

LUKANKA(*)

by Rudolph C. Rýser

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"Development," "self-directed development," "community trauma," and "sustainability" are all a part of the lexicon of development literature. The Fourth World tackles the issue from the inside out.

Since the founding of the United Nations there have been five "development decades." Each of these periods served as a global goal-setting agenda intended to transform LDCs (Less Developed Countries) into progressively improved economies, governing systems and social systems. Despite prodigious efforts, each of these planned periods of development has failed. Planners, administrators, political leaders and workers have through various international and domestic development agencies undertaken to apply their skills and best thinking to raise the standard of living of peoples who have long suffered from too little food, too little comfort, too little quality of life and health. Yet expenditures of such great effort and wealth donated by various states governments have failed to achieve the goals set for each decade. Indeed, the level of world poverty is, in many respects, greater now than it was fifty years ago.

While the United Nations Development Decades have clearly failed (2 billion and more impoverished worldwide) is it the case that those who seek the improvement of life for so many millions of people are inept, lacking in skill or both? Why have the efforts of so many been unable to transform the world?

Perhaps the problem is less in the people and even the institutions than in the conceptual framework. Maybe "development" is the wrong focus. Maybe the idea that human beings can and should dominate the natural environment, progressively change the life condition of people through "programs and aid" and promote modernity is erroneous.

The authors of essays in this issue of the Fourth World Journal offer alternative ways of thinking about the wealth and life quality of peoples in the world. While "development" is assumed by most who use the term to be an "ultimate good" maybe there is a difference between "introduced development," or "imposed development" and "self-directed development." Maybe the problem with all the failures is that someone on the outside presumes to have all the answers for inside-nation needs. Maybe "sustained development" and externally introduced development produce serious problems and failures because human

culture doesn't respond well to imposed solutions, but works much better when human societies adapt and absorb outside ideas, technologies and ways of life according to the dictates of inside-cultural pace instead of outside ideas for success.

Dr. Leslie Korn directly approaches this point of view as one who lived most of her life in the Fourth World in Mexico with clarity and thoroughness. She examines in **"Community Trauma and Development"** the traumatic affects of externally imposed development on Fourth World societies and discusses the implications of community trauma that she sees resulting from development in Fourth World nations throughout the world. Dr. Korn's insights point the way to a fundamentally different and necessary analysis of the meaning and affects of development in the Fourth world.

Dennis Easter, in **"Post Colonial Ghost Dance"** approaches the problems of development from the perspective of a Fourth World philosophy looking at indigenous medicine, biopiracy and biotechnology. Springing from the Oglalla LaKota Ghost Dance Mr. Easter considers the sacred knowledge system inherent in the dance as a way of evaluating and commenting on introduced ideas.

Damien Short, addresses the nexus at which meet the needs and aspiration of peoples living in mature Fourth World cultures and the imposing aethos of externally imposed changes in his essay **"Reconciliation, Assimilation and the Indigenous Peoples of Australia."** How to mediate the competing demands of Fourth World peoples and those of the international state is considered within the framework of reconciliation.

Dr. Andry Onsman, opens his insightful discussion on **"Law and Identity"** with an examination of the current indigenous identity literature and policy discussions internationally and domestically. He brings his discussion home with a personal yet widely significant discussion of the indigenous identity of the Friesian people who have for 50,000 years resided in northwestern Europe. Perhaps one of the more important aspects of development discussions has to do with "who defines who are the original peoples, and who are the immigrants?" Is it the case that the "immigrants" are most likely to impose "development" on the original peoples than the other way around?

Ali, M. Emran and **Toshiyuki Tsuchiya** peel the onion to its very middle as they discuss the land rights controversy surrounding the fourteen and more Fourth World Nations in the Chittagong Hill Tracts Region of Bangladesh. The territory of the Chakma, Tripura, Pankho, Khumi and ten other nations became the focus of a World Bank sponsored "transmigration program" which devolved into a genocidal war carried out by the Bengali government in Dhaka killing hundreds of thousands from 1975 until the early 1990s. The "best land" for agriculture and development was and is under the feet of the Fourth World nations of the Chittagong Hill Tracts. This Editor spent the better portion of ten years seeking an end to that despicable war that was conducted in the name of "development." Emran and Tsuchiya's much needed historical analysis in **"Land Rights of the Indigenous People of the Chittagong Hill Tracts in Bangladesh"** commands our attention.

Brandon Yoder sheds a bright light on the exploits of big corporations and their efforts to impose development for their benefit and the disfiguring of the earth and destruction of Fourth World peoples in **"Indigenous People and Oil Production In Ecuador's Oriente."** The spearhead of global development is filled with oil and the demands of "developed countries" for oil. The Fourth World nations of Ecuador's Oriente have not made demands for oil development. Yet corporate greed in business and in state combine to threaten the lives and way of life of whole nations with impunity.

Danielle Elford offers an insightful and stimulating discussion of an utterly different analysis of "development." Offered from the Fourth World perspective, Elford makes a major contribution to the discussion of the importance of self-determination in economic, environmental and social change. Writing in **"Conservation by Self-Determination in Central America"** Ms. Elford applies considerable scholarship to argue a fundamentally different approach to social, economic and political change.

Navaya ole Ndaskoi provides an "inside-out" analysis of how externally imposed conceptions of Fourth World life can be used to mislead and alter the practical cultural requirements of a society. In **"Maasai Wildlife Conservation and Human Need"** Mr. Ndaskoi explodes distortions applied from the outside on Maasai in Kenya and Tanzania. His insights are especially appropriate for our discussion of alternatives to "development."

I regard the discussion of "development" and alternative analysis and approaches to human need an essential part of the global controversy about "globalization" and its affects on the original peoples of the world. Despite appearances and claims to the contrary there is nothing permanent or inevitable about globalization. The authors in this issue of the Fourth World Journal demonstrate that alternatives do exist and carry weight from their own strength.

Rudolph C. Ryser, Ph.D.
Editor in Chief

(*) **Lukanka** is a Miskito word from Yapti Tasba meaning "ideas," "thoughts," "thinking."

Community Trauma And Development

Imposed development undermines the individual spirit and traumatizes the community

by **Leslie E. Korn**

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What is sacrificed with the elevation of human consciousness above natural process is not only the idea of the intelligence of nature, but ones experience of being immersed in a larger whole. Susan Griffin

The history of development is a history of trauma. Development that is not self determined is predatory. Development that is not self determined precipitates inter-generational trauma in individuals and communities. When this occurs people suffer loss and grieve over ways of life. Families divide and the rituals of celebration and healing lose meaning. When development is not self-determined, the earth loses as well. Assaulted and out of balance, she grieves and falters in her ability to offer nourishment. Because the sea cries black tears at her invasion she too cannot proffer her bounty—and then all of natures animals are out of order.

The body is to spirit like the land is to its people—the ground of life force. However there are predators—people, governments, and corporations who exert power over others in order to take the resources of people and their lands. And because of their intimate interconnection, taking the land destroys a people, just as taking the rituals and ways of life, destroys the land. The invasion of development disconnects people from their land and its plentitude of resources just as rape leaves an individual disconnected from her and others and in somatic, psychic and spiritual pain.

The Yup'ik peoples of the northern hemisphere celebrate the Kelek, the annual inviting-in Feast where prayers are offered and the animals of land and sea are asked to return and offer themselves for the coming harvest. How opposite is the force of development, where oil corporations, uninvited, demand their harvest. Among these Inuit peoples of the northwest, homicide suicide, domestic violence rape and substance abuse was rare 30 years ago. Now young men kill themselves in droves, husbands beat their wives and people are dying from the poison of alcohol.

Development that does not occur as part of a nations natural ebb and flow of creative change is traumatic. Development is traumatic when it is imposed by one group on another. Development that is not in the control of the communities is a form of socially condoned violence and leads to genocide.

Salmon is the lifeblood of my Cowlitz family on the Northwest coast of North America and of my Yakama brothers and sisters further up the river.

Salmon are also the lifeblood of Ireland. The Irish creation story tells of Tuan the sole survivor on earth of a great plague who in order to bring people back to earth had to become one with other animals, to identify with them completely. Thus he took the form of Salmon for a hundred years while his blood became as pure as the streams and oceans in which he swam. Only then did people return to earth after the long plague.

Colonialism has mutated into the current plague of development and continues to invade the lands of many indigenous peoples. In Cowlitz land, it dams up the river, cuts the forest trees, and builds roads that destroy the topsoil. Salmon are dying. Development suggests that Salmon be “farmed”. The new species of Salmon, artificially cultivated, stock our stores and further destroy the wild life of this ancient being.

The nuclear power plant at Hanford reservation on the land of Yakama nation just north of Cowlitz has poisoned the earth and river with radioactivity, destroyed the cells of our elders and children, poisoned the healing plants and foods, and caused tumors in the sacred salmon.

In many Indo-European languages the final part of several words meaning tongue also serve as the term for fish. Thus does the tongue tell the story of creation again and again. But if there are no fish, there will be no tongues, to tell the story.

Trauma alters the eco-system of the body mind and spirit, like oil pollutes water. What happens to people when they are exposed to overwhelming events over which they have no control?

Experiments conducted in the 1960's illustrate what happens to animals when exposed to stress from which they cannot escape.

Dogs were trained to jump from one compartment in a shuttle avoidance box to an adjoining compartment to avoid receiving an electric shock to their paws. When the dogs had mastered this task, a barrier was placed to prevent some of them from escaping and avoiding the shock. Two-thirds of those animals that couldn't escape experienced depression, disruption of normal defecation and generalized distress. However, when the barriers were removed and the animals were able to move in order to escape the shock, they remained passive, in spite of food being placed across the way. Attempts to drag the animals across the grid to teach them that the cage was now safe were only partially successful. Some dogs mastered the new task, while most remained helpless and passive. This led to a concept called Learned Helplessness a physical model for depression. The inability to escape from stress or to control the outcome leads to depression and despair. Because dogs and humans have much in common socially, psychologically and physically much has been learned through this study. Yet as a research scientist, I must object to this type of research, that causes harm to animals as unethical and abusive.

Traumatic stress disorder is a dis-order that causes serious debility in the heart and mind of a community. I hyphenate the word dis-order in order to illustrate that rather than a disorder as it is commonly used in medical pathology, trauma and its related dis-orders are indeed a disruption of the capacity to find order in one's world—whether that be the world of one's own nervous system or of the earth's nervous system of rivers and streams. Trauma becomes a disease; dis-ease, because there is no longer ease in one's world.

Trauma is characterized by exposure to overwhelming events. These include acts of nature, accidents and intentional violence such as that caused by humans. Trauma also arises from what is conventionally referred to as technological disasters, such as the accidental release of nuclear radiation into the atmosphere or the spilling of oil into the sea. These might be classified as corporate -mediated trauma. These are the disasters of development that traumatize the land and its peoples.

The stress response is at first a life saving response, built -in to our biology to give all of us --hunters and fishermen, mothers and fathers, extraordinary strength and clarity when confronted by danger. If confronted by a bear in the wild, no weapon in hand, a racing heart, pumping blood, and rush of hormones lead to quick thinking and action. However when the stress response is called into action again and again, without the ability to affect the outcome, then despondency, despair and rage set in. This also leads to chemical changes. Lactic acid builds up in the muscles, leading to rigidity, pain and anxiety. The nervous system malfunctions; the immune system is weakened along with digestion and heart function. People alternate between depression and immobility to anxiety and irritability and self blame. They hurt themselves and others and abuse drugs and alcohol in order to not feel the collective rage and pain. Self-harming behavior, physical pain and self-medication, like the extensive abuse of pharmaceuticals, drugs and alcohol only reinforce a sense of being out of control. Helpless to change the present, the individual believes there is no future. This loss of self-efficacy and ability to mobilize change spreads throughout members of the community. If this is not addressed at the individual and community level, trauma often leads to the reenactment of behaviors that in turn traumatize others—for example, violence.

I assert that efforts toward reducing violence, improving chronic health problems, reducing alcoholism and drug abuse will all fail until the underlying cause—traumatic stress—is addressed.

The experience of whole groups being helpless not once but over and over again in the face of personal assault, state invasion and attempts to take away cultural identity is insidious and devastating. For when whole communities are traumatized, who cares for the wounded when the caretakers, healers, shamans and elders are themselves wounded?

Development that is not self-determined also causes dissociative responses. Dissociation is the disruption of the usually integrated functions of consciousness, memory, identity, sensory-motor control and perception of the environment. Dissociation while at times ordinary also occurs as a natural protective response to situations that are so traumatizing that the human animal withdraws its awareness

Dissociation is a human capacity, seen among people of all cultures, and occurs along a continuum. For example at times during my talk you may find your mind wandering to another thought and topic and then suddenly bring yourself back to focus. Or driving in a car, you go from point A to point B and remember nothing in between in spite of the fact that you drove you functioned “automatically”. The more severe forms of dissociation include walking into the closet and not remembering that you bought that pair of shoes, or burning yourself with a cigarette because the anxiety becomes too great. Chronic pain and alcoholism are also dissociative responses. The ultimate act of dissociation is suicide, where the pain is so great you must leave your body behind.

In many ways dissociation is also an analogy for development. When it is not under self-control, it is destructive. However when it is under the control of the community it is life affirming. For example, dissociation is also a form of trance phenomena and is cultivated by Shamans and other medicine people for healing and religious experience. Leaving one's body behind to explore the spirit realms allows greater access to the mysteries of spirit.

The traditional use of the shamanic plant or entheogen (meaning “god within”) *amanitia muscaria*, the mushroom used by indigenous peoples such as the Chuckchee, of Siberia and the Mazatec of Oaxaca, Mexico is another route to the divine. This mushroom that grows in the moist forest floor is believed to have been abundant in the forests of Ireland and inspired the mysteries of Celtic worship. This gift from the goddess is now extinct in Ireland, due to deforestation. One can only ask how the chronic violence and abuse of alcohol in Ireland are associated with the loss of its indigenous traditions rooted in the worship of the land and its gifts.

Dissociative processes have both negative and positive impacts on psychophysical health.

Dissociation is part of a symptom matrix associated with PTSD, including somatization, self-mutilation and substance abuse. Dissociation becomes pathological when it is an uncontrolled response. Shamans lead themselves and others into altered states—in effect being in control of losing control.

Throughout history gifted humans have transformed the negative effects of trauma into positive. Communities choose shamans precisely because they stared down suffering or death and returned from the trauma stronger and able to guide and heal others. Industrialization and development both arise from dissociation and have led to endemic social dissociation. Dissociation throughout the industrialized regions has led to disconnection from the land. I was struck recently when I invited the grandson of a friend of mine from the city to swim with me in the river near my home: “I don’t like to swim in rivers, I only like swimming pools!” he cried. Children like this grow up and serve on corporate boards and make government policy. It is this simple early, disconnection that can lead to the unrelenting plunder of others lands.

Not surprisingly, the ancients of many cultures considered gaining control over the nervous system integral to health. Many indigenous healing traditions arose out of the need to heal people from experiences of trauma. The natural rhythms of the body/mind pulsate, oscillate and vibrate in concert with nature. Nature provides the means of restoring a person’s psychobiological equilibrium often lost to trauma, however in development, it is also nature itself that is traumatized. Normally the nervous system synchronically orchestrates the natural rhythms of the body/ mind, however in response to trauma, these rhythms are severely disrupted, affecting all aspects of function.

Indigenous peoples are challenged and tested over the millennia by a natural environment that is often stressful and traumatic. In response peoples have developed ways of coping, healing and responding that enabled people to survive productively in spite of the difficulties life offered. These medicines include family and community connection, physical closeness, the use of hot and cold water, laughter, massage, foods and medicines from the land and sea. Medicines also include the helper spirits that assist and guide in times of difficulty.

The essence of traditional medicine, across all cultures is found in the dictum that “nature cures.” Many traditional forms of medicine and healing restore balance via the nervous system and thus help to heal. Humans are gifted with the capacity to heal themselves and others and nature provides the methods. This is part of the order of nature.

In the traditions of native peoples the shamans serve to mediate between the seen and unseen realms. Their nervous systems tuned acutely, transformed by trance to receive spirit medicine. The animals who give their bodies so their brothers and sisters can be sustained are also healers helping others survive the potential traumas of nature’s extremes.

Traumatic stress continues to be an invisible issue throughout many communities including professional ones. Psychologists study the effects of trauma on the mind and ignore the sociopolitical underpinnings that cause it. Anthropologists discuss the “stress of change”, or acculturation, academic euphemisms for trauma and note the difficulties natives have in adapting to change. Many in the field of development do not even ask the questions.

Trauma is as contagious as any infectious disease. Listening to a story or witnessing another’s experience is very distressing. It is unpleasant to think about and listen to, let alone undertake actions to address.

Traumatic stress can be addressed but it is never forgotten. Understanding how trauma affects individuals and communities physically, mentally emotionally spiritually and environmentally can support community-determined efforts to reclaim lost traditions, strengthen existing ones and reconnect the seen with the unseen world in order to address the effects of trauma. Restoring balance to individuals and communities, the earth, sea and sky must arise from self-determination.

The antidote to loss of control engendered by development is to take control: control of land, resources, political and economic structures. The antidote to traumatic stress, whether it experienced at the individual or the community level is to take control---strengthen social supports, talk with each other about the pain, enlist the elders, take action and most importantly gain control over one's own health, the nervous system and thus behavior. This requires distinguishing between medicines that heal and those that just kill pain. Most important are the healing traditions and celebratory rituals that served our ancestors. These rituals may still initiate young ones into the knowledge of the unseen world, where to remain in control of the rivers of one's own nerves guides whole communities to safety.

Post Colonial Ghost Dancing

The Incompatibility Between the Holistic Concept of Indigenous Medicines and Eastern Bio-Colonizing - Biotechnology and Biopiracy

by Dennis Easter

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This essay is an exploration of Indigenous thought, belief, psychology, physiology, philosophy and spirituality to create an interface if a link is to be made between bioscience and Mother Earth. I will discuss the relationship between Indigenous medicine, biotechnology and biopiracy.

I found it difficult to analyze the literature to create a dialogue into the realm of genetic engineering and DNA – based life-ways of the biosphere. Molecular biology is a colonizing discipline within universities and the corporate world through patents as well as governments in a tripartite apparatus mechanism in the ultimate alteration of all life on the planet for profit and is absent of any sacredness when it comes to the realms that makes a sacred interconnectedness to all life that is interwoven on Mother Earth.

The methodology used was a literature review primarily from non-Indigenous authors and one Indigenous author with an oral teaching from a translator from the Hopi Nation.

When we walk in a field, DNA and the cell-based life it codes for are everywhere: inside our own bodies, but also in the puddles, the mud, the cow pies, the grass on which we walk, the air we breathe, the birds, the trees, and everything that lives. This global network of DNA-based life, this biosphere, encircles the entire earth. (Narby, 1999)

Although this comes from a non-Aboriginal author, Indigenous peoples already knew about the interconnections that all life has within Mother Earth. It is within that realm that one can argue that the sacredness of Indigenous belief knowledge systems is the crux of the basis for the Ghost Dance that was, historically, one of the Ogala people's sacred visionary rituals. Currently, though, the shifts that have taken shape between capitalistic systems, mainly centered in the industrialized societies and Indigenous societies have established an unbalanced paradigm that has transcended for about 500 years since Columbus was the first major precedence for mass exploitation.

The radically different restructuring between the relations of the colonized and colonizer has simultaneously altered the delicate web of interconnectedness between the totality of the natural world. These alterations have taken the form of an arbitrary spurious and random transplantation of the spiritually inviolate tissues of the structural integrity of the natural world. Whether this transplantation that emerges most devastatingly in the form of biotechnology, and biopiracy much more is undertaken for the “purity” of scientific research or by unchecked corporate profiteering represents one of the gravest experimentations ever undertaken in history. That is, if the mega-conglomerate of corporate interests continues to plunder Indigenous medicines, genetic materials, and germplasms, the natural immune system of nature will surely react upon the global population in inconceivable ways, quite possibly even fulfilling Mayan prophecies, which predicted the end of the world on Dec 22, 2012. Hence, this is a potentially world-destroying incompatibility between the Western and Indigenous paradigms for managing the natural world, the Western paradigm of a deracinating transplantation, and the Indigenous paradigm of a spiritual holism.

Indigenous Worldview (Endures Colonization)

Interpreted Indigenous Physical Life Ways and Sacred Geography:

To begin I will address some typical Western misinterpretations about the ancient vision of

the Ogala[1] and reinterpret Ghost Dancing in light of the biomedical era in which we live. The Ghost Dance is one of the Ogala people's sacred visionary rituals. It is believed to be capable of restoring dead relatives, animals and lands. It is the basis of an argument for restoring sacredness, and many other aspects that makes the Earth one with humanity. (Wearne, 1996)² Sayer refers to the Ghost Dance as a cultural war against the Ogala. While the U.S. cavalry saw the dance as a return to armed resistance, prior to the Wounded Knee massacre, Sitting Bull reinforced the religious nature of the ritual. (Sayer,1997)³ The Ghost Dance is an interplay between the physical, spiritual, and spirit world. (Brown,1972).⁴

For First Nations, in most parts of the world, collective cultural activity is interwoven into all aspects of their lives. These collective cultural activities are cyclical in accordance with the natural rhythms of the seasons. Ancestral links with spiritual aspects of the after-life are the basis for many cycles. The cycles could be described as living connections that each First Nation has with its own particular life-world. It is this sacred geography and the interchange with the after-life that is the living interconnection that each First Nation has with its own sacred geographies. To understand the intricacies of this interconnection takes many years of sacrifice, fasting, ceremonies – sun dances, sweat lodge ceremonies – and an ethical commitment to the Earth and its connections to the rest of the universe.

Beginning of the Breakdown for Physical Life-ways:

Even according to European historians, the achievements of fifteenth century Indigenous and European science and technology were similar. Both were using five primary tools: the wedge, the inclined plane, the screw, the pulley and the level (Wearne,1996)⁵ Notwithstanding, the European ethnocentric attitude towards their advancements in technology, there is evidence that even the “crudest” or most “primitive” tools demonstrated a high degree of technological sophistication. These sophisticated tools were in the hands of Indigenous people long before their European counterparts as Vine Deloria explains:

In the 1960's highly sophisticated stone tools rivaling the best work of Cro-Magnon man in Europe were unEarthed by Juan Armenta Camacho and Cynthia Irwin-Williams at Hueyatenco, near Valsequillo, 75 miles southeast of Mexico City. Stone tools of a somewhat crude nature were found at the nearby site of El Horno. At both the Hueyatenco and El Horno sites, the stratigraphic location of the implements does not seem in doubt. However, these artifacts do have a very controversial feature: a team of geologists working for the U.S. Geographical Survey gave them dates of about 250,000 b.p. (Deloria,1995)⁶.

De-culturalization and dehumanization of the spirituality of Indigenous beliefs:

To achieve economic progress, government policies, specifically with regard to Indigenous peoples, has been to throw millions onto the human scrap-heap. In so doing the dominant cultures have dismantled and degraded Indigenous communal and reciprocal life ways. This was done by denigrating and devaluing their cultures and self-identities and regarding people simply as (slave) labor.

Ethical Relationships with the Unseen:

Indigenous beliefs were much more respectful of natural resources. For example, Indigenous hunters only harvested what they needed and used everything from what was harvested. Never was more taken than what was needed. The story of the buffalo is an excellent example in which all elements of the animal were used in some fashion for peoples' cultural survival, for example: the skins were used in the winter to keep people warm, meat for food and skulls and bones for ceremonial and other purposes.

Special healing abilities emanated from the head but also from the buffalo spirit—abilities that could be used to cure different sicknesses. These special healing abilities are understood, also, to be manifested in certain geographical locations. It is at recognized

sacred sites that, revered teachings of natural laws are conducted by medicine people, who carry on the responsibilities for the ancient teachings. The southern Alberta location of the medicine wheels is a prime example. "The original teachings came directly from the Creator" (Kaiser,1991)⁷.

In conflict to Indigenous peoples' beliefs, mainstream business and government leaders continue to pursue an approach to life that is contrary to an ecological approach to living. There can be no question that the continued consumption-oriented, anti-ecological approach to life will lead us down the path of ecocide.

Re-emergence of the Cultural Rejuvenation within a Cyclical Earth:

As one of many, the Ghost Dance was a sacred dance envisioned by Sitting Bull for the Ogala people, for a return to ancient ways. It also had another meaning and that was an inter-play between the physical, spiritual, and spirit world. Thus, a sacred song was sung with the dance (Brown,1972)⁸.

In what has become a classic quote, Chief Seattle, says,

"This we know - the Earth does not belong to man, man belongs to the Earth. All things are connected like the blood, which unites one family. Whatever befalls the Earth befalls the sons of the Earth. Man did not weave the web of life; he is merely a strand in it. Whatever he does to the web, he does to himself." (Shiva,1989)⁹

The pursuit of capitalism by the so-called "industrialized nations" has been and continues to be a disruption of the web. That could help to explain why so many Indigenous and commons societies are disinterested in being involved in these systems. For many who live in Andean societies, the largest grouping of Indigenous communities in South America,(Grillo,1998)sacred laws continue to govern the universe of many. People resist both business and state capitalist enterprises—neither mining companies nor the Shining Path (Peru) or the FARC (Columbia) care about the sacred. Indigenous peoples see both as attempts to wear down and alter universal cosmological laws (Apfel,Marglin:1998)¹⁰.

The interchange that we have with Mother Earth has much to do with how we interact with ourselves. Following WWII and the bombing of Nagasaki and Hiroshima, and prompted by instructions to follow if a "gourd of ashes" fall from the sky, the Hopi elders sent out different translators to talk to people of the world about coming changes. They described themselves as people coming from the Fourth World and talked about the powers within each and every person. The Hopi discussed the postwar state of our world, and a representative of the Blue Bird Clan told an assembly gathered on the reservation that if he saw this event ("gourd of ashes") that he should publicly proclaim the hitherto secret teachings, prophecies, and traditions of the Hopi nation. (Kasier,1991)¹¹

The Hopi elders and translators possess a deep wisdom much the same as the Andean *chacra*. It is not easy to come to an understanding of the nurturing of the heterogeneity of life in the *chacra* solely through course. How to convey the profound feeling of affection and respect that the peasant feels for 'Mother Earth' (*la Pachamama*), or the joy and gratitude towards his or her mountain protectors (*Achachilas* or *Apus*) the peasant experiences on the birth of an 'alpaca' who is treated like a 'new daughter', is a truly difficult challenge. (Apffel-Marglin,1998)¹²

Hopi translator, Thomas Banyacya of Oraibi, Arizona, speaks about the time when the eagle lands on our Grandmother, many changes will occur to our Mother (the Earth). The eagle, he explained, was the eagle of the crest of the United States of America—the government symbol on the landing capsule when it touched down on the moon. The rocks that were taken from the moon and brought back to Earth for scientific study represent the start of the partial ecological crisis that the world is facing today and has to do with Earth changes. The sacredness that existed between the Earth and the moon in the ancient ways had forever been broken and it was a violation of natural cosmological laws.*[13] .It's almost as though the accidental "discovery" of the Americas was once again forever changed, but only this time it was the whole Earth, with the end being imminent. Similarly, the biological pollution that occurred between the Earth and the Moon as a result of space exploration continues to have repercussions on the Earth today. As promised by Thomas Banyacya, the repercussions continue to intensify in what appears to be natural ecological occurrences, e.g.: volcanoes,

earthquakes, tidal waves, landslides, and floods.

We can reach back to the Mayans to find similar predictions about the fate of the Earth. For thousands upon thousands of years, the Mayans studied the cosmos and made predictions based on their astronomical observations. The western world is just beginning to understand and appreciate the knowledge of the Mayans. Maurice Cotterell states that there would be a shifting of the magnetic pole giving rise to wide-scale disruption. Much of this seems to be cyclical in nature, in that throughout the Earth's history there have been topographical changes and movements. However, never before has the world been so densely populated. If Cotterell's predictions come true, this will be the biggest catastrophe for humanity that we have ever known (Gilbert and Cotterell, 1995)¹³. According to Cotterell the end is predicted for December 22, 2012.

European Worldview and Impacts:

A high-tech society is by and large present minded, just as its machines are—a computer's "memory", after all, is only regurgitation, not the recreation of experience, and it exists only in the present, when it is transmitted. A high-tech society is ever-changing and unsettled, always caught in that rush of improvement and innovation that generally goes by the name of progress regardless of which direction it is hurtling in. (Sale, 1996)¹⁴.

Biotechnology and Ethical Issues from the Indigenous Perspective:

Through the ages, diseases have been more lethal for Indigenous peoples than military attack. (Wearne, 1996)¹⁵ Historically, very little has been done to find cures for the diseases affecting Indigenous people. Numerous epidemics have wiped out millions of Indigenous peoples. Today, A.I.D.S. (Acquired Immune Deficiency Syndrome) is but one of many diseases through which Indigenous peoples encounter death on a daily basis. As with other diseases there is no cure on the horizon.

While these diseases kill Indigenous peoples, research is being undertaken, in biotechnology laboratories, to create new organisms, at the most minute level, through a horizontal gene transfer. Although this may seem like an exciting development for biotechnologists, to Indigenous peoples it represents a bio-colonizing mechanism to alter life-ways forever. As an example:

“Based on the current uses of genetic materials collected for the Human Genome Project, there is much to worry about. With the discovery of genetic “defects” and “superior” genes, doctors can already proceed with screening “defective” and “superior” embryos and fetuses. The next foreseen step is to abort “defective” fetuses and to clone “superior” ones. Who will determine what bad genes and good genes are?” (Takor, 2001)¹⁶

While real cures for diseases such as A.I.D.S. are many years away, Indigenous people have to contend with the prospect of their genes being cloned for profit just as their peoples, cultures, languages and resources have been colonized for profit in the past.

There is no reversal in sight and that represents a complete detachment from ancestral interconnectedness. Gene alteration and potential transplantation represent a fundamental shift in human relations to say the least (Wan Ho-Mae, 2000)¹⁷. For Indigenous peoples, it represents a new form of colonization—bio-colonization. No respect is given nor does reciprocity take place when humans remove a part of an animal or plant from its original sacred context. Similarly, like historical disease scenarios while Indigenous people did not seek the fate of disease, they had no choice in the results—including annihilation. There is a far greater concern than biology behind Indigenous opposition to genetic engineering. Once again, the deep belief lies in the sacred teachings, prophecies and laws that govern the universe. Ultimately, genetic engineering is fundamentally opposed to the original instructions of the Creator, and therefore, against traditional and sacred culture. With those concerns in mind, the Hopi prophecy of the end being near becomes all the more real.” (Kasier, 1991)¹⁸

Biopiracy and the Laws:

Respect for biodiversity is absent in the laws that govern patents to the genetic materials within certain species. If Indigenous cosmology were respected, then it would create dimensions within the natural biosphere that is infinite. That is, all of creation would have a continuation of life forces built into the cosmological web of life and all resources would remain and continue the life-ways of the planet as it was intended to.

Biopiracy is the embodiment, in genetic territory, of the piracy and destruction of what was traditional knowledge. And in the same way that the cultural has been stolen (pirated) so too is the biological being pirated, when any part of a plant can simply be used for a purpose and, its origins not acknowledged. The theft of Indigenous intellectual property is just that — biopiracy. (Shiva,1997)¹⁹.

By merely "shifting genes" some scientists have been permitted to patent DNA sequences and even whole organisms. As a result, the blood used no longer belongs to the person from whom the blood was taken. Examples abound, such as the cell lines of the Hagahai of Papua New Guinea and the Guami of Panama that were patented by the U.S. commerce secretary. (Takor,2001) These examples are akin to what transpired, historically, in 1492 and after and another form of a colonizing process in which little protection is granted to Indigenous peoples, but bio-colonizing is taking place because it is the genetic material that the biotechnology companies are seeking, today. Takor criticizes reductionism as a way of colonization in terms of ethics as such:

"It is a worrisome trend the scientists are embarking upon. ... How can sexual orientation and behaviour be explained by saying that there is homosexuality or a violence gene? What could be the possible implications of such conclusion? If there is a propensity to be a criminal is held to lie with a violence gene, does it follow that this person can be cured through gene therapy? If homosexuality is considered to be produced by a gene and this is regarded as an aberration or a disease, will a time come when gene therapy is applied to "normalize" gays (Takor,2001)²⁰

The commodification of Indigenous traditions servers the connection between those traditions and the creation stories encompassing the whole of Mother Earth (including her sacred geography): This separation turns it into a completely different sphere of the biosciences. In all of this one key element is missing and that is spirituality.

The traditional interpretations are given a completely different non-traditional context. The medicinal properties of plants taken out of their traditional context have no further connection to the sacred geography and to the prayers said for them at their source. Thus—the absence of spiritual interconnectedness makes the plant's healing properties benign. The continuity of that life form will have thus ceased and made a transgenic leap into another dimension that may or may not have ecological consequences. What is certain is that little is known about the overall health and well being of human consumption of food made with plants that are dissociated from their traditional origins. (Easter:2000)²¹.

Basically, the GATT and Intellectual Property Rights debacle becomes a mechanism to exercise power of corporate rights versus peoples' rights. The corporate agenda is rooted within U.S driven corporate rules with each trading country having to agree to terms and conditions before entering into the world-trading club (Dawkins,1997)²². Furthermore, the legitimacy of biopiracy has become the imposition of values and interests by primarily U.S.-based transnational corporations on the diverse societies and cultures of the world. Manipulation and monopolization are the central aims of biopiracy as the second coming of Columbus unfolds that on the surface have the same kinds of implications as five hundred years ago. The "missionary quest" has entered its last stages.

Biotechnology is today's dominant cultural instrument for carving out the boundary between nature and culture through intellectual property rights, and defining women's and farmers' knowledge and work as nature. These patriarchal constructs are projected as natural, although there is nothing natural about them. Claudia Von Werlhof ... has pointed out, from the dominant standpoint, nature is everything that should be available free or as cheaply as possible. This includes the products of social labor. The labor of women and the Third World farmers is said to be non-labor, mere biology, a natural resource; their products are thus akin to natural deposits. The production boundary and the creation boundary are the very powerful constructs which transforms value into disvalue, labor into non-labor, knowledge into non-knowledge (Shiva,1997)²³.

Conclusion

The interchange between the capitalist system, colonizer, and the natural world are not compatible. The Earth cannot sustain the insatiable capitalist system because of the finite reality of natural resources. Biopiracy, and biotechnology exists for the manipulation of the environment and human beings. In that sense these explorations are a continuation of the earliest invasions into the Western Hemisphere and other Indigenous territories by the Europeans. The Mayan and Hopi prophecies continue to bear fruit. Since science and technology has made it possible for humans to set foot on another part of the solar system the planet has started to experience a new round of intensified major climatic changes. We know that deforestation is already resulting in increased illnesses due to a reduction in the amount of available breathable air. The ultimate sacrificing of Mother Earth is finally affecting the very survival of the Indigenous peoples, their life-ways and systems of biosphere.

However, the diversity of the human family encompasses a mass of divergent ways to encapsulate interconnectedness, but Indigenous peoples have remained steadfast in their own knowledge belief systems, even though the colonizers have prevented them from doing so at every conceivable turn since the invasion. If biotechnology and biopiracy continue to proceed at the current rate, the very survival of the planet will be at stake. The living Mother Earth will ultimately resist. All of the natural world will be destroyed for human existence. The Creator's Indigenous prophecies will prevail. The ghost dancing between the physical, spiritual, and spirit worlds is the ultimate interconnection. As the date of the Mayan prophecy nears and the dominant physical world overtakes the spiritual the "spirit world" may be the only world that survives.

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Reconciliation, Assimilation, and the Indigenous Peoples of Australia

by Damien Short

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Reconciliation as a peacemaking paradigm emerged as an innovative response to some of the horrendous mass atrocities and human rights violations that marked the twentieth century. It was to provide an alternative to traditional state diplomacy and realpolitik that would focus on restoring and rebuilding relationships. To that end, reconciliation processes have set themselves the difficult task of 'balancing' and accommodating the often competing notions of truth, justice, vengeance and forgiveness that animate societal responses to atrocities and human rights violations.

In 1991, the Australian government instigated a process of 'reconciliation' between the indigenous peoples and wider society. Yet, as this paper will show, the notion of 'justice' was deemed inappropriate from the start, and the resulting process was framed in an Australian nationalist discourse that placed a definite ceiling on indigenous aspirations. This paper seeks to demonstrate that, far from being a genuine attempt at 'atonement' that is responsive to indigenous aspirations, Official Reconciliation exhibits a subtle, yet pervasive, assimilationist agenda, and consequently the process should be understood as but the latest phase in the colonial project. The paper will conclude by suggesting an alternative approach to 'reconciliation' that addresses the problem of internal colonisation and which more closely reflects indigenous aspirations.

Introduction - From a Treaty to Reconciliation

Unlike the US, Canada and New Zealand, the colonisation of Australia did not entail any formal settlements, involving dialogue and treaties, between the European invaders and the indigenous people. Throughout the last two hundred years Australia's Aboriginal people have been the victims of appalling injustice and racism that was compounded and legitimised by, among other things, the coloniser's conviction that the Aborigines did not deserve a negotiated settlement, a position that also helped sustain the belief of *terra nullius* (that Australia, before conquest, was an 'empty land').

In the early 1980's, there emerged a concerted campaign for a treaty, spearheaded by the white Australian 'think tank' the Aboriginal Treaty Committee.^[1] It proposed a treaty that would provide Aboriginal peoples with,

- The protection of identity, languages, law and culture;

- The recognition and restoration of rights to land,
- Compensation for the loss and damage to traditional lands and to their traditional way of life;
- The right to control their own affairs and to establish their own associations for this purpose.[2]

The primary motivations behind such modern day calls, by the non-indigenous, for a treaty in Australia appeared to be two-fold. In the first instance there seemed to be the desire to right the wrongs of the past and to re-examine fundamental assumptions such as *terra nullius* in light of modern historical and anthropological knowledge.[3] Secondly, a proper settlement was considered necessary to address the *legacy* of past injustice, which seriously tarnishes the relationship between Aboriginal people and wider society and in turn hinders efforts to effectively address present day Aboriginal disadvantage.[4]

Politicians, did not like the 'word' treaty, however, as it implied two sovereign nations, preferring instead the equivocal, more open ended terms, 'compact' or 'agreement'..[5] With no favourable response forthcoming from the government, the campaign for a treaty gradually faded. The debates around the idea, however, produced a new 'spin' that was instantly more attractive to politicians who were keen to be seen to be addressing the 'issues'. A 1983 Senate Standing Committee report entitled '*Two Hundred Years Later*', dismissed the treaty idea, concluding that societal 'attitudes' lay at the heart of the 'Aboriginal problem'..[6] The 'attitude' theme subsequently became increasingly popular in political speeches that began to emphasise, in vague terms, the importance of education, attitudinal change and *reconciliation*, at the expense of detailing commitments to substantive redress measures, such as those recommended by the Aboriginal Treaty Committee above. This is not to suggest that education and attitudinal change do not have roles to play in redressing injustice, only that their emergence as a policy initiative in political speeches coincided with a shift away from the treaty idea towards a '*reconciliation*' initiative that made no firm commitments to address historic and contemporary injustice.

Despite the 'reconciliation' minister, Robert Tickner, steadfastly asserting that 'there can be no reconciliation without justice', the need for cross-party consensus made sure that 'education' rather than 'justice' emerged as the dominant focus of the process to be. As if to emphasise this point, the full title for the official reconciliation body was to be the "Council for Aboriginal Reconciliation and Justice", but the 'and Justice' was viewed by the Prime Ministers' advisors as excessive and subsequently axed from the final version.[7]

In 1991, the *Council for Aboriginal Reconciliation Act* established a reconciliation process led by a *Council for Aboriginal Reconciliation* (hereafter – 'the Council') that was to last ten years. The official aim was to improve race relations and increase understanding of Aboriginal culture and history, whilst redressing their persistent political and social disadvantage. An examination of key Council texts, however, elucidates a subtle framework that appears harmless and well intentioned, but which ultimately acts as a bar to

genuine and appropriate reconciliation.

The Rhetoric of Official Reconciliation

“A United Australia”

The *Council for Aboriginal Reconciliation Act 1991* gradually emerged from the ashes of the campaign for a treaty, however the demands of the treaty movement were far removed from the commitments eventually detailed in the *Act*. The *Act* did not contain a commitment to addressing the injustice of the past with the aid of a legally binding treaty; rather its central emphasis was on the *educational* benefits of *having* a reconciliation process. The only remnant of the treaty idea that appears in the *Act* is the vague notion that the Council, being the co-ordinating body created by the *Act*, should seek to instigate community-wide consultations on the desirability of a '*document or documents of reconciliation*'..[\[8\]](#)

Initially, an entirely indigenous Reconciliation Council was proposed but the eventual format favoured by the Government was a 25-person Council consisting of businessmen, government employees, academics and high profile Aboriginal people, most of the latter having a background in the church.[\[9\]](#) The council primarily had a dual role that involved devising community wide education initiatives, whilst advising the Minister on possible policies that might further the reconciliation process. In keeping with the goal-oriented approach required by the legislation, one of the first tasks of the Council was to produce a 'vision statement'. The result reads,

“A united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all.”[\[10\]](#)

It is interesting that the vision statement, being the first thing the Council had to produce, did not seek to emphasise the importance of addressing Aboriginal disadvantage and aspirations, as stressed in the preamble of the *Act*. Rather, the Council appeared to want to expand its remit to the impossible and seek to provide 'justice and equity for *all*'. It is unlikely that this wording grew out of some benevolent utopian inspiration; rather, perhaps it was the product of a Council that would have to balance indigenous and non-indigenous interests and thus sought to begin the process with a 'formal equality' slant. Moreover, given that the government blocked the proposed 'and justice' from the Council's name on the grounds that it was 'too strong', a moderate vision statement from a government appointed

Council was to be expected.

The ‘*united Australia*’ theme was to become *the* central theme of Official Reconciliation. Interestingly it was not dissimilar in sentiment to the views espoused by Pauline Hanson and the now infamous ultra right wing ‘One Nation’ party. Indeed, the ‘Social Justice’ section of the Council’s annual report for 1994 exhibits this overtly nationalist agenda, stating that:

“Indigenous peoples are central and *integral* to the cultural fabric of *this nation*” and that the government should acknowledge the true place of indigenous peoples *within the nation*..”[11]

Thus, social justice for indigenous peoples appears to be tied to a nationalist framework and as such, places a ceiling on indigenous aspirations. Nationalist rhetoric since the nineteenth century has always defended the ‘one nation and one state, in one territory’ formula of nationhood. Official Reconciliation, it seems, is no different as it embraces the assumption that the Australian nation is ‘*one nation*’. Yet, many indigenous people have claimed that they belonged to ‘sovereign nations’ [12] at the time of invasion, and despite two hundred years of colonialism, continue to do so,[13] whilst others suggest that they belong to a ‘unified’ Aboriginal nation today.[14] A preoccupation with what does or does not constitute a ‘nation’ in this context, however, obscures the issue of *consent*, perhaps the most important and unique aspect of indigenous/settler state relations, in that it clearly distinguishes indigenous people from other ethnic groups in the settler nation. If indigenous communities did not *consent* at any time to become members of the settler nation state then their position is fundamentally different to that of voluntary immigrant minorities, a fact often ignored by many settler states and academics from the liberal tradition that attempt to combine discussion of indigenous peoples with other minorities.[15] However, indigenous peoples hold distinct moral claims as *dispossessed first nations*, whose “forbears will usually have been massacred or enslaved by settlers, or at the very least cheated out of their land, to which they will often retain a quasi-spiritual attachment.”[16]

The initial refusal of British and Australian Governments to consider indigenous communities as distinct political entities, and thus worthy of treaties, is compounded when Official Reconciliation rhetoric fails to adequately address the distinction between minorities and indigenous peoples. Thus, if reconciliation is truly concerned with addressing past injustice it should proceed, in principle, by correctly distinguishing between minority groups and indigenous peoples *and* without the assumption that settler and indigenous communities comprise *one nation*.[17]

One possible causal explanation of the desire to be ‘one nation’ through reconciliation is to address what might be considered Australia’s national identity deficit.[18] The gradual deterioration of the link with the British colonial headquarters perhaps necessitated a reorientation of Australian national identity that has been aided by the appropriation and

commodification of Aboriginal spirituality. Indeed, in contrast to the pre-1960 era, where settler identity was ostensibly developed in a manner that completely excluded all traces of Aboriginality, in the present we see extensive symbolic use of Aboriginality as an integral part of Australian identity. One only had to watch the opening ceremony of the 2000 Olympics in Sydney to see the extent of the appropriation or visit any of Australia's international airport arrival lounges where a visitor's first steps are frequently taken on carpets patterned with 'Aboriginal' mosaics.

This new breed of nationalism is in evidence in many Council documents. The Key Issues Paper, *Sharing History*, is perhaps the clearest example.

A shared sense of history has the potential to be an influential agent of reconciliation...By actively sharing Aboriginal and Torres Strait Islander peoples' history and culture, non-indigenous Australians are able to lengthen and strengthen their association with this land. Any immigrant peoples will, for a time, experience a degree of historical discomfort in a 'strange' and 'new' land, and one way of coming to terms with an adopted country is to view the land through the eyes of its indigenous owners. In forging a new identity, the immigrant peoples in Australia have sought to share with, and often appropriate, indigenous symbols, motifs, phrases, and place names -defining Australia's distinctiveness by seeking to share Aboriginal and Torres Strait Islander peoples' culture and history.[19]

It seems that a more accurate title for this strand of Official Reconciliation rhetoric should be 'Appropriating History'. It is not just the Council that calls for the indigenising of settler culture, such sentiments are prevalent amongst many supporters of indigenous rights. Father Frank Brennan, for example, links the nationalist 'one nation' agenda to the desire for a strong national identity. He states that,

“it would be better for *all* Australians...if we could go into the next millennium committed to the legacy of “*one land, one nation*”.. Our shared commitment to *the* nation would forge a strong *identity* and secure a place for all who belong on this continent”.[20]

The unidirectional flow of the 'sharing' of history rhetoric hints at selfish settler motivations. Again, the Council's Key Issue Paper is illuminating when it states:

The reconciliation process seeks to encourage non-indigenous Australians to deepen and enrich their association with this country by identifying with the ancient Aboriginal and Torres Strait Islander presence in Australia. A common misconception is that Australia is the youngest continent - only 206 years old - whereas in reality it is one of the oldest: both in terms of geology and continuous human history. It is only through indigenous Australians that non-indigenous Australians can claim a long-standing relationship with and deeper understanding of Australia's land and seas, in a way possible to other nations who have occupied their

This strategy appears to have a dual function. Firstly, via the full incorporation of indigenous people, it aims to enrich a historically immature settler culture with symbols of Aboriginal spirituality, which highlight their deep cultural and historical connection with the land. Secondly, incorporating Aboriginality into the cultural fabric of the nation inherently weakens Aboriginal claims based on their traditional '*separateness*' from settler culture. Indeed, claims for recognition of sovereignty and meaningful self-determination do not sit at all easily with this element of Official Reconciliation rhetoric, which is more in keeping with the blatant assimilation policies of the pre-1960 era. To compound matters, the incorporation of Aboriginality is asserted in the language of positive rights. In the Council's Annual Report of 1994-5, the *social justice* section states, "indigenous peoples are central and integral to the cultural fabric of this nation. Their place is one of right, not privilege or patronage." [22] Thus, it is indigenous peoples 'right' to be incorporated into the Australian nation.

