Indigenous peoples' rights to autonomy and self-government

as a manifestation of the right to self-determination

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

UN SPECIAL RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES

UN PERMANENT FORUM ON INDIGENOUS ISSUES

UN EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES

INTERNATIONAL WORK GROUP FOR INDIGENOUS AFFAIRS

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INTRODUCTION

An International Seminar to assess the global status and trends with regards to indigenous autonomies is taking place in Mexico City in March 2019. This meeting follows the work developed by indigenous organizations and the organizing institutions over the last few years. In January 2018, at its annual Expert Meeting, the UN Permanent Forum was requested to compile information on indigenous autonomies and government systems in order to provide an overview of good practices, following a series of workshops held in Latin America on indigenous governments.

In October 2018, the UN Special Rapporteur on the rights of indigenous peoples submitted a report to the UN General Assembly on indigenous peoples' governance systems and announced her intention to continue monitoring advances and challenges with regard to the topic.

The Expert Mechanism recently conducted a study on free, prior and informed consent, which was submitted to the Human Rights Council in September 2018. In that study, the Expert Mechanism argued that the right to self-determination is the fundamental human right on which free, prior and informed consent is based, with strong links to the right to autonomy and self-government, as well as the right to be free from discrimination.

The IACHR, in terms of the rights of indigenous and tribal peoples over their ancestral lands and natural resources, has expressed that the lack of access to ancestral territory impedes the exercise of their right to self-determination.
The Seminar is intended to contribute to the current discussions taking place on the exercise of self-determination by indigenous peoples, not only in terms of its legal and political construction but also as a broad historical and social process. Indigenous representatives will be able to exchange experiences on positive developments and current challenges facing them in the consolidation of their autonomy models. The seminar will also provide support in terms of providing international human rights bodies and mechanisms with up-to-date information on the issue for their ongoing activities with regards to the rights of indigenous peoples.

This publication provides a brief summary of the cases which will be presented in Mexico. It has not been possible to include all of the many valuable experiences which are to be discussed in the Seminar, but we have tried to present a wide range of different cases from across the respective regions in the hope that it may be a useful tool for continuing the discussion beyond the Seminar.

The Seminar is organized by the Inter-American Commission on Human Rights, the UN Special Rapporteur on the rights of indigenous peoples, the UN Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous People and the International Work Group for Indigenous Affairs (IWGIA). We would like to thank the National Indigenous Peoples' Institute of Mexico for hosting the event, and the Danish Ministry of Foreign Affairs and Tebtebba Foundation for their financial support for the event and its related activities.

BOLIVIA

Guaraní of Charagua-Iyambae

Geography

Charagua is situated in Santa Cruz department, in Bolivia's Chaco Boreal, one of the most significant forest ecosystems in Latin America, with an excellent conservation status. Around 70% of its territory has been declared a protected area. In fact, it contains two national parks - the Kaa Iya (3,441,115 ha) and Otuquis (1,005,950 ha) – and one area of ecological and cultural interest - the Ñembiguasu (1,369,065 ha) – with another two areas planned: Guanaco (284,670 ha) and Serranía del Aguaragüe (140,000 ha). It is the largest area of local administrative jurisdiction in the country, with 74,424 km^2.

Population

According to the 2012 National Census, 41% of the Bolivian population over the age of 15 are of indigenous origin, although the 2017 projections from the National Statistics Institute (INE) suggest that this may have increased to 48%.[1] Of the 36 peoples recognised in the country, the Andean zone is primarily inhabited by Quechua (49.5%) and Aymara (40.6%) speakers who self-identify into 16 different nations. The Lowlands are inhabited largely by the Chiquitano (3.6%), Guaraní (2.5%) and Moxeño (1.4%). The total population of Charagua numbers 38,123 people (52% men and 48% women). Some 17,000 people self-identify as Guaraní. Together with non-indigenous citizens, such as the Mennonites, settlers of Andean origin, and other white/*mestizo* individuals who largely live in the urban centre, Charagua is a pluri-ethnic and multicultural community. This makes Guaraní autonomy in Charagua a complex attempt at indigenous self-government, including other groups from national society within its own model.

Background to creation of the autonomy

There is little scientific evidence to establish when the inhabitants of the Charagua region reached this area of the Chaco Boreal. We know that it was the result of a migratory process prior to the arrival of the Spaniards, as evidenced by archaeological digs. According to Guaraní tradition, based on the Messianic myth of the search for paradise (ivi imaraä), the arrival in this area originated in the river basins of eastern and southern Brazil and Paraguay.

Charagua in the Republican era

Although permanent pressure was exerted on the Chaco during the colonial era, it was only with the Republic that the presence of the white man (*karai*) became more obvious here, through missions, the establishment of large farming estates, the founding of new villages of "neighbouring" *karai* and the pervasive presence of the army, which was building up alongside the conflicts. Successive indigenous uprisings ended up finally defeated in 1892 with the Battle of Kuruyuki, and this heralded the start of the physical and cultural annihilation of this people. In the remaining years of the 19th century and a large part of the 20th, the Guaraní population became concentrated in a few isolated communities (largely the Chaco Cruceño), while another section was forced into a relationship with the large estates, coming to form part of the assets of these farms.

With the Chaco War (1932-1935) came great changes. Charagua was conquered by Paraguay for a short time in 1935, and some indigenous leaders from Isoso were sentenced to death for treason against Bolivia because they spoke the same language as the invaders and were thus suspected of collaborating with the enemy. This and other events resulted in migration towards Santa Cruz, and particularly Argentina, where they were exploited in the emerging sugar refineries.

The post-war era brought with it new configurations in the land ownership. From the Revolution of 52 and the different military and civil regimes until the end of the 20th century, the Bolivian state distributed lands and ownership rights via a system of political patronage, to the detriment of the Guaraní territory. With the regularisation of land ownership, territorial demands were successful in recovering some of the indigenous lands. However, the legal application of this process corrupted the traditional territories and confirmed the misappropriation of lands in favour of the landowners. There are three indigenous territories in Charagua: Charagua North, Parapitiguasu (Charagua South) and Isoso. Together they were given title to 898,040 ha out of a total demand of 3,677,888 ha, i.e. only 24% of the request which, in turn, represents 12% of the area of the autonomous jurisdiction.

Politics – Constitution of the Guaraní de Charagua-Iyambae autonomy

On 6 December 2009, following a referendum in which the Yes vote won with 57% of the vote, Charagua decided to form itself into a Native Peasant Indigenous Autonomy. The Framework Law on Autonomies Nº 031/10 was not passed until July 2010, however, and set out a long and bureaucratic procedure for obtaining such status, involving more than 17 steps. From that point on, the Guaraní people therefore began the task of fulfilling the legal requirements of this new State framework, including the participatory production and dissemination of their Statute of Autonomy, which was approved on 20 September 2015 with 53% of the vote. Elections took place for representatives to all autonomous government bodies during 2016 but they only formally took up their positions in January 2017, nearly eight years after the initial vote for autonomy.

Challenges

Establishing the autonomous government has been difficult given that they are implementing a system in which the highest decision-making entities are collective bodies, such as the Ñemboati, made up of 27 representatives of the six zones and national parks, the Legislative Body or Mborakuai Simbika Iyapoa Reta, with 12 members, the Tëtarembiokuai Reta or Executive, with six representatives. Additionally, given the lack of clarity in the role of each body and the strong zonal roots of their representatives, positions on structural issues such as development, the economy and extractivist operations or infrastructure works in the territory are divided, with no consensual vision.

Together with the remaining representatives from other social groups, the Guaraní people of Charagua have therefore proposed that the logic of municipal public management should not be reproduced. Territorial planning and management tools are thus being designed that draw inspiration from the cultural paradigm of Living Well or Yaiko Kavï Pave, on which indigenous autonomy is based. It is on this that the debate is currently focused. The autonomous government bodies are discussing how Yaiko Kavï Pave can be concretely achieved through an instrument that organises and guides the autonomy's public management.

Another factor to be noted is the position of the Guaraní captaincies in all this. These are the organic structures of the Assembly of Guaraní People in Charagua, authorities in their three recognised territories: Charagua North, Parapitiguasu and Isoso. The captaincies, which have remained in place for issues related to external relations and legitimacy within their communities, have thus far been unable to link constructively into the policies, plans and projects of the autonomous government. An interinstitutional platform has therefore been established to provide support to the autonomous government, with the aim of progressing a process of reflection and definition of Yaiko Kavï Pave.

In terms of threats, State policies are encouraging the exploration and exploitation of the territory's resources, which hold great hydrocarbon and mineral wealth. It was the fact that their right to prior consultation on development of the extractive industries was being ignored, as was the need to obtain the consent of the autonomous government authorities, that led to the approval of a Law on Prior Consultation. The plans and programmes being implemented with the aim of extending the agricultural frontier and titling land to outsiders are also threats.

The Guaraní and all the indigenous peoples who are trying to negotiate a path to self-government in Bolivia have a long and bureaucratic process in front of them at the end of which they will be confronted by municipal management frameworks and state planning and management logics. These models are not adapted to the reality, practices and traditional logics of public administration as understood by the indigenous peoples themselves. ❍

1 INE 2017, on the consultation for the Indigenous Navigator – Bolivia.

CHILE

Rapa Nui

Geography

At 3,790 kms from Chile, Easter Island or Rapa Nui/Te Pito o Te Henua, situated in Polynesia, is one of the most isolated territories on the planet. This island of 163.6 km^2 belongs to Chile and is located on a 3,000 km underwater ridge, a geographic area defined by an imaginary triangle the points of which are defined by New Zealand, Hawaii and Rapa Nui.

Population

In Chile, 1,585,680 people belong to one of the nine legally-recognised indigenous peoples, or 9% of the country's total population. These nine indigenous peoples are as follows: Mapuche (1,329,450), Aymara (107,507), Diaguita (63,081), Atacameño (31,800), Quechua (27,260), Colla (16,088), Kawésqar (5,298), Rapa Nui (5,065) and Yámana or Yagán (131).

The Rapa Nui people are the original inhabitants of Rapa Nui/Te Pito o Te Henua, also known as Easter Island. Some 6,000 people live on this island, of which around 60% belong to the Rapa Nui people.

Background to the creation of autonomy

The origins of the Rapa Nui people date back to the 5th century A.D. when Polynesians from Asia arrived at Anakena Bay. According to oral tradition, King Hotu Matu'a, accompanied by his sister, Ava Reipua, and his court, took possession of the island and distributed the land among his entourage, forming clans that generated a line that was to become the Rapa Nui people. In 1722, the Dutch sailor, Jacob Roggeveen, named the place Easter Island. Throughout the 18th century, the European powers travelled to the island to obtain natural resources and slaves, encouraging the spread of sexually-transmitted infections. In 1860, Peruvian boats arrived to sell the island's inhabitants as slaves. The few Rapa Nui that managed to make it back brought with them leprosy and smallpox, resulting in the virtual extinction of their people (a mere 111 inhabitants remained), and in the loss of the last Rapa Nui that could decipher rongorongo, their system of wood-carved writing.

During the 1860s and 70s, there was strong interest in evangelising and colonising the island and cattle rearing companies were established.

Faced with the imminent opening of the Panama Canal, in 1888 Captain Policarpo Toro, representing the State of Chile, and the ariki or king, Atamu Tekena, supported by the Council of Rapa Nui Chiefs (tangata honui or kainga), signed the so-called "Voluntary Agreement". Written in Spanish and Ancient Tahitian or Rapanui, the agreement stipulated the indefinite and unreserved cession of the island's sovereignty to Chile, recognition of the investiture of the Rapa Nui chiefs by express reservation, recognition of the Rapa Nui's property rights over the entire island territory and a commitment from the Chilean state to guarantee the welfare, education and development of the Rapa Nui people.

The Chilean state never kept its obligations under this agreement and, in 1933, all of the Rapa Nui lands were registered as property of the state. Chile thus took sovereign possession and confined the Rapa Nui people to the capital, Hanga Toa, with the aim of occupying the rest of the island for cattle rearing activities. The island was leased to companies who enslaved the population and subjected them to forced labour. In 1953, the island's administration passed to the Chilean Navy, which created the so-called "lunes fiscal", a system by which the Rapa Nui were obliged to provide unpaid labour and were punished severely if they failed to do so. In 1935, by means of various decrees, the Rapa Nui National Park was formed and the island declared a National Historical Monument.

Politics

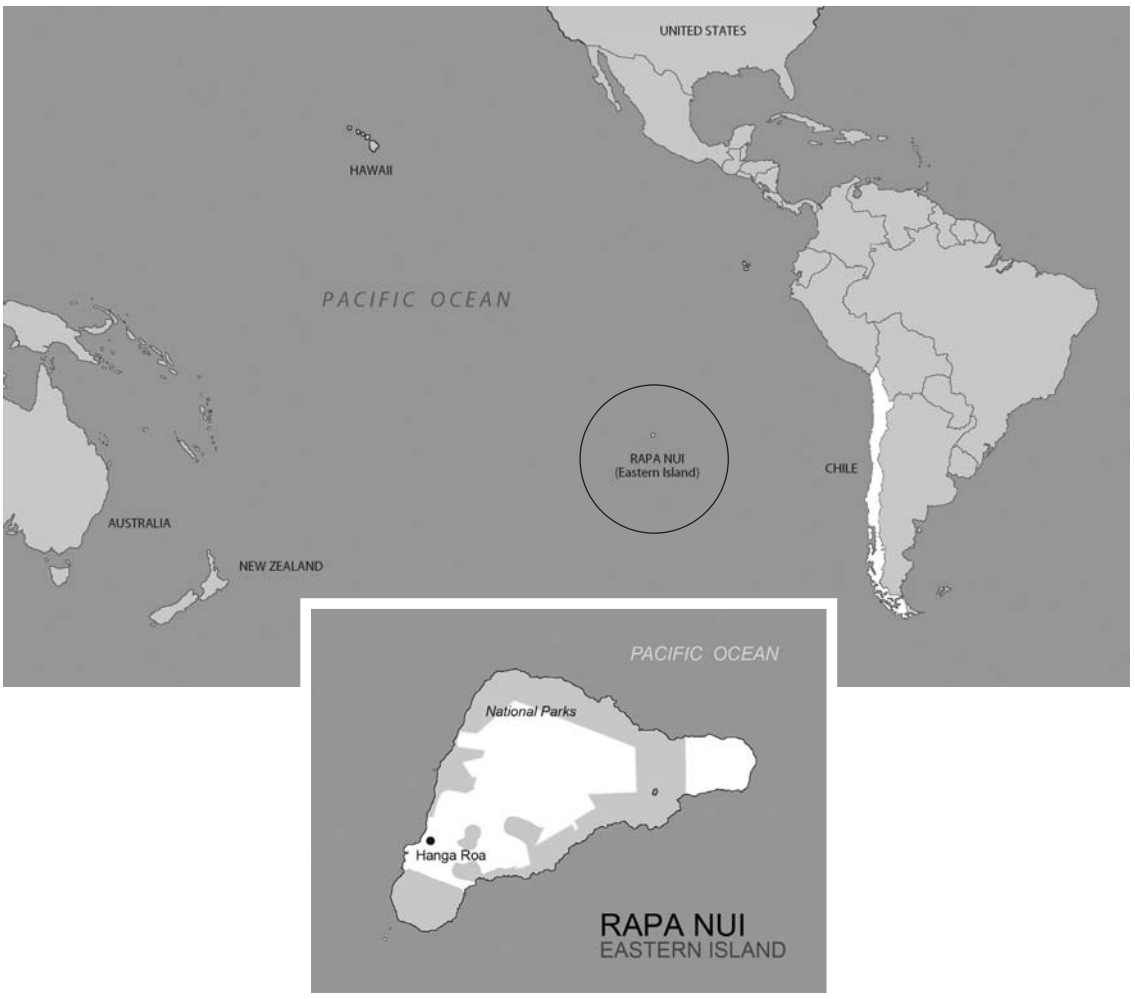
Rapa Nui is a non-self-governing territory whose colonial government is located in the regional capital of Valparaíso, 4,000 km away. It thus forms the Province of Easter Island and the municipality of Easter Island, the authorities of which are the provincial governor, reporting to the central administration, and the mayor who, together with the municipal council, are elected by popular vote.

