State of the World's Minorities and Indigenous Peoples 2012

Events of 2011

minority rights group international

Focus on land rights and natural resources

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Front cover: Young Dinka men at a cattle camp near Tali village in South Sudan's Central Equatoria state. For decades, Dinka constituted a minority in the Republic of Sudan. In July 2011, South Sudan declared independence from the north after enduring Africa's longest running civil war. The country's future now depends on whether the government can balance the interests of its myriad ethnic groups. *Sven Torfinn/Panos.*

Inside front cover: Indigenous miners working in the Potosí mines of Bolivia. *Samer Muscati.* **Inside back cover:** An Adivasi woman fetches water from a lake that was formed when villages were flooded by the Machkund Dam in Odisha State, India. *Stuart Freedman/Panos.*

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Edited by Beth Walker

Minority Rights Group International

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Foreword – development with identity

Vital Bambanze, Chair of the UN Expert Mechanism on the Rights of Indigenous Peoples

One of the overriding threats facing minorities and indigenous peoples in every region of the world is the risk of being driven from their land and natural resources, which are vital for their livelihoods, their culture and often their identity as a people. Many communities have been closely tied to their territory for centuries. Yet once their land is targeted for development – mining, oil and gas, dams, agribusiness, tourism or conservation – they are deftly and often violently evicted with little or no compensation.

While today's threats to indigenous peoples and minorities are not new, their scale and severity have reached new proportions. Unprecedented demand for the world's remaining resources, combined with new technologies to extract previously inaccessible resources in the remotest regions, are putting even the most isolated minorities and indigenous peoples under increasing threat from governments and private companies wanting to profit from the resources found on or under their lands.

From 2011 to 2012, I chaired the UN Expert Mechanism on the Rights of Indigenous Peoples, a body formed to advise the UN Human Rights Council on the rights of indigenous peoples. The right to traditional land and natural resources has been a focal point of our work. Our current study on language and cultural rights has shown that cultural life is inseparable from economic and social life; it is interdependent with other human rights protections. Cultural life also encompasses traditional livelihoods which are commonly under threat from natural resource development. Dominant national development paradigms tend to override alternative conceptions of development that may be held by minorities or indigenous peoples. Natural resource development that affects these groups should be pursued in accordance with their own cultural understanding of development and in a way that does not erode cultural or religious identity.

The very existence of the Expert Mechanism is an indication of the increasing recognition that indigenous peoples and minorities are awarded under international human rights treaties and law. International treaties and UN declarations recognize minorities' and indigenous peoples' rights to cultural life and to effective participation in decision-making that will affect them or the regions where they live. Indigenous peoples' rights have been strengthened further by the elaboration of the right to free, prior and informed consent. But there is as yet no similar right expressly granted to minorities, who consequently remain particularly vulnerable to exploitation.

The Expert Mechanism has drawn heavily on these standards in its efforts to ensure that indigenous peoples benefit from and are involved in decisions about the development of their land and natural resources. International and domestic standards have moved forward over the past years, but implementation of these standards remains an elusive goal. Even when indigenous peoples' claims of violations of their rights have been upheld by domestic or regional tribunals, governments continue to be reluctant to implement these decisions.

Speaking to indigenous communities and experts, I see the plight of my own community, the Batwa of the Great Lakes region in Central Africa, reflected in the struggles facing communities around the world. This MRG volume shows how Endorois and Ogiek in Kenya, hill tribes in northern Thailand, San in Botswana and many more are locked in ongoing disputes with governments and private companies to secure their rights to their ancestral lands and access to natural resources. Similarly, Bedouin in the Middle East and Uighurs in China's Xinjiang province struggle to maintain their cultural integrity against their respective governments' desire to put national development first.

This report provides a comprehensive and much-needed overview of marginalized groups – both those who have been adversely affected by natural resource exploitation and those who have fought to benefit from these resources – and adds to a series of efforts to establish firm recommendations for reform of natural resource development.

I belong to the Batwa community in Burundi. Batwa are some of the original inhabitants of the equatorial forests of the Great Lakes Region of Central Africa. Traditionally hunter-gatherers, in Burundi, Batwa have never owned land. Over the past decades, we have seen our forests dwindle

and our right to live in them and use their resources denied. Violent conflicts within the region have further undermined our livelihoods and culture. Today, no longer able to live by hunting and gathering, most Batwa live as landless labourers. In Burundi, unlike neighbouring Rwanda, Batwa are recognized as a distinct people, but we are not treated as full citizens and are discriminated against and excluded from all realms of society.

Batwa face similar discrimination and acute marginalization across the Great Lakes Region – in the Democratic Republic of Congo, Rwanda and Uganda. They are dispossessed of their land and denied their right to practise their traditional culture. In Rwanda, Batwa are the forgotten victims of the 1994 genocide. In Uganda, almost all Batwa have been removed from their ancestral land in the name of forest conservation – to make way for national parks. But historical discrimination means that Batwa communities have little political voice to negotiate and protect their rights to land. Few if any institutional mechanisms exist for Batwa to participate in political decisions about their land. Our communities are locked out of development opportunities and left unable to seek justice following land grabs and other human rights violations.

Forests, like most other valuable natural resources, are finite, and their destruction will have global repercussions. But governments continue to focus on short-term gains at the expense of long-term sustainability. A state's right to development must not undermine the rights of minorities and of indigenous peoples. And, indeed,

Left: Batwa people in Matara, Burundi, harvesting a field of cabbages. *Ben Rodkin.*

ignoring this basic principle and the integral value of traditional livelihoods seriously hinders attempts to move towards a path of more sustainable development.

The hopes of the international community to tackle global climate change by preserving forests through carbon emissions trading have presented a new threat to Batwa in the Great Lakes Region and to other communities that live in forests across the world. In my role as vice-president of the Indigenous Peoples of Africa Coordinating Committee (IPACC), I was acutely disappointed by the low levels of participation by indigenous peoples in UN REDD+ schemes (United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation). But indigenous communities and minorities are demanding full participation in global governance on carbon emissions reductions and have played an active role in publicizing the harmful effects of REDD initiatives. There must first be fair and meaningful consultations between communities and the government before any negotiations involving international organizations and other players on the global carbon market can take place. International actors, such as the World Bank, also have an obligation to ensure the participation of minorities and indigenous peoples for these projects to have a significant impact.

Indigenous peoples and minority communities all face different challenges in gaining recognition for their rights. Different groups depend upon their lands in complex and diverse ways and are uniquely affected by natural resource development. This fact is not adequately recognized by the international community. But minorities and indigenous peoples demand the right to choose their own development path – development with culture and identity. This publication will tell the stories of minority and indigenous communities that are being adversely affected by development on their lands, and the strategies they are using to secure their rights. I believe it will be a very useful advocacy tool for minority and indigenous groups around the world. And I hope that it will inspire all readers to support our communities in the struggle to retain our unique cultures through continued access to our lands and natural resources. ■

Natural resource development and the rights of minorities and indigenous peoples

Corinne Lennox

Karuturi Global is an Indian company that grows roses in Ethiopia for export, mostly to Europe. They have recently acquired 100,000 hectares in the fertile Gambella region to expand their agro-industry. To enable this investment, the government has forcibly removed minority groups farming on ancestral land in this region (such as Anuak and Nuer) and resettled them in villages. One activist from the region describes some of the effects of this so-called 'villagization' policy:

'One year after the villagization programme even those farmers who tried to do farming in the new places were not able to produce enough … since the area is not a good one for the kind of traditional farming they practise. The villagization programme has made the people of Gambella food insecure … and also increased the tensions between different communities who … are brought together to share small pieces of land for farming. Since this programme was launched, over 15 individuals … have been killed in separate incidents. One woman was raped and beaten to death by other people from a different community as she went collecting firewood.'

Karuturi Global calls Ethiopia 'an ideal destination to base our agri-venture' and refutes accusations that its land acquisitions have played a role in displacement.

This year's *State of the World's Minorities and Indigenous Peoples* will provide many more examples of how natural resource development can affect minorities and indigenous peoples. Natural resource development is a broad category of development and extraction that primarily encompasses use of water, land, fossil fuels, minerals and forests. This development of renewable and non-renewable resources has often negatively affected human and animal life as well as the environments they inhabit. Nevertheless, internal and external pressures to increase economic growth have led the majority of states to turn to natural resource development. Actual implementation of development projects is often pursued by private corporations with state permission and is usually export-oriented. There is strong evidence, based on recent academic and civil society research, to suggest that development and extraction of natural resources is increasing due to factors including higher energy costs, the need to attract investment after the global financial crisis, and the interest following the food crisis in providing cash crops for emerging economies. While natural resource development activities like logging and dams, oil, gas or mineral extraction, coastal tourism, commercial fisheries, conservation parks and large-scale agriculture have been successful in generating vast revenues, it has not benefited all communities equally and has had devastating consequences for the lives of many and the environment we all share.

Minorities and indigenous peoples across the globe are uniquely affected by natural resource development. They often occupy and use the areas targeted for natural resource development, but they typically lack the economic or political power to oppose harmful or unwanted projects. This means they gain few of the benefits but experience all of the harms from such practices. The state has been able to justify disproportionate harms from natural resource development to minority or indigenous communities in the name of 'majority' public gains. Minority and indigenous communities suffer greatly as a result, not only with regard to their livelihoods and welfare, but also their cultural life, social cohesion and bodily integrity.

These effects constitute violations of their human rights, including their specific rights as minorities and indigenous peoples. While there have been extensive efforts to elaborate standards and guidelines for indigenous peoples on issues related to natural resource development, there are few such resources for minorities, making them less able to rely on international norms for protection.

Indigenous and minority communities do not reject all natural resource development; rather, they seek methods that respect their rights, that are consensual and from which they can benefit fairly. Many groups have mobilized successfully to oppose harmful or unwanted development projects, and others are taking the lead in determining forms of natural resource development that are consistent with their human rights. These struggles are not always peaceful and many are protracted. Nevertheless,

the efforts of minorities and indigenous peoples to reform the way we all pursue natural resource development could be the key to greater sustainability and more equitable resource use.

Marginalization and natural resources depletion

Some of the poorest minorities and indigenous peoples live in some of the most resource-rich regions of the world; this is true in both the global North and the global South. From the oil- and mineral-rich Aboriginal Australian outback, the lush African descendant coastal areas of Central America and the dense forests of India's tribal peoples, minorities and indigenous peoples have lived in these areas for centuries and even millennia yet have been denied their rightful ownership. While the revenues of natural resource development are filtered out of regions where minorities and indigenous peoples live, the harms stay behind.

Their position of marginalization makes them particularly vulnerable to facing these harms. For example, the World Commission on Dams found evidence that regions where indigenous peoples lived were more likely to be targeted for dam development but received little economic benefit as a result: in the Philippines, almost all the larger dam schemes were situated on indigenous peoples' lands, whereas in India, 40–50 per cent of those displaced by dam development projects were tribal people (constituting only 8 per cent of the Indian population). Around the El Cerrejón coal mine in north-east Colombia, poverty rates are 70 per cent for local African descendant and indigenous communities. Many have been displaced from their villages and land and water sources have been polluted, traditional foods are no longer as accessible and they lack adequate access to health, education and sanitation services. This is despite the fact that total government revenues from the mine – currently owned by BHP Billiton (Australia), Anglo American (UK) and Xstrata (Switzerland) – are more than US$ 1.6 billion. Similarly, in the Ahwazi-Arab minority region of Khuzestan in Iran, where 90 per cent of the country's oil revenues originate, minority communities live in poverty and suffer ill health from the pollution by industry of the Karoon River. The river itself

Right: A Dalit girl works breaking up stones in Pagadala village, Andhra Pradesh, India. *Mikkel Ostergaard/Panos.*

is to be diverted to other drier regions, further threatening the economic security of minority farmers and the local ecosystem. Attempts to legislate for 1.5 per cent of oil revenue to go back to Khuzestan have repeatedly failed. Moreover, about 90 per cent of the labour force of oil and gas industries located in this region is hired from outside the Ahwazi-Arab population. These and many other groups therefore suffer the ill-effects of natural resource development without accruing many of the benefits.

These ill-effects are wide ranging. Natural resource development can severely damage or even eradicate practices of traditional livelihoods, including pastoralism, fishing or shifting agriculture, thus pushing groups further into poverty. In China, investment in mining has forced minority herders off their traditional grazing lands, away from their sacred and cultural sites and out of their ancestral villages in regions such as the Xinjiang Uighur Autonomous Region and Tibet. The Bagungu fisher people living in the Buliisa district in Uganda have been unable to continue their fishing practices due to intensive oil production in the area. Undue restrictions can be placed on livelihoods: for example, traditional agro-forestry has frequently been outlawed to make way for commercial practices like logging or conservation parks for tourism. In Cambodia, the Prey Lang forest, inhabited by the Kuy indigenous people, has been designated as a conservation area; however, the government has granted tens of thousands of hectares of the forest for extraction of minerals, timber and for rubber plantations, leaving the community unable to practise their traditional livelihoods that make use of non-timber forest products. Evictions and involuntary migration are used commonly to get (illegal) access to lands and resources. People are forced to migrate to urban slums where they face further marginalization or to even more remote regions where livelihoods are more difficult. Dam construction has depleted the Aral Sea Basin and forced tens of thousands of Karakalpak into Kazakhstan and other neighbouring countries once their

traditional livelihoods literally and figuratively 'dried up'.

There are particular impacts on minority and indigenous women. Women's burden of work can increase significantly due to increased problems in accessing clean water, fuel and traditional food sources and to men's migration for employment once traditional occupations are no longer viable. In Colombia, for example, Wayúu women displaced from their traditional lands in La Guajira as a result of coal mining have struggled to feed their families in new urban environments, relying on bread and soft drinks, instead of traditional foodstuffs of fish, plantain, yam and fruit, thus increasing malnutrition in their families.

Women's title to land is not legally recognized in some states and when displaced due to natural resource development projects, they will have little legal recourse for compensation or redress. In south-east India, Dalit women displaced from the land to make way for Special Economic Zones in Polepally, Andhra Pradesh, reported loss of status, less economic power and fewer marriage prospects for their girl children, whose status had also declined due to loss of land. Women can also be forced into becoming labourers on cash-crop farms following displacement from their own land and will be paid less than their male counterparts. Where natural resource development projects do offer employment to local people, women are less likely to secure those jobs due to gender discrimination and/or household responsibilities.

The destruction of traditional lands, resources and livelihoods can also lead to cultural erosion, putting the very existence of groups at threat. Spiritual lives and traditional practices of medicine, food preparation and other ways of life tied to the natural environment can easily be destroyed by natural resource development. In the words of a member of the Ogiek community in Kenya: 'Mau forest is our home: we are not encroachers, we are forest dwellers; we don't cut trees, we nurture them for our livelihood; we hang our beehives, it's our sure "hospital" where we get herbs, it's a sacred mother earth to our traditions.' These practices and traditional knowledge are not readily transferable to new spaces, and cultures are disappearing with resource exploitation. In Australia, for example, the Minister for Indigenous Affairs of Western Australia has backtracked on safeguards for more than 200 sites of cultural significance to the Yindijbarndi people under threat from a proposed iron mining venture by Fortescue Metals Group in the Pilbara region. Some would argue that natural resource development outcomes that prevent the exercise of traditional practices can even constitute genocide: in the words of George Poitras of the Mikisew Cree First Nation, facing the harmful environmental impact of the tar sands oil-extraction project in Alberta, Canada, asserted: 'If we don't have land and we don't have anywhere to carry out our traditional lifestyles, we lose who we are as a people. So, if there's no land, then it is equivalent in our estimation to genocide of a people.'

Root causes and resistance

Minorities and indigenous peoples are more vulnerable to harmful natural resource development because their right to equality is not respected fully in society. Discrimination is one major root cause. This can lead to practices such as 'environmental racism', whereby higher incidence of pollution or other environmental degradation is found in regions where minorities and indigenous peoples live. It can also affect their access to justice when trying to oppose natural resource development projects or seek compensation for harms caused or illegal encroachments. For example, indigenous land-owners at the Krumbukari mine site in the Madang Province, Papua New Guinea, have failed in their legal battle to prevent the China Metallurgical Group Corporation (MCC) and Australian-based Highlands Pacific from dumping over 100 million tonnes of waste from the Ramu Nickel Mine close to the shore – a practice banned in both China and Australia. The government issued the mine an environmental permit in 2010 despite objections from national experts.

Dominant priorities for development can override alternative priorities and conceptions of progress that may be held by minorities or indigenous peoples. The concept of 'development with culture and identity' highlights this intersection: this means that

natural resource development that affects these groups should be pursued in accordance with their own cultural understanding of development and in a way that is not harmful to their cultural, spiritual or religious identity. While many groups seek greater integration into the wider society through development, the price for accessing the benefits of development should not be erosion or elimination of their own cultural identity.

While international human rights standards make clear provision for the full participation of minorities and indigenous peoples in decision-making that will affect them or the regions where they live, this is not often fulfilled in practice. Communities may not be consulted at all on natural resource development in their region, or they may be consulted under only the most cursory and insignificant processes. In many cases, there has not been full disclosure of the potential impacts of development projects on communities or adequate impact assessment procedures. It is also not uncommon for groups to be divided by consultations, and a small number of 'representatives' co-opted into consent without the full support of the wider community.

For example, only part of the indigenous community consented to an offshore gas hub off the Kimberley coast at James Price Point, Western Australia, leading to tensions and the need for a Western Australia Supreme Court decision to render the agreement invalid. The views of women are particularly liable to go unconsidered given their lack of representation in many decision-making structures, both traditional and otherwise. The limited inclusion of minorities and indigenous peoples in structures of governance at all levels further undermines their ability to utilize state and international protection safeguards. For example, indigenous peoples have demanded full participation in global governance on carbon emissions reductions under the UN-REDD+ (UN Reducing Emissions from Deforestation and Forest Degradation) and have been an active voice in criticizing the harmful effects of REDD initiatives.

Minorities and indigenous peoples would be in a better position to challenge harmful natural resource development where their rights to land, territories and resources are legally titled. Many states do have recognition of customary land rights embedded in the constitution or national law but such laws can be poorly enforced. For example, South Sudan's new Constitution holds that communities 'enjoying rights in land shall be consulted in decisions that may affect their rights in lands and resources' (Article 171(9)). However, when an Emirati company was granted a 2 million hectares lease for a tourism development project, community consultation did not take place and promises by the company to provide education and health for local groups have not materialized. In other states, there can be resistance to recognition of customary land rights, making the process of allocating title unnecessarily protracted and/or plagued by disputes.

Without this legal protection, it can be very difficult to defend land and resource use rights in the face of powerful corporations or state interests. Moreover, laws regulating industries for natural resource development are generally promulgated without consultation with those indigenous and minority communities whose rights may be deeply affected by such legislation. Many states are reluctant to exact strong regulatory policies over corporations to ensure effective social and environmental safeguards, and corruption or bribery to avoid regulation is a widespread problem.

Faced with these many challenges, indigenous peoples and minorities have implemented several strategies to resist harmful or unwanted natural resource development. Various forms of non-violent protest have been used but such actions have often been met with violence, arbitrary arrest, enforced disappearances, torture and even death. The Mapuche in Chile have faced government use of anti-terrorism legislation against community members who have been protesting against exploitation of their lands by extractive industries; similar use of anti-terrorism and other spurious charges have been used in Ecuador for indigenous leaders protesting against mining laws. Protest has also escalated into outright armed conflict in some cases. Government failure to seek consent from minority or indigenous communities to development projects, coupled with increasing poverty, inequality and mass displacement, risks

pushing groups to take up arms against the state and corporations in defence of their rights.

Given the state or corporate crackdowns on activism, some communities have adopted some alternative strategies. Many alliances have been formed with civil society actors outside their countries. MRG is actively supporting a number of land rights claims by minority and indigenous communities around the world.

Some communities are taking a political path to assert greater influence in decision-making on natural resource development, often by seeking political positions. For example, in Mindanao in the Philippines, a local indigenous community (Subanon) federation undertook a strategy to secure elected seats in local governance structures (*barangay*) where they would be better able to apply national laws and traditional rights in negotiations with the government and mining companies seeking resource extraction access in traditional territories.

Litigation has been one option utilized by communities. There are some high-profile cases, such as that recently won against Chevron-Texaco by indigenous and other local communities in Ecuador suffering health impacts from oil exploration; the company was ordered to pay US$ 18 billion in compensation for environmental damage and harm to the affected communities. However, there are numerous low-profile initiatives being taken by communities through legal mechanisms such as legislative or judicial review of decisions taken by the state in favour of natural resource development and in apparent contravention of minority and indigenous rights. These disputes can sometimes take decades to resolve and may entail complex legal cases; most minority and indigenous communities simply cannot match the resources of their private or public sector opponents. Even when they win such cases, implementation of decisions remains difficult in the face of obstinate governments and corporate interests.

A human rights framework for natural resources development

Policy decisions on natural resource development made in 'the national interest' cannot be based on the interests of the majority alone, particularly if such policies would cause serious violations of the human rights of minorities and indigenous peoples. The framework of what constitutes a serious violation in such cases is determined primarily by the rights to self-determination, non-discrimination, cultural life, means of subsistence, and to land, territories and natural resources.

Right: A Mapuche man, near Temuco, Chile. *Julio Etchart/Panos.*

The specific standards elaborated for indigenous peoples and minorities respectively related to natural resource development do differ, with those for indigenous peoples being more extensive and specific. This gap presents a serious problem for minority groups affected by harmful natural resource development, who have fewer mechanisms and remedies available to them. Some of this gap can and has been filled by progressive interpretations of existing standards, including non-legally binding standards such as the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM).

The right to self-determination is an important starting point for both groups, not least because it is linked to freedoms regarding the use of natural wealth and resources. All peoples have the right to self-determination under common Article 1 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). This article further states that 'in no case may a people be deprived of its own means of subsistence', a crucial point in light of natural resource development impact on (traditional) livelihoods. This right is reinforced for indigenous peoples in the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP) under Article 3, which holds that 'Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.'