In addition to the quest for national unity, another illuminating thread of Official Reconciliation was its notion of 'social justice', which appeared to represent its attempt to address historic injustice and its legacy.

Social Justice as Assimilation

During the preliminary cross party discussions on the reconciliation process, Robert Tickner was apparently at pains to stress that there can be 'no reconciliation without justice'. [23] One of his non-negotiable aspirations for the process was that it "address indigenous aspirations, human rights and *social justice*." The distinction between human rights and *social justice* in this context is important as the notion of *social justice* usually articulates, amongst other things, the need to secure citizenship rights, whilst human rights in this context refers to the far more substantial human rights of indigenous peoples, specifically those rights defined by the UN Draft Declaration on the Rights of Indigenous Peoples.

The extension of citizenship rights to peoples that have been dispossessed and subsumed by the very States that are granting these rights is simply a form of internal colonialism. Indeed, citizenship is often associated with nation building and state legitimacy and, in fact, makes no sense outside of the framework of the nation-state. Human rights on the other hand are extra-governmental and have been traditionally used to counteract the repressive capacity of states. [24] It is for this reason that indigenous peoples have accepted the UN Draft Declaration on the Rights of Indigenous Peoples as an articulation of their rights, as opposed to the citizenship rights imposed on them by the settler state. [25]

Official Reconciliation's notion of *social justice*, however, attempted to go beyond the standard conception and include *indigenous* rights. The *Social Justice* issue paper

defines the term as having three dimensions - “the securing of citizenship rights, of specific indigenous rights, and constitutional acknowledgment of these rights.” Whilst this goes further than the traditional view its articulation of indigenous rights is severely limited. For the Council, indigenous rights include ...

“cultural and intellectual property rights, covering such things as the protection of indigenous art, music, stories and dance, and rights related to indigenous knowledge of the medicinal and food values of native flora and fauna. These rights should be enforceable for indigenous peoples as the first peoples of Australia.”[26]

Curiously, this restrictive articulation of ‘indigenous rights’ makes no mention of perhaps the two most important rights in the UN Draft Declaration, the rights to self-determination (Article 31) and land (Article 26- covering the right to ownership and Articles 27 and 28 that cover restitution and compensation), which would also be accorded them as the “first peoples of Australia”. [27] The same report states that “a common view expressed during the extensive consultation process was: ‘There can be no reconciliation without *social* justice’. This is in stark contrast to the sentiments expressed in the fieldwork interviews I conducted with indigenous leaders and spokespersons, where the word ‘*justice*’ was never preceded by the word ‘*social*’. Michael Anderson of the Sovereign Union of Aboriginal Peoples of Australia was categorical when he stated:

“there can be no reconciliation without justice that recognises continuing Aboriginal Sovereignty and brings meaningful self-determination to Aboriginal peoples”. [28]

A point echoed by the late Kevin Gilbert who, in the classic text ‘*Because a White Man’ll never Do It*’, stated that “If there is to be a regeneration of blacks, it must come through self-determination, however hesitant the first steps.” [29]

Official Reconciliation’s emphasis on *social* justice would not be so problematic if it were merely part of an accepted broader notion of justice that sought also to address historic injustice via *appropriate* forms of reparation, restitution and compensation. [30] As Gilbert states,

“I don’t know of any part-Aboriginal who is not in some way, however assimilated he may be, affected by what is behind him. The direction my own life has taken and the things that have happened to my own family are in no small measure a result of the black blood in our veins and all the implications that that black blood had for us. That is why land rights as symbol is so important. Land rights as symbol and substance of the fact that some amends to that black blood are due.” [31]

The addition of the word 'social' limits the notion of justice to a superficial attempt at addressing present social disadvantage without dealing with its *underlying* structural causes, and without acknowledging the need for appropriate forms of redress for historic injustice and its legacy.

The Council's attempted solution to structural inequality is to be found in perhaps the two most important '*national strategies to advance reconciliation*' recommended by the Council. The "economic independence" and "redressing of disadvantage" strategies talk in terms of attempting to achieve better outcomes in health, education, employment, housing, law and justice, whilst leaving unaddressed the fact that such areas are almost entirely administered by non-indigenous organizations including State and Territory government departments. Moreover, the economic independence strategy makes no mention of the importance of self-determination and land rights to indigenous well-being. In many ways the strategy not only avoids the issue of land, but is assumptive and inherently assimilationist. Below is an illuminating extract: -

National Strategy for Economic Independence - This strategy recognizes that economic empowerment will not occur through welfare programs. The strategy will achieve its greatest success when it is built on partnership between all sectors. This strategy would include:

- Better access to capital, business planning advice and assistance.
- Better access to training and development opportunities.
- Promotion and encouragement of Aboriginal and Torres Strait Islander small business.
- Fostering partnerships with the business community.[\[32\]](#)

In focusing on business and the like, rather than land and the right to self-determination, the Council is essentially assisting the continued imposition of an alien vision of the good life that first began in 1770. As Aboriginal leader Ray Jackson commented,

"our economic independence is based in and on and with our lands. We do not all aspire to becoming a Packer or a Murdoch, nor do we all aspire to be shop owners. Independence and our lands are as one, indivisible one from the other."[\[33\]](#)

Even though Official Reconciliation's notion of social justice includes indigenous rights

recognition, given the centrality of land to indigenous culture and the contemporary importance of self-determination, the Council's 'flora and fauna' conception of *indigenous rights*, even if fully realised, would offer little more cultural protection than basic citizenship rights. An important point to note here is that the Council's conception of *indigenous rights* derives exclusively from the distinctiveness of Aboriginal peoples as *Aborigines*, not from any universal principles, such as the freedom and equality of peoples, the sovereignty of long standing, self-governing nations, or the jurisdiction of a people over the territory they have occupied and used to the exclusion and recognition of other peoples since time immemorial.[34]

This now common grounding of Aboriginal rights, in the politics of difference, may have ushered in a somewhat higher degree of internal autonomy for indigenous peoples within colonial systems, but it denies indigenous peoples the right to appeal to universal principles of freedom and equality in struggling against injustice, precisely the appeal that would call into question the basis of internal colonisation.[35] Indeed, the Council's approach is entirely in keeping with that favoured by the Australian and Canadian courts and governments, the underlying premise being that Aboriginal rights are not to be defined on the basis of the philosophical precepts of the liberal enlightenment, are not general and universal and thus categorically exclude any fundamental political right, such as a right to self-determination that could be derived from such abstract principles.[36]

Official reconciliation's 'social justice' approach was largely embraced by a Howard[37] government that sought to divert attention away from talk of indigenous rights toward, what it termed, a more pressing 'practical' approach that would provide for 'self empowerment'. [38]

'Practical Reconciliation' and 'Self-Empowerment'

Around the same time as the Howard government set about 'extinguishing' the land rights granted by the High Court in the historic cases of *Mabo* and *Wik*, [39] it began to advocate a notion of 'practical reconciliation'. Former Senator for Aboriginal Affairs John Herron described this directional 'shift' at the United Nations Working Group on Indigenous Populations, stating that the Australian Government over the past three years had sought to change the direction of indigenous affairs away from welfare dependency but that did not mean any lack of compassion...

It means policies that facilitate and promote genuine economic independence for indigenous people, policies that go beyond the 'catchcry' of land and mining royalties and encompass both *individual-skills development and productive business enterprises*. There have been ... assertions that *the solution ultimately lies in the direction of forms of Aboriginal sovereign self-government as contemplated by the 'self-determination' provisions of the Draft Declaration of the Rights of Indigenous Peoples*. The Draft Declaration itself is at risk of becoming *a distraction from the real tasks and priorities before us..* The Australian Government rejects 'the politics of symbolism'. We believe in practical measures leading to practical results that improve the lives of *individual people where they live*. [40]

This speech demonstrates the motivations behind this new 'practical' approach, namely the desire to 'go beyond' the 'catchcry' of key indigenous aspirations concerning land rights, sovereignty and self-determination.

In addition, the notion of 'practical reconciliation' served to justify the Government's stance on the findings of the 'Stolen Generations' National Enquiry.^[41] The "stolen generations" is the common term for possibly the worst injustice perpetrated on Australian soil during the 20th century: the systematic and forcible removal from their mothers, families and communities of thousands of Aboriginal babies and children of mixed descent.^[42] Not surprisingly, Aborigines, in general, consider the stolen generations as one of the most serious issues in their lives and consequently one would expect acknowledgement, apology and reparations to figure in any 'reconciliation' process.^[43] Nevertheless, John Howard has persistently refused to give a formal apology on behalf of the government for the shameful acts that were outlined in the National Enquiry. In his speech to the Australian Reconciliation Convention he justified his stance on the apology issue via the new focus on 'practical' measures, stating that,

"We must be realistic in acknowledging some of the threats to reconciliation. Reconciliation will not work if it puts a higher value on *symbolic gestures* and overblown promises rather than the *practical* needs of Aboriginal and Torres Strait Islander people in areas like health, housing, education and employment. It will not work if it is premised solely on a sense of *national guilt and shame*."

In the same speech he reinforced Herron's earlier position on Self Determination in his statement to the UN, stating that reconciliation will not work

"effectively if one of its central purposes becomes the establishment of different systems of accountability and lawful conduct among Australians on the basis of their race or any other factor."

He went on to link the inherently assimilationist policy of 'practical reconciliation' with the now familiar notion of 'social' justice, stating that,

"this practical, on-the-ground approach will remain a primary focus of our policy making. This is because we believe it will bring about true *social* justice for indigenous Australians."

Towards an Appropriate Reconciliation

“For the vast majority of Aborigines and Islanders, the past is not a foreign country. What governments concede Aborigines may have endured in the past, they are still enduring – namely, wholesale imprisonments, removal of children to institutions of various kinds, gross ill health, appalling environmental conditions, unemployability, increasing illiteracy, family breakdown, internal violence, and almost unbelievable levels of youth suicide. *Neither in theory nor in practice does, or can, the concept of reconciliation, as variously interpreted, address these issues..*[44]

This indictment of Australian reconciliation, whilst correct in terms of its chronic failure to address the problems faced by Aboriginal communities, is perhaps misguided in terms of the potentialities of reconciliation *as a concept*. In theory, reconciliation, whilst concerned with ‘forgiveness’ and ‘moving on’, is also concerned with notions of ‘truth’ and ‘justice’.[45] Indeed, reconciliation as a peacemaking *paradigm* involves the creation of a *social space* where truth, justice, vengeance and forgiveness are validated and joined together, rather than being forced into a confrontation where one must win out over the other.[46] It is conceded, however, that in *practice* many of the processes have been bound up with, and often subsumed by, religious and political agendas that often assumed the form of a concerted political campaign against popular notions of retributive justice in favour of some form of restitutive justice.[47]

Yet, whilst Australian reconciliation also partakes in a dilution of justice, ignoring retributive justice altogether and reducing ‘restitutive justice’ to the notion of ‘*social*’ justice, this is not a requirement of reconciliation *as a concept*.. Indeed, the concept may, in some circumstances, require a restriction of retributive justice, to avoid cycles of revenge, but it will be an empty vessel if no restitutive atonement is forthcoming. This is certainly a charge Australian reconciliation would have difficulty defending and, consequently, the concept is seriously out of step with indigenous aspirations.[48] Even though ‘moderate’ indigenous leaders seldom speak in such terms, ‘grass roots’ leaders at the community level seem convinced that the ills of their communities will not be resolved by white people.[49]

‘Self-determination’ in this regard is a key aspiration of many Aboriginal and Torres Strait Islanders and whilst some groups might consider a solution within the confines of the settler state, others, such as the Sovereign Union of Aboriginal Peoples of Australia and the conveners of the Aboriginal Embassy in Canberra, do not recognise the authority of the Australian nation state and aspire to nothing less than recognition of their un-ceded and continuing sovereignty. [50] Whilst, there exists, at least conceptually, a coherent and just solution to the ‘sovereignty’ challenge, analysis of the language of Australian reconciliation demonstrates that the rhetorical framing of the concept, in terms of the desired outcome, unduly restricts the application of a morally appropriate notion of justice. This problem can be highlighted by looking at three broad ‘meanings’ of reconciliation *as an outcome* that range from ‘thinner’ to ‘thicker’ conceptions...

- i. 'Simple co-existence', whereby former enemies merely cease hostilities.
- ii. 'Liberal social solidarity' or 'democratic reciprocity', which refers, not just to an end to hostilities, but to a situation where *citizens* respect each other and seek to create space to hear each other out, enter into a give-and-take on public policy, build on areas of common concern, and forge mutually acceptable compromises.[51]
- iii. The third 'more robust' conception is often attributed to the South African and Chilean processes that attempted to reach a *shared comprehensive vision of mutual healing and restoration, and mutual forgiveness*. [52]

In terms of an indigenous/settler state reconciliation process, there are both practical and moral reasons to favour the first conception over the second and third. Since citizenship rights do not do justice to the unique position of indigenous people, and as such are inherently assimilationist in nature, the second conception would be problematic, as it tends to suggest a citizenship-based solution. The third conception's emphasis on a *shared comprehensive vision*, I would suggest, is closely related to the 'one nation' - 'single moral vision' approach of Australian reconciliation and, as already discussed, is unacceptable as it is not valid to assume that Australia comprises 'one nation' or that indigenous people would want to be considered as 'part of' the settler state.[53] The problem of indigenous 'nationhood' and sovereignty can not be ignored in any sincere attempt to correct the historic injustice of colonisation and its legacy, not just because many communities and organisations from the 'victim group', such as those mentioned above, cite recognition of continuing sovereignty as one of their key aspirations, but also because the exercise of sovereignty must be based on the consent of those affected by it.[54] To legitimise the exercise of settler sovereignty in Australia the government has to gain the consent of indigenous people. To do this it will be necessary to hold negotiations with indigenous peoples that bear little resemblance to those that have gone before. Indeed, the requirement would be that such negotiations are held 'nation' to 'nation', with indigenous peoples being treated as nations equal in status to the settler state. By definition, the resultant treaties would be 'international treaties', and as such would possess inherent *international* infringement redress possibilities.

Drawing on the works of emerging indigenous academics, political scientist James Tully suggests that this approach would constitute a genuine resolution of the problem of internal colonisation so long as it was based on the following conditions:

- Indigenous peoples continue to exercise, without interference, their own stateless, popular sovereignty on the territories they reserve for themselves.
- In return for non-interference on indigenous territories, the settlers can establish their own governments and jurisdictions on unoccupied territories given to them by indigenous peoples.
- Indigenous peoples agree to share jurisdiction with the settlers over the remaining overlapping territories, treating each other as equal, self-governing, and co-existing entities and setting up negotiating procedures to work out consensual and mutually binding relations of autonomy and interdependence...subject to review and renegotiation where necessary, as circumstances change and differences arise.[55]

John Paul Lederach has suggested that reconciliation, to be successful, requires 'innovation'..[56] I would suggest, in the context of indigenous-settler state relations, that this 'innovation' involve moving beyond the assumption of legitimate settler state sovereignty and embracing the legitimising nation-to-nation negotiation approach that Tully suggests, as the assumption of legitimate settler sovereignty merely serves to reinforce the problems created by internal colonisation.[57]

In contrast to Official reconciliation, Tully's approach is sensitive to the fact that indigenous peoples were 'independent political entities' at the time of colonisation, a status that has not been legitimately surrendered, and consequently the continuing imposition of settler state sovereignty is illegitimate. Moreover, Tully's approach replaces the false assumption that jurisdiction must be exclusive with two (indigenous) principles: free and equal peoples on the same continent can mutually recognise the autonomy or sovereignty of each other in certain spheres and share jurisdictions in others without incorporation or subordination.[58] Essentially, this form of *treaty federalism* recognises prior and existing sovereignty not as state sovereignty, but, rather, a stateless, self governing and autonomous people, equal in status, but not in form, to the (settler) state, with a willingness to negotiate shared jurisdiction of land and resources.[59]

Conclusion

Official Reconciliation emerged out of the campaign for a treaty to right the wrongs of the past, but once up and running it was to use language far removed from that of the treaty movement. Far from providing the basis for negotiating a 'settlement' with indigenous peoples on equal terms, the process was framed in restrictive nationalist language from the outset. Despite the minister responsible, Robert Tickner's, assertion at the outset, that 'there can be no reconciliation without justice', Official Reconciliation soon became little more than an assimilationist nation building exercise. The Council's own rhetoric and the Howard government's 'practical' policy emphasis places a ceiling on indigenous aspirations, offering only assimilationist initiatives primarily framed in the language of citizenship rights. In short, the process seeks to incorporate all that settler society sees as valuable in indigenous culture whilst offering no redress for the situation that, according to the preamble of the act, necessitated the process in the first place. As Colin Tatz points out, this must be the best possible 'bargain' for settler society.[60]

The pursuit of the 'bargain' with the new body, Reconciliation Australia (founded in 2001 to continue the work of the Council), which is now supporting the Howard Government's latest insult to Aboriginal peoples, the construction of Reconciliation Place, a monument to be erected to celebrate Australia's reconciliation 'achievement'.. The plan is to replace the unsightly Aboriginal Tent Embassy with a non-protest, tourist friendly site, complete with a coffee shop and sanitised 'gas burning' fire in place of the traditional 'sacred fire' that has been burning as a continuous symbol of protest for many years. As Darren Bloomfield, an Embassy spokesperson, informed me last year, "one of the many problems the government had with the Tent Embassy was the overly authentic sacred fire

and the lack of a decent espresso machine for the tourists.”[61]

The ills of the Australian process are not the fault of the 400,000[62] people that walked across Sydney Harbour Bridge in support of the process in May 2000, nor is it the fault of some 10,000 people that regularly attended their local reconciliation meetings across the country,[63] but equally it is not the fault of reconciliation *as a concept* as such. In theory, reconciliation, in the Australian context, should attempt to achieve a simple cessation of hostilities, as opposed to the arbitrary imposition of a ‘single unifying moral vision’ implicit in a ‘one nation’ strategy, via appropriate forms of redress, which fully acknowledge and redress the harms that flow from internal colonisation. To this end, Tully offers a possible conceptual solution to the problem of internal colonisation that could provide the foundation for a more appropriate and genuine reconciliation process. A reconciliation initiative based on Tully’s settler state legitimacy formula, however, would require the ‘innovation’ that Lederach speaks of, in order to move beyond the entrenched colonial assertion of legitimate sovereignty, and seek the consent of the colonised via nation-to-nation negotiation. Yet, this innovation is unlikely to come from a Howard government that wants to ‘move beyond’ the ‘distraction’ of indigenous rights, preferring to continue its ‘practical’ assimilation policy. As Ray Jackson stated, the "Federal Government continues to insult our Elders and Leaders. They continue to malign our true history. They continue to steal the land. All with impunity. Yet they talk of Reconciliation." [64]

[1] The modern day call for a treaty did in fact originate with indigenous groups – the National Aboriginal Conference, the National Aboriginal Government and Kevin Gilbert’s Treaty 88 campaign groups. However, it was the more ‘respectable’ white think tank, the Aboriginal Treaty Committee, which gained the most press coverage.

[2] Stuart Harris, *It's Coming Yet* Aboriginal Treaty Committee, Canberra, (1979), p12

[3] Such sentiments were expressed not only in academic circles, for instance see Tatz, C, *Reflections on the Politics of Remembering and Forgetting* Centre for Comparative Genocide Studies, Macquarie University, North Ryde, NSW (1995) p.16. But also in white ‘think tanks’ such as the Aboriginal Treaty Committee in the late 1970’s, see Harris *ibid.*.

[4] This ‘social justice’ rationale was frequently cited by the minister for Aboriginal Affairs at the outset of the Australian Reconciliation process. See Tickner, R, *Taking a Stand: Land Rights to Reconciliation*, Allen and Unwin, (2001), p29

[5] Senate Standing Committee on Constitutional and Legal Affairs, *Two Hundred Years Later* AGPS, Canberra, (1983), p50. The terms ‘compact’ or ‘agreement’ were more attractive as they did not commit the government to any pre-negotiation assumptions, such as having to deal with indigenous groups as equal sovereign nations, the implication of the ‘treaty’ idea.

[6] Senate Standing Committee on Constitutional and Legal Affairs, *Two Hundred Years Later* AGPS, Canberra, (1983), p50.

[7] See Tickner, R *Taking a Stand: Land Rights to Reconciliation* Allen and Unwin (2001), p29.

[8] The resulting document that emerged in May 2000 had no legal force and was not handed to the Prime Minister as a symbolic gesture, as originally planned by the Council,

due to various incidents that demonstrated a lack of good faith on the part of the government.

[9] For a full list of the original members see <http://www.austlii.edu.au/au/other/IndigLRes/car/2000/16/appendices/02.htm>

[10] *Council For Aboriginal Reconciliation Annual Report*, 1994-5, Canberra, Australian Government Publishing Service, (1995).

[11] *Council For Aboriginal Reconciliation Annual Report*, 1994-5, Canberra, Australian Government Publishing Service, (1995), p.5

[12] For a discussion on Aboriginal 'nationhood' and the misconception that Aboriginal groups were not 'distinct political entities' at the time of conquest, see Reynolds, H, *Aboriginal Sovereignty*, Allen and Unwin, (1996).

[13] For example, but for the imposition of settler jurisdiction, the Yolnu people of Arnhem land would be able to govern themselves according to traditional laws that have survived to this day. See Trudgen, R, *Why Warriors Lie Down and Die* Aboriginal Resource and Development Services Inc, Darwin, (2000).

[14] See for example Gilbert, K, *Aboriginal Sovereignty: Justice, The Law and Land* 3rd Edition (1993), although for Gilbert, talk of a single nation was a strategic move as he thought it a difficult enough task to persuade the Commonwealth of the need for one treaty let alone dozens. See also Kelly, L, 'Reconciliation and the Implications for a Sovereign Aboriginal Nation' *Aboriginal Law Bulletin*, Vol 3: 61, April (1993), p11

[15] A prime example of such can be found in Kymlicka, W, *Liberalism, Community and Culture*, Clarendon Press, Oxford, (1991), where he equates "the special status" of aboriginal peoples with that of French-Canadians (p156) and when he states that: "the issue of minority rights is raised in many countries by the presence of aboriginal peoples...the rights of Canada's aboriginal peoples are, therefore, representative of a major class of minority rights questions". p157.

[16] Robertson, G *Crimes Against Humanity: The struggle for Global Justice* Allen Lane, Penguin Press (1999) p138.

[17] For a good discussion of this and related issues see Moran, A, 'Aboriginal Reconciliation: Transformations in Settler Nationalism' *Melbourne Journal of Politics Special Reconciliation Issue*, University of Melbourne Press, (1999).

[18] For a defence of this argument see Moran *Ibid*.

[19] Clark, I, D, "Sharing History: a sense for all Australians of a shared ownership of their history" *Council For Aboriginal Reconciliation Key Issue Paper No.4*, Canberra, Australian Government Publishing Service, (1994), p.1. I am indebted to Anthony Moran's very insightful MJP paper (*op cit*) for highlighting this point.

[20] Brennan, F, *One Land One Nation: Mabo: Towards 2001*, Queensland University Press (1995), pXV, (emphasis added)

[21] Sharing History, *op cit* p.28.

[22] Council for Aboriginal Reconciliation *Annual Report 1994-5* 'Social Justice' section, Canberra, Australian Government Publishing Service (1995).

[23] Tickner, R, *op cit*, p29.

[24] Turner, B, S, "Outline of a Theory of Human Rights", *Sociology*, Vol.27, No.3 August (1993).

[25] For an overview and discussion of these rights see, Pritchard, S, *Indigenous Peoples, the United Nations and Human Rights*, The Federation Press, (1998).

[26] Council, Annual Report, Chairperson's introduction, *op cit*.

[27] Over the years indigenous rights to land and self-determination were occasionally mentioned in various Council documents, but they never assumed a central place within the notion of *social justice*.

[28] Personal communication June 2000.

[29] Gilbert, K *op cit*, p163.

[30] In Professor Colin Tatz's terms, white Australia should "give back the giveable - such as available land, restore the restorable - such as culture and language centres. And then when we have given back the giveable and restored the restorable, we can give money as reparation and restitution. This will not revive the dead or relieve past pain, but it will do some real good in the present and future – excerpt from Colin Tatz's speech, Reconciliation Week, Sydney, at <http://vicnet.net.au/~aar/welcome.htm>

The land rights recognised thus far under the *Native Title Act 1993* (NTA) have failed to provide indigenous people with a land base that is so central to their culture. So far there have been just 30 determinations of native title, most of which are in the form of 'Land Use Agreements', which do not amount to anything like freehold title, are not accompanied by political autonomy, and are largely off mainland Australia. Furthermore, the 1998 amendments to the NTA have weakened indigenous land rights to the extent that they are now almost meaningless. Consequently, Australia has been severely criticised, on no less than four separate occasions, by the United Nations Committee on the Elimination of all forms of Racial Discrimination, see for example: -Decision 1(53); CERD/C/53/Misc.17/Rev.2, 11 August 1998.

[31] *Ibid*, p161

[32] See Council for Aboriginal Reconciliation *National Strategies for the Advancement of Reconciliation*, available online at www.austlii.edu.au/au/other/car

[33] Jackson, R, 'Socialist Worker- Special Reconciliation Meeting', Sydney, June 2000.

[34] This grounding of indigenous rights is similar to that favoured by the Supreme Court of Canada in the 1996 Van der Peet judgement. For a discussion of this point see Tully, *op cit*, p46.

[35] Tully, J, citing the central thesis of Asch, in Havemann *op cit*.

[36] For a discussion of this conception see, Asch, M, "From Calder to Van der Peet: Aboriginal Rights and Canadian Law, 1973-96", in Havemann, P, (Ed) *Indigenous Peoples Rights in Australia, Canada and New Zealand* Oxford University Press (1999), p436.

[37] Liberal leader John Howard came to power in 1996, thereby inheriting the reconciliation process from Paul Keating. Almost immediately Howard demonstrated his lack of desire for a genuine 'reconciliation' by cutting the Aboriginal affairs budget by AUS\$ 400 million.

[38] The notion of 'Self-Empowerment' represents the governments preferred option to 'Self Determination'.. It involves the promotion of economic independence through traditional western financial methods, with no 'special' rights to land permissible under its strict formal equality approach. This position has been stated publicly at the United Nations Working Group on Indigenous Populations, Palais De Nations, 2000.

[39] In *Mabo and Others V Queensland (No 2)* (1992) 175 CLR 1 F C 92/014, the Court held that the Crown extinguished native title in a piecemeal fashion over many years as the wave of settlement washed over the continent. However, native title had survived on the Murray Islands as the Meriam people maintained their connection with the land and the Queensland government had done nothing between 1879 and 1992 to extinguish it. It held that the Meriam people were "entitled as against the whole world to possession, occupation, use and enjoyment of (most of) the lands of the Murray Islands. In *Wik Peoples V Queensland* (1996) 141 ALR 129, contrary to the belief of the government and industry, it was held, by four of the seven High Court judges, that a pastoral lease *did not necessarily extinguish native title*, as in some cases native title rights can survive the grant of the lease. The particular rights of leaseholders and native titleholders must be identified and proved in each case before the answer can be known.

[40] Taken from an address by Aboriginal and Torres Strait Islander Affairs Minister John Herron at the 17th Session of the Working Group of Indigenous Populations (WGIP) on 29 July 1999 from: UNWGIP Palais de Nations, Geneva (emphasis added).

[41] *Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*, generally known as the "stolen children" report. Available from the Human Rights and Equal Opportunity Commission, GPO Box 5218, Sydney 2001, and online from the Commission's website at <http://www.hreoc.gov.au>

[42] The policies and practices of removal were in effect throughout this century until the early 1970s. There are many Indigenous people, now in their late twenties and early thirties, who were removed from their families under these policies. Although the official policies and practices of removal have been abandoned, the *Bringing Them Home* report reveals that the past resonates today in Indigenous individuals, families and communities.

[43] Tatz C, *Genocide in Australia* AIATSIS research discussion paper No 8, GPO box 553 Canberra ACT 2601 p43.

[44] Tatz, C, "The Dark Side of Sport", in Grattan, M, (Ed) *Essays on Australian Reconciliation* Black Inc. Melbourne, (2000), p77.

[45] See the wealth of material on this, which includes practical assessments and theoretical pieces such as Minow, M, *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence* (Beacon Press, Boston 1998), Roteberg, I, & Thompson, D, (Eds) *Truth V Justice: The Morality of Truth Commissions* Princeton University Press (2000), Allen, J, "Balancing Justice and Social Unity: Political Theory and the Idea of a Truth and Reconciliation Commission," *University of Toronto Law Journal* XLIX (1999), Lederach, J.P *Building Peace, Sustainable Reconciliation in Divided Societies*, United States Institute of Peace Press Washington DC (1999).

[46] Adapted from a conceptualisation provided by John Paul Lederach. I emphasise the word *paradigm* as this is a normative theoretical position and not a reflection of past practice. I deviated from Lederach's conceptualisation with the inclusion of 'vengeance' and the omission of 'mercy', as I felt that his conceptualisation was unduly restricted to the elements identified in Psalm 85 and felt that a more accurate exposition of human responses to 'harm' is provided by Minow, M, *op cit* p. 29.

[47] The South African Truth and Reconciliation Commission is a prime example of this approach. For a discussion of this approach see Minow *op cit* and Wilson, R, *The Politics of Truth and reconciliation in South Africa: Legitimising the Post Apartheid State*, Cambridge University Press, (2001).

[48] This is an opinion that I have formed as a result of fieldwork interviews and participant observation at reconciliation events.

[49] This view has been articulated by many Aboriginal leaders over the years, including

Kevin Gilbert, in his book *Because a White Man'll Never Do It*, Angus and Robertson Third Edition (1994), and by members of the Sovereign Union of Aboriginal Peoples of Australia, and is the central conclusion reached by Trudgen, R, in his book *Why Warriors Lie Down and Die* Aboriginal Resource and Development Services Inc, Darwin, (2000), although he sees a solution ultimately lying *within* the Australian State as currently defined.

[50] This is key to both groups' demands for justice. An opinion conveyed during fieldwork interviews conducted July 2001.

[51] Crocker, D, A, *Truth Commissions, Transitional Justice, and Civil Society* in Roteberg, R, I & Thompson, D, (Eds) *Truth V Justice: The Morality of Truth Commissions* Princeton University Press (2000) p. 108.

[52] See Shriver, D, *An Ethic for Enemies : Forgiveness in Politics*, New York, (1995), cited in *ibid*.

[53] It is also unclear what settler society should *forgive* Aboriginal people for - their existence perhaps?

[54] A foundational principle of international law - see the *International Court of Justice Advisory Opinion Concerning the Western Sahara* (1975)

[55] Tully, J, 'The Struggles of Indigenous Peoples for and of Freedom' in Duncan Iverson, Paul Patton and Will Sanders (Eds) *Political Theory and the Rights of Indigenous Peoples* Cambridge University Press, (2000), p53.

[56] Lederach, J, P, *Building Peace, Sustainable Reconciliation in Divided Societies*, United States Institute of Peace Press ,Washington DC, (1999), p 24.

[57] The relevant views of Australian politicians are evidenced above. For examples of the assumption prevalent in the works of academics, see Kymlicka, W, *Liberalism Community and Culture*, Clarendon Press, Oxford, (1991), and Kukathas, C 'Are there any Cultural Rights?' *Political Theory*, Vol 20 No 1 February Sage Publications, Inc, (1992)

[58] Tully, *Ibid*.

[59] *Ibid* p54.

[60] Tatz, C, "The Reconciliation Bargain" *The Reconciliation Issue, Melbourne Journal of Politics* Vol 25 (2000), p2.

[61] Interview with respondent 10th June 2001.

[62] Official Government calculations put the number nearer 200,000, but estimates by the transport authorities and participant organisations suggested a figure at least double the official estimate. As a participant myself, that witnessed a very strong continuous flow of people over a period of seven hours, I would have to concur with a figure much nearer the un-official estimates.

[63] Council for Aboriginal Reconciliation, *Weaving the Threads - Progress Towards Reconciliation*, second term report to parliament 1995-97, press release Dec 1997.

[64] Jackson, R, *Socialist Worker Special 'Reconciliation' Meeting*, Sydney, 9th June 2000.

Law and Identity

by Dr. Andrys Onsman

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By way of preamble, I want to emphasise that indigeneity can be a matter of life and death. Some of you may recall the Nigerian writer Ken Saro Wiwa. He claimed indigeneity on behalf of his people, the Ogoni, and on their behalf went to the UN to promote indigenous rights against the wanton destruction wreaked by Shell Oil. You may also remember that for doing that he was executed by the Nigerian government for treason. Defining indigeneity, then, can be as dangerous as it is important.

To begin this paper I'll make mention of two fairly recent texts on the topic, both of which are outstanding publications. Paul Havemann's 1999 book *Indigenous Peoples' Rights in Australia, Canada and New Zealand*^[i] has been hailed by indigenous commentators as a watershed publication in the field of international indigeneity. As potent summaries, I recommend especially his three time lines or Chronologies. Particularly the first two of these lists have proven invaluable in sequencing and contextualising significant events and developments. The first lists significant dates in the historical development of indigenous rights under the Euro-American Law of Nations. The second chronicles twentieth century, public, international law and indigenous peoples.

Another seminal work is S James Anaya's *Indigenous Peoples in International Law*^[ii] Anaya sees the basic struggle of indigenous peoples as the desire to counter the impact of colonisation, and recognises that international law is the most accessible forum for that struggle. Furthermore Anaya cites self-determination as the corner stone of human rights, linking it with the process of decolonisation. There is no doubt that the work is meticulously researched and each point is substantiated with pertinent examples.

As is the case in these two publications, most of the emergent discussion in the field is concerned with the rights of indigenous peoples under international law. An interesting example of this is the current debate about the use of the word *population* rather than *peoples*. Both Havemann and Anaya use *peoples* in the title of their books. Controversy arises because the term *populations* precludes territorial claims and demands for self-determination. *Populations* is the term favoured by the United Nations, whilst the International Labor Organisation uses both. The Kari Oca Declaration on the other hand uses *peoples* exclusively. I'll get back to this point a little later, but at this stage I want to outline my concern that whilst the arguments are necessary they avoid examining who these populations or peoples are that are targeted by either the ILO and UN or the Kari Oca Declaration. Although it is in itself fascinating, isn't so much whether one uses *peoples* or *populations*, it is, in the first instance, who one is referring to. No one I suggest would disagree that the Yanomana from deep within the Amazon Basin are indigenous, and

targeted by protective international law. But are the Basques or the Welsh or the Frisians also indigenous? Richard Griggs of the Centre for Fourth World Studies in Denver certainly thinks so[iii]. And if so, what laws, international or not, are designed to protect their indigeneity?

My purpose in this paper is to ask how indigeneity is defined. What criteria are used to include and exclude people and peoples from the targets of international law? The fundamental question then is whether or not it is actually possible to define an international indigenous identity in any meaningful, practical and internally consistent sense.

The tendency to collectivise, and consequently homogenise, indigenous people has been well documented. We need look only to our own indigenous population to see that. There are Aborigines and Torres Strait Islanders, with Tiwi as a possible third group. But we also know that there exists in every state and territory of Australia contention around the issue of Aboriginality. In my home state of Tasmania, there are some 18,000 people who claim Aboriginality, which means that it is the only state where there are now three times as many Aborigines as there were pre-invasion. Community leaders such as Michael Mansell object, suggesting that Aboriginality has become a club that anyone thinks they can join[iv]. In simple terms we can state that amongst the people who claim Aboriginality in Tasmania are those who unequivocally are and those that unequivocally are not, and that there are a lot of people in between. Where you slide your own personal marker between those extremes is your own business, but where international law sets it is everybody's concern.

Indigeneity continues to be of interest in the international arena. The United Nations declared 1993 the Year of Indigenous Peoples, and more recently the decade starting 1995 as the Decade of Indigenous Peoples. They appointed yet another "Special Rapporteur on Indigenous Concerns" earlier this year. And well may they be applauded for doing so. But their attempts to provide a universally workable definition of exactly who they are reporting on or even recognising, either for a year or for a decade, have a much longer history. The International Labour Organisation has a parallel history of grappling with exactly whose rights they are working to protect. Whilst these two organisations are by no means the only ones making contributions to the dialectic, they are nonetheless the two biggest and most influential. For the sake of balance, I will add the Kari Oca declaration as a representative indigenous voice.

I have already made mention of the contentious nature of the problem by referring to the dispute over the term indigenous *peoples* or indigenous *populations*. This very contention is reflective of the importance of the differentiation between indigeneity and minority in terms of status within a modern nation-state. Indigeneity confers a benefit over a general minority; particularly in spiritual, emotional and/or material terms. Were it merely the first two, there seems to be no doubt that the law would give it little thought. However as soon as the conversation turns to material benefit, beaks start to sniff. And rightly so, for the law is concerned with fairness and equity. In Australia we have seen a long campaign by Aborigines and Torres Strait Islander to be kept out of multicultural Australia, a campaign that in a sense concluded with the acknowledgment of Native Title. As a comparison, the

on-going struggle for identity and recognition by Australia's other black citizens, the Kanak, is not dependent to any degree on the claim for land rights. The Kanak, whilst they are a black Australian minority, are not indigenous and, with the possible exception of Mal Meninga and Bobbi Sykes, are generally not accepted into their ranks by the ATSIs - even though White Australia seems to have little knowledge of the difference.

So, what are the criteria that a *people* or a *population* need to meet before it is recognised as indigenous in law? I refer to the quite recent case in the USA where in 1976, the Mashpee Wampanoag Tribal Council sued in the federal court for possession of a large tract of land on Cape Cod. Similar earlier suits had resulted in out-of-court settlements, such as that won by the Passamaquoddy and Penobscot tribes in Maine who received \$81.5 million in return for them passing authority over to the state. But the Mashpee trial was different. At stake wasn't so much the question of land ownership but whether or not the contemporary Mashpee were in deed an actual Indian tribe. What was at stake was their very identity as indigenes - not to mention substantial amounts of money that were dependent upon the legal judgement thereon.

The Bureau of Indian Affairs raised objection to the claims on the basis that in 1976 the Mashpee are not a tribe. The jury agreed, and the land claim was dismissed. What is of interest to this paper is that like the Miami before them, the Mashpee were, and in deed are still, not recognised as a distinct Indian tribe. The sticking point was cultural continuity: there was no way that it could be indisputably proven that the Mashpee of two hundred years ago were the same people as the Mashpee today. In order to make sense of that judgement we need to understand that it was based on what criteria for tribe-ness are extant in USA federal law. The judgement relied primarily on *Montoya v. United States* when in 1901 a tribe was defined as "a body of Indians of the same or similar race, united in a community under one leadership, and inhabiting a particular to sometimes ill-defined territory." [v]

At first glance these four criteria may seem far removed from the UN/ILOs definitions of indigeneity. In broad terms we might substitute the word indigenous peoples for tribes in this instance. In actuality the two sets of defining characteristics are remarkably similar in intent. Both rely on two key factors: a continuation of a distinct culture as well as an uninterrupted occupation of an ancestral domain. The jury specifically agreed that the Mashpee were a tribe in 1834 and in 1842, but not in 1790, 1870 nor 1976. Those years were key dates, but that isn't important here. The jury decided that there was no continuity, and that as the Mashpee were not a tribe at the time they raised their claim, the case could be dismissed. The emphasis here is on continuity: there has to be an on-going, distinct culture evident and there has to be on going occupation of ancestral domains.

Both the UN and the ILO put forward three criteria for indigeneity of a people. The UN lists premier occupation of a defined area; on-going and demonstrably distinct cultural practices and oppression by the dominant society caused by the indigeneity. The ILO concurs with the first two but substitutes self-identification for the third. One needs merely refer to Nunavut to demonstrate that the UN's third criterion is by no means universally applicable to

indigenous peoples. It would take a substantial argument to describe the Inuit as no longer indigenous merely because they have recently achieved a measure of self-determination and autonomy. By the same token it would require substantial argument to prove that any indigenous people can revoke their indigeneity merely by saying so. Patrick Dodson could argue that he is Irish rather than Aboriginal, but who would believe him?

Substantially it is the first and the second criteria that form the basis of the vast majority of legal interpretation of indigenous identity, and as mentioned earlier, the Federal Bureau of Indian Affairs pointed to areas of significant doubt in both criteria in the Mashpee's claim. Firstly the FBI argued that the Mashpee today is a conglomeration of various Indian peoples, Caucasian people, Negro people and Hispanic people, to the point that no one can be said to be generically Mashpee any more. The USA clings to blood quotients for authenticating (and accrediting) individual Indians, and in this case applied those principles to an entire tribe. The FBI argued that there was no longer a dominance of Mashpee in the assembly of people claiming to be Mashpee. Therefore, they were able to argue, the people who had been the traditional owners of the Cape Cod area in the past were no longer manifest in the current Mashpee. In essence they said that whilst they were not denying that the claimants were of Mashpee descent, they were not the same Mashpee who had roamed the area before it was confiscated.

This argument was supported by the contention that there were in fact no longer any on-going and distinct cultural practices that identified the claimants as traditional Mashpee. There was no language, no dances, no ritual and no world-view that made the claimants distinctly and identifiably Mashpee. All such activity currently practiced by the claimants were shown by the FBI to be a mish-mash of various cultural practices acquired during the last fifty years or less, and drawn from disparate sources. Even the most neutral observer, with the best will in the world, would be hard-pressed to uphold the claim of cultural continuity, and it comes as no surprise that it was dismissed. However, neither does it mean that the Mashpee have abandoned their claim:

The Mashpee Wampanoag Tribal Council Inc. of Massachusetts has lived in the same area of Cape Cod for hundreds of years. The Native American Rights Fund (NARF) has represented the Tribe since the mid-1970s in seeking federal recognition. Most recently, NARF responded to alleged deficiencies pointed out by the Bureau of Indian Affairs (BIA) in the Tribe's petition for federal recognition. The BIA has now placed the Tribe on "ready for active consideration" status, a stage prior to the BIA actively considering their petition. In the meantime, NARF is assisting the Tribe in revising its constitution to strengthen its tribal government. [\[vi\]](#)

The Mashpee case provides an interesting springboard to what exactly is meant by the term indigenous peoples during this Decade of Indigenous Peoples. Indigenous peoples themselves support both the UN's and the ILO's definitions. In Brazil in 1992, at the first World Conference of Indigenous Peoples on Territory, Environment and Development, nearly one thousand people, representing indigenes from all parts of the globe wrote and signed a 109 point Earth Charter called the Kari-Oca Declaration. The charter insists on the

term indigenous *peoples* as opposed to indigenous *populations*. There are one or two other interesting points in the charter that will be revisited later in this paper, but the point here is that it serves as a reasonable justification for using the UN and ILO definitions of indigeneity as benchmarks because the charter specifically mentions those two organisations, and recommends that their definitions be adopted. It isn't unreasonable then to assume that in general indigenes themselves see the criteria of on-going occupation of traditional domains and an on-going and distinct culture as the keystones of international indigenous identity. And those keystones do not seem to fit the arches constructed by the Mashpee.

They do however fit the bill for the Frisians. In Australia Frisians are better known as cows, and in the USA people mostly will think that you are referring to horses, but in the Netherlands, Germany and Denmark, they are first and foremost people. They are tall, blue eyed, blond haired and have always lived in Fryslan. The Frisian Museum claims that they have lived there for more than fifty thousand years. Be that as it may, the Romans called Frisii and were at pains to keep out of their long coppery hair because they were in those days, a little wild. Even when Boniface went preaching there in the Middle Ages, the Frisian response was a little extreme: they killed him. Strangely enough a few centuries later, they adopted Protestantism, producing the Mennonites and the Amish, both of whom are renowned for the gentleness. After that, the political turmoil in Europe saw their domains split between The Netherlands and Germany, with a few islands and a narrow coastal strip grabbed by Denmark. The Frisian settlement around The Wash in England became absorbed into the local population. But instead of assimilating into their new countries, the Frisians maintained their language and their fierce independence, particularly in the Dutch parts. There they still don't sing the National Anthem of The Netherlands. Instead they sing the Frisian Folksong.

The Frisians are a thoroughly modern, contemporary people. They are also indigenous. No one but the Frisians have ever lived in Fryslan. The 50,000 years of occupation suggested by the Frisian Museum may be in dispute, but such dates and time lines are not actually required by the definitions. Certainly the Frisians have been in Fryslan since time immemorial; certainly Fryslan is their ancestral domain. Not only that, but there is little argument with the statement Frisians have always been there and continue to be there this day. The first criterion is, in any meaningful sense, indisputably satisfied.

The second criterion centres on an on-going and distinct culture. This criterion can make itself manifest in several ways, one of which, universally accepted, is the maintenance of a separate language. The Frisian language, recognised as a minority language by the UN and the EC, is mutually unintelligible with either Dutch or German. Of the 700,000 people living in Fryslan, 600,000 are passably fluent or better. I could add the traditional customs, sports and festivals. I could refer to the unique way of seeing the world, evident in the very peculiar humour, but the point has been made; the second criterion has also been satisfied [\[vii\]](#).

