Indigenous Peoples in Asia

TOWARDS
SELF-DETERMINATION
Erratum:
The last two paragraphs on Page 10 should be at the end of the box on Page 9.
Indigenous Peoples in Asia

TOWARDS SELF-DETERMINATION

Report of the Indigenous Peoples Forum
Chiangmai, Thailand
August 1988

ASIA INDIGENOUS PEOPLES PACT
(A Forum for Indigenous Peoples Movements in Asia)
ACKNOWLEDGEMENTS

We wish to record our heartfelt thanks and gratitude to CCA-URM for the facilitating role it has played in encouraging the Indigenous Peoples Forum at Chiangmai, Thailand. The Asia Indigenous Peoples Pact (AIPP) is a concrete expression of the outcome of this meeting.

We also wish to express our sincere thanks to Rev. Kwon Ho-Kyung and to CCA-URM/DAGA staff for the support extended in enabling the publication of this report.
CONTENTS

Acknowledgements .................................................. iii

Preface .............................................................. 1

The Indigenous Peoples of Asia: A Brief Situationer ............. 3

Numbers and Domination
National Discrimination
Victims of Development and Imperialism
Forced Assimilation
Invasions, Occupation and Militarization
Striving for Self-Determination

The Marginalization of the Hill Peoples in Taiwan
Okinawans: The Victims of Persistent Colonialism and Imperialism
The Naga Struggle for Independence: Fighting On!
Philippines: The Defence of Ancestral Lands

The Material and Cultural Basis of the Indigenous Social Order 11

Basis of indigenous culture
Relations with the land
Origins of Customary Law
Customary Law in Relation to Land
Customary Law in Relation to Conflict Resolution
Customary Law and Indigenous Social Systems
Modern Law in Contrast
Negative Aspects of Customary Law
Viability of Indigenous Social Systems
Summary

Impact of the Dominant Society on Indigenous Social Systems ... ... ... ... ... ... ... ... ... 23

Why The Indigenous Peoples?
Modes of Domination
Immediate Impact: Loss of Indigenous Lands
Consequences for Indigenous Relations with the Land
Impact on Indigenous Institutions
Destruction of the Indigenous Social Order
Not all is lost
Summary

Aspirations of the Indigenous Peoples and the Strategies for Achieving Them ... ... ... ... 33

Self-Determination: What it Implies
Full Independence
Genuine Autonomy Within The Nation State
The Path To Self-Determination
What Else Is There?
Summary

Resolutions & Recommendations of the Indigenous Peoples Forum ... ... ... ... ... ... ... 43

Indigenous Peoples National Resolutions
Resolutions in Support of Indigenous Peoples in the Pacific
Recommendations
Action
Closing

References ... ... ... ... ... ... ... ... ... ... ... ... ... ... 53

PREFACE

The capacity of indigenous peoples to develop as individuals and as a people is based on a social order that is determined by the people themselves. This social order, which defines the relationship between themselves and the land as well as between one individual and another, finds expression in their customs and in their unwritten laws, as these are practised in a given territorial base.

If and when this social order is destroyed, their identity and their continuity as a people are threatened, and a crisis ensues.

For the indigenous peoples in Asia, their current situation is one of persistent crisis as they continue to fall victim to colonial, neo-colonial and national vehicles for oppression. The struggles of the indigenous peoples, therefore, is for self-determination. It is a struggle to regain and to re-establish their sovereignty over a territorial base and to maintain a social order that they themselves determine.

In order to determine the common roots of indigenous peoples' aspirations, and to identify concrete forms of unity and solidarity, representatives from sixteen indigenous groups in Asia met in Chiangmai, Thailand in 1988 and shared their aspirations and experiences.

The discussions and deliberations, which are reported here, centred around three workshop themes: the material and cultural basis of the indigenous social order, the impact of the dominant society on the indigenous social system, and the aspirations of the indigenous peoples and the strategies for achieving them.

Apart from providing the participants with a better understanding of the situations and aspirations of the various indigenous peoples in Asia, the Forum also called for the need to forge greater solidarity amongst all indigenous peoples in Asia. With this in mind, the Forum provided the nucleus for the setting up of the Asia Indigenous Peoples Pact (A Forum for Indigenous Peoples Movements).
THE INDIGENOUS PEOPLES OF ASIA:
A BRIEF SITUATIONER

Of the estimated 200 million indigenous peoples in the world, about 150 million are to be found in Asia, including some 54 million in India, more than 7 million in the Philippines and 11 million in Burma.

Although collectively referred to variously as aborigines, tribals, natives, hill peoples or minority peoples, the indigenous peoples of Asia nevertheless share much in common. They are descendants of the original inhabitants of a territory which has been overcome by conquest; and they consider themselves distinct from other sectors of the prevailing society. They have their own language, religion, customs and worldview, and they are determined to transmit these to future generations. They do not have any centralized political institutions, but organize instead at the level of the community, and have highly developed methods for arriving at decisions by consensus. And more often than not, the indigenous peoples find themselves to be the most depressed sector of the nation-state that they have now been incorporated into.

Nevertheless, despite these shared characteristics, the situation of the indigenous peoples in Asia and the Pacific is not uniform to all. They vary from territory to territory, and sometimes even within a particular territory.

Numbers and Domination

Some indigenous peoples, like the Nagas in India, are the majority in their new-found nation-states, while others, such as the Amis and Bunun of Taiwan, are a minority. Also, some indigenous peoples, such as the Kadazans of Sabah and the Dayaks of Sarawak, function within the dominant society while others, such as the Orang Asli of Peninsular Malaysia are isolated and maintain only loose links with the mainstream. Often also, the indigenous peoples record a long history of domination.
THE MARGINALIZATION OF THE
HILLPEOPLES IN TAIWAN

The 'mountain peoples' of Taiwan, such as the Amis and the Bunun, are the original inhabitants of the island. However, waves of migrating Chinese - the first during the 17th Century by Fukienese, and the second when the Nationalist Chinese Army under Chiang Kai-Shek made Taiwan their headquarters - have reduced their numbers to only about three per cent of the population. Treated as 'guests' initially by the friendly and unassuming hill peoples, these colonizers have now come to control the economy and politics of Taiwan, and have forced the original inhabitants into marginalization.

The hill peoples of Taiwan continue to be discriminated against and their aspirations remain, at best, ignored; they are required to learn Chinese culture and language rather than their own, and their lands continue to be taken from them. Deprived of their traditional means of subsistence, the hill peoples have been forced to sell their labour (especially as fishermen) and the women, their bodies as well. Also, intermarriage between Chinese men and hill women - partly because of the lower bride price - and the drift to the cities in search of work, is resulting in a rapid process of assimilation. The hill peoples of Taiwan want to regain their sovereignty over the island, but the odds appear to be against them - for the moment.

The indigenous peoples of Burma are one example where the legacy of the British Colonialists who left in 1948 continues today in the arrogant and aggressive behaviour of the dominant racial group, the Burmans. For the Karen, Shan and other hill peoples, the policies of the Burmese Socialist Party Programme (BSPP) in fact resembles a programme of re-colonialization - and even ethnocide.

National Discrimination

Also, irrespective of their numbers, or their relationship with the dominant society, the indigenous peoples are invariably the most disadvantaged and discriminated against in their countries - in terms of health, educational attainment, employment, social mobility, and representation in national politics. The Karen and Akha of Thailand, for example, have difficulty in obtaining national identity cards and, as a result, are denied much of the social benefits - including the liberty to move around freely - that are accorded to the lowland Thais (who are able to obtain these documents easily). Others, such as the Ainu in Japan, are virtually ignored in affairs of the state.

That the indigenous peoples are discriminated in their own countries can also be seen in the manner in which the local term by which indigenous peoples are identified - such as Adivasi (original inhabitants), Ikorot (people of the mountains), Orang Asli (original people) - are used by the non-indigenous population with a derogatory connotation to mean uncivilized, barbarians, black persons or pagans.

Victims of Development and Imperialism

The indigenous peoples of Asia are often also the victims of national development projects such as dams, roads, mining and agricultural schemes. The massive Narmada Valley Project in India, for example, which involves the construction of at least 30 major dams, and which will flood 550,000 hectares of cultivated and forest lands when completed, will displace more than a million people, most of whom are Adivasis (tribespeople). And despite agreements to compensate those being displaced from their lands, experience has it that this is just more empty promises.