Key to exercising self-determination over natural resource development is the right to 'free, prior and informed consent' in its various forms. This right has been recognized in numerous international legal standards and jurisprudence, including in International Labour Organization Convention No. 169 Concerning Indigenous

and Tribal Peoples in Independent Countries (ILO 169) and in the UNDRIP. Numerous examples from the case law also support this, including the *Ogoni* and *Endorois* cases before the African Commission on Human and Peoples' Rights and the *Saramaka* and *Awas Tingni* cases at the Inter-American Court of Human Rights. In summary, 'free' means that consent must be given without coercion or intimidation; 'prior' means that consent must be given fully prior to the commencement of any activity affecting the group or its land, territories or resources; 'informed' requires that groups be given full disclosure of the activity and its potential impact; and 'consent' is a collective right to give or to withhold consent to proposed activities.

The international standards on minority rights recognize that persons belonging to minorities have 'the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live' (UNDM, Article 2.3). Progressively interpreted, the right to participate effectively in decision-making can afford many of the same protections that are evident in the free, prior and informed consent standards on indigenous peoples' rights. This includes ensuring that participation is free, comes prior to decisions being made, is based on full access to relevant information, and is understood as 'effective' only where minorities can consent (or not) to decisions that may affect them.

While the rights to land, territories and natural resources are elaborated clearly for indigenous peoples in international law, the standards for persons belonging to minorities on land, territories and resources are less clear; the UNDM makes no provisions on these specific points, nor do relevant regional standards. Protection for land, territories and resources can be included in nationally agreed autonomy arrangements, whereby regulation of these issues is delegated to minority self-governance. Such rights may also be recognized under customary law or general property laws. In Colombia, for example, Law 70, In Recognition of the Right

of Black Colombians to Collectively Own and Occupy their Ancestral Lands, was adopted in 1993 to protect such rights for certain Afro-Colombian communities. Law 70 has not been implemented fully, however, and many Afro-Colombians with land rights claims have been left without protection. The situation underscores the need for further elaboration of land and resource rights protection for minorities at the national and international levels.

The right to take part in cultural life is also firmly protected in international law. Beyond Article 15 of the ICESCR, Article 27 of the ICCPR states further that persons belonging to minorities 'shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language'. Indigenous peoples' right to cultural life is recognized extensively in the UNDRIP and ILO 169, particularly in relation to the pursuit of traditional livelihoods, education and health. For minorities, the UNDM calls upon states to 'take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs' (Article 4.2).

Crucially, cultural life is not something to be pursued in detachment from economic and social life; it is inter-dependent with other human rights protections. Cultural life also encompasses traditional livelihoods which are commonly under threat from natural resource development. The ILO Convention no. 111 concerning Discrimination in Respect of Employment and Occupation is one tool to prevent discriminatory policies against traditional livelihoods; ILO 169 also addresses this point extensively (see Articles 20–23). Sacred spaces or spaces essential to cultural life must also be protected in natural resource development. UNESCO has promulgated several standards to this end, including the Convention for the Protection of the World Cultural and Natural Heritage. Similarly, Article 8 (j) of the Convention on Biological Diversity protects traditional cultural practices 'relevant for the conservation and sustainable use of biological diversity' and encourages 'equitable sharing of the benefits' from such resources.

International development banks, such as the World Bank and Asian Development Bank, have elaborated policies to help ensure that loans for natural resource development projects do not harm indigenous peoples. But there is still scope for improvement: for example, the World Bank's latest Operational Policy (2005) only acknowledges the need for 'free, prior and informed *consultation*' (emphasis added) where indigenous communities might be affected by World Bank-financed projects, rather than 'consent' as recognized in other international standards. Notably there are no global minority-specific standards related to development to mirror those elaborated for indigenous peoples, further evidence of the large gap in protection.

Indigenous peoples and minorities have worked to shape these initiatives and emerging norms, but the outcomes have not often fully met expectations. In many cases, the inclusion of indigenous peoples or minorities in emerging global initiatives related to natural resource development has been hard won: for example, in REDD, which calls on parties to ensure 'the full and effective participation of relevant stakeholders, *inter alia*, indigenous peoples and local communities' (paragraph 72) in national REDD strategies. These guidelines and initiatives can contribute to better practice but they must be implemented from a starting point of human rights recognition and protection.

Adopting a human rights-based approach to natural resource development for indigenous peoples and minorities is a vital means to this end. The human rights-based approach calls for development outcomes and processes to avoid human rights violations and to aim for the realization of human rights, without discrimination. This approach emphasizes state duties and accountability for these goals, and the central role of participation by those affected in the design, implementation, monitoring and evaluation of development policies. Indicators that measure the impact on human rights of development interventions are used to assess progress.

Addressing harmful natural resources development: ways forward

Minorities and indigenous peoples do not seek to

resist all natural resource development. In many cases, they hope to benefit from the development to improve their social and economic life. They also have skills and knowledge to contribute to the effective and sustainable management of natural resources. The way forward is through natural resource development that will respect, protect and fulfil their human rights.

An important starting point is the recognition of the rights to self-determination and to participate effectively in decision-making regarding any natural resource development that will affect minority and indigenous communities or their land, territories and resources. Indigenous communities in particular hold the right to free, prior and informed consent. There should be harmonization of laws regulating natural resource development with these core rights of communities. This should also include laws to protect economic, social and cultural life for minorities and indigenous peoples.

Addressing land and resource title claims is key to this process. The rights of communities to occupy and use their land and territories must be legally guaranteed in a process that is transparent and not unduly prolonged. Furthermore, norms on effective participation and on free, prior and informed consent must be respected fully through the adoption of effective mechanisms, including the use of customary law and structures of decision-making as appropriate. Women belonging to minority and indigenous communities must be enabled to participate equally in these processes. In Kenya, for example, the 2009 National Land Policy calls for the proportionate representation of women in all institutions dealing with land.

Impact assessments are also essential tools to prevent harmful or unwanted natural resource development being carried out by the relevant actors in a specific project, such as government authorities, development agencies and companies. General social and environmental impact assessments may not be sufficient to uncover particular harms faced by minorities and indigenous peoples linked to issues such as discrimination, cultural life or customary rights to land and resources. A minority and indigenous rights component should therefore be integrated into impact assessments. These should be applied to all natural resource development proposals and should include also assessment of impacts on the full range of human rights of affected communities. Particular attention should be paid to differential impacts on the basis of gender, age and disability. There should be free and easy access to information on impact assessments for affected communities, including translation or other forms of communication as required. The UN Special Rapporteur on the right to food, Olivier De Schutter, has recently proposed a set of 'Guiding Principles on Human Rights Impact Assessments of Trade and Investment Agreements' that could be one useful tool. In January 2012, the International Finance Corporation (IFC) (part of the World Bank Group) adopted a new Performance Standard 7 on indigenous peoples that recognizes the right of free, prior and informed consent as a required component of social and environmental impact assessments for private sector financing. The IFC Performance Standard 5 on land acquisition and involuntary resettlement offers related safeguards.

In some cases, benefit-sharing agreements can be made between corporations (and states) and affected groups. If constructed well, they can enable groups to benefit from natural resource development in their region and to greatly improve their human development prospects. However, not all agreements are consistent with the rights of minority and indigenous communities, and few fully recognize the legal entitlement of groups over the land and resources affected. Such benefit-sharing agreements should be reviewed regularly to ensure compliance and continued consent of affected communities. One positive example is the Sakhalin Energy company agreement in Russia. Following protests in 2005 from indigenous communities (mainly Nivkh and Orok people) on Sakhalin Island negatively impacted by oil and gas extraction on their traditional territories and waters, the company has worked through a series of more progressive benefit-sharing agreements in partnership with formally elected indigenous representatives. They have agreed the second Sakhalin Indigenous Minorities Development Five Year Plan (2011–15), which includes an external monitoring system, a grievance procedure and indigenous governance structures.

Full participation of minorities and indigenous peoples is needed also at the level of global governance on natural resource development. The Convention on Biological Diversity is one useful model, where the International Indigenous Forum on Biodiversity (IIFB) has been created as an advisory body. Similar measures are needed urgently in arenas like climate change and forestry management. One promising initiative is the draft annex to UN REDD+ on free, prior and informed consent, elaborated following several regional consultations with indigenous peoples' organizations. Similar institutional initiatives and policy recognition are needed urgently for other ethnic, religious and linguistic minorities whose rights and situation are often ignored.

Access to justice should be ensured to communities in natural resource development processes. Disputes over natural resource development can turn violent, frequently with state actors as perpetrators or complicit in the actions of private security companies. Alternative dispute resolution can be employed to bring parties in natural resources disputes to agreement peacefully. Crimes committed against minorities and indigenous peoples in the context of natural resource development should be subject to full investigation and prosecution. Litigation against corporations or state officials for illegal natural resource extraction should be supported through appropriate legal aid assistance for affected communities. Such legal aid facilities can also be enabled to ensure communities negotiate fair benefit-sharing agreements or other contracts related to their land, territories and resources.

It is important to build the capacity of minority

Left: Work in progress for the Sakhalin Energy oil and gas pipeline on the island of Sakhalin, Russia, in 2007. *Francesco Cito/Panos.*

and indigenous communities to elaborate, monitor and implement natural resource development programmes that are consistent with their human rights and view of development. This is not only about technical capacity to critically evaluate and design good natural resource development but also to assert alternative development strategies that might challenge dominant paradigms that have contributed to so many harmful outcomes. Support can range from technical and financial assistance, including from international organizations, inter-community solidarity and advisory services, scholarships and training for community members on relevant standards and technical knowledge. The Indigenous Peoples Resource Management Program at the University of Saskatchewan in Canada is one model curriculum. Undertaking such management roles can also be better for sustainable natural resource development: for example, recent studies have shown that forests managed by indigenous communities have been more effective in reducing deforestation than those protected for conservation only.

Conclusion

Indigenous peoples and minorities are getting few of the benefits and more of the harms from the myriad of natural resources development projects currently being pursued. The lands and territories they have long occupied and the resources they have long relied upon are under increasing threat from powerful state and corporate forces. The negative effect of harmful and unwanted natural resource development on these communities is striking and constitutes a clear violation of their human rights. In some cases, it is now a threat to their very existence.

Many communities are successfully fighting back against unwanted or harmful natural resource development and also contributing towards management of such resources. In Canada, for example, the Environmental Stewardship Unit of the Assembly of First Nations is working with several government ministries and commercial entities to ensure a central role for indigenous peoples in sustainable natural resource development. Meanwhile, others do not have adequate access to information, legal assistance, knowledge of commercial natural resource development processes or funding in order to defend their rights.

Ethnic, religious and linguistic minorities have so far not garnered the recognition of their rights and concerns that has been achieved by indigenous peoples. The gap in protection could make these groups even more vulnerable to harmful natural resource development in future.

The development of natural resources need not be harmful or unjust. The future of natural resource development is our *common* future, and minorities and indigenous peoples have a right not only to benefit in this, but also to help determine its path. This is their right to self-determination. ■

Strategies of resistance: testing the limits of the law

Carla Clarke

In November 2011, the African Wildlife Foundation (AWF), in partnership with The Nature Conservancy (TNC) (two US-based charities), presented the Kenyan government with a gift of land, bought by the charities for US$ 4 million from a private land-owner (reportedly the former president, Daniel arap Moi) for the establishment of the country's newest national park. The 6,900 hecatre property, to be named Laikipia National Park, is said to provide a critical link between neighbouring protected areas, allowing elephants, big cats, and other species to safely navigate a wildlife corridor that spans Central Laikipia.

'Together, African Wildlife Foundation, The Nature Conservancy, and Kenya Wildlife Service are conserving an ecosystem that is vital to this region, while also enhancing the economic livelihood of Kenyans living around the park. Laikipia's protection will stimulate local commerce, particularly tourism,' said Patrick Bergin, chief executive of AWF.

'People are at the core of our conservation work in Kenya, and it's the people of Kenya who are gaining ownership of a significant piece of land,' said David Banks, Africa director for TNC.

The Samburu of Laikipia District, semi-nomadic pastoralists who were forcibly and violently evicted after the initial purchase of the land by AWF and TNC, might well be forgiven for questioning *whose* livelihoods are intended to be enhanced by the creation of the national park and *which* people are at the core of TNC's conservation work.

The Yanacocha gold mine is the largest gold mine in South America, located north-east of the Peruvian capital Lima. The mine is operated by Minera Yanacocha, a joint venture owned primarily by Newmont Mining Corporation of Denver, Colorado with funding from the International Finance Corporation, the private investment arm of the World Bank Group. The development of the mine, which started in 1993, has been mired in controversy and, in turn, acted as an important rallying point for the Peruvian indigenous movement.

Recent plans to expand the mine further with a US$ 4.8 billion project, which includes moving all the water from neighbouring lagoons into separate reservoirs, have ensured that the controversy will continue. The plans have been met with violent protests, the declaration of a 60-day state of emergency, a ministerial resignation and a march on the capital as different groups from across Peru unite forces to demand protection of their right to water.

Two different countries, two different continents, two different industries, a single issue: the fragility of the rights of indigenous peoples, not only to their lands and its resources, but to their very identity and survival as a distinct people in the face of a single prevailing development paradigm, which essentially prioritizes economic interests over other factors.

Despite a wave of standard setting and progressive jurisprudence at the international, regional and domestic level in the area of indigenous peoples' rights over the last 20-odd years, the reality for many of the world's approximately 300 million indigenous peoples is that their way of life and very existence as distinct peoples remains under constant threat. This chapter examines some of that growing body of legal standards and jurisprudence regarding states' obligations, both internationally and across the three regions of Latin America, Africa and Asia. The focus of the chapter is on the rights of indigenous peoples' to their lands and their natural resources rather than on minorities more generally. There remains no single, comprehensive definition of indigenous peoples, something which at times has been exploited by governments opposed to recognizing such peoples and their rights. Nevertheless, one of the common factors used to describe indigenous peoples is their distinctive relationship with their traditionally occupied lands and the natural resources of those lands, not simply as a means of livelihood and economic survival but also for their cultural and spiritual significance and ultimately as the basis of their very identity.

It is the particularity of this relationship with their lands and resources, the growing recognition of the distinctiveness and value of such a relationship, as well as its vulnerability in the face of development aggression, and an increasing openness in some quarters to address

historical injustices (see Box 1) that has led to the heightened standard-setting and jurisprudence in relation to indigenous peoples' property rights.

Second, the term 'indigenous peoples' is used here in its broadest sense so that, as in the approach adopted by the African Commission on Human and Peoples' Rights (ACHPR), it is not limited to a 'narrow/aboriginal/pre-Colombian understanding of indigenous peoples'. Equally, following the approach of the Inter-American Court of Human Rights (IACtHR), one might refer to indigenous *and* tribal communities so that, for example, descendants of African slaves forcibly brought to South America with European colonizers, and who continue to form a distinct social, cultural and economic group with a special relationship with their territory, benefit from these standards as well.

Nonetheless, the focus on indigenous and tribal peoples is not to deny that there is a legitimate debate to be had as to whether some of the recently adopted standards in relation to their property rights, modified or not, should not equally apply to others whose relationship with the land is not necessarily an issue of identity and cultural survival yet who similarly find themselves paying a heavy price for others' development. For example, in Cambodia, where more than half of the country's arable landmass has been granted as concessions to private companies for agro-industrial and mining projects, indiscriminately affecting both minority communities, such as Cham Muslims, and indigenous peoples, it can be difficult to see why non-indigenous and non-tribal communities should not be entitled under human rights law to have a greater role in participating in decisions directly affecting them and their livelihoods. To the extent that much of the emerging protection for indigenous peoples has been carved out of what was previously viewed as an individual right to property, there is the potential for human rights standards to continue to evolve so as to provide protection to other groups and collectives.

Finally, by way of introduction, this chapter refers to indigenous peoples collectively and does not provide a particular gender focus. This is primarily because the human rights standards, legislation and case law being examined do not, on the whole, touch upon the double discrimination

Case study

Addressing historical injustices in New Zealand

The Maori, the original inhabitants of New Zealand or Aotearoa, make up roughly 15 per cent of New Zealand's population of just over 4 million. Relations between Maori and the government are based on the Treaty of Waitangi, signed in 1840 between the British Crown and a number of Maori tribes or *iwi*, and considered as one of New Zealand's founding instruments. Under the Treaty, the Maori were to retain possession of their lands and resources. In line with this, indigenous or native title was recognized under the common law of New Zealand as early as 1847 (*R v. Symonds*) and through legislation in the Native Rights Act 1865. However, such early recognition of native title did not last and subsequent actions by successive governments resulted in the individualization of Maori land and its subsequent sale, such that most land in New Zealand had already passed out of Maori ownership by 1900 in acts which are now widely recognized as being in breach of the Treaty.

For Maoris with their concept of *turangawaewae* ('a place to stand'), indicating the close connection between land and tribal and personal identity, such dispossession was not simply about alienation of their land but a loss of self-governance and of cultural identity which continues to be reflected in the inequalities experienced by Maori in comparison with non-Maori across a broad range of social indicators.

Beginning in 1975, with the establishment of the Waitangi Tribunal to hear claims brought by Maori against the government for breaches of the Treaty, notable steps have been taken to address these historical

injustices and to reach settlements of Maori land claims (albeit that the Tribunal's jurisdiction was only extended in 1985 to cover grievances dating back to 1840). Other steps include the adoption of the Ture Whenua Maori Act 1993 (or Maori Land Act), which, as well as establishing a Maori Land Court, preserves the capacity of Maori to hold land collectively and recognizes that Maori land is a *taonga* (treasure) of special significance to Maori people. There has also been the development of the Treaty settlement process, including the establishment in 1995 of a designated body, the Office of Treaty Settlements, to oversee the process under which numerous Maori groups have negotiated settlements to their historical claims, while others continue to go through the process.

Despite such positive steps the settlement process is not without its critics. Common concerns are the fact that the recommendations of the Waitangi Tribunal are not binding and are frequently ignored by the government; that the negotiation procedure is inherently unbalanced in favour of the government, which determines the framework and the procedure of negotiations; and that no independent oversight exists. Additionally, many Maori consider that the value of the settlements represents only a very small percentage of the value of the total loss.

In addition, even as the New Zealand government was trying to negotiate settlements to certain claims, the Foreshore and Seabed Act 2004 vested the ownership of the public foreshore and seabed in the New Zealand government, extinguishing any Maori customary title over that area overnight, even as it preserved private, individual title. Following widespread criticism of this legislation, it was repealed and replaced in 2011 with the Marine and Coastal Area (Takutai Moana) Act which, *inter alia*, restored any customary interests in the common marine and coastal area that were extinguished by the earlier Act and restored the courts' ability to determine and legally recognize customary rights and title in the foreshore and seabed. Both pieces of legislation are ultimately testimony to the continuing vulnerability of Maori's indigenous rights. ■

Left: A Maori youth on the beach at Waitangi, New Zealand, with a huge Tino Rangatiratanga flag during the official Treaty of Waitangi celebrations. The Tino Rangatiratanga flag expresses self-determination and is a well-recognized symbol of Maori sovereignty. It is often seen at Maori protest movement gatherings. *Jocelyn Carlin/Panos.*

that indigenous women face and the differential impact that violations of the community's right to property might have on them. While some of the UN treaty bodies, particularly the Committee on the Elimination of Discrimination Against Women (CEDAW), are beginning to expressly examine the situation of indigenous women in their concluding observations on state parties' reports, such observations generally focus on issues of literacy/education and health.

Standard setting

International

The main international human rights treaties adopted by the international community under the auspices of the UN after the Second World War were, on their face, silent on the issue of indigenous peoples. Instead, it was the International Labour Organization (ILO), with its historical concerns over the use of 'native labour' in colonial countries which emerged as an early actor in the field of the rights of indigenous peoples. However, ILO Convention No. 107 exemplifies the thinking that still prevailed at the time of its adoption in 1957. While the Convention provided for the recognition of indigenous peoples' collective rights of ownership over traditionally occupied lands, this was within the wider framework of a policy of integration which viewed indigenous societies as temporary ones which would inevitably disappear under the tide of modernization.

ILO Convention No. 169 (ILO 169), adopted in 1989, marked a fundamental shift away from an assimilationist orientation towards one which valued indigenous peoples' difference and afforded them rights to ensure the continuation of their communities and those differences. For example, Article 7(1) provides that '[t]he peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use'. It remains the case that ILO 169, the only international treaty specifically on indigenous peoples and, consequently, binding on those states that have signed up to it, has only been ratified by 22 countries, the majority of which are in Latin America, with Nepal (2007) representing the only Asian signatory and the Central African Republic (2010) the only African signatory. Nevertheless, its reach, as an interpretative and comparative tool, extends considerably further than those 22 countries through its being invoked by regional human rights tribunals and by domestic courts even in relation to countries which are not signatories.

The adoption of ILO 169 has been followed by increasing attention within the UN human rights system to indigenous peoples and how they benefit from protection under existing human rights treaties. For example, in 1994 the UN Human Rights Committee (HRC) produced General Comment no. 23 in which it provided its interpretation of Article 27 of the International Covenant on Civil and Political Rights (ICCPR). General Comment no. 23 expressly refers to how the protection of those belonging to minorities to enjoy their own culture, as provided for in Article 27, extends to culture as manifested 'in a particular way of life associated with the use of land resources, especially in the case of indigenous peoples'. This interpretation is significant given that the ICCPR, unlike the Universal Declaration on Human Rights, contains no right to property.

