Through special regulations, the government increased the salaries of technical professionals working in poor areas to retain their expertise.

In Guangxi, 4,060 poor villages were selected for special support that included basic infrastructure, social services, and environmental rehabilitation. The government allocated extra funds for basic infrastructure, biogas, electrification, telecommunications, and small town development in minority areas. Guangxi also promoted enterprises and sectors such as cash crop plantations and processing companies. It also provided poor households with technical training, saplings, and micro-credit. Central government ministries, cities, and other provinces gave donations for minority areas. Another feature of Guangxi's poverty-alleviation work has been the export of labor. There were 360,000 people organized to work in urban industrial sectors.

3. Targeted Poverty Alleviation for Least Populous Ethnic Minorities

Twenty-two of China's 56 ethnic groups have populations under 100,000, which are considered "small." Within SW China, these "small" ethnic groups are in Yunnan and Guangxi. Yunnan has seven ethnic groups (i.e., Dulong, Nu, Jinuo, Pumi, De'ang, Achang and Bulang) with a total population of 230,000, while Guangxi has two ethnic groups (i.e., Jing and Maonan) with a total population of 100,000. In 1999, a national meeting on ethnic affairs decided that these "small" ethnic groups should be the focus of support. Subsequently, the Party and provincial governments followed this decision.

In 2001, the State Council approved the State Ethnic Affairs Commission's suggestion to include this project in the next Five Year Plan. A State Council internal memo of the same year explicitly asked a number of ministries to consider ways to resolve electrification, road access, TV access, drinking water supply, education, health, housing and fiscal problems in the areas where the 22 "small" minorities are located. Provincial governments followed by making their own implementation plans.

In September 2002, the provincial Party Committee and the government of Yunnan took measures that supported (1) resolving basic housing, food needs and agricultural development; (2) basic infrastructure construction; (3) education; (4) cultural programs; and (5) in-service training program. The relevant departments at the provincial and prefecture levels were expected to lead the effort. The order required that from 2002 to 2010, 85 percent of the villages of the seven "small" ethnic minorities should have roads, electricity, water, and TV access, and that all households should have clothing, food, income sources, access to education, and improved housing. Based on these, they formulated a development plan to be implemented by 2010. The plan for the seven "small ethnic groups" was announced in Yunnan in January 2006. The provincial government and a committee comprising the Provincial Party Committee Inspection Office, Provincial Ethnic Affairs Commission and the Provincial Poverty Alleviation Office are considering relevant implementation plans.

Both the timing and content of these poverty-alleviation measures indicate that the related planning system is inherently top-down. One important element of this planning system is that lower-levels of government can only apply for funding within categories already stipulated by superior levels of government. While this ensures the local governments' access to poverty-alleviation funds, in some ways it restricts the ability of local governments to consider specific local needs.

By 2004, the government has invested 240 million Yuan in support of Yunnan's seven "small" ethnic groups. With support from the State Ethnic Affairs Commission and Poverty Alleviation Office, 55.31 million Yuan were invested in Jinuoshan Township and Bulangshan Township in Xishuangbanna. Reportedly, the net

per capita incomes rose from 800 Yuan and 550 Yuan in 2000 to 1,614 Yuan and 953 Yuan in 2004, respectively. De'ang in Luxi also reported similar income increases. In addition, 124,800 people have benefited from construction of sanitary water supply systems.

Each year, the central government increased its investment in the development of minority areas, reaching 64 million Yuan in 2005. Of this amount, 34 million Yuan went to "small" ethnic groups. Since 2003, 20.8 million Yuan was spent on free education for primary and secondary school students from these ethnic groups. Despite these efforts, however, about half of the members of these seven ethnic groups remain below the poverty line in 2004, and about 20,000 households have inadequate housing and arable lands.

4. Achievements Over the Last 10 Years

By any standards, the efforts and resources put into poverty-alleviation in minority areas of SW China have been significant. Combined with a supportive regional and national economic environment, these efforts resulted in great achievements. Over the last 10 years, there has been a great reduction in the number of people living in poverty. Unfortunately, there are no disaggregated data available on minority areas or ethnic groups. However, Table 5 illustrates the regional trends.

Living conditions in minority areas have improved due to investments in productive infrastructure, water supply systems, electrification, schools and clinics, house construction, and provision of TV access. For example, Guizhou accomplished the following: construction of drinking water systems that providing sanitary water for 6.3 million people; provision of more than three million heads of livestock; and construction of 13,000 kilometers of roads so that all townships and 85 percent of the villages now have road access.

Health care and education services have also improved. For example, more than 200 million Yuan were spent in Yunnan in the last four years to subsidize school fees for more than a million schoolchildren, thus raising enrollment rates.

Table 5. Changes in the Incidence of Poverty in SW China

Province	Changes in Incidence of Poverty
Yunnan	In the 1980s, there were more than 10 million people living in poverty. By 2000, this had declined to 4 million. In 2000, poverty lines were adjusted upwards, so that there were 10 million people living in poverty again in 2000. This went down to 7.5 million in 2005. Of these, those in relative poverty fell from 6.8 million in 2000 to 5 million in 2005, while those still in absolute poverty decreased from 3.4 million in 2000 to 2.5 million in 2005.
Sichuan	In the early 1990s, there were 11.18 million people in poverty (12% of the rural population). By the end of 2000, this figure was 3 million.
Guizhou	In 1993, 35 percent of the rural population was below the poverty line. By 2001, the proportion was 9.47 percent. In 2001, there were 6.9 million people living in poverty. By 2005, there were 2.6 million living in absolute poverty and 4.65 million in relative poverty.
Guangxi	The numbers living in poverty declined from 8 million in the 1990s to 1.5 million in 2005.

Many people in poor areas enjoyed more income generating opportunities resulting from support for enterprise development and micro-credit in each province. For example, the Dali prefecture in Yunnan developed dairy, walnut, meat processing, and organic vegetable production, which helped increase the income of more than 400,000 farming households. Similar efforts in Guangxi and other provinces also resulted in great achievements.

5. Problems in Poverty Alleviation Projects in Minority Areas

Objective constraints. Many ethnic minority areas and poor areas are relatively remote mountainous areas with adverse environmental conditions. For example, 79 percent of the land area in Guizhou is karst. Of the 48 poor counties in Guizhou, 37 are located in karst areas. The people live in dispersed areas without

electricity, roads, and access to television and clean drinking water. All these increase the difficulty of implementing poverty-alleviation measures.

Vulnerability. Despite achievements in bringing a large number of people above the official poverty line, the government has realized that many poor people also return to poverty for various reasons. One is that computation of per capita net incomes includes the imputed value of agricultural crops so income levels are vulnerable to the effects of natural disasters. For example, in the period of the Ninth Five-Year Plan in Yunnan, natural disasters affected 2.3 million hectares of arable land and almost 41 million people, leading to economic losses of 19.3 billion Yuan. Natural disasters affect as much as 30 percent of those who escaped poverty. One estimate states that in 2004, more than one million people in Yunnan returned to poverty due to natural disasters.

Limitations in implementation. Evaluations of official projects commonly report problems in implementation. For example, micro credit does not reach the poor households, or infrastructure investments lack measures for sustainable management and post-construction repair and maintenance.

Limitations in conception. The central government programs (e.g., the program for the "small" ethnic groups) are in full support of achieving the Millennium Development Goals. These programs focus on providing the conditions for ethnic minorities to meet their basic needs. However, there are several related issues. Firstly, there is a lack of coordination with other policies and programs. In some areas, natural resource management policies have effects that conflict with the goals of poverty-alleviation programs. Incomes in some areas have in fact declined. In some poor minority areas of Yunnan, drug use and AIDS are prevalent, yet poverty-alleviation planning does not consider these issues.

Secondly, the goals and measures of provincial poverty-alleviation plans derive from the national plans. In turn, provincial plans determine the local plans. Available funding for specific interventions also shapes local plans. A case study of development planning in Dulongjiang found that because of the top-down development planning systems, ordinary Dulong and even the local governments that represent them are not participating effectively in the planning of development activities in the area (see Box 4).

Box 4. Development and Conservation Planning for Dulongjiang Township

Dulongjiang Township is one of the poorest areas of Yunnan. Due to its unique physical environment and remote location, development of Dulongjiang's Dulong inhabitants has always been difficult. In recent years, the development planning approaches in the township underwent three (3) main changes. Analysis of the policy process and programming changes reveal that such changes have been in response to events initiated at higher administrative levels.