Due to this overlapping of authorities, and because of the Rapa Nui people's constant demand for political participation and effective control of their political institutions, not to mention other factors such as their geographical isolation and the archaeological and natural wealth of their heritage, a special status was approved for Rapa Nui by constitutional reform. This status does not guarantee their self-determination but does establish a model of government known as the Special Territorial Government. Nor does it guarantee their territorial rights as it does not envisage any mechanism by which to recognise their rightful ownership of the island territory.

Challenges

The whole of Rapa Nui is claimed as ancestral territory by virtue of the people's customs and laws. Situated on an underwater ridge 3,000 km long, a migratory route for large cetaceans and species of great commercial interest, its economic area is regularly violated by fishing boats illegally fishing its territorial waters.

To this day, only 13% of the island's lands are under the control of the Rapa Nui; the rest are shared between a private commercial company aimed at exploiting the land and the Rapa Nui National Park, the 7,000 hectares of which are administered through a co-management agreement which, in



practice, prevents the Rapa Nui from freely accessing their territory.

Through the Council of Elders and the Rapa Nui Parliament, the people have submitted a petition to the Inter-American Commission on Human Rights (IACHR) to obtain recognition of their rights to the lands and waters of Rapa Nui. In this, they specifically demand their ancestral property rights to their sacred places, which have been declared protected areas by the Chilean state and now form part of the Rapa Nui National Park. The IACHR has yet to assess the request as admissible.

Another demand of the Rapa Nui people is to be able to control migration through a special status aimed at preserving the island's fragile ecosystem. If the population is not regulated, the island could suffer irreversible environmental damage. It is worrying that the island's population has grown by 86% in 20 years (1996-2012) when, nationally, the population has grown by only 63%.

In terms of their full realisation of the right to self-determination, in accordance with international law governing the decolonisation process, the Rapa Nui people are claiming their right to their ancestral territory of Te Pito o Te Henua. They therefore aspire to be included on the list of non-self-governing territories recognised by the UN Special Committee on Decolonisation, without this affecting the territorial integrity of continental Chile.

The Rapa Nui people are also exploring other institutional agreements that could govern their relationship with the Chilean state and which might enable them to gain recognition of their right to self-determination. This comparative experience has raised the desirability of signing a modern free association treaty between sovereign states, which could meet the current demands of the Rapa Nui people, recognise their ancestral property, compensate for material and immaterial damages and establish their right to self-government.

Whatever the formula, the Rapa Nui people must establish the basis for exercising their autonomy with a view to building a special statute of self-determination. This sovereign process requires defining the institutions of autonomous government, building a community development project and assessing the changes required to the current systems of territorial management. ❍

PERU

The Wampís Nation

Geography

The Peruvian territory of the Wampís, to the north-west of Amazonas region on the border with Ecuador, covers the catchment areas of its two main rivers, the Santiago-Kanus and the Morona-Kankaim. The Wampís people, now a self-determined Wampís Nation, ancestrally inhabit 1,327,770 hectares of one of the most biodiverse areas in the world.

Population

The Wampís Nation comprises 85 communities, 28 of them titled, and it has a population of 15,300 inhabitants (UNDP 2013).

They belong to the Jíbaro socio-linguistic family and maintain their basic sociocultural features such as language and ayahuasca- and toé-taking practices. This nation, like many other indigenous peoples around the world, has historically been characterised by a fierce defence of its dignity, its socio-territorial rights and its culture of protecting and conserving nature.

Background to the creation of autonomy

Living dispersed around the headwaters of these rivers, the history of the Wampís Nation is one of a constant struggle against external invaders: first against the Iwa and Inca peoples and then, during colonial times, against the abuses of the military, the rubber tappers and leather dealers who exploited them as labourers.

Their territorial demands date back to 1821, during the Republican era. With the arrival of missionaries and schools during the 1960s, the Wampís were gathered into communities living around school buildings.

One of the first Amazonian organisations was created in 1976: the Aguaruna and Huambisa Council (CAH). Its main agenda was to ensure the security and re-constitution of the territories and it managed to obtain the title to a large part of the communal Awajún and Wampís territories. In 1989, the CAH approached the State with the proposal of declaring the free spaces, the adjacent areas that were not titled, such as hills and headwaters, an Aguaruna and Huambisa Communal Reserve. It was the first attempt to recover the whole of the Wampís and Awajún territory. Despite the State's indifference, cooperation with the Regional Coordinating Body of the Indigenous Peoples of the San Lorenzo Region (CORPI SL), made up of nine indigenous peoples, meant that they were able to produce the first technical files in 1995 and these formed a legal and anthropological basis for implementing their own autonomous government.

The Wampís Nation began to take on a more central role in 2010 and undertook fieldwork to formulate the Wampís autonomy and its integral territory. They began to produce a file that could act as a legal basis for the Wampís Nation's right to territory and to its continuity of occupation of that territory; a map georeferencing the historic and sacred sites was drawn up and a map of the boundaries and adjacent lands established through agreements with the neighbouring peoples.

With the support of Dr. Pedro García Delgado, the first draft statute of autonomy was created in 2014. In November 2015, in Soledad community, 300 representatives of the 85 communities approved their statute, which formed a regulatory framework, they elected their first government and issued their first bylaw as an act of government. The Autonomous Territorial Government of the Wampís Nation (GTANW) was thus born, the first autonomous indigenous government in Peru.

Politics

The Wampís Nation has achieved jurisdictional sovereignty over a territory one-third the size of Switzerland. This case marks a mile-

stone in indigenous sovereignty because the autonomous formation of this government requires the Peruvian State to recognise the Wampís as independent within their own territorial boundaries.

The GTANW does not imply a division of the Peruvian State's territory but rather establishes the territorial autonomy of this indigenous nation and historic recognition of their presence in the Amazon. It is a territorial defence strategy that is not aimed at obtaining new titles because this would mean areas that remain "outside" those titles end up being granted as forest, oil or mining concessions. Its aim is instead that of obtaining recognition of the whole ancestral territory.

The Wampís government model is set out in the Wampís Nation's Strategic Plan, by virtue of which internal, social, cultural, economic and educational affairs are administered, along with external affairs and their relationship with the Peruvian State and the different administrative bodies.

Education

At school, the young people are taught in Spanish and the Wampís language, which makes the classroom a great force for cultural homogeneity. Higher education is only possible by leaving the community and travelling to the city. Faced with the educational model that is being implemented by the national government, the aim of which is to train people for market integration, the Wampís have designed their own educational project (PEF), focused on respect for nature and the education of their ancestors.

Challenges

The traditional culture of the Wampís has long been under threat due to the exploitation of the Amazon's forest and rivers. In the absence of any appropriate authorities, the people have had to use their own initiative to face up to the illegal mining that is expanding throughout the Santiago River basin.

One of the main demands of the Wampís government is the power to patrol their territory in order to ensure a more rapid and official intervention than Peru's State agencies can provide when illegal mining and felling is noted in the area.

Other threats to their territory are: oil activity in plots 116 and 64, hydroelectric projects in Emnacevique, the construction of Axis Road 5 connecting Ecuador to the Peruvian Amazon in Morona Santiago Province and the oil pipeline, with ongoing crude oil spills in Wampís territory.

Based on a roadmap aimed at re-establishing their own institutions and achieving better conditions for dialogue with the State, the Wampís Nation is seeking to reaffirm its territoriality and representativeness.

The GTANW's other objectives are: to generate technico-political debate in the different sectors, along with their own projects (education, health, justice, etc.), and to create an awareness of the fact that the autonomies and indigenous territorial governance offer good practice for socio-economic and cultural development, as well as for care of the environment and nature.

Radio Wampís was established in 2017, the first autonomous radio station in the Peruvian Amazon. It is established in Soledad Native Community and primarily covers the communities of the Santiago River basin. ❍

COLOMBIA

Embera people

Geographical location and population

There are 186 Emberá indigenous reserves in Colombia, covering an area of approximately 1,716,773 hectares in the departments of Antioquia, Caldas, Caquetá, Cauca, Chocó, Córdoba, Meta, Nariño, Putumayo, Quindío, Risaralda and Valle del Cauca. These are Emberá Catio, Emberá Chamí and Emberá Dodiba communities. The Emberá people comprises 181,405 individuals living across 17 of the country's departments and in the capital, Bogota.

Cristianía Reserve

The Cristianía Indigenous Reserve is located in the south-east of Antioquia department, some 124 km from the city of Medellín.

The population of Karmata Rúa belong to the Emberá Chamí people of the Chocó linguistic group. The Chamí are originally from Alto Andágueda, Chocó and Alto Río San Juan in Risaralda. They migrated from these areas to different parts of the country, including to the current settlement of Cristianía. The first settlers arrived in this region in the 1920s, coming from San Antonio del Chamí, Mistrató-Risaralda.

The reserve is home to 1,736 inhabitants grouped into 347 families, settled in two territorial areas: 391 hectares in Jardín municipality and 1,350 hectares in Andes municipality (95% of the area is rich in forest and biodiversity), making a total of 1,741 hectares.

Process of autonomy

Almost four decades ago, the Colombian indigenous movement established its political platform around four basic pillars or principles: Unity, Land, Culture and Autonomy.

Unity: As a means of organisational strengthening in defence of the indigenous communities.
Land: As an essential element of the life and development of indigenous peoples.
Culture: For the strengthening, recovery and continuation of indigenous peoples' identity.
Autonomy: So that the above principles can be applied, and power and authority exercised.

The organisational process to gain autonomy in Cristianía Reserve followed the political guidelines around which the country's indigenous movement has coalesced:

Unity requires all of those who live in the community to work together, through a diversity of thought. Unity is vital when claiming our rights and so we have been gradually increasing fellowship between families, men and women fighting for our right to be recognised as an indigenous people and for the applicability of laws favourable to our rights.

Territory is the material and spiritual basis on which our physical survival is affirmed. We have begun to liberate the land taken by settlers in the early 1900s. To date we have recovered 1,741 hectares.

Our **culture** still survives in practices such as our belief in jaí and jabaná (traditional medicine), our handicrafts, our language, habits and customs. These values lead us to reflect on who we are, where we have come from and where we are going. It is in this context that we provide our own health and education. As we have recovered our territory, we have gained a right to our own education. In terms of health, the first standards for the provision of health care in indigenous communities were laid down in 1981, this being understood as a right that forms an integral part of our productive, social and cultural life.

Autonomy as a way of governing through our own authorities originated in the mid-1970s, in application of Law 89 of 1890, when we formed an Indigenous Council. We have thus now had our own institution for more than 40 years.

Cristianía Reserve is a cohesive and organised community with many of its own institutions. This has enabled us to keep our community alive despite being surrounded by urban centres such as the municipalities of Jardín and Andes. Despite our interactions with the urban authorities and inhabitants on a daily basis, and despite our links with the regional economy, we have not lost our essence as Emberá people.

The organisational process has strengthened us to continue the fight and gain what we have today, even though we have not yet resolved all our problems, or overcome all the difficulties that arise on a daily basis.

What does government autonomy consist of?

a) Administrative autonomy

- Autonomy to administer one's own development
- To administer one's own resources: natural and economic
- Participation in the development plans of the state bodies
- The Reserve's participation in the General System of Contributions

b) Legislative autonomy

- Freedom to define the rules and procedures for exercising government
- Social control
- Territorial management

c) Judicial autonomy

- Jurisdictional functions within the communities, according to our own systems of social control

d) Political autonomy

- Autonomy to define our own government in line with our traditions and customs
- To decide our own development/life plans, living well
- Indigenous territories as territorial entities of the Republic
- Our own territorial government
- Powers and tasks in line with the Constitution and Law
- Autonomy to participate in the State's revenues
- To administer our own and State resources in order to fulfil tasks

Challenges

Reserves began to receive funding from the Colombian state by means of Law 60 of 1993. These resources were passed down to the municipalities and town councils which, in turn, passed them on to the indigenous authorities to invest in projects. A new law was issued in 2001, Law 715, repealing Law

60. This new law made it easier for town councils to run investment plans and projects, thus cutting off resources to the traditional authorities due to their lack of understanding of the administrative system.

The result of the different struggles for life (mingas por la vida) led, in 2014, to Decree 1953 being passed, creating a special regime to operationalise the administration of indigenous peoples' own systems. This has been complicated, however, because only 23 reserves are actually certified for direct administration. Cristianía Reserve is certified but the authorities have insufficient training to be able to take on the administrative responsibility.

The reserves have the power to run their own indigenous health and education systems, as well as water, basic sanitation and the mechanism for strengthening the Special Indigenous Jurisdiction. The health and education systems are currently being debated in the Permanent Consultation Round Table between the indigenous organisations and national government.