In an early communication brought to the HRC in respect of Article 27 (*Lansman v. Finland,* communication no. 511/1992, adopted 1994) a group of Sami reindeer-herders complained to the HRC regarding the Finnish government's granting of a contract for stone-quarrying on the side of a mountain that they considered sacred and the consequent transporting of the stone through a complex system of reindeer fences on territory whose ownership was in dispute between the state and the Sami. They claimed that their right to enjoy their own culture, based on reindeer husbandry, had been violated by the granting of the concession and the consequent economic activity. In dismissing the complaint, the HRC considered that the quarrying was not so substantial as to deny the complainants the ability to carry out their traditional reindeer-herding and emphasized the fact that they had been consulted prior to the granting of the quarrying permit.

A more recent decision of the HRC, *Poma Poma v. Peru* (communication no. 1457/2006, adopted 2009), concerning the diversion of

water from a region of the Andes to the coast that impacted on Aymara pasture land and their traditional raising of llamas, illustrates the development of legal standards in this field in the ensuing years. In finding a violation of Article 27, on the basis that the interference with the culturally significant activity of llama-raising was substantial, the HRC stated that for such substantial interference to be acceptable required that the community had the opportunity to participate in the decision-making process which, in contrast to the earlier *Lansman* decision:

'requires not mere consultation but the free, prior and informed consent of the members of the community. In addition, the measures must respect the principle of proportionality so as not to endanger the very survival of the community and its members.'

While the complaint was brought by an indigenous woman, given that Article 27 refers to individuals belonging to minorities, there is no reason why the free, prior and informed consent standard set out in *Poma Poma* should not apply equally to non-indigenous minorities who find a culturally significant activity being impacted on by development affecting their land.

The decisions of the HRC, albeit not binding, are important and should be read in conjunction with the increased attention being given to indigenous peoples' property rights by other UN treaty bodies. For example, the Commission on the Elimination of Racial Discrimination (CERD)'s General Recommendation no. 23 on Indigenous Peoples (1997) calls upon states 'to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources'. There is also the General Comment no. 21 of the Committee on Economic, Social and Cultural Rights (CESCR), adopted in 2009, relating to Article 15(1)(a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which provides for the right of everyone to take part in cultural life. The General Comment expressly considers this right in relation to indigenous peoples and their relationship with their lands, territories and resources, and identifies as a core obligation the obtaining of communities' 'free and informed prior consent when the preservation of their cultural resources, especially those associated with their way of life and cultural expression are at risk'.

Activity around indigenous peoples' rights within the UN culminated with the adoption in 2007, after two decades in the making, of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). In many ways the declaration takes ILO 169 as a starting point and then builds on it considerably. Of particular note is the repeated reference not simply to participation or consultation but to the need to obtain indigenous peoples' 'free, prior and informed consent' prior to certain actions being taken. This includes the requirement under Article 32 to obtain indigenous peoples' free, prior and informed consent to 'the approval of *any* project affecting their lands or territories and other resources, particularly in connection with the development, utilisation or exploration of mineral, water or other resources' (emphasis added).

The declaration was adopted with overwhelming support (143 states in favour, 4 against and 11 abstentions) and has already found its way into certain domestic legislation (notably, Bolivia). The votes against the declaration are telling, coming as they did from wealthy Western states with notable indigenous populations (Australia, Canada, New Zealand and the United States) and even those states that voted in favour, as well as those that have subsequently come on board, qualified their votes with references to the political nature of the document or to it being subject to their existing legal and constitutional framework. As a declaration rather than a convention, the UNDRIP is strictly non-binding. Nevertheless, it is clear from its provisions in relation to the rights of indigenous peoples to the lands, territories and resources that they have traditionally used and occupied, taken in conjunction with ILO 169 and the General Comments of the HRC, CERD and CESCR referred to above, that rights to land and natural resources are an integral part of indigenous peoples' rights in international human rights law.

Regional

Americas

Many of the countries in the Americas (though

certainly not all) have been at the forefront of affording constitutional and legislative recognition to their indigenous populations and to certain accompanying rights. For example, the constitutions of Bolivia and Ecuador provide for their being plurinational states; Colombia's 1993 law recognizes collective rights to territory and its 1998 decree provides for prior consent in respect of the exploitation of natural resources on the lands of indigenous peoples and Afro-Colombian communities; and Peru's 2011 legislation on prior consultation with indigenous peoples. The judiciaries in these countries have also, to varying degrees, been active. Indeed, Colombia's Constitutional Court is described as having established 'a world-class model of jurisprudence' in the protection of the rights of indigenous peoples and the Afro-Colombian community; a decision in May 2011 declared legislation reforming the country's mining code as unconstitutional due to the lack of prior consultation with indigenous peoples. Another example of judicial activism in the region is provided by the Supreme Court of Belize (see case study).

There has also been considerable activity with regard to the recognition and protection of indigenous peoples' rights at the inter-governmental level under the auspices of the Organization of American States (OAS). In 1989, the General Assembly of the OAS asked the Inter-American Commission on Human Rights (IACHR) to prepare a legal instrument on the rights of indigenous populations. While admittedly the declaration remains in draft form some 15 years after its inception, no other region is even beginning to attempt to engage in a similar process. Shortly after the first steps towards a regional instrument on indigenous peoples' rights were taken, the IACHR established in 1990 the Office of the Rapporteur on the rights of indigenous peoples.

Perhaps though the most significant developments in the region, including in their potential to impact beyond the region itself, have been the decisions of the IACHR and the IACtHR in respect of petitions brought before them by or on behalf of indigenous communities. The extent of the jurisprudence on indigenous peoples' rights and specifically their collective rights to their ancestral territories and related natural resources coming from these two bodies is reflective, on the one hand, of the preparedness in the region to at least recognize the existence of indigenous peoples and the justiciability of the issues facing them. But, on the other hand, it is reflective of states' failure to offer meaningful protection at the local level, even where their domestic laws make provision for the same.

The first case in which the IACtHR adjudicated upon indigenous peoples' collective right to property illustrates this dichotomy.

Case study

The Maya of the Toledo district in Belize

The Toledo district in southern Belize is home to approximately 14,000 Mopan- and Q'eqchi'-speaking Maya people, descendants of Maya subgroups that inhabited the territory at least as far back as the seventeenth and eighteenth centuries when Europeans arrived. In 1998, following the granting of a number of oil and logging concessions on their traditional lands without their involvement, and a failure to obtain any timely remedy from the local courts, a petition was lodged on behalf of the Maya with the Inter-American Commission on Human Rights (IACHR) alleging a violation of the right to property and the right to non-discrimination under the American Declaration on Human Rights.

In a decision of 2004, the IACHR upheld the communities' complaint finding that Belize had failed 'to provide [the Maya] with the protections necessary to exercise their right to property fully and equally with other members of the Belizean population'. The Commission went on to recommend that Belize, *inter alia*: (i) adopt legislative and administrative measures, in fully informed

consultations with the Maya, to delimit, demarcate and title their territories; and (ii) until such measures are carried out, abstain from any acts that might lead the state or third parties to affect the existence, value, use or enjoyment of those territories.

Despite a constitutional amendment in 2001, which inserted into the Constitution's preamble a reference to the people of Belize requiring 'policies of state which protect … the identity, dignity and social and cultural values of Belizeans, including Belize's indigenous peoples … with respect for international law and treaty obligations in the dealings among nations', no attempt was made to implement the IACHR's recommendations by Belize. Consequently, in a renewed attempt to enforce their rights, a further case was brought in 2007 before the domestic courts by two of the communities concerned, alleging the violation of provisions of the Belize Constitution regarding the right to equality, to property and to life from the failure to recognize the communities' traditional communal property rights and the granting of logging and oil concessions. In an important judgment, in which regard is shown to the IACHR decision, the Supreme Court explores in detail the history of the Maya of the Toledo district, their customs and their relationship with their lands, as well as providing a useful synthesis of some of the key cases on native or indigenous title in common law jurisdictions ranging from Malaysia to Canada, and that such title was not extinguished merely by settlement by the British Crown.

Notably, the judgment considers at some length Belize's obligations under international law (matters which 'weighed heavily with [the court] ... in interpreting the fundamental human rights provisions of the Constitution'). This exploration includes not only Belize's binding treaty obligations but also includes ILO Convention No. 169 (to which Belize is not a party), whose provisions on indigenous peoples right to land in Article 14 are described as 'resonat[ing]with the general principles of international law regarding indigenous peoples', and the UN Declaration on the Rights of Indigenous Peoples. While this declaration is not binding, the Court notes that Belize voted in favour of it, that it was passed by an overwhelming majority of the General Assembly and embodies general principles of international law relating to indigenous peoples and their lands and resources resulting in it 'being of such force that the defendants representing the government will not disregard it'.

As with the IACHR, the Court concluded that the Maya communities' interest in their lands based on Maya customary land tenure was protected by the right to property and that such right, as well as the right to equality, had been violated by the granting of concessions to third parties to utilize the property and resources located on their land. The Court similarly ordered the delimiting, demarcating and titling of the land, and that the government abstain from any action which would affect the property unless such action had the informed consent of the communities. Five years on, the communities are still waiting for implementation of this domestic decision, even as US Capital Energy continues its oil exploration in the area. ■

In *Mayagna (Sumo) Awas Tingni Community v. Nicaragua* (2001), the Awas Tingni community (one of numerous Mayagna or Sumo communities inhabiting the isolated Atlantic Coast region of Nicaragua) challenged Nicaragua's failure to demarcate their communal lands and the granting of a timber concession in an area which potentially belonged to the community without consulting them. Despite the fact the American Convention on Human Rights made no express reference to indigenous peoples nor to communal property, the Court, through what it itself described as 'an evolutionary interpretation', found that Article 21, until that point regarded as protecting a classic, individual private right to property, protected the right to property 'in a sense which includes … the rights of members of the indigenous communities within the framework of communal property'.

This was a ground-breaking development. Yet, the reason why the Awas Tigni community had to take their case to the regional level was not because Nicaragua's Constitution and legislation made no provision for indigenous peoples

and their property rights. Indeed, Nicaragua's 1995 Constitution contains several enlightened provisions on the country's indigenous peoples, their communal form of land-ownership and their enjoyment of their natural resources. Instead, as found by the IACtHR, there was no established procedure for the titling of indigenous lands and therefore for making the constitutional and other legislative provisions effective in practice.

The more recent case of *Saramaka v. Suriname* (2007), concerning the Saramaka people, whose roots are traceable to African slaves forcibly brought to the land now known as Suriname by European colonizers during the seventeenth century, builds considerably on the *Awas Tingni* case with which it shares similar facts. As well as directly addressing the question of ownership of natural resources, the Court established clear steps that need to be followed if an indigenous community's property rights are to be lawfully restricted by development on their land (all derived from Article 21 of the American Convention). The IACtHR set out three additional safeguards to ensure that any restriction does not endanger the very survival of the indigenous group and its members: effective participation of the community; benefit-sharing; and the carrying out of prior environmental and social impact assessments. The Court further provided a valuable blueprint as to what effective participation and the duty to actively consult involves in practice, including such matters as the need for early notice to be provided of any proposed development; the community being alerted to possible environmental and health risks; and account being taken of the community's traditional decision-making process.

Unfortunately, even as the Court's decision is being invoked by domestic courts, for example in Peru, and other regional tribunals (the ACHPR's in its landmark *Endorois* decision, described below), the Saramaka have yet to benefit fully from the judgment as the vested interests of those in power mean that the implementation process continues to be stalled.

Africa

Given the unique nature of the African Charter on Human and Peoples' Rights, with its provision for all three generations of rights (civil and political, economic, social and cultural and environmental) and its specific provision for group rights, it might have been expected that African countries and the ACHPR would have been at the forefront of the protection and development of indigenous peoples' rights. Until relatively recently, the opposite has been the case. Recognition of particular ethnic groups as having specific rights has been resisted by many African states on the basis that it would create tensions between different ethnic groups and instability in newly sovereign countries.

In support of such resistance, many states have exploited the lack of any agreed definition of who indigenous peoples are, and argued that all Africans are indigenous in the sense of being pre-colonial. The uneasy relationship between African countries and their indigenous peoples is well exemplified by the concerns raised over and amendments proposed to the UNDRIP at the eleventh hour by the African Group.

Given this general attitude of African countries to their indigenous peoples, it is not surprising that domestically, few of them provide for recognition of indigenous peoples and their property rights, and when they do such laws are generally not enforced. For example, in Botswana, home to over 40 tribal groups, the Tribal Territories Act divides the land between the 8 dominant Tswana tribes and makes no provision for the rights of other tribes. By contrast, the Constitution of Ethiopia, as well as recognizing the right of 'every people' in Ethiopia to self-determination (Article 39.1), specifically recognizes pastoralists' right not to be displaced from their own land (Article 40.5). However, such provisions have proved of scant comfort to the country's Nuer population, involuntarily displaced by the government's villagization programme which is purportedly aimed at ensuring that they are housed in villages with adequate infrastructure and services but which, in reality, appears aimed at freeing up their traditional lands for investment by outsiders for commercial agriculture.

South Africa stands out as one country in the region which is trying to come to terms with its past both at a constitutional and legislative level and in judicial decisions. In the landmark

decision of *Richtersveld v. Alexkor* (2003), its Constitutional Court first examined an indigenous community's land rights prior to annexation by the British Crown with reference to indigenous law rather than common law. Having identified that right as one of communal ownership, including ownership of minerals and precious stones below the surface, the Court went on to hold that this right was not terminated merely by the Crown's annexation of the territory. Instead, the community's rights of ownership remained intact until the discovery of diamonds led to their eviction in the 1920s and the subsequent passing of the Precious Stones Act which did not recognize non-registered owners. Given the racially discriminatory nature of this dispossession, the community was entitled to restitution under the Restitution of Land Rights Act 1994.

The ACHPR itself, after a slow start, has shown increasing willingness to engage with issues of indigenous peoples and their rights. In 2000, it set up the Working Group on Indigenous Populations/Communities in Africa whose work has included the production of an influential report in 2003 examining the human rights situation of indigenous peoples on the continent, as well as exploring possible criteria for identifying indigenous peoples in the African context.

Unlike its counterpart in the Americas, the ACHPR has had very few cases presented to it regarding indigenous peoples and their rights to property. The first was the 2002 case of *The Social and Economic Action Rights Centre v. Nigeria* concerning Shell's oil exploration activities in Ogoniland, in conjunction with a state oil company, with devastating effects on the lives and welfare of the Ogoni people of the region. While a landmark decision established the justiciability of economic, social and cultural rights, it represented a missed opportunity to examine indigenous peoples and their property rights.

That task was left to the 2010 decision of *Centre for Minority Rights Development (Kenya) and Minority Rights Group International (on behalf of the Endorois Welfare Council) v. Kenya*. The Endorois are a semi-nomadic pastoralist community of approximately 60,000 people who have lived for centuries in the Lake Bogoria area of Kenya. In the 1970s, the land which they had traditionally occupied was designated as a Game Reserve. The Endorois were evicted from their lands and their access to Lake Bogoria, with its cultural and religious significance, was curtailed. Having failed to find redress at the domestic level, the Endorois took their case to the ACHPR, claiming violations of their right to property, their freedom to practise their religion, their right to culture, their right to natural resources and their right to development. All of these claims were robustly upheld by the ACHPR in the first decision to recognize that Article 14 of the African Charter (the right to property) protects the right of ownership (and not mere access) of indigenous peoples to the lands they have traditionally possessed.

In a decision which is testimony to the cross-fertilization between regional human rights bodies, the ACHPR drew extensively on the jurisprudence of the IACtHR. First though, it addressed directly the question of who indigenous peoples are within Africa, setting the issue in its current context:

'while the terms "peoples" and "indigenous community" arouse emotive debates, some marginalized and vulnerable groups in Africa are suffering from particular problems. [The ACHPR] is aware that many of these groups have not been accommodated by dominating development paradigms and in many cases they are being victimized by mainstream development policies and thinking and their basic human rights violated.'

Additionally, while drawing very much upon decisions such as *Saramaka v. Suriname*, the ACHPR broadened the protection afforded by the IACtHR in several regards. In particular, the right to natural resources contained in a community's traditional lands was not limited to those to which they had some particular attachment, and the requirement for consent by the community, as distinct from mere consultation, appears to apply to *any* development or investment project that would restrict their property rights and not only those major projects that would have a profound impact on such rights.

Further, in the first decision to adjudicate upon the right to development, the ACHPR rejected Kenya's contention that 'the task of communities within a participatory democracy is to contribute to the well-being of society at large and not only to care selfishly for one's own community at the risk of others'. Instead, the ACHPR emphasized the right to a particular process of development which involves the community on an equal footing and increases their choices and well-being and results in the empowerment of its members.

As in the case of the Saramaka, Endorois are, some two years on, still waiting for implementation of the ACHPR decision. The Ogiek, a forest-dwelling community, have similarly brought a case against Kenya before the ACHPR, in a sign that Kenya's 2010 Constitution, which specifically recognizes marginalized groups and provides for community land, including ancestral lands, has yet to bring about real changes on the ground. Due to the serious violations involved, in the first half of 2012 the ACHPR referred the case to the African Court on Human and Peoples' Rights. This will be the first opportunity for that body, whose decisions, unlike the ACHPR's, are

Left: Endorois people near Lake Bogoria, Kenya. This photo was taken during a MRG trip to Lake Bogoria. *Ishbel Matheson/MRG.*

binding, to adjudicate upon indigenous peoples' property rights.

Asia

Despite being home to the majority of the world's indigenous peoples, resistance to the very concept of indigenous peoples plus the lack of any independent regional human rights mechanism has meant that protection of indigenous peoples' property rights (as well as other rights) remains severely underdeveloped in the region. As in Africa, the debate around indigenous peoples has been caught up in questions of definition and concerns that affording rights to particular groups will undermine national unity. The debate has at times been highly politicized and, as with the wider human rights debate, charges have been made of Eurocentricism and Western domination.

At a domestic level, many states still refuse to recognize their indigenous populations. Thus, Bangladesh's 2011 amendment to its Constitution continued the non-recognition of indigenous peoples as such, making reference instead to tribes and ethnic groups, something strongly criticized by indigenous peoples and their representative organizations.

Some states have shown themselves more open, at least on the legislative books, to recognizing indigenous peoples and their rights. For example, the Philippines enacted the Indigenous Peoples' Rights Act (IPRA) back in 1997, the constitutionality of which has since been upheld by the country's courts. Nevertheless, the IPRA, which provides for the recognition of ancestral domains, the right to self-determination and the duties of consultation and obtaining free, prior and informed consent, has been heavily criticized. In particular, the IPRA is said to be undermined by the 1995 Mining Act, and the number of certificates of ancestral domain title or ancestral land title have been limited due to the unduly burdensome requirements on indigenous peoples to prove occupation of their lands since time immemorial.

It is a similar story in Cambodia, where the 2001 Land Law is progressive on its face, specifically including a chapter on 'immovable property of indigenous peoples', which enables indigenous communities to gain collective title to their land as well as prohibiting sale of indigenous land, even before formal titles are awarded. However, neither provision is enforced in practice.

Malaysia serves as an example of where shortcomings in legislative protection have been addressed through the courts. In a series of cases beginning in 1997 with *Adong bin Kuwau v. Kerajaan Negri Johor*, the courts have upheld indigenous peoples' native customary rights and made clear that they can only be extinguished by clear legislation or by an executive act with appropriate compensation. While Malaysia's indigenous people clearly have some faith in the judicial system (there are said to be over 200 cases currently before the Sarawak courts alone regarding indigenous communities' exercise of their customary rights), the results have been mixed, as the chapter on South East Asia demonstrates.

It remains to be seen what effect developments at an international level and in other regions will have within Asia. Perhaps encouragingly, an early draft of the Association of Southeast Asian Nations (ASEAN) human rights declaration (as of January 2012) includes a specific reference to indigenous peoples and ethnic groups and their right to the enjoyment, collectively and individually, of all human rights, as well as their right to consultation, and the obligation on states to obtain their free and informed consent prior to embarking on certain development projects. However, whether such provisions will be retained in the final draft remains to be seen.

Challenges

The foregoing section has provided a brief overview of the legal standards regarding indigenous peoples and their right to their traditionally occupied lands and their natural resources. Some of those standards are specialized, applying only to indigenous peoples, as in ILO 169. Others are derived from generally applicable standards (the right to property) but elaborated on by human rights tribunals to include specific requirements in their application to indigenous

Left: Portrait of a Waorani woman at Yasuni National Park, Ecuador. The Waorani are trying to protect their land against the threat of oil multinationals. *Julio Etchart/Panos.*

peoples. The standards are not written in stone and are continuing to evolve (for example, with regard to the extent of indigenous peoples' rights over natural resources on their lands, and when the doctrine of free, prior and informed consent applies) but the basic parameters of the rights of indigenous peoples to their properties and the corresponding obligations on states are now established.

The various decisions being made by tribunals at the domestic, regional and international level are important in terms of holding governments to account and in contributing to the ongoing evolution of such rights. Ultimately though, such cases are a means of last resort: to hold states to account for actions they should already be taking (recognizing and protecting in actual practice rights to property by delimiting, demarcating and titling ancestral lands) or refraining from (giving away mining and logging concessions, establishing of wildlife reserves) without the full participation of the local people. And, as shown, even where indigenous peoples' claims of violations of their rights have been upheld before domestic or regional tribunals, governments continue to drag their feet in implementing the decisions.

At the root of this implementation gap is a failure of states and other players, such as private companies, to take indigenous peoples and their rights seriously, and also a continuing refusal on the part of sovereign states to fully appreciate that, just as sovereignty has been ceded in some areas to external economic factors and international bodies, part of their internal sovereignty needs to be ceded. And, as such, states are not always the final arbiters of which development projects can take place, where or how, within their borders. The examples with which this chapter opened are not isolated incidents but just two of countless examples which illustrate this ongoing state of denial.