Often, indigenous peoples are also the victims whenever transnational companies are active participants in the 'development' of a country. Whether it is a mining enterprise, an agribusiness venture or an industrial project, the indigenous peoples are often the ones to suffer: first from displacement from their lands, and then as exploited labour in these corporations. Foreign superpowers also make victims out of indigenous peoples as when they build military bases on the latter's lands. This was the case when the Negritos and Aetas of the Philippines lost over 50,000 hectares of their traditional lands to the United States Clark Air and Subic Naval bases.
OKINAWANS: THE VICTIMS OF PERSISTENT
COLONIALISM AND IMPERIALISM

The history of Okinawa is one of successive
invasions and colonization. Formerly an
independent kingdom called Ryukyu,
Okinawa was first invaded by Japanese
warlords in 1609, and its colonization by Japan
continued until the end of the Second World
War. This was when U.S. soldiers invaded
Okinawa in a move which later led to the
occupation of Okinawa by the United States.
U.S. military rule lasted for 27 years until 1972
when Okinawa was once again annexed by Japan.
However, U.S. bases on the island still
remain while present day Japanese occupation of the
island appear no different to the native Okinawans
than during their wartime
presence.

The native Okinawans have suffered greatly as a result of sustained
colonialism and imperialism. During the Second World War, for
instance, 150,000 native Okinawans - one-third of the indigenous
population - were killed. Japanese imperialism, before and today,
actively seeks to eliminate the native Okinawans socially, culturally,
linguistically and even historically. The oceans and the coral reefs
around Okinawa - nature's legacy to the native peoples - have been
destroyed by Japanese tourist capital, an aggressive mainland
fishing industry, and gigantic land reclamation projects. Also, the
establishment of military bases on native lands, apart from causing
problems of displacement, acts as a magnet to conflict (and
consequently, certain annihilation) should the superpowers decide to
go to war.

Nevertheless, the Okinawans, through movements such as the
Shima-Okoshi (Island Building) and the anti-bases movements,
continue their fight to regain their unique culture, tradition, history
and community consciousness.

Forced Assimilation

Under the guise of national security and national integration, indigenous
peoples are often also forced to conform with the notion of a national
race or identity. In Indonesia, for example, in an attempt to
'Indonesianize' the tribal peoples who are officially referred to as
'backward and alien peoples', the government has embarked on a large
colonization programme, the Transmigration scheme. From 1984 to 1989,
the Indonesian government plans to move nearly six million people,
mainly from Java, to the outlying islands such as East Timor and Irian
Jaya, which are peopled by indigenous Melanesians. Such a programme
of colonization poses a threat to the cultures and existence of the tribal
peoples and will seriously affect the natural environment.

In Thailand too, the process of assimilation and integration has been
going on for a long while, and is manifested in the fact that the medium
of instruction in schools is Thai - a factor which contributes to the
gradual, but sure, decline of indigenous languages, culture and traditions.
Ironically, it is these same factors that are being used to lure tourists to
the hill regions of Thailand - which is yet another factor contributing to
the loss of control of the tribespeople over their lives.

Assimilation into the mainstream is also the policy of the Adivasis of India
and the Orang Asli of Peninsular Malaysia. Invariably, despite assurances
in the Constitution and other agreements, assimilation strikes at the root
of the identity, cultural base and future development of the indigenous
peoples.

Invasions, Occupation and Militarization

Even today, indigenous peoples in Asia face the onslaught of invasion and
occupation by outsiders. In North-east India, for example, the Naga and
Mizo peoples continue to rebel against the occupation of their lands by
the Indian army, while in Irian Jaya, as in East Timor, the tribal peoples
are still waging war against the Indonesian army - a war that has cost the
lives of hundreds of thousands of people thus far.

Also, reports of violations of human rights, torture, and rape continue to
come from the Chittagong hill tracts of Bangladesh. The result of all this
has been the steady influx of refugees across the border into India. This
is aggravated by the fact that, for the last fifteen years, the Bangladesh
Government has been actively promoting the settlement of these
indigenous areas by lowland Muslims, a move which is being fiercely resisted by the tribespeople.

At the same time, the Okinawans in Japan seek ways to put a stop to their continuing history of successive invasions and occupation, while in the Philippines, where a civil war rages, the tribal peoples in the

THE NAGA STRUGGLE FOR INDEPENDENCE: FIGHTING ON!

Militarization in Naga territory dates back to 1832 with British invasions, and even before that when Hindu kingdoms ravaged Naga areas. In the last thirty years, militarization in Naga areas has not abated as the Indian government continues in its futile efforts to force Naga nationalism into submission.

The present struggle of the Nagas began when, in the run-up to British withdrawal from its colonies in Asia, the hill peoples of Nagaland demanded independence. On 14 August 1947, Independence for Naga people was declared by the Naga National Council (NNC) - a full-fledged political organ supported by the Naga people, and described as being a natural extension to the ultimate scale (that is, for all Nagas) of the traditional system of the Naga village or tribe. The Indian government however ignored the wishes of the Naga people and made Nagaland a state within the Union of India. Peaceful opposition to this move was organized - civil disobedience, refusing to pay taxes, boycott of government staff and schools, and the setting up of Naga National schools - but these were met with increased repression from the government. And it hasn't stopped since.

The North-east of India, in fact, has turned into a true police state where more than half of the country's battalions of the Central Reserve Police Force have been stationed there. In response to continuing military abuses and atrocities on the Nagas peoples, as well as the other hill peoples there, armed liberation movements such as the National Socialist Council of Nagaland, the Mizo National Front and the People's Liberation Army (of the Meitei people) have been fighting for secession.

PHILIPPINES: THE DEFENCE OF ANCESTRAL LANDS

For the indigenous peoples in the Philippines, to speak of ancestral homelands is to speak of the deep spirituality which underlies the relationship of the people with nature. There is a kind of profound spirituality which underlies the whole meaning of ancestral lands. Saying that a piece of land is ancestral in fact reaffirms the peoples' connection between the past and the present - providing, in the process, a clear vision of the future.

Most of the indigenous peoples are found in areas richly endowed with natural resources such as in the Cordilleras, the Sierra Madre and Mindanao. And the struggles of these peoples - the Tribal Filipinos and the Bangsa Moro - largely revolve around their claims to ancestral lands and their right to self-determination. Inevitably, it is a struggle that continues to bring much misery and violence into their lives.

The Batak people of Palawan Island, for instance, are on the verge of extinction because they are being invaded and enslaved by businessmen and logging companies - who are deforesting the area so much that they have encroached on the subsistence-areas of the communities. And in the north-east, the Dumagats not only have lost their ancestral lands but are also forced to work as slaves for local logging companies as a result of indebtedness.

Cordilleras and the Bangsa Moro in the south, face brutal atrocities committed by the military and para-military units.

Striving for Self-Determination

Nevertheless, irrespective of their numbers or their situation, the indigenous peoples in Asia and the Pacific are united in what they want: they seek to reclaim their identity and their continuity as a people. Consequently, their struggle revolves around the control of their lost
territories and the right to determine for themselves the type of social order that they want - for themselves and for their descendants.

Though the paths they take, and the strategies they employ, may be different, the indigenous peoples in the region nonetheless aspire for the same goal: self-determination.

In the Paco Valley, the Aetas have had their villages bombarded, their homes burned, and their livestock destroyed by military operations. Consequently, they have been forced to relocate in the lowlands. Then in 1987, Daniel Ngaya-an, the chairman of the multi-lateral Cordillera Bodong Association, was killed.

The struggle for ancestral homelands is inseparable from the struggle for life and freedom. The indigenous peoples of the Philippines are therefore willing to fight to retain these rights.

THE MATERIAL AND CULTURAL BASIS OF THE INDIGENOUS SOCIAL ORDER

By a tacit understanding between groups of neighbouring indigenous peoples, each tribe or community lays claim, since time immemorial, to well-demarcated tracts of customary or ancestral lands - sometimes arid lands or mountain ranges, at other times plains and coastal areas, but most often forested lowlands and highlands. Whatever the nature of their ancestral lands, however, most - if not all - indigenous peoples share a worldview which embodies a custodial concept of land and natural resources. In any discussion on the position of indigenous peoples, therefore, the question of land is bound to feature foremost - and for good reasons too.

To the indigenous peoples, land is life and blood. For them it is a living entity, with a spirituality and a sacredness all of its own. The land provides assurances for their continued survival; it provides food, clothing, medicines, fuel, and all materials necessary for their existence - as well as protection from their enemies. The land is also the school-house of their children and the resting place of their ancestors.

It is the land, more than anything else, that gives life and meaning to their whole being; for it is in the land that their history and identity is contained. It is also the land that ensures their viability as an independent people, and provides for their social and cultural development. The indigenous peoples, therefore, not only have a material dependence on the land but they also share a spiritual relationship with it.