In terms of the Special Indigenous Jurisdiction and the National Judicial System, however, there is little coordination with the indigenous authorities. There is no budget with which to provide our own justice and little training to be able to coordinate the Special Jurisdiction for Peace (JEP). ❍

PANAMA

Kuna Nation

Geography

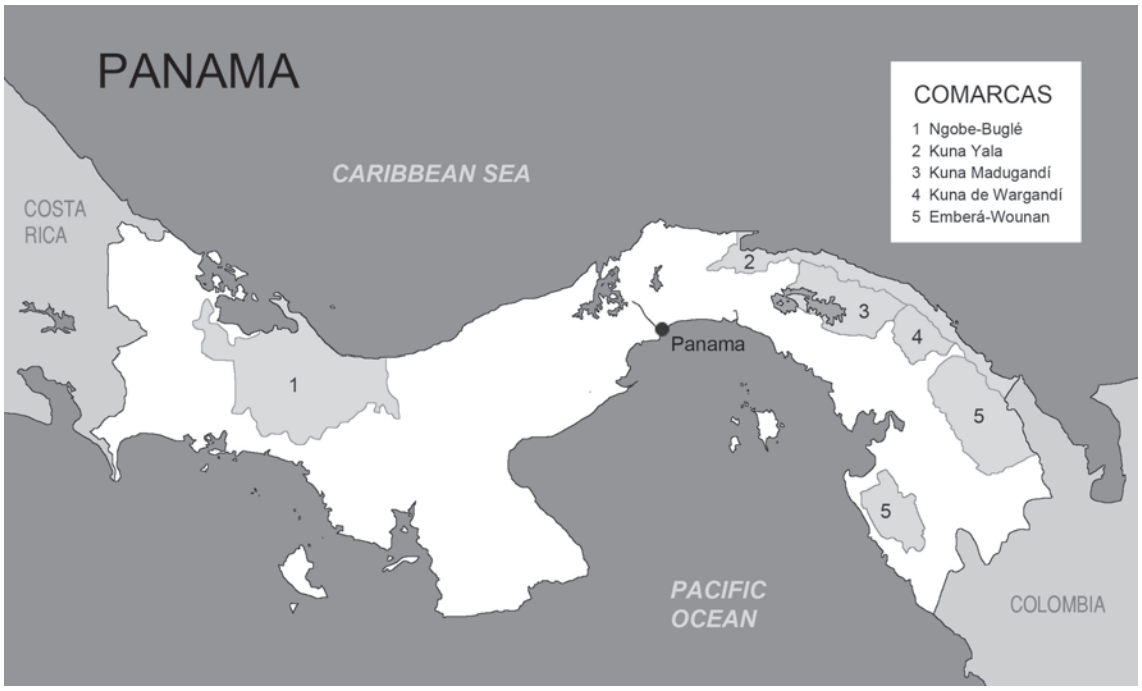
Panama lies at the far end of the Central American isthmus, a narrow stretch of land linking the Pacific and Atlantic Oceans. It borders Colombia to the east and Costa Rica to the west and covers an area of approximately 78,200 km^2 . It is a tropical country with large expanses of forest, significant mountain chains and 1,520 islands, including the San Blas, Bocas del Toro (Caribbean) and Las Perlas (Pacific) archipelagos. Forty percent of its area is forested (3.05 million hectares), having declined by around 50% since the middle of the last century. The level of deforestation over the last 10 years has stood at around 16,000 hectares per year.

Population

Panama's seven indigenous peoples account for some 12% of the country's 13.9 million inhabitants. These peoples are the Ngäbe, Kuna, Emberá, Wounaan, Buglé, Naso Tjerdi and Bri Bri.

Economy

The Panama Canal generates one-third of the country's wealth. According to the World Bank, it has been one of the world's fastest growing economies over the last decade, with average annual growth of 5.6% in the last five years. Trade, construction, the financial sector and tourism form the drivers of its economy. Panama has one of the highest average incomes in Latin America but is also one of the most unequal countries in the world. As much as 86% of the population of the indigenous territories live in poverty, compared to 12% of the country's non-indigenous population. The provinces of Darién, Bocas del Toro and Veraguas are those most affected by poverty.



History

Following the 1903 uprising, which was supported by the United States, Panama gained its independence from Colombia, to which it had belonged since 1821. The Hay-Bunau-Varilla Treaty granted the United States the authority to build and operate the Panama Canal. Completed in 1914, this masterpiece of engineering through which more than 400 million tons move each year has always been a cause of friction with the US. In 1968, General Omar Torrijos' coup resulted in a military dictatorship that was to last for the next 21 years. In 1989, the US invaded Panama in what was known as the Just Cause Operation, just days before the canal's administration was to pass into Panamanian control. Ten years later, through the Torrijos-Carter Treaty, Panama finally gained complete control of the canal.

The autonomy process

A concept known as the '*comarca'* has been used to legalise the indigenous territories. This recognises the indigenous peoples their own territory and politico-administrative structure. Law 72 of 2008, the aim of which was to recognise ownership of 2.5 million hectares or 75% of the country's forests, awarded five communal territories to indigenous peoples not living within comarcas. Twenty-four communal properties and one *comarca* are still awaiting recognition.

Background to the creation of the Kuna autonomy

The Kuna people live in an area of 3,206 km^2 in the north-east of Panama, on the border with Colombia.

Perhaps the most surprising feature of Kuna society is quite simply that it has survived. When the Spaniards arrived in 1502, the Kuna were living in territories in the Darién forests of Panama and the Uraba Gulf in Colombia. Today, their population has declined to around 100,000 people.

The territory began to be evangelised at the start of the 20th century, and the Panamanian government enacted laws aimed at "civilising the indigenous people". Missionaries and teachers were appointed as "civilising forces" and lands were granted to non-indigenous settlers.

The Intendency was created in 1915 as the seat of government in the Kuna territory, and also home to the colonial police force. Its aim was to subjugate all those who demonstrated against the government's policies, to regulate trade in the region, to encourage industrial development and to introduce a Western-style education in the comarca.

Due to the massive State violence, a Kuna Revolution began to unfold in 1921, led by the community leaders Nele Kantule and Olokintipipilele (Simral Colman), and the Declaration of Indepen-

dence of Tule Republic was signed on 12 February 1925. Two weeks later, the Kuna attacked the police forces. The Panamanian government, lacking any kind of capacity for reaction, sent a further police contingent aimed at punishing the indigenous people but the Kuna skilfully opted for a diplomatic negotiation and embarked on a dialogue with the US military forces stationed in the country, as well as with the representative of the League of Nations. A peace agreement was thus signed on 4 March 1925.

Kuna autonomy had thus been *de facto* recognised but they would have to wait until 1953 for Law Nº 16 to finally create the San Blas Comarca (now Kuna Yala).

Description of autonomy

The Kuna territory is formed of 365 islands and coral reefs in the Panamanian Caribbean plus communities settled in the neighbouring Darién forests.

The *comarca* approved its Fundamental Law in 1995 which, among other things, changed its name to Kuna Yala, established the powers of its authorities at both local and comarca level, and established the basis for introducing a bilingual intercultural education system in Kuna and Spanish.

There are a total of 49 communities throughout the Kuna territory. Each of these communities has a local congress at which different issues relating to their social, economic, political and spiritual life are discussed. The General Kuna Congress is the highest politico-administrative body and this meets every six months by agreement of the Sailas (traditional chiefs of each community). Three general caciques (chiefs), the Saila Dummagan, lead this governing body and represent it before the Congress of the Nation.

Another pillar of any indigenous autonomy is its spiritual or cultural component. The General Congress of the Kuna Culture was established in 1972, a congress of Kuna elders set out in the law creating the Kuna de Wargandi comarca (outside Kuna Yala, in the Darién forests), in which the Ibeorgun or Kuna religion is recognised.

Challenges

The Kuna are currently facing problems with mining concessions, settlers arriving in their territory, and drug trafficking across the border with Colombia. The planned Pan-American highway in the Darién region is a clear threat to the preservation of the Kuna culture and territory.

Climate change in Kuna Yala has led to the sea level rising by 10 cms since 2004, affecting the 48 islands along Panama's Caribbean Coast where a large proportion of the Kuna population live. Many of these islands could disappear due to this rise in sea level. With mitigation programmes such as REDD+ being implemented, the National Coordinating Body of Panama's Indigenous Peoples (COONAPIP) is calling for indigenous peoples' support to be a requirement of any forestry activities on their territories.

As territorial governance is the main challenge, there is a need to manage their territorial resources, and this includes the institutionality of their authorities, collective legal security and their own development model (life plan).

Endogenous economic development and sustainable management of their territorial resources is more necessary than ever, along with an indigenous education and a traditional health system. It is therefore essential that they develop internal regulations that are binding within the boundaries of the Kuna territory. ❍

NICARAGUA

Miskitu people

Geography

The Río Coco or Wanki River meets the sea at Cape Gracias a Dios and forms part of the natural border between Honduras and Nicaragua. For the indigenous Mískitu people, however, who live on both sides of the river, this border does not exist as for them it is all their ancestral territory.

Population

The peoples of the Autonomous Regions of Nicaragua's Caribbean Coast and the Special Regime Zone are the indigenous Ulwa, Sumu, Kukra, Rama and Mískitu. There are still traces of the Tawira, Bawihka, Prinzu, Toascas, Yaoscas and Matagalpas indigenous peoples.

Peoples of African origin also inhabit the area, such as the Creole and Garífuna, who have had a presence in La Mosquitia since 1630-1641. They form part of the Zambo-Mískitu people.

As a result of constant immigration and colonisation of the communal lands of indigenous and Afro-descendant peoples, some 70% of the population of the Autonomous Regions of the Caribbean Coast is now made up of Spanish-speaking *mestizos* coming from the West and centre of Nicaragua. Their presence dates back to the 19th and 20th centuries.

The Autonomous Regions of the Caribbean Coast account for 11% of the national population. Most of the 22 titled indigenous territories are located in the Caribbean Coast, where there is a great wealth of biodiversity but very high levels of extreme poverty.

History

Inhabited by the native Ulwa, Tuaskas, Panamaskas, Matagalpas, Tawiras, Bawiskas, Kukras and Ramas peoples, the territory of La Mosquitia was a notable indigenous monarchy during the 16th, 17th and 18th centuries. In fact, it was never conquered although the Spanish Crown did allocate it to the Captaincy of Guatemala. In 1803, Spain transferred administration of the territory to the Vice-Royalty of Santa Fe or the New Kingdom of Granada, which resulted in the loss of part of its territory to Colombia.

There were constant disputes between Spain and England over ownership of the territory of La Mosquitia. The Zambo-Mískitu people managed to defend their territory from the Spaniards through alliances with the British. In 1843, the British Protectorate of Mosquito Coast was created, which was not favourable to the indigenous people. In 1860, the republics of Nicaragua and Honduras signed shared sovereignty treaties over the indigenous territory, with the exception of one district in the former Mosquitia area of Nicaragua. The Mosquitia Reserve was thus born, lasting 34 years (1860-1894). Also known as the Atlantic Coast, Special Zones or Autonomous Regions of the Caribbean Coast, it was an independent nation with its own government.

In 1979, the Sandinista National Liberation Front (FSLN) took power in Nicaragua and subsequently faced an armed offensive organised by the United States. The indigenous peoples of the Caribbean Coast participated in this offensive, particularly the Mískitu. The armed struggle lasted five years (1980-1985) and resulted in more than 20,000 deaths and the displacement of entire communities, as seen in the Red Christmas incident. In 1987, to put an end to indigenous resistance, the FSLN created the North and South Autonomous Regions of the Caribbean (Atlantic) Coast. These are based on a New Political Constitution and a Statute of Autonomy (Law 28) that recognises and returns ancestral rights to the peoples of the Caribbean Coast and prevents their land from being expropriated.

Following the judgment of the Inter-American Court of Human Rights in the case of the Mayangna (Sumo) Community of Awas Tingni v. Nicaragua in 2001, Law 445 on the Communal Property Regime of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and the Bocay, Coco, Indio and Maíz Rivers was passed which, from 2003 on, included the communities' right to self-government and created a procedure for the titling and demarcation of their territories. It recognises their traditional authorities and their right to territory, this being understood as the wider area comprising the natural resources they need to live. By decree of the National Assembly, the Special Regime Zone (ZRE) was also created in the ancestral territory of the Mískitu and Mayangna in Jinotega department, which enjoys a certain level of autonomy.

From 2005 on, the State began the process of titling 23 indigenous and Afro-descendant territories in the Autonomous Regions, culminating in the transfer of property titles in 2013. The General Education Law of 2006 also recognises a Regional Autonomous Education System (SEAR).

The Inter-Oceanic Canal Law (Law 840, 2013) threatens to divide the country in two, in particular the South Atlantic Autonomous Region which, for political and economic reasons, still does not include the 12 municipalities that form part of this region within its regional parliament.

By action or omission, the Nicaraguan State has committed violations of these peoples' right to self-determination and autonomy, primarily through the Regional Councils. In the Autonomous Regions, these councils are composed primarily of national political parties, which have maintained an iron grip over the political and economic autonomy of these regions.

Challenges

The Mískitu people has been clashing with mestizo settlers for more than a decade. In this region of the North Atlantic, invasions onto their titled lands have tripled over this period. This is related to the State's policies of extracting the natural resources from their ancestral territories, paradoxically previously titled to them by the very same State. Between 2005 and 2017, the State titled 23 indigenous territories, representing 32% of the national territory and 56% of Nicaragua's Caribbean Coast.

However, the State has not respected those collective property titles because it has not initiated the regularisation ('*saneamiento*') stage (established by Law Nº 445), which consists of establishing whether there are third party property rights superimposed on the indigenous territories. The indigenous and Afro-descendant peoples have asked the State to implement this process in the titled territories, thus seeking an institutional way of protecting their territorial rights.

The Bosawas Biosphere Reserve, the second largest tropical forest after the Amazon, is located in the territories of the Mayangna and Mískitu in the RACCN and ZRE, primarily in the department of Jinotega and has, over the last 10 years, lost some 31,000 hectares of primary forest. This deforestation is being caused by forestry and mining companies, and by armed settlers; it is resulting in the forced displacement of communities from their traditional territories.

Due to the violence of these settlers (paramilitaries according to the Mískitu), women and children are being forced to emigrate to Honduras where there are now more than 1,300 indigenous people from Nicaragua living. The Inter-American Commission of Human Rights has issued precautionary measures in this regard. However, the State has not responded and is failing to remove the invaders from the indigenous lands, and so the titling process has never been fully completed. ❍


HONDURAS
Autonomous region
of the Caribbean Coast
Caribbean
Sea
Managua
Pacific
Ocean
NICARAGUA
COSTA RICA

MEXICO

San Andrés Totoltepec, Tlalpan, Mexico City

Geography

San Andrés Totoltepec is one of nine indigenous communities in Tlalpan administrative district (*Delegación*) of Mexico City.

Situated at the foot of the Chichinautzin Ajusto de Zilcauyó mountain range, it is a green lung one-and-a-half hours to the south of Mexico City on the Mexico-Cuernavaca highway.

Its name comes from two Nahua words, "Tepetl", which means "hill" and "Totol", which means turkey. Seventy percent of the area of San Andrés Totoltepec comprises protected zones.

Given its terrain, the landscape is one villages of steep streets, balconies and small plazas nestled into steep hillsides.

Population

San Andrés Totoltepec, one of 68 indigenous communities existing in Mexico, belongs to the Nahua (Tepaneca) ethnic group. It has a population of approximately 32,000 of which some 5,000 are estimated to belong to the Nahua people.

Economy

An obligatory point on route between Mexico City and the Pacific Coast, San Andrés Totoltepec has suffered a series of changes to its environment due to the introduction of arable farming to meet the expanding growth of the urban population. Faced with the rapid expansion of Mexico City and the arrival of people from other states, the economic structure of this ancient settlement of flower growers is now moving towards the service sector, with much of the land turned over to housing both for local residents and settlers. However, many native residents continue to maintain their plots and produce flowers, maize and beans on a small scale. They also rear small livestock (sheep, goats, pigs and rabbits), largely for the local market.