But of course, something has been left out here. Do the Frisians think of themselves as

indigenous? Well, that depends on what you mean. And it depends on which language you ask the question in. Because Fryslan is now mostly under the jurisdiction of The Netherlands, and the Dutch tried very hard to eradicate the Frisian language during the last three hundred years, most academic discourse is in Dutch. The Dutch language doesn't have one word for indigenous. Instead they have a word for autochthonous; another for primitive and a third for native. Any one or all three of those words are translated as indigenous. Of course English has those three words as well, as well as a few more. But Dutch doesn't have a single word for indigenous. Were you to ask the Frisian man in the street if he is indigenous, you would have to choose which one you meant. Autochthonous would get you a hundred per cent positive response. Native would probably also be universally acceptable. But primitive may well get you run out of the place. Frisians, whilst certainly accepting that they are indigenous, are not primitive.^[viii] Primitiveness, in this sense and at this time, carries the meaning of peoples of foreign climes considered to be less sophisticated in a military/technological/economic/rational sense. Such an assessment was often originally made on a religious basis, and is now generally considered to be erroneous, insensitive and politically incorrect. Regardless of whether we still secretly harbour such thoughts, we need to ask if indigeneity equates with primitiveness without descending into the murky depths of anthropological views of cultures made static by colonialism.

Unlike the Dutch, the Frisians have only one word for indigenous:- *ynlansk*, someone or something that comes from within the land. With due reference to the argument that all but a handful (or even one) peoples came from somewhere else, Frisians see themselves and are seen as uniquely native to their ancestral domains. It seems reasonable to assume that by satisfying the criteria of indigeneity put up by the UN and the ILO, and ratified by the Kari Oca Declaration, and publicly seeing themselves as indigenous, Frisians are in deed, indigenous.

The Basques and the Sami, amongst others, will also fit the bill. The Sami are often the only ones invited to international conferences on indigeneity, probably because they look "primitive" in their traditional garb. The fact that they now track their reindeer by satellite is seldom referred to when the Circumpolar Council meets to discuss traditional land rights on the Kola Peninsula. The indigenous world may applaud the Basques for their struggle to regain sovereignty over their ancestral domain, but the others see them as murdering terrorists. Nonetheless the Mashpee are not indigenous and the Frisians are. So, this decade has been assigned to further the Frisians the Basque, the Sami causes but not the Mashpee.

Of course, nothing is that simple. Two points stand out. The UN isn't targeting Frisians, and all of this is contingent on the co-operation of the governments involved. Taking the second point first, in 1993 the Dutch Government, through the Netherlands Ministry of Foreign Affairs/ Development Cooperation, published a statement entitled *Indigenous Peoples in the Netherlands Foreign Policy and Development Cooperation*. The Frisians aren't mentioned once. Nor are the Sami or the Basques. It makes use of the UN definition as outlined by Martinez Cobo^[ix]:

Indigenous communities, peoples and nations are those which, having a historical continuity

with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.

I have already demonstrated that this definition isomorphically fits the Frisians, but I have also suggested that in the main, they are not the intended targets. In deed, the Dutch Government's statement clearly states, continent by continent, which peoples it is referring to, and Europe doesn't rate a mention at all. In fact, the lists of indigenous peoples seem to have one main common factor: they are all militarily/technologically/economically less sophisticated.^[x] Could it be that the Dutch are implying that the UN are targeting primitive peoples but are reluctant to call them that? At least the ILO referred to Indigenous and Tribal Peoples.^[xi] The UN's attempt to pinpoint who they are referring to is principally the notion of being oppressed by the dominant society, but that would mean that if the oppression was removed they would no longer be indigenous. We would have had to remove the Inuit from the list the minute they achieved autonomy in Nunavut last year, and that is patently ridiculous.

Ultimately we might have to agree with David Maybury-Lewis^[xii] who suggests that there are no hard and fast distinction between indigenous peoples and other kinds of localised ethnic groups. Admittedly he also mentions that American Indians are *truly* indigenous because they were there first, but he does make a very substantial point when he suggests that indigenes are often defined as much by their relationship to the state as by any intrinsic characteristic. I am assuming that he is taken the two main criteria of ancestral domains and on-going cultural difference as given, when he states that indigenes often live in isolation and manage their own affairs as much as possible without interference from a centralised authority. Indigenes, he claims, "are always marginal to their states and they are often tribal." He defines tribal as pre-industrial and small scale. We could point to the Maori and ask if they are marginal to their state; or the indigenous Fijians, but that point has already been made. What is more relevant is that Maybury-Lewis too equates indigeneity with primitiveness without letting the word pass his lips.

Were I an etymologist I would argue that historically speaking being primitive is not necessarily a bad thing because the criterion upon which the judgement is based usually comes from some sort of canon-based religious world-view, the relevance of which in today's world may well be questionable. That, however, is unlikely to remove the patronising air with which the word is tainted. Indigeneity is good, primitiveness is bad. The problem is that most international consideration of indigenous peoples, including international law, seeks to address the inequities that indigenes suffer because of their indigeneity. It demonstrably wrong to suggest that all indigenes actually suffer such inequities. So, how can the UN and ILO target those indigenes who warrant their support? How can any support organisation do that without creating further divisions? Are we to have category A and category B indigenous peoples, with sub-categories according to

appearance?

I mentioned Tasmania earlier on. The Aboriginal community there has been described as a bunch of mainland Aborigines and white people squabbling over Federal funding. Whilst the implication that there are no Tasmanian Aborigines is demonstrably untrue, Michael Mansell's comment that they seem to have become a club that anyone can join is also not far from the mark. When asked what criteria he uses to assess someone's Aboriginality, he answers that they know who they are and they don't need such guidelines. Others disagree. Garry Maynard, a Tasmanian member of the Stolen Generation, casts doubt on Mansell's opinion (pers comm. 12.12.00). Maynard suggests that less than a tenth of those claiming Aboriginality actually are. Kaye McPherson[xiii], an Aboriginal elder with no recognised genealogical links whatsoever, suggests that there are many more than eighteen thousand. Whatever the truth of the situation, it does seem that at the rate the general population of the island state is shrinking and the Palawa rate is increasing, Tasmania might soon become an entirely Aboriginal state. What would be an interesting exercise is to judge whether or not the Palawa satisfy the criteria for indigeneity. Any of the traditionally living nations, the Yolgnu, the Tiwi, the Pitantjatjara as examples, are clearly indigenous, but are the Palawa, the Bunjil or the Eora? Are the Frisians akin to the Pitantjatjara whilst the Palawa are akin to the Mashpee? Is the conclusion to this paper really questioning the indigeneity of some Aborigines?

[i] Havemann, P, 1999, *Indigenous Peoples' Rights in Australia, Canada and New Zealand*, London, Oxford University Press

[ii] Anaya, S. James, 1996 *Indigenous Peoples in International Law*, New York, Oxford University Press

[iii] Actually he mentions the Frisians, the Basques and the Sami as indigenous Europeans <http://www.cudenver.edu/fwc/Issue8/europe-1.html>

[iv] Michael Mansell is quoted as saying that Aboriginality isn't a club you can apply to join in an article written by Georgia Warner under the headline "Battle of the Clans", published in the Mercury dated 7/9/99, p17.

[v] Federal reporter, 1979, 592F.2d 575, p582

[vi] <http://www.narf.org/cases/caseupdates.html> (Updated 03/20/01, accessed 24/9/01)

[vii] I shan't mention the geneticists who use the Frisians as test cases because you don't have to go back very far to find a common ancestor: that's way to close to the bone for a Frisian who made his home in Tasmania.

[viii] Onsman A, current, *Frysk en Frij: defining a contemporary indigeneity*, Daykeeper, Denver

[ix] Cf J.R. Martinez Cobo, 1987, Study of the Problem of Discrimination Against Indigenous Populations UN Doc. E/CN. 4/Sub.2/1986/7/Add.4

[x] Post Modernism has decreed that reason is context and culture dependent and therefore too vague to be a factor in anything at all.

[xi] The Convention Concerning Indigenous and Tribal Peoples in Independent Countries

(ILO No 169), 72 ILO Official Bulletin 59, entered into force Sept. 5, 1991

[xii] Maybury-Lewis D, 1997, *Indigenous Peoples, Ethnic Groups and the State*, New York, Allyn & Bacon

[xiii] Cf The Lia Pootah community, particularly
<http://tasmanianaboriginal.com.au/familyhistory.htm> and
<http://tasmanianaboriginal.com.au/voting2001/index.htm> (accessed 6/11/01)

Land Rights of the Indigenous People of the Chittagong Hill Tracts in Bangladesh

A Historical Analysis of Policy Issues

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Land rights of the indigenous people of the CHT is not like the other part of the country, their rights are based on customs and traditions that dates backs to many centuries. Various policies and programs have been implemented from the time of the first colonial power—the British—to the present national administration to strengthen overall national development, with little regard for their impact on the indigenous people and their way of life. The policies in post-partition and in Bangladesh period were with little regard for their impact on the indigenous people and their way of life. The objectives of the policies were centered on economic benefit alone but were not aimed at cultural assimilation. As a result, all policies and programs became consistent disregard for the indigenous people and their value systems and traditional life. The indigenous people lost rights from their ancestral land due to the implementation of many policies and programs in the CHT. The Peace Accord of 1997 addressed the indigenous land issues and there is an immediate need on the part of the Government of Bangladesh and the international community, to take immediate effective steps to resolve the issue of land and resource rights of the indigenous people of the CHT.

I Introduction

Resource management in the mountain areas of many tropical and sub-tropical countries has now become a great problem. The indigenous people of those mountain areas have been managing the resources with their traditional knowledge and customs. The traditional economy of them is called as subsistence economy which is completely need oriented, which means that production aims—and therefore the overall level of production—are geared to fulfilling the totality of individual and communal needs. But many of the indigenous communities today find themselves confronted with conditions which have seriously disrupted their economies and social system and do not allow them to continue with their traditional resource use practices any more (Erni, 1995). Many of the encroachments on indigenous territories happen due to the policies and programs guided by the aim to make a more rational use of land and resources. When communities traditionally have managed resources sustainably, government claims may destroy any incentive to continue to do so (Lynch and Alcon, 1994).

Like other indigenous territories in the world, various policies and programs have been implemented from the time of the first colonial power—the British—to the present national administration, in the Chittagong Hill Tracts (CHT) of Bangladesh. Sometimes the policies and programs contributed towards political and economic chaos in the region frequently stained by bloodshed. Because many of these programs were the consistent disregard for the indigenous people and their value systems and traditional knowledge (Roy, 2000). The denial of the land rights of the indigenous people to exist as a separate and distinct people with their own tradition, culture and practices is seriously undermining in the CHT.

Systematic studies on the CHT in general, socio-economic aspects in particular, are strikingly limited. Prior to the Peace Accord in 1997 between the government and Jana Sangati Samiti (JSS), a political platform of indigenous people, the CHT had practically

remained inaccessible for research and empirical exploration for long two decades. The last few years, however, have been seen something of an upsurge in the literature on the CHT. International aid agencies have commissioned a number of explanatory surveys mainly to assess the local needs and development potential of the indigenous people in the CHT (e.g., DANIDA, 2000; ADB, 2000; AusAid 2000). Gain (2000) provides an introductory overview of the ecology and living conditions in the CHT. Amin (2000) compiled a useful summary of the major public legislation regarding governance of the CHT. The Tribal Cultural Institutes and CHT Hill District Councils published popular literature on varied aspects of ethnic life and culture in the CHT (e.g., TCI, 1994; Lewin, 1998). Roy (2000) offers a detailed account of the politics of land rights in the CHT, focusing on such issues of land laws, role of selected international conventions and institutions. Van Schendel *et al.* (2000) introduce the life and livelihoods of the people of the CHT. Chakarborty (2001) has compiled some historical records on the shifting cultivations in the CHT. A number of international observers have assessed the political and human rights situation in the CHT such as CHT Commission (1991) and Tebtebba Foundation (2000). Although there are some studies on the CHT, but many of them are in a limited perspective for certain factual and quasi-reasons. Basic, in-depth studies are conspicuous by their absence or very limited presence. No serious study has been carried out specially emphasizing on the policies and land rights of indigenous people of the CHT. Not many people, inside the country and outside as well, are well-informed of the background associated with the land problems which has led up to the present critical status in the CHT (Gain and Morol, 1995).

II The Objectives and Methodology

It is important that the land issues of the CHT should be addressed in a comprehensive manner and an historical analysis of the policy issues should be necessary. This article attempts to examine the impacts of the policy and programs on the land rights of the indigenous people of the CHT. The objectives of this study are (1) to provide a description of the major policies and programs implemented in the CHT, and (2) to draw out a picture of how the indigenous people lost their rights to land due to implementation of those programs and policies. This article addresses mainly the common rights of land, private rights are not focused here due to the space limitation of this article.

The study has been carried out mostly analyzing the historical facts of different periods of time. The emphasis has been given on the policies adopted after the independent of Pakistan in 1947 to the recent time. Information of this article is collected from literature survey, ethnographic studies, reports, legal documents, as well as interviews with the indigenous leaders and some researchers who were engaged in carrying out some studies on the CHT issues.



Source: Roy, 2000

The CHT has forest of 83.8% of its total area. All the forests owned by the national government are divided into Reserved Forests and Unclassed State Forests (USF) (Table 1). Reserved Forests are managed by the Bangladesh Forest Department and the USFs are under the control of local district authorities. Population-wise the CHT have the lowest density in the country of 96 persons per square kilometer compared to the national average density of 827 persons per square kilometer (Gain, 2000).

Table 1 Indigenous Population by Race in the CHT

Race	Rangamati	Khagrachari	Bandarban	Total
Bawm	549	0	6,429	6,978
Chak	319	0	1,681	2,000
Chakma	157,385	77,869	4,163	239,417
Khumi	91	0	1,150	1,241
Khyang	525	0	1,425	1,950
Lushai	436	0	226	662
Marma	40,868	42,178	59,288	142,334
Mru	126	0	0	126
Murong	38	40	21,963	22,041
Pankho	3,128	0	99	3,227
Rakhain	70	0	0	70
Tanchangya	13,718	0	5,493	19,211
Tripura	5,865	47,077	8,187	61,129
Others	174	355	229	758

Total	223,292	167,519	110,333	501,144
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Source: Bangladesh Bureau of Statistics, Population Census Report, 1991.

IV 'Land Rights in the CHT'

Land rights in the CHT are based on traditional occupations, with the land and its resources providing the enabling environment for subsistence activities. Indigenous land rights are conceptualized within the framework of a separate legal regime, distinct from that of the rest of the country. It is inherent, inalienable, and is conceptualized within the framework of customary rights. Rights and interest of land is administered by the indigenous institutions^[1] according to customary law and include provisions for the control, use and management of the land and its resources (Roy, 2000).

The CHT Manual^[2] recognizes a variety of rights over land. For purposes of convenience, these rights have been divided into two broad categories, namely, private right and common rights. By private rights are meant the rights of individuals over a clearly demarcated piece of land. In the case of such privately held lands there is no distinction between the indigenous people and Bengali. The right to occupy such lands without formal settlement is specially reserved for the indigenous people. The common rights of land includes the rights to *jum*^[3], to use forest resources for domestic purposes, to graze cattle on the common village pastures, to occupy non-urban lands for homesteads, and so on.

Table 2 Land Utilization of CHT and Bangladesh

(in 000 hectare)

	CHT	%	Bangladesh	%
Total Area	1,335	100.0	14,906	100.0
Forest	1,120	83.8	2,265	15.2
Reserve Forest	268	24.0	1,375	60.7
USF	840	75.0	733	32.4

Source: Bangladesh Bureau of Statistics, 1999

V Policies and Programs of Different Periods of Time

During pre-colonial era in the CHT, land was either communally owned and cultivated or, outside the cultivated areas, not owned by anyone or any community. All members had free access to land, forests, rivers, and natural resources. There was no private property in land (Dewan, 1990). The CHT was first ceded to the British East India Company in 1760 and following the Soldiers Uprising of 1857, the British took over the direct administration of the Indian colonies from the East India Company. (Mohsin 2000; Gain and Morol, 1995).

1 British Colonial Period (1857-1947)

Initially the British followed a policy of non-interference, as far as possible, in the internal affairs of the CHT. For this reason, the indigenous Chiefs were given autonomy to run their internal affairs according to their customs, language, culture and religion (Dewan, 1990). The British recognized the CHT as an area distinct from the rest of the country, and as a matter of policy its administration, including that pertaining to land matters, has always been distinct from the plain districts. However, as the indigenous system of land tenure in the CHT differed from British concept of land administration, the colonist government proceeded to restructure the land revenue system and to bring it into greater conformity with

their system of land tenure. In keeping with this approach, a series of administrative and legislative measures were passed culminating in CHT Regulation of 1900 (Roy, 2000).

(1) The Regulation 1 of 1900 (CHT Manual)

The CHT Regulation 1 of 1900, popularly known as CHT Manual, laid down a detailed constitution for the administration of the CHT, showed the legitimacy of the customary rights. It ought to be noted that these rights were not created by the Manual, but acknowledged by it, in a qualified manner. Rule 34 of the regulation restricted possession of land by outsiders in the CHT and under Rule 52, no non-indigenous people could enter or reside in the CHT without obtaining permission from the Deputy Commissioner (DC). Under Rule 51, the DC had the power to expel anybody from the CHT within 24 hours if he or she was found to be undesirable. Notable in the Rule 52 of the regulation was that:

"No person other than Chakma, Mogh or a member of any hill tribe indigenous to the Chittagong Hill Tracts, the Lushai hills, the Arakan hill tracts or the state of Tripura shall enter or reside within the Chittagong Hill Tracts unless he is in possession of permit granted by the Deputy Commissioner" (CHT Manual, 1900).

While the ultimate authority was appointed by the British, the CHT was administered under the Regulation of 1900. In 1935 the CHT became totally 'excluded area' under the 1935 Government of India Act recognizing the special status of the region.

2 Post-partition Period (1947-1971)

Two hundred years of British colonial rule in India came to an end August 1947 with the emergence of two independent and sovereign countries Pakistan and India. The development and changes that followed the partition of India in 1947 have had horrendous implications for the indigenous people particularly in the areas of land dispossession and disturbance to their economic and cultural life (Gain and Morol, 1995).

(1) Change of the Special Status

Following the independence of Pakistan, the indigenous people began to lose their traditional rights and privileges which they had enjoyed throughout British rule in the CHT. The losses began with the abolition of indigenous police force (established in 1888) in 1948. Formulation of new constitution of Pakistan in 1962 also lessened the traditional power of the ethnic leadership and "systematic but clandestine colonization of the CHT by Bengalis began" (Gain and Morol, 1995). In 1964 the status of the CHT as 'excluded area' was changed to 'tribal area' indicating the area as the home of tribal people. With the 'special status' abolished, the ethnic leadership lost control over land among other things.

(2) Creation of Hydro-electric Project

A hydroelectric power plant was started in the Karnaphuli river at Kaptai village of Rangamati district, which was completed in January, 1962. The project was implemented under an USAID program in the CHT. The immediate fallout of the project was that an artificial reservoir (known as Kaptai Lake) covering a huge area of 663 square kilometers came into being submerging dwelling houses of 18,000 indigenous families as displacing approximately 100,000 people from their hearths and homes (Gain, 2000). This artificial reservoir also submerged 21,950 hectare of arable land, about 40% of the total cultivable land, created a serious crisis of arable land in the region. Besides, the reservoir submerged many establishments like schools, markets, hospital and about 689 square kilometers of forests (Bangladesh District Gazetteer, 1975). The indigenous people did not receive any compensation for the loss of their common land which compelled a large number of displaced indigenous families to migrate to India (Gain, 2000; Roy 2000).

3 Bangladesh Period Since 1971

Bangladesh emerged as an independent state in 1971 from what was then East Pakistan after the turmoil of a bloody civil war. The denial of the constitutional recognition of the indigenous people of their separate national entities by the first government of independent Bangladesh brought towards political and economic chaos in the CHT frequently stained by bloodshed. In 1976, the then government declared the problem of the CHT originated from underdevelopment and a good number of development programs or projects were adopted in the CHT. Many of these programs and policies had direct impacts on land rights of the indigenous people. Two of the major programs of these are discussed below:

(1) Population Transfer Program

The amendment of Rule 34 of the CHT manual in 1979 did away with the restrictions against settlements of CHT land by non-residents. As a result, in 1979 and in the next few years, as one of the various measure undertaken by the Government of Bangladesh to settle 400,000 landless plains families in the CHT. In order to encourage the plains families to move to the CHT, various incentives in cash and in kind were offered (Roy, 2000). Migration from the plain districts was a constant threat to maintaining the separate identity of the indigenous peoples and their area. The impact of this program on the land rights of the indigenous people was far-reaching, and problematic. The transmigration program was undertaken providing the settlers families with a fixed amount of government owned *khas* land. What the government regards as *khas* land is essentially the indigenous people's *jum* land and forest land. For the indigenous people this land is common property belonging to the community or kinship groups. But the government ignored this indigenous view of common property, which is regarded by the hill people as a gross violation of their inalienable rights. The settlement policy has rendered around 100,000 indigenous people homeless by ejecting them from their traditional lands About half of them crossed over to the Tripura and Mizoram states in India as refugees (Mohsin, 2000).

(2) Militarization in the CHT

Another policy that has had grave repercussions for the indigenous people, has been the government's counter-insurgency strategy in the CHT. As a counter insurgency measure, there is a large number of armed personnel in the CHT. The CHT Commission described the CHT "a military occupied area". The military dominates all sphere of life. The involvement, and the influence, of the armed forces is to confined to security matters, but extends to socio-economic issues (CHT Commission 1991). The application of this counter-insurgency strategy in the CHT has been a major factor in the problem of land dispossession of the indigenous people as a result of the policy. As a major thrust of the counter-insurgency strategy has focused on relocation and resettlement of the indigenous people and thus many were forced to leave their lands and their homes and move to designated areas where they remained under military control and surveillance. The Bangladesh Army occupied lands of many indigenous people to set up army camps. The lands were simply taken over, and the indigenous people did not receive any compensation, financial or otherwise (Roy, 2000).

CHT commission (1994) has received repots from both the population transfer program and militarization concerning violation of land rights. There are many cases of violation of indigenous land rights which had been perpetrated by Bangladesh security force and Bengali settlers. Some mentionable events were took place in Malay village of Rangamati on 2 February 1992, Logang village of Khagrachari district on 10 April 1992, Naniarchar of Rangamati district on 17 November 1993. Bengali settlers supported by the Bangladesh army, attacked these indigenous villages and took their land. These villages are now inhabited by Bengali immigrants only.

(3) The Peace Accord of 1997

After over twenty years of ethnic violence, the Government of Bangladesh and Jana Sangati Samiti singed a Peace Accord on December 2, 1997. The accord provides limited autonomy to the indigenous people of the CHT. Major development with regard to land-related issues is the formation of a Commission on land, expected to provide quick inexpensive and easy

remedies for cases of land dispossession taking into account local customs and usage with regard to land right and land claims. The Land Commission to be constituted with a retired judge of the high court of Bangladesh as Chairman (head). The terms of reference of the Commission suggest that it is open to both the indigenous and non-indigenous settlers to complaints before. The fact is that the majority of the members of the Commission will be indigenous indicates, that at least theoretically, it will have the benefit of their knowledge and experience with regard to land claims based upon indigenous customs, practices, usage and local conventions governing the use and ownership of such as those of 1900 (Roy, 2000).

VI Discussion

Historically, the CHT existed as an independent territory and did not come within the authority of outside colonization until the 18th century (Bangladesh District Gazetteer, 1975). The indigenous people of the region have lived in the interior hilly uplands for several hundred years as "near-sovereignities". Extension of outside government apparatus to them dates back only about a century, but even early period of post-partition in 1947 government control was merely confined (Choudhury, *et al.* 1979). The government policies started to shift in the post-partition period which marked the most important land mark in the history of the indigenous people of the CHT. We can discuss the policies in two major shifting:

1 Policy to Maximize Economic Return

In 1960s the government's policy towards the CHT shifted dramatically to maximize economic returns. This was encouraged by the aid-giving western countries which stressed economic growth. Consequently, the Kaptai Hydro-electric project was constructed with the funding with USAID funding in 1962. The dam uprooted more than 100,000 indigenous people living in fertile valleys for generations (Roy, 2000). There had been huge loss of valuable belongings shelters and health etc. with a very insignificant compensation in monetary terms to some of the fortunate only. At the time of the construction of the dam, prior impact assessment studies were not existent, and had not entered the social consciousness as intrinsically as they have today. The people displaced by the dam have never been in position to regain their former economic viability.

The experience of indigenous peoples and ethnic minorities with development projects (e.g., dam creation) in many other countries became failure to bring anything positive for development. Chico River Dam in the Philippines, Narmada Dams in India Pangué Dam in Chile etc. were created with the fund of international organizations. These projects were rife with alienation, dispossession both from their land and other resources, lack of compensation or inadequate compensation, human rights abuse and lowering of living standards (Fox and Brown, 1998)

2 Policy to National Integration

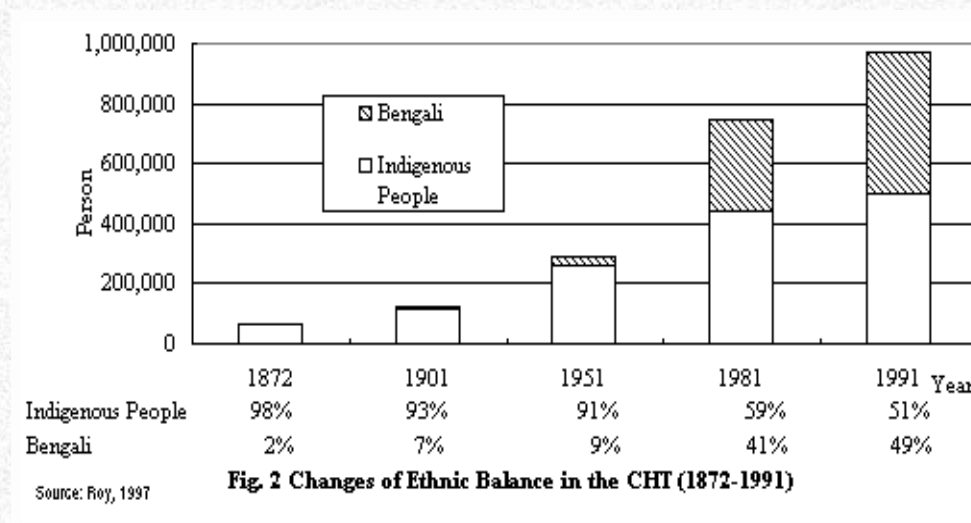
After the independent in 1971, Bangladesh moved ahead with the formulation of its constitution. The Constitution of Bangladesh adopted by the Bangladesh Parliament on November 4, 1972 which was a reflection of the ideal of Bengali nationalism. It did not recognize the existence of other national communities in the Bangladesh, indeed made no provision for a special status of the CHT. While migration of non-indigenous people from the plains to the CHT was prohibited in the Manual, it was pouring in during a post independent Bangladesh. An analysis of the main provisions of the constitutions would reveal the bias of the constitution towards the dominant Bengali community and its failure either to incorporate or protect the indigenous people (Mohsin, 2000). Mr. M. N. Larma, a Member of Parliament expressed his opinion in the National Parliament:

"The British had given recognition, to our separateness, the 1962 Constitution of Pakistan duly recognized our separate status....but from the Constitution of Bangladesh we have not gained anything....it comes as a surprise to me that the

framers of constitution have forgotten my land, my people...We have been deprived of our rights, the country has become independent, but we continue to have a cursed life" (Cited in Shelly, 1992).

This statement was interpreted by the ruling elites as a challenge to Bengali nationalism and meanwhile, massive military deployment took place in the CHT as the demand for regional autonomy grew momentum. Later the government took decision to settle landless Bengali families to the CHT. The real motive of the government in making this move is to ‘colonize’ the CHT by bringing about a demographic shift in the region (Mohsin, 2000). The trend in proportion of the total population for the indigenous and Bengali people is shown in Figure 2. It shows how fast the indigenous people are becoming minorities in their ancestral homeland. The population transfer program had resulted in transforming the indigenous people into landless laborers without a land or resource base for their subsistence activities.

We have no example of the success of this type of national integration policy in other developing countries. In Indonesia, transmigration program did not help national integration, rather it became the basis for the ethnic conflict in the country (Suryadinata, 1999).



It was mentioned earlier that the CHT Manual recognized the CHT as a home land of the indigenous people. It contains many provisions that seek to safeguard the interests of the indigenous people, including their land rights. But the Manual (especially Rule 34) was amended in different times during implementation of any policy and consequently the indigenous land rights were violated.

VII Final Note

The policies in post-partition and in Bangladesh period were with little regard for their impact on the indigenous people and their way of life. We can say that the objectives of the policies were centered on economic benefit alone but were not aimed at cultural assimilation. However, one feature common to all policies and programs was consistent disregard for the indigenous people and their value systems and traditional life. As a result, the relationship between the state and the indigenous people of the CHT has been anything but harmonious. Instead it has been conspicuous for the ignorance and suspicion of one side, and the dissatisfaction and mistrust of the other. Although the Peace Accord addressed the land issues, but no significant effort has been taken till date. There is an immediate need on the part of the Government of Bangladesh and the international community, to take effective steps to resolve the issue of land and resource rights of the indigenous people of the CHT.

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[1] Indigenous institutions include the Chief, headman and *karbari* in the circle, *mauza* and village level respectively.

[2] Details on the CHT Manual is described in Section V(ii).

[3] *Jum* is a traditional swidden system of cultivation, a subsistence agriculture, practiced by the indigenous people of the CHT.

Indigenous People and Oil Production In Ecuador's Oriente

by Brandon Yoder

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In the late 1960's, the multinational, American based corporation Texaco began drilling for petroleum in the Oriente region of Ecuador. Due to the lack of oversight from the Ecuadorian government over the ensuing twenty years, the careless drilling practices of Texaco went unchecked and resulted in over sixteen billion gallons of toxic waste being dumped into Ecuadorian environment (Jezic, 1). While minimal efforts have been taken on Texaco's behalf to clean up the contaminated areas, Texaco is not solely to blame. The Ecuadorian government, in hopes of boosting its economy, allowed Texaco to go unmonitored and thus violated the constitutional rights to a healthy environment for the indigenous peoples living in the Oriente. Although more recent efforts on behalf of the indigenous peoples and citizens of Ecuador have involved an international lawsuit against Texaco in the United States, the human rights of the indigenous people residing in the Oriente have been violated. The case against Texaco has the potential to set a legal precedent concerning the human rights of indigenous peoples, particularly in preventing the reoccurrence of similar oil exploitation in the future.

The goal of this paper is to analyze the history of contamination in Ecuador and the subsequent effects on the environment and the indigenous peoples in the Oriente region. The primary discussion will focus on the history and role of Texaco and other drilling companies such as Petroecuador, including an examination of the Ecuadorian government's desire to boost the economy through petroleum extraction. An analysis of the oil contamination, how it has destroyed the environment, and consequently violated the human rights and health of the indigenous people in the Oriente will follow. As inhabitants of the Oriente region, the indigenous have been greatly endangered by the mining of petroleum and it is the aim of the third section of the paper to study how the lifestyle and integrity of the indigenous peoples have been affected, including the violations of their land rights. The last segment of the paper is to be devoted to the Texaco court case, and the hopes that it will create a precedent with which to hold multinational corporations accountable for their actions in foreign countries.

While American companies often bring the hopes of economic prosperity to foreign countries, this paper will illustrate how the damaging actions committed by one corporation far outweighed any possible economical expansion gained. In the concluding remarks of this paper I hope to briefly recount how the developing trend of globalization is often damaging on a community level and there is an obvious need to monitor the actions of the companies involved.

History of Petroleum Mining

The Oriente region of Ecuador consists of 13 million hectares of verdant tropical rainforest (CESR, 5). This region is one of the most biologically diverse areas in the world and is home to eight different indigenous tribes. However, in 1967 the American corporation Texaco discovered that beneath the rainforest there was a vast, rich oil field. This discovery was the first step in Texaco's twenty-year reign that would serve to completely devastate and reshape the environment of the Oriente region. While the majority of the land in the Oriente was believed to belong to the indigenous tribes occupying them, the government of Ecuador claimed to have subterranean rights to the land, which included the oil fields. Declaring that these subterranean rights gave them the privilege to extract any resources found beneath the surface, the Ecuadorian government began to draw up a contract with Texaco for oil extraction in the Oriente without even the slightest inclusion of indigenous interests.

The contract signed with Ecuador gave Texaco permission to begin exploration and

mining in the Oriente. As the Oriente was a highly underdeveloped region, Texaco bore the responsibility of developing the infrastructure and vast road networks necessary to successfully extract petroleum. Besides destroying hundreds of thousands of acres in the process, the road system that Texaco developed also triggered a flood of settlers into what was a relatively uninhabited region. The wave of settlers not only destroyed countless acres of rainforest in the process of clearing land for farms, but they also displaced the indigenous people who had been occupying the region for hundreds of years. While Texaco was solely responsible for the initial invasion of the Oriente, more oil companies soon followed including Ecuador's own CEPE, later renamed Petroecuador. Although Texaco was not alone in the Oriente, they remained the main power until 1990 when they began to turn their facilities over to Petroecuador (CESR, 5). In 1992, Texaco's contract with Ecuadorian government officially ended and since that time Petroecuador has controlled approximately 90% of oil production in the Oriente (CESR, 5).

Texaco's contamination of the Ecuadorian environment was resultant of second-rate environmental safety practices and the use of substandard technology in drilling. The contamination of Ecuador's environment was so severe that other countries have sent research teams to Ecuador to study what not to do when extracting petroleum from their rainforest regions. Texaco's process for mining petroleum can be broken down into three main stages, each of which is responsible for greatly polluting the environment of the Oriente and impacting the indigenous people. The first stage of development that Texaco employs is the research and exploration stage. This segment of oil development involves thousands of miles of trail clearing, followed by seismic detonations at possible sites. These seismic detonations cause widespread land erosion and wildlife dispersion, which serves as a food source for the indigenous inhabitants of the Oriente. As Texaco begins its exploratory drilling it is not uncommon for each exploratory well to release over four thousand cubic meters of drilling waste, a toxic mixture of oil, natural gas, and water saturated with metal and mineral deposits, into the environment (CESR, 6). This drilling waste is typically pumped into nearby waste pits which are most often unlined and overflow onto the surroundings.

The second phase of mining involves the extraction of heavy crude and the production of refined petroleum. After permanent wells are deployed, the extraction of crude begins. Following the extrication of the heavy crude from the ground it is then pumped to refining stations which are responsible for separating the usable product from the toxins, which are cast aside as waste. As the daily total of toxic waste produced can reach mind-boggling sums of 4.3 million gallons (CESR, 6), the fact that it all eventually reaches the environment is horrifying. On several occasions, Texaco even duped the Ecuadorian government into believing that spreading heavy crude onto the roads would help to keep down dust (Jezic, 5), a process which contaminated surrounding agricultural fields as well as exposed the barefoot indigenous people to direct contact with heavy crude.

The final stage of petroleum production is the transportation via pipeline of the refined product from the mines within the Oriente to barreling stations. The poor construction of the pipelines, which were complicated further by less than adequate maintenance has led the pipelines to also become a source of appalling contamination. Since the late 1980's, there have been thirty reported cases of spills along the Trans-Ecuadorian pipeline. Although the spills are mainly caused by negligent maintenance, there have even been cases of the pipeline being sabotaged by outside forces. While the contamination figures of the pipeline system are not as extensive as those from the actual mining procedures, the number of gallons of oil spilt is believed to be close to seventeen million (CESR, 6), seven million gallons more than the Exxon-Valdez spill. Following a realization by the Ecuadorian government, new regulations have been instituted to curb the lax practices of the oil companies. Despite the establishment of these new regulations, they are poorly monitored and Petroecuador's refusal to upgrade Texaco's equipment has left the opportunity for contamination to continue.

Despite the knowledge of contamination in the Oriente, the Ecuadorian government has continuously advocated the mining of petroleum in the Oriente with absolute disregard to the interests of the indigenous peoples. There is a prevailing hope that oil production will help stabilize the economy and eventually be a key component in the reduction of the national debt. Notwithstanding the fact that the national debt has risen from two hundred million dollars in 1970 to over sixteen billion in 1998 (Jezic, 2), the Ecuadorian government continuously favors the interests of foreign companies over its own indigenous citizens. This dependence on foreign investors leaves Ecuador's economy vulnerable to the fluctuating prices of oil, which is responsible for forty percent of the national income yearly (Jezic, 2). With such a large portion of their economy based upon such a fluctuating industry, the results have been fairly disastrous for the people and the poverty rate in Ecuador. The poverty rate, which was at an overwhelming level of fifty percent in 1975,

reached the appalling rate of sixty-five percent in 1992 (CESR, 8). This influx is due largely to the unproportioned reliance on the industry of oil development, which Ecuador is still seeking as a form of investment. Until recently, the Ecuadorian government was still drawing in foreign investors through the lack of environmental regulations concerning the mining of petroleum. Without a set of well-monitored regulations concerning the extraction of oil in the Oriente, Ecuador is leaving itself open to the possibility of continued environmental destruction and human rights violations.

Pollution and Human Rights

In 1972 the United Nations General Assembly declared that all men have “the fundamental right to freedom, equality, and adequate conditions of life in an environment of a quality that permits a life of dignity and well being” (CESR, 2). While the Ecuadorian government has been in direct violation of this statement for over twenty years with regards to the rights of the indigenous, UN declarations have little means of enforcement. Moving closer to home though, the Ecuadorian government is in direct violation article 19.2 of its own constitution which discloses that all citizens have the guaranteed “right to live an environment free of contamination” (CESR, 3). What is important to recognize from these two proclamations is that the definition of human rights and citizen’s rights has grown to include the maintenance of environmental quality. This fact is crucial in the mounting of lawsuits against oil companies, for it is an attempt to not only hold the companies accountable for polluting the environment, but also the violation of the fundamental human rights of the indigenous people residing in the Oriente.

In spite of the fact that numerous pieces of legislation forthrightly state that the Ecuadorian government is directly responsible for protecting the human rights of the indigenous peoples, environmental devastation has been widespread and has thus affected the tribes inhabiting the Oriente. Although the primary role of Ecuador in international affairs is to protect the interests of its own citizens, Ecuador’s government can not be held entirely responsible for its actions. As the Human Rights movement continues to develop, nations are beginning to be held accountable under international standards; however the role of multinational corporations should not be overlooked. An examination of financial figures shows that Texaco’s yearly earnings are approximately forty billion dollars, while Ecuador’s gross domestic product is a mere twelve billion. Due to the fact that it is a country that direly needs outside investors, Ecuador’s most apparent choice would be to support Texaco and other powerful multinational corporations. While investments from these corporations can be very helpful, as in the case of Texaco, which in the early 1970’s stepped in to develop the oil mines Ecuador did not have the capital to do itself, the results can also be disastrous. Texaco’s actions, while appearing helpful at first, have created unreconcilable disasters, which Texaco blames on the weak environmental laws of Ecuador. The Ecuadorian government can hardly afford to strengthen their laws since oil companies have threatened withdrawal of their investments if the government should select this option. Ecuador’s dependence on foreign investors has created a financial predicament for the Ecuadorian government, which is progressing to the point where a choice will have to be made between saving the economy or saving the Oriente and its indigenous inhabitants.

Regardless of economic pressures that may influence the Ecuador’s government, there is a general consensus that the government must perform three minimum duties to ensure that human rights of the indigenous peoples in the Oriente are not violated. The first of these duties is the Ecuadorian government’s responsibility to provide a safe environment for the indigenous peoples living in the Oriente. This responsibility includes taking all of the necessary precautions to avoid contaminating the environment in a manner that endangers the health and well being of the inhabitants. The existence of such figures as the fact that 16.8 million gallons of toxic waste have been spilt directly in the bodies of water in the Oriente (Jezic, 1), clearly illustrates that the Ecuadorian government has not met the requirements of this duty to date. Permitting toxic waste to be spilt directly into the water table not only kills aquatic wildlife, but it also renders the water undrinkable. The indigenous people residing in the contaminated region rely upon the water as a means of life, and taking away that opportunity is a direct infringement on their ability to live a life of well being and thus breaches their human rights.

The second of the proposed minimum duties of the Ecuadorian government, is that the government must regulate the actions and practices of foreign and domestic oil companies in order to guarantee that the environment is not being altered in a way that jeopardizes the health of the indigenous peoples. As evidence to further support this

statement, the Inter-American Court of Human Rights ruled in 1985 that a government which “allows private persons or groups to act freely and with impunity” (CESR, 3) is violating the rights of its citizens. With regards to the dictation by the Inter-American Court of Human Rights, it is evident that this is a practice that the Ecuadorian government is guilty of committing. As described earlier, the Ecuadorian government has been very cautious in increasing the strictness of its environmental regulations, for fear that foreign companies will withdrawal their investments in the Ecuadorian economy. Therefore we can say with resolve that the government of Ecuador has jeopardized the human rights of the indigenous peoples of the Oriente by allowing private businesses to act without restraint.

The final requirement that the Ecuadorian government must meet in order to show that it has even the most minimal concern for the indigenous people is that it must keep them well informed of the happenings around them. This aspect of the government’s minimum duties is significant because it is an effort to keep the citizens aware of the oil development process and the possible threat of contamination. The desired documentation is also essential because it equips the indigenous people with solid evidence to use in mounting suits against the government and oil companies. Once again this is a duty the Ecuadorian government was negligent of for numerous years. During the initial years of oil development in the Oriente, the inhabitants of the region were unaware of the connection between growing health problems and the oil being extracted by Texaco. It wasn’t until a decade later that an awareness was gained about the rampant pollution Texaco was unleashing into the environment. If there had been an effort by the government to make information about dangerous activities available to the public there would have been an opportunity for the inhabitants of the Oriente to avoid direct contact with the oil and other forms of self-contamination.

The conception of these three minimum duties is interesting because it is a call to the Ecuadorian government to protect the human rights of the indigenous people and other citizens by monitoring the economic practices of businesses in the country. When the realization about the environmental contamination initially occurred, there was not a connection between the pollution and the infringement upon human rights. The recognition of an affiliation between quality of environment and the ability to live a life of well being is important because it censures the practices of the oil companies for not only ruining the environment but also ruining the quality of life for the inhabitants of the Oriente. The indigenous tribes residing within the Oriente are perhaps most impacted by the contamination because of their unique relationship with the environment. Therefore when stricter regulations of oil mining procedures in the Oriente are called for it is not merely an effort to preserve the environment for future generations, but to defend the right to a healthy life for indigenous peoples of the Oriente as well.

A study published by The Center for Economic and Social Rights in the Spring of 1994 was crucial to situation in Ecuador because it helped to establish the facts that “human exposure to both crude oil and its toxic constituents can adversely affect health, from short-term, local effects to long-term, life threatening diseases” (CESR, 12). Further aspects of the study examined the ways in which the various forms of petroleum are leaked into the environment and consequently are responsible for health problems of inhabitants in the surrounding areas. It was determined that the heavier components of crude are able to seep down into the earth to repetitively contaminate the water table, while the lighter components are able to evaporate and therefore pollute miles of the surrounding area in the form of rain. The many ways in which oil is able to extend out into the surrounding regions leaves nearly all the indigenous peoples in the Oriente susceptible to exposure of health-jeopardizing toxins.

The possible effects of contact with crude oil range from the skin rashes up to documented cases of cancer, neurological and reproductive complications (Jezic, 4). With such a wide range of possible health afflictions, the CESR set out to determine the possible ways in which humans can be exposed to the toxins of oil (CESR, 12-13). Direct absorption into the skin through immediate contact with crude oil is the most apparent way in which the indigenous inhabitants of the Oriente can be affected by the pollution of the environment. In the examination of the potential risks of open contact with crude oil, it was determined that most topical ailments included a loss of skin, dryness and cracking of skin, as well as change in skin pigmentation and cancer. One of most threatening forms of contamination was caused by Texaco supposed attempt to control dust by spreading heavy crude onto the roadways, which the indigenous people walk upon barefoot. With this example, there is a clear illustration of Texaco’s responsibility in threatening the health and

human rights of the indigenous people inhabiting the areas surrounding the extraction sites.

Two other methods in which crude oil is capable of contaminating the indigenous peoples of the Oriente include the consumption of tainted food or liquids and the inhalation of oil residing on dust or soot particles in the air. In view of the fact that the contamination in the Oriente is so widespread, the possibility of ingesting food or water polluted by oil is outrageously high. Once ingested, the toxins from the crude are capable of spreading themselves throughout the victim's body, opening up the whole body to the risk of cancer. It has also been documented that the drinking of tainted water can lead to esophageal cancer. Texaco's lackadaisical practices concerning the containment of toxic waste in unlined pits has polluted water everywhere, which has not only adversely affected potable water, but also the water used for swimming, bathing and fishing. The inhalation of oil via dust and soot is perpetuated by the burning of toxic waste pits, which is a second-rate practice for cleaning up contaminated water. Once inhaled, the toxins residing on the dust and soot can lead to detrimental reactions on the nervous and respiratory systems. Regardless of the method of contraction of the toxins, a correlation has been established between exposure to oil pollution was and low birth weights for indigenous infants. There have also been examples of pregnant women experiencing spontaneous abortions due to contamination (Jezic, 4). The majority of indigenous children are especially susceptible to the effects of crude oil exposure and developing theories propose there is an increased risk of childhood cancer, (CESR, 13) as well as rising child mortality rate (CESR, 9), in the contaminated regions of the Oriente.

The health problems that the indigenous people of the Oriente have incurred have been the direct result of the Ecuadorian government's failure to regulate the extraction procedures of oil companies operating within the Oriente. The health risks that the indigenous people have been exposed to have not only affected their ability to live a healthy life but have affected the quality of the environment surrounding them. The interaction that the indigenous people have with the environment is uniquely important because of their great dependence on the environment for the sustenance. Thus we can see that the diminishing environmental quality of indigenous lands in the Oriente is jeopardizing their ability live their life without imposition. In closing this section on the examination of pollution and its impact on the lives of the indigenous peoples, it is important to note that the inclusion of environmental quality into definitions of human rights requires that the Ecuadorian government accept accountability for upholding the rights of the indigenous people as well as protecting their overall health.