Basis of indigenous culture

The environment in which the indigenous peoples live in determines, to a large extent, the form and character of their material culture. Thus, their dress, the architecture of their homes, their methods of hunting and fishing, their choice of crops and their methods of cultivation, amongst
other things, are all interlinked with the particular endowments of their material base, their 'mother earth'.

It is for this reason that the Ainu of Japan wear thick, elaborately woven robes to protect from the cold while the nomadic Penans in the Sarawak rainforest find the simple loincloth practical; that the indigenous peoples living in forested areas make their houses out of bamboo and thatch, while some Adivasis of India use mud. It is for this reason also that the Dayaks of Kalimantan hunt while the Sea Bajaux of Sabah fish; that hill rice is cultivated in the steep terraces of the Kalingas in the Cordilleras while wet rice is grown by the Taru in the plains of Nepal. The environment, as such, provides the base to which the indigenous peoples apply their ingenuity and their energy to adapt and co-exist with the environment.

Relations with the land

However, the indigenous peoples' relationship to their land is not merely restricted to the material aspects of their culture. Neither is it a purely economic relation. The high regard that the indigenous peoples have for their land - a consequence of their realization that their material existence depends on their nurture of, and respect for, the land - has evolved an ethos which is invariably homogenous among all indigenous peoples.

This ethos, this character and disposition of the indigenous community, represents a quality of being and living which is far more integrated, more humane and more egalitarian than the ethos of many modern civilizations. It is an ethos that has evolved over a long period of time, amassing the experiences of generations upon generations of indigenous peoples. The attitude was to enjoy the fruits of the present without risking the next generation, to ensure continual enjoyment of scarce resources in a situation of relative plenty. At the core of this ethos was the concept of harmony - harmony with nature, and harmony within the community.

The logic of this harmony was based on two principles. The first was a non-aggression pact between the community and nature, an unspoken though carefully observed law that the community would not exploit the latter, that the community would not abuse the latter's generosity, and that the community would not exclude the latter in its relationships.

The second principle was the rejection of the maxim 'having is a mode of being' - a non-verbalized, but no less internalized, value that the quantity of material possessions would not determine the quality of human life. Thus, wealth and power was not inter-convertible and was not to be the basis of social relations, just as status was for service and was not to be subverted to amassing possessions. Human dignity, as such, was respected and was not subject to materialistic considerations.

It was this logic of harmony with the environment and within the community that diffuses and influences the lives of the indigenous peoples then and today. Thus, for the indigenous peoples, the value of not taking more than what is required from the land - the value of sustained utilization - found expression in the social institutions that evolved. Similarly, mutualism and cooperation became the determining values linking all life, while individualism and competition were avoided.

Born of this harmony, the ethos of the indigenous peoples came to be internalized into their being, permeating and defining all aspects of their society: jurisprudence, education, politics, religion, rituals, customs, technology, recreation, language, economics, medicine and philosophy.

Origins of Customary Law

As indigenous society came to be more organized and structured, a set of unwritten rules emerged that sought to ensure order and continuity. Based on their experiences, and rooted deep in the tradition and ethos of the people, this set of unwritten rules - or customary law as it is often called - came to dictate the indigenous peoples' being and living.

Though never codified to any extent that modern laws are, they were nevertheless known to all in the community. And because they emanate from the need of the indigenous peoples to define a set of rules to ensure their identity and their survival, customary law - which was the product of centuries of tradition and experience - was accepted willingly as a source of wisdom sound enough to influence all aspects of their existence.

Customary law as it evolved is based on a number of premises. The first is that an individual bears responsibility for his deeds in the present and not in the after-life. The second is that all members in the community
have equal status and enjoy equal privileges. And thirdly, that there is no real authority - whether human or divine - that offers powers of sanction.

Customary law, therefore, is founded on pragmatic precepts for an equally practical objective: order and continuity. And although it often embodies an element of spirituality, customary law is neither a religious nor a moral code. (For the indigenous peoples, in any case, religion is not a source of morality.)

To illustrate the practicality and soundness of customary law, we shall look at just two areas in which it is manifested in specific indigenous societies: in indigenous peoples' relations with the land as practised by the Dayak of Sarawak, and in the system of conflict resolution as practised by the Warli of India. Though the individual details may vary, the experience of these two groups is not very different from that of other indigenous peoples.

Customary Law in Relation to Land

We have seen earlier the important position that land has in the worldview of the indigenous peoples. Within their belief system, land had not only an economic importance, but had also social and religious significance as well. The land therefore holds a very deep and spiritual meaning for the indigenous peoples, an attachment so close that there exists a certain reverence for it.

This reverence for the land meant that it could not be bought and sold as you could if it were a commodity. The land belonged to the community and was there for its use and nurture. It was therefore inalienable and no individual had the power to alienate it.

Because it was the community as a group which exercises rights over the land, the group also controls and regulates the rights and claims of its own members to temporary ownership and use of the land. The exercise of this right over the land is not merely an economic or individual right. Spiritual reverence for the land, in fact, remains a condition when usufructuary rights are accorded.

Thus, when an individual works a piece of land, he is in effect re-establishing a personal bond with the earth. He establishes a legal and spiritual relation to it, and this is recognized by the community, whose rights to it become diminished.

'Ownership' and rights to the use of the land also incorporated a system of obligations on the individual. For instance, no individual was to hold more land than he could use. He was to take necessary measures to ensure that the land was to exist in perpetuity for the use of future generations. He was to adhere strictly to the rituals involved in working on the land. He was to share with the rest of the community, the common benefits derived from the land. And as soon as he no longer worked on the land, he was to forfeit 'ownership' to it. These and other similar unwritten rules came to embody the customary law pertaining to land.

The customary law in relation to land therefore is born out of the practical and spiritual relationship which the indigenous peoples have for the land. It was not customary law, in the first instance, which was developed to dictate how an individual should regard the land; rather, it was the experiences and tradition of past generations which gave rise to the particular set of customary law pertaining to land. This set of customary law in turn ensured that the individual maintained and practised that desired spiritual relationship with the land, and so allowed him to remain loyal to the worldview handed down through the generations.

Customary Law in Relation to Conflict Resolution

Just as harmony with the environment was cherished, so too was harmony within the community. As a result, lofty values of cooperation, equality, and co-responsibility were upheld and lived out.

In the area of indigenous jurisprudence, for instance, this harmony within the community is clearly manifested in the rules for the resolution of conflict. Evolved from many generations of tradition and experience, this set of unwritten rules - or customary law - produced an effective system of conflict resolution.
In the event of there being any discord between two parties, a council is invariably established to resolve the conflict. For the indigenous peoples, this is a community affair, with every member of the community present and advocating his or her point. The decision is left to the elders. But the choice of elders is left to the parties, and their role is neither to advocate nor uphold the position of the party that chose them.

The object of the proceedings is not to establish the guilty or to determine the aggrieved based on the interpretation of law, but to establish the truth. With the whole village participating in the hearing, it is virtually impossible to suppress or distort evidence. Truth is told as a matter of course, and the integrity of the spoken word is rarely challenged.

The conclusion arrived at is upheld by the whole village. Both the parties in a dispute are deemed to be at fault because they have disturbed the harmony of the community. Fines are to be paid by both parties - though the council may decide to compensate the aggrieved party in appropriate cases, with the balance being spent on community feasting. The final intermingling of drink from one cup to another is to symbolize the harmonious intermingling of the community. Henceforth, with the dispute having being resolved, the quarrel will not be referred to again under pain of penalty.

Thus, juridical proceedings in indigenous societies came to be governed by certain unwritten but accepted rules. However, it should be stressed that it was not customary law per se which gave rise to judicial methods of conflict resolution. Rather, it was because the indigenous peoples subscribed to a higher value - that of maintaining harmony in the community - that specific norms and practices were established which in turn came to be embodied as part of the customary law of the community.

Thus, just as in the case of the individual’s relation to land, customary law represented the manifestation - in concrete, practical terms - of the ordering of the indigenous peoples’ being and living based on the ethos developed by the community over generations.

In this regard we should also add that it is precisely because indigenous society is also founded on values which emphasize the well-being of the individual - respect for life, the need to be creative and productive, regard for another’s dignity - that corporal punishment, or even imprisonment, is noticeably absent as a form of punishment in indigenous jurisprudence. At the most, the wrong-doer is banished from the village for a certain period of time, or else he is obliged to provide for the surviving members of the deceased’s family - thus ensuring that the individual retains his capacity to be productive and to be able to contribute to the community. This is deemed sufficient retribution as the value of social relationships is so important to the individual that the act of banishment, for example, is seen as one that is warranted because of a very serious wrong being committed.