History

Indigenous groups of Tepaneco origin were living in the region before the arrival of the Spaniards. During colonial times, the settlement belonged to Coyoacán with regard to tax payments, service provision and religious assistance. This jurisdiction changed little during the 15th, 16th and 17th centuries. From 1786 on, when the system of Intendencies was established throughout New Spain, Tlalpan became part of the Intendency of Mexico. The large farming estates rented land to the inhabitants of San Andrés and hired them as day labourers. Ill-treatment, abuse and conflicts over water were distinctive signs of this property system. One local hero was the lawyer, Tiburcio Montiel, who at the end of the 19th century, managed to get an estate owner's widow to sell 1,811 hectares of land to the inhabitants of San Andrés, which they converted into communal lands and which today form the old town of this name.

Subsequently, during the post-revolutionary agrarian reform, the process of land restitution continued and the villagers were given 400 hectares of communal (ejido) land. By 1940, the total area of lands owned by San Andrés was 2,304 hectares.

With the construction, first of the road and later, in 1966, the Mexico-Cuernavaca highway, land began to be expropriated, and this was repeated in 1973 for the construction of the Military

College. During the 1970s and 80s, plots of farmland continued to be sold for army barracks, property development and the creation of protected natural areas.

Creation of the autonomy

On 2 September 2018, a community assembly involving more than 400 people embarked on a process of indigenous consultation to appoint a Community Government Council, a collective government body that is the legitimate result of community representation. The community clearly expressed a need for the Council to report back to the Assembly and thus avoid any corruption. The Council has gender parity and its positions are honorary.

San Andrés Totoltepec is the first community in Mexico City that has been able to establish its own autonomous government. It has set up commissions to deal with the community's different demands, including territorial reorganisation, social dialogue, urban services, safety and crime prevention, education, culture, trade, social development, finance and administration, sustainable territory and environment.

Political challenges

With four months now passed since the community government was established, obsolete structures are still in place that fail to respect both the government's autonomy and its right to be treated as an independent authority.

The General Assembly has requested that, within the next six months, the Council should produce and submit

for the Assembly's consideration regulations governing the Community Government Council and setting out the principles, mechanisms, rights and obligations of the members of San Andrés Totoltepec community. This will also include its new relationship with the different federal and local levels of government.

It will also need to draw up plans and programmes for the community's development and lay the foundations for a strengthening of the regulatory systems, collective thinking and recovery of the community's history and philosophy,

The Mexican Constitution stipulates that central government has a duty to assign community governments sufficient resources to carry out their duties, i.e. to administer and exercise their autonomy and self-determination. However, such allocation of state resources has not yet been forthcoming.

Mexico City's government needs to recognise and register this community government, something it has thus far not done, which means that the City Council does not recognise San Andrés Totoltepec's community government.

Faced with this conflict between the Council and the previous authorities elected by the administrative borough (delegación), headed by a sub-delegate, on 29 November 2018 the Electoral Court of the Federation's Judicial Power ruled in favour of the Council, decreeing that the native people had the right to self-determination and autonomy.

Exemption from Mexico City's Law of Civic Participation is also required as this law superimposes two public authorities onto the same territorial area: firstly, the Community Government Council set up following the indigenous consultation and, secondly, the Citizens' Council, a product of the above law, which is in violation of their right to autonomy and self-determination.

Threats

The growing number of people arriving from the Federal District and other states has resulted in increased construction, disorganised growth and high levels of pollution. There is a lack of

clean drinking water and the drainage and sewage system is deficient, contaminating the aquifers with wastewater.

With the expropriation of their communal lands, the native inhabitants were deprived of one of their main sources of survival and the struggle for land has consequently become a driver of social organisation. The political parties are responsible for the widespread apathy that can be seen with regard to political participation. One of the challenges of this autonomous government will be to recover a culture of community participation and to return to the people their capacity for being involved in the issues that directly affect them. ❍

MEXICO

Ayutla de Los Libres, Guerrero

Ayutla de Los Libres

Ayutla de Los Libres is located in the south-east of Guerrero state, bordering the municipalities of Quechultenango and Acatepec to the north, Florencio Villareal and Cuatepec to the south, San Luis Acatlán to the east and Tecoanapa to the west. Ayutla's population numbers 69,716 inhabitants. Of this population, 37,653 are considered indigenous, with the most common languages being Se tu' un savi (Mixteco) and Me'phaa (Tlapaneco) plus, to a lesser extent, Náhuatl.

Process of autonomy

On 26 June 2014, a letter signed by 61 citizens – including commissioners and municipal and agrarian delegates belonging to 35 villages and 22 districts in the administrative capital of Ayutla de Los Libres – was submitted to the Guerrero State Electoral and Civic Participation Institute requesting that the municipal electoral process due to take place on 7 June 2015 be conducted through internal customary systems.

As a result, on 25 June 2015, the then Federal District Regional Court ruled on the last of the cases under file no. SDF-JDC-545/2015, setting out the timescale and procedure as follows: 1. Preparatory measures; 2. Consultation; and 3. Notification to the State Congress.

Community consultations were held on 10, 11, 17 and 18 October 2015 in 107 villages and 31 districts in the administrative capital, with a referendum taking place on 19 October 2015 in the presence of accredited observers and representatives of the parties. The result was 5,987 in favour of election through internal customary systems, 5,521 for a party-political system and 476 abstentions, giving a total participation of 11,984 votes.

Construction of the electoral model

On 10 and 11 June 2017, consultations were held in the communities, boroughs and districts of Ayutla de Los Libres municipality on the model of customary election to be used for the 2018 electoral process. This gave the following results: 7,223 votes for model A (Representatives); 5,971 votes for model B (Party lists), 371 abstentions and 107 spoiled votes, giving a total of 13,626 votes.

Electoral process for own customary system

On 19 January 2018, the General Council of the Electoral Institute formally declared the commencement of an electoral process using customary systems for the election and formation of the municipal government of Ayutla de Los Libres, 2017-2018.

The electoral process comprises the following stages:

1. Community assemblies. The authorities of each village that makes up the municipality of Ayutla de Los Libres will need to inform the Electoral Institute of the day, time and method of holding their community assemblies to elect their own representatives and substitute representatives (men and women).
2. Municipal assembly of representatives. This will be convened on 15 July 2018 by the electoral authority, in a place approved by the Guerrero State Electoral and Civic Participation Institute. This assembly will comprise all the representatives elected by their respective villages and their substitutes, with the aim of electing the members of the municipal government body.

The assessment and declaration of validity of the electoral process will be issued on 20 July 2018 by the General Council of the Guerrero State Electoral and Civic Participation Institute, under the terms of Article 59 of the Electoral Process Guidelines.

In line with the above, community assemblies for the election of representatives from 140 communities, boroughs and districts of Ayutla de Los Libres municipality took place between February and May.

The municipal assembly of representatives was held on 15 July 2018 with the attendance of 270 representatives and 260 substitutes. It was decided that a Community Municipal Council made of up the representatives of the 140 villages in Ayutla municipality would form the municipal government body but that this would be represented by the three coordinators and their substitutes from the Mixteca, Mestiza and Tlapaneca zones respectively.

It was therefore decided, by a majority vote, that the Community Municipal Council would be responsible for community government, represented by three coordinators and three substitutes coming from the Tu' un savi, Mestiza and Me' phaa ethnic groups, with the remaining 554 members actually making up the Council, and retaining the name of "representative" to ensure that the highest decision-making body would be a full assembly.

Challenges to building community governments

1. Establishing mechanisms by which to stabilise and strengthen the political decisions that indigenous peoples collectively build, with a greater emphasis on demanding women's rights and their empowerment, as well as transparency in the community government's resource management.
2. Strengthening and expanding the community government project in municipalities recognised as indigenous in Guerrero and Mexico on the basis of decisions emanating from assemblies. ❍


UNITED STATES
CARIBBEAN SEA
PACIFIC OCEAN
Mexico City
Guerrero
BELICE
GUATEMALA
HONDURAS
MEXICO

MEXICO

Capulálpam de Méndez, Ixtlán, Oaxaca

Geography and population

Capulálpam de Méndez is an indigenous Zapotec community situated in the Sierra Juárez mountain range of Oaxaca State, south of the district capital of Ixtlán de Juárez and north-east of the state capital.

The minimum height above sea level is1,680 m.a.s.l. and the maximum is 3,106 m.a.s.l., at the "Cerro Pelado" peak.

In 2017 the population totalled some 1,569 inhabitants, and was considered a community with very low levels of poverty.

Economy

The community's prosperity can be attributed to its economic development strategy and a socio-political organisation based on customary law, which has enabled an acceptable level of human development to be attained. Some 70% of the families have different public sector jobs, such as teaching, or working in the National Popular Subsistence Company or the National Commission for Indigenous Peoples' Development. The remaining 30% are employed in different community firms, which are the result of our vision of communal living. They include:

- the San Mateo Specialist Forest Development Economic Unit, formed in 1986. Devoted to exploiting the timber resources via a nationally and internationally validated forest management programme, approved by SEMARNAT.
- Pétreos Rhia Guatzina Aggregates, formed in 1993. Stone, gravel and sand processing along with the production of heavy bricks, rental of heavy machinery and fleet services.
- Capulálpam Mágico Community Eco-Tourism, formed in 2005. Its main activity is alternative tourism: rural, nature, adventure and cultural.
- Yeexi-Gagüi Food Processing, formed in 2010 around the brand "Anda Gagüi" (Capulálpam Water). Its activity focuses on treating water for its purification, and subsequent packaging and sale.

There are also companies recognised and approved by the Community Assembly such as Integradora Benne Gagüi: a group devoted to producing and selling wooden furniture throughout the mountain region; Juguete y Arte Capulálpam, a cooperative of men and women devoted to producing wooden toys; and Capulli tradición ancestral, a group providing alternative health services through a traditional indigenous medicine development centre.

In terms of education, the community has pre-school, primary and secondary schools as well as an Agropastoral Technical Upper Secondary School.

The population of Capulálpam de Méndez live in houses made of adobe, stone, wood, tiles, brick and adoblock, all of which are in a good state of repair. 100% of the municipality's housing stock is connected to the water and electricity supply, 95% have sanitation and 60% a telephone.

History

Capulálpam's origins date back to pre-Hispanic times. According to the Primordial Title granted by the Viceroy of New Spain in May 1599 and recognising the Communal Property of Capulálpam, it covers an area of 7,843 ha.

Our historic territorial rights were recognised by the Mexican state in the agrarian reform, when we received the 1952 presidential resolution. Land ownership was ratified via partial titling in 1995, and this Partial Title now validates an area of 3,777 ha (Unitary Agrarian Court No. 1, 1995). Nonetheless, in accordance with the historic title, we local people recognise, claim and advocate for the area that was agreed in the 1599 Primordial Title.

Governance system

Oaxaca State is, by nature, Pluricultural, Multiethnic and Megadiverse. In view of this fact, 417 of the 570 municipalities it comprises are governed by customary law. This means that they organise an internal process by which to elect their municipal and communal authorities where the highest decision-making body is the General Assembly of Citizens or Community members. There is full exercise of democracy, autonomy and self-determination of peoples within these assemblies. It is important to note that political parties do not participate in this system.

This system of community governance has one objective and similar interests at all levels: to govern life and community development in each of its spheres, through the practice of values such as: responsibility, trust, mutual help, reciprocity, communication, respect, honesty, assembly-based decision-making, customary laws and their own criteria.

This community governance system is implemented through a system of customary roles, assigned by the Community General Assembly. This is a democratic exercise in which those elected provide an obligatory but unpaid public service. Those

holding the posts are required to empower the autonomy and self-determination of the peoples and, if they do not comply with this requirement, they can be removed from office.

Challenges

Since the time of the conquest, the most serious problem our community has faced has been that of mining activity, which began in 1775. Despite managing to get La Natividad mine suspended, there is an ongoing threat and this has given rise to a mining resistance movement since 2006. As a way of raising the profile of this latent threat, the Tierra Caliente Festival was first organised in 2011 as a meeting of peoples of the Río Grande, and it is held to this day under the slogan of "Yes to life, no to mining". Another very important event took place in 2012, known as the "Meso-American Forum against Mining". Over four months of work, more than 400 national and international guests participated in this forum to analyse social problems, with the central theme being mining in Mexico, Central and South America.

There is also now a proposal to create a fifth community company run exclusively by women, enabling them to draw on their natural skills.

It is of vital importance for the indigenous people of Capulálpam de Méndez to continue living under this system of governance which, since time immemorial, has given excellent results, offered sustainable development in all its aspects and which has clearly been conducive to our citizens' good quality of life. ❍

CANADA

Nunavut

Geographical location and demography

Nunavut (Our Land), is located in Canada's Arctic and encompasses almost 2 million square kilometres equaling 20% of Canada's land mass. There are 25 communities, of which all but one are located along the coast. Nunavut has the longest shoreline of any province or territory in Canada and there are no roads connecting the communities to each other. Its landscape is primarily tundra with mountainous areas throughout the northern part of Canada above the treeline. The average temperatures range greatly, but Nunavut is one of the coldest inhabited regions of the world. It experiences long periods of dark during the winter and corresponding long days full of sunlight in the spring and summer months.

Nunavut is one of three Inuit autonomies in Arctic and Sub-Arctic Canada.

Nunavut has a population of over 38,000 people, of which 85% are indigenous Inuit (the people). This results in a population density of 0.02 people per square kilometre. 90% of the Inuit population are able to speak their Inuktut language. The official languages of the region are Inuktitut, English and French.

Demographically, Nunavut has a young population, with an average age of 25, when compared to 40 in the rest of Canada. The Inuit practices a nomadic lifestyle, migrating for survival for thousands of years before moving into settlements in the mid 1900's.

The Inuit are primarily hunters and fishermen, and those who continue to live off the land do so by continuing these professions. Mineral wealth is potentially their most valuable economic asset and is also a source of income, but remains an untapped resource for the Inuit. The Nunavut area includes several rare minerals, including diamonds, but also rich deposits of ferrous ores. Uranium mining poses a great economic controversy for the Inuit, as it provides income and helps to address unemployment, but poses ecological as well as social issues.

The Inuit are under-represented in public offices, with the majority of managerial positions being filled by non-inuit.

Antecedents to the creation of Nunavut

The modern day Inuit are descendants from a wave of peoples that crossed the Bering Strait from Asia over 10,000 years ago. They inhabited much of the arctic, with the First Nations peoples remaining mostly to the south of them. Besides their fellow first peoples, European whalers and explorers were the first to have contact with the Inuit and later missionaries and fur traders pushed into the arctic. By the early 1900's, the colonizers were creating institutional and social systems including the church, laws and trade agreements that interfered with the well-established traditional societal systems of the Inuit. Over the course of 75 years, these outside forces re-organized the Inuit into settlements and further established their control and influence over the Inuit.

Some of these relocations were severely destructive. For instance, the forced relocation of the Inuit into habitats that were not to gain sovereignty. The colonizers performed brutal acts, such as dog slaughters, to make hunting more difficult and force greater dependence of the Inuit on outside resources, and took Inuit children from their parents, families, and communities to residential schools where they were educated and assimilated. Some of these children were severely abused and were discouraged from using their language, practicing their traditional ways, or recognizing their Inuit identity.