The Indigenous Peoples of the Oriente

In Ecuador, the indigenous population composes 45% of the total national population of eleven million, and approximately 250,000 indigenous people live in the Oriente region (CESR, 11). Within the Oriente, eight various tribes have been recognized, which include the Cofan, the Huaorani, the Quichua, the Secoya, the Shiwiar, the Shuar, and the Siona. Each one of these tribes holds a unique relationship with the rainforest, which was severely damaged by Texaco's and the other oil companies' widespread contamination of the Oriente. This relationship goes beyond the immediate needs of subsistence, for the spiritual beliefs of the indigenous peoples are also directly tied to the resources the rainforest provides. The tribes in the Oriente also view the sprouting and growth cycle of vegetal life as a parallel to the birth and maturation cycle of their young (Kimmerling, 70), which only further illustrates the importance of the rainforest to the indigenous people. The impact that the pollution has had on the indigenous community has brought together the tribes and enlisted the support of international organizations in a unified effort to defend the rights of the indigenous people and to end the continued contamination of their environment.

Out of all of the negative aspects that have come about as a result of oil production in the Oriente, the one that has had the greatest impact on the indigenous people, outside of the pollution, has been the encroachment of missionaries into their daily lives. Beginning in 1967 with Texaco's discovery of the Oriente oil field, oil companies have constantly used missionaries as a method of quelling indigenous animosity and relocating the indigenous peoples from possible drilling sites. The missionaries used in these procedures have drastically reshaped the indigenous communities and are responsible for altering the behavioral practices that once served as a way of life for the indigenous peoples. Although Rachel Saint's establishment of a permanent indigenous community precedes Texaco's oil exploration (Kimmerling, 76), her role in the early years of Texaco's oil production was momentous because of her success in aiding the relocation of the indigenous people.

When Texaco first began to move into the Oriente, it was the Huaorani tribe that presented the greatest obstacle to Texaco's efforts. Various attempts to bribe the Huaorani with air dropped packages containing metal goods and food supplies were unsuccessful and Texaco initiated the use of violence against the indigenous peoples (Kimmerling, 78). The violent outbreaks with Texaco scared many of the Huaorani, who in fear relocated to Tihueno, Saint's permanent indigenous community. The migration of the Huaorani to Tihueno had vast impacts on the lifestyle of people who were primarily nomadic hunters and gatherers. For individuals who only knew eighty people at most during their lifetime, the population of five hundred in Tihueno was unprecedented. The Huaorani residing in Tihueno were unable to hunt on the grounds surrounding the community on account of cultural regulations (Kimmerling, 81), and a tribe which had previously never been incapable of supporting itself experienced its first encounter with food shortages. The lands surrounding Tihueno were incapable of producing the required provisions, and the Huaorani were forced to accept Saint as a leader and thus depend on outside supplies for subsistence. Saint's efforts to "civilize" the Huaorani people living in Tihueno served to further alter the indigenous lifestyles as they were educated on the practices on monogamy and Christianity. In conjunction with this education the Huaorani were also discouraged from chanting, dancing, and performing religious ceremonies and other rituals.

The impact that the missionaries had on the Huaorani people completely revolutionized life as they knew it. Under the tutelage of Rachel Saint and other missionaries, the Huaorani were encouraged to reject the sinful ways of their cultural heritage and embrace the ideologies of Christianity. Gender roles were increasingly advocated and women and men began to take roles as farmers and hunters, respectively (Kimmerling, 83). The healing practices of the shamans were condemned in the name of modern medicine, a criticism that had such great impact that only one Huaorani shaman remains to date (Kimmerling, 83). As continuous waves of epidemics struck the Huaorani, they were actually held accountable for the payments required for the necessary medicine. The result was the Huaorani people's introduction to a monetary system and, because of their low socioeconomic status, widespread inability to treat disease. When the missionaries eventually attempted to wean the Huaorani off of outside support, the damage had already been committed and the Huaorani residing in Tihueno were no longer willing to return to their former lifestyle. As we can see through the illustrated cultural changes, the Texaco prompted introduction of missionaries into the daily lives of the Huaorani completely transformed a once nomadic tribe of hunters and gatherers, capable of life in the rainforest, into a Christian community, dependent upon outside sources for support.

After missionaries were successful in abetting Texaco's attempts to overcome the obstacles that the indigenous people posed, further impact on the indigenous peoples continued. While the displacement and relocation of the tribes was occurring, Texaco lost no time and began construction on the Via Auca, a roadway that extends sixty miles deep into the center of traditional indigenous lands (Kimmerling, 85). The Via Auca was responsible for the deforestation of 2.5 million acres of rainforest and a government encouraged flood of settlers. The invasion of settlers and the pollution from oil production were both liable for the degradation of the rainforest, which brutally impacted the indigenous peoples who had not migrated to permanent indigenous communities. The surrounding lands that transcend the length of the Via Auca have been severely polluted, in addition to being colonized and deforested. The settlers inhabiting the land along the Via Auca have often held very tense relations with the Huaorani and other indigenous tribes, a tension which infringes on the indigenous peoples' ability to live a life in accordance with longstanding cultural standards. Texaco's practices in the areas encircling the Via Auca have contaminated the environment so harshly that the indigenous people residing these surrounding areas are no longer able to live a healthy life. As was established earlier, this is a direct infringement on the human rights, but moreover it completely destroys the indigenous peoples' ability to live their lives without the constant assistance from non-indigenous people. In retrospect, the production of oil within the Oriente has had such great impact on the indigenous inhabitants that their complete way of life, including their social, religious, and cultural practices, have been altered as a result of widespread contamination, settler migration, and missionary intervention.

Another manner in which the production of oil has affected the life of the indigenous inhabitants of the Oriente is the vast reduction of the lands that have been traditionally recognized as indigenous. As of 1990 the plot of land reserved for the indigenous peoples of the Oriente totaled 675,000 hectares, which is little more than a quarter of two million hectares recognized as the traditional territory of their ancestors (Kimmerling, 85). This restriction on the size of indigenous lands leaves the remaining lands of the Oriente open to further colonization and oil production. Even the lands demarcated by indigenous ownership are susceptible to further contamination due to the government's claims to

subsurface rights. These supposed subsurface rights have been crucial to the petroleum exploitation within the Cuyabeno Reserve, which was declared a nationally protected area in 1979 (CESR, 28). Petroecuador began trespassing in the reserve as early as the 1980's, but in 1993 full production commenced within the boundaries of the national reserve. The constant violation of indigenous land rights has served to undermine any efforts that the indigenous people of the Oriente have made to distance themselves from the extensive environmental contamination and destruction that has been caused by Texaco, Petroecuador, and other oil companies.

The desire for complete legal land rights, in conjunction with protection of the environment and respect for their cultures and traditions are the three main goals that the indigenous people of the Oriente have fought for (CESR, 11). Historically their attempts to procure these three demands have been met with little feedback and false promises, but in 1990, a well-organized and precisely exercised indigenous protest brought Ecuador to a screeching halt and gained the indigenous people widespread recognition. The shocking Levantamiento of 1990 forced the government to acknowledge the situation and consequently negotiate with indigenous leaders. One of the successes brought about by the Levantamiento was the constitutional recognition of the collective rights for the indigenous tribes of Ecuador (CESR, 3). In the years following the uprising, the indigenous people of Ecuador have united with foreign support to undertake a counterattack against the companies that have violated their human rights and destroyed their environment during the past decades. No where can this effort be seen more prominently than with the class action suit brought against the multinational, American based corporation Texaco.

The Texaco Case

On November 3, 1993 the case *Maria Aguinda et al. vs. Texaco* was brought to the district courts of New York as a class action suit on behalf of approximately 30,000 residents of the Oriente region of Ecuador. This case was groundbreaking because it not only represents the first attempt made by the indigenous tribes to hold Texaco accountable in the US for damages in the Oriente, but it also represents the first ever attempt to hold a multinational corporation accountable for its actions in foreign countries. The indigenous peoples of the Oriente are crucial to this case because the suit contains accusations that Texaco is guilty of violating three internationally recognized human rights of the indigenous tribes. These violations include the violation of the right to a healthy environment, the right to protection from cultural genocide, and the right to protection from racial and ethnic discrimination. The aspirations of the suit include the hopeful acquisition of 1.5 billion dollars for retributions, the mandatory cleanup of the Oriente, and the upgrading of oil production machinery left in Ecuador.

The suit against Texaco represents the culmination of the international efforts to raise awareness concerning the violation of the indigenous peoples' human rights and the destruction of the rainforest. In the early 1990's, international organizations such as the Center for Economic and Social Rights and the Rainforest Action Network worked in conjunction with non-government organizations in Ecuador to raise awareness about the situation of the Amazon and its indigenous inhabitants. In 1991 the situation was brought to the mainstream international community with the publishing of Judith Kimmerling's book, Amazon Crude, which created global pressure on the Ecuadorian government to defend the rights of its citizens. In another example of the indigenous peoples' ability to organize a powerful event, Accion Ecologica, CONIAE, and CONFENIAE coordinated "Texaco Week" in July of 1993 (Jezic, 9). Attendees of this event visited contamination sites that Texaco was responsible for, met with affected indigenous inhabitants of the Oriente, and attended seminars on oil exploitation in Quito. The result was a strongly unified international scrutinization of Texaco's practices that would perfectly set the stage for the court case occurring in November of the same year.

The indigenous peoples of the Oriente were forced to take their trial to the United States in November of 1993 because of the inability to acquire justice within Ecuador's court system. Because of their key roles in Ecuador's economy, foreign companies are encouraged to mine petroleum in the Oriente, often with permission to disregard the environmental norms present in legislature. An attempt to hold companies accountable for pollution and human rights violations would discourage investment by foreign companies; therefore the possibility of achieving justice is very small. Further restrictions posed by the Ecuadorian courts include the forbiddance of class action suits, the lack of ability to try foreigners, the denial of calling expert witnesses, and the extensive corruption of the judges. The justice system in Ecuador is so depraved that even members of the Ecuadorian

government have acknowledged that the attainment of justice is not possible in Ecuador, and in turn have supported the suit brought forth in the US.

In closing discussion on the Texaco court case it is essential to recognize the suit as the premier effort to hold a multinational corporation accountable for its actions in a foreign country. The case is extremely important to the indigenous communities of the Oriente because it holds the possibility of attaining compensation for the long-term infringement that Texaco and other oil companies were responsible for. Throughout the history of oil production in the Oriente, the indigenous tribes have been continuously driven from their lands in the name of economic expansion, and the time has been too long in coming when the guilty parties should be held accountable for their actions. While the oil production companies are directly responsible for the human rights violations and environmental contamination, the responsibility should be shared by the Ecuadorian government for its negligence in protecting its indigenous citizens and their right to a life of quality in a healthy environment. The Ecuadorian government's actions regarding the interests of the indigenous population have been deplorable, as impartiality is unattainable in Ecuador, all hopes for compensation and justice rest solely in the class action suit currently in trial in the United States.

Hold Multinational Corporations Accountable

In an overview of the widespread contamination and destruction of the rainforests in the Oriente, it can be stated that the loosely regulated practices of the petroleum mining companies have drastically impacted the indigenous tribes residing within the affected areas. It is my personal opinion that the pollution and the negative effects on the indigenous tribes of the Oriente have been the sole result of the United States not regulating the actions of its multinational corporations in foreign countries. The crowning achievement of the international effort to gain justice for the indigenous peoples in the Oriente will hopefully be the victory over Texaco in the US court case. This will not only provide enough funding to clean up and prevent pollution in the Amazon, but will also serve as a lasting reminder to negligent oil companies operating in poorly regulated foreign countries. Anything short of a victory in the US court cases leaves the opportunity open for further contamination in any country in the world.

It must be remembered that the substandard practices that Texaco performed in the Oriente have completely destroyed indigenous peoples' ability to live a healthy life in compliance with their traditional cultural standards. The extensive pollution of the Oriente is also responsible for violating the human rights of the indigenous people and as the suit against Texaco attests, unregulated exposure to the known toxins contained within the waste products of oil production is a form of attempted genocide against the indigenous inhabitants of the contaminated areas. Texaco, Petroecuador, and the other companies operating in the Oriente are culpable of completely reshaping the lives and behavioral practices of the indigenous tribes. The people of the Oriente are no longer capable of living in peace with the rainforest, for they must constantly endure the hardships that have been laid upon them. In order to prevent the future reoccurrence of such drastically crippling practices and secure the safety of the indigenous tribes of the world, multinational corporations must be held accountable for their actions abroad, for if they aren't, nothing has been learned from the travesty that the indigenous people of the Oriente have endured.

CONSERVATION BY SELF-DETERMINATION

in

CENTRAL AMERICA

Addressing the Global Biocultural Diversity Crisis from an Alternative Development Paradigm

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In this essay I undertake to investigate the need for, and the theory behind, conservation by self-determination through a regional focus on Central America. “Conservation by self-determination” is a program of action that addresses the global biocultural diversity crisis. Biocultural diversity encompasses biological diversity, cultural diversity and the geographically coterminous, mutually dependent relationship between them. The current biocultural diversity crisis is a consequence of, as well as a fundamental precondition for, conventional development or modernisation. This is because the normative basis of modernisation is dependent upon a product-oriented, capitalist market economy and is based upon a “top down” approach (Rahman 1993:216-217).

Conservation by self-determination is founded in an alternative development paradigm: one advocating sustainable or ecodevelopment based upon “bottom up” or “grassroots” initiatives and recognising that ‘[w]hat matters in development is whether the capacity of the people of a region to meet their own needs, solve their own problems, guarantee the ecological survival of the region and enjoy life is approaching a satisfactory state at a satisfactory pace’ (Trainer 1995:38).

The first part of this paper defines the biocultural diversity crisis and reviews how it has been addressed to date. Initially, the crisis was viewed only in terms of the conservation of biological diversity, and addressed through the creation of protected areas such as national parks. More recently however, the broader implications of the biocultural diversity crisis have begun to receive international attention, and a possible relationship between indigenous peoples and conservation is increasingly being recognised. Modern conservation initiatives can currently be divided into three broad approaches in relation to their significance for indigenous nations: classic nature conservation, green capitalism and social ecology. A theoretical and empirical investigation of these approaches and how they have been applied in Central America however, demonstrates that, as they are currently implemented, none effectively promote biocultural diversity.

The second part of this paper suggests an alternative approach to conservation: conservation by self-determination. This approach emerges from the social ecology approach, but aims to more effectively incorporate indigenous self-determination. In this way it becomes socio-political, as well as a conservation strategy. It is this merging of conservation and indigenous peoples that creates the potential to promote biocultural diversity.

Conservation by self-determination is examined theoretically, complex issues inherent in its framework are discussed, and two case studies of attempts by indigenous nations to implement this approach in Central America are presented for comparative analysis. These initiatives of the Kuna in Panama and the Miskito in Nicaragua have taken place in different historical and political contexts, and had different outcomes. The aim of this comparative analysis is to identify those conditions which facilitate the implementation of conservation by self-determination, and to critically determine the potential of conservation by self-determination as environmental and political action.

This paper proposes a list of both internal and external conditions conducive to the implementation of conservation by self-determination, and concludes that , if these conditions can be met, then conservation by self-determination has potential as a theoretically grounded program of action capable of changing conditions, engendering new understandings, and contributing to the emancipation of the oppressed nations of the Fourth World.

THE GLOBAL BIOCULTURAL DIVERSITY CRISIS

Biocultural Diversity

Biocultural diversity is a term that amalgamates three concepts: biological diversity, cultural diversity and the relationship between them (McNeely 1992:38). The term **biological diversity**, or biodiversity, refers to ‘the variety of life forms, the ecological roles they perform, and the genetic diversity they contain’ (Wilcox 1984:640). Global biodiversity is represented by the total number of species, both wild and domesticated, that exist on earth (Nietschmann 1992:1). Estimates indicate that anywhere between five and 50 million species exist, only about 1.4 million of which have been recorded (May 1992:18; McNeely *et al.* 1990:17). It has been estimated that global biodiversity is being lost at a rate as high as 30,000 times the rate of biodiversity loss in a state of unperturbed nature (Gray 1991:ii). Since ecosystems interconnect, environmental destruction within a single ecosystem has serious consequences not only locally, but for global biodiversity as a whole. This is the **global biodiversity crisis** (Gray 1991:ii).

Cultural diversity refers to ‘the variety of human life ways, the social and ecological roles they perform, and the knowledge they contain’ (Nietschmann 1992:1). Global cultural diversity is represented by the total number of distinct nations on earth (Nietschmann 1992:2). **Nations** are made up of “one people” based on common ancestry, history, society, institutions, language, ideology, territory and often religion (Nietschmann 1994). They are fundamentally different from **States** which are centralised political systems

that use civilian and military bureaucracies to enforce certain institutions and laws, and sometimes a certain language and religion, without regard for the pre-existing nations within their boundaries (Nietschmann 1987).

There are currently some 190 internationally recognised States and between 5,000 and 8,000 distinct nations, most of which are not recognised by, and have not consented to be part of, the States which occupy them (Nietschmann 1992:1-2). Thus, nations of indigenous people, who number between 200 and 600 million (Kemf 1993:4) and constitute only 4 percent of the global population (Burger 1987:11), represent 90 to 95 percent of the world's cultural diversity (Barzetti 1993:10; Gray 1991:8). Within the last 150 years, between 30 and 50 million indigenous people have perished (Kemf 1993:4). Moreover, surviving indigenous nations world-wide continue to lose, or are threatened with losing, their territories, their cultures, and in some cases, their lives. This is the **global cultural diversity crisis** (Gray 1991:ii).

The homelands of the world's surviving indigenous nations cover almost 20 percent of the planet (Martin 1993:xvi). Many are located in more inaccessible regions such as tropical forests, mountains, deserts and tundra (Dasmann 1991:11), and probably half are located on islands and along coasts, particularly in tropical waters (Nietschmann 1992:1). These environments are also those that shelter most of the planet's surviving biodiversity. The **geographically coterminous** relationship between biological and cultural diversity is expressed as the Rule of Indigenous Environments: '*Where there are indigenous peoples with a homeland there are still biologically-rich environments*' (Nietschmann 1992:3). This is no coincidence. The reality is that 'many of the same forces that degrade environments and reduce biological diversity, also displace, disperse, and destroy cultural diversity, and whole nations' (Nietschmann 1992:2). Consequently, the homelands of suppressed or displaced indigenous nations are usually characterised by degraded environments. Biological and cultural diversity coexist because they are **mutually dependent** (Nietschmann 1992:2). This interdependence is a product of the relationship between indigenous peoples and the environment, the essence of which is a connection between people and land that is based on social and cultural, as well as economic, considerations (Clarke 1995:8).

Indigenous peoples traditionally depend upon their environment for subsistence. Consequently, over thousands of years, they have developed finely tuned **knowledge of local ecosystems and their processes** (Clarke 1995; Posey 1989:242; Schmink *et al.* 1992:3). They have also developed **culturally encoded resource management practices** that are well adapted to the sustainable use of these ecosystems (Alcorn 1993:425; Balée 1989; Clay 1988; Davis and Wali 1994:4; Oldfield and Alcorn 1991a:120; Redford 1991:47).

In the process of using and managing their resources indigenous peoples interact with and modify the environment (Clay 1988; Gray 1991:21-22; Redford 1991:46; Redford and Stearman 1993a:252). While historical evidence suggests that 'in their efforts to make a living, [indigenous peoples]...at times, degraded the ecosystems in which they lived' (Clarke

It has become a more or less accepted principle among ecologists that moderate levels of physical disturbance, such as often imposed by *traditional forms of resource exploitation*, enhances ecological complexity, landscape heterogeneity, and species diversity, thus *promoting overall biodiversity* (1995:50, emphasis added).

Scientific findings indicate that through thousands of years of interaction between humans and their environment, virtually all terrestrial habitats have been inhabited, modified, or managed (Balée 1989; Deihl 1985:37; Dufour 1990:658; Gomez-Pompa and Kaus 1992:273; McNeely 1993:251, 1994; McNeely *et al.* 1990:51; West and Brechin 1991:385). The most pervasive modifications arising through indigenous interaction with forest ecosystems, for example, have been attributed to agroforestry (McNeely 1994a:7).

Agroforestry is based on land-use systems in which numerous annual crops and/or animals are deliberately raised interspersed with native ones (Clarke and Thaman 1993; Clay 1988:32; Nations and Komer 1983a:235; Redford *et al.* 1992:333). It is a process that takes advantage of natural environmental variation and relies on native successional processes to transform natural forests into harvestable ones (Alcorn 1990; McNeely 1994a:7). The focus of agroforestry is whole landscapes or agroecosystems (Oldfield and Alcorn 1991b), as well as individual species, and its objective is to maintain and enhance the natural capabilities of the land (Clarke 1995:7). In addition to the intensification of agricultural production, landscape enhancement entails aesthetically “improving” the land in ways compatible with cultural perceptions of beauty (Clarke 1995:7).

Agroforestry practices, such as selective burning and other forms of forest clearance, create a mosaic of forests in many different states of ecological succession and under differing degrees of management (Dufour 1990; McNeely 1994a:10). The changing composition of succeeding forests **promotes landscape biodiversity** (McNeely 1994a). Agroforestry also **promotes cultural diversity** through its contribution to **agrodiversity**: the variety of ways in which farmers manage diverse natural ecosystems for production (Clarke 1995:7).

Since agroforestry involves protecting, sparing and planting specific crops, the species composition of mature forests in many parts of the world may well be the result of past human action (Dufour 1990; Gomez-Pompa and Kaus 1992:274; McNeely 1994a). Thus, just as indigenous peoples are dependent upon the environment for subsistence, many of the world’s ecosystems are dependent upon continued interaction with local human populations for their long term maintenance (McNeely *et al.* 1990:51; West and Brechin 1991:385).

Such observations concerning the interdependence of biological and cultural diversity reveal the notion of “pristine wilderness” to be a largely Western construct (Deihl 1985:37; McNeely 1994a; Redford and Stearman 1993a:253). Since the majority of the

world's ecosystems are actually at least partially anthropogenic, its biologically rich environments must be recognised as 'humanized, cultural landscapes and seascapes' (Hyndman 1994:299).

The Global Biocultural Diversity Crisis

The greatest threat to global biocultural diversity is best explained through a comparison of the relationships between indigenous nation peoples and the environment, and State people and the environment. Dasmann (1991:7) sees these relationships as a dichotomy between "ecosystem people" and "biosphere people". Ecosystem people are 'people who are dependent on and have learned to live in a sustainable manner within a natural ecosystem or group of closely related ecosystems.' In contrast, biosphere people are 'those who, potentially at least, draw on the resources of the global economy or from the entire biosphere to maintain ways of life that are not necessarily sustainable and may be destructive to any one ecosystem' (Dasmann 1991:7).

Geopolitically, these groups translate into nations and States. **State environments**, dominated by State culture and typically large and dense numbers of State people, are characterised by 'environmentally unsustainable centrifugal economies, biological impoverishment, and, most often a razed landscape' (Nietschmann 1992:3). **Nation environments** on the other hand, typically dominated by low densities of long resident indigenous peoples, are characterised by 'ecologically adapted, centripetal cultures and economies, surviving biological richness, and variegated, healthy landscapes' (Nietschmann 1992:3).

In sum, since 'the loss of genetic, species, and ecosystem diversity both stems from and invites the loss of cultural diversity' (World Resources Institute *et al.* 1992:11), the greatest threat to biocultural diversity is that posed by the world's States. While most nations have no need to leave their territories to take resources from others, most States survive solely by the unsanctioned invasion and takeover of the territories and resources of nations (Nietschmann 1992:2-3). Such invasion is rationalised as "development" under the normative modernisation paradigm. As biologically rich environments are ravaged to meet the demands of States, established indigenous lifeways can no longer be maintained, indigenous ecological knowledge and resource management practices are lost, and ultimately, global cultural diversity is reduced (Hyndman 1994:297).

Conversely, as indigenous nations are destroyed or expelled from their cultural landscapes, processes such as agroforestry, which have contributed to the maintenance of indigenous ecosystems, are replaced by processes such as **agrodeforestation** (Clarke 1991): the depletion of useful species from cultural landscapes (Hyndman 1994:297). Furthermore, as the stewardship of biological diversity is removed from indigenous nations, biologically rich environments are left undefended against States, whose subsequent invasion and exploitation further contributes to the loss of biological diversity. This is the **global biocultural diversity crisis**.

Biocultural Diversity in Central America

Central America, the 500,000 km² isthmus incorporating the States of Belize, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica and Panama, forms the land bridge between the two largest terrestrial ecosystems of the Western Hemisphere: North and South America (Heckadon 1992:5). A central mountain range, covering three quarters of the isthmus, runs its entire length and divides the region into three geographic zones: the humid Caribbean Slope, the drier Pacific Slope and the Central Mountainous Zone (Heckadon 1992:8).

Central America's geographical and climatic variation, having given rise to 20 vegetational and six soil zones, and its location as the mingling place for the species of two continents, have contributed significantly to its extraordinary **biological diversity** (Chapin 1992a:63; Heckadon 1992:5-6). Its surviving tropical forests are particularly rich in biodiversity and have been referred to as 'among the richest habitats on earth' (Leonard 1987:26). Its 2,000 km Caribbean coast is also exceptionally diverse, being 'the single most important area of marine and coastal biological diversity in the Americas' (Nietschmann 1992:5).

It is estimated that when the first Europeans arrived in Central America, the region was home to between 5.6 and 7 million indigenous people (Chapin 1992b:232; Woodward 1992:643). Soon thereafter, fewer than one million had survived the disease, warfare, and slavery of Spanish colonialism (Chapin 1992a:64; Woodward 1992:643). Today, between 4 and 6 million of Central America's inhabitants are indigenous. **Cultural diversity** remains considerable and is represented by over 43 distinct indigenous nations whose homelands span 40 percent of the region (Chapin 1992a:65-66, 1992b:232; Nietschmann 1988:280). **Table 1** documents the estimated population of each indigenous nation. Central America's demographic profile reveals that these 6 million nation people comprise 20% of the population, while 30 million, or 80% of the population, are State people.

TABLE 1. THE INDIGENOUS NATIONS OF CENTRAL AMERICA:
LOCALITY AND ESTIMATED POPULATION

STATE	NATION (# AS LOCATED ON MAP 2)	ESTIMATED POPULATION
BELIZE	Garífuna.....(1)	11,000
	Kekchi.....(2)	4,400
	Mopan.....(3)	4,000
	Yucateco.....(4)	5,800

		TOTAL 25,200
COSTA RICA	Bribí.....(5)	6,700
	Brunka.....(6)	2,660
	Cabécar.....(7)	8,300
	Guaymí.....(8)	2,036
	Hueter.....(9)	855
	Maleku (Guatuso).....(10) Matambú	520
	(Chorotega).....(11)	793
	Teribe (Terraba).....(12)	1,504
		TOTAL 23,368- 30,000
EL SALVADOR	Cacaopera.....(13)	-
	Lenca.....(14)	-
	Pipil.....(15)	-
		TOTAL 500,000
GUATEMALA	Achi.....(16)	58,000
	Akateko.....(17)	20,000
	Awakateko.....(18)	16,000
	Chorti.....(19)	52,000
	Chuj.....(20)	29,000
	Garífuna.....(1)	4,000
	Itza.....(21)	3,000
	Ixil.....(22)	71,000
	Jakalteko.....(23)	32,000
	Kaqchikel.....(24)	405,000
	K'iche' (Quiche).....(25)	925,300
	Mam.....(26)	686,000
	Mopan.....(3)	1,000
	Poqomam (Pokomam).....(27)	32,000

	Poqomchi' (Pokomchi).....(28)	50,000
	Q'anjob'al (Kanjobal)....(29)	112,000
	Q'eqchi' (Kekchi).....(2)	356,600
	Sakapulteko.....(30)	21,000
	Sipakapense (Sipacapeno).(31)	3,000
	Tektiteko (Teco).....(32)	2,500
	Tz'utujil (Tzutuhil).....(33)	80,000
	Uspanteko.....(34)	2,000
	Xinka.....(35)	2,000
		TOTAL
		2,963,400-
		4,500,000
HONDURAS	Chorti.....(19)	2,000
	Garífuna.....(1)	70,000
	Lenca.....(14)	50,000
	Miskito.....(36)	25,000
	Pesch (Paya).....(37)	1,800
	Tawahka Sumu.....(38)	900
	Tol (Xicaque).....(39)	8,000
		TOTAL 157,700
NICARAGUA	Garífuna.....(1)	800
	Miskito.....(36)	80,000-150,000
	Rama.....(40)	650-1,000
	Sumu.....(41)	7,500-13,000
		TOTAL
		88,950-
		164,800
PANAMA	Bribrí.....(5)	500
	Emberá.....(42)	15,000

	Guaymí.....(8)	128,000
	Kuna.....(43)	48,000
	Teribe.....(12)	2,200
	Wounaan.....(44)	3,000
		TOTAL 196,700
CENTRAL		3,955,318-
AMERICA		5,574,400

(After Grosvenor *et al.* 1992)

Adams (1992:501-503) notes that the post-invasion increase in Central America's indigenous population has not been evenly distributed. While Guatemala's indigenous population has recovered 225 percent, for example, Costa Rica has less than 7.5 percent of its previous population. Such imbalance can be attributed in part to the **geographic marginalisation** that Central America's indigenous nations have suffered.

Historically, while the majority of Central America's non-indigenous population inhabited the Pacific Slope, and to a lesser extent, the Mountainous Zone, the Caribbean Slope and parts of the Mountainous Zone remained relatively isolated. Consequently, it was to these "regions of refuge" within their homelands that surviving indigenous peoples, escaped black slaves, and mixtures of the two, retreated (Chapin 1992a:64). Similarly, it is largely only within these areas that contemporary indigenous nations have been able to maintain autonomous lifeways (Chapin 1992b:232-233).

Much of the indigenous population of Central America currently occupies two fairly isolated regions: the Guatemalan highlands and the Caribbean coast. The highlands of Guatemala are the territory of 22 Mayan nations whose 3 to 4.5 million indigenous members make up 35 to 50 percent of Guatemala's population (Chapin 1992a:66; Nietschmann 1989:50). Likewise, 70 percent of Central America's Caribbean coast is the territory of 10 indigenous nations (Nietschmann 1992:5). These are also the regions that shelter most of Central America's surviving biological diversity.

Conversely, the Pacific Slope, and much of the Mountainous Zone, which together currently support most of Central America's total population of around 30 million (Heckadon 1992:11; Utting 1993:4), are regions in which indigenous nations have been suppressed or displaced and the environment has been largely degraded (Houseal *et al.* 1985:10). The 500,000 strong Pipil and Lenca nations of El Salvador, for example, have been stripped of much of their traditional culture, language and territory, and the State flatly denies their existence (Chapin 1989, 1993:224). Predictably, El Salvador has no surviving

forests (Nations and Komer 1987:162).

Thus, in accordance with the aforementioned Rule of Indigenous Environments, most of Central America's remaining biologically rich environments are **geographically coterminous** with its surviving indigenous nations.

Central American evidence also demonstrates that this coterminous relationship is one of **interdependence**. Despite having entered into the cash economy to varying degrees, most contemporary indigenous nations with a homeland who survive in Central America retain extensive ecological knowledge and continue to practice a mixed subsistence economy based upon migratory agriculture, fishing, hunting and gathering. In short, they maintain a dependence upon their environment (Davis and Wali 1994; Harp 1994; Houseal *et al.* 1985; Kutay 1991; Nietschmann 1973).

Conversely, indigenous environments in Central America continue to be humanised, cultural landscapes and seascapes whose composition may be dependent upon the maintenance of indigenous practices (Gomez-Pompa and Kaus 1992:274; Park 1992:33). As McNeely observes:

The current composition of the vegetation in Central America...is the legacy of past civilizations, the heritage of cultivated fields and managed forests abandoned hundreds of years ago. ...[M]any of the tree species now dominant in the mature vegetation ...were and still are the same species protected, spared, or planted in the land cleared for crops as part of the practice of shifting agriculture (1994a:10-11, emphasis added).

The Biocultural Diversity Crisis in Central America

During the sixteenth century, when European colonial powers reached Central America, the region's forests covered 400,000 km² (Nations and Komer 1983a:232). Although some Pacific Slope deforestation occurred during the subsequent periods of colonial domination and independence, the environmental situation remained fairly stable until the 1940s. At this time, intensive resource exploitation accelerated as the new technology of heavy-duty vehicles and machinery facilitated road building and land clearing, making the extraction of oil, minerals, and most significantly, timber, from isolated areas economically viable (Chapin 1992a:64). Since then, more than two thirds of Central America's rainforests have been cleared (Nations and Komer 1983a:232).

A significant threat to indigenous peoples in Central America is the destruction of their environment. In accordance with the theory that States pose the main threat to global biocultural diversity, the threat to Central America's indigenous peoples is posed primarily by the non-sustainable norms of modernisation and development pursued by the States within which indigenous nations are encapsulated (Halle 1992).

This type of development drives the number one type of environmental destruction in Central America: deforestation. Deforestation is a three stage process (Chapin 1992a:64-65; Myers 1981; Nations and Komer 1982, 1987). Initially, external interests enter the forest to extract valuable hardwoods and sub-surface resources. Even when selective, this

type of resource extraction damages remaining forest and denies indigenous resource rights. Once logging roads provide access to the area, State populations of landless peasants, driven by population pressures and inequitable land distribution, and often encouraged by State governments, colonise, clear, and cultivate the land. Since rainforest soils are not highly fertile, they soon become depleted and new land must be cleared. As these colonists advance, indigenous nations are further deprived of their resources, expelled from their land, and pushed further back into the forest. Finally, as colonising peasants are forced to move on to new land, the areas they have cleared are bought up by cattle ranchers and turned into pasture. Rainforest soils are unable to support even pastures for long however, and soon these too become weeded, eroded wastelands which are eventually abandoned.

This “development” process is clearly not ecologically viable. Nor is it economically efficient. Cattle-raising on rainforest soils offers a much lower production rate than many other food production systems, particularly the indigenous agroforestry systems of the region (Nations and Komer 1987:162-163). Furthermore, neither indigenous peoples nor local colonists benefit from beef production. As beef production increases, local per capita beef consumption actually decreases because most is produced for export. Ninety percent of Central America’s beef exports go to the United States. There, comparatively high prices are paid for lean grass-fed, as opposed to grain-fed, beef by hamburger manufacturers who supply the fast-food industry (Myers 1981; Salati and Vose 1983:68). Myers (1981:8) calls this protein flight ‘the “hamburgerization” of the rainforests.’

As a result of this process, the rate of deforestation in Central America has increased significantly every decade for the past 50 years (Chapin 1992b:233). As the forests which form the wildlife corridor between the Americas disappear, Central America’s biological diversity is being lost forever. As Central America’s indigenous nations subsequently lose their homelands, the region’s cultural diversity is also being lost forever. This is Central America’s biocultural diversity crisis.

ATTEMPTS TO ADDRESS THE CRISIS THROUGH PROTECTED AREAS

Since the late 19th century, aspects of the global biocultural diversity crisis have been internationally recognised. Comprehension of the problem, however, has been largely limited to the biological diversity crisis, and attempts to redress it have been channelled through conservation initiatives. Accordingly, when the term **conservation** was coined in the United States in 1907, the objective was to protect “nature” (biodiversity) from humans. This objective was based on the premise that ‘man (sic.) disrupts the fundamental harmony or balance of nature’ (Smith 1971:4).

Since its conception in 1832 (see Dasmann 1988; Harmon 1987; Nash 1970), the **protected area** has been the predominant *in-situ* conservation strategy. In 1872, the first Western protected area, Yellowstone National Park, was established (Nash 1970:734).

By the 1920s, national parks had been established on all continents, and in 1969, the International Union for the Conservation of Nature (IUCN) defined a **national park** as:

...a relatively large area which is *not materially altered by human exploitation and occupation*, and where the highest competent authority of the country has taken steps to prevent or eliminate exploitation or occupation in the whole area (McNeely 1994b:392, emphasis added).

Predictably, as this Western ideal was adopted world-wide, serious contradictions between conservationist rhetoric and what was practical in the field emerged (Hough 1988:129-130). Since most biologically rich areas *are* occupied or exploited, and thus materially altered by humans, eliminating occupation and resource exploitation created serious conflicts with local people, often indigenous nations

Fortunately, since the 1970s, it has gradually been recognised that the goal of conservation should be the protection of *biocultural* diversity, and conservation has been redefined as:

...the management of human use of the biosphere so that it may yield the greatest sustainable benefit to present generations while maintaining its potential to meet the needs and aspirations of future generations (International Union for the Conservation of Nature 1980:2).

Consequently, an increasing number of conservation initiatives have moved away from the model of protected areas as “isolated islands” (McNeely 1994b:399) towards one oriented towards protecting the environment *and* meeting human needs (Hales 1989:141; Ishwaran 1992:18). An essential difference between the many types of protected area now in existence is the degree of human resource use and environmental alteration which occurs (Brechtin *et al.* 1991:7).

Indigenous Peoples and Protected Areas: Evidence from Central America

Since biological and cultural diversity are coterminous, indigenous homelands, harbouring diverse and intact ecosystems, are often targeted for protected area designation. Current protected area initiatives consider the rights and interests of indigenous peoples to differing degrees. Gray (1991:56) proposes that modern conservationists can be divided into three categories with respect to their position regarding the relationship between indigenous peoples and protected areas: “classic nature conservationists”, “green capitalists” and “social ecologists”. He also identifies three parallel groups amongst those who seek solutions to the problems faced by indigenous nations: “isolationists”, “pro-indigenous capitalists”, and “proponents of self-determination”. All of these positions address threats to the environment and indigenous nations with the same sense of urgency, however each emphasises a different set of priorities.

Classic Nature Conservation

Classic nature conservationists advocate a preservationist approach to

conservation. They see the environment targeted for protection as “pristine wilderness”, and all people, including the area’s indigenous inhabitants, as destructive and predatory. Their solution to environmental destruction is to guard endangered species and non-renewable resources by excluding all human activity from protected areas (Gray 1991:56; Hyndman 1994:296).

In so guarding the environment, classic nature conservationists support the creation of **national parks** based on the Yellowstone model (Kemf 1993:6; Lewis 1990:18). Yellowstone National Park was established on the territory of the Crow, Blackfeet and Shoshone-Bannock indigenous nations. Despite the fact that some history books report that when the park was created the Shoshone willingly accepted an invitation to move to a reservation in 1871, more recent accounts note that, in 1877, 300 people were killed in a series of battles, and in 1886, the park’s administration was finally turned over to the United States army (Kemf 1993:5-6). In accordance with this “model”, it has been common practice to first establish national parks, and later to inform local, indigenous landowners that they will have to move or follow new rules (Clay 1985:2; Deihl 1985:37; Gray 1991:iii; Hyndman 1994:296; Kemf 1993:6; Lewis 1990:18; Nietschmann 1991a:373; Poole 1989:25-26; Utting 1993:105).

This lack of consideration for indigenous peoples inherent in the classic nature conservationist approach is evident throughout Central America, where 80% of all recognised protected areas are inhabited by indigenous peoples who have been subjected to some type of land/resource use restriction (IWGIA 1996:72). The Honduran government, for example, has recently decreed the formation of two national parks on Garífuna territory: **Cayos Cochinos**, comprising 18 small islands, and **Punta Sul Park**, which incorporates five communities. These communities are living in fear of imminent expulsion (IWGIA 1996:72-73).

Parallel to the classic conservationist position is that of the **isolationists** which argues that indigenous peoples need a large land base upon which they can be protected from encapsulation into the modern world system (Gray 1991:56; Hyndman 1994:296). This position has been rejected as an impossible ‘zoo-like arrangement of an enforced primitive state’ (Goodland 1988:403).

Dispossessing indigenous peoples of their territory, and/or restricting or prohibiting their access to resources may have negative effects on both indigenous peoples and the environment. In terms of the environment, ‘[e]fforts to totally exclude human influence from “natural” ecosystems, as in strictly protected national parks, can lead to a situation that has not occurred for thousands of years and will have unknown ecological implications’ (McNeely *et al.* 1990:51).

For indigenous peoples, the consequences of classic nature conservation are devastating. When established lifeways and livelihoods can no longer be maintained due to the loss of land and resources, indigenous nations in many cases suffer from social collapse and greater cultural and economic dependency (Gray 1991:24-28; Hyndman 1994:297; Rao

and Geisler 1990). This situation contributes to the erosion of indigenous ecological knowledge and established resource management practices, and ultimately, to the loss of cultural diversity (Hyndman 1994:297).

Furthermore, indigenous peoples' subsequent resentment toward an imposed protected area is likely to result in social conflict, clandestine activities, non-cooperation or apathy, all of which will ultimately undermine the possibility of achieving the goals of biodiversity conservation (Lewis 1990:19; Rao and Geisler 1990:21,22; Utting 1994:257). In Belize, for example, the management strategy of **Crooked Tree Wildlife Sanctuary**, established in 1984, forbids all hunting within the park. Since no alternative is available to local people who depend upon waterfowl and wild game for protein, many 'have begun to hunt the endangered and protected animals to demonstrate their dissatisfaction' (Steinberg 1993:260).

Costa Rica's protected area system, covering 30 percent of the State (Budowski 1992:50-51), and often held up as a model for other countries in Latin America (Barzetti 1993:101,105; MacFarland *et al.* 1982:592), also demonstrates the fundamental weaknesses of the classic approach to conservation. There too, serious conflicts have arisen as indigenous peoples have responded to the inconsiderate way the State has established protected areas, often without socioeconomic studies of peoples likely to be affected, and rarely offering alternative land or employment to displaced peoples. The State's process of land acquisition which is often not financially viable, and the limits placed on resource use in protected areas, have also been problematic (Utting 1993).

When **Cahuita National Park**, in 1970, became the first legally established national park in Costa Rica, for example, the financing necessary to compensate Garífuna landowners for the loss of their land was unavailable to the National Parks Service. Twelve years later the owners had still not been paid. As a result, the Garífuna see the park as yet another imposition by outside authorities on their lives, and serious conflicts between park authorities and local communities continue (Kutay 1991; MacFarland *et al.* 1982:595).

The negative effects of the classic approach to conservation are compounded by the fact that the Costa Rican government's primary strategy for dealing with conflicts over national park resources is to ignore them, neglecting to enforce environmental laws, policies and regulations (Utting 1994:235). This, accentuated by limited human and financial resources, has meant that protected area status often exists only on paper (Utting 1994:239). This situation is common throughout Central America (Green 1990:123-124).

Since the aim of conservation is to benefit both present and future generations, the classic nature conservationist's perspective, although still powerful, is now discredited (Gray 1991:26; Hyndman 1994:297). It extinguishes the rights of indigenous peoples, contributing to the ultimate collapse of their relationship with the environment, and clearly fails to recognise the significance of biocultural diversity. Rather, it contributes to its destruction.

Green Capitalism

Unlike classic conservationists, **green capitalists** recognise the significance of biocultural diversity and support the integration of conservation and development. Through the promotion of the economic value of healthy forests, green capitalists create an economic and ecological argument for conservation strategies that support local sustainable resource extraction for the international market (Clay 1992:402; Gray 1991:56). Green capitalists are aligned with **pro-indigenous capitalists**, who argue that indigenous peoples need to penetrate international markets in order to obtain the capital they need to survive and fight for their homelands (Gray 1991:56; Hyndman 1994:296).

Green capitalists advocate protected area strategies that involve indigenous communities, sustainably harvesting rainforest products for the international market. They use economic incentive and protected areas called **extractive reserves** to compensate indigenous land owners for their labour, surplus subsistence goods and other commodities produced through the utilisation of indigenous ecological knowledge and sustainable harvesting techniques (Gray 1991:35-36; Hyndman 1994:298).

One example of the green capitalist approach in Central America is currently operating in the **Uaxactun-Carmelita Extractive Reserve** in northern Guatemala's Petén region. This reserve, based on the extraction of three renewable resources: chicle gum, *xate* palm and allspice (Nations 1992; Reining and Heinzman 1992), is now incorporated into the Maya Biosphere Reserve which is home to approximately 7,000 people, of which an estimated 3,000 are Mayan (Chapin 1992a:66; Santiso 1993:8).

In the Petén, the extraction of *xate* and allspice has been practiced for at least 30 years, and chicle, for more than 90 years. These products are thus exploited by a well-established forest culture with considerable knowledge and experience (Reining and Heinzman 1992:11). They are currently collected by more than 6000 people (Santiso 1993:6), many of whom are dependent upon them for a substantial part of their cash income. Combined, they produce between US\$4 million and US\$7 million per year in export revenues for Guatemala (Nations 1992:209). There is thus a strong economic incentive for conserving the reserve's forests.

A substantial number of biologists, anthropologists and indigenous peoples however, are opposed to green capitalism (Pearce 1990). They argue, for example, that increased demand for new and exotic commodities could lead to their over-exploitation (Corry 1993:153), or even encourage their cultivation as cash crops (Clay 1992:409; Posey 1990:96), ultimately destroying the ecosystems targeted for protection. They also argue that green capitalism may not provide indigenous peoples with a sustainable income when it perpetuates a cycle of economic dependency on external markets, foreign intermediaries and consumer demands, which neither indigenous peoples, nor the companies they trade with, can control (Corry 1993:149; IWGIA 1993:8).

Accordingly, in the Petén, it is possible that local economic pressures will lead to an influx of inexperienced harvesters using non-sustainable harvesting techniques (Nations 1992:216). Already, harvesting techniques are inefficient as up to 40 percent of all *xate*

harvested is discarded once it reaches warehouses (Nations 1992:212). Furthermore, increased demand for these forest resources has already resulted in their over-exploitation since 'so far few products of existing or potential economic value have been identified, thus concentrating commercial extraction activities on only a few species' (Santiso 1993:9). The danger of over-dependence on three products was demonstrated in the early 1980s when sorva, a chicle substitute from Brazil, led to the temporary collapse of Guatemala's chicle industry (Nations 1992:215).

Those in opposition to green capitalism also argue that it only conditionally recognise the rights of indigenous peoples to the land and resources they occupy and utilise (Corry 1993:151), and may not strengthen indigenous peoples' community-level organisation (Clay 1992, 1993). It is a paternalistic, top down assumption that indigenous peoples are primitive capitalists, operating under a capitalist rationality and organised into communities conducive to forming the types of cooperatives necessary for this type of project. In reality, this conventional development model is not necessarily culturally appropriate for indigenous societies (Gray 1990; IWGIA 1993:9). Most indigenous peoples targeted for sustainable harvesting practice kinship modes of production (see Wolf 1982). These are systems of subsistence production and simple reproduction based on reciprocity with the internal regulation of production, distribution and consumption (Hyndman *et al.* 1994). When they enter into the international market these indigenous economies often clash with capitalist relations of production, and the economy is taken out of indigenous social control. Since sustainability based on internal subsistence production is very different from that controlled by consumer demands, indigenous economies encountering the market are faced with a fundamental contradiction between limiting and increasing demand (Gray 1990). Consequently, introducing economic incentives can radically change the values and priorities of indigenous communities (Clay 1992:410), contributing to internal division, and the breakdown of cultural diversity. Assigning economic exchange value to indigenous resources also detracts from international recognition of their subsistence use value (Corry 1993:148; IWGIA 1993:7).