Customary Law and Indigenous Social Systems

We have seen that the overriding desire of the indigenous peoples is to survive; not merely survival in the absolute sense of the term but rather a qualitative survival where both the people and its identity are ensured of continuity and development. In the light of this desire, a worldview was conceptualized which incorporated a value system placing the community above all else.

Through experience and experimentation, a vast body of knowledge was amassed over the centuries which was in harmony with the worldview, and which also ensured the community’s survival. This body of knowledge, as it came to be applied to various aspects of the indigenous people’s way of life, gave rise to a set of unwritten rules or agreements, which we call customary law.

In the same way that a specific set of customary law evolved for the individual’s relation to land and the community’s process of conflict resolution, so too were sets of rules defined for all other aspects of indigenous society be it in technology, recreation, economics, or philosophy, to name just a few.

The important role of customary law in indigenous social systems therefore cannot be over-emphasized. For it is customary law which provides the practical rules for daily living, and it is customary law that gives expression to the community’s adherence to the core spiritual values. More than anything else, it is customary law which defines the indigenous social order, which in turn ensures that the people and its identity are assured of continuity and development.
Modern Law in Contrast

In contrast to customary law, modern law - which was imposed by the invading or colonizing governments on the indigenous peoples - is founded on a diametrically opposing worldview.

This worldview is premised on a value system where individualism, materialism and opportunism feature foremost; and consequently, with such a worldview, it is the institution of economic rationale and organization - which is invariably capitalist in character - which dominates a society's being and living.

Because the source and the motivation for modern law differs from those of customary law, modern law therefore serves, not the interest of the community, but rather that of the individual or the group of individuals vested with economic (and hence political) control.

Concepts and procedures were thus defined to cater for the needs and motives of this group. For instance, under modern law, land and the natural resources it contained were viewed as mere commodities, devoid of spirituality and life - to be owned and traded, to be exploited upon and profited from. Thus, whereas customary law assured the indigenous peoples of their continued use and benefit from the land, modern land law effectively acted to alienate them from it.

Similarly, whereas customary law required that conflicts be resolved in an open, harmonious manner, under modern law justice came to be administered through the courts; the principle of law being based on adversary proceedings and the establishment of 'right and wrong'. The community as a setting for the redress of conflicts was replaced by the court room; and the collective wisdom of the elders was replaced by the judgement of a single person on the basis of arguments and interpretations of law made by a paid professional counsel. Furthermore, the sanctity of the spoken word came to be replaced by the inflexibility of the written code.

Law and justice thus became impersonal and the oppressive arm of the law operated through detention and intimidation. Laws, too, came to increasingly serve the interests of the capitalist class (to protect private property and to allow exploitation), rather than those of the community.

Modern law as such, because it is founded on a totally different worldview, destroys the character of the indigenous society, replacing the centuries-old tradition of continuity with an alternative that augurs the doom of the indigenous community.
Negative Aspects of Customary Law

Despite all that has been said about customary law and the role it plays in defining the various institutions of indigenous society, it needs to be pointed out also that customary law is not without its shortcomings. For one, there are a number of institutions in some traditional societies which are sanctioned by customary law but run counter to the indigenous worldview. The practice of debt-bondage and slavery during the feudalistic era of the Moros of the Philippines and the Dayaks (Kenyah) of Sarawak are examples.

Secondly, it is generally conceded that the position of women in indigenous societies is less than satisfactory, to say the least. Indigenous women, though they are equal, if not greater, contributors in the production and reproduction of indigenous society, are not accorded equal status in many spheres of living, particularly in politics.

And thirdly, it is asserted that customary law is not scientific and precise enough to cope with the demands of modern day society. Customary law, it is argued, is unable to deal with complex urban situations, for example, where the large population alone is enough to thwart any attempt at 'communal hearings'. Customary law, also has yet to develop rules for the conduct of complex economies and the new institutions that need to be developed around there.

Viability of Indigenous Social Systems

In the light of these 'weaknesses', therefore, can indigenous social systems, as they are given expression in the various social institutions and in their customary law, provide the alternative to the existing systems in modern day society? Can the institutions of indigenous society provide a viable alternative to the current political, economic, social, cultural, educational, religious and intellectual systems?

The scope and depth of this issue does not allow us to go into a detailed analysis here, but it is sufficient to state here that there are some considerations that do suggest that the answers to these questions are in the affirmative.

First, it should be stressed that there are no indigenous social systems dominating modern societies today, not because of the inadequacies of these systems, but because the indigenous social systems were never given the opportunity, in the first place, to develop to this stage. As will be seen in the next section, external forces came to dominate and, in some cases, annihilate indigenous peoples and their societies. Indigenous social systems, as such, have not been tested in the context of today's society.

Second, much of the problem in today's society is caused by the application of the logic of the dominant (capitalist) worldview. It is therefore very unlikely that had indigenous social systems been allowed to develop and define today's society, the woes that we are currently facing - misdirected production, dehumanization of work, crime, ecological devastation, financial scandals, urban over-crowding, homelessness, corruption and others - would not be present in the first place, for to allow these to occur would mean going counter to the worldview of the indigenous peoples.

Third, it should be noted that indigenous peoples have highly developed political, legal and social systems which have worked successfully for centuries - until, that is, the advent of colonialism and capitalism. This suggests that indigenous social systems are not static, neither are they closed to outside influence and values. The survival of indigenous peoples, in fact, is due to their capacity to borrow and adapt what is useful rather than a zealous commitment to tradition for its own sake.

Finally, the 'negative aspects' of indigenous social systems, some of which were illustrated in the preceding sub-section, were the result of lapses on the part of indigenous peoples when they allowed opportunistic elements among themselves to re-define indigenous social relations to serve their own needs, be it gender or class needs. However, these are not aspects which cannot be discarded or re-defined; for just as head-hunting among some tribes in Kalimantan came to be abolished, so too could customary law be re-defined to accommodate the indigenous peoples' changing perception of the world.

Thus, everything seems to suggest that indigenous social systems can be a viable alternative to the present-day ones. In fact, there have been several attempts to work towards this ideal as in the case of the Naga National Council (which is an expanded tribal council based on the
indigenous socio-political system), and the Cordillera Bodong Association (which is a successful and workable multi-lateral law-making and peace-keeping institution, based on the indigenous system of bilateral peace-pacts and treaties).

The viability of indigenous social systems as an alternative to current systems, therefore, is not in question. It only remains to be seen how indigenous social systems can be applied and developed in today’s society.

Summary

We have seen here that indigenous society is governed by a worldview which is born of the experiences of the people over a very long period of time. This worldview dictates the community's relations between itself and the environment on the one part, and between the individuals within it on the other part.

Subjecting himself to this worldview, the individual, together with the rest of the community, develops the indigenous institutions and the unwritten rules needed to ensure the continuity and development of his being and living. It is these unwritten rules that come to be defined as customary law, and it is this set of law which gives expression to the indigenous social order.

As we shall see in the next section, there were forces which were bent on dominating and decimating the indigenous peoples, and this they did by replacing, forcibly in some instances and subtly in others, the indigenous social systems with an alternative which no longer served the interests of the indigenous peoples.

IMPACT OF THE DOMINANT SOCIETY ON INDIGENOUS SOCIAL SYSTEMS

Based on a worldview which placed the interests of the community foremost, various indigenous institutions, each bound by a set of unwritten rules or customary law, were developed to give expression to the indigenous social order. It was this social order which gave the indigenous people the capacity to progress as individuals, and as a people. It was this social order, also, which ensured generations of indigenous peoples of their identity and continuity, of their material and spiritual wellbeing, and of their cultural and intellectual development.

However, today the indigenous peoples are, without exception, the most depressed sector in the nation-states in which they now find themselves a part of. They are largely landless, deprived of dignity, and discriminated against. Much, if not all, of their present predicament can be traced to their past dealings with invading and colonizing non-indigenous peoples, or to the present oppression by national governments and big business interests.

Why The Indigenous Peoples?

The indigenous peoples and their lands were left alone for a long time until changing world conditions, particularly in the western hemisphere, caused them and their lands to be viewed differently.

Whereas previously the lands of the indigenous peoples were considered marginal or of no economic or political value, the demand for minerals and other natural resources - particularly as a result of the rapid rate of industrialization in the developed countries and the escalation of the arms race - made indigenous lands the prime target for the search of these raw materials. In India, for example, 80% of the minerals and 72% of forest and other natural resources are found in the lands of the tribal peoples there.
indigenous peoples in a similar manner, though their impact was less severe.

Modes of Domination

Just as there were varying reasons as to why the indigenous peoples themselves or their lands were needed by non-indigenous peoples, so too were there various means by which their dispossession and their subjugation were achieved.