By the late 1960's, some of these young, English-language taught Inuit, empowered by news of the civil rights movement, and concerned about oil and gas development and mineral exploration without consultation of the Inuit people on their homeland, began to voice concerns over their rights. Wanting to take back control of their autonomy, language, culture and land, they started to communicate across their vast territories and organize themselves. This resulted in the establishment of a Canada-wide Inuit organization called the Inuit Tapiriiksat of Canada (ITC).

The Inuit did not have a legally recognized identity as a people with the associated rights under the Government of Canada, so they used the ITC to work towards and build that recognition. They were able to do this by proving their land tenure and use and documenting the occupation of their traditional lands. They had never relinquished any land rights, so by activating and using this legal advantage, they were able to start start the negotiation process with the Government of Canada.

For the next 30 years, these young leaders in the ITC worked as the go-betweens of their elders' clear vision and the state's demands of relinquishing certain land rights. They were able to see their dream to come to fruition. In 1993, the Nunavut Land Claim Agreement was signed and it came into force n 1999.

The final agreement established 1) a land claims agreement that provided the Inuit with land surface ownership to app. 18% of Nunavut. Of these 18% the Inuit has subsurface rights to app. 10% of the land. The Inuit have also achieved agreement on specified hunting and fishing rights covering the whole Nunavut region and a number of institutions now recognize and give the Inuit co-management rights. 2) a political agreement established a public government to which all inhabitants of Nunavut have equal rights.

Main challenges

Inuit communities are far apart from each other, having basic services can prove difficult in Canada's Arctic.

The Inuktut language is endangered, without a proper plan it is at great risk of being lost within a couple of generations. Some areas of the territory are already primarily English-speaking. Recovery efforts, designed to encourage and preserve Inuktut are insufficient and inclusion of the language in education is needed.

Social issues born from the trauma of colonial dominance, have affected the Inuit, creating major issues around poverty, abuse, substance use, unemployment and suicide.

Climate change is affecting the land and animals creating hardship for Inuit who still subsist off the land. As game populations and ecology shift, their base support to the communities economies are diminished.

Despite the Nunavut Government's clear identification of Inuit Qaujimajatuqangit (IQ, Inuit traditional knowledge) and the underlying Inuit Societal Values, there has not been enough integration of these ideals into the policies, structures, laws, and regulations. This conflict is felt in the everyday lives of the people of Nunavut.

In October 2018, these issues pushed the Inuit organization, Nunavut Tunngavik Incorporated (in charge of Inuit-owned land), to start research on the self-government of the Nunavut region as an alternative to the public government that has been in operation for almost 20 years.

Resource development remains an issue because, although the industry works closely with Inuit organizations it leaves the local population with no proper means to voice concerns.

This begs the question if a public government is the most advantageous form of government for the Inuit to see full implementation of their vision of self-government? ❍


INUIT NUNANGAT
ARCTIC OCEAN
INUVIALUIT
Beaufort Sea
Baffin Bay
Clyde River
Baffin Island
Iqaluit
Yukon
Northwest Territories
NUNAVUT
NUNATSIAVUT
Newfoundland & Labrador
NUNAVIK
Hudson Bay
CANADA
Quebec

GREENLAND

Inuit

Geography

Greenland is the world's largest island measuring almost 2,2 million square kilometers. Geographically the island is part of the North American continent and stretches from 59 to 83 degrees north situated between Iceland and Canada in the North Atlantic. As the island is covered by an ice cap, the population of Greenland lives in communities along the coast, from Qaanaaq and settlements in North West Greenland to Ittoqqortoormiit in mid-East Greenland.

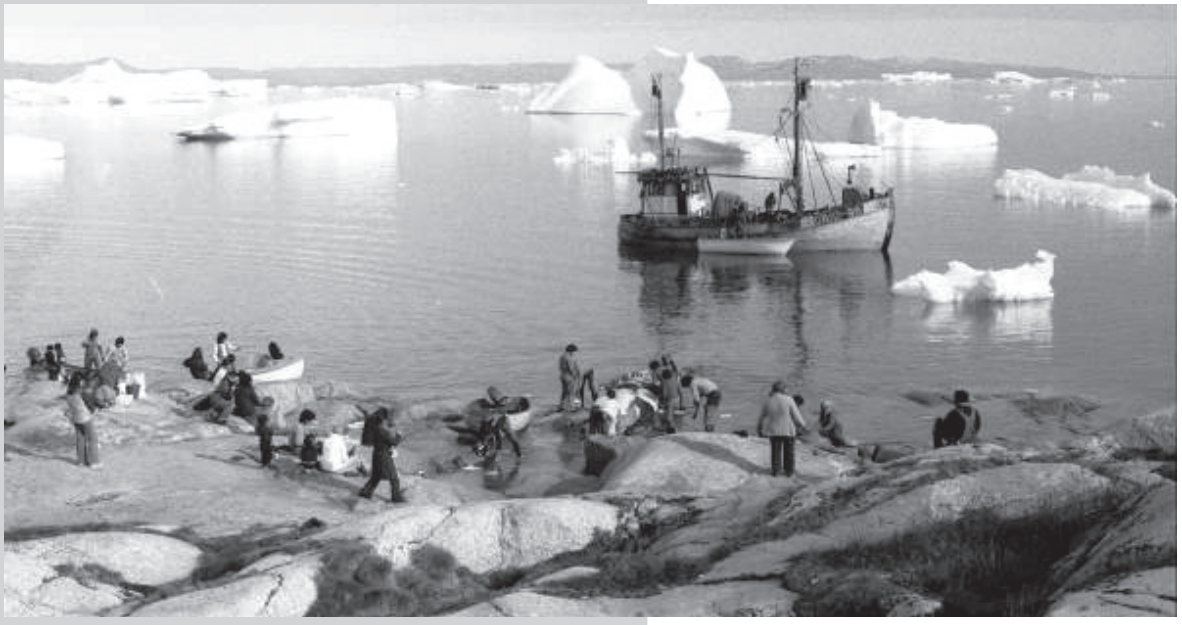
Greenland has an Arctic and Sub-arctic climate, much of the coast north of the Polar Circle is ice-covered during winter.

Demography

Greenland's population has been stagnating in number for the past years. As of January 1st 2018 the population was 55.877. It is estimated, that between 80 % and 90 % of the population is Inuit, an Arctic indigenous people living in Greenland, Canada, Alaska and Chukotka (Russia). Immigrants to Greenland include Nordic, European and North American citizens as well as Asian citizens. Apart from Danish citizens living in Greenland, citizens from the Philippines make up the largest minority (22,2 % of the foreign citizens living in Greenland).

Greenland has five municipalities, 18 towns and about 60 smaller settlements. Greenland undergoes, like many other countries in the World, urbanization. From 1977 the population in the smaller settlements have declined from more than 11.000 to approximately 7000. About 50 % of the total population live in the five largest towns. Nuuk, the capitol of Greenland, has 18.000 inhabitants and is considered an Arctic metropolis.

Many Greenlanders study and live abroad. Greenlanders can freely study in other Nordic countries and approximately 500 Greenlanders study in Denmark. The migration to Denmark in particular has been increasing in recent years. It is now estimated that about 20.000 Greenlanders live in Denmark although the only statistics available, which differentiates Danish citizens according to where they are born, says 16.370 persons born in Greenland lived in Denmark in 2017.



Economy

Greenland's economy has developed positively over the past many decades. Onshore and offshore fisheries are the main export, while tourism, mineral resource development and local and international business development adds to the economy.
Greenland has since 1980 received a block grant from the Danish State, although this block grant is with the self-government agreement from 2009 now a fixed amount, only regulated annually according to the Danish price and wage index. Prior to the self-government agreement, the block grant was re-negotiated every three years. The block grant has over the past decades made up less and less of the Greenland BNP, from approximately 30 % of the BNP in 2003 to 20,3 % of the BNP in 2016.

History

Different Inuit cultures have travelled and settled in Greenland the past 4.500 years. In the 800s up until the 1400s also Nordic settlers lived along the South and West coast of Greenland. The current population descents from the Thule culture, an Inuit culture that migrated from East Arctic approximately 1000 years ago.

Greenland's colonial history began with the arrival of Nordic missionaries in 1721. Greenland was a Danish colony up until 1950s, when an assimilation policy was introduced, making Greenland an integrated part of the Danish Realm. Greenland negotiated a Home Rule agreement, which was inaugurated in 1979 and marked the establishment of the Parliament and Government of Greenland, and a Self-Government agreement was inaugurated in 2009.

Greenland's own flag, Erfalasorput, was introduced in 1985.

The people of Greenland are with the Self-Government Agreement recognized as a people according to international law.

Greenland's welfare system

Greenland's welfare system is built on the Nordic model, with free education, health service and social welfare. The system is based on equal opportunity although the geography and demography of Greenland challenges the equal access to both education and health service. Women from small settlements and even small towns must travel to give birth, while children from many of these communities must move to larger towns to finish school from 8th grade.

Social challenges are large. Homelessness, suicide, alcohol and hash abuse, ludomania, violence and child abuse are overrepresented across Greenlandic communities. Reports show, that one in three girls and one in ten boys experience sexual abuse. Violence makes up the vast majority of crimes committed, and is mostly linked to alcohol abuse.

The Government of Greenland continuously develops programs to prevent social despair, and of Greenland's expenditures, social affairs receive the second highest funding, only topped by the health system.

Education and primary schooling are also under pressure, although numbers have developed positively over the last decades.

One of the challenges to education is language skills. Greenlandic (Inuit language) is the official language of Greenland, and although Danish and English are taught in primary school, many Greenlanders do not speak a foreign language, which limits the opportunity of higher education.

The Self-Government agreement

In 1999 Greenland established its own Self-Government commission, which presented its report in 2003. Soon after, the Government of Greenland proposed the establishment of a Greenlandic-Danish commission. This was approved by the Parliament of Greenland resulting in the Government of Greenland and the Government of Denmark formally establishing the commission in 2004.

The Self-Government agreement is formed as an act, which has been passed in both Denmark and Greenland's Parliaments. The preambular paragraph of the act recognizes the people of Greenland pursuant to international law, with the right of self-determination. The preambular paragraph also lays the foundation for the relationship between Greenland and Denmark, as to "foster equality and mutual respect in the partnership between Denmark and Greenland".

With the Self-Government act, Greenland can widen its self-determination and take over 32 areas of legislation. Areas that according to the Self-Government act must remain under Danish authority include security and defense issues, citizenship and the supreme court.

Foreign affairs

In principle, foreign affairs also remain under Danish authority with the Self-Government agreement, but the agreement includes a section on when and how Greenland can conduct its own foreign affairs. In practice, Greenland has its own foreign policy and negotiates its own international agreements on many areas, for example in regards to wildlife and fisheries management.

Mineral resources

Since the inauguration of the Self-Government agreement Greenland has taken over the authority of mineral resources. Although there have not yet been any largescale development projects (,) challenges of co-governing foreign affairs in regards to minerals have often emerged.

Particularly in regards to possible dual-use mineral resource development, where the possible military use aspects of for example rare earth elements has challenged the Governments of Greenland and Denmark. Whereas Greenland has the power to conduct foreign affairs on a vast variety of issues, this is not a possibility when it comes to defense and security issues. Thus, the development of mineral resource extraction is under constant scrutiny in regards of where and how to frame the questions of authority, when mineral resource export has foreign policy, security and defense implications.

Up until now, mostly medium scale projects are in production, while small scale local projects are flourishing.

The preparatory work of a Constitution

With the Self-Government act, Greenland can freely pursue independence and freely prepare its own constitution. In 2016 the Government of Greenland presented a report on the possibilities of preparing Greenland's own constitution and in the fall of 2016 the Parliament of Greenland decided to establish a Constitutional Commission. The work of the committee has been on hold for most of the time since then.

In the first mission statement, the Government of Greenland announced that the work was to be conducted in two tempi; a constitution for Greenland within the realm, and one for a future independent Greenland6.

It is expected, that a new mission statement and constitutional commission will be established in the near future. ❍

SÁPMI

The Sámi

"We, the Saami, are one people,
and state borders should not divide us" [1]

The Sámi people

Sápmi is the traditional settlement area for the Sámi people, located in the sub-arctic area; below and above the Arctic Circle. Sápmi covers the Kola Peninsula in Russia and the northern parts of Finland, Sweden and Norway. The number of Sámi is highly unsecure, because there is no counting system in either of these countries, therefore any number will be inaccurate estimates of less accuracy. The Sámis are living within this area, but due to centralization mechanisms, many Sámis have moved into larger urban areas in the north and many has also moved to southern parts of the states. Within the traditional settlement area, the Sámis are a minority, even if the highest concentration is in the northernmost parts of the states. In this part of Sápmi, we also find the only region where the Sámis are a majority; two municipalities in Norway at the Finnish border, and one municipality on the Finnish side, bordering to Norway. The uncertain number of Sámis were in the 1970's estimated between 50 000 and 80 000 persons, with the majority living at the Norwegian side of Sápmi.

1 Statement from the Pan Sami Conference 1971

The Sámi people in the national states

All state borders running through the Sámi homeland, have at least a state management effect in separating the Sámi people. In addition, the Iron Curtain, that separated western and eastern parts of Europa from 1945 to 1989, also did separate the Sámis and there was no cross-border contact between Russian Sámis and Sámis in the Nordic countries. This presentation will thus give a short review first of Sámis in Russia, and then move on to the other three countries.

The Sámi people in Russia

The Sámis in Russia are living in a cultural, economic and political situation that is very different from the Nordic countries of Sápmi. First, they constitute a very small part of the total Russian population. Secondly, Russia has a very different political system than the Nordic countries. In addition, free speech and human rights in general are under pressure in Russia, and there are no signs of improvement in terms of neither cultural rights, language rights, nor land rights. In Russia there are no Sami Parliament corresponding to the Nordic countries. The political fight among Sámis in Russia for an elected representative body as the Sami Parliaments, has weakened over the last years.