In 1998, the Provincial Party Secretary personally visited Dulongjiang. During this visit, he announced a new development strategy summarized as 'focus on livestock, plan to focus on cash crop trees; raise livestock using grass and use the livestock to buy grain." In 1999, the provincial Minority Affairs Commission sent a work team to work in the township, implementing poverty-alleviation programs guided by this strategy.

In 1999, the central government announced the Sloped Farmland Conversion Policy. In 2002, the provincial vice-governor held a meeting in the prefecture capital to discuss Dulongjiang Township's development. Three strategic goals were set: (1) conserve the natural environment; (2) adjust the structure of the economy; and (3) protect ethnic culture and develop eco-tourism. The people agreed to implement four (4) programs, including Sloped Farmland Conversion, livestock development, resettlement, and road construction.

In 2002, the provincial government announced the development of poverty-alleviation plans for the seven (7) least populous ethnic groups in Yunnan, including the Dulong. These plans included: (1) agricultural development; (2) infrastructure; (3) education; (4) cultural development; and (5) staff development. Based on these guidelines, the county government made an implementation plan for 2003-2010, which included eight infrastructure projects, resettlement plans, and programs on communication, environment, education, health, technology training, and economic development.

An analysis of the actors involved in these changes suggests that while local government agencies are taking part in related discussions, their planning is often reactive to the opportunities government offers. Usually, infrastructure development plans predominate and villagers' participation is not significant. Overall, there is still a lack of a strategic plan for the sustainable development of Dulongjiang that adequately deals with both environmental and cultural conservation as well as economic development.

Thirdly, many scholars are concerned about the loss of indigenous knowledge and traditional culture of ethnic minorities. The many causes of cultural erosion include the extension of modern production technologies, formal education that focuses on standard national curricula, and TV and other media. Poverty-alleviation programs do not consider how to conserve and promote ethnic culture. Awareness of these issues is very low among many officials from local to provincial levels.

6. Efforts of International Agencies

A large number of international agencies have funded and implemented development projects in a number of domains in SW China over the last 10 years. The major multi-lateral agencies involved in SW China include the United Nations Development Program (UNDP), United Nations International Children's Emergency Fund (UNICEF), World Food Program (WFP), International Fund for Agricultural Development (IFAD), the World Bank (WB), and the Asian Development Bank (ADB). Bilateral donors include Department for International Development (DFID), German Agency for Technical Cooperation (GTZ), Australian Government Overseas Aid Program (AusAID), and Japan International Cooperation Agency (JICA). A large number of international NGOs active in the region operate in ethnic minority areas where poverty is prevalent.

International agencies have mostly been involved in funding multi-sectoral integrated development projects. Table 6 summarizes some such projects in Guangxi in the second half of the 1990s. These projects provide the government with additional funding to implement its projects (e.g., extension of modern agricultural technologies). In some cases, technical support and pilot sites have generated innovations that influenced the government's manner of project implementation. One significant example was the micro-credit project piloted by UNDP in the 1990s that regional governments adopted as a main poverty-alleviation measure.

No multilateral agency working in SW China has a plan that is tailored to ethnic minorities in the region. According to one WB official, the bank may have been in the process of developing such a plan in the 1990s. However, international criticism of its

Table 6. Some International Projects in Guangxi

Project	Agency	Total amount (in Thousand Yuan)	Foreign invest. (In thousand USD)	General contents of project
Pineapple production	IFAD/ WFP	1,128	120	Training centre, training equipment, demonstration site, study tour
Oyster processing	IFAD/ WFP	8,720	320	Processing plant, oyster washing machine, steam disinfection equipment
Banana storage	IFAD/ WFP	2,175	250	Storage facility and equipment
Lychee storage	IFAD/ WFP	4,349	262	Storage facility and equipment
Integrated development	WFP	208,633	20,178	7 reservoirs, 570 km of irrigation, expansion of existing irrigation facilities, afforestation, fruit trees, rural roads, agricultural training
Agricultural support, of which:	WB	13,240	13,310	
Agricultural technology	WB	6,135	5,422	Training centers, building repair, training equipment, training
Seeds	WB	20,069	1,530	Seed reproduction facility, seed bank, laboratories, office equipment
Livestock	WB	50,982	4,358	Training centre, training, vaccination equipment, training

Project	Agency	Total amount (in Thousand Yuan)	Foreign invest. (In thousand USD)	General contents of project
Red soil area development	WB	522,000	30,000	To develop 10,000 has of red soil, including terrace construction, farm machinery, fruit trees, livestock, biogas, fruit juice processing factory, research
Seed commercialization	WB	210,000	12,290	To build a seed monitoring station, seed processing station, seed bank, processing facilities
Grain production	Japan	69,200	57.65 yen	Irrigation, terracing, training centre, tea processing factory, training
Western Guangxi development	IFAD/WFP	789,000	41633	Irrigation, water tanks, roads, water supply, health, education, afforestation, terracing, crop trials, livestock, training, literacy training
Livestock	Ausaid	?	?	Income generation

Source: Guangxi Almanac 2000.

involvement in the resettlement of Tibetans in Qinghai in 1999-2000 made it impossible for the bank to continue an indigenous peoples' strategy for China. The bank has been discussing with the State Ethnic Affairs Commission (SEAC) and related agencies regarding support for 22 of the least populous ethnic groups, which are also a focus of government poverty-alleviation funding. In the absence of such a plan, the WB's operations in China that relate to ethnic minorities are required to adhere to the Bank's Operational Policies on Indigenous Peoples.

In recent years (especially post-2000), several international agencies (e.g., ADB, DFID) have requested for Minority Development Plans that complement projects designed for ethnic minority areas. These plans are based on an analysis of production problems. As such, they use off-the-shelf packages as solutions thus failing to consider the culture of ethnic minorities. When plans for minority development are drawn up this way, the international agencies that implement these plans also contribute to the erosion of ethnic minorities' culture, ignorance of indigenous knowledge, and dependency.

Although some international agencies have introduced Indigenous Peoples' Development Plans (IPDP) and related measures to address the uniqueness of ethnic minorities, experiences show that they are not always effective (see Box 5). There is an urgent need for international agencies who work with indigenous peoples to review the impact of their plans.

Box 5. Limitations of IPDPs

- An IPDP included a small amount of money for a Hani community to undertake a ritual to relocate a "dragon spirit" from one tree that would be destroyed by the road construction to another tree in a safe place. An independent consultants hired to develop the plan in a participatory manner included this in the plan. The plan was in relation to a provincial government's application for an ADB loan for a road construction project. However, because the loan was to be applied for by the government, this component was deleted from the IPDP before its presentation to the ADB.
- During preparations for a pilot project funding, a staff of a DFID-funded project in SW China emphasized strongly the integration of indigenous knowledge and cultural difference into project plans. However, consultants spent only two weeks in each multi-village site applying PRA and other survey tools to formulate the plan. Any outsider could not understand indigenous knowledge and ethnic relations and integrate them in project plans in just two weeks.
- Few anthropologists in SW China have sufficient experience in development projects to be able to integrate their detailed knowledge of ethnic cultures into project planning and implementation. There are also few international experts with sufficient experience of these issues to be able to provide effective support to implementing agencies and local counterparts.

B. Natural Resources Management Policies

Most ethnic minorities are dependent on natural resources for their core livelihoods. Forest resources are particularly significant, providing not only timber for house construction and fuel wood but also ecological services and income generation sources. For example, people could generate income through the collection and sale of non-timber forest products and through grazing of livestock.

In the 1980s, forest policy distinguished between several types of forest. In general, the highest elevation forests are state-owned forests, managed by the forestry departments. Lower down mountain slopes are collectively owned forests. Some of this is contracted to households (*zerenshan*) and some other forests have been allocated to households for their own use (*ziliushan*). Many communities developed their own management regulations for collective forest, often based on traditional cultural institutions and customary law.

In addition to the household uses of forest mentioned above, state-owned companies engaged in large-scale commercial logging in many areas (e.g., Diqing in Yunnan, Aba and Ganzi in Sichuan). This not only provided villagers with a range of income sources but also formed the mainstay of many local government fiscal revenues.