The process of colonialization, undoubtedly, stands out as the single most important factor responsible for the past and current misery of the indigenous peoples. Believing rather presumptuously that the lands of the indigenous peoples were uninhabited or, if found to be peopled, that the indigenous peoples were of an inferior breed in need of religion and civilization, the early colonizers - be they British, American, Spanish, Dutch, Portuguese or Japanese - invaded and re-organized, and sometimes decimated, whole indigenous societies. This they did for either settlement of their own peoples (as it was in the case of the colonization of Australia) or, as was frequently the case, for the cause of "Gold, Glory and God."

The particular manner in which the invading colonialists seized the lands of the indigenous peoples, and the atrocities they committed in the process, has been substantially documented in various works. It is sufficient, however, for our purposes here to note that when the true intentions of the colonialists were exposed, the indigenous peoples resisted these incursions - at times with force, at other times by retreating further into the forests. Nevertheless, some of the indigenous peoples, such as the Tribal Filipinos in the Cordilleras and the Bangsa Moro in Southern Philippines, were able to keep away the intending colonialists, but not without much sacrifice of life on their part.

After World War II, when the colonial governments began to retreat from their territories and grant 'independence' to these colonies, a new form of domination over the indigenous peoples ensued: neo-colonialism (sometimes also referred to as 'internal colonialism' or 'national oppression', but all referring to the phenomena of continued imperialism by the new national governments).

Furthermore, as the best lands came to be in short supply, the marginal lands - where the indigenous peoples were invariably forced by earlier conquering peoples - were now coveted by the dominant non-indigenous population, be it for use by large agribusiness corporations, for the siting of foreign military bases, for the construction of massive hydro-electric dams, or even for recreation purposes.

In some instances, however, it was not just the lands of the indigenous peoples that the invading or colonizing forces were interested in. They were also interested in the indigenous peoples as individuals - for the labour they could provide, cheaply and slavishly. The indigenous peoples themselves therefore came to be regarded as a raw material, to be used and exploited for maximum gains. Thus indigenous peoples were often used as collectors of forest products, as cheap or slave-labour in plantations and in the mining industries, or as forced or bonded-labour in the construction industry (as was the case in India when the stadium and related complexes for the Asian Games in 1982 was being built).

It should be added however that it was not just colonizing governments or transnational corporations that regarded the indigenous peoples in this light; traders, adventurers, and even poor peasants also perceived the
Ignoring the historically autonomous and sovereign presence of indigenous peoples and their claims to traditional lands, the colonialists tended to consider the indigenous peoples as part of the colonized majority, and so created new nation-states where indigenous rights were largely overlooked.

The governments of these newly-independent nation-states have unrelentingly assumed the frontiers established by the colonial powers, and have subsequently refused to recognize the demands for self-determination of the indigenous peoples they have incorporated. Instead they have resorted to various means to assimilate the indigenous peoples with the mainstream population, and have even collaborated with foreign transnational corporations to exploit the indigenous peoples and their lands.

In some instances, these new states have actively sought to repress indigenous movements for autonomy. Under the guise of national security, these governments do not hesitate to carry out military operations which resemble the methods of colonial control in the past. In the Chittagong Hill tracts of Bangladesh, in Naga and Mizo lands in north-east India, in Irian Jaya in Indonesia, and in the lands of the Karen, Kachin and other hill peoples in Burma, repressive military action continues to be justified against the indigenous peoples - causing much misery and the loss of hundreds of thousands of lives.

The history of the indigenous peoples therefore is one of invasion, colonization and domination. The indigenous peoples were the victims before, and they continue to be the victims today.

**Immediate Impact: Loss of Indigenous Lands**

Whether it was colonization by foreigners or by the dominant majority group, the indigenous peoples have experienced one remarkably common impact of first instance: the loss of their ancestral lands.

In most cases, the indigenous peoples were not aware that their lands were being taken from them, the foreigners being merely treated as guests, as is their custom. With time, however, the invading governments "legalized" their ownership of indigenous lands by enacting specific land laws - such as the British Torrens System or the Spanish Regalian Doctrine - thereby effectively making the indigenous peoples squatters on their own lands. The systematic application of the Forestry laws of the colonial governments, for example, not only alienated the indigenous peoples from the forest with which they had a symbiotic relationship, it also became a criminal offence for them to fall back on the forest for survival.

Working in league with the ruling elites, who now control these 'state lands', transnational corporations were able to obtain title to large tracts of land for agribusiness purposes or for the extraction of the timber and mineral resources found therein. In cases where some form of land reform was instituted, much of the indigenous lands were cheated away to big landlords who used various means to dispossess the indigenous peoples.

The creation of national parks and forest reserves have also effectively denied the indigenous peoples access to the use of their lands; while national development programmes, such as the transmigration scheme of Indonesia, or the construction of hydroelectric dams, actively seek to displace and uproot indigenous peoples from their ancestral lands. In Sarawak, plans to build the US$10 billion dollar Bakun Hydro-electric dam threaten to displace 5,000 Dayaks from their adat lands.

Indigenous peoples are also dispossessed from their lands when foreign military bases are established there. Okinawa, for instance, although it represents only 0.6% of the total national land area, contains 75% of all US military bases in Japan. That is to say, 20% of the main Okinawa island is covered with military bases!

There are numerous other specific instances to show that in both colonial and post-colonial times, the indigenous peoples invariably lost out particularly with regard to their rights and ownership of their ancestral lands. It is the loss of their ancestral lands, however, which had the greatest impact for the future of the indigenous peoples.
Consequences for Indigenous Relations with the Land

We have seen in the earlier workshop that the worldview of the indigenous peoples has evolved from a relationship to the land that extends back hundreds, if not thousands, of years, and is the result of the harmony of natural laws and the assimilation of these unwritten laws into every aspect of daily life.

In particular, it was noted that the worldview of the indigenous peoples is rooted in the great love and respect that they have for the sacred quality of the land. All living and non-living things on the land were seen as being infused with benevolent spirits, and harmony in the material world depended on understanding and respecting the spirits whose intervention in daily living was common.

It was the land, also, that provided the basis of the cultures of the indigenous peoples, which in turn developed complex mythologies which attempted to situate their lives in the scheme of creation. For the most part, the indigenous peoples have not let a passion for material possession undermine their relationship with the divine.

Indigenous peoples and their relations to the land, as such, became inseparable. It is even said that next to shooting the indigenous peoples, the surest way to kill them is to separate them from their land. Once separated they either perish in body, or their minds and spirits will be altered so that they end up mimicking the ways of the foreigner. Over time, inevitably, they lose their identity or are subsumed under the name of assimilation in another society.

Colonizing or neo-colonizing governments had just this effect on the indigenous peoples. Where genocide was not practised, the indigenous peoples were invariably torn from their lands - or else denied their relationship with it. With this, the first step in the destruction of the indigenous social order began.

Impact on Indigenous Institutions

Having already divorced the indigenous peoples from their symbiotic and spiritual relationship with their land, the next step - in the scheme of the colonizers and national oppressors to destroy the indigenous social order - was to reorganize indigenous social relations along the lines of the dominant society. In most instances, this meant reorganizing indigenous societies so that they conformed to the needs of the prevailing economic system - one which was invariably capitalist in character.

No institution was spared. Beginning first with land legislation, the colonizing and occupying governments began to impose its own institutional framework onto the indigenous peoples. Whether subtly or forcibly, the institutions of the dominant society came to replace those of
the indigenous peoples. Education, economic production and distribution, law and order, public administration, politics, and religion, amongst others, were now structured on a new worldview - one which was diametrically opposed to the indigenous worldview and conformed instead to the emerging worldview of the consumerist and materialistic societies.

Every imposed institution had a role to play in the grand plan to prop up the system of a select few. Education no longer emphasized the need to maintain harmony but rather was now used to produce the necessary human resources for the continued pursuit of wealth; "greed" replaced "need" as the economic rationale of production and distribution; justice was not to ensure harmony and fairness but was used instead to sanction the interest of the select few; and politics became synonymous with power and control, while religion tended to preach fatalism and docility.

Even the indigenous language was relegated to a lower status - or in certain instances, even forbidden to be used - as the language of the dominant population was imposed on the indigenous peoples. Indigenous cultures too were looked upon with disdain, and were seen to be fit only to attract and amuse foreign tourists.

The subversion of the indigenous social and political institutions, as such, was done in an organized and concerted manner - and this usually went hand in hand with the exploitation of the indigenous peoples.