In the Petén, since cooperatives have not been formed among the harvesters, it is the contractors and exporters who make the real money (Nations 1992:216). Due to inflation, the harvesters' real income is decreasing, while exporters are profiting from stable or increasing international prices (Reining and Heinzman 1992:116).

Thus, extractive reserves as currently implemented under the green capitalist approach may not be compatible with the conservation of biocultural diversity. While they may promote the short term protection of biological diversity, lack of local control means that the long term protection of the region's biocultural diversity cannot be guaranteed.

Another Central American extractive reserve, the **Terra Nova Rain Forest Reserve**, established in 1993 in Belize, is based upon an alternative approach to sustainably harvest indigenous resources (Balick *et al.* 1994; Moran 1994:105-106). Terra Nova's management plan incorporates the activities of traditional Mayan healers and their students. Following an indigenous pattern of communally owned and managed resources, the reserve has been

deeded to the Belize Association of Traditional Healers which represents the region's indigenous Mayan nations. Terra Nova is intended to become a self-supporting extractive reserve through the regulated harvest of medicinal plants for the local market. A clinic with a sliding fee scale will also benefit local villagers, at least 75 percent of whom depend on plant medicines for some aspect of their primary health care needs.

The reserve has received much support, particularly at the grassroots level, and the healers' association is working in collaboration with scientists, governmental policymakers and the local tourist industry in an attempt to make Terra Nova the world's first successful "ethnobiomedical" extractive reserve. Since, unlike in the Petén, production and marketing will be strictly under indigenous control for a local market, Terra Nova may have the potential to truly conserve biocultural diversity in Belize.

Thus, despite the significant drawbacks of the green capitalist approach, not all attempts to sustainably harvest indigenous resources will have detrimental effects on indigenous communities (Gray 1991:41). Given that many indigenous communities desire interaction with cash economies, achieving this is dependent upon careful planning and the empowerment of indigenous peoples (Colchester 1989; Corry 1993; Gray 1990). If trading is to be culturally appropriate, encourage real economic independence, and strengthen indigenous communities against immediate local, regional and national forces, commercialisation must start with the people themselves and the local market (Corry 1993:148-149; IWGIA 1993:9). Indigenous communities have had access to extensive trade networks for centuries (Stiles 1994:106). They can therefore utilise existing relationships on local and State levels in order to make their own contacts and develop their own systems of control over marketing channels, processing, and transport systems (Gray 1990; IWGIA 1993:9). For this to occur, legal recognition of indigenous rights to land and resources is essential (Pendelton 1992:256; Stiles 1994:109).

Social Ecology

This second approach to sustainable harvesting is advocated by **self-determination proponents** who believe that the indigenous voice is paramount. They support political empowerment and land rights for indigenous peoples, which they believe can insure their future (Gray 1991:56; Hyndman 1994:296). Self-determination proponents are aligned with **social ecologists** who believe that there are no other land use models that preserve ecological stability or biological diversity as efficiently as the established land use models of indigenous nations (Houseal *et al.* 1985:10). Thus, social ecologists emphasise the need for integrating conservation with ecodevelopment programs (Hyndman 1994:297; Wells and Brandon 1993). Thus, they too identify the true goal of protected area management as the conservation of biocultural diversity.

Protected area strategies arising from the social ecology perspective were internationally recognised in the 1970s when The United Nations Educational, Scientific and Cultural Organisation (UNESCO) launched a program called **Man and the Biosphere (MAB)**, the first *in situ* conservation program for the preservation of *cultural* land and

seascapes (Oldfield and Alcorn 1991b:44). MAB's central component is an international network of **biosphere reserves**. Biosphere reserves are protected areas designed to conserve representative (as opposed to exceptional) samples of major ecosystems (Eilers 1985:9). They incorporate resident indigenous communities and aim to promote their participation in land use and management (Gregg 1991:278).

These objectives are combined within biosphere reserves through the demarcation of various zones: a strictly protected "core area", an adjacent or surrounding "buffer zone" where limited resource use occurs, and an exterior, often open ended "transition area" where sustainable resource exploitation by local communities occurs (Brandon 1991:371; Gregg 1991:279-282; USMAB 1989).

The **Rio Platano Biosphere Reserve** in Honduras was, in 1980, the first such reserve established in Central America (Kolankiewicz 1989:36). Later, in 1982 and 1983 respectively, the **La Amistad** and **Darién Biosphere Reserves** were established in Costa Rica and Panama. All three of these reserves incorporate significant indigenous communities and their homelands (For detailed case studies of these three biosphere reserves see Glick and Betancourt 1983; Gradwohl and Greenberg 1988:78-80; Houseal *et al.* 1985; Kolankiewicz 1989; Olson 1989; Poole 1989:58-62; Torres *et al.* 1989.)

The experiences of the now 324 biosphere reserves in 82 States (Semple 1995) have demonstrated that 'the main problem for all existing biosphere reserves is that of their proper management' (Batisse 1993:4). This has been attributed largely to problems associated with the practical aspects of buffer zones and local participation (Wells and Brandon 1993), and a lack of resources and organisational framework necessary for their implementation (Ishwaran 1992:20).

More than ten years after their creation, the Central American biosphere reserves mentioned above are not well managed: all face the possibility of having major highways constructed through them (Houseal *et al.* 1985; 248; IWGIA 1995:73; Nations and Komer 1983b; Olson 1989); all are threatened by the presence of both illegal, and government approved, mining and logging, as well as contraband and narcotic-related activities (Gradwohl and Greenberg 1988:80; Houseal *et al.* 1985:14; IWGIA 1994a:49, 1995:72; Kolankiewicz 1989:36; Olson 1989:250; Poole 1989:61-62; Torres *et al.* 1989:257); and colonists are currently farming and rearing cattle within the borders of all three reserves (Gradwohl and Greenberg 1988:80; Houseal *et al.* 1985; Olson 1989:250; Poole 1989; Torres *et al.* 1989:256).

Significantly, while biosphere reserves provide short term territorial security, it is not a pre-requisite that the indigenous peoples within their borders receive legal title to their lands and resources (Davis and Wali 1994:8). Furthermore, although social ecologists are committed to the participation of indigenous peoples in protected area management, rarely has genuine participation been elicited (West and Brechin 1991:395). Instead, most biosphere reserves have treated indigenous peoples as passive beneficiaries of project activities (Wells and Brandon 1993:160).

The management plans of Rio Platano, La Amistad and Darién Biosphere Reserves all neglected to involve resident indigenous peoples to any significant degree during the planning and implementation stages. Although education teams were sent to explain the reserve concept to indigenous communities within the Rio Platano Reserve during its initial planning stages, for example, these communities were viewed as a user group within the reserve rather than members of the planning team (Glick and Betancourt 1983:172; Houseal *et al.* 1985:15). Clearly in Central America, as in the rest of the world, biosphere reserves have not lived up to one of MAB's expectations.

Hence, although social ecology provides the most viable theoretical approach to biocultural diversity conservation, 'the potentially important role of indigenous cultures in developing the conservation role of biosphere reserves has yet to be fully realized' (Gregg 1991:290).

CONSERVATION BY SELF-DETERMINATION: AN INTEGRATED SOCIAL ECOLOGY/SELF-DETERMINATION APPROACH

It is proposed that in order to overcome some of the problems affecting the successful implementation of biosphere reserves, and other protected areas based on the social ecologist's approach to conservation, the involvement of indigenous peoples and their homelands must be under indigenous control. Conservation by self-determination, a conservation strategy which is the product of a truly integrated social ecology/self-determination perspective, is thus proposed as one approach that may achieve this goal.

Self-determination

Self-determination is the exercise of 'the right [of a people] to freely determine its social, economic, political and cultural future without external interference' (DeLaCruz 1989:1). What self-determination means for indigenous nations varies from external self-determination: full sovereign independence through the establishment of a new ethnically homogeneous State, to internal self-determination: autonomy or self-government through the establishment of a cultural and political niche within the framework of an existing State (Hannum 1990:97; Wright 1988:381).

During the last decade, '[w]ithin the UN human rights system, the issue of [indigenous] rights has moved...from the fringe to the mainstream' (Wiggins 1993:352). In 1982, the UN Working Group on Indigenous Populations was established to develop international standards concerning the rights of indigenous peoples (Lopez-Reyes 1995:53). In 1985, the Working Group began to draft a Declaration on the Rights of Indigenous Peoples (DRIP) (Hannum 1990:85). The draft DRIP, agreed upon by the members of the Working Group at its eleventh session (Fourth World Documentation Project 1993) declares in Article 3: 'Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.'

Furthermore, Article 26 states:

Indigenous peoples have the right to own, develop, control and use the lands and territories, including the total environment of the lands, air, waters, coastal seas, sea-ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used (Fourth World Documentation Project 1993).

Central to the indigenous struggle for self-determination is the legal recognition of these **rights to land and resources** (IWGIA 1994b:171).

Also central is the facilitation of political dialogue for the generation of constructive agreements between States and indigenous nations. In order for this dialogue to occur, indigenous nations must be politically empowered (IWGIA 1994b:171). Political empowerment is based on **self-organisation**: 'the creation of representative or participatory institutions which enable people to aggregate and articulate interests, [and] mobilize in defence of such interests' (Utting 1993:169). Such indigenous institutions must construct alliances on local, national and international levels in order to bring local issues to national and international attention, and to exert pressure on policymakers (Utting 1993:169-170).

Self-determination in Central America

In Central America, as in the rest of the world, indigenous nations are committed to the struggle for self-determination. In only a few cases however, have indigenous peoples' collective rights to land and resources been legally recognised. While Panama, Costa Rica, Belize, and Nicaragua, legally recognise indigenous territories, Guatemala, El Salvador and Honduras have 'no clear policy or mechanism for establishing Indian reserves or territorial status' (Herlihy 1993:55-56). Furthermore, the indigenous reserves that do exist, often exist on paper alone. In Costa Rica and Panama for example, approximately half of all land designated as part of indigenous reserves is currently owned or occupied by non-indigenous interests (Carmack 1989; Utting 1994:238).

In an endeavour to improve this situation, almost all Central American indigenous nations are involved in organised, territorially-defined self-determination movements (see Berkey 1995:13; Carmack 1989; Chapin 1993:220; Cultural Survival Quarterly 1992a; Luthin and Calderon 1995:38; Nietschmann 1992:4; Stocks 1992; Wilk and Chapin 1989).

In order to promote the legal recognition of their homelands, indigenous organisations have begun to prepare land-use maps and land tenure studies (Anaya and Macdonald 1995; Berkey 1995; Cultural Survival Quarterly 1996; Gonzalez *et al.* 1995; Herlihy 1993; Luthin and Calderon 1995; Nietschmann 1995). They are also fighting for their rights in State courts, legislative bodies and constitutional conventions (Wiggins 1993:353).

Conservation by Self-determination

Advocates of conservation by self-determination recognise and promote biocultural diversity, and believe that indigenous self-determination and environmental protection can

be interdependent and mutually reinforcing (Nietschmann 1991a:373). Accordingly, conservation by self-determination is conservation in which the involvement of indigenous peoples and their homelands is under indigenous control. It is a grassroots initiative in which conservation efforts, although initially propelled by external financial and political support, are locally driven. This type of conservation is in accordance with Article 28 of the draft Declaration on the Rights of Indigenous Peoples: 'Indigenous peoples have the right to the conservation, restoration and protection of the total environment and the productive capacity of their lands, territories and resources' (Fourth World Documentation Project 1993).

Complex issues regarding the theory behind conservation by self-determination are evident in continuing discussions concerning the nature of the relationship between indigenous peoples and conservation (Alcorn 1993; Clad 1984; Dwyer 1994; Peres 1994; Posey 1992; Redford 1991; Redford and Stearman 1993a, 1993b). One facet of this discussion centres on the relationship between indigenous peoples and the environment, and the contrast between this relationship and that between Western conservationists and the environment.

One position expounded in the first part of this paper was that indigenous peoples both use and manage their resources. Some debate has surrounded the matter of the extent to which indigenous peoples' resource management practices are "conscious" however, and whether any "real" concepts of conservation exist within indigenous cultures (Posey 1992:21). Indigenous resource management practices are characterised by 'the commingling of knowledge, practice and belief' (Gadgil *et al.* 1993:155, emphasis added), and thus, may function 'to satisfy religious, ritual or utilitarian needs [and] may or may not be intended by the participants to achieve the observed outcome' (Dwyer 1994:92). Since most ecologists argue that unless people consciously articulate their intention with regard to their production practices, they are using rather than managing their resources (Gray 1991:21), indigenous peoples are often seen solely as resource users rather than managers.

This view is used to support the assertion that indigenous peoples are not conservationists. Indeed, indigenous peoples themselves have made this claim (Chelala 1992:45). Such claims have been used to support the contention that the goals of indigenous peoples are not compatible with the goals of conservation (Redford and Stearman 1993b). Yet clearly, the absence of this Western concept amongst indigenous ones 'does not mean that conservation is new to indigenous peoples' (Alcorn 1993:425).

While "conservation" may not exist as a concept within indigenous cultures, conservation can and does occur. It is simply that 'individuals from different cultures inevitably think and speak with different cognitive "realities"' (Posey 1992:22). Thus, indigenous cognitive realities concerning the environment and its maintenance differ from Western conservationists' reality. It is for this reason that subsistence activities such as agroforestry hold value for Western conservationists (Clarke and Thaman 1993). In many coastal areas, for example, 'detailed indigenous marine knowledge has led to systems of customary sea tenure that observed almost every form of modern reef conservation centuries

before the need was even recognized in the West' (Hyndman 1994:297). Indigenous models which perceive entire landscapes as units of management are thus commensurate with Western ideas of watershed and coastal zone management, or of landscape ecology and human ecosystem science (Clarke 1995:7).

The conclusion that indigenous peoples' resource management practices are incompatible with those of Western conservation, thus reflects the failure of Western ecologists to understand indigenous realities. This inadequacy can only be overcome through a 'sharing of realities' leading to an understanding of *emic* interpretations (those that reflect indigenous cognitive and linguistic categories) of indigenous realities (Posey 1992:22).

At the opposite end of the continuum is an image of indigenous peoples as "natural conservationists" who live in harmony with their environment (Dwyer 1994:91; Redford and Stearman 1993b). This notion has inspired the unrealistic and idealised reincarnation of the myth of "the noble savage" as "the ecologically noble savage" (Redford 1991:46). While it has been demonstrated that 'there are methods used by indigenous peoples that are definitely superior to those used by non-indigenous peoples living in the same habitat' (Redford 1991:47), such methods are often sustainable only under a certain set of conditions: low population density, favourable ratios of population size to land and resource availability, and limited indigenous involvement in the market economy (Dwyer 1994:92; Redford 1991:47).

Since indigenous nations are increasingly faced with internal population and resource pressures, and increased involvement in market economies, many indigenous peoples have adapted to integrate external values and lifestyles at the expense of indigenous ecological knowledge and resource management practices. Moreover, as indigenous homelands have been reduced in the face of external pressures, becoming mere remnants of once more extensive biospheres, indigenous resource management practices may no longer be appropriate (Clad 1984; Dwyer 1994; Gadgil *et al.* 1993:156; Rao and Geisler 1990:29; Redford 1991; Redford and Stearman 1993a:252). This predicament has led to speculation concerning the ability of indigenous peoples to drive conservation efforts (Peres 1994).

To recognise the value of indigenous knowledge and practice therefore, is not to suggest that optimal conservation means absolutely no outside management input (Rao and Geisler 1990:27). For this reason, current attempts at conservation by self-determination are based on **comanagement**. Comanagement involves shared decision making between indigenous peoples and conservationists (as equals) for protected area management. It also encourages the integration of indigenous and non-indigenous knowledge and practice (DeWalt 1994:127; Rao and Geisler 1990).

It has been argued (Alcorn 1993:426; Cox and Elmqvist 1993:12) that conservationists need to respond to indigenous needs and concerns by initiating frank discussion and debate with indigenous peoples in order to foster 'the explicit recognition of different priorities and consequent trade-offs, and the understanding and compromise that

this process engenders' (Redford and Stearman 1993a:254). It has also been argued that:

When the practical concerns of conservationists and indigenous peoples meet, then it is the former...who must make concessions to the needs of the latter. ...through acknowledgment of the rights of those peoples and in full understanding that by acting in this way they may compromise the global reach of modern conservation (Dwyer 1994:96).

While both these views are incorporated into the argument for conservation by self-determination, the latter makes an important point: ultimately, decisions concerning indigenous land and resources must rest with indigenous peoples. For this reason, only where indigenous peoples see a need to protect their environments, is conservation by self-determination proposed as an approach through which indigenous peoples may establish protected areas within their homelands, simultaneously achieving the goals of conservation and demanding recognition of their indigenous rights. Indigenous self-determination and environmental protection *can be* interdependent and mutually reinforcing, but they are also *separate* matters. Consequently, if Fourth World nations choose to undertake practices antithetical to conservation, this too must be their choice, as it has been the choice of the States of the First, Second and Third Worlds.

Conservation by self-determination has been attempted globally through recently established biosphere reserves, integrated conservation/development projects and other community-based projects. In Central America, two notable indigenous initiatives have been undertaken by the Kuna nation in Panama and the Miskito nation in Nicaragua. While both have a degree of legal autonomy within their respective States, the political contexts within which they have sought to protect the biocultural diversity of their homelands have differed.

A Project for the Management of Kuna Yala (Pemasky) Forested Areas

When they launched their Project for the Management of the Forested Areas of Kuna Yala in 1983, the Kuna became responsible for the design and implementation of 'the world's first internationally recognised forest park created by an indigenous group' (Clay 1988:6).

Kuna Yala: Biocultural Diversity

Kuna Yala, the autonomous homeland of the Kuna nation lies on the Caribbean coast of Panama. Its 321,159 hectares extend from the Caribbean slopes of the San Blas Mountains to the coast, and include the San Blas Archipelago, more than 300 coral islands stretching 375 kilometres along the coast (Archibold 1992:25). Its forests, low lying wetlands, mangroves, rivers, coastal lagoons, and rich offshore waters exhibit rich biodiversity (Archibold 1992:25-27; Breslin and Chapin 1984:34; Castillo 1992:17; Houseal *et al.* 1985:16).

The Kuna nation consists of over 30,000 people, the vast majority of whom are distributed among 50 small coastal islands and 12 mainland villages. Kuna subsistence production is thus based on both terrestrial and marine resources. In addition to hunting, fishing and gathering, the Kuna practice a mix of family and communal slash and burn agriculture on small parcels of land along the coast (Chapin 1985:41). Since they have also entered into various avenues of the cash economy (for example cash crops, salaried employment, small businesses and cooperatives), a market-oriented, cash-based economy currently operates alongside their subsistence production (Breslin and Chapin 1984; Houseal *et al.* 1985:16; Swain 1989:92).

The Kuna retain an intimate relationship with their environment, continuing to identify their culture with a specific expanse of land - Kuna Yala (Breslin and Chapin 1984:31). Their rich oral history teaches that humans must act in balance with nature (Archibold 1992:25; Houseal *et al.* 1985:16; Sherzer 1990:67,73). This balance is reinforced through cultural constraints which function to protect the environment (Archibold and Davey 1993:52,55; Breslin and Chapin 1984:34; Chapin 1985:48-49; Houseal *et al.* 1985:16). The Kuna retain extensive ethnobotanical knowledge, identifying and using many species relatively unknown to Western scientists (Archibold 1992:27; Archibold and Davey 1993:55). An ethnopharmacognostic study undertaken in one Kuna village, for example, resulted in the collection of 99 species, from 42 plant families, all of which held some medicinal value for the Kuna (Gupta *et al.* 1992). They also maintain diverse agroecosystems. A study of one area of Kuna Yala, for example, identified 72 plant combinations utilising 48 tree species and 16 domestic crops (Houseal *et al.* 1985:16; Utting 1993:49).

Kuna Autonomy: Towards Self-determination

For the Kuna of Panama, contact with Europeans began early, was brutal, and is remembered, mythologized, recreated, and performed in detail to this day... (Sherzer 1994:902,922).

When the Spanish reached Kuna territory during the sixteenth century, the Kuna nation staunchly resisted invasion. Since, at that time, Central America's Caribbean coast was a zone of British-Spanish colonial conflict (Nietschmann 1989:19), the Kuna instead allied themselves with the British traders and pirates of the Caribbean (Stout 1947:51). Their resistance against the Spanish culminated during the early eighteenth century in a widespread war that, although temporarily evicting the Spanish (Nietschmann 1988:278), culminated in the Spanish calling for the 'reduction or extinction' of the Kuna (Herlihy 1985:43).

Although the Kuna were never conquered or subjugated, they were eventually forced to retreat from large tracts of their homeland, which then extended from the Caribbean coast across the forested Darién region as far as the Pacific coast (Chapin 1985:43). They initially sought refuge in the thick forests of the more isolated Caribbean

slopes of their homeland, and by the mid-nineteenth century had begun transferring their villages to the San Blas Islands in order to avoid the pests and plagues of the mainland (Chapin 1985:43; Houseal *et al.* 1985:16).

Despite this history of conflict, the Kuna are one of the few indigenous nations in the Americas to have survived the impact of colonisation with their social, cultural, political and linguistic independence intact (Breslin and Chapin 1984:26; Sherzer 1994:922). Consequently, they are 'perhaps the most socially and culturally cohesive indigenous society in the hemisphere' (Wright *et al.* 1988:356). This cohesion, based on strong principles of autonomy and self-reliance, enables Kuna identity to be retained while they confront outside influences (Chapin 1985:42; Houseal *et al.* 1985:16).

Early this century, Kuna territory, resources and cultural integrity were once more threatened. While non-Kuna resource pirates and colonists were expropriating Kuna land and resources, the Panamanian government was implementing a full-scale program of coercive acculturation (Herlihy 1989:17; Howe 1986:19; Nietschmann 1988:279). Consequently, in 1925, the Kuna took up arms to successfully defeat and drive out government police and non-Kuna invaders (Herlihy 1989:18; Howe 1986:19).

By 1938, the subsequent negotiations between the Kuna and the State had generated legislation recognising an official, autonomous Kuna reserve, which was called for the first time in Panama's history, a *comarca* (Herlihy 1989:18; Howe 1986:19; Stout 1947:87). In 1945, Kuna and State authorities drew up a constitution which was formally recognised in 1953, establishing regional governance and formalising the Kuna political system (Herlihy 1989:18; Howe 1986:20). Consequently, Kuna Yala, which is the Kuna's preferred name for their territory (Howe 1986:xiii), legally became the *Comarca de San Blas*.

The Kuna have thus retained their traditional democratic political system, embodied in frequent village meetings, and the biannual Kuna General Congress. Three national chiefs represent the Kuna to Panamanian society (Archibold 1992:29; Houseal *et al.* 1985:16). Moore (1984:36) has compared Kuna congress procedures with the Panamanian legislature's, and concluded that it is the indigenous model that is the more democratic, while the Panamanian model is 'not so much a structure for inputs to express popular demands as...a structure for outputs.' (For a discussion of Kuna politics see Howe 1986.)

According to Panamanian law, no non-Kuna can hold claim to land within the *comarca*. Thus, the State has legally recognised indigenous rights to land and resources (excluding sub-surface resources) (Breslin and Chapin 1984; Herlihy 1989:21,23). It was this legal status, and their history of political resistance and social cohesion, which empowered the Kuna to continue to defy the territorial invasion and environmental destruction of their homeland.

Kuna Yala Under Threat

In the 1970s, the construction of a road linking the Pan-American Highway to Panama's Caribbean coast opened Kuna Yala to a flood of landless peasants and cattle

ranchers. Soon, tracts of forest along the mountain ridge bordering Kuna Yala were decimated. This invited increased poaching and plunder of Kuna forest resources, and colonisation of Kuna territory (Archibold 1992:21; Archibold and Davey 1993:52).

Furthermore, deforestation in the mountains meant that before long the Kuna would be faced with the serious effects of erosion. Large quantities of soil would be washed down the coastal slopes, affecting Kuna farms, and continuing into the ocean to jeopardise the coral reefs and Kuna fishery (Archibold and Davey 1993:53; Wright *et al.* 1988:353). Effectively, their subsistence base would be destroyed.

PEMASKY - Conservation by Self-determination

In order to protect themselves, the Kuna decided to establish a permanent presence at Udirbi, the site where the road met Kuna Yala's border. Their initial efforts at small-scale farming in the area, although recognised as a comarca-wide effort (Chapin 1985:46; Houseal *et al.* 1985:17), failed due to the area's unsuitability for agriculture (Archibold and Davey 1993:53-54).

At this point, the Kuna requested outside technical assistance, and in 1981, through liaison with technicians from the Tropical Agronomic Centre for Research and Education (CATIE) in Costa Rica, the concept of a Kuna protected area was born (Chapin 1985:46-48; Houseal *et al.* 1985:17). In mid-1982, the Kuna received international funding and, working with CATIE staff, they developed a comprehensive project design which was formally launched, in late 1983, as the Research Project for the Management of the Forested Areas of Kuna Yala (Proyecto de Estudio para el Manejo de Areas Silvestres de Kuna Yala (PEMASKY)) (Breslin and Chapin 1984:34; Chapin 1985:48-49).

The key aim of PEMASKY is 'to protect [Kuna Yala's] natural resources and tropical ecosystems while ensuring that the resources are used sustainably for the benefit of the Kuna people' (Archibold and Davey 1993:54). It also aims to stimulate environmental education, ecotourism, traditional Kuna crafts, and scientific research. An underlying goal is the maintenance of Kuna cultural values (Archibold and Davey 1993:54).

The most encouraging aspect of PEMASKY is the degree of control the Kuna have been able to maintain over the project. Although CATIE provides technical assistance, the Kuna themselves have designed the project, managed the organisational aspects, defined the objectives, and controlled personnel arrangements (Houseal *et al.* 1985:17). They have also protected their traditional ecological knowledge by firmly establishing guidelines concerning the behaviour and obligations of visiting researchers (Archibold 1992:30; Chapin 1991; Clay 1988:66-7; Martin 1995:246-248).

Western scientists and the Kuna entered into PEMASKY with radically dissimilar world views and consequently became involved for very different reasons. The scientists' interest was in the study and preservation of species and the furthering of Western science. The Kuna, on the other hand, are there to protect their homeland, livelihood, and identity as

a people (Chapin 1985:50). Yet both converged on a single goal: to conserve the biocultural diversity of Kuna Yala.

To this end, PEMASKY attempts to incorporate knowledge from both worlds. The Kuna contribute valuable ethnobotanical and agroforestry knowledge, giving scientists a better understanding of the Kuna Yala ecosystem in general. The scientists, in return, contribute valuable technical knowledge, enabling the Kuna to monitor and strengthen established practices. In addition, PEMASKY facilitates and encourages Kuna involvement in national and international conservation and indigenous rights networks (Housea *et al.* 1985:17).

Since their protected area has been up and running, the Kuna began to pursue nomination for international biosphere reserve status. This move reflects their awareness of the benefits of establishing themselves within the international conservation network. Such benefits include improved access to technical and financial knowledge and assistance, and international recognition of Kuna land title and autonomy (Gregg 1991:288). Consequently, since November 1987, the Kuna have managed Kuna Yala as a biosphere reserve divided into several management zones (**Map 5**) (Archibold 1992:29; Wright *et al.* 1988:355). The Buffer Zone has now been established outside Kuna Yala in an area under State government administration (Archibold and Davey 1993:54; Wright *et al.* 1988).

Emerging Problems

Despite its positive management strategy, PEMASKY is facing several obstacles. There are fears, for instance, that the growing influence of Western practices may negatively affect the project. Significantly, many Kuna youth are rejecting, or simply failing to learn, established beliefs and local resource management practices (Chapin 1990:44). Kuna elders largely blame the Western education curriculum, which fails to address cultural links to the environment. The Kuna are considered 'easily the best educated [indigenous people] in Panama, perhaps in Central America' (Breslin and Chapin 1984:31), yet while they acknowledge the role of Western education in preparing them to interact with the outside world, the Kuna are concerned that the next generation is being taught the language and traditions of a foreign culture before their own (Archibold 1992:30-32).

As a result, there is now some concern over Kuna land use and fishery practices. It has been suggested that, during the last 10 years, poor agricultural and fishery practices have replaced established ones and lead to some resource deterioration (Archibold and Davey 1993:56).

This erosion of cultural ties is reinforced as young people move to Panama City to further their education. While some return to Kuna Yala as professionals, others do not (Archibold and Davey 1993:56). Despite migration away from Kuna Yala however, its resource base is under pressure from an increasing population. It is becoming difficult to meet society's needs using established techniques, some of which have evolved to support only a small population (Archibold 1992:32; Archibold and Davey 1993:56-57).

Uncontrolled tourism is also becoming a problem. While the Kuna have always endeavoured to keep tourism in Kuna Yala under Kuna control and regulation (see Swain 1977, 1989), tourists are placing additional pressure on the resource base, and increasing pollution (Archibold 1992:30-32; Archibold and Davey 1993:56-57). Furthermore, initial Kuna attempts to foster ecotourism through PEMASKY have failed. Although the protected area is ideally located just two hours from Panama City, there is a significant lack of nature tourism infrastructure linking the protected area to the capital (Chapin 1990).

PEMASKY's general management plan includes programs for the development of carefully controlled ecotourism, agroforestry, and socioeconomic research to assess the extent to which Kuna needs have changed over the last decade. Unfortunately, a lack of funding and personnel to develop these programs has prevented the Kuna from taking action (Archibold 1992:32; Archibold and Davey 1993:56-57). Although during its first phase PEMASKY received financial support from many national, multinational, and private organisations, funds have largely dried up.

Also disheartening is the lack of support from the Panamanian government (Archibold 1992:32; Archibold and Davey 1993:56-57). While the Kuna continue to physically demarcate Kuna Yala's boundaries, conflict over the location of the boundaries has led to protests, as has the Panamanian government's continued granting of mining concessions on indigenous lands. The Kuna General Congress accuses one Canadian company, Western Keltic Mines, Inc., of aiming to divide, mine and weaken Kuna political institutions as it prepares to begin exploiting five concessions on Kuna territory (IWGIA 1996:74-76).

The Miskito Cays Protected Area (MCPA)

Yapti Tasba: Biocultural Diversity

Yapti Tasba, the united homelands of the Miskito, Sumu, Rama and Creole nations, lies on the Caribbean Coast of Nicaragua. It covers a combined land and sea territory of 110,000 km², extending along Nicaragua's entire Caribbean coast (Nietschmann 1989:12). Yapti Tasba is perhaps the most biologically diverse coastal area in tropical America (Jukofsky 1993:206). It incorporates part of the largest tropical rainforest north of Amazonia, the most extensive seagrass pastures in the Western Hemisphere, and the widest continental shelf and stretch of offshore coral reefs in the Caribbean (Nietschmann 1993a:270). Its forests, rivers, coastal lagoons, wetlands, mangroves, estuaries, reefs and seagrass pastures provide habitat for numerous species including the largest populations of manatees in Central America and the Caribbean, the world's largest remaining populations of hawksbill and green sea turtles, and the most economically significant spiny lobster and shrimp developmental and fishing grounds in the Caribbean (Jukofsky 1993:206; Nietschmann 1991b:232).

Yapti Tasba has a population of over 260,000, of which an estimated 150,000 are of

the Miskito Nation (Nietschmann 1989:15). The Miskito nation is bordered by the Sumu nation to the west, and the Rama and Creole nations to the south. Its 37,000 km² of tropical forest and pine savanna cover northeast Nicaragua and the disputed sector of Yapti Tasba which, since 1960, has been claimed by Honduras. The adjacent waters, cays, reefs and marine resources are also part of the Miskito nation (Nietschmann 1989:3-4).

Most Miskito communities are located in the forests along the rivers of the northeast region, or along the coast (Nietschmann 1989:3). Due to their proximity to the sea, the Miskito have developed the knowledge and ability to exploit both land and sea resources (Nietschmann 1973:89). Lowland tropical forest agriculture, fishing, hunting, gathering, and the raising of some domestic animals are the basis of Miskito subsistence production (Conzemius 1932:58-81; Nietschmann 1973). This system has survived 500 years of State encapsulation (Nietschmann 1973:25). Furthermore, since the Miskito have traded and had access to foreign wage labor and outside money market economies since the seventeenth century, '[h]unting and fishing, gathering of natural resources for barter and sale, and wage labor have all been equally important to the Miskito economy' (Helms 1971:4). Therefore, '[o]perating alongside the traditional subsistence economy is a market-oriented, cash-based economy' (Nietschmann 1973:60).

The Miskito have maintained a certain equilibrium with their environment, and 'land and their traditional rights to it is inseparable from Miskito culture' (Bach 1991:39). This relationship is reinforced through cultural constraints such as hunting restrictions, food preferences and taboos, and religious beliefs which function as adaptive mechanisms for maintaining acceptable exploitation levels of certain resources (Conzemius 1932:132-134,165; Nietschmann 1973:110-113). Specific birds and animals, for instance, are not hunted for fear of offending the animal's keeper. Others are avoided due to the danger of assuming some undesirable characteristic attributed to them (Conzemius 1932:133-134). Certain trees that are the abode of spirits are not felled for fear of retribution (Conzemius 1932:128-129), and, in some instances, entire areas are avoided (Conzemius 1932:169).

A History of Miskito Resistance

The Miskito people still exist not because of isolation but because they have defended their territory for 500 years (Nietschmann 1991a:373).

When attempts were made by the Spanish to 'invade, annex and tax' (Conzemius 1932:8) Miskito territory, the Miskito resisted, maintaining their independence (Nietschmann 1989:19). Instead, they, like the Kuna, formed trade alliances with the pirates and British traders of the Caribbean (Bach 1991:38; Sollis 1989:483). As in the Kuna case, Miskito-Spanish conflict soon developed into a long-term war. The Miskito however, 'defeated every Spanish strategem to occupy their territory, either by trickery or force...[and] humiliated the Spanish military in open battle on almost every occasion that they met' (Day 1988:30).

Consequently, the Spanish never occupied Miskito territory. Furthermore, from the

mid-seventeenth to the late nineteenth centuries the Miskito's industriousness and their nation's abundant natural resources established it as 'a haven of political and social stability' (Day 1988:27) and the most economically prosperous region in Central America (Nietschmann 1989:19).

During the mid-nineteenth century, after Nicaragua's independence, the United States became the dominant power in the region, dislodging Britain and denying Miskito territorial sovereignty (Nietschmann 1989:20). Before the British left the region however, they gave each Miskito community a map and title to its land (Nietschmann 1989:22). Throughout the late nineteenth century, 'foreign states made treaties between themselves over the Miskito nation without the consent or representation of the Miskito government' (Nietschmann 1989:20). Eventually, in 1894, it was "reincorporated" into Nicaragua by Nicaraguan President General Zelaya, who ordered its military invasion (Conzemius 1932:9; Day 1988:29). This "reincorporation" 'did not take place without resistance' (Ortiz 1988:5).

For the Nicaraguan government "reincorporation" meant free resources and cheap labour. For the land, waters, resources and wildlife of the Miskito nation however, it meant ecological disaster (Ortiz 1987:47). For the Miskito it meant:

...the disruption of national and regional Indian government and autonomy and the temporary transfer and camouflage of these centuries-old institutions into village-level politics and economies...the Miskito nation survived by decentralization of its institutions (Nietschmann 1989:232).

Twentieth Century State Politics and the Environment

During the early twentieth century, an enclave economy, based on rubber extraction, banana plantations, forestry and mining, was established in Nicaragua to supply raw materials for the industrial economy of the United States (Bach 1991:38; Vilas 1989:44-51). Consequently, United States citizens controlled 90 percent of the region's productive and commercial activity (Sollis 1989:488-489). During the subsequent 42 year rule of the Somoza family (1937-1979) (for a synopsis of Nicaraguan political history see Skidmore and Smith 1992:326-330), environmental destruction continued to accelerate (Sollis 1989:490-497). By the late 1970s, rapid growth of lumbering, cattle ranching, cotton cultivation, and marine resource exploitation had left Nicaragua with one of the highest deforestation, soil erosion and species depletion rates in the world (Nietschmann 1993a:270).

During this time, the Miskito nation's geographical isolation from the capital, and the Somoza strategy of procuring maximum profits through minimum presence, ensured that, although capitalism threatened their society and resource base, Miskito communities remained functionally autonomous (Nietschmann 1988:275, 1989:23-24).

In 1979 however, the Somoza government collapsed and the Sandinistas seized power (Nietschmann 1990:44). The Sandinista revolution (1979-1990) was limited by class-based Marxism and could not fathom an identity and a resistance based on culture (Nietschmann 1989:28). Consequently, it approached the nations of Yapti Tasba with

ignorant and insensitive integrationist and developmentalist policies (Mohawk 1982; Nietschmann 1989:26-27; Ortiz 1988:6-7; Sollis 1989:497-501; Vilas 1989:96-119).

In response, delegates from 256 indigenous communities founded MISURASATA (Miskito, Sumu, Rama, Sandinista United) to represent indigenous interests to the Sandinista government (Nietschmann 1989:28). Through MISURASATA and Sandinista agreement, a mapping and land tenure study of community lands was planned for presentation to the government in 1981. The 100-year-old maps and titles provided by the British were brought from each community to Bilwi. A composite map produced from these documents revealed that 'each community's lands bounded with another community's to form extensive, unbroken territories' (Nietschmann 1989:30).

The central government saw this as a threat to the revolution, and nine days before the study was to be presented to the government, MISURASATA leaders were arrested, files were burned, and four armed Sandinistas and four unarmed Miskito were killed (Nietschmann 1989:32-33). Within six months 5000 Miskito and Sumu had fled to Honduras, and 65 young Miskito and Sumu began surprise hit-and-run attacks on Sandinista outposts. The Sandinistas mounted a serious counterattack, particularly against the villages along the Wangki River. Thus, in 1981, organised armed resistance against the occupation began (Nietschmann 1989:33-34). During the early 1980s 43,000 Miskito, Sumu and Rama people were displaced, either forced into Sandinista relocation camps or made refugees in Costa Rica and Honduras (Nietschmann 1984:32).

The Miskito-Sandinista war, along with the Contra-Sandinista war, was fought in the countryside. While military activities were environmentally destructive in some areas, these wars effectively halted large scale resource exploitation: wildlife exploitation decreased, cattle pastures shrank, gold-mining ceased, State-owned lumber mills and logging trucks were sabotaged, and roads and bridges were destroyed. Thus, the wars actually promoted biological diversity, producing a situation Nietschmann has described as "conservation by conflict" (1990:44,48).

Miskito Autonomy: Towards Self-determination

The Miskito-Sandinista war was about resources and territory (Nietschmann 1990:48). Thus, it was fought with Miskito autonomy as a major objective. By the mid-1980s, autonomy was accepted as the only path to reconciliation (Nietschmann 1993b:1,6), and during 1984-1985, a cease-fire was declared, and negotiations between Miskito leaders and the government began (Ortiz 1988:9). In 1987 a constitutional Autonomy Law was passed, guaranteeing respect for indigenous languages and culture, indigenous control over natural resources, and the need for local consensus concerning development projects (Bach 1991:40). By 1990, the nations of Yapti Tasba had a minister-level cabinet post in the central government, and two autonomous regions with autonomous governments (Nietschmann 1995:34-35). The North Atlantic Autonomous Region (RAAN), centred in Puerto Cabezas, consists of Miskito and Sumo communities. The South Atlantic Autonomous Region (RAAS), centred in Bluefields, includes Miskito, Rama, Creole and

While this autonomy process decentralised some political power, decisions regarding resource exploitation depend upon trilateral agreement between local communities, autonomous governments and the central government (Nietschmann 1993b:6). Furthermore, while the autonomous councils are independent, they depend upon the State ministries for budget decisions. Thus, the main problem has been obtaining the necessary funding (IWGIA 1996:74). Despite these limitations however, the Autonomy Law provides an initial framework within which to work to strengthen Miskito autonomy in the future (Nietschmann 1993b:15).

Recent Environmental Threats

Since the wars and the 1990 elections which saw the Sandinista government replaced by that of Violeta Barrios de Chamorro, five groups have claimed and used Yapti Tasba's resources: the regional governments of RAAN and RAAS, the Institute of Atlantic Coast Development (INDERA), the Nicaraguan central government, local indigenous communities, and finally, in all the confusion, foreign resource pirates and drug traffickers. This last group has taken advantage of the quick pullout of the Sandinista army, which has left the once highly militarised Caribbean coast the least defended (Nietschmann 1993b:6-7).

The Chamorro government officially accepts the principle of autonomy on the Caribbean Coast. It is however, largely seen as a barrier to the resource exploitation deemed necessary for the reconstruction and economic recovery of the Pacific region. Thus, the government continues to seek ways to cash in on Miskito resources (Nietschmann 1990:48, 1993b:7), and illegal logging, which is now endemic throughout the Atlantic coast (IWGIA 1996:73), remains unchecked. By 1994 exports from these regions made up 36% of the GNP, while the regions only received 0.5% of the national budget (IWGIA 1995:71).

The theft of Miskito resources by external interests angers Miskito communities, who claim it is they, and not the central or regional governments, who have always defended their resources (Nietschmann 1993b:6-7). In addition to lacking the financial resources to defend their nation, environments, resources, and communities (Nietschmann 1992:5), the Miskito have been unable to legally prevent the exploitation of their marine resources because the continental shelf and waters of their homeland have not been legally incorporated into the autonomous regions (Nietschmann 1995:35).

The MCPA: Conservation by Self-determination ?

In response to repeated attempts by coastal Miskito communities to secure protection for their territorial fishing and turtling grounds, an internationally funded, Miskito-staffed, Miskito Cays National Park was first proposed by the Nicaraguan government in 1980. At this time, a grass-roots indigenous organisation began resource management plans (Jukofsky 1993:206). Unfortunately, the war interrupted these efforts (Nietschmann 1990:48).

After the war, in 1990, Miskito community leaders, international scientists and Nicaraguan natural resource officials arranged a fact-finding voyage to the Miskito Reefs. The outcome was a proposal to the government for the creation of a community-based marine protected area where resource exploitation would be managed so that the Miskito could continue utilising the area, and profit from the export of shrimp and lobster (Jukofsky 1993:207; Nietschmann 1995:35). The protected area would be designed and run by the 15,000 residents of 23 coastal Miskito communities (Nietschmann 1991b:234).

Community seminars and workshops were held in early 1991 to develop the concept of community management (Jukofsky 1993). Representatives of the 23 communities gave permission for the area to be developed within their coast and sea territories (Nietschmann 1995:35). In addition to protecting and sustainably using the area's resources, the protected area was seen by the Miskito as a way to reinforce their autonomy and to maintain their culture (Nietschmann 1992:5).

At this time, the Miskito created MIKUPIA ("Heart of the Miskito"), an non-government organisation, intended to organise the 23 Miskito communities to manage their protected area. With international funding, MIKUPIA's plans included demarcating Miskito territory, and training Miskito resource specialists and guards. Within a year, MIKUPIA's eight staff were coordinating with 90 "community promoters" to raise consciousness and to discuss the protected area concept within Miskito communities (Cultural Survival Quarterly 1992b).

In October 1991, President Chamorro officially created the provisional 1,300,000 hectare Miskito Cays Protected Area (MCPA) (Jukofsky 1993:209). The government stipulated that Miskito community representatives would be part of the planning team which had four years to complete scientific and legal studies for the establishment of a permanent protected area (Nietschmann 1995:35).

An advisory team recommended that the United States Agency for International Development (USAID) fund MIKUPIA US\$3,000,000 for five years to work with Miskito communities on the protected area project. Instead, USAID funded the Florida based Caribbean Conservation Corporation (CCC). Once the CCC received funding it backed out of agreements with communities, and began planning a 'top-down, central government-based, foreign advisor-dependent old-style colonialist protected area' (Nietschmann 1995:35).

The CCC's first progress report, issued in 1994, made no mention of Miskito sea territories, sea tenure, marine resource rights, or traditional marine resource management. Furthermore, the Miskito were to be given only limited rights to fishing under the new protected area scheme. This report and the first draft of the management plan indicated that it was the Miskito themselves who were the environmental threat (Nietschmann 1995:35). After three years and almost US\$2,000,000 nothing had been done to prevent, or even write a report on, resource piracy. Consequently, in late-1994, Miskito communities banned the CCC from further research on Miskito territory, and notified USAID of the conflict.

With no outside help, using the experience they gained during the war, the Miskito re-armed themselves against the pirates and drug traffickers. The Nicaraguan government's response was that the Miskito had no right to confront anyone in "Nicaraguan" waters (Nietschmann 1995:35). In April 1995, the Nicaraguan military arrested 40 Miskito for attempting to defend their waters against Honduran resource pirates. It is in the military's interest to allow piracy to continue since they get a cut of the stolen resources (Nietschmann 1995: personal communication).

MCPA: A Future ?

Clearly the MCPA, which began as a grass-roots project initiated in response to requests from Miskito communities, has not developed as hoped. The Miskito however, refuse to give up. Their most recent community-based initiative to regain control of their territory and resources has been the Miskito Reef Mapping Project (Nietschmann 1995:34). This project, begun in April 1994, proposes to accurately map the Miskito Reefs and surrounding waters, an area which is currently inaccurately charted on British Admiralty and United States Defence Mapping Agency charts.

The mapping project has three aims: to document the Miskito Reefs and surrounding waters, identifying them as Miskito territory; to justify Miskito community defence of their sea territory and resources; and to provide baseline geographic and biological information for future studies.

Miskito "captains" (the traditional sea knowledge specialists), turtle fishers, lobster divers and Miskito environmentalists have already begun work with invited marine scientists in order to combine indigenous knowledge with accurate and affordable mapping technology based on sail, scuba and satellite. The first of the project's four phases, completed in September 1994, produced a 1:175,000 base map bearing Miskito names for the area's underwater habitats and topographical features. This map has been distributed throughout local communities, the autonomous governments and other Central American governments. The other phases, to be completed by 1997, will produce a series of maps demonstrating community sea territories north and south of the reef, marine biodiversity and marine habitats.