In 1998-2000, the government announced the most significant changes in forest and land resource tenure since the reforms of the early 1980s. Funded as part of the Special Provision for the Development of Western China,[15] the government announced a ban on commercial logging in the upper reaches of the Yangzi River, in what is known as the Natural Forest Protection Programme. It also announced efforts to decrease cultivation on all slopes over 25 degrees, in what is known as the Sloping Farmland Conversion Programme.

1. The Natural Forest Protection Programme[16]

In December 2000, the State Forest Administration announced that the State Council had approved a huge plan for protecting natural forests and increasing forest cover nationwide.

Over a period of 10 years, the state would invest 100 billion Yuan. It has implemented a logging ban over an area of 60 million hectares along the upper reaches of the Yangzi River and upper and middle reaches of the Yellow River. It also planned to plant 8.6 million hectares of forest. This would increase China's forest cover from 17.5 percent to over 21 percent.

The background to this program goes back to the 1970s and 1980s when the state developed shelterbelt afforestation programs along these major watersheds. In the 1980s, national consumption of wood greatly increased and so government introduced a logging quota system. These measures increased overall forest cover to 14 percent. However, this was mostly young trees planted in single-species plantations so that overall timber volume and biodiversity did not increase. Moreover, logging in mature forests continued and soil erosion increased. In 1998, disastrous flooding in the Yangzi River watershed spurred the government to introduce the logging bans. As timber volumes declined, many state-run logging enterprises began to face financial crisis.

In many areas of SW China, enterprises shut down and transportation of timber stopped when logging quota was reduced to zero. Between 1998 and 2001, the government invested 10 million Yuan in the logging ban program. Much of this went to turning the former loggers into tree planters and forest guards and to ensuring their social security and retirement funds. A large part of this went to fiscal transfers to local governments, some of which had previously obtained 80 percent of their revenues from logging, as compensation for the policy-induced losses.

2. The Sloping Farmland Conversion Programme

In late 1999, the government introduced the Sloping Farmland Conversion Programme (also called the Upland Farmland Conversion Program), a second program which had a major impact on forestry in SW China. The reclamation of up to six million hectares of farming land which lie on slopes over 25 degrees has destroyed forests in China. To reduce soil and water loss, the new policy requires the conversion of all farmland on slopes exceeding 25 degrees into forest or grassland.[17] Since the conversion of farmers would incur losses in grain yields, the government committed to give grains as compensation to the farmers. The farmers also

received funds for their saplings or grass seeds, and for health and education services. While the government announced that this compensation package would last eight years, many farmers are uncertain about the longer-term prospects.

By March 2000, 75 percent of the target conversion was completed indicating the rapid implementation of the program. In fact, implementation has exceeded the state plans as shown by the implementation of the program in 303 counties from the 174 counties originally approved.

3. Impact of the Two Programs

For many years, the farmers gained income opportunities from forestry operations. After the ban, they lost incomes not only from timber sales, but also from transportation, restaurants, and lodging services. One study estimates that farmers in four counties in Lijiang prefecture in Yunnan would lose a total income of 39.56 million Yuan or 40 Yuan per capita. Of this estimated loss, two-thirds would come from the ban on timber sales and one-third from lost labor remuneration for forestry work in state timber farms. With lower incomes, the numbers estimated to be living in poverty would increase from 80,000 to 275,000. The study estimated that throughout Yunnan, the logging ban would decrease household incomes by around 200 Yuan and put 2.5 million farmers back below the poverty line (Zhao, 2001).

Official income data from Sichuan province for 1999 already showed the impact of the logging ban. For instance, the net per capita income in Aba Tibetan Autonomous Prefecture was 1,227 Yuan, a decrease from 1998. Primary school enrollment rates have also declined. As an alternative, the prefecture focused on agriculture, tourism, and hydropower development (Sichuan Almanac 1999:437).

In Ganzi Tibetan Autonomous Prefecture, net per capita incomes from 1991 to 1998 decreased by 23.5 percent. Primary school enrollment also fell presumably due in large part to declines in household incomes. Tourism development is the alternative being explored for this area.

Another study in a Tibetan area of Yunnan found that before implementation of the logging ban, 70 to 80 percent of the remu-

neration for transportation and the felling of timber went to the Geza villagers. A male laborer with two yaks could earn an average of 3,000 to 5,000 Yuan per year. With the logging ban, the villagers would lose an estimated three million Yuan per year. The remaining source of income for the villagers is the growing of *matsutake* mushroom (Xu, et al., 2000).

The impact on household access to fuel wood varies. Some local governments have made fuel wood collection illegal (except for dead branches), while others charge a fee. Alternative energy sources like electricity are expensive.

In addition to farmers' losses, the logging ban has heavily affected fiscal revenues. For example, in Diqing Tibetan Nationality Autonomous Prefecture in Yunnan, the estimated loss in tax revenue each year is 61 million Yuan. In addition, the state-run logging enterprises would lose 320 million Yuan per year. Workers in 1,447 logging enterprises would be unemployed. To cushion the impact, the central government promised local governments to compensate for 70 percent of lost revenue.

Aside from the economic impact of the programs, there were also consequences for agro-biodiversity, as illustrated by the case of Dulongjiang. The Dulongjiang traditionally practiced swidden (rotational) agriculture. A study of the impact of the Sloping Farmland Conversion Programme on agro-biodiversity in Dulongjiang reported that the project caused the disappearance of many crops and varieties that used to grow in the swiddens. The survey identified 49 crop varieties. Of these, five seed varieties have totally disappeared. Very few households keep seeds from 17 other varieties. Farmers still plant eight other varieties regularly. Many of the varieties whose seeds still survive only thrive in swidden fields, and many seeds will lose their viability if they are not planted soon (Xiao, 2005).

C. Resource Rights

The two policies described above have caused major changes in farmers' tenure rights over land and forest resources. Where farmers have tenure certificates on converted land, the state must issue another tenure certificate after conversion. This is, however,

not the case with collective forest, which can no longer be logged. The farmers effectively lose their right to benefit from the forest. Now villagers have to pay the government for use of timber from the forests that they have protected successfully for decades.

The implementation of laws and regulations regarding infrastructure and other development projects has implications for ethnic minorities' rights (see Box 6). How ethnic minorities use policy, regulatory, and legal means to secure their rights over natural resources is a complex question. In 2005, the State Environmental Protection Agency (SEPA) issued a provisional regulation on public participation in Environmental Impact Assessments (EIA). This move signifies a progressive attitude towards the whole issue of public participation and the accountability of officials and experts within the field of resource use.

D. Conflicting Knowledge Systems

A considerable body of evidence from all the provinces of SW China demonstrates the close connection between ethnic minority culture and biodiversity. For Tibetan communities in Northwestern Yunnan and western Sichuan, mountains are sacred landscapes. The Yi communities in Chuxiong (Yunnan) worship a variety of wild and semi-domesticated flowers. Miao cultural expression is dependent on fibers from hemp, the production of which has been banned. Naxi sacred texts are written on paper made from the string bush tree, and are about the harmonious relationship between man and nature that has been established through mythological connections. The Qiang people (in Sichuan) believe that hearthstones are the location of a mythological spirit who played a key role in bringing about human reproduction. These beliefs and practices are not just quaint aspects of minority peoples. They are practices that are alive in many communities throughout SW China. They are central to the maintenance of cultural identity and cultural diversity, and are linked to resource management.

Government extension workers in agriculture, forestry, and animal husbandry departments are largely ignorant of indigenous knowledge on biological resources. However, there is a growing literature that demonstrates the relevance of indigenous knowl-

Box 6. Jisha Villagers and their Sacred Mountain

Qianhushan has always been the sacred mountain of Jisha village. Every June 15 and July 15 of the Tibetan calendar, villagers organize a collective ritual ceremony on top where they burn incense and clean around the lakes in the mountains. They regularly maintain a path from the village to Qiuyu Lake, which tour groups now use. In villagers' minds, behavior offending the lakes is bound to result in bad luck for villagers such as natural disasters affecting crops, human sickness, or even death. Qianhushan is a regional sacred mountain with pilgrims coming from everywhere. Villagers believed that the "rain-begging lake" has supernatural powers that had brought water to the region of Zhongdian on several occasions of drought. Qianhushan also provides alpine pastures for the villagers' livestock. Due to its unique and intact alpine ecosystems, Qianhushan has been declared one of eight core zones of the Three Parallel Rivers World Natural Heritage site.