Destruction of the Indigenous Social Order

Despite initial resistance and protests to the new changes foisted on the indigenous peoples, the might of the colonizers soon forced most of them to accept the new order of living. Over time, with whole generations being brought up and educated in the ways of the foreigners, it became increasingly difficult for the indigenous peoples themselves to maintain and justify the indigenous social order.

This was particularly so because of the changed living environment, a result of their lands - the foundation of their cultural and material base - being inaccessible to them now. Much of the indigenous way of life therefore became no longer relevant to the new generations of indigenous peoples. The indigenous peoples also had to contend with pressure from many points - schools, economic projects, the media - to accept the ideology of the West.

Customary law, which defined and regulated community living in the past, now appeared to have no ready provisions for the changed mode of production. The rituals and observances pertaining to shifting agriculture, for instance, could no longer (or need not) be practised in the new profit-oriented agricultural economy, though there were initial attempts at adaptation. Customary law as a whole, in fact, was not recognized by the new authorities; instead the laws of the colonizer pertaining to such institutions as conflict resolution, land ownership and employment, now applied.

The indigenous social order however began to crumble particularly when, with the acceptance of western ideology (and religion), the indigenous peoples themselves began to denigrate their own worldview, and in its place hoisted another which advocated "modern" values - values which in effect caused the further denigration of the indigenous worldview.

Deprived of the knowledge and experience of their forefathers, the colonized and dominated generation of indigenous peoples were not able to defend the timeless and holistic values of the old worldview. Instead, the new worldview glorifying individualism and materialism, was accepted without much question.

All these factors, together with the efforts of the opportunistic elements among the indigenous peoples themselves who collaborated with the colonizers for nominal positions or other privileges, led to the eventual destruction of the indigenous social order.

Not all is lost

Nevertheless, despite the onslaught of the colonizers and the dominant society on the indigenous social order, the values espoused in the indigenous worldview and embodied in the indigenous social and political institutions were not completely lost.
Enough of the old social order was preserved, or remembered, to spark off a new fervour of indigenuity - the emerging phenomena where the consciousness of the indigenous peoples was sufficiently aroused to provoke them to reclaim their identity and their dignity as a people.

This feeling arose particularly when indigenous and non-indigenous peoples alike began to see through the bankruptcy and exploitative nature of the alien social order imposed on them. Indigenous peoples began to realize why their traditional social systems were destroyed, why their lands were taken from them, why it was necessary for their minds to be controlled by the colonizers. They discovered also that their cultures have proven to be highly resilient, flexible and independent despite concerted efforts to erode them.

Then began the long and difficult struggle to restore their lost heritage.

Summary

It has been contended that the indigenous social order was destroyed by the imposition of a new worldview and an accompanying set of social and political institutions which was diametrically opposed to the indigenous worldview. This was done so as to enable the elites in the dominant majority population to exact maximum gains from the indigenous peoples and their lands. Elements of the indigenous worldview and social institutions persisted however, and the emerging consciousness among the indigenous peoples revived the desire for re-establishing their identity and their social order.

ASPIRATIONS OF THE INDIGENOUS PEOPLES AND THE STRATEGIES FOR ACHIEVING THEM

Despite the differing historical experiences, and in spite of the varied situations they now find themselves in, the indigenous peoples of the region nevertheless have similar goals and aspirations - even though their methods for achieving them may again differ, or be in different stages of expression.

Indigenous peoples today essentially seek recognition - by governments and the international community - of their existence, of their problems and of their perspectives. They seek recognition that their ancestral lands are essential for their economic, social and spiritual development; and they also demand their lands back. They seek recognition that they have been robbed, oppressed and discriminated against by the colonial and national governments; and they now want to govern themselves. They seek recognition that they possess complex, flexible and appropriate social institutions; and they now want the right to practise them.

Indigenous peoples also want recognition of their right to develop their own cultures, languages and customs; and to be able to transmit them to future generations. They also seek an end to racial discrimination, religious persecution, economic marginalization, political oppression, militarization and all forms of ethnocidal attacks on them.

In a broad sense, therefore, indigenous peoples today are re-asserting their right to be able to develop and progress as individuals and as a people, based on a social order that they themselves determine. Hence, whatever their current political and social situation today, and wherever they are to be found today, indigenous peoples have one common aspiration: to reclaim their right to self-determination.
Self-Determination: What it Implies

While the particular components of the indigenous peoples' definition of the term may differ from one group to another, their demand for the right to self-determination would generally include, but not be limited to:

- the right to the ownership of their lands as the territorial base for the existence of their populations;
- the right to use, manage and dispose of all natural resources found within their ancestral lands;
- the right to control their own economies, and the right to economic prosperity;
- the right to restore, manage, develop and practice their culture, language, traditions and way of life in accordance with their worldview, and to educate their children to them;
- the right to determine the form of self-government, and to uphold indigenous political systems;
- the right to engage in foreign relations and trade if they so desire;
- the right to form alliances and federations with other indigenous peoples for the attainment of common goals; and
- the right to a life of peace and security.

Self-determination, therefore, not only involves restoring to the indigenous peoples their ownership and control over ancestral lands, but also involves allowing them to re-establish their indigenous social order as they themselves determine it.

Nevertheless, while self-determination may be the common aspiration of all indigenous peoples, it does not necessarily follow that all indigenous peoples see eye-to-eye as to how to achieve it. Prevailing realities in the political environment that the indigenous peoples currently find themselves in, largely dictates the specific manner in which their right to self-determination is to be achieved.

In the main however, indigenous struggles for self-determination follow two paths: the quest for full independence and the demand for genuine autonomy.

Full Independence

For some indigenous groups, such as the Nagas and the Mizzos in India, the Kanaks in New Caledonia, the East Timorese and Irianese in Indonesia, and the Okinawans in Japan, nothing short of full independence from the colonizing or national governments is their demand. These indigenous peoples contend that their sovereignty was never surrendered to the invading forces, and consequently the struggle for full independence is actually a struggle to defend their sovereignty.

It is also to be noted that wherever indigenous peoples are seeking full independence, the struggle invariably takes on the form of armed conflict.

Armed struggle is resorted to not only because an appeal to reason is no longer available, but more so because justice for the indigenous peoples is longer forthcoming from the invading colonizers. And where there is
no justice, there is invariably violence. The responsibility for violence must therefore lie at the feet of those who deny justice, and who themselves resort to violence to subdue and repress a people.

In East Timor, for example, the indigenous Fretilin Government declared independence and established the Democratic Republic of East Timor in 1974 when the Portuguese colonizers withdrew; but in a little over a week, Indonesian troops invaded, and a bloody war, resulting in the deaths of more than 200,000 people, has been fought ever since.

Similarly, in counter to the repressive military occupation of Nagaland and Mizoram, the hill peoples there, who had been incorporated against their wishes into the nation-state of India, continue to fight for their sovereignty through the National Socialist Council of Nagaland, and the Mizo National Front. In Burma, the tribal peoples are still waging their struggle for full sovereignty under several banners such as the Karen National Liberation Army.

For these indigenous peoples, because their continued identity and survival as a people is at stake, there is a willingness to repel violent domination with violence - but only as a last resort, when all other methods fail, and when faced with violent repression itself.

The struggle for full independence therefore represents the ultimate aspiration of all indigenous peoples: reclaiming their status as a sovereign people, and establishing their right to total self-determination.

Genuine Autonomy Within The Nation-State

Often, however, existing political realities require that the indigenous peoples seek realizable goals - as an initial concession towards the ultimate goal, if not as an end in itself.

Most indigenous groups therefore, especially where they represent a minority in the nation-state they have been incorporated into, opt for genuine autonomy. This is the case for the Tribal Filipinos and the Bangsa Moro in the Philippines, the Dayaks in Sarawak and Indonesia, the Ainu in Japan, the Adivasis in India, and the Karen and Akha in Thailand, amongst others.

By genuine autonomy is meant the genuine and full guarantee to indigenous peoples for self-governance within the framework of the existing sovereign nation-state. Implicit in this term is the recognition of the indigenous peoples' right to their ancestral domain, and their right to conserve, develop, utilize and dispose the natural resources found therein.

Genuine autonomy also involves giving full recognition to the social, political, religious and cultural traditions of the indigenous peoples. It would also entail the establishment of genuine structures which ensures the full participation by the people in all matters affecting themselves.

However, it must be stressed that genuine autonomy can only be achieved within the context of a nation-state that is founded on complementary structures for the national peoples as a whole. Genuine autonomy cannot be achieved if, for instance, the nation-state continues to be structured on the capitalist model, or if indigenous territories continue to be occupied by foreign military bases. In short, indigenous peoples do not want control over existing institutions and structures; instead, they want these institutions and structures to be removed, and be replaced with those of their own.