The incremental chipping away through litigation at widely held views by states as to the real position of indigenous peoples (irrespective of what domestic, regional or international standards they have signed up to) has its place. However, indigenous peoples and their ways of life challenge the dominant development paradigm, which essentially remains about economic development and is premised on the notion of the greatest benefit for the greatest number. Unless and until a new development model prevails, indigenous peoples, whatever their rights in theory, will find themselves vulnerable to governments and third parties wanting to benefit from the resources found on or under their lands. This vulnerability is compounded by the fact that the demand for natural resources has reached unprecedented levels.

One initiative which seeks to modify the current development paradigm is Ecuador's Yasuni-ITT proposal. The Yasuni region is home to the Waorani indigenous people. It is an area of extreme biodiversity. It also contains Ecuador's largest oil reserves in the Ishpingo-Tambococha-Tiputini (ITT) oilfields. Negotiations have been taking place on a scheme whereby Ecuador would forgo oil development in the ITT region of Yasuni National Park if the international community compensates the country for at least half the revenue it would have generated from such oil exploration. Under this model, development still has a price tag, but it is not always the highest possible price and it is not about exploiting natural resources until they are depleted and then moving on to new terrain. From the perspective of indigenous peoples' rights, the project can, on its face, be criticized: the implication being that if Ecuador does not receive the requested funds it will go ahead and extract the oil despite the consequences for the Waorani. Nevertheless, it makes the case that biodiversity and cultural richness also have value.

It remains to be seen whether the Yasuni-ITT proposal is successful and how workable similar proposals in other areas might be. In fact, at the end of 2011, the future of the Yasuni-ITT proposal appeared to be in doubt. What is clear though is that, while immense progress has been achieved by and on behalf of indigenous peoples over the last few decades, there remains much to be done in implementing their rights on the ground. ■

Corporate responsibility to respect the rights of minorities and indigenous peoples

Corinne Lewis

Minorities and indigenous peoples around the world continue to face eviction from their lands and other violations of their rights caused by private sector development and extractive projects, such as mining, oil and gas, and logging activities.

Governments tend to regard new development and extractive projects as opportunities to contribute to national economic development and bring benefits to the country, such as employment, infrastructure investment and increased tax revenue. However, minorities and indigenous peoples often view such projects differently. For them, the land that will be developed is an integral part of their lives and culture; the forests, mountains, plains and water resources are not only crucial to the sustenance of their communities, they also have cultural and religious meaning. The negative impacts of development projects – loss of land and livelihoods, environmental and labour issues, and security implications – often far outweigh any positive benefits, such as employment opportunities or new roads. A few examples of a variety of projects illustrate the severity and breadth of the problem:

Extraction of fossil fuels: Etche, Ijaw, Okrika, Ogoni and other minorities who live in the Niger Delta struggle today with the after-effects of extensive and repeated oil spills in the region, which have damaged their health and livelihoods and destroyed the environment. A 2011 report by the United Nations Environment Programme estimates that clean-up and recovery could take 25–30 years.

Mining of precious minerals: Ipili people were evicted from their land to make way for the Porgera gold mine in Papua New Guinea's highlands in 2009. A local joint venture controlled by Canada-based Barrick Gold Corporation housed and fed over 200 troops, who razed Ipili houses. Rapes of women and killings by the mine's security guards have also been documented.

Agribusiness: In Jambi province on the island of Sumatra, local Indonesian police allegedly worked with the staff of a palm oil plantation, controlled by the Singapore-based Wilmar Group, to evict Suku Anak Dalam indigenous people from three settlements and burn down their houses in August 2011.

Dam construction: The ongoing construction of the Ilisu dam on the Tigris River in Turkey will displace as many as 55,000–65,000 Kurds, create environmental pollution, and affect the water supply to communities in Iraq and Syria.

Logging: The Penan indigenous community living in the rainforests in Sarawak, Malaysian Borneo, continue to demand the recognition of their native customary rights to land in the forests that have been heavily logged by Malaysia-based companies, including Samling, Interhill and Shin Yang. Penan claim that community members who resist logging operations have received death threats and that Penan women have been raped by workers from the logging companies.

Nature reserves: Ogiek have been subject to repeated mass evictions from Kenya's Mau Forest since colonial times. Most recently, in 2009, the Kenyan Parliament authorized the eviction of all inhabitants from the forest, ostensibly for conservation purposes, although this was done without proper consultation. Two Ogiek land-rights activists were brutally attacked in early 2011. The 40,000 hectare forest is seen as a key area for the development of tourism, as well as power generation projects and tea plantations.

The threats to minorities and indigenous peoples, as well as women within these communities, will increase as their lands are coveted for new projects. With the world's population expected to grow from 7 billion today to over 9 billion by 2050, new sources of energy and mineral supplies, food, water and timber will be required. The World Bank estimates that more than 56 million hectares of farmland (worldwide, although 70 per cent is in Africa) was leased to foreign investors in 2009 alone, and over 227 million hectares of land – an area the size of Western Europe – has been sold or leased since 2001. This has been driven in large part by the

need of foreign governments to secure food and bio-fuel sources, and by private investors following the 2008 commodity boom.

As the debate concerning the impact of companies on human rights has intensified, pressure has increased to codify their obligations. Two non-binding documents, approved by the UN Human Rights Council, seek to create a framework for ensuring companies' responsibility to respect human rights: the 2008 UN 'Protect, Respect and Remedy' Framework for Business and Human Rights (Framework), and its supplement, the 2011 Guiding Principles on Business and Human Rights: Implementing the UN 'Protect, Respect and Remedy' Framework. They elaborate on the human rights-related principles contained in the UN Global Compact (see Box 1), a voluntary corporate responsibility initiative that was launched in 2000, and draws on existing standards and practices.

The Framework establishes three key pillars: states' duty to protect against human rights abuses by third parties, including business; corporate responsibility to respect human rights; and access for victims to effective remedy. Under the Framework, companies must avoid infringing upon human rights and address the adverse impacts of their operations. And this refers to all

Box 1

Global Compact principles

Human rights

Principle one: Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle two: make sure they are not complicit in human rights abuses.

Labour

Principle three: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

Principle four: the elimination of all forms of forced and compulsory labour;

Principle five: the effective abolition of child labour; and

Principle six: the elimination of discrimination in respect of employment and occupation. ■

Source: UN GLOBAL COMPACT'S TEN PRINCIPLES.

Left: Suku Anak Dalam community members living in the middle of a palm oil plantation, Jambi, Indonesia. *Sophie Chao/Forest Peoples Programme.*

internationally recognized human rights – not only civil and political rights, but also economic, social and cultural rights – plus fundamental labour standards. In addition, companies should respect the rights of individuals belonging to groups which may be adversely affected by their operations. These include the principles set out by the UN with regard to minorities and indigenous peoples.

The Guiding Principles that operationalize the Framework do not specifically mention the rights of minorities and indigenous peoples, although the commentaries to the principles encourage businesses to consider standards for minorities and indigenous peoples as part of broader due diligence procedures. According to another commentary, states should provide guidance to business enterprises on how to consider issues relating to specific challenges faced by minorities and indigenous peoples.

The corporate responsibility to respect human rights is a voluntary commitment made by companies themselves, except where national laws, such as those with respect to labour standards, non-discrimination, indigenous peoples, health and the environment are applicable to companies' operations. However, in many countries where extractive and development projects are located, such national laws are either non-existent or unenforced.

Companies have recently begun to articulate their commitment to respect human rights in corporate codes, policies and reports. Industry associations, such as the International Council on Mining & Metals, and the global oil and gas industry association for environmental and social issues (IPIECA) are also encouraging member companies to respect human rights. While these industry associations and companies specifically address the topic of indigenous peoples, they give very little consideration, if any, to minorities.

Yet the real challenge arises from the fact that companies in the extractive and development sectors continue to perpetrate serious rights violations, including of the rights of minorities and indigenous communities. Consequently, the question is whether the voluntary commitment

Box 2

Minority communities at a disadvantage

The Buela, a forest community in the Congo Basin, in the Democratic Republic of Congo, signed an agreement in 2011 with Sodefor (Société de Developpement Forestier), a subsidiary of Nordsudtimber, a Liechenstein-based company, to allow forest areas used by the community to be logged by the company.

However, the process leading up to the signing was skewed in favour of the company. According to a Congolese lawyer working through an initiative of Avocats Sans Frontières with forest communities in the region to ensure respect for their rights, no company representative ever came to discuss the agreement with the community. Instead, Sodefor sent an NGO that it engages, PABO (Partisans et Artisans de Bongandanga). PABO told the community members that it supported them, but actually advocated the company's position and failed to inform the community of its rights and options with respect to the company's proposed agreement.

The lawyer also said the community members' inexperience in these matters meant they were unaware they could discuss and negotiate the terms of the agreement. The presence of military personnel at the signing ceremony, coupled with the memory of the military's arrest, torture and killing of some Buela and rape of Buela women following Sodefor's request for military intervention in 2005, allegedly created sufficient fear in the community members that they simply signed the agreement. ■

by companies to respect human rights is sufficient or whether binding legislation and regulations, new governmental policies and other actions are needed.

Concerns

Land issues

The land leased to companies to develop a project is rarely land that belongs to no one. Even where no formal legal title exists, minority or indigenous communities may have ownership rights under customary law. Companies sometimes lease land that is subject to community ownership directly from the community, as Rio Tinto has done for land owned by Aboriginal communities in Western Australia that contains iron ore deposits. However, the agreement should be a consensual one and the process used to arrive at the agreement should be fair, which was not the case with respect to the agreement signed by the Buela forest community in the Democratic Republic of Congo (DRC) (see Box 2).

Generally, companies purchase or lease the land from the government. However, governments often either appropriate land or force members of minority or indigenous communities to sell their land. For example, palm oil companies, such as Colombia-based Urapalma, acquired land from Afro-descendant communities in the Choco department in western Colombia through forced sales. Company representatives allegedly colluded with paramilitary groups to present the landowners with offers that were well below the estimated market price; these offers were backed up by indirect or direct death threats.

When companies receive land concessions from the government, minority and indigenous communities are frequently displaced; they are not resettled nor do they receive fair compensation for the land or for the adverse effects of the displacement. For example, when the Tanzanian government leased Sukenya Farm in Western Arusha to a US safari tour operator, pastoralists were forcibly ejected from their land, and continue to be subjected to harassment, beatings and extra-judicial arrests when attempting to access their traditional sources of water on the land.

Displacement can have a disproportionate effect on women from minority or indigenous communities, since they lose not only their livelihoods, but also their roles in the family and community. Moreover, displaced women and girls generally are at risk of exploitation, such as trafficking and prostitution, as well as sexual violence. These risks are compounded by the discrimination faced by many minorities and indigenous communities. Companies do not always consider these effects. Vedanta, a London-based company, failed to evaluate properly the impact of its bauxite mine on women in India's Odisha state, despite evidence that other extractive projects in India had led to 'loss of access to resources and livelihood, greater insecurity and increased vulnerability to violence' for women according to a 2011 report of Amnesty International.

Consultation and free, prior and informed consent

Companies often receive land concessions from governments that did not consult with or obtain the 'free, prior and informed consent' of indigenous communities affected by a project. For example, the Cambodian government granted a land concession for a rubber plantation to Socfin-KCD, a joint venture controlled by a holding company registered in Luxembourg, without obtaining the consent of the indigenous Bunong community, even though the concession partly overlaps with the Bunong's land.

States' duty to consult indigenous peoples is established in international law under Article 6 of the International Labour Organization Convention no. 169 Concerning Indigenous and Tribal Peoples in Independent Countries (ILO 169). Such consultation with a view to agreement must be provided to indigenous communities whenever consideration is being given to legal or administrative measures that may affect them.

The principle of free, prior and informed consent, contained in Article 32 of the UN Declaration on the Rights of Indigenous Peoples is arguably developing into a customary international law standard. The principle has also been found to apply to states in both a 2007 decision of the Inter-American Court of Human Rights, *Saramaka People v. Suriname*, and a 2009 decision of the African Commission on Human

and Peoples' Rights concerning Endorois in Kenya. The legal standard articulated by the two decisions is that in the case of:

'any development or investment projects that would have a major impact within the [community's] territory, the State has a duty not only to consult with the community, but also to obtain their free, prior, and informed consent, according to their customs and traditions.'

Moreover, these standards are entering into national law. For example, Peru adopted legislation in September 2011 that follows the ILO 169 approach of consultation leading to an agreement. It also provides that where such an agreement or consent cannot be reached, the government must still take all measures to guarantee indigenous rights.

The emerging obligation to obtain the free, prior and informed consent of indigenous communities falls upon states rather than companies. However, a company's failure to ensure that the government has fulfilled its obligations will likely manifest itself in actions of anger and frustration directed at the company. Shuar indigenous people in Peru (also known as Wampis) blockaded the Morona River to stop Canada-based Talisman Energy from conducting exploratory oil drilling in September 2011 in anger over the lack of consultation.

Recently, some lending institutions have begun to articulate the standard as a requirement for extension of financing to a company. The European Bank for Reconstruction and Development (EBRD) and the International Finance Corporation (IFC) require companies to obtain such consent in relation to projects funded by these institutions. In addition, over 70 banks that have adopted the Equator Principles – a set of standards that allow banks to determine, assess and manage environmental and social risks in projects they finance – incorporate the IFC's standards and thus also impose this requirement on their borrowers.

But, too often, companies consult with indigenous peoples in a perfunctory and superficial manner, and so not only undermine the purpose of the process, but also engender distrust and frustration among communities. The original owner of the Marlin Mine in Guatemala, Canada-based Glamis Gold, was required by the IFC to hold consultations with local communities, including indigenous Mayans, as a condition for receiving a loan from the institution. While the company held workshops, these served only to inform the community

Box 3

Strengthening community resistance

The 'community protocol' is gaining recognition as a tool that can be used by indigenous and other communities to protect their natural resources, livelihoods and community traditions.

The protocol can take a variety of forms, depending on the needs of the community, and often includes:

- a description of the group, including its values, relationship with their land and resources, customary laws and governance system;
- a statement of the community's development aspirations;
- their rights and responsibilities under national and international laws; and
- the process for obtaining the community's 'free, prior and informed consent'.

The protocol serves as a guide to companies or others who wish to engage with the community and access their natural resources. In addition, the process of creating the protocol, with support as required, can contribute to a greater sense of community, understanding of their rights, and legal empowerment.

A good resource is UNEP's website on community protocols: www.unep.org/communityprotocols/resources.asp. ■

about the planned project, rather than providing opportunities for discussion. Once the scope and environmental impact of the project became clear, the communities staged demonstrations and blocked the road leading to the mine.

Women from minority and indigenous communities may not have any significant voice within the community during the consultation process, or be able to complain about the actions of a company. As one Antanosy woman in Madagascar stated: 'If someone, or a woman like me, tries to complain and talk to the mayor, he may say, "What does a woman know about this problem?"'

The Tachara indigenous community found their land, water and sacred groves under threat when the Ghanaian government granted Azumah Resources Limited permission to prospect for gold in the Upper West Region of Ghana, and illegal miners also came into the area. The community decided to take action; with the assistance of the Center for Indigenous Knowledge and Organizational Development, they drafted a community protocol to protect their traditional knowledge and natural resources. As a result, they were able to drive away illegal miners and bring their case to the regional and national government. Communities in many other countries have now adopted such protocols (see Box 3).

So far, the right to free, prior and informed consent has been most clearly stated with regard to indigenous peoples rather than to minorities. However, there are some minorities who claim the right because they, like indigenous communities, own land communally, have religious and cultural links to land and natural resources, and suffer from marginalization and a lack of political power within the country.

Freedom of movement

The presence of an extractive or development project on lands used by minorities and indigenous peoples often restricts their freedom of movement and makes it difficult for them to access vital resources, and cultural and religious sites on the land. Kichwa people in Sarayaku, Ecuador have alleged, in a case to be heard by the Inter-American Court of Human Rights, that their freedom of movement was restricted in their own territory by the actions of an Argentinean oil company, Compañía General de Combustibles. The company placed explosives in over 450 pits along their traditional hunting trails, according to a report by EarthRights.

Right: An Ogoni boy looks up at the black smoke pouring from a burning Shell oil pipeline in Kegbara Dere, Nigeria. *George Osodi/Panos.*

Security issues

When tensions arise with the local community, companies frequently hire security personnel or request police assistance to ensure the safety of the company's facilities. The Voluntary Principles on Security and Human Rights were developed in 2000 by a group of governments, companies and NGOs in reaction to incidents in the 1990s, such as when Shell paid military personnel to suppress resistance to its oil activities in Nigeria. The principles provide guidance to companies on how to prevent human rights violations by hired security personnel and avoid corporate complicity in violations committed by government officials. However, recent reports that Shell has fuelled violence in Nigeria by hiring and arming youth militia groups to protect its facilities suggest that such non-binding guidelines are insufficient to ensure that the rights of local people are protected.

Environmental issues

Extractive and development projects inevitably give rise to alterations to the environment, and can cause extensive damage. This begins with the construction of infrastructure, including the roads, housing, power, water and waste facilities, and continues throughout the operation of the project, which may entail use and disposal of toxic chemicals. All this can cause the landscape to be transfigured, and the flora, fauna and ecosystem to be disturbed. Even after a project ends, the land and habitat may remain scarred or irreparably damaged.

These activities can disrupt the lives and destroy the livelihoods of the minorities and indigenous communities, who often maintain a close relationship to the natural environment for their livelihoods and also because their religious and cultural practices are linked to the land. Dongria Kondh in India's Odisha state, for

example, strongly oppose Vedanta's proposed bauxite mine project in the Niyamgiri Hills where they live. They fear that the project will not only destroy the forests and disrupt the rivers upon which they rely, but also the sacred mountain, Niyam Raja, where their god who protects the people from unnatural deaths resides.

Deforestation commonly imposes hardship on local communities as it affects their ability to obtain food and, potentially, their very survival. Penan, an indigenous community of hunter-gatherers who live in Sarawak in the Malaysian part of Borneo, rely on the flora and fauna of the rainforests and the rivers that flow through the forest for nourishment. But, as logging operations and, more recently, oil palm plantations have encroached on their land, Penan have become impoverished and are suffering from poor health; Penan children are increasingly afflicted by diarrhoea and influenza. Other indigenous groups in the region, such as Kayan, who have traditionally grown their food on small areas of land in the forest, have had their lands taken over by oil palm plantations as well.

Chemicals used in extractive projects can have serious repercussions on minority and indigenous communities when they are not properly handled and are released into the environment. In the US state of Montana, around the Zortman Landusky gold mine – operated by US-based Pegasus Gold until it went bankrupt in 1998 – there were over a dozen cyanide spills that polluted the land and groundwater of the Fort Belknap tribes. Even after the closure of the mine, acid mine drainage

Right: Dongria Kondh protest against Vedanta Resources, Niyamgiri, India. *Survival.*

continues to pollute local water resources.

Companies do not always take the necessary steps to reduce such pollution. For example, gas flares, which burn off natural gas from oil extraction processes, release known pollutants that have been blamed for a wide range of illnesses, from respiratory problems to cancer, and create noise pollution. Companies continue to use gas flaring in the Niger Delta and in other oil operations around the world, despite the existence of technology designed to avoid its use, which is 'already available and commonly used in other countries', according to a 2011 European Parliament report.

The vulnerability of minorities and indigenous communities, when their lands and the air they breathe are being polluted by a company, is compounded by their inability to access information about such harms, or to access adequate health care. When a truck from the Yanacocha mine in Peru spilled 151 kg of mercury over a 40 km stretch of road in 2000, indigenous people picked up the glittering liquid in their bare hands and consequently suffered adverse health effects, including blindness, neurological damage and memory loss. The government estimated that more than 900 people were poisoned.

Though the contract for the sale or lease of land to a company may not explicitly cover use of water, companies generally want to secure water rights as part of the deal; water is essential to most operations. But when enterprises consume significant quantities, this leaves less water available for local communities and their livestock, which is a particular problem in regions subject to long dry periods and seasonal rains. In Chile, a national mining company, Soquimich, bought up and polluted so much of the water in Quillagua town that local Aymara indigenous groups can no longer produce crops, and the majority of people have been forced to migrate elsewhere.

The construction of dams not only displaces local people and destroys biodiversity of an area through flooding, but can also drastically alter the availability of water resources to a community. Two Canadian First Nations communities claim that the Kenney Dam on the Nechako River in Canada, owned by Rio Tinto-Alcan, a subsidiary of the Anglo-Australian Rio Tinto group, has caused a decline in the fish stocks upon which they rely.

Labour issues

Individuals within minority or indigenous communities often have very divergent views of the arrival of a company on or near their lands. Some individuals may see it as a threat to their culture, livelihoods and control over resources, while others consider it as an opportunity for jobs and a welcome move away from their traditional livelihoods. The Organization for Economic Co-operation and Development (OECD),

whose 34 member countries formulate policies to improve the economic and social well-being of people throughout the world, encourages companies to employ local workers to the greatest extent possible.

But all too often the hopes of minorities are dashed upon realizing that the available jobs are fewer than promised or expected, are mainly low-paid unskilled positions and are only short term. Forest communities in Madagascar were reportedly angry with Rio Tinto's Canadian subsidiary, QIT Fer et Titane, which controls the ilmenite mine project on the east coast of Madagascar, for breaking promises about employment and training, and instead hiring skilled workers from outside the region.

In some cases, when land is purchased by foreign investors for large-scale agricultural purposes, farmers have lost their livelihoods due to the mechanization of farm processes; for example, when Indian agricultural businesses have bought up land in Africa. In other cases, minorities such as Uighurs in Xinjiang Uighur Autonomous Region, China, were forced by the government to perform labour on resource development projects, such as agricultural projects, without compensation.