In 1999, a real estate company from Kunming procured "exclusive permission" to develop scenic areas in Qianhushan through the local government. Local administrative agencies approved the Tourism Development Plan before the State Council could ratify the General Management Plan for the Three Parallel Rivers National Park. Before the Provincial Environment Protection Bureau could approve the EIA of the development plan's cable car project, the company had already started construction work in the village's collectively owned forest. This contravened the planning regulations governing the Three Parallel Rivers National Park as well as the EIA procedures. The plans also restrict the villagers from herding their livestock on the alpine meadows.

This experience shows that when local governments are involved in supporting commercial developments, villagers have few channels to voice their concerns and present their position. Access to legal recourse by ethnic minority villagers is also limited.

Source: CBIK, 2005.

edge on environmental management for contemporary livelihood in China. While some Chinese researchers and NGOs have been active in research and interventions drawing on indigenous knowledge, few international agencies working in SW China have paid serious attention to these concerns. Moreover, a developmental

state in much of SW China means that threats to the resource rights and cultural rights of ethnic minorities are inextricably linked.

E. Other Policies and Programs

The central government formulated and implemented the abovementioned policies in ethnic minority areas across SW China. In addition, provincial governments (the autonomous regions) have developed their own policies. This section describes some of the locally initiated policies, which have particular importance for ethnic minorities.

1. Yunnan's "Great Ethnic Culture Province" Strategy

Since the second half of the 1990s, and especially after the collapse of Yunnan's tobacco industry in 1998, provincial officials and scholars proposed the construction of a "Great Ethnic Culture Province." In this new policy perspective, ethnic cultures are "commercializable" resources that could be used to fuel economic growth in the province. Like other assets, culture is a "renewable resource," which is subject to the laws of supply and demand. They would inevitably lead to the development of the cultural enterprise sector and even the creation of "brand names" (Yuan 1998:15). Ethnic minority culture is no longer a "feudal superstition" but a basis for future economic growth in the province.

The policy document outlines a range of activities that would enable ethnic culture to realize economic value. These activities include censuses of cultural resources, awarding certifications to villages or townships that perform cultural activities well, the establishment of "culture corridors" or regional tourism routes, holding regular ethnic festivals, and the writing of literary works with "strong ethnic flavor" (Yuan, 1998:24). The adoption of the policy provided the authoritative rhetoric that officials and entrepreneurs used to seek support for various activities. However, there are questions about the distribution of benefits from these activities. In particular, there is little understanding of the status of traditional knowledge and technologies, or intellectual property rights over cultural knowledge. For example, when traditional handicrafts are produced for commercial purposes, who is involved,

and who benefits? When traditional handicrafts enter the market and compete with products from other sources, how does this impact on the preservation of traditional knowledge?

In discussions with a senior provincial official about these issues, his response was that "not all traditional culture is worth saving. If they can't compete with the factory-made products, this just proves that there is no life left in them and they should be eliminated."[18] Some people describe culture as a "living fossil." Elements of ethnic minority culture are often listed as discrete units of culture that can be commercialized, such as "Dongba pictograms," "Naxi ancient music," the "large matrilineal household of the Mosuo people," the "ten-month calendar of the Yi people," and so on. Only by "commodifying" these cultural elements can ethnic minority culture contribute to development. However, who would "commodify" and who would benefit?

In the policy documents, ethnic minority culture is described as "the human cultural inheritance," or as "an important component of Chinese culture, and a special expression of China's socialist culture" (Yuan, 1998:5). It is often assumed that the "commodification" of elements of ethnic minority culture would benefit ethnic minority peoples, but measures to ensure this have rarely been discussed. Meanwhile, there is documentation of several cases of the "commodification" of ethnic minority culture (e.g., songs, dances, and handicrafts) for the benefit of non-minorities. The emerging consensus among officials and academics in Yunnan is that "the transmission and protection of ethnic culture can only be real if it survives and develops" (Deng, 1999b:19). This means that culture must become a "commodifiable" resource that could fuel economic development (Wang Tianxi, 1999:11).

2. Guizhou's Herbal Medicine Development Programme

Guizhou province has 48 ethnic minorities. Each minority group has its own distinctive traditional medicinal system based on the use of both wild and cultivated plants. One thousand five hundred medicinal plants have been documented in Guizhou.

Research on traditional medicines of the Miao has led to commercialization of many medicinal products. In 2001, Guizhou set

up a group for the modern commercialization of herbal medicine. Within the period of the Tenth Five-Year plan, the government plans to produce an herbal material production system, research and development system for herbal medicine, an herbal medicinal product production system, a technical system, and a marketing network. The government projects that by 2005, the value of medicinal production in the province should reach 100 million Yuan, i.e., a 25 percent growth rate per year from 1999. Herbal medicines would make up 80 percent of this value.

Government programs include plantation and cultivation of medicinal plants; investment in research and development; quotas for the number of new pharmaceuticals that would focus on traditional medicines; support for enterprises engaging in this industry; and support for private sector collaboration with research institutes. However, researchers or the government rarely discusses the issues of intellectual property rights of ethnic minorities, and measures to ensure equitable access and benefit sharing.

3. Tourism Development in Ganzi, Sichuan

Logging and tax revenue used to be a main source of income in Ganzi. After the implementation of the natural forest protection program, this income dropped dramatically, and average net per capita incomes of farmers fell by 150 Yuan the following year to an amount just above the official poverty line. In response, the provincial and local governments promoted tourism as an alternative industry. Prior to 1998, tourism in Ganzi Tibetan Autonomous Prefecture in Sichuan was limited and income from tourism was a negligible contribution to the prefecture's GDP. The government has invested huge sums in construction of roads and tourism infrastructure in the prefecture. By 2001, the tourism sector contributed 14 percent to the prefecture's GDP. In 2004, there were 1.8 million tourists, bringing in around 1.2 billion Yuan in income.

F. Summary of Key Points

The central and provincial governments have invested huge amounts of funds to address poverty-alleviation in SW China. While the poverty figures have declined significantly, the remaining poor often live in areas where it will be difficult to achieve a similar success. This because of their vulnerability to natural disasters, and policy-induced shocks. Morevoer, efforts are still based on conventional development thinking where planning is often top-down and projects contribute to the erosion of indigenous cultures and capacities. International agencies who share this conventional development perspective are ignorant of indigenous potentials. They contribute to the erosion of indigenous capacities. Thus, there is a need to review the utility of instruments such as Indigenous Peoples' Development Plans in addressing the concerns of ethnic minorities.

Ethnic minorities in SW China are highly dependent on natural resources. Government has introduced two major forestry policies in recent years but they have negative impacts on incomes and resource management rights of ethnic minorities. There are also questions about the ability of ethnic minority villagers to use policy and legal instruments for securing their environmental rights.

Developmental strategies in SW China often view ethnic minority culture as a resource to fuel development, e.g., through development of tourism sectors and associated industries, herbal medicine sectors, and so on. This raises questions about who benefits from such developments, as well as intellectual property rights. At present, legal and policy mechanisms for addressing these issues are weak.

V. China's Commitments Under International Conventions

A. International Declarations and Other Non-binding Instruments

In addition to the Universal Declaration of Human Rights, there exists a range of other international instruments pertaining to the rights of indigenous peoples and ethnic minorities. The legal status of these instruments varies, and many declarations, principles, guidelines and recommendations have no binding legal effect. Nevertheless, such instruments have a "moral force" and provide practical guidance for the conduct of states.

1. The Vienna Declaration and Programme of Action (1993)

This instrument recognizes that indigenous peoples make a unique contribution to society and affirms the commitment of the international community to the economic, social, and cultural well-being of indigenous peoples and their "enjoyment of the fruits of sustainable development." It recommends that the UN General Assembly proclaim the International Decade of the World's Indigenous People, and that it considers establishing a permanent forum for indigenous peoples. According to the Chinese government's White Paper on Human Rights, China took an active part in the preparatory work for the conference, and took part in consultations over the conference's final documents.

2. The Copenhagen Declaration and Programme of Action

Adopted by the 1995 World Summit for Social Development, this instrument includes a framework for action to "recognize and support the indigenous peoples in their pursuit of economic and social development, with full respect for their identity, traditions, forms of social organization, and cultural values." It calls on governments to provide an environment that enables indigenous peoples to participate in the social, economic, and political life of

their countries. It also expresses a commitment to ensure equal access to quality education that is responsive to the needs, aspirations, and cultures of indigenous peoples, as well as their full access to primary health care.