The Path To Self-Determination

In the struggle for self-determination, whether it is expressed as the demand for genuine autonomy or for full independence, the indigenous peoples in the region have taken various approaches and strategies towards realizing their ultimate aspiration.

Some of these measures are categorized below, though it should be stressed that the list is not exhaustive.

Establishing Unity

Indigenous peoples have realized that their struggle for self-determination can only advance through unity among all indigenous peoples. They have also realized that efforts at creating divisions between themselves exist overtly and covertly, as in the case of the Akha and Karen in Thailand when the introduction of non-indigenous religions divide a village into followers and non-followers, or as in the case of Taiwan where the
government classifies the indigenous peoples there, literally, as lowland mountain-people and mountain mountain-people in an apparently deliberate attempt at 'divide-and-rule'.

In response to the need to be united, indigenous groups have formed alliances and federations with other indigenous groups who have similar aspirations and who are faced with similar problems. Traditional institutions of the indigenous social have been used to bring together such groups as was successfully done in the Cordilleras when the bi-lateral peace pacts between the Tribal Filipinos led to the multi-lateral Cordillera Bodong Association.

Adopting Nonviolent Methods

Depending on the receptiveness of the colonizing government, indigenous groups have utilized 'soft' methods aimed at getting some concessions. Litigation through the courts have been resorted to in order to get rulings in favour of the indigenous peoples (as was the case when the Naga Peoples' Movement for Human Rights filed cases against the actions of the Indian military occupying their lands). Legal litigation have also been used, though with only a limited success, to coerce national governments to enforce rights and guarantees for the indigenous peoples which are enshrined in the national constitutions.

Negotiation has also been resorted to in an attempt to achieve an amicable solution to the prevailing problem. So too have other nonviolent tactics such as civil disobedience, boycotts and non-cooperation. At times, the existing political framework was also exploited as when the tribal peoples in Bihar (India) formed their own political party, the Jarkhand Party, which at its height in the 1950s held over 30 seats in the State Assembly and became a major opposition party.

Creating awareness

Indigenous peoples have also seen the need to embark on conscientization programmes - both for their own peoples as well as for the non-indigenous population. In this respect, protest marches, rallies and demonstrations, as well the media, forums, and other platforms have been utilized to inform others about their situation and their aspirations.

Among the indigenous peoples themselves, much awareness-raising and conscientization were needed, especially in cases where the indigenous identity and social order were on the verge of extinction. Traditional institutions, such as the village council or traditional communal feasts have been used to expound and discuss communal issues on a more political level.

Coalition With Other Sectors

Indigenous peoples today also recognize that there are other sectors in the national society whose members are being equally oppressed by the system. Workers, women, and the peasantry, for example, are also victims of the national ideology. Furthermore, it is also true that indigenous peoples themselves constitute these sectors as well, particularly the peasantry. Recognizing that there are areas for cooperation in the effort to transform the present society, indigenous peoples have collaborated with these sectors in the national society.

Similarly, indigenous peoples have also recognised that there are genuinely progressive elements within other sectors of society: students, the church, public interest groups, and certain non-governmental organizations, amongst others. Apart from being genuinely sympathetic to the cause of the indigenous peoples, sometimes the ‘cause’ is a common one, as when indigenous and non-indigenous peoples protest the building of nuclear plants or dams in tribal areas on a land rights as well as an environmental platform.

Seeking International Support

Indigenous peoples have also recognized the important role that international solidarity plays in bringing them a step closer to their goals. National governments have been known to give in, albeit more as a concession rather than in totality, to the demands of indigenous peoples especially if such demands are backed by the international community. The struggles of the Australian Aborigines, and those of the Penans in Sarawak, are examples of instances where massive international support was able to be mobilized in their favour. Inevitably, however, even international furor and concern must give way to vested national interests.
Resort To Armed Conflict

There are occasions, however, when the futility of the forms of nonviolent protest is evident. Those who are bent on possessing the lands of the indigenous peoples, those who want to colonize and control them, invariably resort to the use of unrestrained violence and repression to achieve their intentions. In such circumstances, where their own individual lives as well as the survival of their race is at stake, indigenous peoples are forced to abandon their peaceful struggle.

![Marchers demanding the withdrawal of para-military forces from Central Bihar and lifting of the current ban on extremist organisations. (India)](image)

Photo by United News of India.

These are some of the measures which indigenous peoples have taken in the pursuit of their ultimate goal of self-determination. Again, it should be stressed that the above processes do not follow any order of priority; rather, using a good eye of the prevailing political situation, indigenous peoples have used some or all of these processes simultaneously in their effort to achieve their goals.

What Else Is There?

Indigenous peoples meeting in this Forum realized that, despite the various alliances and platforms available at the national level, and despite the willingness of international bodies to support their struggles, there exist no common platform to which indigenous peoples can address their problems, draw support from each other, and to plan, develop and launch programmes at various levels for the betterment of indigenous peoples in Asia.

Current international platforms, such as the World Council of Indigenous Peoples (WCIP) and the International Working Group for Indigenous Affairs (IWGIA), cater largely for the interests of indigenous peoples in the western hemisphere. And considering that there are some issues which are peculiar to the indigenous peoples of Asia, it was generally felt that there was a need for an independent platform to act on behalf of the indigenous peoples in the region.

Also, it was realized that, despite the crucial role that customary law plays in expressing the indigenous social order, and despite recognizing that the restoration of the indigenous social order is an integral constituent to the struggle for self-determination, there exists no concerted attempt to codify or to give due importance to customary law at the international level. Consequently, there exists no international indigenous tribunal to which indigenous peoples can petition to, or where arguments can be made from an indigenous perspective.

It was also felt that if efforts were made to codify an internationally acceptable set of customary laws, not only will indigenous peoples be able to seek redress on their own terms, but also, ultimately, it would be possible to tender it as a viable alternative to the existing legal system.

Summary

Aware of the manner in which their ancestral lands have been robbed of them, and conscious of the important role that these lands have in developing and ensuring their identity and survival as a people, the indigenous peoples today want basically to regain their sovereignty over
their territories and consequently the right to determine their own existence.

For some indigenous peoples the current demand is genuine autonomy within the nation-state, while for others it is nothing less than full independence. Various strategies have been adopted to achieve these goals. Nevertheless, there exists a need - and a desire - to establish a common platform for indigenous peoples in the region to express solidarity and to work towards achieving their demands.

RESOLUTIONS & RECOMMENDATIONS OF THE INDIGENOUS PEOPLES FORUM

A. INDIGENOUS PEOPLES NATIONAL RESOLUTIONS

The following resolutions by the delegations from Thailand, Japan, Malaysia, Philippines, Nepal, India, Indonesia and Taiwan were presented to the Forum and were unanimously adopted.

INDIA

For the indigenous peoples of India, who constitute 8% of the population and whose homelands house 80% of mineral and 72% of forest and other natural resources, the process of 'development' in the shape of large dams, heavy industries, mining and other major projects have meant the destruction and deprivation of their rights over the resource base for survival and subsistence.

This, coupled with the destruction of traditional rights over ancestral lands, and in violation of Article 350 of the Indian Constitution - as resolved by the Constituent Assembly and the Indian Parliament which promises the preservation and development of indigenous languages, culture and religion - has resulted in the systematic imposition of alien languages, culture and religion which have destroyed the identity and dignity of living for the indigenous peoples.

In view of the foregoing,

WE CONDEMN the process of marginalization, exploitation and dehumanization of our people and demand restoration of traditional rights over our ancestral lands and resources, and the right to develop and preserve our languages, culture, religion and social institutions.
WE TAKE SERIOUS NOTE of the displacement of thousands of Adivasis by the gigantic Narmada Valley Project. We condemn the manner in which the Indian Government has been dealing with the opposition to the project by the people affected and other supporters, and demand that the Narmada Valley Project be shelved with immediate effect.

WE ALSO TAKE SERIOUS NOTE of the ongoing large-scale atrocities committed by the Indian army on the Naga people and demand an immediate withdrawal of the military from the area, and the fulfilment of the legitimate aspirations of the Naga people for genuine self-government.

INDONESIA

WHEREAS the transmigration programmes of the Indonesian government uproots indigenous peoples from their ancestral lands, and cause the erosion of the traditional social systems;

WHEREAS the indigenous peoples are denied their right to self-determination as in the case of Kalimantan, Sulawesi, East Timor and Irian Jaya; and

WHEREAS the indigenous culture, religion and social structure are being threatened by the imposition of the values and social systems of the dominant non-indigenous society,

WE HEREBY RESOLVE:

- That the transmigration exercise be discontinued immediately pending a full review and re-evaluation of the programme;

- That every effort be made to restore the rights of the indigenous people to determine their own way of life and their future; and

- That all intrusions into the ancestral lands of the indigenous peoples be ceased immediately.