It is envisioned that the maps will be invaluable in environmental monitoring, and in seeking international conservation support. It is hoped that the maps, and the documentation of illegal boats that is concurrently being carried out, will persuade the RAAN government to arrest resource pirates.

KUNA AND MISKITO EXPERIENCE: CONTRIBUTIONS TO A THEORY OF CONSERVATION BY SELF-DETERMINATION

A cross-cultural analysis of the experiences of the Kuna and the Miskito reveals similarities useful in an examination of the conditions which enable indigenous nations to attempt conservation by self-determination. Such comparison also reveals differences useful in an assessment of why Miskito attempts at conservation by self-determination have thus far been defeated.

Parallel Experiences

Both the Kuna and Miskito nations are located on Central America's Caribbean coast, one of the few regions in Central America that has remained rich in biocultural diversity. Both have also interacted with non-indigenous economies since the sixteenth century. Yet, having retained extensive ecological knowledge and established resource management practices, they have maintained an intimate, mutually dependent relationship with the environment. This has been possible because they have retained control of their subsistence systems and their ecosystems, and thus, have been able to make important societal and cultural changes, adapting traditional subsistence economies to incorporate market-oriented, cash-based economies (Nietschmann 1973:24).

The Kuna and the Miskito also share a common history of resistance against invasion. This resistance has been effective because their communities are characterised by enduring social and cultural cohesion, political organisation and independence (Chapin 1985:42; Houseal *et al.* 1985:16). Centuries of resistance have in turn strengthened Kuna and Miskito identity, and enhanced their understanding of immediate external political and legal realities (Gradwohl and Greenberg 1988:81-83; Houseal *et al.* 1985:18).

Consequently, when the need has arisen, both indigenous nations have been well prepared to take a stand against their respective States in demanding their rights. Indeed, both went to war with those States to secure negotiation and subsequent recognition of their homelands as autonomous territories. In both cases while legal autonomy is limited, it allows for some degree of political control, and most significantly the legal recognition of the indigenous nations' rights to land and resources.

This parallel history has strengthened and reinforced Kuna and Miskito self determination, and most significantly, has created a suitable environment for attempting conservation by self-determination. In accordance, both nations have actively sought to establish protected areas within their homelands.

It is significant that neither people has attempted to establish protected areas without external input. Both the Kuna and the Miskito have attempted, with different degrees of success, to establish protected areas in co-operation with Western scientists. Both have also aimed for a mix of conservation and development goals in protected area strategies to benefit both present and future generations.

Although the Kuna now have a legally recognised protected area and the Miskito do not, the problems that both are currently facing largely stem from, or are intensified by, a lack of external financial and political support.

Conditions Facilitating Conservation by Self-determination

Since parallel circumstances have conditioned Kuna and Miskito attempts at conservation by self-determination, it can be concluded that certain conditions foster its successful implementation. The first and foremost of these conditions is that indigenous nations who survive within their biologically rich homelands, and maintain a healthy relationship with the environment, must want to protect their homelands' biocultural diversity. In order to act upon this desire, it is advantageous for nations to be socially and culturally cohesive; to have legally recognised rights to control their land and resources; to be able to organise politically; to have an understanding of, and ability to interact with, external political, economic and education systems; and to have access to external financial and political support.

Despite the existence of most of these circumstances in the case of the Miskito however, they have as yet been unable to successfully implement conservation by self-determination. The differences between the experiences of the Kuna and the Miskito shed light on why.

Divergent Experiences

A crucial difference between the experiences of the Kuna and those of the Miskito has been timing. The Kuna achieved legal autonomy within Panama almost 50 years earlier than the Miskito did within Nicaragua. Furthermore, while the Kuna war against the State leading to the activation of the autonomy process lasted a few days, the Miskito-Sandinista war lasted several years (Nietschmann 1988:279). Howe (1986) suggests that while the Kuna may have been more politically astute and more patient than the Miskito, the crucial difference between these two conflicts lies in the actions of the United States government, which intervened in both cases. While Kuna interests happily coincided with those of the United States, resulting in prompt mediation of a peace agreement between the Kuna and the Panamanian State, the Miskito were 'cynically manipulated [by the United States government] in the anti-Sandinista campaign' (Howe 1986:64), resulting in a more violent and prolonged conflict.

Consequently, while the Kuna have had 50 years to foster a healthy working relationship with the Panamanian government, the Miskito continue to suffer the backlash of their very recent conflict with a popular revolutionary government. It is fair to assume that, under these circumstances, it will take time for a working relationship to evolve between the Miskito and the Nicaraguan government.

Other differences between the experiences of the Kuna and the Miskito hinge on the conditions outlined above. The Miskito have not secured legal title to the area of their homeland in which the Miskito Coast Protected Area was established. In addition, they did not have access to the external financial support that was provided for its implementation. Consequently, they have been as yet unable to assert their control over conservation initiatives within their homeland. This experience reinforces the fact that indigenous nations

cannot achieve conservation by self-determination alone: the local, regional, national and international context has to be conducive.

Conservation by Self-determination: The Future

Future prospects for PEMASKY and Kuna Yala are not all bleak. The Kuna have successfully protected their territory from the original threat which motivated the project. They have also successfully maintained political and administrative control over PEMASKY, their homeland and its resources. The Kuna have initiated, planned, implemented and managed their protected area, and are continuing efforts to find solutions to the problems that have arisen.

The Miskito Coast Protected Area on the other hand has been expropriated by outside interests. The Miskito are, however, persevering in their attempts. Their case clearly reinforces the fact that self-determined indigenous involvement in conservation can only work if conservationists welcome indigenous peoples and work with them instead of against them.

Finally, it is important to note that, to date, the homelands of both the Kuna and the Miskito have remained rich in biocultural diversity. Therefore, neither group has thus far failed in their attempts at conservation by self-determination. While there is the possibility that PEMASKY and the MCPA may fail for many of the reasons that other protected area initiatives have failed, there is also the possibility that they may succeed, because, unlike the majority of the world's protected areas, they have the support of the indigenous nations within whose territories they are located.

For other indigenous nations, conservation by self-determination may hold the same potential. Already, other indigenous nations in Central America are involved in similar initiatives. The Tawahka Sumu in Honduras, for example, have formed the Indigenous Tawahka Federation of Honduras (FITH) and proposed a Tawahka Biosphere Reserve surrounding their homeland, which until now has lacked official protection (Herlihy 1993). The experience of this and other indigenous nations is at this stage not well documented. Future research of this type will have much to glean from the inclusion of their efforts.

As more nations organise locally, nationally and internationally, it is probable that more will seek ways to conserve the biocultural diversity of their homelands. Indeed, '[e]xperience is already showing that many indigenous peoples are moving to adopt the modern reserve concept to protect biocultural diversity' (Alcorn 1993:425). Conservation by self-determination is one possible course of action they may choose.

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Maasai Wildlife Conservation and Human Need

The Myth of "Community Based Wildlife Management"

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1	Introduction.....	150
2	The Background of the Crisis.....	150
2.1	The Country Profile.....	153
2.1.1	Land Act 1999 and Policy 1995.....	153
3	What is Wildlife Conservation in Tanzania for?.....	154
4	Communities' Share.....	159
5	Good News for the Lion is a Terrible Tragedy for the Deer.....	162
5.1	Focus on Minjingu Village in "Kwa Kuchinja Corridor".....	169
5.2	Violence was used to Establish WMA in Minjingu.....	170
5.3	Human Development Index in the Village.....	172
5.4	Human-Wildlife Conflict in Minjingu Village.....	173
6	The Myth of "Community Based Wildlife Management".....	173
7	Lessons from other African Countries.....	181
8	Plan of Action: Truth is the First Casualty.....	184
9	Options and Alternatives.....	185
10	Conclusion.....	186
	References and Selected Bibliography.....	190

1 Introduction

This paper investigates whether wildlife conservation really benefits local communities, the people who were original residents of areas around and/or in protected areas. Its aims are (a) to reveal the untold truth (b) to put to rest the fabrication that wildlife is a local community development factor and (c) to suggest alternative solutions to the crisis facing the wildlife sector. The paper analyses the livelihoods of indigenous communities, with particular reference to the Maasai, speakers of Maa.

This paper analyses old conservation approaches and the new myth[1] of "Community

Based Conservation” in the Greater Ngorongoro region encompassing all wildlife-protected areas in North-East Tanzania. Beyond this area, the study refers to general processes.

Conservation, wildlife and communities, are all together emotive words that evoke fear, anger and guilt deeply rooted in history. The reason is that the Government had inherited a monstrosity oppressive colonial system. It straightaway went to recognise the colonial legal framework with a few legislative amendments here and there (Lumumba, 2001 & Shivji, 2001).

European conservationists sought to exploit the frightening notion that wildlife was about to disappear (see Grzimek, 1960: 20)[2]. The method for establishing wildlife-protected areas has not changed, and the establishment is praised as a conservation success. Conservation organisation is militaristic in style and action as survival for the fittest has always been the approach.

This is not a place to go into details of this law of the jungle. Suffice it to mention that the principal danger of this situation is not just the denial of civil liberties; the serious danger is a lasting one: the perpetuation of established disorder.

It is the contention of this paper that Tanzanians must ensure that wildlife must survive as long as they do, irrespective of whether or not there is an economic advantage in so doing.

2 The Background of the Crisis

When colonisers from Europe arrived in America shortly after 1492, they found the Indians living on the land with a wide range of natural resources. Colonialists gunned down herds of wildlife. The dimension of poaching in that era has had no equal anywhere since. The Native Americans were also hunted down like dogs. The European invasion of Africa was also followed by a hunting spree, which was sustained for years. Several species of wildlife were brought near the brink of extinction. The loss of some wild species led some colonisers to campaign for conservation (Parkipuny, 1991).

Wildlife conservation in Tanzania dates as far back as 1891 when laws controlling hunting were first enacted by the Germans. In 1921, the British established the Game Department. In 1928, Ngorongoro [Koronkoro was corrupted by Europeans to Ngorongoro] Crater Closed was established. A year later, the Serengeti [Siringet was corrupted by Europeans to Serengeti] Game Reserve was established (MNRT, 1998). In 1951 the Serengeti National Park, which incorporated the Ngorongoro Crater, was gazetted followed by several National Parks and Game Reserves.

After “independence,” many wildlife-protected areas were established. Today Tanzania has set aside nearly 48% of its territory for wildlife conservation. This is in the form of 12 National Parks (4%), 32 Game Reserves (15%), and 38 Game Controlled Areas (8%). Ngorongoro Conservation Area (1%) plus over 8% to other *de facto* wildlife protected areas (MNRT, 1996) such as “corridors, buffer zones” etc., 570 Forest Reserves cover nearly 15% of which 3% overlap with other areas devoted to wildlife conservation (MNRT, 1998:4). The principal wildlife protected areas are shown on the map (p.5). There is also 1 Marine Park (%?).

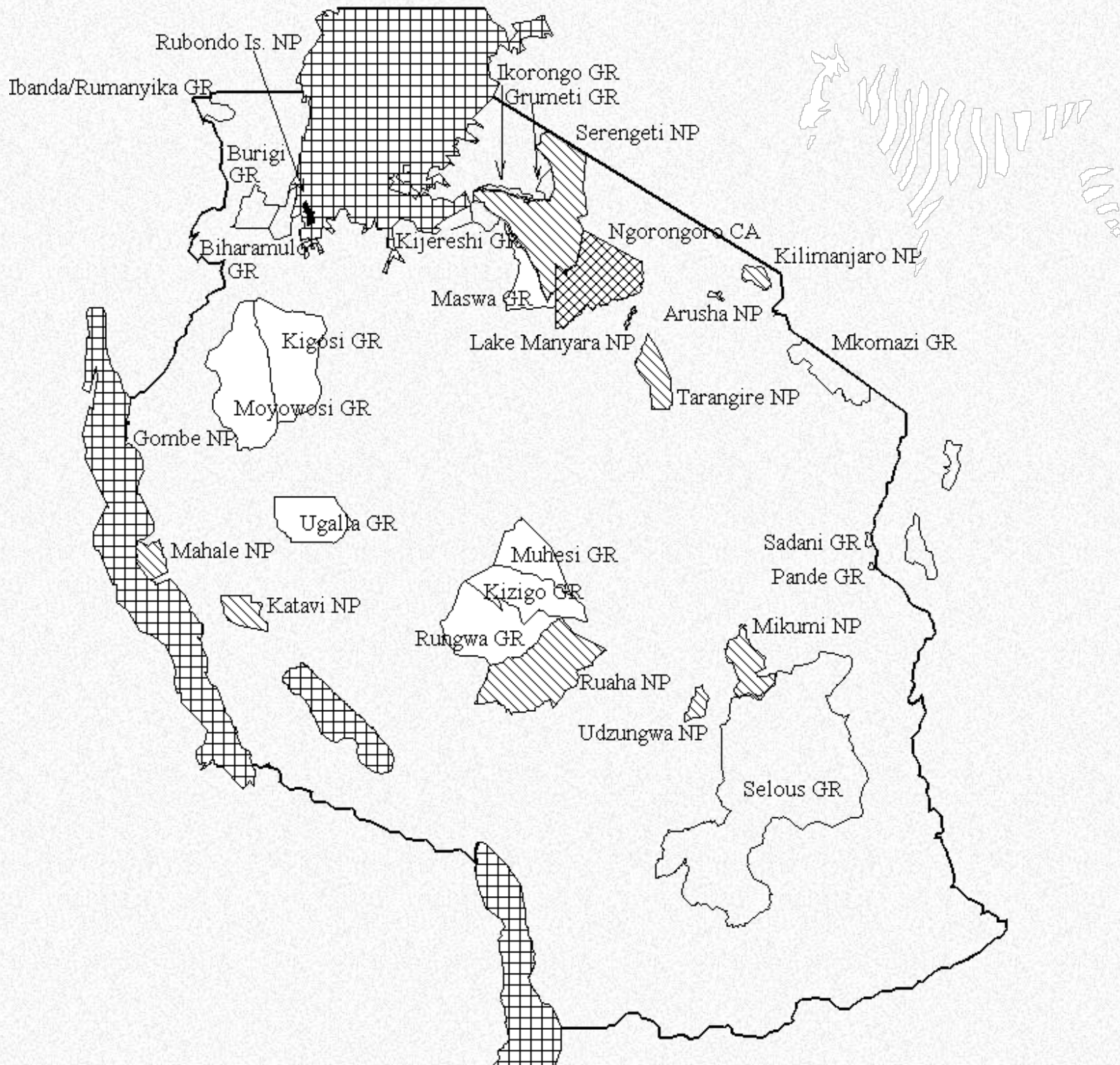
As such, Tanzania is among the leading of the few countries in the world that has designated a huge portion of its land area for wildlife conservation. Sadly, the contribution of the tourism sector to the national economy has persistently been dismal (see below). Tanzanians living in and/or around wildlife-protected areas have been in an unpleasant state of limbo regarding the role of the sector in alleviating the abject poverty facing them (Parkipuny, 1991).

The inclusion of certain species into endangered ones is done on a global scale, that is, the endangered species may be abundant in one region, but globally endangered. This puts local communities in and/or around wildlife-protected areas at a very tight corner. Yet, conservationists want more land for wildlife conservation.

The whole ploy is, virtually, to make Tanzania a tourism dependent economy. Adam Smith’s comparative advantage theory seems to be the hidden agenda. This Order makes it possible for the North to determine and control the prices of both exports and imports in developing economies. What would happen if Tanzania is dictated to reduce say, park-entering fees?

It is very dangerous for an African country like Tanzania to be a tourism-dependent economy due to a number of reasons. The main, among others, is the fact that any suspicious of insecurity in the country concerned or even in neighbouring countries is enough to divert tourists (Fosbrooke, 1972). For example, a significant proportion of tourists to Tanzania begin their visits in Kenya: approximately, 60% of tourists cross via the Kenyan border. But political instability in Kenya has reduced the number of tourists to Kenya, affecting revenues in Tanzania too (Mwinyiechi, 2001:2).

Map Of Tanzania Showing Core Protected Areas[3]



2.1 The Country Profile

One obvious distortion that conservationists are perpetuating is the view that the tourism sector is contributing highly to the national economy. Irrespective of having a big share of

the land (see Table 1), wildlife contribution to the Gross Domestic Product is about 2% (AWF, 2001b:ii & MNRT, 1998:33). It is equally absurd to suggest that the sector is employing many people. For out of about 33 million Tanzanians, the sector has been employing an average of 92,556 people per year from 1991-1999 (JMT, 2000).

Table 1: Estimates of land use patterns in Tanzania[4]

Small-scale cultivation	5.1%
Large-scale cultivation	1.5%
Range lands (for livestock and wildlife)	39.4%
Forestry and woodlands (for mainly wildlife)	49.1%
Others	5.0%
Total	100.0%

Source: (Calculated by me from Shivji, 2001 & MNRT, 1996).

In 1981, the UNESCO declared both Ngorongoro Conservation Area and Serengeti National Park the World Heritage Sites in recognition of their “outstanding universal value for humankind.” Yet Tanzania is among the 10 poorest countries in the world![5] Over 50% of the human population is living below the “poverty line” (visit tanzania.go.tz).

The Serengeti Maasai were ejected to give room for wildlife (Fosbrooke, 1972). The fate of the Ngorongoro Maasai is uncertain as conservationists threaten to eject them altogether from their ancestral land (Shivji, 2001). The said two wildlife-protected areas are estimated at 23,060 km². The total land area designated for wildlife-protected areas in the Greater Serengeti Region is bigger than Switzerland. The latter is 41,293 km². It can be said undoubtedly that UNESCO can never dare to make a similar recognition in, say, Europe. It does not take much effort to imagine how the Swiss would accept this state of affair, being ejected to give room for the “World Heritage Site” for the Maasai tourists to visit and bring in the “badly need foreign currency” or anything else.

Land Act 1999 and Policy 1995[6]

The corpus of land tenure regime developed during the colonial times continued to apply fully after independence with only one change: ‘President’ replaced ‘Governor’. All public lands were vested in the President as the head of the executive under the control and administration of the state bureaucracy. The jurisprudence developed by the courts until recently considered customary tenure, that is deemed rights of occupancy, inferior and less secure to granted right of occupancy. Major shifting of customary holders like the villagisation programme was carried out without any fundamental change in the land tenure regime. Similarly, the state after independence alienated village lands for various, so-called public purpose, without first following due process provisions of compulsory acquisition of the Land Acquisition Act, 1967 (Shivji, 2001:30).

The new Land Act 1999 and Village Land Act 1999 were drafted by the British consultant, Professor Patrick McAuslan, whose work was funded by the British Overseas Development Administration, now Department for International Development (DfID). He is the man “trusted” by the Tanzanian Government to sort out the grave mess resulting from the British colonial state’s Land Ordinance 1923. Significantly, Professor Shivji was not involved in the drafting of the Act, although he had spent two years (1991-1992) as a Chairman of the Presidential Commission of Inquiry into Land Matters. The Act advocates individualisation of land tenure. This is paramount to create security of land tenure and ensure freedom of exchange of land as a commodity with a market value. Contrary to the Presidential Commission’s recommendations (URT, 1994), the Ministry of Lands officials are still in-charge of land administration (Nangoro, 2001).

The two pieces of Legislation, basically, reflect the National Land Policy 1995 that has retained the Colonial Legacy and globalisation system. The Village Land Act 1999 reduces

a village land title to a village land certificate, which is less powerful than the former. The Right of Occupancy type of land tenure is as virgin as before. Title to land remains to the President. The Government does not take into account the marginalised communities. The policy and lawmakers have once more misunderstood the pastoral mode of production as “irrational” and “unviable.” The policy condemns pastoralism for bringing land use conflicts and destruction of the environment.

On the other hand the policy does not mention hunter-gatherers at all (Porokwa, 2001). The laws are elaborate piece of legislation. The vesting of radical title in the President continues with one difference. The President holds all lands in trust. Whether this will be treated as a legal trust or only a political trust remains to be seen (Shivji, 2001). The national land policy vested even more power in the executive arm of the state over control and management of land (Kapinga, 1997:16). The implication of these two pieces of land legislation is the predicament of rural people, pastorals in particular (Francis Shomet pers.comm. 04.09.02). Despite several informed calls to formulate a fair Land Act, “McAuslan’s” Land Act was approved by the parliament in May 2001 (Ndaskoi, 2002).

The Government as a custodian of public rights may need a legislation like the Land Act 1999 and Village Land Act 1999, but surely with some conditions. No one should have a right and powers to decent life under any cover. Under the present system, not only that the Government decides unilaterally on rates of compensation, but also it is not compelled to compensate when it repatriate land. What is to be expected of the people who are vacated from their ancestral lands? (ibid: 6).

These are just the salient features of the Tanzanian profile. There are many details that have been left out not because they are not important, but because the aim of this paper is to reconstruct some specific processes which have a bearing on the discussion at hand. The issues that have been highlighted in this chapter are those related to historical background of conservation in Tanzania, the size of land designated for wildlife conservation, contribution of the tourism sector to the economy and the donors dictation in policy and law making in Tanzania.

3 What is Wildlife Conservation in Tanzania for?

Tourism is considered the jet engine empowering the Tanzanian exchequer. The Government benefits financially^[7] and rhetorically from wildlife conservation. It is argued that policies must serve political, social, cultural as well as economic ends. But the revenue earned from the tourism sector is much more of a priority for the international multimillion companies and Government officials than the plight of rural people. At the same time, some conservationists claim that wildlife should not be valued in economic terms and that existence values are reasons enough to conserve wildlife and that attaching a 'market' value will lead to the extinction of species (WCMC, 1992).

Conservation was aimed at securing future German generations the chance to find leisure and recreation in African hunting in the future times. A decree made by Hermann Vos Wissmann, the Imperial Governor in the first general Wildlife Ordinance for the then German East Africa in 1896 is evidence. He said, "...I feel obliged to issue this Ordinance in order to conserve wildlife and to avoid that species become extinct for our future generations" (*Kakakuona*, April-June 2000).

It must be said that no fair-minded person can underestimate the role that this decree played in conservation of wildlife in Tanganyika. But to the Germans, just like other Europeans of the time, an African was regarded generally as a poacher, a thief, actual or potential. He was a liar and a layabout. He was a parasite and, of course, he was most definitely a danger to the lives of white men, women, children and African wildlife, if not a potential rapist as well (Vambe, 1972:105). The humanity and dignity of the “natives” did not count in the eyes of the “whites” (Shivji, 1986:75).

Conservation was (is) meant for tourists from the “nations of European Stock”, a people who are thirsting for recreation in the wilderness (WTO, 1992). Tourists were (are) granted hunting permits that are as good as legalised poaching. This is exactly what brought several wildlife species to extinction or near the brink of extinction. It is impossible to comprehend the reasons under which the Hadza (singular Hadzabi), the Mbugwe, the Maasai, the Iraqw, the Rangi, ethnic groups living round Tarangire and Lake Manyara National Parks would kill a rhino or an elephant.

But Tarangire was a home to thousands of black rhinos. Disturbingly, today there is no rhino in the park (*Business Times* March 3-9, 2000). It was a home to a large number of elephants that were about to be eliminated altogether by the European “hunters”. The Hadza can no longer crop what traditionally belongs to them because they are blindly branded “poachers” (Fosbrooke, 1972).

A major goal of the narrow-minded and rather arrogant conservationists is to eliminate hunting by Africans, which colonial Governments believed threatened to wipe out wildlife. For instance Frederick Selous claimed that of every 1,000 hunted elephants, Africans killed 997. Selous had no evidence for this assertion, but it served the purpose of those who wanted to guarantee the availability of wild animals for the aristocratic hunters (Adams & McShane, 1992:46).

Joseph Thomson, who explored Maasailand in the 1880s, had a bleak view. Thomson exaggerated the threat the ivory trade posed to elephants, but not by much (Adams & McShane, 1992 & 1996).

The slaughter of elephants by white hunters, particularly in southern Africa, was staggering. A well-outfitted hunter could shoot upward of two hundred elephants in a single safari, and several thousand if he made a career of it. Some hunters killed so many elephants that ivory overflowed their wagons and had to be abandoned in the bush (Thomson, 1885 cited in Fosbrooke 1972).

Similarly, it was the selfish German and British poachers, farmers and ranchers who mercilessly butchered rhinos. The late Henry Fosbrooke, the former Ngorongoro Chief Conservator, testifies:

Some of the disappearance [of rhinos] is due to shooting, for pleasure or profit, as witness the bags of the early sportsmen. Sir John Willoughby and three brother officers from the Indian army shot 66 in the Taveta region near Kilimanjaro in the course of four months. Count Teleki and his party, [“] discoverers [”] of Lake Rudolf, shot 99 in the course of their safari. Another party was alleged to have shot 80 around Machakos in 1893 in less than three months. Further cases on the German side of the border are Dr. Kolb, who killed 150 before one killed him; Herr von Bastineller, killed 140, Herr von Eltz, killed 60, Dr. Oscar Baumann, the first European to see Lakes Manyara and Eyasi in 1892, killed three in Ngorongoro and so on (Fosbrooke 1972:97ff).

These figures reveal not only the bloodlust of the so-called sportsmen, but also the extraordinary density of the rhino population in Africa during those strange times of white men wandering.

Africans also hunted but let it not be thought that they hunted for amateurs. Three men, one musket, one homemade muzzleloader, no tent, no shoes, and little more than rags for clothing, Africans go out hunting for survival (Adams & McShane, 1996:126ff). On the contrary Europeans appeared to get a thrill out of wildlife shooting (Fosbrooke, 1972). Let any Doubting Thomas listen to Thomson:

I was more successful in finishing a sleeping rhinoceros. I crept up to it with the customary precautions, and in the process I experienced the usual sensations as of crawling centipedes about my spine, a wildly pulsating heart, a feeling of sweating blood, staring eyes, and gasping for breath, till on getting into actual danger, my nerves became braced up, my muscles like iron. When within a few yards, I took swift and silent aim. As the report echoed with startling roar I dropped to the ground like a hare. The great black mass instantly became animate. Jumping up, it stared wildly around, and then with blood spouting out of its nostrils like water from a fountain, it ran a short distance, to topple over dead. It had been shot through the lungs...After this...(Thomson, 1885 cited in Fosbrooke 1972:97).

Perhaps this is actually what he felt, or perhaps he had his eye on his book sales and the impact this fanciful writing was likely to have in Victoria clubs and drawing rooms! All in all, this hunting brought some wildlife species near the brink of extinction in Africa, Tanzania in particular.

Serengeti attracted many scientists whose research plans called for shooting wildlife in protected areas, which was prohibited in Kenya and Uganda but not in Tanzania. As a result, between 1964 and 1971 researchers killed thousands of animals in the interest of science. Hundreds of orphaned calves were abandoned to die of starvation or were predated. The black rhino that once thrived in the Serengeti is on the brink of extinction (ibid.89). Serengeti National Park used to buy horns and ivory, supposedly to discourage poaching (Saitoti, 1986). This undoubtedly had fuelled poaching.

Researchers, few of them Africans, have turned Tanzania (Serengeti and Ngorongoro in particular) into a laboratory in which doctoral dissertations are undertaken. This is mainly in the field of conservation biology as the Soules put it: “Conservation biology remains of interest primarily to members of university departments in Europe and North America”(Soule *et al.*, 1986). Myles Turner, a warden in Serengeti National Park from 1956 to 1972, in his *My Serengeti Years*, noted:

In those days there was little question of research being geared for park management, and a determined smash-and-grab raid for PhD's was started by youngsters who regarded the Serengeti and its animals as a vast natural laboratory to be looted at will. Scientists are in charge of the animals these days. We just keep things going for them (Turner, 1989 cited in Adams & McShane, 1996).

That statement is still true. Scientists working in the Serengeti and elsewhere in Africa often labour under the same myths that plague other aspects of conservation. Scientific research has usually occurred in a cultural vacuum, with little interaction with Africans. Biological and ecological examination of the minutiae of an African ecosystem not only misses the cultural forest in pursuit of exceptional trees, but scientists sometimes appear to be studying wildlife into extinction (Adams & McShane, 1996:86). No place on earth offers a better opportunity to observe the behaviour of large mammals than Serengeti, and Serengeti guarantee a comfortable climate nearly year around.[8]

The claim that a market value should not be attached to conservation is, in plain English, blatant lies! In practical terms, land allocated to wildlife conservation is reserved for tourists and investors who are significantly foreigners. Foreign investors own about 80% of the entire tourist hotels and lodges. They own nearly 90% of the air travel and about 90% of tourist hunting business and transport. About 60% of all tour operator firms (*Business Times* December 28, 2001-January 4, 2002). You can now understand why “the nations of European stock” [Baffour Ankomah's latest phrase] are clamouring for wildlife conservation. If you do not, other thoughts must be developed!

The Head of Delegation of European Union Commission, William Hanna, said, “During the European Summer the long-haul jets have been full of tourists arriving in Tanzania” (*Utalii*, August 2001). Professor Seithy Chachage adds: “...just after Christmas in 1996, two chartered planes landed in Zanzibar, straight from Italy with more than 2,000 tourists who were going to spend their time in the beaches of Zanzibar and then fly to Arusha and back home” (Chachage, 2000:186).

At this point it may not be a bad idea to make assumptions. One, assume the said 2,000 tourists visited Ngorongoro Conservation Area. They were accommodated in a foreign owned hotel for two[9] days. Each tourist paid a total of US \$ 150 fees for hotel expenses per day. The hotel owner (X) earned a total of US \$ 600,000 in two days. Let this amount be what X earned in the year 1996. X was tax exempted.[10] Two, assume the said planes belong to another investor (Y). A tourist paid US \$ 2400 as air fair for the whole safari. Y earned a gross total of US \$ 4,800,000 in 1996. And British Airway and KLM are the leading airlines ferrying tourists to and fro Tanzania (Ndaskoi, 2002:9).

As stated earlier, the majority of Tanzanians live far below the “poverty line” earning less than US \$ 1 per day i.e. US \$ 246 (in 2001) per capita. Remember the average income per capita is obtained by an arithmetically equal distribution of wealth, which no Utopia is expected to achieve. Even so, it will take an average Tanzanian over 2,430 and 19,500 years to earn what X and Y respectively earned in just one year. And the average life expectancy in Tanzania is estimated at 48 years.

This is a parasitic stratum. It strengthened tour and travel companies in the same way in which local communities are weakened. It is polarisation of wealth and poverty at two opposite extremes. It is all sheer robbery, criminal plunder of the weak by the strong. To borrow the late Dr. Rodney's (1970: 254) phrase, “capitalism is parading in without even a loin cloth to cover its nakedness.”

The Western world is full of records about wild Africa. Some of the documents wreaths to attract tourists while conservation crusaders aim at benefactors. For example, du Chaillu's editors refused to publish his account of his journey, *Exploration and Adventures in Equatorial Africa*, until he had revised it twice so it met their high standard of sensationalism. They knew the European marketplace, if not the African forest. The book, finally, published in 1861, sold over 10,000 copies in two years (Adams & McShane,

1992:211), so is almost the story about wild Tanganyika (see Schillings, 1906). Dick Persson, and his ilk have left an “indelible” mark in wildlife cinematography in Tanzania. They produced “great” films thus they are winners of several awards:

Baron Hugo Van Lawick and his close assistant Edith Brinkers have attracted a good number of wildlife conservators, tourists and nature lovers to Tanzania with a strong zeal to find out in bushes what they saw on screen...Hugo has spend more time with [Tanzania] wild animals than with people... He has spent 25 years in his tented camp near Lake Ndutu in the Serengeti National Park making nature films which has taken the world by storm. These include *Savage Paradise*, *Race for Life-Africa's Great Migration*, *Cheetahs: In the Land of Lions*, *Lion: Pride of Africa*, *Leopard Son* and his latest-Serengeti Symphony...Among the *Wild Chimpanzees*, *The Baboons of Gombe* and *The People of Forest*...He earned...six Emmy Awards, a Kodak Prism Award, L'Ordre du Merite, the Bradford Washburn Award, the Order of the Golden Ark from Prince Bernhard of Netherlands, and a British Academy nomination (*Kakakuona*, October-December 1999).

It must be emphasised that their target is the *West and the urban centres in Tanzania*. The point just made need not be belaboured. Suffice it to say rural people in Tanzania neither speak English nor do they have televisions[11]. Worse even, documentation was/is being used to demonise Africans!

A case in point is Elspeth Huxley, a great liar, typical of wildlife crusaders. He wrote, “The Olduvai Gorge used to be full of rhino. And then, in 1961, in the space of six months, the Leakeys counted over fifty rotting carcasses in the Gorge, all speared by Masai. Whether or not their motive was political, they had taken the profit; every horn had been removed. Since then the Leakeys have not seen a single rhino at Olduvai” (Huxley, 1964). In 1966, over 70 rhinos inhabited Olduvai (Goddard, 1967 cited in Fosbrooke, 1972). The question of territoriality for rhino is very critical. “Rhino may stay in their own territory and die rather than seek pasture new.... With an animal of such static habits it is clearly impossible that the population built up from nil to 70 between 1963 when Huxley was writing, and 1966” (Fosbrooke, 1972). Huxley owes his audience an explanation.

Other beneficiaries are the self-appointed emancipators calling themselves advocates of this and that right of the ruined communities. Non-Governmental Organisations (NGOs) claim a role of human rights guardians. At the same time they behave as authoritarian pseudo state agencies, with parasitic behaviour. Many NGOs thunder for rights of communities especially women (see Hunter et al., 1990 & Thomas, 1992). The executive directors feed on the sufferings of the communities under whose interest the organisations claim to exist. NGOs sit on both sides of the fence, scolding for human rights and begging funds in the name of local people (see Hanlon & Sikoyo, 2001:18).

There are several Western NGOs supporting disadvantaged groups in Africa. All have hidden agendas, mainly funds and popularity. Commenting on the hullabaloo by Survival, United Kingdom-based NGO that supports tribal peoples, Dr. Katumile Masire (“the clever baboon”) former President of Botswana said it all:

...They [Sans] are disadvantaged people. We want them to join the rest of the Batswana, to have schools, to go into settlements, where they can have clinics and hospitals. But those who want to do anthropological studies feel that this is interference, because, they say, we are poaching into their hunting grounds (Misser, 2002).

The Government of Botswana may well, for ill or good, be “brutally evicting the last Gana and Gwi from their ancestral lands”. But why organisations like Survival, which are neither neighbours nor in-laws of the Sans, are roaring? Welcome back to *fund rising* and *rhetoric*. Nothing else explains it! After all, in Britain they say, “there is nothing like a free lunch”.

Civil society has failed to embolden communities to stand the challenge of bargaining for their rights (Lumumba, 2001:5). NGOs, but not all, are correcting evil by spreading it. In fact one of the blights on the affairs of Tanzania is the role of NGOs funded by Western Governments, individuals and institutions. It will be in everybody's interest for the NGOs to re-examine themselves.

Meanwhile there are consultants, if consultants they could be called, working shoulder to shoulder with the Government in policy making. They defend their sadistic behaviour in the name of earning bread. However, not all of them are guilty. But some are chameleons of development, making themselves up with the latest instant tints. As a genus, chameleon consultants have a wide distribution. There are tropical species, but many are from the temperate North (Chambers, 1997).

In spite of the country being a wildlife treasure-trove, the indigenous population trail far behind. They constitute the bulk of beneficiaries of natural resources found in their “independent” country. Some members of local communities are employed in the tourism sector as sellers of baskets, scalp, and mainly pose for pictures normally in exchange of T-shirts, sweets, etc.

The concept of cultural tourism has of late been among the main problems facing the Maasai as a people but Ngorongoro Maasai particularly. After a few bends drive up the crater rim from the lower gate-house one sees the Maasai readily available to pose for tourist cameras. Some behave in typical pauper manners (Joel ole Rakwa pers.comm. 04.09.02). The Cultural Heritage in Arusha and others have been using the Maasai warriors, *ilmuran*, to entertain tourists. Nobody in responsible circles is seriously concerned with this phenomenon because it is not regarded as a problem (Lomelok ole Naigisa pers.comm. 05.09.02). But it is a tragedy so great that one is often overcome by despair due to the fact that the Maasai are being reduced to *deformed frogs*, which beg tourists.

4 Communities' Share

In Tanzania there is much talk on the need of wildlife neighbouring communities to share the benefits of wildlife and other national reserves. This loud cry is neither supported by enforceable legislation nor by clearly spelt out Government policies. To Government functionaries, it is enough to proudly talk of the earnings from wildlife and highlight it as a percentage of the national income.

If the successes of conservation in terms of the welfare of rural people in and/or adjacent to wildlife-protected areas are gauged, obviously they are *failure*. Yet the villages in and around protected areas have little or almost no Government-supported infrastructures. For example:

There are no Government-sponsored but only three privately owned advanced level secondary education schools in the five Districts (Babati, Kondoa, Kiteto, Simanjiro and Monduli) bordering Tarangire National Park and in Ngorongoro Districts (Ndaskoi 2002:21). Even after 40 years of Tanganyika independence, the Government has refused (?) to build a District hospital in Ngorongoro (KIHACHA, 2002) inhabited by over 109,000 people. And it may take a month to travel from Arusha to Loliondo depending on the season for there is almost no road (Watschinger, undated: 80ff & 109)... [Primary] school attendance and the teachers' sense of duty are miserable... Of the 250 pupils on the register only 120 are usually present, sometimes far fewer; I have found schools with only 40 pupils present! And if there are seven teachers on the staff of a school, I can often find two... School inspections by the District education office hardly ever take place (ibid: 186).

This situation brings to question the legitimacy of wildlife conservation *vis-à-vis* the right of rural people to lead a decent life given nature endowment in their localities. Communities are deceived!

How much for instance, of the earnings do precipitate down to a peasant or a pastoralist who spent sleepless nights because of the menace caused by wildlife? During the second phase Government, hunters in Loliondo and Simanjiro simply built a grinding mill, or a cattle-watering trough to thousands of villagers and gave local leaders “something” and part with the rest. Very few, if at all, Maasai are, for instance, employed in the tourism sector in Tanzania. Parkipuny put it:

To this day, the Ngorongoro Maasai have no effective voice in the NCAA. They are denied employment on the pretext that they do not want to take up job opportunities. Yet more than 90% of the 260 employees in the Mara Reserve [Kenya] are individuals of the pastoral Maasai cultural group. Out of more than 180 employees of the NCAA, only seven are Maasai from within the area and another two come from Kiteto and Monduli Districts (Parkipuny, 1991:23).

It must be noted that a licence to shoot an elephant for instance was US \$ 4,000. This is what the Government earned. Between 1988 and 1992, 154 elephants were licensed to be shot (WWF, undated), which earned the Government US \$ 616,000 as license fees only. How much did the local communities earn in this period? In any case whatever peanut was given to local communities was accounted by marvellous publicity. Government

functionaries are invited as guests of honour surrounded by popular mass media! This (see Box 3) *is* [original emphasis] benefit from the “Community Based Wildlife Conservation” indeed (Ndaskoi, 2002).

Box 3: Pauperisation in Loliondo, Ngorongoro District

The owner of Otterlo Business Company (OBC), a Brigadier General from the United Arab Emirates called "the Arab," received a ten-year permit to hunt in Ololosokwan and ten neighbouring villages. In return, according to Government regulations, OBC is required to pay 25% of their revenues to the District Council.

OBC was also contracted to provide an additional \$ 85, 000 to support village water projects. Villagers claimed, however, that they were never party to the contract, which was signed by the former MP on their behalf. Moreover, there is no formal mechanism for local participation in decision-making about hunting concession in the Tanzanian Government, which leaves local communities at the mercy of higher authorities and private interests.

Villagers report regular sightings of lorries carrying herds of young wildlife, been transported to airfields for shipment overseas. In at least one case they witnessed an aircraft being filled with young wildlife at the Loliondo airstrip. "...is this conservation according to the Government?" "We were told to allow these companies to enter our land, that they would conserve the wildlife. Look what they are doing!" These were some of the comments made by the local community. The initial shock has been overcome by cynicism given the failure of the Government at all levels to respond effectively to stop the plunder.

At the same time, the entire District Administration and the town along with it depend on OBC for basic infrastructure support. This includes electricity for most of Loliondo; the local airport (rehabilitation and maintenance); road repair and maintenance, as observed and reported to us.

Source: (Adapted and modified from Mbilinyi, 2000).

What shocks even more is the fact that villagers are not and have never been in a position to negotiate or to be part of the negotiating sides on how to share the earnings from the wildlife, because they are not well informed. This skimpy understanding disarms villagers from assessing the fairness of what they get (see Tables 2 & 3). Nowhere are the percentages of earnings are stipulated as far as local communities share is concerned. They receive what they are given as purely a token!

Table 2: Tarangire National Park (TNP) visitors’ statistics[12]

Year	Total visitors	Revenue (TShs).
1998/1999	41,147	789,304,100
1999/2000	50,668	894,374,471
2000/2001	58,060	1,095,987,776

Source: Interview with Tarangire National Park

Table 3: Handouts from TNP to villages (and schools) from 1997/1998-July 2001

No. of projects handed over	No. of Villages	No. of Districts	Amount (TShs)
42	18	5	165,614,139.60

These “projects” are aimed at, among other things, reducing poaching. Ironically, within the time framework in which TANAPA handed over the “projects” to communities poaching escalated. In 1998, 23 poachers were arrested in and around Tarangire National Park. 70 poachers were arrested in 1999. In the year 2000, 80 poachers were arrested (interview with TNP). Above all, over 1,000 poachers were arrested in 1999, the highest number of arrests made per year for the past 44 years in Tanzania (*Guardian* April 7, 2001). TANAPA might be having the reason(s) for the escalation.

Once more, TANAPA has failed to understand that the interest of tourists from the West is in conflict with those of rural people in Africa. The agency is trying to let the rural people be tourists in wildlife-protected areas, like national parks. It may test much to take a villager to visit the huge towns like London but not to visit beasts in the local parks, something a Westerner would wish to do before he die. In other words, what seems to matter to the outside world means *little* to villagers.

In a period of 5 years, “projects” (Table 3 above) were allegedly given to approximately 300,000 villagers living adjacent to the park. Strangely, about 100 park employees would get upward of TShs.370,166,494 as salaries and other benefits in 2001/2002 fiscal year (TNP, 2002:7). While Tanzania National Parks (TANAPA) may boast of the handouts, there are questions to be asked about “Community Conservation Services”, viz.

1. What is the value of the “projects”?
2. Who was an independent auditor?
3. Is it true that investment in social services were at the top of the priority list of the villagers?
4. What is the value of communities’ belongings destroyed by beasts in those five years?

In the meantime, it is difficult to understand that what was channelled to local communities is benefits accrued from the wildlife sector. This is because while TANAPA was granting help to communities, it was almost the same time the agency, with a bowl in hand as all the poor do, begging handouts from international wildlife conservation agencies like African Wildlife Foundation. Lake Manyara and Tarangire gained the status of national parks in 1960 and 1969 respectively. They received tourists 12 hours a day, 7 days a week and 4 weeks a month for over 33 long years. Sadly, the said parks depend on foreign aid for even the basic infrastructure as clarified:

United States Agency for International Development (USAID), through Partnership Options for Resources use Innovations project being implemented by AWF, has provided equipment worth \$ 643,413 to improve roads in Tarangire and Lake Manyara National Parks. Water supply will be provided to seven ranger posts in Tarangire, six to Lake Manyara, a visitor centre in each of the parks, signposts and field guides and maps. 27 radios will be provided to improve communication and combat poaching. Transport has been improved by the provision of six vehicles. TANAPA has been assisted in improving community conservation. The parks were expected in 1999 to receive about 55, 000 tourists each, about 10% of them Americans (*The Guardian* January 1, 2000).

It can be said truthfully; too that African wildlife can just as well do without foreign aid. It must be spelt out in no uncertain terms exactly where the billions of shillings in royalties pumped into the parks or the treasury for the said over 33 long years have been going (Happiness ene Milia pers.comm. 08.09.02). If not, then one can assume that the bulk of this money fell and it is still falling into bottomless pits, of which Tanzania seems to be endowed with so many. Even if the money was (is) committed to external debt payments that was (is) one of the pits. Since Tanzania started in earnest paying for its debts, the debt has kept on rising instead of diminishing!

In all honesty, why should TANAPA be a professional beggar or a receiver of crumbs? Unfortunately the tragedy, like many others, is praised as “sustainable development.” Development must be measured on the basis of how much better the people ate, dressed and lived, but not in terms of export performance and the badly needed foreign currency (Babu, 1981 & Gill, 1993). Money means very little to rural people (World Vision, 1993). They have sources, which are not easy to inspect. So, much empirical evidence is strikingly contrary (Chambers, 1997).

There is nothing with which one can compare with Ngorongoro (Grzimek, 1960:47). It is the only remaining best rangeland for the Maasai (Fosbrooke, 1972:94; Parkipuny, 1991 & Saibull & Carr, 1981). Thus the Maasai accepting eviction from Ngorongoro, Ngorongoro Conservation Area in particular in order to give room for wildlife or anything else is fatally damaging (Ndaskoi, 2002).

5 Good News for the Lion is a Terrible Tragedy for the Deer

The Barabaigs traditional economic activity is agro-pastoralism. The Hadza and the Maasai ethnic groups depended, almost entirely, on hunting, gathering and pastoralism respectively. The Government supports the spontaneous and organic immigration of peasant onto rangelands and hunters-gathers lands on the grounds of exercise of common rights of all citizens for resources within the borders of their country, irrespective of places of origin of individuals (Parkipuny, 1991b). The Government just gazettes the land for “national interest.”

This denies indigenous access to resources vital to the viability of flexible nomadism and sustainable traditional hunting[13]. They are simply thrown out of their ancestral lands and left to find for themselves space to make out a living. This in turn pushes these internal refugees to enter territories of other people thus leading to tension.

The Hadza whose home is present day Mbulu District, particularly in the Lake Eyasi basin, are very few. It is believed that they hunted in areas extending to present-day Lake Manyara and Tarangire National Parks and in or adjacent to the Ngorongoro Crater (Fosbrooke, 1972:156). They are, as stated earlier, not mentioned in any Tanzanian legislation. This implies that they will sooner or later disappear like American Red Indians. The Hadza today are wandering in more marginal lands of Central Tanzania. Their land is being alienated by the Government for various “development schemes” and engulfed by peasants and pastoralists. The Barabaigs lived for several centuries in Hanang Districts of Arusha Region (Lane, 1991) and Ngorongoro (Fosbrooke, 1972:157).