3. The Beijing Declaration and Platform for Action of the Fourth World Conference on Women in 1995

This instrument recognizes the need to ensure full respect for the human rights of indigenous women. It encourages the participation of indigenous women in the Working Group elaborating the draft declaration on the rights of indigenous peoples.

4. The Durban Declaration and Plan of Action (2001)

Adopted by the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, this instrument urges states to examine how their policies and practices affect indigenous peoples. It also calls on states to ensure that their policies and practices contribute to the eradication of racism through the participation of indigenous peoples in development projects; and to consult with indigenous peoples on any matter that may affect their physical, spiritual, or cultural integrity. Again, China participated actively in the drafting of the declaration.

5. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

Adopted by the UN General Assembly in 1992, the declaration encourages states to "protect the existence, and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity." It also assures the right of minority peoples to practice their culture freely, and to participate in decisions affecting the minority to which they belong "in a manner not incompatible with national legislation." It also states that "national policies and programs shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities."

6. Millennium Development Goals

Many of China's targets to achieve the Millennium Development Goals (MDG) are incorporated in the current Eleventh Five-Year Plan. The MDG corresponds closely to the "Xiaokang" targets that the government adopted during the 1990s. The Chinese government's report to the UN on its progress on the MDG in 2005 noted that although national figures demonstrate progress, there are significant differences between regions and between genders, with disproportionately high poverty rates among ethnic minorities, old people, disabled, and women. The report indicates that future priorities include: (a) strengthening social development, including spending on poverty-alleviation; and (b) moving to a more participatory form of governance with the involvement of civil society in policy formulation. The MDG also includes the goal of environmental sustainability.

The report recognizes that China "may not be on track" with regard to implementing sustainable development policies. China's also needs to improve it implementation of international conventions. The report noted, "NGOs with an environmental agenda need more legal and political space to play their proper role, especially in empowering local communities to ensure their own environmental protection and path to sustainable development."

7. UN Forum on Forests

As a follow-up to Chapter 11 of Agenda 21, and based on the Rio Declaration (1992), the UN Economic and Social Council established the UN Forum on Forests (UNFF) in 2000 to promote "conservation and sustainable development of all types of forests." The Intergovernmental Panel on Forests (IPF) and the Intergovernmental Forum on Forests (IFF) (1995-2000) which resulted in the production of various IPF/IFF Proposals for Action preceded the UNFF. This forum guides governments in developing and implementing policies on sustainable forest management. Many Proposals for Action relate to indigenous knowledge on forests, and the participation and benefits of communities involved in policy formulation and forest management.

China has reported to the UNFF the implementation of its plans that are directly relevant to ethnic minorities. In the 2002

report of the State Forestry Agency, government gave "high priority" to proposals that request for attention to the interests of indigenous peoples. As the report noted, "the interests of different nationalities (i.e., ethnic groups) are given full consideration in the Western China Development Strategy to help develop alternative livelihood and the application of traditional knowledge in a bid to alleviate the pressure on environment." The report also acknowledged that there had been very little consideration of IPR issues in relation to traditional forest related knowledge in the past.

It is quite clear from the report that the government views traditional forest-related knowledge as bits of information that outsiders could acquire for their use. Although the report acknowledges in several places the importance of community participation in forest management, the potential for linking indigenous knowledge with sustainable forest management practices is not sufficiently recognized. Other proposals related to traditional knowledge and community participation were considered only as "medium priority."

8. UNESCO Cultural Diversity Declaration

The UNESCO General Conference adopted this declaration in 2001. In the context of globalization, it aims to support the development of national cultural policies. It aims to ensure respect for cultural identities with the participation of all peoples and to support creativity so that culture can serve development.

9. UN Declaration on the Rights of Indigenous Peoples

The drafting of this declaration has been particularly protracted, but the Human Rights Council adopted it in June 2006. China voted in favor of its adoption. The draft was submitted to the UN General Assembly in late 2006. (The United Nations General Assembly finally adopted the declaration in September 2007.)

B. International Covenants and other Binding Agreements

There are international human rights treaties and other conventions that are legally binding upon states that ratify them.

1. International Covenant on Social, Economic, and Cultural Rights

Adopted by the UN General Assembly in 1966 and entering into force in 1976 (China signed in 2001), the International Covenant on Social, Economic, and Cultural Rights (ICSECR) contains a provision on self-determination as a collective right of peoples. It sets out the fundamental principle of non-discrimination and equality, which underpins the ICSECR. States would guarantee that people enjoy their rights without prejudice to race, color, sex, language, religion, nationality, social origin, birth, or other status. It also affirms the equal rights of men and women. Among the many specific rights listed are the right to an adequate standard of living, the right to education, and the right to cultural life.

2. International Covenant on Civil and Political Rights

China is signatory to this covenant which affirms the right of all people to self-determination. Many of the provisions relate to legal and civil rights, such as the right to fair trial, and freedom of expression and assembly. Article 27 provides that members of ethnic, religious, or linguistic minorities shall not be denied the right, in community with the members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

3. International Convention on the Elimination of All Forms of Racial Discrimination

China acceded to this convention in 1982.

4. Convention on Biodiversity

China is also a signatory to the Convention on Biodiversity (CBD). *Article 8(j)* of the CBD obliges that states:

subject to its national legislation, respect, preserve, and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity; and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices; and encourage the equitable sharing of benefits arising from the utilization of such knowledge, innovations and practices.

Article 10(c) of the CBD obliges states to "protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements." Article 15 states that "each contracting party shall take legislative, administrative or policy measures...with the aim of sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of genetic resources...Such sharing shall be upon mutually agreed terms."

All these provisions are "high priority" items in China's report to the Conference of Parties of 2005. China's report states the relevant laws that China has passed as well as the relevant activities it has conducted. For the most part, the Chinese government is aware that it has a long way to go as regards conservation of indigenous knowledge and establishment of access and benefit sharing arrangements. Senior national and provincial officials from various agencies said that access and benefit sharing is an important concern, in which they lack expertise.

The State Environmental Protection Agency (SEPA)'s report to the UNFF stressed the documentation of indigenous knowledge. It states that the "Chinese Government has realized that the public and nongovernmental organizations can not only support the implementation of governmental policies, they could also supervise the management behaviors of government."

In general, these reports do not include the impact of forest policies on indigenous land uses. This again suggests that understanding the nature and importance of indigenous knowledge and understanding of related rights issues still require further consolidation.

5. Convention for the Safeguarding of Intangible Heritage

China ratified this convention in 2004. The convention binds states to take measures to ensure the safeguarding of cultural heritage, including respect for the cultural heritage of communities and social groups. According to the convention, "intangible cultural heritage" means "the practices, representations, expressions, knowledge, skills—as well as the instruments, objects, artifacts and cultural spaces associated therewith—that communities, groups and, in some cases, individuals recognize as part of their cultural heritage." In accordance with this convention, China initiated a process of identifying intangible cultural heritage for protection. In May 2006, the Chinese State Council announced China's first list of 518 protected intangible heritages. These include heritages in the regions of Yunnan, Guizhou, Guangxi, and Sichuan (see Table 7).

Table 7. Number of Heritages in Selected Regions

	Yunnan	Guizhou	Guangxi	Sichuan
Literature	6	2	2	1
Song/music	2	3	2	3
Dance	7	2		3
Opera	2	6	5	3
Spoken performance	1	1		
Art		2	1	4
Handicraft	5	6	2	6
Festivals	8	7	6	3
medicine				1

We observe that the approved intangible cultural heritages in the four regions relate to the performance arts, and few relate to the utilization of natural resources. This is probably because the Ministry of Culture is responsible for implementing this work.

C. Assessment

As part of its international commitments, China has taken active steps to address issues relating to the rights of ethnic minorities. It has also acceded to a number of international agreements during the last decade. However, there is still a large gap between the national commitments, legislative frameworks, and practices on the ground. While China has recognized these gaps and is taking efforts to amend them, there are significant obstacles.

One of the main obstacles arises from the dominant discourses and the ways in which ethnic minorities' rights are conceived and the ways in which indigenous knowledge is understood. For example, the right to subsistence and the right to development are publicly acknowledged rights within China. However, the rights to continue customary land use practices, and rights to benefit from the use of indigenous knowledge or other cultural expressions are not easily understood within a paradigm, which treats ethnic minority culture as "backward" and pursues increased productivity with the assumption that such increases could not possibly derive from traditional systems. Nevertheless, the rationality of indigenous environmental knowledge has come to be recognized at the margins, but it is seen as knowledge that can be de-contextualized from cultural settings and from the practices of the knowledge holders.