Destabilization of communities

The presence of companies on lands traditionally

owned or used by minorities and indigenous peoples can destabilize communities when jobs, profits and benefits, such as the construction of roads and schools, are seen to be unequally distributed among different groups, leading to conflict within communities. Vedanta's planned bauxite mine in Odisha state, India, was opposed by Dongria Kondh people, who are farmers, but was supported by other villagers who are wage labourers. The other communities blocked routes into the area, essentially holding Dongria Kondh under siege. Dongria Kondh drew international attention to their situation and, as a result of widespread criticism of Vedanta, the Indian government suspended the project in 2010. The decision is currently pending appeal.

Companies have also abetted conflicts within minority and indigenous communities by providing assistance to members who support their projects. Achuar spokespersons, in the Peruvian Amazon, allege that Talisman Energy, a Canadian-owned oil company, transported a group of armed members of their community who support Talisman's oil drilling, to confront community protesters in May 2009. Such incidents undermine community traditions of collective decision-making.

In addition, projects can divide different generations in a community as younger people obtain jobs with the company, and thus money and independence, while the older generation risks losing its traditional influence and role. New development and extractive projects have also served to attract significant influxes of individuals from outside communities, as well as the creation of new businesses, including unwanted ones, such as prostitution, alcohol supply and drug trafficking, which significantly disrupt the local social fabric.

Weaknesses in the existing framework to ensure corporate respect for human rights

While the Guiding Principles are a positive step forward, corporate responsibility standards still have some way to go. This is partly due to the fact that international initiatives have so far been voluntary, and partly because local enforcement of national legislation continues to be patchy. Consequently, some of the most vulnerable groups – particularly minorities and indigenous peoples – are not protected from harmful corporate behaviour. This section will explore some aspects of these failings.

Legal redress of violations

Minorities and indigenous peoples who have had their rights violated in connection with a development or extractive project should be able to access legal procedures within their state. However, many of these violations occur in countries with inoperative or ineffective judicial systems, weak governance or internal conflicts. In countries where a fair local judiciary system exists, legal procedures can be costly, time-consuming, psychologically daunting and require expert legal assistance. For many marginalized communities, long travel distances and language barriers are further potential obstacles. These difficulties render national legal procedures practically inaccessible to most minorities and indigenous peoples who have suffered violations of their rights.

The laws of the country in which the ultimate parent company is incorporated may permit criminal as well as civil, tort and negligence claims, but the problems mentioned above for minorities and indigenous communities seeking legal redress are multiplied to a daunting degree when envisioning legal claims in another country. Legal principles, such as the 'corporate veil' that regards a parent company as distinct from its subsidiaries, and thus not liable for the wrongdoings of the subsidiary, also serve as significant obstacles to claims by minorities and indigenous peoples.

Another option is for minorities and indigenous peoples to submit complaints to regional human rights bodies and UN treaty bodies. However, the claimant must normally have exhausted domestic remedies. In addition, the claim must be made against the state rather than the company. The claimants should assert that the state failed to provide sufficient protection against acts by the company and that the state has not implemented systems that permit it to prevent, investigate, punish, and redress human rights violations by businesses. Even where regional human rights bodies and UN treaty bodies issue decisions that protect the

rights of minorities and indigenous peoples, there can be problems of ensuring compliance and enforcement, not least when development and extractive projects are involved.

Minorities and indigenous peoples who have been victims of human rights violations also have the possibility of submitting a complaint to a 'National Contact Point' (NCP), a governmental body established by OECD member states who adhere to the OECD Guidelines for Multinational Enterprises (OECD Guidelines). NCPs investigate complaints of potential breaches of guidelines. Once the complaint is determined to be admissible by the NCP, mediation is normally instituted between the complainant and the company. But the NCP has limited investigative capacity and no enforcement powers. Thus, this process does not necessarily guarantee a remedy of the violation, and the procedure is heavily dependent upon the integrity and commitment of the individual NCPs.

Voluntary initiatives

In the absence of sufficient means to ensure compliance, companies are largely left to self-regulate. The Guiding Principles and the OECD Guidelines establish a number of approaches for companies; the question is whether such self-regulation is sufficient.

Due diligence

The Guiding Principles encourage companies to establish due diligence processes that assess 'actual and potential human rights impacts'. But while companies commonly conduct an environmental impact assessment, such assessments do not generally consider past human rights violations which have affected minority or indigenous communities, ongoing violations that should be remedied, or the future potential harm to such communities as a result of the project. Nor does such due diligence usually consider the different risks faced by women and men.

Grievance mechanisms

The Guiding Principles affirm that businesses 'should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted'. Company grievance procedures are not a replacement for effective judicial mechanisms. Nevertheless, they do permit local persons to communicate their concerns and complaints, which they may not necessarily express as violations of rights, directly to the company, thereby opening up the possibility of redress of such issues.

But few companies have instituted such mechanisms. While the IFC's revised performance standards on environmental and social sustainability, which became effective on 1 January 2012 and are also incorporated into the Equator Principles, require borrowers to create a complaints procedure, this only applies to new investments. Therefore, companies that already have loans in place with the IFC or a bank subscribing to the Equator Principles are not required to create grievance mechanisms unless they obtain a new loan for a project.

In order to constitute a satisfactory option for the resolution of issues and problems raised by minorities and indigenous peoples, the grievance procedure must be an effective one. According to the Guiding Principles, this means that such a mechanism must be legitimate, accessible, predictable, equitable, transparent, rights-compatible and a source of continuous learning. The key question is not only whether the procedure is 'effective' in procedural terms, but also whether it serves to remedy the problem as well as prevent future violations of rights.

Community engagement

While for indigenous peoples, the right to free, prior and informed consent to a project is developing into a customary international law standard, this principle has not yet been applied to minorities. Instead, the general principle of 'engagement' by the company with the local community is becoming the principle relevant to minorities. The OECD Guidelines encourage companies to '[e]ngage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision making for projects'. The EBRD, the IFC and consequently the Equator Principles also require borrowers to engage with persons affected by their projects. As the notion of 'engagement' is vague and there is no legally binding obligation to 'engage', in reality

minorities have little international legal basis to influence corporate behaviour.

Nevertheless, there are strong arguments in favour of companies taking the views of minorities seriously. Engaging local communities can lead to the company obtaining their support, that is, a 'social licence' for the company to operate. Poor community relations at any point in the life of an extractive or development project can lead to demonstrations, road blockages and other acts by the community that are expressions of its frustration about unaddressed concerns, such as the effects of the project on the natural environment or on their access to land. Companies' continual disregard of such concerns can even result in the suspension of their projects, as has occurred with, for example, Vedanta's planned bauxite mine project in Odisha, India, China Power Investment Corporation's Myitsone hydroelectric dam in Burma and Newmont Mining's Conga gold mine operation in Peru.

Minorities and indigenous peoples are rarely provided with information about the proposed project and plans in their own languages. Mayan indigenous people in the Western Highlands of Guatemala did not fully understand the implications of the proposed plans for Canada-based Goldcorp's Marlin gold and silver mine project since the Environmental Impact Assessment was produced only in Spanish, whereas the local indigenous Mayan communities speak Mayan, and it was only made available to them by the Guatemalan government for one week. Therefore, language issues alone may block meaningful participation in discussions with companies.

Similar issues arise when companies seek to implement social projects but then fail to consult local communities properly. This generally wastes funds and engenders frustration and resentment in communities. For example, in the Congo Basin in the DRC, the company Sodefor failed to consult with Buela on their needs, and consequently provided unsuitable schools rather than urgently needed medical facilities. The company also coerced the community into granting Sodefor the right to log forest areas used by the community (see Box 2), resulting in tensions that could erupt into actions to block Sodefor's access to the forest.

Companies' engagement with minorities and indigenous peoples is only the first step; the essential issue is whether a company acts upon input from local communities. Where the company has engaged with individuals at the local level who are affected by the project, but then fails to respect the written agreement or its oral promises, the company only fosters a climate of distrust, which can lead to demonstrations to block the company's operations and lawsuits. The people of Etiema, in the Niger Delta in Nigeria, claim that Agip Oil Company made promises – such as compensation payments for deaths of young people – that were never fulfilled, and have threatened a lawsuit against the company.

Reporting

The Guiding Principles state that companies should communicate externally as to 'how they address their human rights impacts' and formally report 'where risks of severe human rights impacts exist'. The number of companies reporting on their respect for human rights is increasing. Such reporting is frequently contained in a social responsibility report that is issued separately from the company's annual report. According to international accounting and advisory firm KPMG, while reporting is quite high for the mining, oil and gas, forestry, and pulp and paper sectors, and nearly 70 per cent of all publicly owned companies issue social responsibility reports, the figure is less than 50 per cent for privately owned firms, which are not subject to as much shareholder and media pressure.

Some governments are adopting regulations that require annual reporting on corporate social responsibility. For example, Denmark updated its law in 2008, and France did the same in 2010. The European Commission is also considering legislation in this area.

Companies do not always apply in practice the express commitments that they make in their reports (see Box 4). Moreover, these reports suffer from several significant weaknesses. First, there is no formal system to monitor the content of such reports at the national or international level, or an external body to evaluate the accuracy of reporting. Many companies express a commitment to respect human rights but do

Box 4

Beware the 'bluewash'

The 2010 sustainability report of Newmont Mining Company, the world's largest gold producer based in the United States, states:

- 'the safeguarding of human rights … guides our approach to working with our many stakeholder groups, including local communities and indigenous peoples'
- '[W]e invest in understanding the impacts of our operations from the perspective of indigenous peoples
- Engage with these communities throughout the mine life cycle, building cross-cultural understanding in the process
- Design projects and seek agreement with these stakeholders on programs to create net benefits in their communities.'

However, in practice, Newmont continues to push forward with its plans for the Conga gold and copper mine project in the Peruvian Andes despite the opposition of indigenous communities in the region.

These communities are concerned about potential pollution from the mine and its effects on their water supply, particularly as it involves the destruction of four mountain lakes and is situated at the headwaters of several river basins.

'Getting rid of the lakes would be like dynamiting the glaciers in the Andes, we'd be creating a problem that impacts the ecosystem', Environment Minister Ricardo Giesecke said in November 2011.

Despite numerous demonstrations and the objections and concerns of the campesinos, Newmont pledges on its website that it will 'continue to advance the project in 2012', which suggests that there is a serious gap between the company's express commitment and its actual practice. ■

not provide sufficiently detailed information to allow a determination as to whether they have actually implemented such a commitment. Second, minorities and indigenous peoples also have difficulty verifying reports that may use unintelligible business terminology and be written in a language which the communities do not understand.

Third, while some companies report on their impact on the rights of indigenous peoples, there is generally very little information about the rights of minorities, except with respect to labour rights. This suggests a lack of awareness within companies of the specific rights of minorities, but is also due to the fact that commonly used performance indicators, such as those established by the Global Reporting Initiative, focus on indigenous rights but not minority rights. In any event, these performance indicators are more of a quantitative accounting process rather than a measure of compliance with human rights.

Conclusions

While the principle of corporate responsibility for human rights is gaining ground, the rights of minorities and indigenous peoples have not been sufficiently articulated as part of this principle. This is in part due to the fact that the impact of human rights violations on minority and indigenous communities by companies in the development and extractive sectors is not yet widely or sufficiently understood.

Despite express commitments by many companies to respect human rights, significant violations of the rights of minorities and indigenous peoples continue to occur in practice. The non-binding nature of the principle of corporate respect for human rights, coupled with the lack of means of enforcement, means that many violations continue and victims are unable to obtain redress or remedies for such violations. Companies are in the process of adopting an array of approaches, drawing on international initiatives such as the Guiding Principles and the OECD Guidelines; these include due diligence, grievance mechanisms, community engagement and corporate reporting. However, these are under the control of the companies themselves and cannot fill the void left by the lack of a means of enforcement.

Thus, a great deal more needs to be done to create awareness of the impact of development and extractive projects on the rights of minorities and indigenous communities, to include protection for them in the emerging principles and standards, and to ensure respect for their rights by companies and enforcement of such rights.

The following recommendations could be used to further corporate respect for human rights in practice.

Recommendations

Creating greater awareness

There is a need for greater awareness of violations of the rights of minorities and indigenous peoples by companies in the development and extractive sectors. This is especially true of their adverse impact on minority and indigenous women. The dearth of documentation as to the effects of such projects on minorities is particularly notable. The UN Working Group on Business and Human Rights should encourage further research in this area, and coordinate with relevant UN monitoring mechanisms, including the Independent Expert on Minority Issues and the Special Rapporteur on the rights of indigenous peoples.

Empowering minorities and indigenous peoples

Minority and indigenous communities should consider drafting community protocols that include statements as to the basis upon which they will agree to projects that affect the community, and outlining their cultural traditions and the natural resources on which they depend. Community leaders must ensure that all members – including women – can participate meaningfully in this process.

Civil society organizations should work towards greater inclusion of minorities and indigenous peoples in processes such as the creation of legislative standards, industry principles, reporting indicators, and judicial and non-judicial mechanisms related to corporate responsibility to respect human rights.

Standards and principles

States should adopt legislation that provides for the free, prior and informed consent of indigenous peoples regarding development that will have an impact on them. States should also recognize the customary land rights of minorities and indigenous peoples and seek to adopt any necessary enabling legislation. These customary land rights should be respected in negotiations with companies in pursuit of development or extractive projects on minority or indigenous lands.

The UN Working Group on Business and Human Rights and the Global Compact Governance Framework should consider developing principles specifically on businesses and minority and indigenous peoples. Companies and industry associations should also incorporate human rights principles related to minorities and indigenous peoples into their own policies and guidelines.

Companies

Companies should promote an understanding of minorities and indigenous peoples, including women in these populations, and their rights through training of management and employees. In addition, companies should commit to respect their rights, including the principles of effective consultation and of free, prior and informed consent of indigenous peoples to companies' activities. Companies should provide appropriate grievance mechanisms and report on their commitments and implementation of respect for the rights of minorities and indigenous communities, including women in these populations, in their corporate reports. Companies should also engage in effective consultation with minorities and indigenous communities who are impacted by their operations.

Enforcement

States should foster corporate respect for the rights of minorities and indigenous peoples through the enforcement of existing laws and regulations and the adoption of any necessary new legislation, including with respect to the extraterritorial activities of businesses domiciled in their countries. States should also provide accessible, transparent and effective legal mechanisms to which minorities and indigenous

peoples have access in case of violations of their rights. States should divest from companies that commit serious and systematic human rights violations, including those of minorities and indigenous peoples.

Encouraging corporate respect through lending agreements

International, regional and national financial institutions and private banks should include provisions in their loan agreements that the obligation to respect human rights, including with respect to minority and indigenous rights, is not only an initial condition to obtaining the loan but also an ongoing undertaking. These institutions and banks should establish mechanisms to monitor the behaviour of companies and alert company directors if they are in serious breach of their loan agreements. Where companies do not comply with such standards, and do not rectify serious breaches despite receiving warnings, the institutions and banks should move to require repayment of the loan provided to such entities. ■

Indigenous women's land rights: case studies from Africa

Elisa Scalise

Indigenous communities' rights to land and natural resources are vulnerable, and seeking formal recognition of customary law and collective ownership to land is crucial to protect these rights. However, greater autonomy or recognition for indigenous laws and culture does not necessarily result in enhanced rights for women within the group.

Indigenous women are often doubly vulnerable, as their access to land and resources is frequently mediated through customary law, which depends on their communities retaining control over traditional territories. Often no one, male or female, has formal legal title to land or communal claim to land, and whole communities are forcibly displaced to make way for conservation or development projects. Certain communities, such as Batwa and Basongora in Uganda, and Samburu in Kenya have been rendered virtually landless.

When communities are dispossessed of their land, women are often disproportionately affected because of their traditional role in procuring water, fuel or trading goods for their families. For example, Batwa communities displaced from their traditional forests in Uganda to make way for a national park came into conflict over access to water holes with the Bakiga community, whose territory they were forced onto. Consequently, Batwa women had to travel more than half a day to reach an alternative water source. Iteso displaced by ongoing raids from Karamojong in Uganda were forced to move into internally displaced people's (IDP) camps for their own protection. Women and girls from their community have suffered sexual assaults by security forces, and traditional structures to protect women have been eroded. Endorois women report being assaulted and beaten by Kenyan government agents during their eviction to make way for a game reserve.

When indigenous communities do have traditional or customary land tenure, indigenous women's rights are often more insecure than those of men. Customary land tenure practices are complex and hugely varied; land governance is tethered to social relationships and reflects power structures, social norms, symbolic or cultural meaning, and sometimes systemic inequities. This means that, within the same society, the factors making land tenure insecure for some groups may not be the same for others: indigenous women may be more vulnerable to threats to land tenure security than men. Customs may reinforce social justifications for inequitable land rights for men and women. For example, among Acholi in Uganda, husbands pay a bride price to their wives' fathers, and this payment supports the traditional belief that women are the 'property' of the husband, since a payment was made for her. This belief underlies the customary land tenure rule that prohibits women from having rights to land independent of their relationship with their father or husband. Acholi men say, 'Property can't own property', and the notion of women having independent land rights is an anomaly to them.

Women may be excluded from decision-making both within their community and the wider political systems of the state. Within pastoralist communities in East Africa, men dominate politics and decision-making and are the heads of households and clans. Women are left to play secondary supportive roles in livestock production and are generally excluded from public life. In the past, women held a more equitable role in their communities, but with the recent commercialization of pastoralism and government interventions, women have become increasingly marginalized from decision-making.

Formal laws can also discriminate against indigenous women. For example, Rwanda's land law gives equal rights to land for 'husbands and wives', but only civilly married monogamous couples are recognized as married under law and many indigenous women, such as those belonging to the Twa community, are married by customary or religious rites, effectively excluding them from the provision of equal property rights. Women may also lack the education or information necessary to allow them to exercise formal legal rights. Overall, unequal access to land can limit the economic independence of indigenous women, making them more vulnerable to economic or social upheavals.

More secure land tenure for indigenous peoples could help protect their communities against external threats to their lands and natural resources by providing a formal basis for these groups to assert their ownership rights.

However, greater autonomy or recognition for indigenous cultural rights does not necessarily result in enhanced rights for women within the group. Efforts to strengthen the property rights of indigenous groups could increase women's vulnerability to being disenfranchised unless differing needs, rights, norms and expectations of women and men with respect to land are considered.

Indigenous women with strong property rights in land are less likely to become economically vulnerable, and more likely to be protected from extreme poverty. When faced with household shocks, such as abandonment, sickness, divorce or widowhood, and depending on the land use culture of the community, indigenous women can turn to land for self-employment and food production. Property rights can increase an indigenous woman's bargaining power within the household, and land rights can empower women to participate more effectively in their immediate communities and in the larger civil and political aspects of society.

Acholi, northern Uganda: potential vulnerability of women within customary systems

The Acholi land tenure system of northern Uganda illustrates the complex dynamics at work within customary land tenure, and demonstrates some of the challenges with regard to protecting women's land rights within these systems. The Acholi are a Luo-speaking people, indigenous to the Acholi sub-region of northern Uganda. In Acholiland, land is held under customary tenure, which is recognized by law, and is technically owned by all Acholi people, though different clans govern different areas of the region. Arable land is apportioned by the clan elders to a household head – always a male – normally at the time of his marriage. The household head is given responsibility for managing and protecting the land, while other members of the family – the wife and children – must obtain the consent of the household head in order to gain the right to use and access the land. When the household head dies, his sons inherit his rights to the household land, and may also request additional land from the clan elders when they marry. Traditionally, transactions in land are not

permitted without sanction of the clan.

A woman's right to property in Alcholiland is determined by her relationship to a man (usually husband or father), while a man's right to property is determined by his membership in a clan by birth. When a woman marries, her husband pays a bride price to her family, and she leaves her father's household and moves to her husband's household. Women who live with a man in a consensual union that has not been formalized by following the marriage traditions, including bride price, are not considered married by Acholi. Women's rights are more insecure, limited in length (only lasting as long as her marriage) and limited in scope (she cannot conduct land transactions, but her husband can).

Widows can be particularly vulnerable members of the community. An Acholi widow who completed the customary marriage rites becomes the *de facto* head of the household upon the death of her husband. She then has the responsibility of managing the household land and allocating it to male children when they become adults and get married. But an Acholi widow who never completed the customary marriage rites, as was very common during the long civil war in northern Uganda, is often forced to leave the land she used in her husband's household and take her children with her. Because her marriage was not sanctioned by custom (and bride price was not paid), her children are not considered part of the deceased husband's clan, and so she must return to her birth household. This is an example of how a woman's land tenure security may be more vulnerable than a man's within a customary system. But it is also an example of how, when indigenous institutions are weakened due to

Left: An Acholi cane-cutter in the sugar fields at Kinyara sugar works, Masindi district, Uganda. She moved there from Acholiland due to fighting. *USAID Office of Transition Initiatives/Will Boase.*

conflict or economic and political changes, women's land security is often weakened further.

Customary leadership of the Acholi was severely affected by the long conflict in northern Uganda, when many Acholi people lived in IDP camps for as long as 20 years. During this time, people were separated from their land for long periods, and many people disappeared or were killed. When the camps were disbanded and people began to return to their land, customary rules for land tenure did not necessarily have the answers to some of the problems faced by Acholi people: men had lost their fathers from whom they would be granted land; children did not know where their clan land was; women were 'married' to men without following the customary rules for marriage because of a lack of resources; and women were widowed and left with few options for survival. In such a context, the land rights of those with the least power – widows, the disabled, the elderly – were very insecure.

On the national stage, the Ugandan government has recently drafted a new land policy, one of the objectives of which is to strengthen customary land tenure systems throughout the country. At the same time, the policy seeks to address the problem of traditions, customs and practices which discriminate against women in matters of access to, and use and ownership of land. The example of the Acholi people shows that strengthening the land tenure of the Acholi people as a whole will not necessarily strengthen it for all Acholi people, as illustrated in the situation of Acholi widows who do not choose who will inherit land. It also shows how, within customary tenure systems, there may be a range of protections for women's property rights, but those protections depend on different factors from those that determine men's land rights. It is therefore far too simplistic to suggest that customary tenure does or does not protect women's property rights, or that progressive statutory law protects or does not protect women's property rights. If the Ugandan government is to succeed in meeting the relevant objectives of the National Land Policy – to protect customary land rights and women's land rights – its interventions must look at where both formal and customary systems intersect.