It is said that Maasailand extend from Mkomazi through Upare to the southern foothills of Kilimanjaro and runs northward between Kilimanjaro and Meru (Kivasis, 1953). To the West the Maasai took in the whole of Maasai Steppe extending southwards to include today known villages on the Handeni-Kondoa road, Swakini, Kijungu and Mgera. The extreme westerly limit of the Maasailand is the West of the Serengeti (Fosbrooke, 1951; 1972; Mpaayei, 1954 & Thomson, 1885).

Northern Tanzania was previously part of an extended pastoral system whose rangeland resources were commonly used by wildlife and livestock (Parkipuny & Berger, 1989; Fosbrooke, 1972:94; Thomson 1885 & Grzimek, 1960). Besides pastoralists there were hunters. When colonialists evicted the Serengeti Maasai, they were promised land in Ngorongoro. Historically and legally, the Maasai are allowed to live with wildlife in Ngorongoro. The provision is giving conservationists who want the area to be a national park a hard time. Maasai used to reside in Ngorongoro Crater (Fosbrooke, 1972; Parkipuny, 1991 & Shivji, 2001) until 1974, when they were ejected.

It was initially promised that humans living in the area would not be marginalized. In the words of the Governor, Sir Richard Turnbull, addressing the Maasai Federal Council on August 27, 1959:

“Another matter which closely concerns the Maasai is the new scheme for the protection of

the Ngorongoro Crater. I should like to make it clear to you all that it is the intention of the Government to develop the Crater in the interests of the people who use it. At the same time the Government intends to protect the game animals of the area; but should there be any conflict between the interests of the game and the human inhabitants, those of the latter must take precedence” (Parkipuny, 1991:22 & Grzimek 1960:246).

This promise is as dead as Turnbull himself in present day Tanzania. This was only a compromise for swords were drawn^[14]. All told, the Maasai under the leadership of their Member of Parliament, Edward ole Mbarnoti, argued that if the Maasai do not eat wild meat, if the Maasai do not cultivate, if the Maasai have all along lived side by side with wildlife and if the Maasai were evicted from Serengeti and promised land in Ngorongoro, what moral, legal or whatever grounds can anybody stand on and order the Maasai to vacate Ngorongoro?

But in order to live harmoniously with wildlife in Ngorongoro, “The Maasai were promised everything possible: wells, schools, dispensaries- but virtually none of these promises has been kept. Consideration is given to every gazelle, but much too little care is given to the people and their living space in these areas” (Watschinger, undated: 52). The rights of the Ngorongoro Maasai have *never* been given explicit primacy (Ndaskoi, 2002). The following quote is another testimony.

The villagers claimed that the Ngorongoro Conservation Area Authority cares less about the people in the area than it does for the wildlife and physical environment (Arthem 1981:16).... Once a unique effort to sustain both wildlife and pastoralists, the Ngorongoro Conservation Area is today just another park or reserve, and a poorly managed at that (Adams & McShane, 1996: 53)...Maasai is a tribe in turmoil (Ndaskoi, 2002).

And more is to be expected. A letter written to the Principal Secretary of the Ministry of Natural Resources and Tourism by the Ngorongoro Chief Conservator, E. B. Chausi, on May 4, 2001 read:

Jana tarehe 3/5/2001, Menejimenti ya NCAA na Uongozi wa Wilaya ya Ngorongoro tuliwasilisha matatizo ya kilimo kinachoendelea Hifadhini Ngorongoro na suala la wahamiaji haramu NCA katika Mkutano wa Kamati ya Ushauri ya Mkoa wa Arusha. Maazimio ya Kamati katika suala hili yalikuwa ni pamoja na: -.... (2)na kuweka utaratibu wa kuhamishia nje ya Hifadhi idadi ya mifugo na familia za wakazi zitakazozidi (3) Utaratibu wa kuwahamisha wahamiaji nje ya Hifadhi ufanyike mara baada ya kupatikana maeneo ya kuwahamishia, nje ya Hifadhi na kama itabidi nje ya Wilaya na Mkoa.

The most persistent illusion in the conservationists’ vision of the Maasai is that the community is static. Pushed hard against the wall by development paradigms, the community is changing with alarming proportions. The late Ndooto ole Muress, *oloiboni* of Ngorongoro Highlands had never seen a printed page, but was graced with intellect and charisma. His concern was always his people, and their fight for survival (Saibull & Carr, 1981). He had a clear vision of what was in store.

We [*iloibonok*] had considerable influence over our people in organising inter-tribal warfare, and our warriors were once a fighting people who saw glory only in battle... There is nothing left for us, and for them. Our people are on the verge of drastic change. It is bound to happen... Perhaps not in my lifetime. (ibid: 64).

Ole Muress died six months later. Cattle are gone. Agriculture may be an alternative. The illegal immigrants and encroaching agriculturalists referred to in the above quoted letter are, almost entirely, the Maasai. But agriculture is a threat to wildlife survival. In order to save wildlife from extinction conservation agencies, the slave-masters of globalisation era, resort to all sorts of means-from deceiving to outright force- to alienate land for wildlife. The following example is illustrative.

Villages like Engutotoosumbat, Ingurman, Oltulelei, Engung’u, Lorkujita, Orgilai, Loomunyi, loondolwo and Ilkiragarie are located on a fertile mountain, Olormot. There is the best rangeland in the area. A

generous spring, Loong'arkutikie, ensures a constant water supply. The Maasai started maize cultivation on this area, the biggest threat in the eyes of conservationists. Conservationists started to invest into social services such as water, education, health and others down the barren plain, Engonini. These services have attracted many, but not all, Maasai down there. As a result those who are resisting moving down are being urged to do so. A sort of a national park is being cleverly created on the best land (Maanda Iole Koringo pers. comm. 07.09.02).

Unfortunately, the rural people have been incapable of seeing through the clever frauds that conservation agencies have contrived in order to gain more wildlife-protected areas in Tanzania. Moringe ole Parkipuny patriotically recorded how often conservationists flattered the Maasai:

When Serengeti National Park, inclusive of the Ngorongoro Highlands, was first established in 1940 the Maasai responded with categorical refusal to obey Government orders, which required them to vacate their homeland. This created the crisis which was settled by the 1958 compromise agreement. The Government opted to split the land into two entities: Serengeti National Park and the Ngorongoro Conservation Area which was to be run as a multiple land use area. The Maasai conceded to this compromise but only after the Government promised them guaranteed rights of occupation to the land, priority of interest and development of compensation water in Ngorongoro... several dams were constructed...boreholes were drilled...However, these water sources soon proved inferior to the permanent natural supplies of Moru, western Serengeti and Ngare Nanyuki, which the Maasai lost with the creation of the Serengeti National Park (Parkipuny, 1991:21ff).

Probably, the Maasai will carry the burden of the above-referred *blind* compromise to their graves.

The community must take deliberate steps to defend its future. This is possible for:

There is nothing in the law to indicate, even remotely, that Maasai rights in Ngorongoro were or have been extinguished. The problem arises in terms of the extensive statutory powers of regulation that the Ngorongoro Conservation Area Authority has over the lands in the area. Can it be said that these powers can coexist and/or are compatible with the deemed rights of occupancy? What about the statutory powers of the Authority to construct roads, buildings, etc. and to prohibit, control and restrict residence and settlement in the area, and even restrict and prohibit access to specified areas within the Ngorongoro Conservation Area which directly impinge on the deemed rights? (Shivji & Kapinga, 1998:30ff).

The term "agriculture" is narrowly being used to refer to crop cultivation. Pastoralism is ignored! This bias has led to cultivation expansion on the expense of herding. This in turn has led to tremendous contraction of rangelands. The best land is appropriated and handed over to investors and other schemes. Tanganyika Cattle Products Ltd. with the Government support alienated 25,000 acres out of 115,000 acres controlled by Ololosokwan Village authority. In 1987, recommendations were made to turn 34,176 hectares into agrarian in Loliondo (NLUPC, 1987 & Parkipuny, 1990).

The Government supports this brazen land appropriation. The biggest fuss came in 1979 when the Government alienated land to a German called Hermus Phillip Steyn who established a ranch in Monduli District. Steyn and the Monduli District Surveyors went off and demarcated 381,000 acres (approximately 400 square miles) between Tarangire National Park and Simanjiro District.

Sometimes later the Government declared Steyn a prohibited immigrant. How he entered Tanzania in the first place begs a bunch of questions. So bold was Steyn that he could even fix the Government itself. Let its mouthpiece bear witness:

Police in Dar Es Salaam are investigating the smuggling of TShs.7,650,000 to Kenya, the Inspector General of Police, Solomon Liani said. A Kenyan Superintendent of Police, Norbert Oluoch Obanda, charged of corruptly obtaining TShs.47,000 from Hermus P. Steyn, a Tanzanian resident. The money, the prosecution claimed, was an inducement to stop legal proceedings against Steyn for entering the money into Kenya. Born on May 3, 1933 in Outjo in Namibia, Steyn owns two *Cessna* planes and has a landing strip on his ranch. According to immigration sources Steyn is of West Germany but of British origin according to the Registrar of Companies. He is a Kenyan national and is a director of four limited companies (*Daily News* July 8, 1981).

The Government supported Steyn to put hundreds of thousands pastoralists of Monduli and

Kiteto Districts at a very awkward corner^[15]. When the Government ejected him, his 99-years lease was revoked. It reissued the lease to the National Food Corporation, instead of to villagers. There are many such people supported by the Government today contrary to the will of the indigenous people.

Another writer reports, “One Irish company was given a certificate of approval for a project which involved granting of a right of occupancy in Simanjiro plains of the then Kiteto District sometime in 1991. The proposal was to occupy land, which fell across the migration path of wildlife, particularly wildebeest. The occupier would shoot game when they stepped on his land and export game meat to Europe where it is increasingly preferred to other red meat” (Shivji, 2001:25).

The project had earlier been rejected by the Wildlife Department on the ground that it would have had very harmful effect on the production cycle of wildlife. The land that was proposed to be appropriated also contained a number of pastoral villages (ibid.).

In the hunting blocks, cheating by investors is a normal phenomenon. A pastoral Non-Governmental Organisation argued that the African Wildlife Foundation is only interested in having an investor in the pastoral land no matter how crude the contract between villagers and the investors might be. The following are a few examples. Emboreet village signed a five-year agreement between it and Oliver’s Camp but the villagers do not trust the company because it has been delaying payment of fees and it is not transparent (Sikoyo, 2001). Having 4,000 acres of rangeland in the hands of the so-called investor was the decision of village authority, yet the Camp was playing tricks so as to grab 72,000 acres. In 1997, the authorities against the will of pastorals who simply wanted their rangeland, signed an agreement between the village and Rickshaw Safaris Ltd.

Conservation agencies extended deception to Lolkisalie Village also. Two rival tour companies namely Bundu Safaris and Oliver’s Camp wanted to invest in the village. Hiding behind Wildlife Management Areas, each of the said companies wanted the land for its exclusive use. In this Lenox Lewis atmosphere, the rangeland was threatened. The villagers were not involved at all. The concept of “participation” was left to the whims of unconcerned staff of the African Wildlife Foundation and the village authority. And there is little doubt that the village authority was ignorant of legal technicalities such as “lease agreement, contracts and negotiations” (Sikoyo, 2001:17).

As long as they are at the safe side, the village authorities take what they are given by the investor(s) or the facilitator(s). Then they play blind leaving the masses of villagers to sink deep into the seas of grave sufferings such as the loss of livelihoods.

In 1992, one of the most remarkable land scandals, Loliondo Gate scandal I, in independent East Africa happened. It was when the Government issued a 10-year hunting permit, under the controversial agreement, to the Brigadier Mohammed Abdulrahim Al-Ali of Abu Dhabi in the United Arab Emirates who owns the Otterlo Business Corporation Ltd (OBC). The grabbed land is a birthright of thousands of villagers of Arash, Soitsambu, Oloipiri, Ololosokwan, Loosito and Oloirien villages of Loliondo Division, Ngorongoro. A Parliamentary Committee chaired by Phillip Marmo, then Deputy Speaker of the National Assembly, was formed to probe the saga. It revoked the dirty agreement. Unscrupulously, a similar agreement was established.

In January 2000, OBC was granted another 5-year hunting permit in the same area. The company constructed an airstrip. As usual, without the villagers’ consent. The villagers have been witnessing live animals being exported through the airstrip. OBC constructed structures near water sources. Hearing of the new permit, the Maasai sent a 13-men protest delegation led by the traditional leader, *Olaigwanani*, Sandet ole Reya to Dar Es Salaam in April 2000. The intention was to sort out the issue with the President of the Republic, Benjamin Mkapa. Unfortunately, they did not see him.

However, the delegation managed to hold a press conference at MAELEZO, National Information Corporation Centre. The Maasai contemplated a number of actions to be taken against both the Government and the Arab in connection with the plunder of the resources.

They went to great lengths to say that before a mass exodus of the Maasai to Kenya the first thing was to eliminate wild animals (*The Guardian* April 11, 2000). Thereafter, the villagers retreated to Loliondo.

The general election was scheduled for 2000, so the saga had to be explained away. The official statement was that power hungry opposition politicians were pushing the elders and that all the claims by the Maasai were “unfounded” and “baseless.”^[16] Perhaps annoyed by the politicians’ brass, *The Guardian* followed the delegation in Loliondo. The paper sold like hot cakes, it is said, when it started to do the series of the story. Here is part of what was written

Maasai elders in Loliondo, Arusha Region, who recently declared a land dispute against Otterlo Business Corporation Ltd, a foreign game-hunting firm, have accused some top Government officials of corrupt practices, saying the conflict is not political. The Arusha Regional Commissioner, Daniel ole Njoolay, recently described the simmering land dispute between the Maasai pastoralists and the United Arab Emirates firm, with hunting blocks in Loliondo Game Controlled Area, as a political issue. Francis Shomet [the former Chairman for Ngorongoro District Council] claimed that Njoolay had misled Tanzanians to believe that the allegations recently raised by Maasai elders were unfounded and baseless. Fidelis Kashe, Ngorongoro District Council Chairman maintained, “We cannot stand idle to see our land being taken away by Arabs. We will kill all the animals in the area as these are the ones attracting the Arabs into our land” (*The Guardian* May 30, 2000).

The next morning Government officials were reported to have said the following:

The Minister for Natural Resources and Tourism, Zakia Megji, yesterday assured Ngorongoro residents that no land has been sold or grabbed by Arabs in Loliondo. Flanked by the Arusha Regional Commissioner, Daniel ole Njoolay and the Director of Wildlife, Emanuel Severre, Megji commented, “There is no clause on the sale of land in the contract signed between OBC and the six villages of Ololosokwan, Arash, Maaloni, Oloirien, Oloipiri and Soitsambu.” However an inquiry conducted by *The Guardian* in Loliondo last week established that the Maasai elders, who recently asked for Government intervention to solve the misunderstanding, were not involved in the re-lease of the hunting block to the company. According to Megji, her probe established that the building has been constructed about 400 metres from the water source, 200 metres more than the distance recommended by law. But *The Guardian* investigation shows that the structures are less than 50 metres from a spring. And another spring has dried up (*The Guardian* May 31, 2000).

Underline two points. First, the Minister said the building has been constructed 400 metres from the water source. Second, “*The Guardian* investigation shows that the structures are less than 50 metres from a spring.” Now unless one’s mathematics teacher at school was daft, there is a huge different between 50 and 400! When did 50 metric metres turn to mean 400 metric metres? Yet the “Arab” is still *plundering* resources. Suffice it to say that any honest person would have told the Government that this course of action is like sticking a pin into the most sensitive part of the human body.

Pasture loss in Ololosokwan, Ngorongoro District with respect to various conflicting interests and concerns that have just been discussed was best summarised in a 2000 study by Professor Marjorie Mbilinyi of the University of Dar Es Salaam. Her succinctly written paper deserves quotation in full.

Struggles over land have had a long history in Ololosokwan. A study was carried out in 1996 by Oxfam and local NGOs under the leadership of KIPOC to study the issues in more detail. The major protagonists in this conflict, aside from local villagers, are three private companies: Tanganyika Cattle Products Ltd (TCP), Conservative Corporation (ConCorp), and Orttelo Business Corporatio, otherwise known as “the Arab”-all vying for control over land within the orbit of the village.

TCP set up a private game viewing area with a tourist lodge within village boundaries, with the blessing of the Government and alienated 25,000 acres of land from the total of 115,000 controlled by the village Government.

The land in question includes the best pasture and water resources in the village. They succeeded to corrupt local village and district officials and elected representatives, as well as elements within central Government, so as to persuade the village council to surrender the land to the central Government, which in turn handed it over to TCP in the form of a title deed in the early 1990s.... The village Government succeeded in winning their case in High Court, with financial support for legal charges from Oxfam.

However, the new 'owner' of the rights of occupancy of TCP, that is ConCorp, has been even more aggressive in promoting its own interests. The president was forced to intervene when he visited Ngorongoro in 1998, on behalf of the villagers, and declared publicly that ConCorp was now restricted to about 15 acres of land.... This did not stop efforts by ConCorp and its allies in the Lands Ministry, and local Governments, to press forward with their land claims *after* [original emphasis] the president's statement (Mbilinyi, 2000:9).

As of this date of writing, ConCorp is still operating in the village albeit villager's genuine opposition. This is a mockery of law and politics of Tanzania. If the President of the United Republic of Tanzania, "the ultimate giver and taker of life" [Professor Issa Shivji's phrase], could not make investors abide by the regulations who else can? It can be safely concluded that fate has to decide for the future of, just like other minority groups, the Maasai.

In 1951, the colonialists declared the land on which the Maasai and their ancestors for hundreds of years had lived (Farler, 1882; Hollis, 1905 & Fosbrooke, 1951), Mkomazi Game Reserve. The Maasai lived in Mkomazi well beyond 1776 (Kivasis, 1953). Initially, the Maasai were allowed to stay on as before. In 1974, a new Conservation Act (MNRT, 1974) was passed requiring the Maasai to leave. However, this was not enforced until 1988, following the usual outlook of international conservationists to exclude human inhabitation, when a new conservation programme was launched at the reserve and the donors insisted the Maasai be evicted. "Named among the donors who [had] put eviction as a condition for support to the reserve are the East African Wildlife Society, Frankfurt Zoological Society and African Wildlife Foundation" (Saning'o & Heidenreich, 1996).

The Maasai resisted moving from the reserve. Game wardens forced them out by beating the pastoralists and setting ablaze several houses (ibid.). Evictions harmed the people causing loss of livelihoods, shelter and increasing pressures on surrounding communities (Shivji, 2001:36). The pastoralists were not compensated nor were they given an alternative land. Drove of them left to other marginal lands in the country and some, allegedly, to Kenya. Some remained living between the reserve and farmlands of the Pare community. This has resulted into a grave tension between innocent farmers and internal refugees, the Maasai (Ibrahim enoo Surutia pers.comm. 02.06.02).^[17]

If as inevitable cattle cross the boundary they are impounded by armed Reserve Staff (Fosbrooke, 1991:3). To reclaim their cattle, the owners have first to pay TShs.40,000 as a condition to be allowed by rangers to identify cattle and a separate fine for each stray animal (Saning'o & Heidenreich, 1996).

Two counsels from the Legal Aid Committee of the Faculty of Law, University of Dar Es Salaam, filed a suit in the High Court. Their main contentions were that (a) the 53 plaintiffs were natives who occupied Mkomazi area had customary titles to that land, (b) that mere declaration of a game reserve does not extinguish customary rights, (c) that to be able to extinguish customary titles lawfully one has to invoke the due process provisions of the *Land Acquisition Act*, and (d) that the evicted people be restored to their lands and be paid compensation for loss of property and injury which they suffered during and as a result of the evictions (Juma, 2000 cited in Shivji, 2001).

The High Court agreed with the basic contentions of the plaintiffs but was of the opinion that the Maasai claim was time-barred because Mkomazi had become a game reserve in 1974 and therefore restoration would be impractical. The court therefore awarded some monetary compensation and that the Government should find them alternative land (Shivji, 2001).

The plaintiffs were dissatisfied with the part of the judgement and therefore appealed. There was absolutely no doubt that Maasai were ‘natives’ of Mkomazi but the Court of Appeal, in an inexplicable topsy-turvy reasoning, totally overturned the decision of the High Court, even that part which was not appealed from by either party holding that the evidence showed that the Maasai were not the original or first inhabitants of Mkomazi and therefore they did not have ancestral customary titles (ibid.). In a bitter comment on this utterly novel notion of “first tribe” in the land jurisprudence of Tanzania, one of the legal aid counsels who represented the Maasai, wrote:

We have all along believed that the law of Tanzania is settled around the proposition that proof of customary land right in Tanzania is not pegged on a tribe or tribes or which tribe moved into a geographical area under consideration. We have all along believed that customary land tenure is proved if there is preponderance of evidence showing use and occupation of land in accordance with customary laws and practices (Juma, 2000).

The fragility of customary land rights, which in effect is the legal regime governing common pool resources such as grazing lands and village commons, particularly in relation to the state, has once again been confirmed and reinforced by such court decisions (Shivji, 2001).

2001 was a victorious year to African Wildlife Foundation (AWF) and its partners when they established the Tanzanian Land Conservation Trust, which was, to quote AWF own words, “designed in such a way that it could secure the wildlife corridor between the parks. The President [Benjamin William Mkapa] turned over the ranch with a 99-year lease to the Trust” (AWF, 2001b: 12). AWF staffs are “investigating possible use of the land as a rhinoceros sanctuary-increasing the number of rhinoceros and creating a new visitor attraction” (ibid.,2000). So the ranch has fallen into the hands of conservation agencies that want *the wildlife corridor and tourist attractions*. It should be recalled that black rhino project, the reason for Maasai ejection, was to be started in Mkomazi.

Strange as it may seem, all twenty villagers interviewed in Minjingu and Naitolia including respective village authorities[18] had no even a clue of the said lease. Likewise, they had no idea of the so-called “Tanzania Land Conservation Trust.” Livestock are not allowed in the ranch (Lemuta ole Loibanguti pers.comm.08.09.02). But the villagers were initially promised that the ranch would be handed over to them for pasture (Laurence ole Mungoro pers.comm. 08.09.02). That this did not happen is a source of great disappointment to the pastoralists (Nduminsari Ngunda pers.comm. 08.09.02). Once more, the pastoral community is plunged in sorrow and loss of hope for future.

In black and white terminology, community participation in conservation is outright deception! Everything is proposed, discussed and decided by development theorists, few of them Africans. To justify this travesty of justice, the theorists claim that they were simply “facilitators.” Dangerously, now the *fashion* is “community participation”. International conservation agencies are clamouring that they are practicing it (visit awf.org). Assuming it is true, why then the village authorities in Minjingu and Naitolia knew completely nothing about at least Tanzania Land Conservation Trust?

The most threatened rights of indigenous people in the region are sacred places like *Endim-e-Naimina-Enkiyio* (“forest of the lost child”) and *Edoinyo-oo-Ilmorwak* (“hill of elders”). The Maa speaking people, for instance, have a sacred area within the present-day Arusha municipality. For many centuries, the Maasai male initiation ceremony beginnings, *engipaata*, has been taking place in the area called Purka endowed with a water source and *elerai*, acacia in Maa language, forest.

The colonialists appropriated the area and established the Burka Coffee Estate and the Maasai continued to be marginalised. Corrupt officials and a few Maasai traditional leaders are further chopping pieces out of the remaining sacred land. Sadly, Tanzania National Parks (TANAPA) has in recent years grabbed the whole area, fenced it and built its headquarters named Mwalimu Nyerere Conservation Centre. So far nobody, man or woman, raised a finger in protest.

The Maasai, and all other villagers in Tanzania, were (are) neither united nor organised enough to withstand all this extend of state bullying. They lack unity, organisation and direction which would have enabled them to face the teething trouble posed by the state.

5.1 Focus on Minjingu Village in “Kwa Kuchinja Corridor”

Minjingu village is adjacent to Tarangire National Park (TNP), and it is over 40 years old. It is divided into five sub-villages namely, Almasi, Oltukai, Olasiti, Olevolos and Kakoi. Approximately, the village land area is 23,860 hectares. The village is registered and has a title[19] deed to its land, although, it overlaps with a Game Controlled Area. Also it overlaps with Kwa Kuchinja (KK) Wildlife Corridor, buffer zones and dispersal areas (Shombe-Hassan, 1998), which are not statutory. Tarangire River is very important for the park and the village, though each has different interests often conflicting with one another. This results into conflicts in which the powerful has the “right.” TNP views the river as its “heart” without which the park will die. TNP argues that in the dry season many of the migratory wildlife species come back to the permanent waters of the river until the onset of the rains when they migrate again for better pastures.

Villagers depend on the Tarangire River since it is the source of firewood, sand for building, building poles, thatch grass, water, and pastures. Above all, it is a sort of sacred place where the Maasai take their youths for initiation preparations. Over half of the land area of Kakoi and Olevolos sub-villages is cut-off during the rain season but villagers argue that the whole area had been allocated in 1990s to two young age groups namely Ilkidotu and Ilkorianga. Having no bridge the two age groups could not inhabit and clear the land.

The area has been demarcated as a Wildlife Management Area on the ground that it is an idle land! Minjingu is now entirely surrounded by wildlife-protected areas, and wild animals attack villagers from all directions. In the South frontier there is Tarangire National Park and a thin strip buffer zone in the name of Wildlife Management Area (WMA) running form South East to the park main gate. In the West there is Mweka Study Area and the portion of Minjingu village WMA meeting Vilima Vitatu village. In the South there is the large part of Kakoi and Olevolos sub-villages area designated for WMA. Neither the Wildlife Division nor Minjingu village leaders know the size of the village area under WMA (Ndaskoi, 2002).

The area along the Tarangire River is endowed with a wide range of wildlife species. It is this fact that pulls hunting companies to flood the village. Tanzania Big Game Safaris Ltd. had been hunting in the village before the establishment of WMAs. Northern Hunting Safaris and Kibo Safaris (EA) Limited also were hunting and photographing respectively in the area.

While the former has been operating mainly in the Vilima Vitatu village, it has also been operating in Minjingu village in what seems to be gross violation of the laws and the regulations. The latter started operation in Minjingu village only a few years ago.

Villagers complained that Kibo Safaris, enjoying a full support from the local authorities, threatened to evict them from a site it saw conducive to build a camp along Tarangire River in 1999. The plan, villagers claim, was to evict them altogether so as the company could build a camp for tourists. The authorities gave the investor another site beyond the river only when villagers were even ready to die than vacate their birthright land.

5.2 Violence was used to Establish WMA in Minjingu

Minjingu is one of the villages practising “Wildlife Management” in Kwa Kuchinja. The African Wildlife Foundation has been influencing the weaving and implementation of WMAs in Tanzania (AWF, 2000). Now nearly half of Minjingu land area is designated to the Wildlife Management Area (WMA). The programmes are being established without legal framework (Shivji, 2001). The modalities as to how WMAs can be established are not provided by the paradox wildlife policy 1998. The leaders did not support the villagers. The reason for this, it is said, is that all except one of the eleven leaders, who have been alternating for four decades, exchanging leadership positions in the village Government, come from the peri-urban part of the poorest village.

The villagers argued that they were forced to sign away their village land. They complained that in Mbulungu they were evicted because the area was badly needed for WMA establishment. Villagers of Kakoi and Olevolos sub-villages joined together and built an office in August 2001, which is almost ready. Their intention is to establish their own village and hence fight back for their birthright land. They were discouraged by legal procedures, which they were least informed of, which were alien, complicated and made no sense. The village has not been established as yet. The villagers argue that wildlife must be conserved but not at the expense of the basic human rights, a right to a source of earning a livelihood. Tanzania is being turned into a garden for tourists from the privileged sections of human race. Box 5 is illustrative of conflicts between villagers and investors.

Box 5: Land alienation to investors in the name of WMAs

We totally depend on land for survival. We have settled in this part of the Rift Valley for decades. The soil is infertile but there are other climatic advantages, which support crops. The area is infested by tsetse fly but we are practising pastoralism by additional efforts. Our livestock suffer from diseases transmitted by wildlife. The beasts feed on pastures of domestic animals. Our children have no schools to go to. No hospitals. No veterinary services. Our leaders, laws and police are against us. We almost lack everything good for life.

Continually, the Government that feeds its beasts on our crops is starving us. We have no doubt that protected areas were intended to serve the colonialists. However, unlike our postcolonial Governments, the colonial one protected people and crops from raiding animals. This Government has many grips. The worst is pressing us further down below the poverty datum. Wild animals destroy our properties. Tarangire National Park wardens often invade our homes searching for “poachers.” Sometimes they beat us without reason. They even dare equal 1 elephant to 100 of us and 1 zebra to 10 people. Some of us have vacated the area due to this maltreatment.

Our brothers are increasingly migrating to urban centres where they are employed mainly as watchmen. This exposes them faster to deadly diseases, HIV/AIDS in particular. Legal provisions prohibit us from entering the park. There are, however, times when livestock escape and enter the park. We are liable for that in many ways. Surprisingly, wild beasts destroy houses and eat stored foodstuff. They compete with livestock and human beings for water in our dam, Marangori. Livestock dies from diseases like malignant catarrh fever transmitted by beasts. We have been witnessing the building of hotels and camps in the park. There are aeroplane strips in the park. The number of tourists visiting the park is increasing. Often, the most visible herds migrating across the plains are cars. All this has spoiled the sensation of wilderness, yet little if anything is said about this.

The elephant as well as other beasts’ population is increasing. The conservationists hail this increase as one of their conservation efforts success. This increase is being confused. It is mainly the result of human population growth. It pushes animals to concentrate in the park. Conservationists are not alarmed by this kind of increase. If left alone, the beasts will soon turn lush vegetation into barren land. The human beneficiaries of the park are few and largely Western professions: conservationists, keen to protect animal species from extinction and to study habitats preserved in as natural a state as possible. Other beneficiaries are tourists.

Always, we have been bilked of benefits accrued from conservation. We are neither given reports of the wildlife conservation nor do we have voice regarding the terms of benefit sharing let alone ownership of wildlife-protected areas. But we are told the animals belong to us. While there is no explanation for this all, we are shocked by the new vice called Wildlife Management Areas being adjusted abruptly against us.

The United States through her aid agency, USAID, is funding African Wildlife Foundation (AWF). AWF funds a project called Partnership Options for Resources use Innovations. The project operates in the entire Tarangire complex. It impelled the establishment of WMA programme in the area. We were threatened that if we rejected WMA then we would be evicted and the area turned into a wildlife migratory corridor. In 2000, in our absence the WMA boundaries were demarcated and 52 families were evicted by force from Mbulungu! Few of them were given plots, less than an acre per family. As a result many had to leave to unknown destinations.

The *de facto* owner of the land alienated from us is one man, who is very lucky to be fairly treated by life, an investor from town. He owns a tour company called Kibo Safaris (EA) Ltd. It pays less than TShs.1,000,000 per year to the village authorities for making business on our land. This amount is not only very small but it always falls into the bellies of our village leaders. A handful of us could generate more than this amount in a few acres had it not been for wild animals that destroy everything we do.

We wonder why we are deprived of our birthright land. We are very bitter but helpless. Had Tarangire by now been on the brink of extinction the beneficiaries of the wildlife sector would have been very concerned. We would have better life then.

Source: (Adapted from Ndaskoi, 2002).

It is not surprising to hear a consultant going to ferret out a few villagers using workshops to refute the veracity of the patriotic Kakoi and Olevolos villagers. International conservation agencies have been flattering the world that locals “like” Wildlife Management Areas. This is achieved through workshops in which corruption is used in the name of this and that allowance so as to ensure that every drop of conservation benefactors’ poison go down the throat of local communities.

5.3 Human Development Index in the Village

The primary schools available are Tarangire and Minjingu. Neither of the two was built to educate villagers' children. Tarangire, which is near the park headquarters, was aimed to provide education for the park personnel children. In 1991, out of 100 pupils who sat for Standard Seven National Examinations at Tarangire Primary School only 6 passed. All, park wardens' children or relatives. It is asserted that the trend was almost the same through out 1990s (Ndaskoi, 2002).

There are only one private advanced level secondary schools in the entire Babati District. At least a minimum of TShs.200,000 (US \$ 250) is needed to keep a student for a year in private schools. And of course the child must be fed during vacations. Very few, if any, ordinary villagers can afford private education due to poverty (earning less than US \$ 1 per day) plus endless wildlife damages. Thus for over 4 decades Minjingu village inhabited by 8,000 (?) people had never nursed a single form six leaver!

The Government may well claim that *poverty* is the factor behind this unpleasant state of affair. But this does not hold water. The thing is, the Government is suffering from kleptomania[20]. The reader will be better able to gauge the nature of looting of public funds in Tanzania if one not untypical case is examined in some detail. In the financial year 1998/1999 alone, the Government officials embezzled enough money to erect about 10 universities. The weekly *Business Times* editorialised:

A project proposal by experts on the construction of Lake University of Mwanza indicates that construction of six faculties may not exceed Tshs.8.84 billion. With Tshs.20 billion one could erect a large university anywhere in Tanzania and the university could be furnished with efficient equipment and qualified academic staff. The Controller and Auditor General (CAG) report indicates that Government officials squandered over Tshs.97 billion in the 1998/1999 fiscal year alone. The CAG complained that theft of public funds is escalating (*Business Times* March 16-22, 2001).

According to the newspaper, with Tshs.97 billion one could build about 200 secondary schools anywhere in Tanzania. There are a total of 113 Districts in Tanganyika (mainland Tanzania). The money stolen would have translated into two *modern* secondary schools in every District in 1999.

Yet the said amount of money stolen was too dismal that even the Parliament did not notice until the CAG played his patriotic and honest role! And it can also be said truthfully that the theft of public property is, though there is very little documentary evidence about the actual amount stolen every year, escalating. For example TShs.54 billion was stolen during the past financial year i.e. 2001/2002 (*The East African* August 19-25, 2002). So far nobody was held responsible.

The only place one could find a water tap and other essential services are within Tarangire National Park residential area and at Minjingu Phosphate Company Ltd (MIPCO). Since MIPCO has been put on sale the associated social services have equally dwindled. There are shallow wells drilled by the Diocese of Mount Kilimanjaro. Often, they undergo mechanical problems so they are unreliable.

Like most of rural Africa, there is no electricity in Minjingu. One of the most scaring diseases is malaria and the only public dispensary for all villages is located within the park (Ndaskoi, 2002:21).

5.4 Human-Wildlife Conflict in Minjingu Village

Apart from the fact that wild animals often destroy crops in the fields, elephants can destroy huts and eat stored foodstuffs. Between July 24 and September 09, 2001 elephants in Kakoi and Olevolos sub-villages destroyed several houses and ate stored foodstuffs. Also elephants sometimes threaten peoples' lives when they turn against villagers trying to scare them away. These events are no longer news and are not reported because, it is claimed, the authorities are unwilling to help.

Through this kind of endless destruction, the conservationists believe that local communities will be scared away from living in or adjacent to wildlife-protected areas (Parkipuny, 1991:23). Even the most cursory survey of villages bordering wildlife protected areas would show beyond any reasonable shadow of doubt that the absence of clear and genuine initiatives being taken by the Government to end these classical atrocities stand for this (Saimalie Lemoya pers.comm. 10.06.01).

These are not hypothetical cases, they are real ones, and they are not the worst. There are few cases of deaths resulting from attacks of other wild animals. Late last year a lion predated a man. No compensation was paid. Of course the "new" Wildlife Policy states, "the government does not intend to introduce a compensation scheme for wildlife damage" (MNRT, 1998:24)[21]. This is exactly what the wildlife conservation lobbyists claim "wildlife is a community development factor." This position by the supposed policy is attributed in no small measures to the Government irresponsibility. This policy is part of the main problem facing the wildlife sector in Tanzania!

The technical reports and real facts, as encountered by many researchers in and around wildlife-protected areas of Tanzania, in daily life of the local communities indicate that communities living in and/or bordering wildlife-protected areas are wrapped in an *incredibly apologetic state*! Assume J.K.Nyerere, "the number one conservator," was a man of his own words. In a meeting in 1961 called the Symposium on the Conservation of Nature and Natural Resources in Modern African States, held in Arusha Tanganyika, he issued the highly quoted *Arusha Manifesto* in which he said:

...In accepting the trusteeship of our wildlife we solemnly declare that we will do everything in our power to make sure that our children's grandchildren will be able to enjoy this rich and precious inheritance (MNRT, 1998:2, Fosbrooke, 1972, Adams & McShane, 1992; 1996:113ff).

How counterfeit of him? He never meant a single word that he said. Mwalimu Nyerere and his Arusha Manifesto must be spinning in their graves (Ndaskoi, 2002).

6 The Myth of "Community Based Wildlife Management"

Community Based Conservation is a brainchild of The United Nations Agenda 21 of the Rio Declaration on Environment and Development or the Earth Summit (UNCED, 1992). Following the horizontal expansion of land uses as a response to human population growth (PRB, 1997), there has been a dramatic increase in the demand for land. This has led to the new "thinking" in conservation.

The strength and logic of the philosophy of managing wildlife with the interest of people in mind emanates from the mesmerised traditional societies sustainable use of resources. It purposefully disregards the fact that traditional societies managed to use land resources sustainably because of technological bankruptcy, low population pressure and the then subsistence lifestyle.

Colonialism blocked this type of conservation. Thus conservationists are over a century too

late in their ambition. This is the terrible epoch to rural people who are in a vicious cycle of poverty, ignorance (of the lifestyle imposed upon them), diseases and deaths. Hence the conservationists' ambition is a fatal miscalculation; it will push ordinary rural peoples to another dead end.

Under what conservation or sustainable use reasons do the Maasai[22], for example, live side by side with the wildlife in Ngorongoro? The often-ignored fact is that technologically locals are not well equipped to wipe out lions and other fierce beasts. Sincerely, why do they need lions and elephants that are a menace as well as destructive and dangerous? It is disturbing to hear a global conservation organisation of World Wildlife Fund (WWF) calibre mincing words and escape unquestioned! For example its director general, Claude Martin, had the audacity to drivel:

I am talking about the human elements, specifically the position of indigenous people who, over millennia, have followed ways of life that have met naturally the criteria conservationists today we must work so hard to establish. For there is no coincidence in the fact that native peoples and environmental purity are to be found together (*Daily News* August 14, 1996).

What a travesty! Conservationists, whose main concern is for wild animals, may applaud such approach. The proposal harbours serious omissions and commissions in all dimensions: social, economic, cultural and political. But all international conservation agencies, without exception, are still caught up in the cement of old thinking and cannot accept that pastorals are not fools. They don't seem to borrow a leaf from Bob Marley and the Wailers piece of wisdom: "you can fool some people sometimes, but can't fool all the people all the time." Why are the Ngorongoro Conservation Area Authority and founders like Frankfurt Zoological Society (FZS) and International Union for Conservation of Nature (IUCN) threatening to eject the Maasai altogether from Ngorongoro (Parkipuny, 1991:23 & Shivji & Kapinga, 1998)? This question requires a high level of honesty.

The Maasai, just like other pastoral societies in Africa, have never planned to conserve wildlife. Probably it was coincidental. But there is a very strong thrust in the mainstream thinking that the Maasai are "natural conservators" that those opposing the myth could never hope to match. Be that as it may. The pastorals are in conflicts with wildlife especially predators, lions in particular in spite of their tolerant attitude towards wildlife. The lions feed on livestock, even if not frequently.

Practicing the *right of self-defence*, a matter of life and death, the Maasai were in constant conflict with lions, until very recently. Leturesh ole Neremitt had a reputation as a fearless warrior. In two heroic encounters, he had killed a lion and lioness single-handedly. He may be a good witness of what would have happened to lions. In a dramatic style he put it thus:

Those days we killed so many lions that they no longer roared but barked like dogs (Saibull & Carr, 1981).

While conservationists speak theoretically of community-wildlife integration, practically the local communities are experiencing no less pain in current conservation than the former preservation approach. For example, World Wide Fund supports environmental projects in Bagamoyo District, Coast Region (Eastern Tanzania). The villagers accused the projects of not involving them during the planning stages and villagers claimed that buffer zones were a neat way for the Government to grab more land from them (Kikula, Mnzava & Mung'ong'o, 2001 cited in Shivji, 2001).

Community is a soft name to lull us all to sleep (Francis Shomet pers.comm. 04.09.02). It is a piece of trickery from start to finish (Joseph ole Munga 18.08.02). The legal framework advocates Community Conservation Services (CCS), Community Based Wildlife Management (CBWM), etc. (MNRT, 2000). These are sugarcoated strategies and would not have been all that damaging *if and only if* its prime movers, conservationists and the Government, took them as policy statements.

The “policies” are dumb regarding the role of communities on existing wildlife protected areas and put too much emphasis on areas beyond those. This is virtually an extension of wildlife-protected areas (Parkipuny, 1991). Does Tanzania need additional areas for wildlife conservation after having set aside an area bigger than that that supports agriculture, the backbone of the economy? Community based wildlife conservation myth at best makes locals recipients of benefits. At worst it is a grotesque animal threatening to eat local communities up. One analyst put it thus:

It is very explosive to have wildlife-protected areas and other forms of land use adjacent to one another. If the solution to problems facing protected areas cannot be sought by evicting the people from the core areas from which the “threats” are believed to emerge, how can it be sought by integrating wildlife with "unsustainable land uses"? Will peasants and pastorals be allowed to practise their day-to-day socio-economic activities within the areas such as national parks? Conservationists may well use the “community” word. But there is no logic in this kind of thinking, only callous political expedience (Moses Masago pers.comm. 04.09.02).

The question about Participatory Land Use Planning is that whose rights count? Who should involve another? And, the formulation and implementation of these “policies” is too fast. Virtually, the reason is that inclusive and participatory is time consuming because “species are disappearing.” More than that they invite organic development of consensus on some of the sensitive issues. The legislative experience of Tanzania especially with relation to natural resources and environmental management has been against enabling and mandating the communities to manage such resources. Most of these laws were and are based on the command and control approach (Kabudi, 2001:5).

The donors and conservation agencies, whose institutional memory is notoriously short (Shivji, 1997), forgot all the bitterness Tanzanians have as far as communal ownership and management is concerned. The privatisation bug sweeping across Tanzania is due to the fact that the directors looted parastatals clean. Yet neither donors nor the Government is alarmed!

The hidden agenda of the new conservation myth is relatively apparent in the “Tarangire complex”. Here the U.S.A. through its aid agencies like African Wildlife Foundation (why it is not American Wildlife Foundation?) is *crucifying* locals in the name of the Community Based Conservation.

Tarangire National Park supports one of the largest populations of elephant of any protected area in Tanzania. It is estimated that between 1,550 and 3,300 elephants[23] populate the park during the dry season, with two-thirds of these animals dispersing into surrounding areas during the wet season searching for food. Tarangire now ranks number three in terms of revenue generating after Kilimanjaro and Serengeti National Parks respectively (*Business Times* March 3-9, 2000). The survival of the park has become a matter of grave concern to conservation biologists following the growth of what is claimed the threats tampering with the raw nerves of the park's biodiversity. With an obvious bias in favour of wildlife, the activists scream for the need to protect the areas adjacent to the park as if the only legitimate socio-economic activity in Tanzania is wildlife conservation.

To the activists, unsustainable land uses include cultivation, overgrazing (not of beasts but livestock) and human settlements. The areas they speak of are those beyond protected areas boundaries like the so-called “foraging grounds, breeding sites, dispersal areas, wildlife migratory routes and corridors.” Thundering of this magnitude disturbs because the fanatics

ignore, deliberately, the fact that while local communities have for decades been shouldering the burden of wildlife conservation by bearing sufferings inflicted on them by the pachyderms in many ways, there are legal provisions which make communities liable whenever they cross the park boundary.

Some of the provisions [?] allow even shooting on the spot of any unauthorised person who crosses the border. In the war to save Africa's "vanishing wildlife", any poacher must be shot (Adams & McShane, 1996). To illustrate the point that has been made so far one can do no better than recount the Serengeti tragedy. This incident occurred in 1997 and became a big scandal. The following beef from Legal and Human Rights Centre based in Dar Es Salaam is dynamite. Let *The Guardian* tell:

In 1997, there was an acute drought, which caused hunger in Tarime District of Mara Region. As a result villagers went out (carrying bows, arrows, spears and pangas) hunting to survive. Serengeti National Park wardens killed 20 villagers alleged to be poachers. This was seen as a fulfilment of an order made by the Minister for Natural Resources and Tourism, Juma Ngasogwa, in 1994. He said that poachers should be shot on sight. "Ten hunters fled. The rest were arrested. We were lined up in a single file. With one bullet through the head, the warden killed all except me," Juma Sangire, who lost a younger brother in the shooting said. Wardens shot one of the poachers in the belly after he had surrendered. Six "poachers" were arrested and taken to Borogonya post where they were taken into the bush and shot (*The Guardian* May 11, 2000).

This order displays the cruelty of a he-goat such as it have never be seen in Tanzania! It makes one fail to resist asking for how long conservationists will defy all logic while the local communities stand aside and look. Questions remain as to who was ultimately responsible for this murder. The Government has denied being responsible for the killings. This and the whole train of events had turned Tanzania into a pocket edition of apartheid South Africa. To communities bordering wildlife-protected areas, who are condemned from the cradle to the grave because of *tourism*, it seems that the difference between the former apartheid South Africa and today wild Tanzania is one of degree and not of kind. If the situations were reversed and the villagers treated tourists as they are treated, the problem would be seen by the outside world exactly for what it is and has been.

Despite there being no legal provisions for corridors, buffer zones, nesting sites etc. areas in Tanzanian Law, the areas have been and still support wildlife. These areas are homes to hundreds of thousands of peasants and pastorals living in several registered villages bordering protected areas. The fate of these people is not known as Western countries through various conservation lobbyists in collaboration with the Government threaten to evict indigenous people from their lands.

Conservationists argue that since no protected area can be a self-contained ecological unit, the core areas, which link the park with other wildlife-protected areas and habitats, should remain intact for the park to maintain its reputation as an "important bio-diversity hot spot." Maintaining this reputation, it is argued, is in dilemma due to human population growth coupled with demands for land uses that "are not compatible with conservation." They add that if the increased activities in the areas encircling Tarangire National Park (TNP) are not halted, fragmentation will intensify thus the park will become an ecological island.