The idea that indigenous knowledge and traditional social systems are related, and that indigenous knowledge is an expression of a culture and owned by those who partake in it, is unfamiliar to most. This presents an obstacle to exploring the establishment of mechanisms and legislative frameworks, which mainstream society recognizes.

VI. Concluding Remarks: Ways Forward?

Promising Policy Arenas in SW China. The great positive changes over the last 10 years that many ethnic minorities in SW China have experienced are laudable. For many, basic living standards have increased dramatically. Access to income generating opportunities, markets and social services has improved. These are not only due to China's dynamic economy, but also to the concerted efforts of the central and provincial governments in addressing the basic needs of ethnic minorities. For instance, the constitution recognizes the citizenship rights of ethnic minorities. China also has a unique system of minority area autonomy. The legal status of these systems has been further institutionalized during the last ten years resulting in additional financial support for poverty-alleviation programs in the minority areas of SW China.

As development has proceeded, formerly unrecognized issues concerning the cultural, intellectual property, and resource rights of ethnic minorities came to the fore. The central and provincial governments began addressing them. In many cases, international conventions appear to have played a strong role in putting these issues on the agenda. Many government-funded research agencies as well as international NGOs have been active in responding to these issues.

However, there is still significant lack of understanding over tenure and resource rights. For example, land and forests are sometimes defined as state-owned. Sometimes, they are owned by the collective. Who constitutes this collective is unclear under Chinese law. One result of these ambiguities is that local governments often assume the role of owner, developer, and arbitrator. At the same time, legal and regulatory frameworks to ensure the accountability of the government to the people are still being developed. Often, it is the researchers, NGOs, and the media, which draw attention to these issues. However, these entities operate in a highly regulated context. As the Chinese government's 2005 report on MDG made clear, there is a need for a more explicit legal framework for NGO's operations. At times, signals from the government are encouraging.[19] At other times, constraints appear from other sources.

It is interesting to note that no Chinese official or scholar spoken to during the course of this research was aware that 1995-2004 was the UN International Decade of the World's Indigenous People, or that a Second Indigenous People's Decade has been declared. This raises questions about the potential for international instruments to play positive roles in improving recognition of ethnic minorities' rights and their welfare in the Chinese context. When China signed the Convention on Biological Diversity (CBD) with its concomitant requirements, the agenda for SW China included programs on awareness of rights over indigenous knowledge. This has created a focus of interest around the State Environment Protection Bureau (SEPB), which is the national focal point for the CBD.

The matter of awareness of the Indigenous People's Decade also concerns other agencies, such as Intellectual Property Bureau and the Culture Ministry. Apparently, coordination among these national agencies is a difficult task, let alone involving civil society in deliberations and legislative processes. Furthermore, provincial administrative agencies are often understaffed and in active in engaging local civil society. Thus, putting international commitments into practice often remains the task of the relevant administrative agency, while civil society organizations and ethnic minorities themselves may often remain ignorant of the commitments made.

Recent trends, however, are encouraging. The government itself requires greater transparency in government affairs. There is wider public participation in the formulation of sustainable development policies.

As part of this study, representatives of seven NGOs and civil society networks and a staff member of the State Environment Protection Agency (SEPA) participated in a consultative workshop. The workshop tackled civil society participation in the implementation of indigenous knowledge-related provisions of the CBD. All participants in the workshop jointly concluded that there is both a great need and a great potential for positive collaboration between civil society and government agencies responsible for implementation of the CBD. Officials from SEPA noted their obligation to enhance transparency surrounding their implementation of the CBD and to promote further civil society participation in related

activities. The participants gave specific suggestions on how to promote the collaboration between civil society and SEPA, which included strengthening information exchange. They also recommended the formal institution of mechanisms for civil society participation in discussions on related legislation and policy.

Recommendations for International Agencies. This study was conducted in the context of a wider IFAD-supported review of the First UN International Decade of the World's Indigenous People. A second Indigenous People's Decade has also been declared. The five objectives for the second Indigenous People's Decade are as follows:

1. Promoting non-discrimination and inclusion of indigenous peoples in the design, implementation and evaluation of international, regional and national processes regarding laws, policies, resources, programs, and projects;
2. Promoting full and effective participation of indigenous peoples in decisions which directly or indirectly affect their lifestyles, traditional lands and territories, their cultural integrity as indigenous peoples with collective rights or any other aspect of their lives, considering the principle of free, prior and informed consent;
3. Redefining development policies that depart from a vision of equity and that are culturally appropriate, including respect for the cultural and linguistic diversity of indigenous peoples;
4. Adopting targeted policies, programs, projects and budgets for the development of indigenous peoples, including concrete benchmarks, and particular emphasis on indigenous women, children and youth;
5. Developing strong monitoring mechanisms and enhancing accountability at the international, regional and particularly the national level regarding the implementation of legal, policy, and operational frameworks for the protection of indigenous peoples and the improvement of their lives.

Based on the findings of this study, and bearing in mind the objectives of the second Indigenous People's Decade, we make

the following three recommendations with particular reference to the work of UN and other multilateral and bilateral agencies.

(1) This report, while not focusing on the activities on international agencies, has noted that measures for engaging with ethnic minorities (e.g., Indigenous Peoples' Development Plans or IPDP) are resulting in development planning of a very conventional nature, which is contributing to the further erosion of ethnic minority culture and capacities. **International agencies involved in development and environment initiatives in SW China should initiate a review of the extent to which existing measures for engaging with ethnic minorities actually support the indigenous peoples' own capacities for development.** Such a review should include an examination of the agencies' own experiences with IPDPs.

(2) This report has noted that the Chinese government has given high levels of policy priority and high levels of funding support to poverty-alleviation, development and environmental conservation in ethnic minority areas of SW China. Given their limited funding resources compared to the resources of the Chinese state, **international agencies should consider their positioning in relation to the mainstream, conventional development approaches current in SW China**. Rather than replicate conventional development and conservation measures, international agencies may wish to consider the following suggestions as ways to re-position the value of their contribution at the same time ensuring that issues related to ethnic minorities' rights are addressed:

a. ***Addressing adverse effects of conventional development in ethnic minority areas***. Significant issues include erosion of crop genetic resources; ban on swidden cultivation, livelihood and cultural impacts of environmental conservation policies and programs; impacts of extractive industries, and so on.

b. ***Supporting the development of mechanisms, regulations, and legislation that serve to protect ethnic minorities' rights***. There is a need to develop mecha-

nisms that address issues of appropriation of ethnic minorities' biological resources; extractive industries in minority areas; commercialization of culture and tourism development; access to legal recourse for securing resource rights, and so on. Such mechanisms may include development of policy or legal instruments, or institutionalization of working approaches that have proven to be beneficial for realizing ethnic minorities' rights (e.g., co-management of nature reserves, participatory plant breeding, community-based resource management, etc.).

c. ***Support for the development of capacities to address issues of culture and development.*** Such support should come from the government, research, consultancy, and civil society agencies, particularly among ethnic minorities themselves.

(3) This report has noted that policy spaces to address issues of ethnic minorities' rights have opened up around the implementation of the Chinese government's commitments under the Convention on Biological Diversity (CBD). **International agencies should support the engagement of a wider range of social actors in deliberation together with government agencies on measures for the implementation of China's commitments under the CBD**. Similar policy spaces may exist around other issues related to ethnic minorities' welfare (e.g., poverty-alleviation for 22 least populous ethnic groups, which the World Bank has begun to engage with). Such policy spaces may also develop in the future in relation to other issues, or it may be possible to create such policy spaces. In such cases, **international agencies should take active steps to promote the engagement of civil society in such policy spaces in China.**

Endnotes

[1] The Center for Biodiversity and Indigenous Knowledge (CBIK) was founded in 1995 as a non-profit, non-governmental research organization based in Kunming, China (see www.cbik.org). CBIK is dedicated to the conservation and sustainable utilization of biodiversity in support of sustainable livelihoods of the ethnic minority peoples of Yunnan and Southwest China. CBIK undertakes action research together with ethnic minority communities in areas of high biodiversity, and in partnership with other governmental, non-governmental, and research agencies. It serves as a bridge between local communities and policy makers in order to improve decision-making that affects local biodiversity and livelihoods. CBIK's work stresses the importance of formulating conservation and development interventions based on the indigenous knowledge and cultural assets of ethnic minorities.