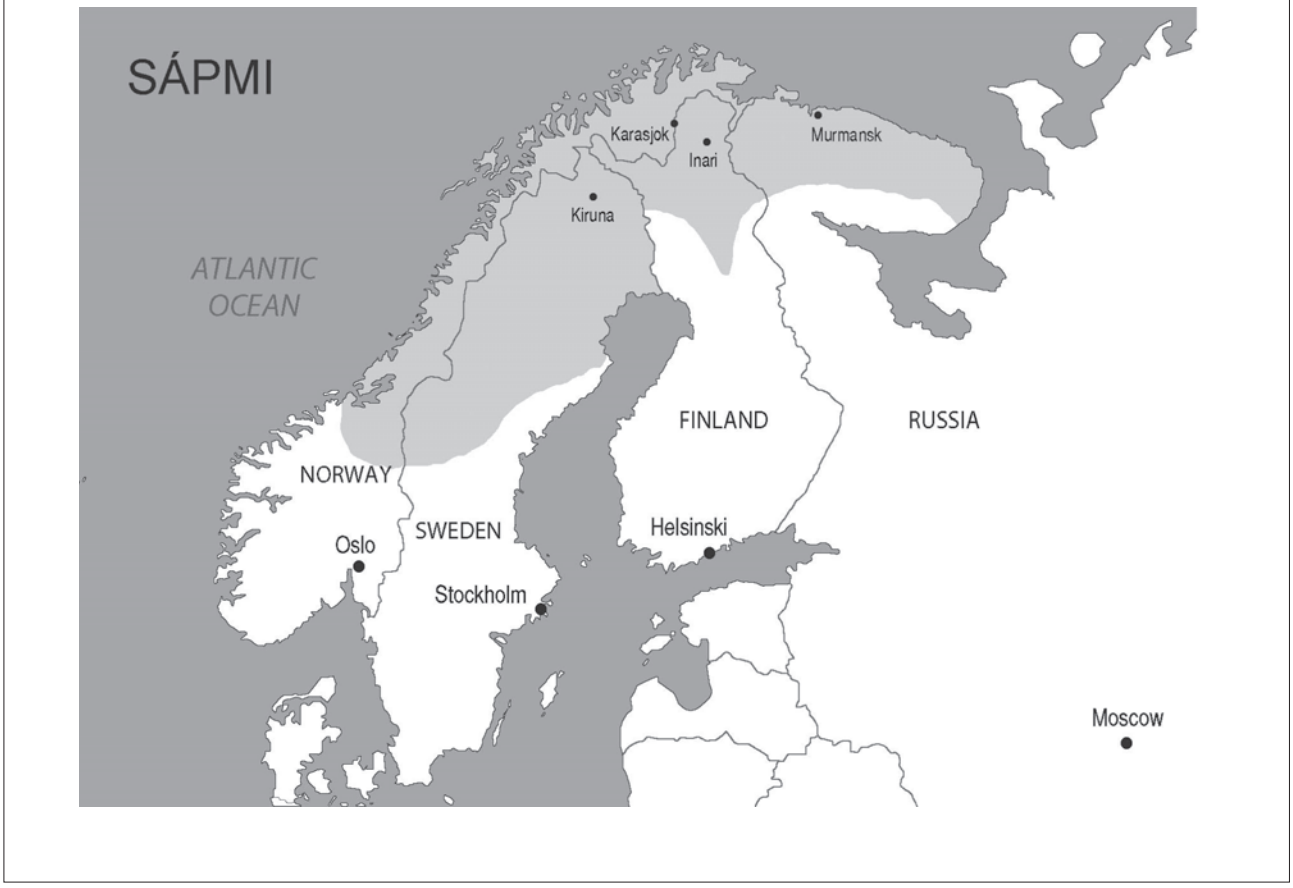
The Sámi people in the Nordic Countries

The Nordic countries are well-developed welfare states where uniformed rights are for everybody, and where minorities are included in legislation as holders of welfare rights; including free health care and free education. However, these countries have historically had an aim and intention of bringing all its inhabitants in line with a deeply rooted perception of the State as a mono cultural society. This led to a harsh cultural and linguistic assimilation policy performed from the early part of the 19th century and until well after the Second World War. The policy of assimilation peaked in the first part of the 20th century. Thus, the national legislation did not include minority rights or Sami land rights in any way. Still today, the legal framework and public institutions maintain an asymmetrical power relation and the subordinate position of the Sámis when it comes to cultural rights, language rights and land rights. The states have however put efforts into reducing this gap, with the establishment of Sámi Parliaments as one of the most significant developments that gave high hopes for the future. The states' actions have varied in intensity and engagement, the development has both had its successes and its setbacks, and there are differences between these countries.

Sámi Parliaments

Both in Finland, Norway and Sweden the national authorities have established popularly elected Sámi political bodies with a voice on behalf of the Sámi people in each country (Norway 1989, Sweden 1993, Finland 1996). There are established electoral rolls where only Sámis can register according to specific criteria, and thus only Sámis can be elected as representatives. The main task for these bodies is not territorial, but cultural self-determination. They are political bodies that have voters all over the country and the policies can be relevant for Sámis both all over the country and in minor parts. Generally, language and cultural issues can be of relevance for Sámis regardless of where they live, while land right issues will have relevance within the traditional settlement area in the North.

The Sámi Parliaments are established according to acts passed by the national parliaments. The status and autonomy of the Sámi Parliaments vary, and thus also if they can be labelled as self-determination bodies. The Finnish and Norwegian Sámi



Parliaments decide themselves on policies upon their policies and political actions, while in Sweden the Sámi Parliament by law is both an elected body for the Sámi People and at the same a management body for the Swedish government. Due to this duality, the status as a self-determination body of the Sámi Parliament in Sweden is highly questionable. In Finland, there have been intense disputes over who can enrol into the election register, and who has the authority to decide upon this question. To define who constitutes the people has been regarded as a fundamental part of self-determination. In Finland, the Administrative High Court has accepted persons that the Sámi Parliament has rejected. The Sami Parliament in Norway has been the most successful in terms of increasing its autonomy and influence, and has the largest funding of the three. All Sámi Parliaments are dependent on state funding.

Land rights and natural resources

The struggle for Sámi rights has always been closely linked to natural resources and land rights, both on land and at sea. The states regard land and resources as state owned, but the Sámis have challenged this perception since the states were established. Most known is the Alta controversy that refers to a series of massive protests in Norway in the late 1970s and early 1980s concerning the construction of a hydroelectric power plant in the Alta river in Northern Norway, causing damage to reindeer pastures. This resulted in a political paradigm shift that put the rights of the Sámis as an indigenous people onto the national political agenda. Conflicts over resources have however continued, with industry development projects constantly occupying new land. Artillery ranges, mines and windmills, aquaculture, cottages and other recreation installations are threatening the material foundation for Sámi culture. The traditional reindeer industry and fishing industry are especially vulnerable to these changes in land and sea use. Due to Sámi protests, some projects have been stopped, but the overall picture is the piece-by-piece policy constantly reducing traditional land. Norway ratified the ILO convention 169 concerning Indigenous and Tribal Peoples in Independent Countries in 1990, which was significant for the land right development in Norway in the first decade after 2000 with the passing of the Finnmark Act, which among other things initiated the identification process of land rights in Finnmark County in Norway. Norwegian Court decisions has since then narrowed the significance of the identification process findings. Sweden and Finland have not ratified ILO-convention 169.

The Sámis, their organizations and the Sámi Parliaments are trying to fight this development, both through the court system, through politics and through dialogue with national governments and by informing industries of on their ethical responsibility. There are however political, juridical and cultural differences between the states that influence the chosen strategies among the Sámis in each country. ❍

RUSSIA (YAKUTIA)

Geography

The Republic of Sakha (Yakutia) is the largest administrative and territorial subdivision in Russia and in the world and accordinglyIt is also known for its extreme and severe climate, with the lowest temperatures in the Northern Hemisphere as – 72 celcius.

The people

The population of Yakutia is app. 1 million of which 50 % are ethnic Yakut (Sakha), 40 % Russians and 4 % North Indigenous Peoples (Evenki, Yukaghir, Even, Dolgan and Chukchi). The largest town is Yakutsk with more 320,000 inhabitants. The official languages are both Russian and Sakha, also known as Yakut, which is spoken by approximately 40% of the population.

The Indigenous Peoples of the North, Siberia and the Far East of Russian Federation have a special status in Russian legislation. These peoples should meet the following criteria: their number must be less than 50 thousand people, live in the territories of the traditional settlement of their ancestors, preserve the traditional way of life, economic management and crafts and self-conscious ethnic communities.

In Russia, there are 40 peoples recognize as the Indigenous Peoples of the North, Siberia and the Far East.

Economy

Yakutia (or Sakha Republic) is called “the treasury” of Russia. According to one ancient local legend, God once was flying over Yakutia with a bag of ‘earth treasures’. Because of the extreme cold he had frozen his hands, and he spilled all the wealth in this country. Yakutia, indeed, is one of the richest regions in the world in terms of natural resources. Almost all diamonds, all antimony and the one fourth part of gold of Russia are extracted here. Plus 61% of uranium, 5% of iron ores, 5% of coal, 28% of tin, and 8% of mercury.

The Sakha people are engaged in politics, government, finance, economy, and cattle-breeding (horses and cows for milk and meat). The Northern indigenous peoples are hunters, fishermen, and reindeer herders.

History

The Russian colonization of Yakutia was initiated in 1632. Most of the indigenous territories were colonized in 17 century. On April 27, 1922, former Yakutsk Oblast was proclaimed the Yakut Autonomous Soviet Socialist Republic. In 1992, after the fall of the Soviet Union, Yakutia was recognized in Moscow as the Sakha (Yakutia) Republic under the jurisdiction of the Russian Federation.

Politics

The republic is a form of statehood of the Sakha people within Russia. The Republic of Sakha (Yakutia) has its own constitution and legislation; Russian and Yakut languages are the official languages.

The jurisdiction of the Russian Federation includes: adoption of the Russian Federation Constitution and federal laws (as well as control over their implementation), judicial system and prosecutor's office, criminal, civil, procedural legislation, the establishment of a federal policy; federal budget, taxes and fees, international policy, issues of war and peace, etc.

The autonomy process

The process of sovereignty (1990-s)

In 1990, the Republic of Sakha (Yakutia) adopted the Declaration of Sovereignty, in which it proclaimed the supremacy of its laws and took action to strengthen economic independence. Under the Federal Treaty of March 31, 1992, Yakutia received the exclusive right to dispose of land, resources, create a system of government agencies, form a budget, have its citizenship, and even form its international policy.

Centralization processes (since 2000-s)

With the coming to power of Putin in 2000, the centralization of Russia became his main political goal and Yakutia lost much of its independence. The central authorities in Moscow took over much of the administrative and political control, appointed professionals as head of the the regions and the regional legislative body. In 2005, the State Duma, where Putin's party "United Russia" received a constitutional majority, passed the law on elections to the State Duma exclusively on party lists, and then adopted amendments to federal legislation, allowing the party that won the elections to the regional parliament to propose to the President of Russia post head of the region.

As a result the Republic of Sakha (Yakutia) lost it's real autonomous position.

Challenges of this political system

- high degree of centralization of power in modern Russia;
- exclusion of civil society from participation in political governance;
- the reform of the electoral system and party building led to a decline in the role of the legislative branch of power and the unification of the political space at the federal and regional levels;
- in modern reality, political party "United Russia" assumes more and more powers for itself, having practically implemented its program "from the party for power to the party of power";
- the state power subordinates local governments;
- the power actively uses civil society for its own purposes - "the governed democracy";
- methods of total state control and regulation are replacing market mechanisms.

Economy

The economy of the North Indigenous Peoples is traditional nature management - reindeer herding, hunting, fishing. They preserve their traditional lifestyle.

But territories, where the North Indigenous Peoples live, are rich of natural resources: there are all diamonds, more than 80 % of water resources, 90% of forests and 90 % of oil, gas, gold, coal and other mineral resources are situated on indigenous lands.

Political changes

The Great October Socialist Revolution in 1917 declared the right of nations to self-determination. At beginning of 1930-s the North Indigenous Peoples of Russia received different forms of self-governance as national autonomous districts, national regions and national councils in settlements. But later national regions and national councils in settlements lost their status.

At the end of the 1980s intensive processes of self-organization began in the communities of indigenous peoples, and the all-Russian movement of indigenous peoples of the North was formed.

Public associations, training centers, associations and trade unions (reindeer herders, whale hunters and others) of indigenous peoples of the North, whose activities are supported by the state, have emerged. In many places of residence of northern peoples, obshinas (communities) were re-established as traditional forms of organization of joint activities. In some places "tribal lands", territories of traditional nature use were established.With the recent centralization policy local government in national districts and national villages lost independence and became only a formality.

Challenges

Now the Indigenous Peoples of the North, Siberia and the Far East of Russian Federation faces many challenges some of them threaten the existence of these peoples:

- the unsuitability of their traditional way of life to modern economic conditions;
- the crisis of the traditional types of economic activity – reindeer herding, hunting, fishing and etc.;
- globalization process threaten to indigenous languages and cultures;
- the climate change change environment and bring the weather's instability and make it unpredictable;
- intensive industrial development of the natural resources also significantly reduced the possibilities to survive traditional lifestyle and sharply worsened the ecological situation. ❍

NEPAL

Yakthung Laze ("Limbuwan")

Geographical Location

The Yakthung Laze, which now is known as the Limbuwan, is the traditional homeland of the Limbu and is divided into nine provinces in the current state structures of Nepal, namely: Taplejung, Panchthar, Ilam, Jhapa, Sunsari, Morang, Dhankuta, Terhathum, Sankhuwasabha. Limbuwan extends from the Arun (Arun River) in the west to the Singalila range that lies along the Sikkim and Darjeeling (India) borders. The northern territory of Limbuwan extends to the Chinese border. Limbu territories fall in Nepal and India with cross border relations. Limbu reside are dwelling in the Darjeeling District and Sikkim State of India.

People in Limbuwan

Historically, Limbuwan belonged to the Limbu and other Indigenous Peoples. However, due to the forced migration policy imposed by the State, popularly known as "Rasti Rasaune Basti Basaune", many groups migrated in to Limbuwan. Limbu were compelled to provide the migrants with land and shelter lands and shelters to the migrants. These days Limbuwan has diversity in terms of ethnicities, religion, cultures, geography (among other categories) and so on.

Limbu comprise 1.5% of (the) total population of the country and makes up 4.08 % out of the total population among Indigenous Peoples,[1] that comprise 38% of the total population of the country. It is important to note that this census does not project the actual population of Indigenous Peoples vis a vis Limbus. Indigenous Peoples claim they are more than 50% of the total population of the nation.

Yamphu, Lohorung, Athpariya, Yakha, Lapcha have their ancestral lands within Limbuwan and their population is numerically small. They are entitled to autonomy within autonomy. Hindu castes groups, and other ethnic population can also be found in Limbuwan.

Limbu has its own mother language, i.e. Limbu, and script, i.e. Srjanga. Following the suppressive policy imposed by the State, Limbu have been demanding for the recognition of Limbu as an official language. The Constitution of Nepal, 2015 allows the State to use its own mother tongue besides Nepali as an official language. However, this provision has yet to be applied seen in practice.

Autonomy with Royal Decree / Proclamation (Treaty of 1774)

A Royal Proclamation similar to Treaty[2] Tasalli Muluki was concluded in 1774 with Limbus accepting their continuity as a Nation State. A Royal Proclamation of the then Gurkha King Prithvi Narayan Shah was issued in his expedition in the course of his expedition of the territorial unification of current Nepal, that recognizes Limbuwan is the state (Muluki) of Limbus. Furthermore it recognized all pre-existing rights including political, social, cultural, justice administration and lands. Through this Treaty, it was sworn that Limbus have inherent right to exercise what was agreed to, with no restrictions up to the point that the lands existed. In accordance with historian Mahesh Chandra Regmi, the Treaty "(...) recognized the authority of the local

Limbu chchiefs and guaranteed security of their traditional rights and privileges. By the term of Royal Proclamation issued in 1774 immediately after conquest of Pallo Kirat, the Limbu chiefs were permitted to enjoy the land from generation to generation as long as remains in existence. The proclamation added: "In case we confiscate your lands, may our ancestral gods destroy our kingdom". These guarantees were reiterated during successive regimes, even though the specific privileges and obligations attached to Kipat Landownership underwent divergent interpretation and recurrent vicissitudes. The last time, the late King Mahendra issued reassurance of the treaty was in 1960.