JAPAN

The indigenous peoples of Japan continue to be discriminated against and exploited by the Japanese people; their ancestral lands often being taken from them both forcibly and through subtle legal means.

The Okinawans, particularly, have been continuously subjected to Japanese imperialism and US military rule, and even today 20% of the main Okinawa is covered by US military bases. Tourism, gigantic land reclamation projects and the mainland fishing industry, among other factors, also seek to cause a gradual but sure decline in indigenous identity and social systems.

Similarly the Ainu people have had their lands, their culture, and their dignity torn away from them through years of domination and forced assimilation by the Japanese people.

In view of the above, WE HEREBY RESOLVE

- That the sovereignty of the indigenous peoples be recognized and that the structure and organization of our society be determined by ourselves;

- That, for a first step, there be greater participation of the indigenous people in the national congress and municipal bodies, and that due recognition be given to the existence of indigenous culture and social systems.

NEPAL

Much of the peasantry in Nepal are tenant-farmers who are subject to exploitative tenure systems and various forms of debt-bondage. Furthermore, despite laws being passed to transfer land to the tiller, such reforms are in reality manipulated and exploited by landlords who are able to amass land for themselves. In view of the above,

WE HEREBY RESOLVE to petition the King of Nepal to establish a Commission of Inquiry, with adequate representation of the Taru
peasantry, to monitor the implementation of the government's policy on minimum wages, rent, land reform and bonded labour.

THE PHILIPPINES

WHEREAS the continued presence of the US military bases in the Philippines impinges on our sovereignty as a people, protects and maintains their economic interests, preserves their political and economic power over Asia, and is a threat to the peace and security of the region;

WHEREAS our ancestral lands are being grabbed and exploited by multinational corporations and big business, and are occupied by US military installations in collaboration with the repressive state, thus resulting in marginalization, dislocation and cultural breakdown;

WHEREAS the application of the US Low-Intensity Conflict in the Philippines has caused disunity among the people, and has intensified the indiscriminate killings of civilians,

BE IT RESOLVED AS IT IS HEREBY RESOLVED:

- That the US military bases be dismantled immediately and that further negotiations by the Aquino government be stopped;

- That ancestral lands and all resources therein be given back to the control and management of the Moro and Tribal peoples; and

- That the implementation of the 'total war policy' be stopped.

SABAH AND SARAWAK

On Logging:

WHEREAS the land represents the life and blood of the indigenous people; WHEREAS logging operations invariably result in the displacement of indigenous peoples from their adat lands; AND WHEREAS logs from native lands are exported to foreign countries, including Japan and Taiwan,

WE HEREBY RESOLVE that all logging activities be immediately ceased henceforth; and at the same time,

WE CALL on the indigenous peoples of other countries to put pressure on their respective governments to stop the import of logs and timber products from our lands.

On Modernizing Indigenous Society:

WHEREAS the character of development being introduced for the indigenous people generally takes the form of large agribusiness projects by multinational and local corporations; WHEREAS development projects such as hydro-electric dams are also part of this modernizing process; AND WHEREAS the implementation of such projects invariably lead to the loss by the indigenous peoples of their rights and control over their lands,

WE HEREBY RESOLVE that such 'development' projects be ceased henceforth and that all such projects being so planned and implemented in the future should involve the full participation and consultation of the indigenous people affected;

WE ALSO RESOLVE that the funding agencies such as the World Bank and the Asian Development Bank discontinue their support for such programmes which are not in the interest of indigenous peoples.

On the Dissolution of the Indigenous Social System:

WHEREAS the indigenous social system and traditions are slowly being eroded and replaced by the policies, programmes and actions of the dominant non-indigenous sector,

WE HEREBY RESOLVE that such practices be discontinued and that the indigenous peoples of Sabah and Sarawak be allowed to define the content and character of their own society.

On Basic Human Rights:

WHEREAS the authorities continues to harass and detain indigenous individuals who are fighting for their rights, as well as non-indigenous
individuals and groups who are supportive of the struggles of the indigenous peoples; AND WHEREAS such harassment and detention is done through unjust laws and/or through the creation of a culture of fear among the general populace,

WE HEREBY RESOLVE that all unjust and repressive laws, such as the Internal Security Act and the Official Secrets Act, be repealed immediately, and that all political detainees and prisoners of conscience be released unconditionally and immediately.

TAIWAN

The ancestral lands of the indigenous peoples of Taiwan are being occupied by the non-indigenous Hans - both Chinese and Taiwanese - while those lands which were not taken by these outsiders were converted to national parks and tourist resorts.

With most of the indigenous people now landless, their daily living has become a matter of survival for them, with their identity as a people slowly fading away. Many have been forced to turn to low-paying and degrading jobs as servants, cheap labour and prostitutes. A number have also resorted to becoming fishermen.

It is as fishermen on boats owned by non-indigenous companies and individuals that the indigenous people often face further hardships - as when their boats are detained by foreign governments for entering their exclusive zones. When this happens, the families of these detained fishermen not only weep for their loved ones, but also face even greater hardship in their already difficult struggle for survival.

In view of the above, WE HEREBY RESOLVE

- That the government recognize that the whole island of Taiwan belongs to the indigenous peoples, and that we should be allowed to exercise control and ownership over the land;

- That we be recognized as the indigenous peoples of Taiwan and that we be allowed to determine for ourselves every facet of existence;

- That foreign governments detaining our fishermen release them immediately on humanitarian and compassionate grounds.

THAILAND

The tribal people of Thailand have no legal rights to the lands and forests they occupy, and work on. Some, like the Karen, who have one of the oldest histories of residence in the region, continue to be denied legal tenure to their ancestral lands.

It is also difficult for the tribal people to obtain citizenship and other identification papers which are essential for them to exercise their rights to education, house ownership and even to freedom of movement in the towns.

The traditional social systems and structures of the tribal people are also being threatened by modern-day introductions, particularly in the area of religion and education.

In view of the following, WE HEREBY RESOLVE

- That our lands be restored to us, and that the legality of our ownership be recognized;

- That there be no discrimination against us in the bestowing of citizenship status and in the issuance of identity cards;

- That we be allowed easy access to education, which should be in harmony with indigenous values and culture.

B. RESOLUTIONS IN SUPPORT OF INDIGENOUS PEOPLES IN THE PACIFIC

In addition to the national resolutions the following special resolutions were adopted by the Forum:

1. Resolution in support of the struggle and demands of the Aboriginal people of Australia protesting against the celebration
of 200 years of occupation, genocide and oppression by the white rulers; and

2. Resolution in support of the demands of Maori people in Aotearoa (New Zealand).

C. RECOMMENDATIONS

In the light of the discussions and the ideas that emerged at the workshops, two recommendations were proposed for the consideration of the Forum:

1. The need for an Independent Platform of Indigenous Peoples in Asia to strengthen unity of the people and to raise the genuine voice of the indigenous peoples of Asia;

2. The need for the codification of indigenous customary and traditional law, and to demand that these laws be made a part of international law.

D. ACTION

After discussion, the Forum adopted the following course of action:

1. A preparatory committee of five persons elected from the floor was constituted to prepare the ground for the setting up of an Independent Platform of Indigenous Peoples in Asia;

2. The Committee is to explore all possible means to prepare for the setting up of the Platform by the end of 1990;

3. That the Committee look into the possibility of seeking the codification and acceptance of customary law at the international level.

In consideration of the above plan of action, the Forum requested CCA-URM and DAGA to extend support to the committee as well as function as a communications/documentation and dissemination centre.

E. CLOSING

The session closed with a special thanks to the participants for their sharing and participation, and to all those who were responsible in one way or another in initiating, organizing and supporting the forum.
REFERENCES

While most of the information contained in this document is taken from the experiences and country situations shared by those who met in Chiangmai, the following publications were also referred to in the document:

Dialog-Asia (1986)

Julian Burger (1987)

Evelyne Hong (1987)

Independent Commission on International Humanitarian Issues (1987)


Cordillera Peoples' Alliance (1988)
The International Solidarity Conference in the Cordillera Philippines. Hong Kong: CPA.
REFERENCES

While most of the information contained in this document is taken from
the references and sources, additional research was done that
was not included. The following references were used to
prepare for the project:

Duguid, Alfa (1980)


Padmore, Trevor (1982)

A New Approach to the Design of the Digital Telephone System

Khan, Muhammad (1980)

The Design of the Digital Telephone System

Barlow, John (1981)

Handbook of Telecommunication Systems