Improving indigenous women's land tenure security

There is evidence that customary laws can be adapted to changing circumstances, provided that women and men can negotiate within their communities to promote change, and that there is space for that negotiation within both customary and formal legal frameworks. The following examples provide some strategies that indigenous women have used to strengthen their land rights, without undermining the customary systems of the group. These tactics can bring about changes that benefit the indigenous community as a whole.

Uganda: a vision for more secure land rights for women in Kibaale

Kibaale district in western Uganda is a region facing huge challenges in relation to land. During the colonial era, large tracts of land and freehold titles were formally given to Baganda people from Central Uganda, who were favoured by the colonists at the expense of the indigenous population of the Bunyoro kingdom. Indigenous Bunyoro continue to occupy their ancestral land but, by law, are regarded as tenants. The government made provision in the 1998 Land Act to purchase this land from the absentee landlords and then presumably re-distribute it back to the Bunyoro, but so far this has not happened.

In recent years, due to advocacy efforts of the Bunyoro, much has been done to address these historical wrongs. These include the passage of a law which prohibited evictions of 'tenants' (an increasingly frequent occurrence in the Bunyoro kingdom as certain land became more valuable), and the renewed support of the buy-back policy, this time with budget support through a land fund, included in the draft National Land Policy of Uganda presented to the cabinet in 2011. However, in the context of what appear to be positive steps forward for the indigenous Bunyoro people, Bunyoro women continued to suffer from very insecure land tenure.

Left: Maasai women in the Crater Highlands region, along the East African rift in Tanzania. *Dieter Telemans/Panos.*

Despite formal laws which provide for the contrary, customary land tenure for Banyoro women is more insecure for the following reasons: (a) customs only grant women land rights through marriage; (b) the common practice of polygamy complicates land holdings and the division of rights upon the death of a man who had multiple wives; (c) patrilineal inheritance rules which prohibit daughters from inheriting land from their fathers; and (d) widows being 'chased away' by their in-laws from land they had used while their husband was alive. In addition, women and men in the area have low levels of literacy and lack information on the legal and institutional framework for land rights. Even when individuals have that information, land agencies and others who might assist them in making their land rights more secure are located at great distances from many of the remote villages.

A local community-based organization, Ugandan Rural Development and Training, worked with the community to help improve the land tenure security of women while respecting the indigenous culture of the Banyoro. It did this by encouraging Banyoro women to focus on aspirations rather than the problem. Using this approach, the women articulated their vision for their lives with regard to land, assessed their current situation and identified a gap between the two. This allowed women to consider broader ways to address land-related challenges. By focusing on identifying the problem – barrier to land access (I cannot inherit land because I am a woman, and under custom women cannot inherit) – and then seeking to solve it (change cultural practices so that women inherit land) the situation can seem overwhelming: how can one woman change centuries of cultural practice? On the other hand, focusing on a vision for a desired outcome (I envision myself owning and cultivating 5 acres of land), leaves more room to find a creative solution, which may incorporate purchasing land, taking advantage of government support schemes, or negotiating with local leaders.

In the end, this method helped women to change their circumstances. Some Banyoro women identified land that was available for sale, found ways to raise money to make the purchase, and even ensured formal backing of their rights to the acquired land by learning how to work with the land office, which could issue titles. Other women went with their husbands to the land office, identified the absentee landlord, negotiated with the landlord for change, and then had the change recorded at the land office. Women and men in the village not only improved women's tenure security, they also developed recommendations for the government to consider to help improve equitable land tenure security for women and men around the country.

Tanzania: Maasai women taking advantage of favourable laws

In Tanzania, Maasai women face discrimination both from the majority society and through cultural practices within their community. The latter include social traditions that restrict their rights to access or own land. Through organization and negotiation, one group of Maasai women were able to gain secure rights to village land held under customary tenure. The women recognized that by acting as a group they were more likely to gain support than by acting alone, taking advantage of positive provisions in the Village Land Act 1999, which grants women and men equal rights to village land.

The Tanzanian Village Land Act recognizes equal rights for men and women to access, own, control and dispose of land under the same terms and conditions. The law protects women from discriminatory customs and traditions that restrict women's access to ownership, occupation and use of land, and specifically requires equal treatment of women and men when they apply for recognition of customary right of occupancy of village land. The process for being granted a customary right of occupancy is largely administrative, and must be granted by the village council and approved by the village assembly who issues a certification.

Maasai are semi-nomadic people in northern Tanzania. Maasai cultural practices tend to marginalize women in terms of decision-making, and in terms of rights to access and control

Below: A Dagomba woman who returned to her village to marry after working as a Kayayo, or market porter, in the city of Accra, lifts firewood onto her head outside Tampion, Northern Region, Ghana. *Peter DiCampo/VII Mentor Program.*

over land. Women are largely unrepresented in land-related decision-making bodies, and those few women who form part of those bodies are ineffective because they may lack the confidence to speak up in front of men, have limited literacy, or have little or no knowledge of land-related laws, policies and processes. As a result, the interests and needs of Maasai women have largely been absent in village, ward and/or district development land planning, and women rarely benefit from land-related programmes in the area.

The Maasai Women's Development Organization (MWEDO) supported women in forming committees. These committees of Maasai women then engaged in dialogue and negotiation with village officials and leaders, eventually gaining certificates for customary rights of occupancy of village land for women in their communities. MWEDO supported the women by providing training on legal rights, as well as the administrative steps needed to help secure land rights through official land certification. At the beginning, the women's committees faced significant opposition from their communities, but through perseverance, openness and making use of diverse negotiation tactics, over time the women gained community support. Importantly, because the process was defined and led by the Maasai women's committees and was focused on dialogue and negotiation with men as leaders, the whole community supported the results. The process was then documented and shared for use by other Maasai communities seeking to improve the tenure security of women.

Ghana's Grassroots Sisterhood Foundation: negotiating for customary lands

Through sustained and collective negotiation, in which they emphasized the broader community-wide benefits to be gained through secure land rights for women, Dagomba women in the

northern region of Ghana gained secure rights to customary land, from which they were otherwise precluded.

In northern Ghana, women are vulnerable to extreme poverty and food insecurity. The burden of planting, maintaining, harvesting and marketing crops most often rests on women, and yet they are excluded from decision-making on land and natural resources. While under formal law women can own and inherit land, by custom women are not entitled to inherit land from their family or their husbands, and have to rely on relationships with male relatives to gain access to the land that they rely on for their survival.

The Ghanaian Constitution recognizes both formal law and customary law. Recognizing customary law is positive for indigenous land rights in Ghana, where an estimated 80 per cent of land is governed under customary tenure. Yet, under customary law, gender and kinship relations play a central role in determining how land rights are allocated. While both women and men can acquire certain rights through their membership in a lineage, those rights normally have to be exercised through some additional act, such as clearing land or paying a customary tax, burdens which can inadvertently exclude women. In addition, in marriage, a woman is expected to work with her husband on his lineage land to provide for the family, leaving her little time to develop separate land.

The Grassroots Sisterhood Foundation works with groups of women in northern Ghana to strengthen their land tenure security through a variety of means: developing alliances with tribal chiefs, religious leaders, professionals, land agencies and other groups in the community; holding stakeholder forums; training women on their land, property and inheritance rights; and holding community conversations to raise the awareness of land and property issues among traditional and religious leaders.

One group of women who were part of a settler community in the northern region of Ghana was able to negotiate for long-term rights to customary land in their village by collectively approaching the chief. They organized into a group and explained to the chief that they needed land for a market, which would benefit the women individually but also the whole community. They made multiple visits to the chief in his palace, persuaded his elders and counsellors to support their effort, and invited the chief to visit the land site, convincing him that it would improve his image as leader if he granted them rights to the land. The women worked together to gain funds to provide the necessary 'drinks' which are culturally required during such negotiations. In the end, the women persuaded the chief to give them 5 hectares of customary land for a market. The women have rights to that land for their life-times, and may bequeath it to their male and female children. Even if the chief dies, the women's rights to this land are secured with the next chief because the grant of land was written in an official ledger, demarcated, and all the elders witnessed it.

Conclusion

Secure land tenure is an important goal for indigenous groups, and it is an important goal for indigenous women. However, one does not necessarily beget the other. Recognizing or supporting customary laws alongside formal law is an important starting place for securing indigenous peoples' land rights, but if those customary laws preclude rights for women then the benefits of the formal recognition may not be shared equally by all. Likewise, stronger land rights for women in formal law may do little where dominant customary land tenure systems contradict these formal legal protections, or women find that they are unable to understand or access them. Successful strategies incorporate a dual approach, which both formally recognizes customary land tenure regimes of indigenous peoples and also creates the space for negotiation and adaptation with that customary regime so as to benefit the entire community. ■

TUNISIA
MOROCCO
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DJIBOUTI
SENEGAL
THE GAMBIA
GUINEA-BISSAU
GUINEA
BURKINA FASO
BENIN
TOGO
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SIERRA LEONE
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CÔTE D'IVOIRE
NIGERIA
CENTRAL AFRICAN REP.
SOUTH SUDAN
ETHIOPIA
SOMALIA
CAMEROON
SAO TOME AND PRINCIPE
EQUAT. GUINEA
GABON
REP. OF THE CONGO
DEM. REP. OF THE CONGO
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TANZANIA
INDIAN OCEAN
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NAMIBIA
BOTSWANA
SWAZILAND
LESOTHO
SOUTH AFRICA

Africa

Rahnuma Hassan, Paige Jennings,
Mohamed Matovu, Ukoha Ukiwo

East and Horn of Africa

Mohamed Matovu

The year 2011 was a difficult one for the East and Horn of Africa. The region had to contend with a host of challenges, including prolonged drought – which wreaked havoc – and the knock-on effects of the global economic downturn. Amid growing pressure on scarce resources, minority and indigenous groups across the region continued to struggle to gain control of and access to the land and natural resources they depend upon for their livelihoods and culture.

Regional drought

In 2011, parts of Ethiopia, Kenya, Somalia, Sudan and Uganda suffered the worst drought in decades, according to the Famine Early Warning Systems Network (FEWS). Poor rains contributed to water and pasture shortages, dramatically reducing food production. The impact of the drought was unprecedented because it happened in the midst of the global economic crisis, when food and commodity prices were very high and governments were unprepared. Local communities' resilience was also weakened by previous years' poor harvests and unpredictable weather patterns. Governments and international aid agencies were relatively slow to respond, despite clear warning signs in late 2010. Across the region, more than 13 million people were still affected in January 2012 and an estimated 50,000–100,000 people have died, according to a report by Oxfam and Save the Children. Food insecurity intensified in areas affected by conflict, particularly in Somalia where governance is weakest. In Kenya, where the drought affected well over 5 million people, the government declared a national disaster.

As with most crises of this nature and as MRG research has repeatedly shown, vulnerable groups, including minorities and indigenous peoples, are hit hardest when natural disasters strike, yet their plight goes largely unnoticed by governments, aid agencies and the media.

Pastoralists and agro-pastoralists were those worst affected by the drought. Reports from MRG's partners in the region showed that pastoralists, who earn their livelihoods by herding livestock, had been devastated by the drought. Jane Meriwas, an activist working with the Samburu Women's Network, a Maasai community-based organization in Kenya, told MRG that pastoralist communities in Samburu, Isiolo and Laikipia counties were hit hardest: 'Many pastoralists lost income due to high death of cattle. In order not to lose out, many sold off their herds, which were fetching them less than the normal market price because most cattle looked sickly due to lack of water and pasture,' she said.

In some regions, pastoralist and other children had to relocate with their families to escape the drought. In drought-hit areas in Ethiopia, Kenya and Uganda, schools were abandoned and closed. According to the World Food Programme, this was attributed to the depletion of supplies for special school feeding programmes in areas like Karamoja in Uganda.

The UN Office for the Coordination of Humanitarian Affairs (OCHA) made grim predictions that the region would see an increase in conflicts over control of natural resources as communities – particularly pastoralists – compete for diminishing water, pasture and food resources. Already, early 2011 saw an increase in resource conflicts, with some resulting in deaths, in northern Turkana in Kenya, South Sudan, south-western Ethiopia, and the Karamoja and Teso regions of Uganda. Benjamin Omunga, a Programme Officer with Urafiki, a community-based organization in Teso region in Uganda said:

'Due to food scarcity, the neighbouring communities of Ngikarimojong (who are pastoralists) have intensified cattle raids and thefts of their neighbouring Teso communities (who are agro-pastoralists, livestock herders who also make a living out of growing food) putting a strain on the improving relationship between the once-warring minority communities.'

Case study

Forced displacement and 'villagization' in Ethiopia

The Ethiopian government has forcibly relocated 70,000 indigenous people from the fertile Gambella region to free up land for commercial agriculture. Local activist Ojulu talked to Corinne Lennox about some of the effects of this so-called 'villagization' policy.

One year after the villagization programme even those farmers who tried to do farming in the new places were not able to produce enough for the whole year since the area is not a good one for the kind of traditional farming they practise. I heard that the government is planning to start the safety net (food for work) programme in the region. Therefore, the villagization programme has made the people of Gambella food insecure, like other food insecure areas in the northern part of the country.

Second, the villagization programme has also increased the tensions between different communities who used to live in different locations far away from one another but who are now brought together to share small pieces of land for farming. Particularly in the western part of the region, where the Nuer (pastoralists) and the Anywa (farmers) used to live in separate far-away villages, the villagization programme has grouped these ethnic groups in very close villages. This is already increasing the tensions between these two groups. Since this programme was launched, over 15 individuals from both sides (these are the only ones I have heard about, it could be more in other villages) have been killed in separate incidents. Some villagers have deserted their new villages and gone back to their old places. One village set their new village on fire to give an excuse for going back to their old place.

There are different levels of violence in the displacement process. The first level begins at the regional state level, among the top regional government officials, experts and civil society representatives who were vocal against this villagization programme. Many high government officials and experts in the region were forced to flee the country for opposing the programme or for just openly criticizing the programme. Some are also imprisoned or indirectly targeted. At the village level, since the displacement programme is accompanied by the military, those who resist moving face beating and torture from the hands of the military. I heard from more than five people that there are about 100,000 armed forces in the region at the moment, although I could not confirm it. Since the programme was launched I heard about over ten people who were beaten to death by the military while they were going out to cut grass and trees for construction, and hunting. The movement of farmers has been strictly limited.

What has been the impact on women in the region?

Women are particularly impacted by this displacement in many ways. Due to different kinds of conflicts in the region and the fact that the government has been targeting the men in the region, also because of HIV/AIDS, there are many women-headed households in the villages of Gambella.

Traditionally women are responsible for fetching water, collecting firewood and household work. In the new places women have travelled miles in some villages in order to get to a place where they could collect firewood. Since those investors take the surrounding forest and the woods are cut down, women have to now travel longer distances to get firewood. Since different communities are also brought to close villages, different communities have to

Case study continued

now share the remaining forests for collecting firewood. This has made collecting firewood a very dangerous activity for women. One woman was raped and beaten to death by people from a different community as she went collecting firewood.

What is your understanding of government motivations for this practice?
The villagization is taking place where there is already big number of investors and where the land is more convenient for large-scale investment. For example, the districts most affected by the villagization programme are Abobo and Gog districts in the Gambella region. Abobo and Gog are the most fertile districts in the region that had been supplying the region with maize. The other villages in the whole district are all now relocated to another place due to big number of investors storming the districts.

How do you think the government should do things differently – for example, is there a way to use the land for national development gains without harming the minority groups?
There used to be informal consultation between various government departments whose mandates were directly or indirectly involved with those land investments. However, when land lease agreements were moved to the federal level, things dramatically changed and that is when villagers were displaced. In short, there should be effective and meaningful consultation with local communities concerning land investment.

Second, the government should recognize traditional land-holding systems and provide land certificates to farmers, as it is already done in other parts of Ethiopia. Even though land is state-owned in Ethiopia, if the farmers have certificates for their plots, then they will ask for compensation when their plot is needed for such projects.

Land for investment should be demarcated and known by both the local communities and the government. So far the practice of land identification is carried out randomly by local government officials who only receive orders from their superiors at the regional state level and federal level. If they refuse to give land to an investor then they would lose their position at best or be imprisoned at worst and branded as anti-development.

How have the people resisted these practices?
At the regional state level, there are those who are openly criticizing the process of land investment. At the local level, some villages are resisting the programme by not cooperating with the local governments and investors. In one village, when they heard that their land is being given away to an Indian, they elected two representatives who came to the federal government in Addis to discuss the matter with the federal government … they were not successful in stopping the investment … and the district government appointed other leaders for the village who were sympathetic to the government position. ■

According to forecasts, the cumulative effect of the drought and its impact on food security and human life will be severe in the long run. Food prices continue to rise and pastoralists continue to lose their herds due to chronic water and pasture scarcity. Displacement and migration will also increase pressures, causing tension and potential violence between migrants and host communities. Conflicts in turn affect crop production, thereby creating a vicious cycle of poverty, as is already the case in South Sudan.

Ethiopia

Southern pastoral and agro-pastoral areas of Ethiopia suffered from two consecutive seasons of very poor rains, crop failure, high livestock mortality and high cereal prices that left even the most resilient communities in crop-dependent areas struggling to cope.

Although a significant proportion of the population are food insecure, pastoral communities from Afar and Somali region, the epicentre of recurrent droughts in 2011, continued to be 'the most acutely food insecure

Above: A member of the Afar people in the Danakil area, Ethiopia. *Eric Lafforgue.*

in the country', according to FEWS.

The Ethiopian government continued to enforce restrictions on human rights organizations and the media in 2011, using the Charities and Societies Proclamation Act 2009 (the NGO Law) to curb political dissent and fundamental human rights and freedoms and control the populace, in the face of recommendations of the UN Human Rights Council's Universal Periodic Review to repeal the law. The wider crackdown on political activists and journalists continued to affect minority community leaders, especially those accused of supporting the Ogaden National Liberation Front (ONLF) and the Oromo Liberation Front (OLF). In March, over 200 members of the Oromo Federal Democratic Movement (OFDM) and the Oromo People's Congress (OPC) were arbitrarily arrested, and at least 89 were charged with various offences.

Between August and September 2011, Bekele

Gerba and Olbana Lelisa, senior members of OFDM and OPC parties respectively, Debebe Eshetu, an actor, Andualem Aragie, a senior member of the Unity for Democracy and Justice (UDJ) opposition party, together with at least 20 ethnic Oromo were variously arrested. Journalists working for local and international media were not spared. Journalists Woubshet Taye working for *Awramba Times*, Reeyot Alemu of *Feteh*, and Elias Kifle, editor of the *Ethiopian Review*, were charged with various counts. Argaw Ashine, a correspondent of the *Kenyan Daily Nation* in Ethiopia, was forced to flee the country. Targeting journalists increases self-censorship, a likely reason why Human Rights Watch (HRW) and other organizations expressed concern that independent reporting on the conflict-affected areas of the Somali region had been severely restricted.

The Ethiopian government was set to relocate an estimated 70,000 indigenous Anuak and Nuer people from the western Gambella region into new villages by the end of 2011. The government argues that this 'villagization' scheme will enable them to provide basic social and economic services closer to people in order to foster economic and cultural development. Relocations started in 2010 in Gambella. Once indigenous peoples have been relocated, their land, normally held under trust or customary land rights, is regarded as empty or wasteland and can be leased to large companies. Compensation, when it has been provided, has been inadequate. Communities are forcibly relocated into new villages that lack adequate food, land for farming or health and education facilities. Pastoralists are being forced to abandon their cattle-based livelihoods in favour of settled cultivation.

The government plans to develop big irrigation projects and agricultural development, thereby ending the floods on which many people depend for floodplain agriculture, and to create employment opportunities for pastoralists to work on farms. These projects are part of wider government plans to resettle 1.5 million people by 2013 from Afar, Somali and Benishangul-Gumuz as well as Gambella, according to HRW.

In Ethiopia's Lower Omo Valley, the government has launched the controversial Gibe III hydro-electric project and a 245,000 hectare state-run sugar plantation. These projects have resulted in forced resettlement and human rights abuses of Mursi, Suri and Bodi agro-pastoralists at the hands of the Ethiopian army. According to the Oakland Institute, the government has not assessed the impact of the projects on the environment and livelihoods of the 500,000 indigenous people that rely on the waters and adjacent lands of the Omo River and Lake Turkana. Villagers who do not show support for the development projects are reportedly beaten, abused and intimidated. A UNESCO World Heritage Site, the Lower Omo Valley contains two national parks and is home to approximately 200,000 agro-pastoralists including the Kwegu, Bodi, Suri, Mursi, Nyangatom, Hamer, Karo and Daasanach.

Overall, the Ethiopian government has already leased 3.6 million hectares of land (26 per cent of the country's arable land) and an additional 2.1 million hectares is available through the federal government's land bank for agriculture, according to the Oakland Institute.

Kenya

The year 2011 was supposed to be the one in which many Kenyans would realize the fruits of the new Constitution promulgated in August 2010. Kenya's new Constitution has been hailed as a progressive document that holds the potential to advance the rights of minorities and indigenous peoples and a host of key legal and institutional reforms. The reform process was held up by delays in appointing officials to fill key judicial posts, due to political jostling. The eventual appointment of Dr Willy Mutunga, a staunch human rights defender, as the new Chief Justice of the Republic of Kenya was celebrated by civil society.