Besides Limbus, similar rights were given to other Indigenous Peoples in Limbuwan through various Royal Decrees, the 1774 Treaty of Limbus explains these rights.

Challenges Of Autonomy

Challenge for Peace Process and Disregard of Autonomy

The ten-year conflict led by then Maoist Party ended with a Peace Agreement with the Government in 2006. The Maoist Movement did not gain any momentum until they decided to adopt an autonomy agenda including the right to self-determination for their political strategy that enticed a large number of Indigenous Peoples and united joined the Maoist insurgents expecting that they will get emancipation from systematic discrimination, historical injustices, structural violence, statelessness and powerless situation. The Maoist Party practiced Limbuwan Autonomy until the Peace Agreement was concluded. Through the Comprehensive Peace Agreement, it was agreed to ensure autonomy for Indigenous Peoples for the restructure of the State. The newly formed Government comprising the Maoist and Seven Parties, ratified the ILO Convention Nº 169 and UNDRIP. However, the agenda of Autonomy was cunningly sidelined in the peace process. Dissatisfaction of Indigenous Peoples is being smoldered-due to a regressive move to institutionalize subjugation, domination and racism by denying the right to exercise autonomy and self-governance that seems certain to eventually lead to conflict.

Law as an Instrument of lands dispossession

The Land Cadastral Survey was done in phases wise to give land titles to individuals, systematically ending that systematically ends the collective rights over lands that stated under the Treaty of 1774. Though, most descriptions the most description of Kipat land describe the Limbus of Pallo Kirat as the last remaining Kipat holders, Hedangna and all of the communities north of the Sankhuwa Sabha at southern edge of Tamku fall into Pallo Kirat. Kipat continued to operate in all of these communities until the arrival of the cadastral survey in 1993/94.[3] By introducing private Forest Nationalization Act (1957), the forests and resources protected under the domain of Treaty was nationalized and the subsequent Forest Act, 1992 put it exclusively under the controlled of the Government of Nepal (GoN)[4] and handed it over to the Forest User's Groups.[5] With the introduction of the Pasture Land Nationalization Act (1974) ended Pasture lands under the collective and customary ownership of Limbus. In contrast, still there are pastures lands, and forest existed in isolated geographical areas of Limbuwan. Limbus have lost their lands that have serious implications for in their economic activities, wellbeing and prosperity. It is important to note that the act of abolition of Kipat and breach of the Treaty was systematic subjugation of Limbus that qualified as a clear-cut colonization.

Breach of Treaty and De-recognition of Autonomy

The rights and privileges guaranteed under the Treaty were tempered nibbled by issuing various decrees and proclamations. The breach of the Treaty is still a prime concern of the Limbuwan Polity. Several Limbuwan Political Parties are representing the voice of Limbus and the people of Limbuwan to ensure Limbuwan Autonomy in the ongoing federal structure by reforming the recently promulgated Constitution 2015 that violates the Treaty of 1774. In due course of the Constitution making process, there was an agreement concluded between Federal Limbuwan Party and GoN to ensure Limbuwan Autonomy with historical identity and the right of self-determination in the state re-structuring process.[6]

The government commitment towards international human rights instruments, democracy and rule of law is very weak.

As all the available processes for regaining autonomy that was legally accepted by King Pithvi Narayan Shaha and robbed off by King Mahendra by abolishing Birta in the sixties, the case of Yakthung Laze ("Limbuan") autonomy has to be taken to the Interactional Court of Justice. ❍

1 Source Social Inclusion Atlas of Nepal: Ethnic and Caste Groups, Volume1, 2014 Central Department of Sociology/Anthropology, Tribhuvan University.
2 Treaty of Salt and Water.
3 Ann Armbrecht Forbes, The Discourse and Practice of Kipat, Kailash, himalya.socanth.cam.ac.uk/collections/journals/kailash/pdf-18-0102-03.pdf
4 Section 17 of the Forest Act, 1992.
5 Section 25 of the Forest Act, 1992.
6 This Agreement was concluded between Federal State Council (a Political Party of Limbuwan) and Government led by Seven Political Party in April 8, 2008.


CHINA
Kathmandu
INDIA
Limbu people


WELCOME
हार्दिक स्वागतम

INDIA

Naga

Geography

The ancestral homeland of the Nagas lies in the northwest corner of the Southeast-Asian land-mass. It is bounded on the East by Burma, the North by China, and on the West and South by India. The Naga population of 3.5 million live in several thousand villages covering nearly 120,000 sq. km. On the Indian side of the border, the Naga population is spread in the four states of Manipur, Nagaland, Assam and Arunachal Pradesh by drawing artificial boundaries over their contiguous ancestral homeland by the Indian state.

The people

The Naga as a group belong to the Mongoloid population and the linguistic affiliation is the Tibeto-Burman/Sino-Tibetan language group. Each of their tribes speak in their own languages and several dialects are spoken within each of the tribes e.g. each Tangkhul villages speaks in different dialects. Thus, the cultural landscape of the Nagas represents an enormous diversity. Amidst this diversity, they share common culture in appearance and in essence, allowing them to identify themselves politically. The Nagas were a self-conscious political community as opposed to their neighbouring kingdoms of the plains (the Meiteis and the Ahoms). The Nagas were distinct from their centralized neighbours in their social and democratic village institutions. Whether it was their neighbouring kingdoms, or the British or the Indian State, they had no perception of the diversity, social and political institutions of Naga people inhabiting the hill region (Frank M 2009).

History

The British raids and colonization began as early as 1825 when its troops, the Manipur Levy (The troopers were Manipuri/Meitei conscripts led by Gambir Sing and his cousin Nur Sing and Lieutinant Pemberton, one of the two English officers attached to this Levy), marched from Cachar to Manipur Kingdom.1 Between 1826 and 1833, the Manipur Levy raided many Naga villages taking hundreds of Nagas as war captives and looted the villages of its domestic animals and food grain.2 In 1866, the British government established the district of Naga Hills and set up its headquarters in Samaguting (present Chumukedima) marking the beginning of colonization of the Naga territory. By 1880, the British took control of substantial number of Naga villages and attached them formally to Assam and Manipur as their colony. However, British-Nagaland remained under the Foreign Department of Colonial India through the British rule, and neither the Provincial Assembly of Assam nor Darbar3 of the Princely State of Manipur had authority over Nagaland.

In 1946, the first all-Naga political organization, the Naga National Council (NNC), was set up.4 The NNC declared their 'independence' on 14 August 1947 and communicated it to the Britain, the Interim Government of India, the Commonwealth Relations and the United Nations Office. After this happened, many Nagas were arrested without trial. The NNC asked India to ascertain and respect the political status of the Nagas based on their free will. So, on 16 May 1951, under the aegis of the NNC, a plebiscite was conducted and 99.9% voted for Naga independence. India refused to respect the outcome of the plebiscite. Fol-

lowing this, intense armed-conflict and militarization continued until the signing of the cease-fire agreement in 1997.

Politics

From 1964 to 1966, there was a cease-fire between the NNC and India, but it did not yield any positive result. In 1972, the international boundary between India and Burma was officially drawn dividing the Naga people between two nations. And the affairs of the Nagaland state were transferred from the Ministry of External Affairs to the Ministry of Home Affairs to project the Naga struggle for political rights as a 'law and order problem.'

Formation of the State of Nagaland

The process

In an effort to break the Naga's resistance to occupational forces and assertion for independence, the Naga People's Convention (NPC) was created and controlled by the Intelligence Bureau of India. The NPC came up with what came to be known as the Sixteen Points Agreement. The agreement was signed in 1960 for the formation of statehood for the Nagas comprising the Naga Hills and the Tuensang Frontier division. Article 371A was inserted to the Constitution of India by the Constitution (thirteenth Amendment) Act of 1962 and came into effect on 1st December 1963.

The provisions

Article 371A is a special provision designed to address subjects unique to the State of Nagaland with a Constitutional guarantee that no Act of Parliament can be made applicable in respect of customary law, management of and its resources, traditional judicial system and culture unless the State Assembly decides in its favour. Ownership over sub-surface resources is also vested with the community. Thereby, the Article has an overarching effect on Nagaland's governance, legislations, socio-economic policies, etc.

However, the creation of the state of Nagaland led to the division of Naga territories into the Indian states of Manipur, Assam, Arunachal Pradesh and Nagaland. This meant that majority of the Nagas remained outside of the newly created state of Nagaland (the Indian side of the border). The state covers an area of just 16.8 thousand square km and is divided into 11 districts.

Furthermore, although, Article 371A is proof of the fact that the Constitution has recognized a certain historical reality, the rights specified in Article 371A are discarded as soon as the national interest becomes the point of discussion. This suggests lack of proper comprehension of the importance of the Article and is treated as though it is against national interest. For example, the Armed Forces (Special Powers Act), 1958 has suspended the power of the State Government to administer civil and criminal justice which is a state subject under Article 371A.

Challenges

Autonomy in the Nagaland state has come close to 40 years since its creation, but the struggle of the Nagas for self-determination has continued for various reasons.

The Sixteen Point Agreement is considered as a betrayal to the political aspiration of the Nagas and the NPC, who negotiated the agreement, also weren't a representative body of the Naga people. Furthermore, it also left out the majority of the Naga population and territories on the Indian side of the border, and entirely of the Nagas in Myanmar.

For these reasons, the armed resistance movement of the Naga people continued, and the Indian state responded with violent repression and heavy militarization of the Naga territories. Thousands of lives were lost as human rights violations became endemic. In July 1997, the decades old (1953-1997) armed conflict was halted when the Government of India and the National Socialist Council of Nagaland (Isak-Muivah faction) (NSCN-IM) entered into a ceasefire agreement and decided to negotiate.

Peace talks have been going on without many tangible results, but they have pushed themselves to sign a Framework Agreement on 3 August 2015. The scope of the Framework and the opportunities it may offer are yet to be examined and evaluated publicly since the content of the Framework has not been released to the public till to date.

Within a short time, it became clear that many of the independent expressions of the social and cultural values of the Nagas have been mutilated by decades of militarization and the imposition of state structures. During the war, the Nagas would not acknowledge this simple fact; therefore, the CSOs could not play their roles consistently during this peace time. The overall situation has deteriorated quickly leaving them little social space for initiating the much-needed process of public consultation towards laying the grounds of reconciliation and the rebuilding of their broken land. ❍

1 Roy, Jyotimoy. The History of Manipur, Royal Art Press Calcutta, 1973; (First Published in 1958), pp.77 – 78.
2 Manipur State – Diary of Manipur, pp.160-61.
3 Court of the state with the kind as the judge.
4 Verrier Elwin defined NNC as 'a natural extension of the traditional system of the Naga village/tribe to the ultimate scale-the whole of the Nagas'. Elwin, Virrier (Ed.). The Nagas in the Nineteenth Century, London, 1969, pp.71-72.

PHILIPPINES

Experiences with self-government

Demographic Profile

The national population based on the latest census done in 2015 pegs the national population at 100,981,437. However, the number of indigenous peoples have not been ascertained and verified even until today, despite the clear definition of indigenous peoples in the Indigenous Peoples Rights Act. The National Commission on Indigenous Peoples (NCIP) estimated the indigenous population to be between 12 and 15 million in 1998. This was however based on unverified and unofficial data. In 1995, national census suggested that indigenous peoples might even exceed 20% of the national population. If this is the case, indigenous peoples in the country number around 20 million as of 2015.

The country has 185 ethno linguistic groups, 2 are extinct, and 175 are indigenous. There are 32 dying languages that belong to the Negrito ethno-linguistic group, 16 of whom are located along the Sierra Madre Mountain Ranges.

Indigenous populations are spread in seven ethno-graphic areas – (1) Region 1 and the Cordillera Administrative Region; (2) Region II; (3) The rest of Luzon (Regions III, part of Region IV, Region V); (4) Island Groups (part of Region IV, Region VI, Region VII and Region VIII; (5) Northern and Western Mindanao (Region IX – Zamboanga Peninsula and Region X – Northern Mindanao); (6) Southern and Eastern Mindanao (Region XI – Davao Region and Region XIII – CARAGA); and (7) Central Mindanao (Region XII – SOCCSKSARGEN). Indigenous peoples are thus located in 14 of the 17 regions of the Philippines.

Indigenous Peoples and their struggle for autonomy

Prior to the Spanish colonization of the country, the people in the whole archipelago were independent communities, villages of tribes or clans. Their traditional governance, culture, politics and socio-political lives revolved around their attachment to their land and resources. Their customary concepts of land use and ownership were one of collectivism, which was fundamental to their customary laws and governance. "At varying levels, these communities had developed social and political structures to regulate their relations within their communities as well as with outsiders. Intercommunity relations ranged from cooperation to conflict".

The colonization by the Spain brought about the marginalization and the creation of indigenous peoples, and the dichotomy between minorities and the majority, between the assimilated and the unassimilated. The unassimilated people later on comprised what is now referred to as the indigenous peoples of the Philippines. These were the people who resisted Spanish colonization either by retreating to the hinterlands or putting up armed resistance. The Spaniards never reached territories of some of the indigenous peoples during their time.

It was during the Spanish rule that the Regalian Doctrine was introduced, technically putting all lands in the country, under the ownership of the Spanish crown. This legal concept "contradicted, even denied, customary concepts of land use and ownership". When the Americans took over after 300 years of Spanish colonization, they maintained and reinforced this legal concept. They passed national laws that required the registration of lands[1] while those that remain unregistered were declared as belonging to the State. These public lands were legally available to Americans for mining while Mindanao and other lands considered by the State as unoccupied, unreserved or unappropriated were made available to homesteaders and corporations even if indigenous peoples were present in these lands and consider these as their ancestral domains.

These legal concepts were carried adopted by postcolonial governments as could be gleaned from the provisions of the 1935 Constitution, the 1972 Constitution as well as the 1987 Constitution. More laws were passed within this legal framework, which further denied and displaced indigenous peoples of their lands and resources. All through the colonial and post-colonial administrations, and despite vigorous programs to assimilate indigenous peoples into the mainstream society, the unassimilated indigenous peoples continued to practice their customary governance and traditional culture. Indigenous culture however continue to decline rapidly because of laws, policies and programs that tend to strengthen the Regalian Doctrine and integrate indigenous peoples into the majority society. Still, indigenous peoples continue to clamor for the respect of their self-determination, and therefore, their autonomy from the mainstream administration.

Negotiating autonomy

Following indigenous peoples persistent struggle for self-determination, the post-martial law 1987 Constitution, even as it upheld the Regalian Doctrine, recognized the rights of indigenous cultural communities "within the framework of national unity and development" and provided for the creation of autonomous regions in the Cordillera and Muslim Mindanao. Thirty two years later, only the autonomous region of Muslim Mindanao was created through a very recent legislative enactment – the Bangsamoro Organic Law or Republic Act No. 11054 (2018), which provides for an autonomous government of Muslims who are primarily non-indigenous. There are indigenous peoples and ancestral domains in the area that is covered by the law, but the rights of the Indigenous Peoples in that region is a mere footnote to the law. In the Cordillera, where majority of the population are indigenous, two attempts to establish the autonomous region have been rejected by the people. Still, legislators from the region continue to file bills to create the autonomous region of the Cordillera.