[2] The World Bank reportedly commissioned a nationwide assessment in the 1990s, but the study was never completed or released due to complications arising from the World Bank's involvement in projects in the Tibetan areas of Qinghai.

[3] Chinese: minzu gongzuo.

[4] The committee members include: The State Reform and Development Commission; State Trade and Commerce Commission; and the ministries of Education; Science and Technology; Finance; Personnel; Land Resources; Railways; Transport; Information; Industry; Agriculture; Foreign Trade; Culture; Health; Tax; Broadcasting; Publishing; Sports; the State Council's Poverty Alleviation Office; and the People's Bank.

[5] In practice, the promotion of ethnic minority officials receives a great deal of attention from the government at all levels. For example, in Guizhou province, all 11 minority autonomous counties and all three autonomous prefectures have governors who are ethnic minority officials, and in 2001 33.4 percent of all government officials in the province were ethnic minorities. In Sichuan, over eight percent of officials are ethnic minority officials, almost twice the proportion of ethnic minorities in the province's population.

[6] Notable exceptions exist, such as the Diqing Tibetan Autonomous Prefecture Grassland Management Regulations, which was formulated despite the absence of a similar regulation at the provincial level.

[7] There is no way to estimate the exact number of distinct ethnic groups in China. During ethnic identification in the early 1950s, around 400 different ethnonymns were submitted to the authorities for identification (Fei, 1981), with 260 ethnonymns recorded in Yunnan alone (Lin 1984).

[8] Guangxi is a Zhuang Minority Autonomous Region, which has a

status in the administrative hierarchy equivalent to a province. For implicity, this report uses the term "province" to refer all four of these provincial-level administrative units.

[9] Harrell's "civilizing project" concept has been found a useful framework for understanding ethnic relations in many Southeast Asian countries (also see Duncan 2004).

[10] Chinese: minzu shibie.

[11] These include elders' groups, women's groups, marriage exchanges, etc.

[12] Hansen (1999), for example, provides in-depth case studies of different responses to policies in the education sector among several ethnic groups of Yunnan.

[13] On bilingual education in SW China see Zeng et al. (n.d.) and Upton (2000).

[14] This is a management method currently pervasive in China's government system in which specific (often-quantified) targets are set for a particular staffing position (e.g., County Party Secretary) or for a specific level of government (e.g., County government). Contracts require that these targets be fulfilled.

[15] Initiated in the late 1990s, this strategy aims to enhance support for development efforts in the western (poorer) part of China, including Sichuan, Guizhou, Yunnan, Saanxi, Qinghai and Gansu, the autonomous regions of Tibet, Ningxia, Inner Mongolia, Guangxi and Xinjiang, and the municipality of Chongqing. These areas contain nearly 25% of the national population and cover almost 50% of China's land area. The strategy stresses the need for infrastructure investment in the middle and western provinces of China with special emphasis on transport, telecommunications, pipelines, electricity and the national power grid, and water conservation.

In particular, transport improvement is expected to focus on better economic integration between western, central and eastern China, and on the improvement of economic linkages with Southeast Asia.

[16] This section is based on a detailed report in Chinese: "Community research on protection of natural forest and the sloped farmland conversion program" (Zhao J. C., Xu J. C. and Qi K., Eds) 2001.

[17] This policy is not new because farmers have been required to convert sloped land in some areas even as early as the 1960s. What is new is the government's determination to implement the policy with incentives to boot.

[18] For example, traditional lacquer-ware that used to be made by villagers is now produced in a factory, which has driven the handmade ware away from the tourism market.

[19] For example, the requirement of governments to incorporate NGO sector development in the 5-year social development plans.

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ANNEXES

APPENDIX 1. Powers and Functions of State Organs

Powers and Functions of the National People's Congress

The NPC exercises the following functions and powers:

(1) to amend the Constitution; and to supervise the enforcement of the Constitution;

(2) to enact and amend basic laws governing criminal offences, civil affairs, the state organs and other matters;

(3) to elect the President and the Vice-President of the People's Republic of China;

(4) to decide on the choice of the Premier of the State Council upon nomination by the President of the People's Republic of China, and on the choice of the Vice-Premiers, State Councillors, Ministers in charge of ministries or commissions, the Auditor-General and the Secretary-General of the State Council upon nomination by the Premier;

(5) to elect the President of the Supreme People's Court and the Procurator-General of the Supreme People's Procuratorate;

(6) to examine and approve the plan for national economic and social development and the report on its implementation; to examine and approve the state budget and the report on its implementation;

(7) to approve the establishment of provinces, autonomous regions, and municipalities directly under the Central Government; to decide on the establishment of special administrative regions and the systems to be instituted there;

(8) to exercise such other functions and powers as the highest organ of state power should exercise.

Functions and Powers of the State Council

The State Council exercises the following functions and powers listed in the Constitution of the People's Republic of China:

(1) to adopt administrative measures, enact administrative rules and regulations and issue decisions and orders in accordance with the Constitution and the law;

(2) to submit proposals to the NPC or its Standing Committee;

(3) to formulate the tasks and responsibilities of the ministries and commissions of the State Council, to exercise unified leadership over the work of the ministries and commissions and to direct all other administrative work of a national character that does not fall within the jurisdiction of the ministries and commissions;

(4) to exercise unified leadership over the work of local organs of state administration at various levels throughout the country, and to formulate the detailed division of functions and powers between the Central Government and the organs of state administration of provinces, autonomous regions, and municipalities directly under the Central Government;

(5) to draw up and implement the plan for national economic and social development and the state budget;

(6) to direct and administer economic affairs and urban

and rural development;

(7) to direct and administer the affairs of education, science, culture, public health, physical culture and family planning;

(8) to direct and administer civil affairs, public security, judicial administration, supervision and other related matters;

(9) to conduct foreign affairs and conclude treaties and agreements with foreign states;

(10) to direct and administer the building of national defence;

(11) to direct and administer affairs concerning the ethnic minorities and to safeguard the equal rights of minority nationalities and the right to autonomy of the national minority autonomous areas;

(12) to protect the legitimate rights and interests of Chinese nationals residing abroad and protect the lawful rights and interests of returned overseas Chinese and of the family members of Chinese nationals residing abroad;

(13) to alter or annul inappropriate orders, directives and regulations issued by the ministries or commissions;

(14) to alter or annul inappropriate decisions and orders issued by local organs of state administration at various levels;

(15) to approve the geographic division of provinces, autonomous regions and municipalities directly under the Central Government, and to approve the establishment and geographic division of autonomous prefectures, counties, autonomous counties, and cities;

(16) to decide on the imposition of martial law in parts of provinces, autonomous regions, and municipalities directly under the Central Government;

(17) to examine and decide on the size of administrative organs and, in accordance with the law, to appoint or remove administrative officials, train them, appraise their performance and reward or punish them; and

(18) to exercise such other functions and powers as the National People's Congress or its Standing Committee may assign to it.

Functions of Township Government

(1) To implement the decisions of the township People's Representative Congress;

(2) to implement the decisions and orders of governments at county level and above;

(3) To manage the economy, science, education, culture, health, civil affairs, legal affairs and family planning administrative work within the area governed by the township;

(4) To protect the assets of the state and collective entities and the legal rights of citizens, and to protect the rights of national minorities;

(5) To promulgate decisions and make orders.