Although the Constitution includes numerous positive provisions for minorities and indigenous communities, these groups feel that constitutional gains may not translate into real positive developments. The increased ethnicization of politics has deepened their exclusion. While the new Constitution could address the problem of political participation, the lack of political will to address issues relating to minorities is disturbing. Several court rulings in favour of minority communities against the government

Above: A Turkana woman at Daaba village, Isiolo district, Kenya. *Emma Redfern.*

remain unimplemented to date. For instance, in 2006, the Kenya Constitutional Court found that the state had violated the right of the Ilchamus people to political participation and must ensure adequate representation of minority interests. The Kenyan government has also failed to restore ownership to the Endorois people of their ancestral lands around the Lake Bogoria National Reserve, as recommended by the African Commission on Human and People's Rights (ACHPR) two years ago.

The Nubian minority faces ongoing social exclusion. Nubians are not recognized as citizens in Kenya and have not been granted full property rights, although they have occupied Kibera, an expansive slum area outside Nairobi, for well over a hundred years. This situation has led to violent conflict with majority groups and mass displacement, most recently in November 2001. Having failed to secure citizenship through the Kenyan courts, Nubians took their case to

the ACHPR in 2006. The case was declared admissible in 2009, but no decision has so far been taken. But in March 2011, the African Committee of Experts on the Rights and Welfare of the Child found Kenya in violation of the rights of Nubian children to non-discrimination.

The government has ambitions to turn Kenya into an industrialized middle-income country. In order to achieve this goal, it has designed a series of flagship projects (known as Vision 2030), that will transform parts of the country into modern cities at the expense of the livelihoods and cultures of minority and indigenous groups who live there. For instance, the government is set to develop Lamu, the largest town on Lamu Island and one of the oldest and best-preserved settlements among Swahili towns in East Africa, into a port, airport and a refinery. This will have potentially harmful impacts on the livelihoods and cultures of minority and indigenous communities in the area. Early in 2011, the governments of Kenya and Ethiopia signed an agreement to construct a railway line between Lamu Port and Addis Ababa. The proposed route will pass through northern Kenya, affecting communities such as Bajuni, Boni and pastoralists who reside in Isiolo area.

On a positive note, the National Cohesion and Integration Commission (NCIC) is currently formulating a policy on national cohesion that will have a significant impact on how minority and majority groups relate, focusing on the need for tolerance education.

NCIC has also emphasized the need for inclusion in public sector appointments. Its ethnic audit, released in April 2011, revealed that 70 per cent of all jobs in the civil service are occupied by members of the Kikuyu, Kalenjin, Luhya, Kamba and Luo communities.

The year 2011 saw the prosecution of six senior political figures – known as the 'Ocampo Six' – before the International Criminal Court (ICC) in April. Although they are accused by the ICC prosecutor, Luis Moreno-Ocampo, of bearing the greatest responsibility for crimes against humanity committed during the 2007/8 Kenya post-election violence, Kenyans are split along political and ethnic lines regarding the ICC case. Supporters of those on trial view it as political intrigue. In January 2012, the ICC confirmed charges against four senior Kenyans. The Head of Public Service Francis Muthaura and Finance Minister Uhuru Kenyatta were charged in relation to killings, forced transfers and rapes, allegedly committed in Nakuru and Naivasha in January 2008 especially against those perceived as supporters of the Orange Democratic Movement (ODM), in particular those belonging to the Luo, Luhya and Kalenjin ethnic groups. Suspended Higher Education Minister William Ruto and Head of Operations at Kass FM Joshua Arap Sang are charged separately for crimes they allegedly committed in the Rift Valley against supporters of President Mwai Kibaki's Party of National Unity (PNU) in 2007. The judges, however, refused to confirm charges against Police Commissioner Hussein Ali and former Industrialization Minister Henry Kosgei, due to lack of adequate evidence.

In March, two activists from the Ogiek hunter-gatherer community in Ngongogeri in Mau Forest, Rift Valley Province, including one woman, were attacked. The activists were protesting against attempts by land speculators to forcibly take over Ogiek land in Ngongogeri. The Mau Forest, home to an estimated 15,000 Ogiek, is often the scene of inter-ethnic clashes between the Ogiek, who are the indigenous owners of the land, and neighbouring majority communities. In 2009, Ogiek and other indigenous families were evicted by the government from the Mau Forest without due consultation under the guise of protecting the environment. Currently, more than 25,000 people, including Ogiek, Kipsigis and Maasai continue to live in camps around the forest. The Ogiek case is now pending before the African Court of Human and Peoples' Rights.

Somalia

On 20 July 2011, the UN Country Team in Somalia announced that parts of southern Somalia between the Juba and Shebelle rivers, where most minorities live, were experiencing famine. The situation was exacerbated by the impact of continued fighting and restrictions imposed on aid agencies by Islamist insurgent group al-Shabaab, which controls the region. By the end of July, there were about 1.5 million internally displaced persons (IDPs), 6,900 seeking asylum and 1,965 refugees in Somalia.

During 2011, Somalis, regardless of ethnicity, religion or clan, experienced serious human rights violations in the country's ongoing conflict, mainly located in south and central Somalia, where the Transitional Federal Government (TFG), supported by African Union peacekeepers (AMISOM), are fighting al-Shabaab. The TFG forces and affiliated military forces gained territory from insurgents in the capital, Mogadishu, and along the border with Kenya and Ethiopia, while al-Shabaab still controls more territory in south and central Somalia. Indiscriminate attacks, killing and injuring civilians, were carried out by all parties to the conflict during a string of military offensives in 2011. The World Health Organization (WHO) treated 8,430 casualties for weapon-related injuries between January and September in Mogadishu, with a significant proportion of civilian casualties being women and children.

Although it is difficult to find statistics on how different ethnic groups have been affected by the conflict, Somalia has repeatedly topped MRG's 'Peoples Under Threat' ranking, which rates countries according to where civilian populations are most at risk. Minority groups are estimated to constitute one-third of the total Somalian population of approximately 3 million people, according to MRG's research. They include Bantu, who are the largest minority, occupational groups (comprising the Gaboye, Madhiban and Musse Deriyo), Benadiri and religious minorities. All these minority groups are diminishing in size, as thousands move to IDP camps in Somaliland and Puntland and refugee camps in Kenya, where they face renewed discrimination

MRG research has shown that minority communities in Somalia fall outside the traditional clan structure of the majority and also therefore the protection afforded by such systems. Because of social segregation, economic deprivation and political manipulation, minorities are more vulnerable to rape, attack, abduction, property seizure and the consequences of drought.

Al-Shabaab continues to administer a strict form of Sharia law in areas that it controls, mostly in central and southern Somalia, including torture, beatings and beheadings. Harsh restrictions are placed upon women, including their dress code, movement, economic activities and proscriptions on their associations with non-kin men of any kind, which places widows and single women at a severe disadvantage. Minority groups including the Bantu, Benadiri and Christian communities are attacked for practising their religious beliefs. There are reports that al-Shabaab has continued to forcibly recruit minorities to fight.

HRW has documented human rights abuses in TFG-controlled areas against IDPs, including looting food aid in IDP camps, arbitrary arrests and detentions and rapes. These violations are particularly severe for both women and members of minority groups.

Amid ongoing fighting in June 2011, Somalia's Prime Minister Mohamed Abdullahi Mohamed of the TFG resigned, following a UN-backed deal that extended the mandates of President Sheikh Sharif Ahmed, the speaker and the deputies until August 2012, when elections will be organized. Mohamed had only replaced Prime Minister Omar Abdirashid Ali Sharmarke in September 2010; the latter resigned due to internal squabbles. Somalia has been without an effective central government since 1991. The future stability of the country now depends on how the TFG, the international community and the African Union handle the election, and whether the new Constitution is drafted in a way that encourages participation and inclusion and promotes reconciliation, peace and stability. The final draft of the Somali Constitution is anticipated in April 2012, to allow for elections in August.

In October, Kenya was drawn into Somalia's conflict after a spate of al-Shabaab bombings in Nairobi and the kidnappings of several Western tourists from Kenya's coast. Since then, Kenyan troops have pushed towards Kismayo, with help from TFG-affiliated militias from Ras Komboni and the newly-formed Azania state. There has been a significant rise in anti-Somali sentiment since the kidnappings in Kenya and Kenya's military intervention. This will likely affect attitudes towards Somalis in Kenya, whether they are Kenyan or Somali nationals.

Puntland and Somaliland

In May 2011, the self-declared Republic of Somaliland and the semi-autonomous state of Puntland celebrated their twentieth anniversary of self-rule. Although these regions remain largely peaceful compared to the south, there are continued tensions between majority clans and minority groups. For instance, the long border dispute between Somaliland and Puntland partly stems from political exclusion of Dhulbahante from the Harti federation by the more populous Isaaq clan in Somaliland. In western Somaliland, the Gadabuursi people declared an autonomous Awdal state in protest against their treatment by the Isaaq clan. This has reinforced perceptions that every clan in north Somalia has the right to determine its own destiny.

Puntland and Somaliland continued to host refugees, asylum-seekers and migrants in 2011. The UN refugee agency UNHCR stated that there were frequent reports of xenophobia, hostility, exploitation and arbitrary detention. A minority woman interviewed by MRG researchers in Ajuran IDP camp, Puntland, told of gender-based violence where armed gunmen raid camps and forcibly drive women and girls out of shelter and rape them.

South Sudan

Chris Chapman

On 9 July 2011, South Sudan became the world's newest independent state, after an overwhelming 99 per cent of southerners voted in favour of seceding from the Republic of Sudan in a January referendum. After 39 years of civil war, an estimated 2 million deaths, and human rights violations committed by the Khartoum government, including aerial bombing of civilian populations, the result of the referendum was greeted with scenes of jubilation across the country. Unfortunately the birth of the new nation saw an increase in tensions with Sudan over many issues, including oil resources, border disputes, citizenship rights for South Sudanese living in Sudan, and accusations by both governments that the other is supporting militias on its territory.

South Sudan's independence has exacerbated regional conflicts over natural resources. The disputed border region of Abyei has become the focus of conflict because of its strategic natural resources – oil and water. The Comprehensive Peace Agreement, which brought the north–south civil war to an end in 2005, provided for a referendum to allow the people of Abyei to decide whether their region would become part of Sudan or South Sudan. But the two sides could not agree on the territory the region comprised. In 2009, the Permanent Court of Arbitration in The Hague ruled that most of the significant oilfields lay outside of Abyei and firmly within areas currently controlled by Sudan (other disputed border regions include the Heglig oil fields in South Kordofan).

It was hoped that this ruling would reduce the likelihood of aggressive posturing over Abyei by Khartoum. But a further issue was whether the semi-nomadic Misseriya, who have traditionally crossed from Southern Kordofan (in Sudan) into the more water-rich Abyei to graze their herds during the dry season, would be allowed to vote. Historically, the pastoral Misseriya have been in conflict with Abyei's settled residents, the Ngok Dinka. It is foreseen that the Misseriya would vote for Abyei to be part of Sudan, while the Ngok Dinka would opt for incorporation into South Sudan. These communities are important constituencies for Khartoum and Juba respectively, having played key roles in the conflict.

Although the Ngok Dinka promised the Misseriya that their grazing rights would be respected if Abyei joined South Sudan, a Misseriya chief warned that there would be 'immediate war' if this happened. The referendum has been postponed indefinitely due to these increasing tensions. After an escalation of confrontations in the area in May 2011, the northern Sudan Armed Forces occupied Abyei. The UN deployed a peacekeeping force to the area a month later, but tensions remain high, and an agreement between Khartoum and Juba to withdraw their forces, reached in September, had not been implemented by early 2012. Misseriya are increasingly fearful about future access to grazing land, potentially compromising the sustainability of their livelihood and identity.

Tensions between the two countries have continued over oil. When it became independent, South Sudan took with it 75 per cent of Sudan's oil reserves, but, for lack of an alternative, it has

until recently piped all of its output to Sudan for refining and export. Juba accuses Khartoum of charging excessive fees for this service and seizing its oil shipments, and in January 2012, South Sudan shut down oil output through the pipeline. Oil revenues now make up about 98 per cent of the South's revenues – feeding calls for a greater diversification of the economy.

South Sudan's independence also saw worsening internal conflicts involving militias contesting the central government, and between ethnic groups. The most severe conflicts took place in Jonglei state, involving the Lou Nuer, Murle and Dinka Bor groups. Local officials claimed that over 3,000 people were killed in clashes in December 2011. On the surface, conflicts revolve around cattle theft, amid a context of widespread gun ownership, and increasingly incidents have spiralled into endless revenge attacks. However, there are more deep-rooted conflict drivers at play. First, smaller ethnic groups outside the main Dinka/Nuer nexus at the heart of government in the country feel divorced from decision-making. Second, the total absence of state presence in rural regions – in terms of providing much-needed basic services, promoting economic development and playing a peacekeeping role – has fed grievances among smaller groups who feel excluded from power and the economic benefits that are assumed to flow from it. The Sudan People's Liberation Army (SPLA), South Sudan's military force, has even stated that it fears to intervene in these conflicts because it is likely to be accused of favouring one particular ethnic group, again reflecting the perception that institutions are not representative of the diversity of South Sudan.

Community rights to control their natural resources and livelihoods have been further compromised by deals made by local or national government to lease large tracts of land to foreign governments and companies. In 2008, Al Ain Wildlife, a United Arab Emirates company, signed a leasing agreement for 1.68 million hectares of the Boma National Park in Jonglei state for a period of 30 years to set up a tourist safari project. The agreement, signed by the Ministry of Wildlife, does not allow for revenue sharing with the local community. The area is inhabited by a diverse range of ethnic groups, including the Murle. An MRG researcher who spoke to representatives of the Murle community in Boma found that there was widespread ignorance about the deal, and its consequences for land-ownership and access. Facilities for the local community promised by Al Ain, including schools, health services, boreholes, housing and road infrastructure, have yet to materialize.

According to a study by the Oakland Institute, companies involved in land leases in South Sudan 'rarely consult with residents in affected communities, or conduct environmental and social impact assessments, as required by the 2009 Land Act'.

In September 2011, President Salva Kiir committed to a review of land lease agreements signed between 2005 and independence, but the review has not yet been carried out.

The Transitional Constitution of the Republic of South Sudan, made public in April 2011, contains recognition and protection of 'lands traditionally and historically held or used by local communities or their members', and provides that, 'Communities and persons enjoying rights in land shall be consulted in decisions that may affect their rights in lands and resources.' This reinforces the already extensive protections of customary and communal land rights provided for in the Land Act 2009. The Transitional Constitution also protects the rights of ethnic communities to practise their traditions and beliefs, and use their languages. But amid escalating conflict and the complete governance vacuum in much of South Sudan, it is unlikely that such legislation will afford any real protection to minority groups.

Uganda

In February 2011 Ugandan's incumbent President Yoweri Museveni won 68 per cent of votes in the presidential election. This result put him on course to become the longest-serving president in Uganda's history. Kizza Besigye, President Museveni's closest opponent, rejected the result, on the grounds of rampant election malpractices – a large number of voters were disenfranchised, harassed by police and bribed. The general elections in 2011 also saw 14 members of parliament (MPs) elected from the Karamoja, home to the Karamajong, a

traditionally pastoralist ethnic group. Under a loose coalition – the Karamoja Parliamentary Group (KPG) – the MPs have drawn attention to poor government policy and emergency response to problems in their region. For example, in August, the KPG criticized the government for the delay in relocating victims of landslides in Kaabong district that had killed and injured many people. In September 2011, the same group urged the government to intervene and repair roads that had been cut by torrential rains.

In May 2011, parliament elected its first female speaker, Rebecca Kadaga, which was hailed as a positive move by many women's rights activists. Affirmative action and reserved seats have boosted women's representation in parliament to 35 per cent, the majority of whom belong to the ruling party.

Despite the launch of the ambitious five-year National Development Plan (NDP) in April 2010, minority and indigenous groups in Uganda remain deprived and excluded. The US$ 21 billion NDP focuses on infrastructure projects and private sector development rather than the needs of the country's marginalized groups. According to MRG research, Uganda's new development agenda contains glaring policy gaps with regard to improving the situation of historically marginalized groups such as pastoralists and hunter-gatherer communities. The NDP fails to address major challenges pastoralists face, such as securing land tenure, improving livestock productivity, access to water resources, diversifying livelihoods and accessing markets to sell their products. Pastoralists continue to feel excluded from the development agenda because the NDP document refers to them as 'livestock keepers', rather than pastoralists, a clear sign that the government refuses to recognize pastoralism as a valuable livelihood system.

The First Lady, Janet Museveni, who is also the Minister of Karamoja, advocates against nomadism in favour of settled livestock-keeping, which reflects a government policy of sedentarization coming from the highest level. During 2011, activists continued to report that anti-pastoralist ordinances and policies at local level are being passed to condemn pastoralism and prevent free movement of cattle.

A final draft of the national land policy was submitted before parliament in March 2011, but this process has stalled due to a cabinet reshuffle. Overall, the draft land policy calls on government to enact laws that safeguard vulnerable communities and protect minorities' and indigenous peoples' communal land-ownership and access to resources. In a departure from previous policy, the draft does recognize the rights of pastoralists, but presents no framework for their participation in decisions that will affect them. Nonetheless, if adopted this policy could reflect an important shift in the attitude of the Ugandan government.

The discovery of rich oil deposits in the western Uganda districts of Buliisa and Hoima continued to cause anxiety among local communities during 2011. In areas where oil was discovered back in 2006, the livelihood systems of minorities and indigenous peoples have been disrupted. Ethnic tensions have also erupted over communally owned lands as different groups jostle to secure ownership rights that would guarantee them hefty compensation from oil firms. For example, in the Waisoke and Bugana villages of Buliisa district, where vast oil deposits have been found, Bagungu, a fisher community, have been prevented from fishing due to ongoing oil production, and are now embroiled in a communal land dispute with migrant pastoralists.

Bagungu claim communal ownership and want to cultivate cotton while the migrant pastoralists claim to have bought the land, according to media reports. Following a Court of Appeal order that granted ownership rights to the Bagungu, the government evicted 600 pastoralist families with over 20,000 cattle in December 2010, using military and police. Although the government has promised to resettle the pastoralists, no concrete plans have been made and some pastoralists have temporarily settled in the neighbouring Hoima district. Pastoralists have challenged the government in court for failing to resettle them.

At a policy level, 2011 saw public tensions flare over disputes about oil production-sharing agreements. Senior officials were accused of soliciting bribes in a rush to sign controversial agreements with oil companies, including with UK-based Tullow Oil, in which Uganda was projected to lose millions of dollars in revenue.

Case study

Land injustice: Basongora in western Uganda

The Basongora are a pastoralist community that lived and occupied land in Kasese district, north of the Maramagambo forest in western Uganda.

The Basongora rely on cattle-herding for their livelihoods. Under colonial rule, Basongora lost 90 per cent of their land between 1900 and 1955 to establish the Queen Elizabeth National Park. The Basongora were evicted, their animals destroyed and huts torched, and no alternative settlement was provided, all in the name of wildlife protection.

Post-independence governments have done little to address the social injustice suffered by the community. Instead, more Basongora land has been parcelled out for government development projects and military use, without community consultation. These actions have reduced the Basongora to a vulnerable landless group.

In 1986, when the current government took power, it promised to address historical injustices and return land to thousands of people displaced by development projects. In the 1990s, the Ugandan government recognized the Basongora as a minority that had to be protected and provided with alternative land.

Yet in 1999, large numbers of the Basongora community began to cross the border to the Democratic Republic of Congo (DRC) and settled in the Virunga National Park. In 2006, the DRC authorities drove the Basongora back into Uganda, where the community tried to return to the Queen Elizabeth National Park. Once again, the Uganda Wildlife Authority tried to brutally evict the Basongora from the park, drawing the attention of many human rights groups and the government. Women and children were placed in camps in Nyakatonzi.

After claims that excessive force was used, the government eventually offered Basongora evicted from the DRC alternative land outside the park. However this settlement was also problematic; the government ordered the Basongora pastoralists to share land in Rwaihingo with Bakonjo cultivators. Local politicians in Kasese district have stirred up ethnic tensions over land allocation in the district to delay any meaningful dialogue on resettlement. Ethnic tensions have led to clashes between pastoralists and cultivators, often culminating in the death of animals and the destruction of property and lives. Today, the Basongora community number about 11,000 according to the national census (40,000 and 50,000 according to community estimates); the area they occupy is less than 2 per cent of their original land and they are living in deplorable conditions.

In April 2012, Uganda's President Yoweri Museveni warned the Uganda Wildlife Authority against arbitrarily evicting people from national parks, urging them to instead convince communities of the benefits that conserving national parks and tourism can bring. 'There is no conflict between animals and humans … We need to bring out the linkages, compatibilities and the symbiosis between the parks and the people,' he said.

With a final draft of the national land policy – containing important recognition of the rights of pastoralists – soon to be tabled before parliament, maybe the Basongora will finally see a peaceful and equitable end to their predicament. ■

In October, parliament approved a motion to compel the government to delay the approval of Tullow Oil's US$ 2.9 billion sale of its interests in the country to French company Total and the China National Offshore Oil Company (CNOOC), until the necessary national laws were in place. But in February 2012 President Museveni sidestepped parliament and signed a new production-sharing agreement between the government and Tullow Oil, which allowed the sale to Total and CNOOC to go ahead, paving the way for oil production by 2015 as well as an estimated US$ 10 billion investment in a refinery and an oil export pipeline. In an address to parliament, President Museveni spoke about how Uganda stood to benefit, revealing details about such an agreement for the first time, but he failed to mention how much revenue would go to the local communities affected, some of whom are minorities and indigenous peoples.

During 2011, there were increasing episodes of inter-community tensions, especially in Teso, Lango and Acholi regions in northern and eastern Uganda, fuelled by private companies' interest in communal land. In September, eight clans claiming to own land in Abanga in Zombo district northern Uganda accused a leading African manufacturing conglomerate, Mukwano Group, of collaborating with the government and district leaders to take 1,285 hectares of community land to establish tea and pine plantations in 2008. However, Alykhan Karmali, the Mukwano managing director, told the media that the land title was given to Agricultural Enterprise Limited in 1969, which was later sold to the Mukwano Group. The clans claim that Nebbi district officials did not consult with them before selling their land to investors and demanded that the government intervene.