The effects of land use that are not compatible with conservation interests are well documented for Kwa Kuchinja "Wildlife Corridor" (KWC), a critical corridor providing ecological link between TNP and Lake Manyara National Park. Tarangire Senior Park Warden, Edward Lenganasa, asserts that the area of TNP is 2,600 km² and so it cannot be addressed without considering the entire ecosystem which encompasses about 20,500 km² of the Maasai steppe, including Lolkisalie, Simanjiro Plains, Mto-wa-Mbu Game Controlled Areas etc.

Human-wildlife "integration" approach implies saving wildlife and not both wildlife and the

local people. This is expansion of wildlife-protected areas through the Community Based Wildlife Conservation myth. The land is appropriated and then the communities' interest is ignored thereafter (see box 5 above). These policies are not developmental rather they are anti-people. They make the indigenous land buffer zones for urban and alien people. Why should the indigenous people sacrifice their land for wildlife conservation, which supposedly has a worldwide advantage? This implies strict control of development of locals in the areas outside wildlife-protected areas:

“...When Serengeti, Amboseli and Maasai Mara were first gazetted, the authorities conceded the rights of the Maasai to continue to live in these protected areas. In due course, however, the pastoralists were forced to vacate their lands. In 1957, the late Professor Bernhard Grzimek offered to raise money with which to purchase the whole of the countryside now occupied by Serengeti National Park and the Ngorongoro Conservation Area (NCA), exclusively for wildlife protection and tourism. When the British colonial authorities turned down that offer, he came up with an alternative proposal to place the area under the direct jurisdiction of the United Nations. The idea of annexing the Lake Natron basin to the NCA was mooted in the early 1980s. The Frankfurt Zoological Society has proposed the expansion of Manyara National Park and the establishment of a new conservation area in Simanjiro to cushion Tarangire...” (Parkipuny, 1991).

Roderick Nash supported the proposal to put Serengeti on sale: “If Tanzania could not prevent poaching in the Serengeti, we will just have to go in and buy the park...” (Nash, 1967). So where is the guarantee that “the international conservation community” would not do just that? Even ten years after the Rio Conference, in which the so-called community conservation was born, the ghost of the Grzimex is still haunting communities living in and/or near wildlife-protected areas.

At independence, Tanganyika human population was relatively low making land use conflicts rare, under the conditions of technological bankruptcy. Part of land could easily be set aside for the conventional wildlife protection areas without seriously inconveniencing indigenous people. Today Tanzania human population is about 33 million people. One can deduce that the reason for the new tricks called human-wildlife integration is, virtually, a fulfilment of the dreams of widely praised conservation founders, Grzimek et al. The promise of prosperity in “technical papers” is solely meant to enable the conservationists to implement tempestuous decisions without provoking physical confrontations. Thus only the wait-and-see group and its creators can applaud this myth.

Limited investment in wildlife and agricultural sectors coupled with the limits set by nature has resulted into an increase in demand for land to sustain the two. The expansion of the former is among the major sources of land and social conflicts in Tanzania (Ndaskoi, 2002).

Central in these conflicts is crystal clear treatment of conservation as purely a technical science. “The perceived role of science in African conservation springs in part from a deep faith in the scientific method. Science and technology are the most powerful tools that the West has at its disposal. The inhabitants of the primeval African wilderness cannot protect it, many people outside Africa believe, so it follows that the West must take on this task and must send in its finest troops, the science foot soldiers” (Adams & McShane, 1992). Today conservation realities are overwhelmingly social, cultural, economic and political. The successes or failures of conservation are squarely dependent on the extent to which these realities are appreciated (Ndaskoi, 2002:26ff).

Integration of locals into protected areas has remained theories and useless legislation. Strategies for the integration have been so far focused on avoiding conflicts regarding the use of natural resources, and reduction of pressure of local communities on natural resources. Integration as an account for mutual benefit that results from a participated scheme is out of place. Local communities have been focused as threats to wildlife protected areas and not the other way round. The following quote is an example: “...pastoralists are displacing elephants from their former home ranges at an increasing scale” (Siege, 1995:3). “...the preservationists exonerate the wildlife population of well over two million animals,

despite the fact that these animals utilise the same rangelands as only 275,000 livestock". Locals are viewed as nests of potential poachers. As far as the Authority is concerned, the good Maasai in Ngorongoro are individuals who work as informers (Parkipuny, 1991:23). It is crystal clear that the so-called "participation" is virtually aimed at destroying these nests.

Condemnation of pastoralists and cultivators as simply trouble-mongers who must be dealt with has never ceased since 1992 when the Rio Conference came up with the CBC philosophy. For example, Dr. Jafar Kideghesho of Wildlife Management at Sokoine University of Agriculture has written a number of papers clamouring for CBC. Yet he writes, "Habitat degradation attributable to severe overgrazing by livestock was the major cause for the decline. The eviction of Maasai pastoralists from the reserve [Mkomazi] in 1988 reversed the situation by lessening the degradation and thus restoring the conducive environment for wildlife species" (Kideghesho, 2001). He does not seem to have even a clue that eviction of people from their land, under any cover, is a "gross violation of human rights." Praising such crimes should not come from someone who is trumpeting for CBC.

Concerns over spreading diseases from livestock to wildlife have not ceased either. One animals fanatic wrote: Buffalo herds in Western Serengeti rarely come into contact with cattle. "It had not been possible for them to avoid the killer viruses normally transmitted from domestic animals" (*Kakakuona*, January-March 2002). This is an inverse to a layman correct understanding. That Africa's wild animals, particularly buffalo, are reservoirs of the foot-and-mouth disease (Adams & McShane 1992:143). It has not even been "scientifically" denied that wild dogs, foxes and others are not carriers of distemper and rabies. But conservationists cannot see all that. What insolence!

The photograph on Grzimek (1960) between page 96 and 97 show poachers. Another photograph on *Kakakuona* April-June 2001 page 63 shows "a poacher carrying his day hunt." Indigenous people are blamed for the damage they have not caused. There is neither a photograph in the said Grzimek nor in *Kakakuona* showing a global person, corpulent, male, white, suited and cigar smoking who grow wealthy on blood shed of African wildlife. (If there were, he might sue).

Often the hunters or conservationists kill animals to get a thrill (Fosbrooke, 1972:97). Culling is defended. Itself is a horrifying spectacle. "Rangers sport the elephants by helicopters, then move in with automatic weapons and slaughter an entire herd in minutes, amid the screams of panicked elephants" (Adams & McShane, 1992: 76). Condemnation of traditional hunters is the continuation of the arrogance which exists among conservationists even at this era of "community conservation".

Fat contractors, corrupt politicians, international companies and consumers from the North are hidden from sight. Who apologises? Who sees even the cause for apology? Better to blame the victim than to bear the responsibility oneself (Chambers, 1997). But the Community Based Conservation hullabaloo!

In Tanzania this myth is practiced in a deliberately bent approach. It overlooks the human side of things in its thrust to save the "perishing" African wildlife (Parkipuny, 1991). The point need not be belaboured. Suffice it to quote from Jonathan Adams and Thomas McShane's *The Myth of Wild Africa: Conservation Without Illusion*, which put it thus:

In the village of Macao, southeast of the Serengeti National Park there is a regressive Programme. A hunting company operating in the area, using a donation from an American businessman and conservationist, established a US \$ 30,000 fund to compensate villagers who pick up wire snares at the rate of US \$ 5 asnares. The money also goes to villagers who volunteer information leading to the arrest of poachers, or to the confiscation of a weapon or vehicle that has been used in poaching. This reward scheme, essentially a *bribe* [emphasis added] paid to rural Africans by rich Americans, stands in direct opposition to the trend toward involving local people in conservation in a meaningful way. The reward scheme cannot support itself, and will last only as long as the benefactor continues to sign the checks (Adams & McShane, 1996:141ff).

The most celebrated (now the most criticised) example of WMAs is the pilot implementation of the Wildlife Policy 1998. The pilot project funded by the Department for International Development (DfID) in Iringa District of Iringa Region adjacent to Ruaha National Park is MBOMIPA the Kiswahili acronym for *Matumizi Bora ya Malihai Idodi na Pawaga* that translates into Sustainable Use of Wildlife Resources in Idodi and Pawaga (Walsh, 1995). Idodi and Pawaga are Administrative Divisions in the District. Donors praised the project and alleged that even the local communities liked it, only that the local authorities plunder the supposed benefits (Walsh, 1998).

The “experts” praise the project as having resulted into more than TShs.20 million raised from the sale of combined game quota for year 2000. This income was divided equally between 18 villages in the project area, but the resident hunters were extremely angered by their exclusion from their favourite hunting grounds in Lunda-Mkwambi. The District Council at various times has made it clear that MBOMIPA is *anational project and the financial management of the project is the responsibility of DfID* [added emphasis] (Walsh, 1998; 2000).

In 1998, the Usangu Game Reserve was gazetted “to protect the Usangu wetland from the depredation of livestock-keepers and others, and to add a buffer zone to Ruaha National Park.” This worried the pro-MBOMIPA activists on the ground that the reserve might reduce their space in the African sun (Walsh, 2000:12). But MBOMIPA villagers said that the project had been turned into a “private property” (*The Guardian* September 25, 2001). Conservationists do not see this, apparently.

The obvious bias of policy makers serve the case study as to how they do not really mean what they say. To an astonishing degree, a single project can be quoted and re-quoted at conferences and in papers without any thorough analysis (Chambers, 1997). Is it not fantastic for the rather poor local communities to earn TShs.20 million in just one year? Not so fantastic when one considers the fact that the said amount was “thrown” to 18 villages with, doubtless, hundreds of thousands of villagers. If an average of 1000 people inhabit a village, a villager literally earned TShs.1,111 (about US \$ 1) in 2000, enough for a one-person-lunch in an average hotel in Iringa town! In short, MBOMIPA is virtually a total failure. The following quote is revealing in this regard:

When the opportunity cost of investment funds is considered, the project seems very likely to *impoverish* [emphasis added] Tanzanians though it has brought some limited benefits to a small number of poor people (DfID, 2000 cited in Walsh, 2000:15).

Strangely, how much local communities earned is waved. How much did foreign “hunting” and tour companies operating within the project area earned and take home in that same period? How much must have been pocketed by trespassers from United Kingdom who are pushing the MBOMIPA?

There is no doubt that hunters from the North gravely need wildlife to kill. The hunting business tends to be profitable compared with other related wildlife enterprises and is the largest foreign exchange [currency is the correct term] earner in the wildlife sector. During the 1996/1997 tourist-hunting season, for example, a total of 937 hunters came to Tanzania generating approximately US \$ 8.15 million. In comparison to photographic tourism, 326,194 tourists came to Tanzania in 1995/1996 season and generated US \$ 322 million (Sikoyo, 2001 & Hanlon & Sikoyo, 2001:3).

Unfortunately, to “hunters”, hunting is strictly prohibited in the national parks and Ngorongoro Conservation Area. And hunting in Game Reserves is very expensive due to the wide range of fees paid by the outfitters (Sikoyo, 2001:25). And photo tourism is claimed to be expensive in national parks and Ngorongoro Conservation Area. Community Based Conservation is virtually aimed at expanding photographic and hunting areas to reduce the cost *at the expense of local communities*. At the same time, contributes to the main “strategies of conservation” (Hanlon & Sikoyo, 2001:18)

Another laughable side of Community Based Conservation is that it is wrongly believed that wildlife accrued benefits could be better managed and looked after if other than public body is involved. That is not to be. For anybody or group in the so-called local authorities is a fallible. They behave exactly not unlike those in the central Government. The point need not be belaboured:

It is noted that *poor* [emphasis added] attempts have been made to allow participation of the people in the collection and utilization of revenue derived from the Game dispersal areas. The idea makes sense. There is a difficulty though. The Government has abdicated its duties. The responsibility of management of the collection of revenue both on behalf of the local residents and the Local Authorities was entrusted to what in Kenya is called the Kenya Association of Tour Operators (KATO). This non-government body misbehaved and ruined the new spirit of wildlife management both in the Reserve and in the dispersal areas...There are looming litigations against KATO for the misappropriated and stolen revenue (Keiwua, 2002).

Environmental and conservation fanatics have failed to grasp the main issues as a result of over-attention to unnecessary and/or irrelevant details. Assuming that the objectives of rural development are genuine, that is, they are geared towards improving the welfare of the rural people and not “the people and the nation” as always blanketed by these policies, marginalisation is out of agenda. In a nutshell, the conservation burden cannot be wished away with a magic wand or even “concerted” campaigns, not even by boxloads of “technical papers.” Conservation in Africa cannot be written out and followed like a road map (Adam & McShane, 1996:263).

Lay people can be forgiven for accepting this myth for the first task of many rural people is to find out what threats or opportunities development theorists may be bringing. It is then a question of saying and showing whatever will minimise penalties and maximise gains (Chambers, 1997). But it is upsetting to hear analysts of Jonathan Adams and Thomas McShane calibre stooping in favour of the so-called Community Based Conservation. The co-authors threw up their hands in despair:

The integration of conservation, science, and development has begun in earnest across Africa, from Zimbabwe in the south to Gabon in the west to Tanzania in the east. As with any pathbreaking efforts, these projects have proceeded in fits and starts. Failure may outnumber successes for some time to come, but there is simply no other choice (Adam & McShane, 1996: xix).

Indeed! Absence of alternative cannot *justify evil*. Deception is worse than silence. Most certainly, neither Jonathan nor Thomas can drink a deadlier poison as an option for water when he is gravely thirsting and there is just no water. Above all, who are they to rule out “there is simply no other choice”? The well off can afford to be short sighted; the poor cannot. For example:

To get them through the hungry season, a household in Mali cut consumption to one meal a day in order to avoid having to sell a traction animal (Davies, 1996:253). A woman in Sudan leaving her village in famine, preserved millet seed for planting on her hoped-for return by mixing it with sand to prevent her hungry children eating it (Chambers, 1997). A Maasai family drink more blood when there is no milk to prevent constant slaughter of livestock.

Contrary to popular belief, it is less poor and weak and more the rich and powerful who take the short-term view. Economists discount future benefit: the further off benefits are, the less they are worth now. Contractors grab fast by clear-felling forest and getting timber quickly. Politicians constantly court popularity and set their sight no further than the next election. Professionals and outsiders underperceive local process. The learning of scientists tends to be stepwise, that of local people incremental. Local people are continuously observing and experiencing (Chambers, 1997). Western development theorists must leave Africans alone.

As long as the intervention continues, there will never be any meaningful development in Africa (Fanon, 1972 & Rodney, 1976)!

The community conservation myth is an alien thing. It is an ideological smoke-screen that perpetuates the realities of conservation failures. It is an attempt to avoid responsibility of past mistakes. The first task must be to transform the apologetic state the communities are wrapped in by addressing their misgivings. Not peddling the new rhetoric (Fred Majaliwa pers.comm. 02.02.00). But almost everybody in the development profession, wildlife in particular prefers to mime and parrot the conservationists' ideology without a critical look at what s/he embraces so well.

Should one be sincere, an ordinary pastoralist cannot choose wildlife instead of livestock as the colourful conservation fallacies might lead one to believe; an ordinary peasant values his crops. The praised villages in Tanzania like Minjingu, Ololosokwan and 18 villages in MBOMIPA "accepted" the myth due to the fact that the villagers were either flattered or intimidated or both to accept it. What is the justification of a state of affairs where villagers gravely want land as a response to human population increase yet the same people set aside part of their village land for wildlife conservation that they do not benefit? This is one of the seven wonders of the modern world!

7 Lessons from other African Countries

The Communal Areas Management Programme for Indigenous Resources (CAMPFIRE) in Zimbabwe is the only more publicised experience. A great many records have been written about it. Twenty-five of the literature cited in this paper praised the programme. CAMPFIRE dates back to 1975, when Africa's most heinous dictators-Ian Smith and his gang-formulated the Parks and Wildlife Act (UNEP & KWFT, 1998). It is being implemented in the African areas (then called Native Reserves and later Communal Areas), to *disarm* Africans of even their barren land.

One even need to know in detail what CAMPFIRE means in Zimbabwe where 95% of all wealth is controlled by about 100,000 whites leaving almost nothing to 12 million Africans (Maredza, 2000). And the tourism sector in Zimbabwe is not for black Zimbabweans. Professor Katama Mkangi, a Kenyan who teaches Sociology and Community Service at the United States International University in Nairobi, visited Zimbabwe in September 2001. He reported the following:

I expected the Air Zimbabwe flight to be half full [following the campaigns in the world media that President Robert Mugabe is rushing the whites]. To our surprise, the plane was full of white tourists with a sprinkle of "coloured" tourists like us sticking out like a sore thumb in a barren desert of white. And at the famous Victoria Falls Hotel where we spent five days, we [Mkangi, his wife and two children] were the *only* [emphasis added] African tourists. Definitely I felt more of being a foreigner despite the valiant efforts by African staff to make us "feel at home" (Mkangi, 2001).

In his graveside eulogy, *Zimbabwe: Life After the Election*, Baffour Ankomah the editor of New African, recorded the land tension in Zimbabwe. In the most analytical and impartial style he wrote:

"It is generally said that 4,500 white commercial farmers own 70% of the best land in the country. But you have to see it with your own eyes to fully understand what that 70% translates into. The whites virtually own the country. The blacks, dispossessed of their land by the Rhodesians in colonial times, are just mere tenants in their "own" country. They don't own the land, the descendants of the mainly British settlers who arrived in 1890 and pillaged their way across the country, own it. They don't own the economy either... If you don't own the land and don't own the economy, you are a *tenant* [emphasis added] renting space in your own country and living at the sufferance of those who own it" (Ankomah, 2002).

This is a shock therapy for any intellectual who naively regards CAMPFIRE as a success story.

The bragged about Community Based Wildlife Management “success” in Botswana, Gabon, Kenya, Malawi, Mauritius, Namibia, South Africa and Zambia sparks more questions than it answers.

For the sake of this paper, Kenya is spotlighted in some details. The reasons for this move are mainly: (i) until recently Kenya was leading in attracting the bulk of the Sub-Saharan Africa tourist trade (see Table 4 below), (ii) Kenya “is the most reliable guardian of wildlife in Africa” (Adam & McShane, 1992:70), (iii) it is, among the leading countries facing land conflict in Africa and (iv) other Africans are not economically better than Kenyans and in fact in some cases they are worse.

Table 4: Market Share of Visits to Wildlife protected Areas in Sub-Saharan Africa

<u>Destination</u>	<u>Share percentage of Market</u>		
	<u>US</u>	<u>Europe</u>	<u>Japan</u>
Tanzania	7	2	3
Zimbabwe	8	3	-
Kenya	34	26	37
Other	49	69	60
All	100[24]	100	100

Source: (MNRT, 1996:6)

Prior to the coming of Europeans to Kenya, Maasai land rights, were bundled together and vested in the community, to hold in trust for use of the Maasai people. The community knew the extent of its land. Any encroachment by outsiders was repulsed by force of arms. Protection by the community of its land, worked so long a power not mightier than that of the Maasai was not in the picture.

When the British and German Governments drew a straight line across the map of East Africa at the end of the 19th Century, thus creating the German and British colonies of Tanganyika and Kenya, they also cut across the land of the Maasai. This territory was 500 miles long and 110 miles wide.

The larger portion of it lay in Kenya and the present larger city of Nairobi, which is the capital, still bears a Maasai name. Nairobi means “cold” in Maa. “Because the highland around Nairobi has a climate eminently suitable for Europeans this territory was the first that the Maasai had to leave. In 1911 they were even persuaded to give up the whole remaining northern portion of their land, which was then also occupied by Europeans. Thus they had to abandon the best parts of their country, where there was plentiful grazing and water even in the dry season” (Grzimek, 1960: 181).

The British who came, saw and coveted the land disrupted communal land ownership. A hasty study of the Maasai was undertaken with equally hasty conclusions made. The rights of the Maasai to own their land had been watered down to mere grazing rights. “Sir Charles Eliot cannot in fairness call the Maasai wanderers. Between the Maasai on their land, and the British who had wandered all the way from little England, who was a wanderer? It was no honour for the British to go out as bullies to scavenge for other people’s lands” (Keiwua, 2002).

A Kenyan Maasai was bitter about the British treatment of his people. He put it succinctly thus:

They tricked us! The British tricked us! After we had been weakened by civil wars and droughts, they claimed that our Great *Laibon*, O'lonana, had signed an agreement in 1904 with His Majesty's Commission for the East African Protectorate, leasing Kenya to the British. The Maasai would never have accepted such a lease! This would have confined us to an arid, dusty land of thousands of miles where the threat of drought is always imminent, and the pastureland is barren and absolutely worthless (Saibull & Carr, 1981).

The Kenya Land Commission Report 1933, made it impossible for any future claim by the Maasai to the lands in the Rift Valley, to be entertained both by the British and the incoming African Government. That was their fate at the Lancaster House conference in London. It was the last straw. Other land losses came via gazetted Game Reserves (Keiwua, 2002).

The colonial Government signed the death warrant for the Yaaku community at the turn of the last century. While white settlers and visiting sport hunters were allowed to hunt game, the Government outlawed this for Africans. Ninety-year-old Leboi Lentula, one of the last five known of the Yaaku community said:

People would be arrested, shot or whipped for killing wildlife. Our people knew no other way of life. Our lifestyle was turned upside-down. The ban on hunting struck a deathblow to the survival of the Yaaku People (*The East African* September 16-22, 2002).

Unlike Zimbabwean land impasse, the "world" media: CNN, BBC, DW, etc. do not trumpet tension over land in Kenya. This bias is basically due to the fact that Britons (the British military show-off) and politicians are enjoying land appropriation in Kenya. The following excerpt is evidence:

Legend has it that the 5,000 or so Ogiek who live in 35,000 hectares of East Mau Forest in Western Kenya are fashioned from the soil of the forest, which God scooped up from the Mau escarpment at the time of creation. But if the Kenyan Government gets its way, the Ogiek will soon be scooped out of the forest by the Government plan to turn over 170,000 acres of public land, including prime forests, to private use. In October, the Government issued a legal notice of intention to excise the said area. The Ogiek have responded by writing a notice to the Minister of Environment and Natural Resources, Katana Ngala, asking him to reverse the decision. Ogiek have another case in court, filed in March, seeking a reversal of the same decision. In both cases, they argue that the forest excision is in contempt of a 1997 high court ruling that said outsiders were not to interfere with Ogiek land. "The forest is the source of livelihood of the Ogiek," said Odenda Lumumba, the Co-ordinator of Kenya Land Alliance (*New African* December 2001).

Kenya is a country in which Britain tests its new military hardware. Unfortunately this is done in Districts like Narok and Kajiado where it is claimed that local communities have managed to benefit from wildlife. Maasai and Samburu community leaders are demanding to see the contents of the military pact that allows Britain to freely use the two communities' rangeland.

Another much taunted view in Kenya is that the country has had the widely recognised land reform in East and Southern Africa. Also the R.J.M. Swynnerton 1954 report on "How to intensify the development of African agriculture in Kenya" was aimed at the privatisation of land ownership through the displacement of Indigenous Land Tenure system and replaces it with a system that entrenched private property rights along the lines of the English Land Law (Lumumba, 2001:4).

In the Memorandum to the Njonjo Commission on Land Law from the Communities of Ololulunga and Melelo Locations of Narok District, the communities wrangled that the Constitution of Kenya contains elaborate safeguards against violation of the right to private property. It matters not whether such private property is group owned land under the Land (Group Representatives) Act (Cap 287). Yet a Councillor from Mulot side, who in a public baraza called by the Provincial Commissioner, Rift Valley in 1999 to reconcile the Maasai and the Kipsigis, dared to say that the Kipsigis would continue to invade Maasai owned land until such time the Maasai had given birth to enough children to fill up their land (Mwenesi, undated).

In the Memorandum of Grievances, to the Commission of Inquiry into Land Laws of Kenya, from the communities of Lloodoariak and Moriso Land Adjudication Sections of Kajiado District the communities, had the following to say:

We the distressed and deprived communities of Lloodoariak and Moriso were encouraged by the words of the Commission's chairman who pledged to Kenya Public that all titles acquired otherwise than in strict accordance with the legal procedures will be cancelled. We believe you Mr. Chairman. We also believe that in this pledge your Commission has set out to put right what had been put wrong by the failure on the part of those who were supposed to impartially and disinterestedly administer the law. It was the waywardness in the non-application or observance of the clear and unambiguous provisions of the Land Adjudication Act (Cap.284) that is responsible for our being deprived of our ancestral lands in these two Land Adjudication Sections. The provisions had been misused and abused by a no less a person than the then Minister for Lands and Settlement, whose wife, despite not being an ordinary resident of any of these sections, was enabled by equally unscrupulous Government officials to acquire two farms, one in each of these Land Adjudication Sections. To our mind, that was the clearest case of abuse of office. We are at a loss why this-well known-then-Minister has not been made to face the full force of the law (Mwenesi, undated).

In Kenya, the most fruitful areas of the Maasai country have already been converted into wheat farms run as co-operatives (Watschinger, undated: 194 & Parkipuny, 1991:10ff).

If land grabbing in Kenya is so widespread, what is the justification of Community Based Wildlife Management "success" in that country? What are the social, economic, and political implications of the wildlife extension projects to ordinary Kenyans at least in Kajiado and Narok Districts?

The Maasai are victims of the ravages of wildlife. The British foresaw, that in the event of the Maasai showing a disposition towards improved pastoral or agricultural methods, those obstacles the existence of Game Reserve present should not be allowed to stand in the Maasai way. Decades have gone by. Yet no step has been taken to ameliorate these ravages. The burden of having to look after and share resources with the wildlife is still on the Maasai shoulder like ever before. In Maasailand, it must be emphasised, land grabbing is among the main threats facing communities.

It is suggested, for those willing to avert disaster, the Kenya Government included, that immediate steps be taken to put to an end the forced take over of group land by members of the Kipsigis community in Transmara and Cismara areas. As to lands lost in the adjudication stage, the Government is advised to return this to its owners. Group land should not be subdivided senselessly. The Government, should at once, re-look into the whole matter (Keiwua, 2002).

Kenyans are threatened by acute poverty. But the Government had the audacity to destroy wealth. "...Richard Leakey, a genius at wining converts to his point of view, also fought on the side of ivory ban. At Leakey's urging, Kenyan President [Daniel Arap] Moi put the torch to a 12-ton pile of confiscated tusks worth an estimated \$3 million. It was a public relation coup of immense proportions, but many people, in Kenya and elsewhere, felt Moi would have been better off selling the ivory and using the money to upgrade the management of the parks" (Adams & McShane, 1992).

One could go on and on citing incident and after incident scandalous problems facing Kenyans in relation to wildlife. But that is not necessary. Suffice it to say that in sharp contrast to Tanzania, the only thing worth of praise in Kenya wildlife human relationship is her legal provision, which stipulates compensation for wildlife damages. The Wildlife Act of 1979 Section 62 (1) states:

...where after the appointed day any person suffers any bodily injury from or is killed by, any animal or suffers any damage to loss of crops or property or, in the case of a deceased person, any other person who was dependent upon him at the date of his death, may make application to a District Committee established by this section, for the award of compensation for such injury or death or damage or loss (GOK, 1977 cited in Parkipuny, 1991:15).

Even if this section is clearly not ambiguous, it has all along been either like a toothless dog or grossly abused or both. Justice ole Keiwua's comment on this is revealing:

...the Government owns all the wildlife in the country. Any killing without good excuse is punished severely. Compensation is limited for death and personal injury, presently meanly assessed. Compensation for loss of crops was abolished. This was due to the abuse of the provision by Government officials big or small. Each of these came to "own" a wheat farm in the game dispersal areas. These were used to siphon off the compensation money, before any of it, reaches the real and genuine losers (Keiwua, 2002).

Sight should not be lost of the fact that there is the remaining task, to make the quoted section work. Parroting that Community Conservation in Kenya is successful does not help much.

The myth of "Community Conservation" can never really help local communities develop independently; if anything, its aim is the exact opposite. Why is it that countries like Tanzania with immense wildlife resources are the ones faced with abject poverty? The United State of America has set aside less than 4% of her land for conservation (Adams & McShane, 1992: 103).

Disturbingly, rich countries use the vast majority of Earth's available resources. They, with 25% of the world human population, use up to 75% of energy, 80% of all commercial fuels, and 85% of the timber. In one year, a single American uses the same amount of energy as 300 Africans. Coupled with greater life expectancy in the USA, this means that each child born in USA will be as great a burden on the environment-as represented by energy use-as 500 Africans. It is thus very unfair to demand further sacrifices from Africans, given these figures (ibid: 232).

8 Plan of Action: Truth is the First Casualty

There is a need to find out the truth by asking specific questions to various conservation and environmental lobbyists about these allegations. Regardless of who asks the questions, there is no reason that they should not willingly answer the question, as it is these same groups, which are clamouring for transparency. The charges made are of grave concern, and the implications for the future of the country are dramatic. Local communities deserve the answers to these questions.

Ensuing silence instead of a response will reveal that truth. The answers to these questions will surely win the day if searched immediately. The guilty perpetrators are going to try and come up with some excuse to talk their way out of what they have done. That is just what they must not be allowed to do. If they then come out with some nonsensical propositions, few will believe them.

There is no reason why an inquiring and disinterested media cannot also ask the same questions in searching for truth and transparency, especially when the answers to the

questions might have such an impact on the majority of Tanzanians and all Africans. Meanwhile, others can go to various platforms and different politicians in the effort to obtain answers to the action plan questions. Intellectuals should take this issue seriously with great resolve. Below are the kind of questions would need answers which are satisfactory.

Why did the Government “trust” Professor McAuslan, a Briton, to draft the new Land Act 1999 while the British colonial state is the root cause of the land tenure crisis in Tanzania? Why not hand over the existing protected areas like national parks to “local communities”? Why did the Orttelo Business Corporation build permanent structures like an airstrip and others in Loliondo?

From Tanganyika, England had stolen among other things, the largest ever-recorded ivory. Senoussi, an African slave of the ivory trader Shundi, an Arab from Zanzibar, shot the largest elephant ever recorded with tusks 3.17m and 3.10m long in 1898 at Mount Kilimanjaro. The tusks are in the British Museum in London (*Kakakuona* April-June 2000). There is almost a similar story that states that the longest ever recorded tusks are a pair from Congo preserved in the National Collection of Heads and Horns, kept by the New York Zoological Society in New York (McWhirter, 1980). When will these valuables and others be returned to their original owners?

Africa lost over 65,000 elephants since the enactment of the ivory ban. Do these figures show that the loss of 65,525 elephants over the last six years [from 1989 to 1995] is much less than were being lost during the days of the ivory trade so that it can be concluded that the ban is successful? (Adams & McShane, 1996:255). What is the success in this regard? Between 1988 and 1992, 154 elephant were licensed to be shot in Tanzania. Who shot them, why and how much he earned?

The construction of an electric game fence around the residential and agricultural areas initiated significant changes in Zimbabwe (Nabane, 1996:47). In 1931, only twelve elephants—two young males and ten females—remained in the area that latter became Addo Elephant National Park, some 450 miles East of Cape Town in South Africa. In 1954, the park authorities constructed a fence of railway ties and cables around 5,400 acres of the park. As human population pressure increased in the region, the elephants thrived within the fenced park; in 1964 there were 35 elephants, in 1976 the number reached 77, and by 1991, 173 elephants lived in Addo (Adams & McShane, 1992:83).

In Galapo and Minjingu villages, villagers opined that Tarangire National Park be fenced on the ground that that is a lesser of two evils[25]. Who could explain what is wrong in fencing wildlife-protected areas in a country like Tanzania whose human population is increasing? What is so special to Tanzania that it is wrong to have “ecological islands surrounded by seas of human settlements”? What is the rationale of condemning locals that they are blocking wildlife migratory corridors while it is development paradigms that pushed these communities into those areas?

The Kenyan Government is liable for wildlife damage. Why should the Tanzanian Government refuse to be liable while communities are liable if found with trophies?

In 1966, the parks in United States of America attracted 112 million tourists (Fosbrooke, 1972). When will Tanzania do the same? If it does can it be claimed that it will mark the end of poverty?

These questions and many others posed in this paper are but a fraction of the total. They have to be answered by both the Government and the “international conservation community”. Any attempt to avoid answering these questions is additional evidence of a ploy that conceals sinister objectives. Truth must be put forward first. The truth will see the light of day and local communities will win.

Tanzania is one of those countries whose laws and policies are blatantly upside down. For instance the Government has pledged to protect the right to live and the right to property. The policy of the same Government states that the Government does not intend to introduce compensation schemes for wildlife damage (MNRT, 1998). Any Government that is unwilling to defend its citizens has already lost the moral authority to rule. That is the whole point of having a Government.

The Presidents of Tanzania and/or their Governments have been abusing office. For example the Government of President Ali Hassan Mwinyi is responsible for Loliondo Gate scandal. But it is next to impossible to sue the President. The Constitution of the United Republic of Tanzania stipulates:

Wakati wote Rais atakapokuwa bado ameshika madaraka yake kwa mujibu wa Katiba hii, itakuwa ni marufuku kumshitaki au kuendesha mashtaka ya aina yoyote juu yake mahakamani kwa ajili ya kosa lolote la jinai. ...haitaruhusiwa kufungua mahakamani shauri kuhusu jambo lolote alilolitenda au alilokosa kulitenda yeye binafsi kama raia wa kawaida ama kabla au baada ya kushika madaraka ya Rais...(JMT, 1995:43).

A constitution like this has no right of existence at all. It should take the back seat, paving the way to deal with criminals irrespective of whom they are. George Orwell's adage of his *Animal Farm* that some animals are more equal than others must be put at bay. Mwalimu Nyerere[26] illustrated:

Mistakes are mistakes and evil is evil even when committed by big people or by a majority. A party, which stands for Truth and Justice, has the *obligation* [emphasis added] to give its members the freedom and opportunity of correcting mistakes and removing evil (Nyerere, 1977:57).

It is suggested that while awaiting a streamlined position regarding the actions to be taken against Government officials, big and small, who abused village lands in general all proposed (and those in place) transactions should be shelved for the next ten years. Villages must resist boldly the capture of their birthright land (Fanon, 1973). It must be born in mind that people sometimes reach a point where they cannot stand oppression anymore.

Communities understand that it is possible for things to be better so they set about looking for alternative ways to make things better. There is a point beyond which people cannot bear pain any longer and death becomes preferable. Any Government, however dictatorial, will avoid pushing citizens to this point if it has wisdom. Precisely, it was this lack of wisdom that wrecked havoc in apartheid South Africa. Unarmed Black South Africans defied the Boer's unruly soldiers without caring for the consequences. Former South African President Nelson Mandela testifies:

I followed Gandhi's strategy for as long as I could, but then there came a point in our struggle when the brute force of the oppressor could no longer be countered through passive resistance alone. We founded the Umkhonto we Sizwe and added a military dimension to our struggle. *Force is the only language the oppressor can hear* [emphasis added] (Mandela, 1994).

Currently, donors principally guide the guiding compass of the Government decision on social, economic as well as political matters. The colonial state inherited is designed to suppress people. It must be destroyed and replaced by *a people-oriented* [added emphasis] state (Babu, 1981). Let it not be thought that people will not fight for their rights. In the words of Nyerere "men will never willingly accept deliberate and organised humiliation as the price of existence" (Nyerere, 1978:11).

10 Conclusion

The last century has witnessed a growing awareness of the disastrous consequences of a reckless imperialistic approach to development. It is apparent that Tanzania is passing through the most serious crisis ever experienced since independence. The primary cause of the crisis is the Government's bad policies, which over the past many years have aggravated poverty and social disintegration. Thus, the habituated saying that Tanzania is a "peaceful country" is in fact baseless.

Land issues are not fairly addressed. The land issue in Tanzania and elsewhere on the continent has to be solved in favour of the indigenous people. To keep ignoring this fact is wisdom reserved only for the *ostrich-minded* [emphasis added] apologists. Such people—especially the Africans among them—either lack a sense of history, or have been too schooled in the Western value system to the extent that they are blind to the structures put in place to deny Africans humanity (Mkangi, 2001).

The Presidential Commission had succinctly illustrated that the multifarious land problems that it unearthed during its two years countrywide inquiry could be traced to the lack of land policy. The Government kept at bay from the Commission's recommendations (Kapinga, 1997). As discussed earlier, the new Land Act 1999 did not address issues affecting ordinary Tanzanians. This is rejection of people's recommendations. To reject the truth does more harm than one could imagine:

'Truth' has one very good characteristic about it. For the big and small, for the friends and enemies 'Truth' is the same for all. And one characteristic of 'Truth' is that if you ignore it you will always "pay for it." If for example, you see me trying to kick a stone because I think it is a ball, I believe you will warn me. But if I ignore your warning merely because you are a small person and proceed to kick it, then I will break my toe, irrespective of whom I am. 'Truth' does not want to be ignored or taken lightly (Nyerere, 1977:56).

Another very tragic issue is the stubborn refusal by both the Government and conservationists to accept new realities. Their refusal to look reality in the face, in their efforts to cover up their limited class vision by inventing fantastic and unworkable social doctrines, in their damaging preoccupation with irrelevant issues which have nothing to do with the real needs of the people, in their futile but persistent efforts to reverse the match of history, the conservationists are plunging local people into the deep blue sea of economic and social despair. This is a horrible prospect, considering the cruel past from which indigenous people are yet to emerge. Plus the bitter present.

Conservation strategies were conceived on the basis of premises completely alien and unrelated to indigenous peoples concrete historical conditions. At first the conservationists promoted conservation for tourists with the lure of earning profit for the poor masses. When that myth was shattered and awareness of the social costs of tourism and failure of national parks to protect certain valued wildlife species they came up with another claim: that increases in livestock not wild animals will usher the Sahara to the Equator (Parkipuny, 1991).

The book co-authored by Leach and Mearns is but one example. They lied lavishly by claiming that the last tree would disappear in Tanzania in 1990 (ibid. 1988 cited in Chambers, 1997). Accordingly, this background conservation was modelled on patterns prescribed by the above motley of Western "experts".

To be workable development must be in harmony with the concrete situation to which it is designed to apply (Babu, 1981). It is a principle that an appraisal of a situation must have its foundation on facts and be guided by practice. A correct appraisal of a given situation can only be made if all facts surrounding it have been thoroughly grasped. The myth of "Community Based Wildlife Conservation" ignores the fact that: what was right in one historical epoch (conservationists and politicians please note!) may be wrong in a different

one (ibid: 54).

If peace is to prevail the Government must listen to the views of the people. This is not necessarily the so-called majority view: even the views of an individual can save a situation, a people and a nation. As such they must be given due respect. The realities of life and conditions are elusive. People should find their own solutions (Chambers, 1997). If people were allowed to exercise these rights, Tanzania would not be faced with half the problems that are facing it today (Scope, 1977). It is time to consider how people are organised outside the Government. Resnick Mitchell said it all:

Simulations of flocks of birds, termites foraging, and traffic jams are examples of self-organisation, without leaders and without leaders and central control (Resnick, 1994 cited in Chambers, 1997).

Conservation cannot be done “to” or even “for” or “with” Africans (Adams & McShane, 1992:245). Africans have been shouldering the wildlife burden for centuries, despite popular misinformation to the contrary. For example, African Governments spent an estimated US \$ 115 million every year on managing wildlife protected areas, a figure that far outstrips the support provided by international conservation organisations. World Wide Fund for Nature, the largest non-governmental conservation organisation in the world, spends no more than US \$ 15 million on the continent (ibid: 230).

Above all, the international conservation lobby groups hardly know a thing about what goes on in Africa. For example, “During the CITES conference, held in Lausanne, Switzerland, the conservation groups, who were observers, met every afternoon following the regular session. At one of these meetings (which often grew heated) a poll was taken: how many of those in attendance, excluding people representing groups based in Africa, had ever been on the continent? One hand went up”(Adams & McShane, 1992:65). Disturbingly, groups like Friends of Animals, Greenpeace, and others can, with the power of the purse, exert tremendous influence.

The group of sell-outs is part of the definition of the endless problems facing the human population in Africa (Rodney, 1976). With the current romance between donors and the Government, the local communities can never realise wildlife benefits. To seek the way out of neo-colonialism through economic gimmicks is tantamount to seeking the way out of economic subjugation through even more subjugation (Babu, 1981).

In a nutshell, communities themselves must conserve their wildlife and environment. This should be done on the understanding that the guilty perpetrators will never negotiate themselves out of the system that benefited them (Mandela, 1994). Yes, judging from the advantages conservationists have, it would cost an arm and a leg to replicate that lifestyle.

To professionals, politicians and donors, the people are nothing; just-faceless tatterdemalion crowds who are there to be manipulated and forced to do whatever the former want (Babu, 1981:171). Leadership are increasingly isolated from the people and from the reality, and live in a world of their own delusion, which forces them into actions, which are irrational and often fatally damaging.

Tanzania is pathetically poor. Its per capita income is US \$ 246 (US \$ 1 = Tshs.1000). It is said that there is no adherence to a principle, no matter how immaculate it may be, unless one is well fed. Poverty can foment fundamentalism. The surest way of wildlife conservation in Africa cannot be attained unless poverty is tackled head-on.

Complex situations always contain several contradictions, and it is essential to single out the principle one, which, as a rule, influences the development of other contradictions. It is therefore necessary to identify the following contradictions: (a) between the Government and the Western donors (b) between the leaders and the led (c) between the wildlife sector and other sectors (d) between urban and rural development. In each case, the contradiction has a principle aspect, which determines the development of the other, and with that, several other secondary contradictions.

It is essential to identify which should be resolved first. The break with imperialism (globalisation if you like) is a necessary condition for the development of other precondition, which is economic.

Surely, “no matter how harder the poor of the world work, they will not develop until and unless the present world economic order is abandoned” (Nyerere, 1978:50). Until the philosophy which holds one race superior and another inferior is finally and permanently discredited and abandoned; until the basic human rights are equally guaranteed to all without regard to race (Marley, 1976).

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[1] Myth is used here and elsewhere in this study to mean misguided belief.

[2] It is irrefutable that some wild species in Africa are on the brink of extinction. But loud cries about loss of wildlife in Africa are aimed at an audience outside the continent, mainly funding organisations (Adams & McShane, 1992).

[3] I am very grateful to the Ministry of Natural Resources and Tourism official (name withheld) for providing me with this map. CA = Conservation Area, NP= National Park and GR = Game Reserve.

[4] These figures cannot give more than an indication. They are highly disputed.

[5] The poverty discourse is deeply rooted in the hypocrisy of the capitalism system that brought conveniently the “poor country” rhetoric in order to deny culpability. The rhetoric constitutes as well as distances the responsibility of the global actors that have contributed to poverty many African economies are facing.

[6] For a critical evaluation of the National Land Policy see Shivji (1997).

[7] For details on how much is retained by various conservation agencies in Tanzania see PWHC (1998).

[8] Scientists know a great deal about Serengeti, but hardly anything at all about the vast remaining areas, which may be uncomfortable but not less important. A place like Gabon, where tropical forest at sea level mean discomfort is ignored (Adams & McShane, 1996).

[9] From 1991 to 1999, 7.0 days was the minimum average for tourists to stay in a hotel in one safari (JMT, 2000:146). Above all, the 105-bed lodge provided 20,724 bed nights accommodation in 1967 (Fosbrooke, 1972:213).

[10] The law provides for the usual incentives-tax holidays and exemptions, provision of land, easy accesses to natural resources, attractive labour legislation or the promise of it-to attract ferocious vultures called investors (Shivji, 2001).

[11] Investigations by this author for instance reveals that there is no a single Television in Minjingu village. And in a village where there are less than 20 ordinary level secondary school leavers, one cannot expect the villagers to be English speakers.

[12] These figures are truly unbelievable. They must have been under reported.

[13] The Hadza are few in number, only about 500, and their impact on the wildlife is no more than any other predator, well within the limit for the species concerned (Fosbrooke 1972:156). The Hadza and Idorobo are heading to extinction!

[14] The colonial Government allowed the Maasai to live in Ngorongoro Conservation Area to avoid another rebellion after the experience of the Mau Mau uprising in neighbouring Kenya, which happened around the same time (Shivji & Kapinga, 1998:9).

[15] The pastoralists have been subjected to wandering that has always resulted into fighting with other societies like hunter-gatherers. The grave tension in Mang'ola between the Hadzabi and Barbaig ethnic groups is one example. Partly, the cause is that the Government in collaboration with Canada International Development Agency has forcefully grabbed 100,000 acres of the Barbaig land in Hanang District and turned it into a Wheat Project (Lane, 1996).

[16] Interestingly, with exception of only the Karatu constituency, the entire Arusha Region with over 10 constituencies was the political party in power, (Chama Cha Mapinduzi), votes pool in 2000 general election.

[17] The Maasai were in good terms with their neighbours as one of the poverty-driven European testifies: "The Maasai settlement was on the river Mkomazi, rising in the Usambara hills and running into the Ruvu. These Maasai do not cultivate, but they breed cattle, sheep and goats, which they sell to passing caravans, and also exchange with the Wakindi for grain. They live at peace with their neighbours and seem a quiet and inoffensive people" (Farler, 1882).

[18] Village authorities are often ignorant and least informed of development paradigms even within their administrative localities. While their subjects fear them they equally fear the authorities above them. Thus the view by Professor Issa Shivji that the policy making and legislative power should be vested in the Village Assembly is absurd. This is an alien system which is not understood and is feared. It sounds an outrageous thing to say, but it is nevertheless basically true.

[19] The executive arm of the state has constitutional powers to revoke the Right of Occupancy including the title deed to land. Thus practically villagers have no land in spite of having the title deed.

[20] I know this sentence should have been deleted but my better judgement has not prevailed.

[21] Any rational legal state can never dare to opt for such a trash in the name of policy. The needs and aspirations of local communities are an integral concern of any policy worth the name.

[22] The Maasai are now-days being focused, albeit the continuing condemnation against them for environmental destruction, as "natural conservationists." Maasai lifestyle cannot represent all Africans. "To pick one aspect of African life and generalise it to represent the entire race is not only unscientific but it is to succumb to racism" (Babu, 1981).

[23] Wildlife population census is money magnet. Figures are manipulated to say what the public wants to hear i.e. species are disappearing in Africa (see Grzimek, 1961:20). It is impossible to say with any certainty not only how many elephants exist, but also whether they are increasing or decreasing (Adams & McShane, 1996).

[24] The report says nothing about the missing 2.0 percent.

[25] This is an idea guaranteed to send a shudder through conservation organisations in the world. However, this is at least what the villagers would wish to see happening. Those clamouring that it is time to listen the rural people should listen.

[26] Though critical of Nyerere elsewhere, I acknowledge his contribution to the liberation struggles in Southern Africa.