Appendix 2: Data on Trends in Welfare in Ethnic Minority Areas of SW China

Table 1. Trends in basic welfare indicators in Yunnan, 1995-2004

		1995	1997	1998	1999	2000	2001	2002	2003	2004
Population (10,000)	Province	3989.6	4094.0	4143.8	4192.4	4240.8	4287.4	4333.1	4375.6	4415.2
	Minority autonomous areas	1990		2036.1	2050	2070	2081	2094	2108.1	2122.8
Ethnic minority population (10000)	Provincial	1355		1379.4		1412.9		1420	1467.3	
	Minority autonomous areas	1071		1099.2	1118	1121	1131	1140	1150.4	
Farmers net p.c. income (RMB)	Provincial	1011.0	1375.5	1387.3	1437.6	1478.6	1533.8	1608.8	1897.1	1864.2
	Minority autonomous areas	627	979*	1053.5*	1165*	1341	1384	1445	1527	1670
Per capita GDP (RMB)	Provincial	3044	4042	4355	4452	4637	4866	5179	5662	6733
	Minority autonomous areas	1051	2380*	2557*	2698*	3315	3580	3871	4294	5078
Per capita grain yield (Kg)	Provincial	300	313		333.76	348	349	331	338	343
	Minority autonomous areas	323.58	345		360.98	362.8	355.60	342.88	336	338

		1995	1997	1998	1999	2000	2001	2002	2003	2004
Enrollment rates for primary school-age children	Provincial average	97.4	98.4	98.73	99.0	99.02	99.37	99.58	96.14	96.15
	Minority autonomous areas	95.5								95.63
Hospital beds / 1000 population	Provincial average	2.10	1.55	1.55	1.53	1.56	1.55	1.56	1.55	
	Minority autonomous areas	1.98	2.08	2.3	2.21	2.28	2.3	——	——	
Medical personnel per 1000 population	Provincial average	2.86	2.89	2.88	2.88	2.93	2.89	2.56	2.55	
	Minority autonomous areas	2.36	2.2	2.3	2.2	2.35	2.34	——	——	

N.B.: Data on Minority autonomous areas has been calculated from the data given on each minority autonomous county in "Yunnan Statistical Almanac." Minority Autonomous Areas data includes data on eight prefectures plus 20 autonomous counties lying outside those prefectures (a total of 78 counties). Data sources: Yunnan Statistical Almanac (1999, 2001, 2004) and Yunnan Officials' Economic Work Manual (1997, 1998, 2002, 2004, 2005)

Table 2. Trends in basic welfare indicators in Sichuan, 1995-2004

		1995	1997	1998	1999	2000	2001	2002	2003	2004
Population	Provincial average					8602			8700.4	8724.6
	Minority autonomous areas					573.3				644.9
Ethnic minority population	Provincial average					430.1				436
	Minority autonomous areas					305.17				
Farmers net p.c. income (RMB)	Provincial average	1158	1680	1789	1843	1904	1987	2107.6	2229.9	2580.3
	Minority autonomous areas					1335			1644	1948
Per capita GDP (RMB)	Provincial average			4339	4452	4784	5250		6578.3	8113
	Minority autonomous areas					4550				
Per capita grain yield (Kg)	Provincial average				438					
	Minority autonomous areas					298.44				

Enrollment rates for primary school-age children	Provincial average									8724.6
	Minority autonomous areas					90.17				
Hospital beds/1000 population	Provincial average									436
	Minority autonomous areas					2.88				
Medical personnel/ 1000 population	Provincial average			1.55						2580.3
	Minority autonomous areas					3.65				

NB: Data on minority autonomous areas has been calculated from the data on individual counties given in the Sichuan Almanac. Minority Autonomous Areas includes three prefectures plus three autonomous counties outside those prefectures (a total of 51 counties). Data sources: Sichuan Almanac (2005); National Report on Western Development, 2004 and 2003; Central and Western China Development Almanac 2000-2001.

Table 3. Trends in basic welfare indicators in Guizhou, 1995-2004

		1995	1997	1998	1999	2000	2001	2002	2003	2004
Total population	Provincial average					3755.7			3869.7	3903.7
	Minority autonomous areas					1098.8				
Ethnic minority population	Provincial average					1421.5				1457.6
	Minority autonomous areas					677				
Farmers net per capita income (RMB)	Provincial average	1086	1298	1334	1363	1375		1490	1564.7	1721.6
	Minority autonomous areas			1259	1284	1355			1424.8	1539.9
Per capita GDP (RMB)	Provincial average			2318	2475					4215
	Minority autonomous areas			1811	1944	2174.2			2245.4	3373.6
Per capita grain yield (Kg)	Provincial average				303	309.2				
	Minority autonomous areas			336	328	311.7			339.8	347.2

Enrollment rates for primary school-age children	Provincial average					98.2			98.19	97.76
	Minority autonomous areas					98.32				
Hospital beds/ 1000 people	Provincial average									14.9
	Minority autonomous areas					1.37				
Medical personnel/ 1000 people	Provincial average			1.24		2.70				
	Minority autonomous areas					3.37				

NB: Data on minority autonomous areas has been calculated from the data on individual counties given in the Guizhou Almanac. Minority Autonomous Areas includes three prefectures plus 10 autonomous counties outside those prefectures (a total of 44 counties). Data sources: Guizhou Almanac (2005); National Report on Western Development, 2004 and 2003; Central and western china development almanac 2000-2001.

Table 4. Trends in basic welfare indicators in Guangxi, 1995-2004

	1995	1997	1998	1999	2000	2001	2002	2003	2004
Total population	4541		4675		4750		4822	4857	
Ethnic minority population	1725.6				1828.75		1839	1854	
Farmers net per capita income (RMB)	1446	1875		2048	1846		2012.6	2095	
Per capita GDP (Yuan)	3304			4148	4319		5092	5969	
Per capita grain yield (Kg)	344			365	352		419.1	418.0	
Enrollment rates for primary school-age children					99%			98.9%	
Hospital beds/ 1000 people							17.24	17.11	
Medical personnel/ 1000 people			1.3				25.3%	25.1%	

NB: Since Guangxi is a Zhuang Minority Autonomous Region, data have not been disaggregated below the A.R. level.
Data source: Guangxi Almanac (2004), National Report on Western Development, 2004 and 2003; Central and Western China Development Almanac 2000-2001.

Table 5. Ethnic minorities as a proportion of students at different levels (1998-2004)

	1998	1999	2000	2001	2002	2003	2004
As % of higher education students	20.92	20.97	21.57	19.51	20.91	21.36	22.00
As % of adult education students	21.07	23.40	29.25	33.91	18.17	19.15	19.20
As % of secondary vocational college students	34.95	36.73	36.98	37.53	36.46	35.34	33.16
As % of adult secondary vocational college students	21.66	24.71	25.98	17.22	18.11	27.0	21.74
As % of vocational high school students				25.25	24.83	25.82	24.61
As % of ordinary high school students				25.62	26.35	26.80	27.30
As % of lower secondary school students	30.98	30.86	31.08	32.63	33.30	34.11	34.70
As % of vocational lower secondary school students	31.98	32.11	33.52	35.81	41.97	45.06	55.33
As % of primary school students	35.96	35.83	35.60	35.35	35.01	34.58	34.03

Data source: Yunnan province Education Department, cited in Zeng et al. (n.d.).

Table 6. School Drop-out Rates in 2004-5 in Yunnan by region

Region	Primary school			Secondary school		
	All students	Female students	Rural students	All students	Female students	Rural students
Yunnan province	0.94	0.99	1.64	2.55	2.12	2.90
Kunming	0.10	0.08	1.60	0.97	0.54	1.08
Qijing	0.30	0.26	0.91	1.27	1.52	1.32
Yuxi	0.37	0.39	0.65	2.84	1.91	2.98
Baoshan	0.44	0.41	0.64	1.45	1.18	1.59
Zhaotong	1.58	1.77	1.90	4.01	3.40	3.47
Lijiang	2.38	2.60	3.38	1.66	1.15	2.24
Chuxiong*	0.55	0.45	1.37	1.56	1.19	1.59
Wenshan*	1.36	1.82	2.38	4.13	3.72	4.68
Simao	1.52	1.55	2.28	3.33	3.26	3.31
Xishuangbanna*	1.15	0.79	3.65	3.97	2.03	6.01
Dali*	0.79	0.64	0.27	2.78	3.32	2.85
Dehong*	0.98	0.86	2.58	2.17	1.82	3.35
Nujiang*	4.99	5.40	6.14	6.67	5.44	7.01
Diqing*	6.00	7.12	8.45	12.86	11.75	16.50
Lincang	1.77	1.71	2.40	3.34	3.28	2.87

Data source: Yunnan province education department cited in Zeng et al. (n.d.).
An asterisk denotes a minority autonomous prefecture.

The first Decade is one factor which led to the establishment of more indigenous peoples' formations within the countries. The existence of the UN Permanent Forum, the UN Working Group on the Declaration and the UN Working Group on Indigenous Populations provided the venues for indigenous activists and leaders from all the parts of the world to come together. One cannot underestimate the role these spaces played in cementing unities among indigenous peoples who are very diverse.

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