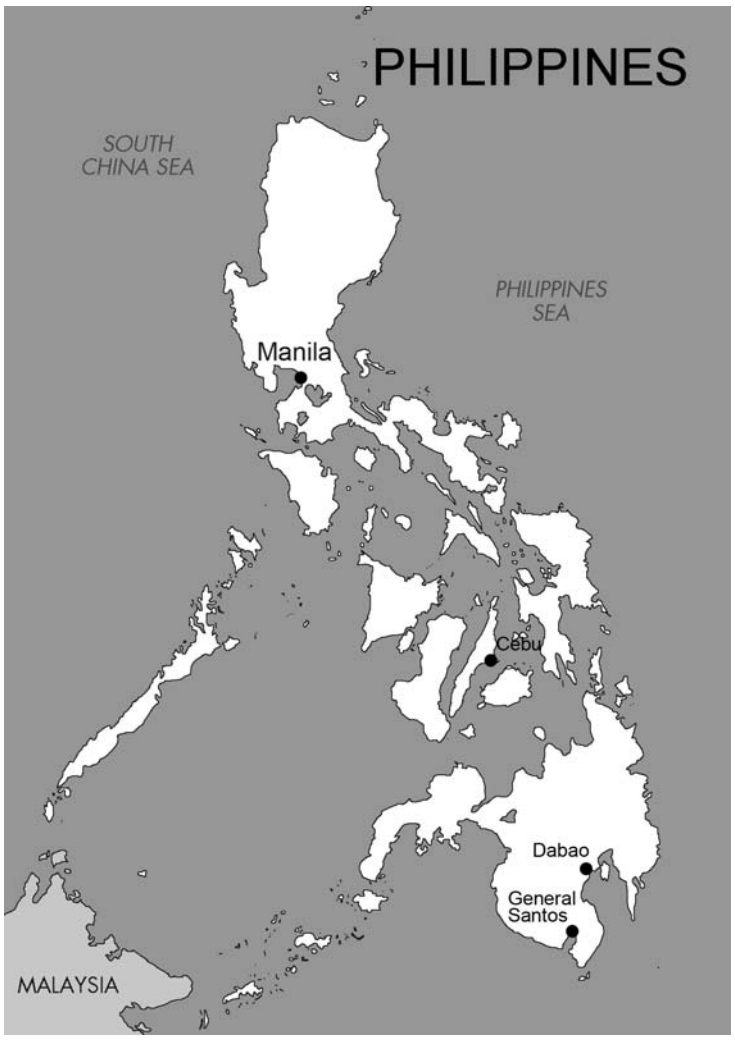
Also following the recognition of indigenous peoples rights in the 1987 Constitution, the Indigenous Peoples Rights Act (IPRA) was passed into law in 1997. The IPRA is a comprehensive legislation that essentially respects the fundamental rights of indigenous peoples in the Philippines in relation to lands, territories and resources, self-determination, cultural integrity, social justice and human rights, among others. The IPRA recognizes the right of ownership, management and control of indigenous peoples to their ancestral lands and domains. It upholds their right to self-determination, and the right to self-governance and empowerment, which covers their right to pursue their economic, social and cultural development; to use their customary laws and justice systems including dispute resolution mechanisms. The IPRA is "about recognizing, promoting and supporting the ways of life of the indigenous groups who have sustained some degree of de facto autonomy as distinct peoples in spite of centuries of marginalization, exploitation and oppression". To implement the IPRA, the National Commission on Indigenous Peoples (NCIP) was established.

Despite Constitutional recognition and the passage of the IPRA, indigenous peoples in the Philippines continue to fight for genuine autonomy and the full exercise of their right to self-determination.

Main challenges to the struggle for indigenous peoples autonomy

In a general scale, the de facto autonomy of indigenous peoples in the country continue to weaken as it faces the following challenges:

1. "The State's continuing interest in dictating their ideological, political and economic status and role over indigenous peoples".



2. The recognition of the right to self-determination of indigenous peoples under the IPRA is negated by the Constitutional provision that underscores that the rights of indigenous cultural communities are subject to national policy and development.
3. Lack of awareness of indigenous peoples at the grassroots level, of their rights recognized under the IPRA, and therefore their general lack of capacity to negotiate on the bases of their rights.

More specifically for the regional autonomy in the Cordillera:

4. The bills introduced in Congress to create the Cordillera autonomy do not address the fundamental and historical problems faced by indigenous peoples that resulted to their discrimination, marginalization and increased vulnerability. The bills merely attempted to create another bureaucratic layer within the framework of the mainstream government, and does not at all elaborate how indigenous peoples right to self-determination in the region will be fully exercised. ❍

KENYA

The Laikipia Maasai

History

The Laikipia Maasai is one of the territorial sections of the wider Maasai Nation that straddles Kenya and Tanzania. They live in Laikipia North Sub County within Laikipia County, in north central Kenya. It is believed by anthropologists that all the Maa migrated to East Africa from North Africa. The Maasai are organized in territorial sections and within these sections there are different clans. The larger Maasai sections are mainly found in southern Kenya and northern Tanzania. However, there are pockets in other parts of both countries. Maasai speak the 'Maa' language and there are several dialects as per different sections.

During the 19th century the Laikipia area was dominated by the Maa – speaking nomadic pastoralists. Their level of social organizations through their traditional institutions of governance was sophisticated enough that it allowed them to deploy strong forces to raid other ethnic communities for livestock and deter them from accessing expansive territories. They also deterred the British colonial authorities. Between 1870- 75 the Maasai started to fight with each other but the Laikipia Maasai were able to re-organize to form the current Laikipia Maasai which remains a minority to date in the current Laikipia County. In 1911, the Mukogodo reserve was created and forms the current Laikipia north sub county where the Laikipia Maasai reside to date.

Geography

The Laikipia Maasai is a minority in the County, about 40,000 or 10% of the total population. Laikipia is a cosmopolitan region. The majority are the mainstream agricultural communities such as the Kikuyu and Meru. The Maasai are predominantly pastoralists who depend on traditional livestock production for their livelihoods.

The Laikipia County, is located on the Equator, situated on a high-plateau in the Rift Valley Province in central Kenya, ranging between 1,500 and 2,500 meters above sea level.

The spatial distribution, geographical spread and amount of rainfall are strongly influenced by Mt. Kenya and the Aberdares landscapesThe rains primarily fall in two seasons: the main wet season occurs during April-May, often accounting for 80% of total annual rainfall, while a second wet season occurs later in the year in October-November.

Climate change and indigenous traditional knowledge

The climate change has disrupted the livelihoods and social organization of the Laikipia Maasai. The communities' social cultural activities such as rituals and ceremonies are dependent on the seasons. Their spiritual and cultural festivals are held during specific seasons and times of the year, especially during the rainy seasons, since most of the ceremonies require that heads of the families and sons are at home in order for them to take place. During long dry spells part of the family is moving around with livestock. After that period, livestock and families reconstitute and ceremonies such as child naming, circumcision; age set naming and transitions into elders, and marriages can take place.

Economy

Today, the Laikipia Maasai are involved in all kinds of trades. Some rear domestic animals such as cattle, sheep, goats, donkeys and recently camels as they are more resilient to recurrent droughts. Some of the community living in favourable

ecological zones has also engaged to small scale agriculture. The community has also engaged into eco tourism. Some have entered into lease agreements with investors who have set up eco lodges on their lands and they receive some monetary and non monetary benefits as defined in these agreements. This implies that it may be difficult to construct a single definition of pastoralism that encompasses those who earn part of their living from livestock and livestock products, and those for whom livestock does not provide the main source of income, but who remain connected to a pastoralist lifestyle and socio-cultural identity. This lifestyle combines dependence on livestock with social structures and traditional practices, specific beliefs and institutions, sets of laws and customs, and deep attachment to specific lands, although with complex arrangements for using those lands among themselves.

Some of the communities are completely sedentary, while others are migratory pastoralists, settling in their villages for part of the year and moving with their herds as the seasons and availability of water and grazing for their livestock demands.

Politics

The Laikipia maasai have always been represented by other communities in Parliament due to the fact that they are a minority. The new 2010 Kenyan constitution allowed for electoral boundary review and in the process the Laikipia north sub county was created as one of the three constituencies in Laikipa county.

This paved the way for self representation since independence. However, this is not automatic as there are several ethnic communities in the same constituency and this is due to the population threshold required to establish a constituency. This depends on political party affiliation which is heavily controlled by the party leadership and also how one can be able to build alliances with other communities within the constituency.

Education

The level of formal literacy is considerable low compared to the national average. Most schools are boarding schools either managed by government or by the missionaries. The boarding schools are necessary because of the mobile nature of the community as they move strategically across diverse landsscapes to exploit the natural resources during different seasons. So boarding schools are important in retaining children in schools. The distances between homestead and schools is a challenge to school going children leading to the parents opting for boarding schools. The challenge has and continues to be that boarding schools keep children away from their parents too long, leading to negative effects on culture and language.

Land ownership and the process towards autonomy

Before colonialism and the current nation state the land among the the Maasai was communally owned based on how the different territoral sections were organised. However, during the colonisation the Maasai community was dispossessed of their lands through the 1904 and 1911 treaties. These issue have never been resolved and it remains one of the most glaring historical land injustices as well as land legacy issues to date in Kenya. Immediately after independence, the land that was taken from the Maasai by the British colonial regime was taken and distributed to other communities or grabbed.

In the 1970s pastoralist land-use was organised by a system called group-ranching. A group ranch meant registration of individual pastoral producers as legal owners of a clearly demarcated piece of land. Once incorporated, a group ranch can acquire loans, hold property etc. The group are governed through group ranch committees and annual general assembly.

Laikipia north has 13 group ranches

In 2010 Kenyans finally approved a new Constitution which provides a more modern and equitable approach to the rights of marginalized communities, adopts various key principles in regard to their regard into domestic law, and dramatically overhauls the land tenure system. For pastoral and hunter-gather communities in Kenya are provisions that:

- community land is defined, recognised, and elevated as an equally protected regime of tenure along with public and private lands legal instruction that communities identify their distinct and shared lands and secure formal title for those properties; procedures are provided in the Community Land Act, 2016.

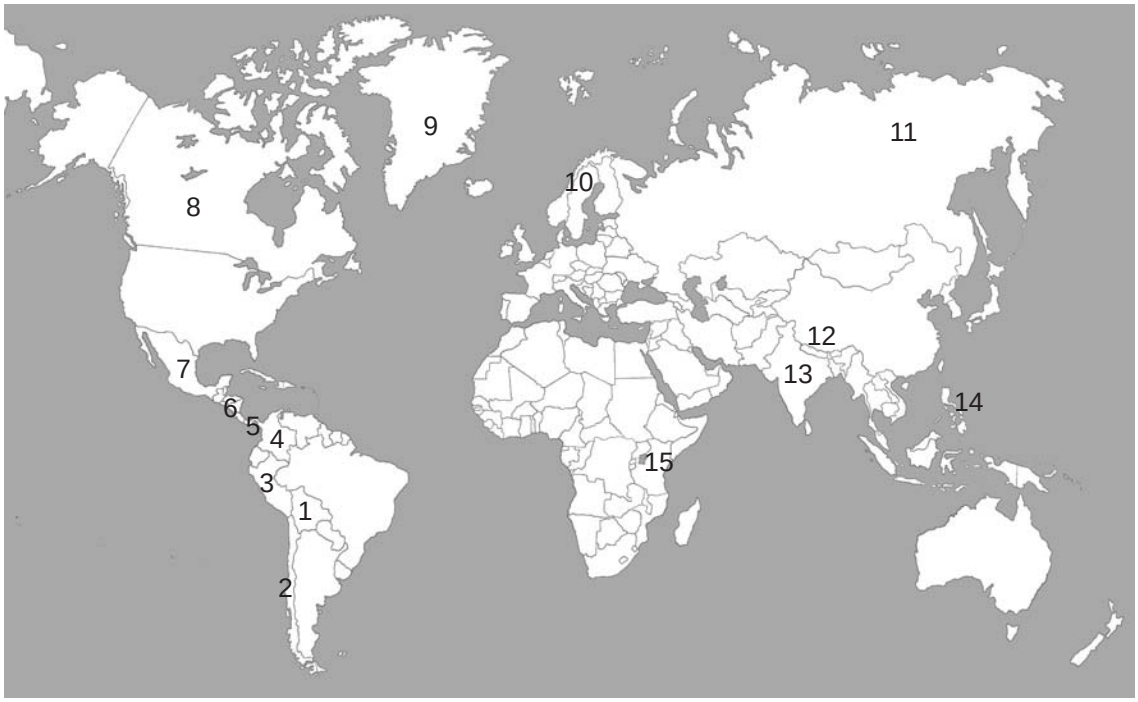
  A National Land Commission has been established to resolve conflicting land claims and to resolve land injustice but implementation has been slow.

Challenges

Land is no doubt the most important asset in the lives of Kenyans. It is a factor of production which is core to the economic activities of this country. During the colonial era, the lands that were taken away from the Laikipia Maasai were not given back to the original owners because they were not the beneficiaries of the independence. Only politically stronger tribal groups benefitted, and the rights of colonial landholders to sustain lands they had acquired were re-entrenched without sufficient consultation with the dispossessed. Communities who traditionally and in the present hold land communally continued to be discriminated against. Instead of restitution or remedy, more land injustices steadily mounted after. Calls for fairer approaches to rural tenure mounted. In late 1988 and the early 1990s, the fight for land law reform was rejuvenated, but for more than a decade, solutions seemed to be elusive.

In order for pastoral communities such as the Laikipia Maasai to make effective submissions, they require technical and organisational assistance to identify their respective and shared lands and to build institutions within communities to ensure inclusive and effective decision-making on all matters related to land tenure, land use, and protection of precious resources.

The process of land grabs for clean energy, conservation, tourism , horticulture, military activities and other mega infrastrctures by governments are on the rise and indigenous communities such as the Laikipia Maasai do not have the capacity to engage or negotiate. There are still laws such as compulsroy acquaition that allows government to override their community interests. ❍



1	BOLIVIA	6	NICARAGUA	11	RUSSIA (YAKUTIA)
2	CHILE	7	MEXICO	12	NEPAL
3	PERU	8	CANADA	13	INDIA
4	COLOMBIA	9	GREENLAND	14	PHILIPPINES
5	PANAMA	10	SÁPMI	15	KENYA

The International Work Group for Indigenous Affairs, IWGIA, is an international organization that promotes the recognition and the protection of the rights of the world's indigenous peoples through the production of documentation, support for the strengthening of indigenous organizations and advocacy in international human rights fora. The organization was founded in 1968 and its International Secretariat is located in the city of Copenhagen, Denmark.

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