In October, US President Barack Obama announced that he was sending 100 combat-equipped troops to support Ugandan forces fighting the Lord's Resistance Army (LRA). This raised hopes of resolving security issues caused by the rebels, who are accused of widespread human rights abuses. The deployment followed US legislation aimed at helping disarm the LRA and bring its leader, Joseph Kony, to justice. The LRA, said to have recruited children from minority and marginalized tribes from northern Uganda, is believed to be responsible for numerous indiscriminate killings, rapes and kidnappings in the region.

Southern Africa

Rahnuma Hassan

Land rights and resource ownership are controversial issues across the world. But given the colonial legacy confronting countries in Southern Africa, working towards equitable resource distribution among ethnic groups in the region is a particularly complex task. Already marginalized minority and indigenous communities, such as San, who continue to practise traditional livelihoods and have close ties to their land, are especially vulnerable to discrimination and economic exploitation. In South Africa and Zimbabwe, governments have ignored the needs of at least some of these groups in favour of redressing wider racial injustices under former white rulers. Governments also grapple with pressures to use their resources for national development and from northern countries and companies in an increasingly competitive global economy, often choosing economic gain over respecting the rights of minorities and indigenous peoples.

Botswana

In January 2011, the G/wi and G//ana communities of the Basarwa indigenous group finally won their right to access waterholes inside the Central Kalahari Game Reserve (CKGR), where they have lived since its creation in 1961. The Appeals Court overruled an August 2010 High Court judgment that prevented access to a water borehole on their lands; the judgment was long overdue as the community won the right to return to their lands in a landmark court ruling in 2006. The lack of access to water nearby has made it particularly hard for residents to survive. By early 2012, only one water borehole had been reopened by Gem Diamonds, the company now

developing a diamond mine within the reserve.

The Basarwa communities in the CKGR refused to participate in the 2011 population and housing census, stating that they did not feel like citizens of the country. The protest was motivated by official refusal to provide services in the CKGR, including a polling station during the 2009 elections. At the end of 2011, the government announced that census results would not be published until the autumn of 2012.

Recognition of minority languages continues to be a particular issue of contention between the Botswanan government and minority and indigenous rights organizations. Despite being a multi-ethnic state, comprising 45 tribes, Botswana's laws and Constitution discriminate in favour of those from the dominant Tswana-speaking group. Reteng, a multicultural coalition group, continues to lobby the government about teaching minority languages in schools. In February, the chairperson of Reteng, Doctor Ndana Ndana, said that a language policy that recognizes all languages would be an important first step, and that while the government argued that there were insufficient funds to teach minority languages in schools, this problem was not insurmountable.

Minority rights groups also continued their legal struggle for non-discriminatory access for minority tribes to the House of Chiefs (an influential body that advises parliament) in 2011. Under the Constitution only the eight principal Tswana-speaking tribes are admitted to the House of Chiefs; there is no guarantee that the chiefs of any of Botswana's 37 non-Tswana tribes will sit in the house. A 2001 High Court ruling in a case brought by the Wayeyi tribe found that the exclusion of the Wayeyi from the House was discriminatory and unjustified. However, despite the ruling, the government has failed to remedy this discrimination. The case was lodged with the African Commission on Human and Peoples' Rights (ACHPR) by Reteng with support from MRG, but the Commission declared the case inadmissible in November, stating that domestic remedies had not been exhausted. The decision is currently pending approval by the African Union.

South Africa

South Africa is still grappling with its colonial

Case study

Basarwa evicted over diamonds

While Botswana's government has never officially admitted to forcibly relocating the G/wi and G//ana communities of the Basarwa indigenous group to make way for diamond-mining operations in the Central Kalahari Game Reserve (CKGR), critics have long suspected this to be the main motivation for the removals. When it became known in late 2010 that Gem Diamonds would begin mining operations in the CKGR, suspicions seem to have been confirmed.

Basarwa were granted the rights to occupy land within the CKGR, as a result of a court ruling in 2006, after years of attempted

Below: A Basarwa boy in the Kalahari Desert, Botswana, makes fire by rubbing sticks together. ***Dietmar Temps.***

Case study continued

negotiations, struggle and litigation. Unfortunately, the victory was bitter-sweet as the government interpreted the ruling in the strictest way possible, only allowing the 189 actual applicants to return to the reserve. They also refused to provide services within the park or to re-open the waterholes that had been closed since 2002. The justification for this was that the Basarwa communities had already been adequately compensated through the provision of land and services in the form of settlements outside of the park.

In its press releases about the opening of its US$ 3 billion Gope mine, Gem Diamonds made it clear that they would work with the CKGR residents to ensure that the communities benefited from the mine. However, many of the promises made by Gem Diamonds have yet to be delivered. In addition to promising to drill four new waterholes for the communities, the company told representatives of Botswana Khwedom Council (BKC), a local NGO, that they would establish a community trust so that communities could benefit from the mining operations. The Gope mine management also met with community representatives and asked for advice regarding hiring members of the indigenous group. As of early 2012, only one of the existing waterholes has been reopened, no trust had been established, and it is unclear whether members of the communities will be hired or not.

Furthermore, there is concern over monitoring and ensuring that the needs of the communities in the CKGR are met, as organizations such as the BKC are refused permission to enter the reserve and speak to residents about the conditions they live in. With the mine officially opening in 2013, it is uncertain when the communities will begin to reap the benefits of diamond-mining on their land. In the meantime, they continue to live in abject poverty, still cut off from government services. ■

legacy, particularly with regard to land and resource ownership. The government aims to redistribute a third of white-owned commercial farmland to black farmers by 2014. However, progress has been slow; in early 2011 the Minister of Rural Development announced that only 5 per cent of land had been redistributed.

The government released a Green Paper on Land Reform for public comment in 2011. The paper aims to provide a framework for discussion about land reform with different interest groups, and is underpinned by the desire to redress racial inequality in the rural economy, ensure that land is fairly distributed across class, gender and race, and to ensure greater food security. However, critics argue that the document is too vague and does not adequately address the shortcomings of the government's past efforts at land reform. For example, the document does not discuss how to secure customary land rights for farmers living in traditional leadership jurisdictions, such as in KwaZulu-Natal. The document also does not address how to protect the rights of women in new legislation. Currently, women living in rural communities that follow customary law can be particularly vulnerable to discrimination, as some patriarchal land ownership practices undermine the rights women have under the country's Constitution. The document also fails to address the concerns of San indigenous communities, specific to their way of life and communal use of land, only explicitly mentioning them as part of the larger group of African people.

In early 2011, the government released the most recent draft of the Muslim Marriages Bill for public comment. The aim of the bill is to ensure that rights of women are protected, while respecting marriage and divorce practices under Islamic law. For example, the bill makes provisions to ensure that women have avenues to seek divorce and receive adequate support and financial compensation in the event of a divorce. The Women's Legal Centre, an independent law centre based in Cape Town, has called for further additions to the bill: to set a minimum age to prevent forced child marriages; and to ensure that women are entitled to half of their husband's property in the case of divorce. The Centre has also called for access to divorce on equal grounds, as the bill in its present form still favours

husbands over wives in divorce proceedings.

Some Muslim organizations have rejected the bill, arguing that involvement of civil courts and non-Muslim arbitrators goes against Islamic principles. The four-year public discussion period was meant to end on 31 May 2011, but the heated debates around the contents of the bill have made its future uncertain once more.

Zimbabwe

Unable to challenge the seizure of their land in Zimbabwe, white farmers continued to seek justice in neighbouring South Africa. In 2010, a court ruling in South Africa, implementing a decision by the Southern African Development Community tribunal, allowed the sale of Zimbabwean government property in Cape Town to provide compensation to farmers. In 2011, the courts overturned an application by the Zimbabwean government to prevent its assets from being sold on the grounds of diplomatic immunity. But despite the ruling in favour of the farmers, the auction of the property has yet to be carried out.

In 2000, land reforms in Zimbabwe began with the forceful reacquisition of property from Zimbabwe's 4,000 white farmers. The land was redistributed to a million black Zimbabweans, motivated by the legacy of forced evictions under colonial rule in favour of white settlers. Government supporters argued that these reforms were integral to redressing colonial inequalities, but they have been largely condemned by the wider international community for their often violent nature. Furthermore, the exodus of white farmers from Zimbabwe affected the economic stability of the country, throwing the agricultural sector into turmoil.

Although the land reforms may have contributed to improving food security for at least some poor farmers, critics have pointed out that the reforms were not as inclusive as they claimed to be. In 2011, the Zimbabwe Women's Resource Centre and Network (ZWRCN) asserted that land reform has done little to redress the gender imbalance in land ownership. Women continue to face discrimination under customary land ownership laws, and national legislation has inadequately addressed this inequality. Furthermore, land distribution programmes have reportedly discriminated against Ndebele, Zimbabwe's largest minority group.

In 2011, the Mthwakazi Liberation Front (MLF), a nationalist Ndebele party, openly campaigned for the establishment of an independent Republic of Mthwakazi (RoM) in Matabeleland for the Ndebele people. The call was met with much contention and resulted in the arrest of three MLF leaders in early March. The men were charged with treason for reportedly handing out pamphlets that called for members of the national army to defect and support the formation of the RoM. While the accused were initially refused bail, they were eventually released. The original court date was set in November; the trial finally commenced in March 2012 but was subsequently adjourned.

MLF's desire for an independent state stems from wanting to redress the perceived socio-economic discrimination towards Ndebele by the Shona majority. Party leader Paul Siwela maintains that their agenda is not tribalist. He has pointed out that Shona and other non-Ndebele people settled in the region will be allowed to stay in RoM if they choose to. Siwela also assured the public, in a radio interview upon his release, that the MLF's activities would continue to be peaceful unless the state initiated aggression. But concerns about violent outbreaks remain.

Anglicans in Zimbabwe continue to face harassment from the state-supported breakaway faction led by self-appointed bishop Nolbert Kunonga, and are unable to gather and worship freely. In June 2011, Anglicans were denied access to the official shrine of African martyr, Bernard Mizeki, for the second year running. In September, leader of the mainstream Anglicans, Bishop Chad Gandiya, reported that the seizure of church property with the cooperation of the police force was intensifying; even an orphanage, home to more than 100 children was targeted for eviction. In October, the Archbishop of Canterbury visited Zimbabwe and met with President Mugabe, who promised to speak to Kunonga. Shortly after the Archbishop's visit, a High Court judge ruled that staff members of the Daramombe Mission School would be allowed to return to their posts immediately, after being served eviction notices the previous month. Whether international scrutiny will have any lasting impact remains to be seen.

Central Africa

Paige Jennings

Central African Republic

Since independence in 1960, the Central African Republic (CAR) has been afflicted by chronic internal instability, exacerbated by the spillover of conflicts from neighbouring Democratic Republic of Congo (DRC), Chad, Sudan and nearby Uganda.

In 2011, the government made some progress towards peace. In June, it signed a ceasefire agreement with the last remaining rebel group, the Convention of Patriots for Justice and Peace (CPJP), which operates in the north and is reported to be made up primarily of members of the Runga ethnic group. Several thousand combatants from another armed group, the Popular Army for the Restoration of Democracy (APRD), were demobilized.

However, conflict and human rights abuses against civilians are still rife, fuelled in part by competition for access to the country's mineral resources. These include diamonds, which are extracted primarily by informal artisanal mining, and gold.

Incumbent President François Bozizé, who took power in a 2003 coup, won a second five-year term in January, in the first round of elections, which while largely peaceful were denounced as fraudulent by opposition candidates. President Bozizé is a member of the Gbaya ethnic group and has been accused, as have previous leaders, of using the country's mineral wealth to empower his own group's elite.

The year saw several armed confrontations between the Union of Democratic Forces for Unity (UFDR) militia, dominated by the Gula ethnic group, and the Convention of Patriots for Justice (CPJP), which is predominately Runga, as mentioned above.

Left: Ba'Aka woman from the Central African Republic. *Simon Umbreit.*

In September, near Bria, the country's diamond hub located in the east of the country, the UFDR and CPJP fought for control over a diamond mine, with 50 combatants and civilians reportedly killed. In response, over 8,000 people reportedly fled their homes. A ceasefire between the two groups was signed in October, but the situation remains volatile. At the height of the tensions, reports indicated that fighters went house to house targeting persons belonging to other ethnic groups.

All in all, conflict forced more than 22,000 people from their homes in 2011, bringing the total of internally displaced in the country to nearly 170,000. Nearly 165,000 CAR nationals are currently refugees in neighbouring countries.

Another major source of the upheaval was the Lord's Resistance Army (LRA), pushed out of Uganda in 2008. It continued to terrorize civilians across ethnic groups in the south-east, causing mass internal displacement into towns under control of CAR and/or Ugandan security forces. One of the drivers of the LRA's continuing expansion into the interior of the CAR is reported to be access to its mines. Following calls for greater involvement from international and regional human rights and civil society groups, in October the US government announced that it would send 100 military advisers to help coordinate efforts against the LRA. The UN peacekeeping Mission in Central African Republic and Chad (MINURCAT) withdrew in late 2010, but a sub-regional peacekeeping force remains in place.

In the CAR's south, logging continues to affect the forest-dwelling Ba'Aka people, disrupting the hunting and gathering activities that traditionally are the mainstay of their livelihoods. The CAR is working towards ratification of a Voluntary Partnership Agreement agreed with the EU (European Union) in late 2010, under the EU Forest Law Enforcement Governance and Trade (FLEGT) Action Plan to combat illegal logging and associated trade. The 'rights of workers, local and indigenous communities' are included among 10 principles for establishing the legality of timber to be traded under the terms of the agreement. However, the impact of the proposed initiative on traditional forest-dwelling communities remains to be seen.

Democratic Republic of Congo

Ongoing conflict in the east

Conflict continued during 2011, fuelled by competition for land and resources, and often manipulated by identity-based politics. A reported 1.7 million people were displaced, the majority from the troubled North and South Kivu regions. Continued insecurity contributed to a slowdown in the rate of return in 2011; the situation for those who did dare to return home remained difficult, due in part to land tenure issues. While all returnees face a precarious situation, Batwa or Bambuti have particular problems, reporting lack of access to targeted support.

In North Kivu, the ethnic Hutu Democratic Forces for the Liberation of Rwanda (FDLR) continued to fight rival militias and the Armed Forces of the Democratic Republic of Congo (FARDC); all sides have been accused of abuses against the civilian population. But minorities, including Batwa or Bambuti, are particularly vulnerable to attack. In one such incident, soldiers of the FARDC were implicated in mass rapes in the villages of Bushani and Kalambahiro on 1 January 2011.

One person was arrested and charged in connection with mass rapes by armed groups in July and August 2010 in Walikale (see case study), where the army had refused to deploy after a dispute over control of local mining.

In South Kivu, armed groups, as well as the army itself, continued to attack civilians and NGOs. Impunity contributed to all types of violence against civilians, including incidents of sexual violence affecting both women and men of diverse ethnic groups.

Despite the February convictions in court of eight FARDC soldiers and their commanding officer for mass rapes carried out in Fizi on 1 January 2011, soldiers defecting from the same army unit in June carried out another series of mass rapes in nearby villages.

Attacks on civilians across ethnic groups by the LRA intensified in the north-eastern Orientale province in the first half of 2011. Tens of

Left: Batwa boy wearing a home-made raincoat with his mother on the outskirts of Kitshanga village, DRC. *Chris Keulen/Panos.*

thousands were displaced. FARDC soldiers in the area were accused of violations, including against the Mbororo, semi-nomadic Islamic pastoralists.

Violence around parliamentary and presidential elections

Flawed presidential elections in November 2011 led to the re-inauguration of incumbent Joseph Kabila. Electoral violence, ranging from widespread violations by state security forces against opposition candidates and activists, to violence between supporters of different political parties, began early in the year. It carried on through the presidential and parliamentary campaign to polling day and subsequent conflict over results. Targeted killings and 'disappearances' of candidates and supporters were reported, as well as shootings and arrests of demonstrators. Journalists and human rights defenders were attacked, detained or threatened. At times, candidates or their supporters used apparent ethnic hate speech to incite violence against opponents, despite an agreed code of conduct for political parties. Opposition sympathizers and leaders, such as Kabila's rival for the presidency Etienne Tshisekedi, a Kasaian of Luba origin, were reported to be the most frequent targets.

Natural resources

The DRC is rich in minerals (see case study), forest products and energy sources. Many of the country's indigenous Batwa or Bambuti peoples depend in part on forest hunting and gathering, and have seen their livelihoods threatened by deforestation. The EU is the DRC's largest market for timber. To combat illegal logging, the DRC is negotiating a Voluntary Partnership Agreement under the EU FLEGT scheme. The FLEGT framework includes a specific project to ensure that civil society organizations, including indigenous peoples' organizations, are fully aware of and encouraged to be involved in the negotiation process. The DRC government has also completed a Readiness Preparation Plan under the UN-REDD (UN Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries) initiative, with several pilot forestry projects under way.

As in other countries in the region, 2011 saw new agreements with international investors to significantly expand land under cultivation. One such deal, facilitated by the governor of Katanga province in what he described as an effort to increase food security and reduce the area's dependency on mining, opened up 14 million hectares of land to foreign development.

Case study

Mineral resources in the DRC

'We no longer have to suffer this wealth as a curse'

Over four days in July and August 2010, rebel fighters cut off, encircled and attacked 13 villages in the remote Walikale area of North Kivu. At least 387 women, men and children were systematically subjected to brutal rapes. According to local residents, most of whom belong to the Nianga ethnic group, the attacks were punishment for their suspected pro-government sympathies. They told UN investigators that they believed rape was deliberately chosen as a weapon because of the stigma traditionally attached to it in their culture.

UN investigations revealed that the attackers were from three different rebel groups that had joined forces so as to force the government into negotiations by demonstrating their power to harm civilians. The groups were using the minerals trade in the resource-rich area to help finance their activities. Meanwhile, the army commanders responsible for protecting the villagers were distracted from their duty by the same trade, having ordered their units not to deploy to the new posting in Walikale because their old one was in a more lucrative zone.

The findings caused the government and its international partners to stop and take stock of the role of minerals in sustaining conflict in eastern DRC. The region, which is about the same area as the United Kingdom, is rich in gold, as well as tantalum, tin and tungsten vital to the electronics industry. Up to 90 per cent of its mining, according to the United Nations Environmental Programme (UNEP), is 'artisanal', or small-scale and informal. Roughly 2 million people, including children, work in harsh conditions in the mines, at times subject to forced labour or debt bondage.

While competition over the mines is obviously not the root cause of conflict in the DRC – complex issues of ethnic identity, regional rivalry, economic interests, political power and access to land all play a part – the trade has clearly helped to sustain and perpetuate conflict. Armed men control some mines directly and also profit by taxing transport of minerals through their territory.

Following the Walikale findings, the DRC President Joseph Kabila attempted to impose control by mandating the closure, without community consultation, of all artisanal production and trade in minerals and ordering the demilitarization of mining zones.

According to some reports, the measures were not universally enforced throughout the vast and remote region, but were reported to have seriously damaged the livelihoods of individual miners and their families in areas where they were. They were lifted in March 2011.

Official stakeholders in the mining industry, including government officials and representatives of artisanal miners, companies buying and trading minerals and concerned civil society groups, agreed a new code of conduct. Critics pointed out that the code's scope was limited given that influential but unofficial actors such as the army and other armed groups were not included.

Internationally, efforts focused on regulating trade. The Organisation for Economic Co-operation and Development (OECD) issued *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, endorsed by the International Conference of the Great Lakes Region in December 2010. The UN Security Council adopted a similar framework in its November resolution on DRC. The global mining industry has also reportedly drawn up new internal rules regarding 'conflict minerals'.

Due diligence principles became legally binding under Section 1502 of the US Dodd-Frank Wall Street Reform and Consumer Protection Act, which came into effect in April

Case study continued

2011. It required companies listed with the US Securities and Exchange Commission (SEC) to investigate their supply chain and disclose annually for the public record whether they used minerals from the DRC or its nine neighbouring countries in their products. The SEC was charged with drawing up implementing regulations, but as of this writing they had not been published.

Critics of the Dodd-Frank law say that it has impoverished local miners and their communities by forcing companies to boycott DRC minerals altogether. In December, the UN Group of Experts on the DRC indicated that in peaceful areas where guidance has been followed, production and exports have increased; but in conflict areas, few if any changes have been made and output has indeed fallen. Moreover, a greater proportion of trade has become criminalized, and the military and/or armed groups are still involved.

Supporters of due diligence argue that time and help are needed to work out implementation, and that short-term losses will be more than offset by the long-term benefits. A Walikale NGO, BEDEWA (Bureau of Study, Observation, and Coordination of the Regional Development of Walikale) has written to the SEC in support of Dodd-Frank. In a public statement in August, the group responded to critics of the measures:

'Come visit the territory of Walikale to assess its population's degree of vulnerability. Come see how this territory and local communities have not benefited from these riches. Come see the displacement of populations fleeing atrocities committed by belligerents seeking to control mining zones... Walikale local communities must now have a say and express their views on the exploitation of their resources and its generated profits sharing. It is necessary to correct past mistakes. We no longer have to suffer this wealth as a curse.' ■

Republic of Congo

The UN Special Rapporteur on the rights of indigenous peoples visited the Republic of Congo in November 2010. His July 2011 report examined the situation of the country's indigenous population, including Ba'Aka, a traditionally nomadic forest people. Together with groups such as Mbendjele, Mikaya, Gyeli, Luma, Twa and Babongo, they are distinct from the majority Bantu ethnic groups that have held political and economic power since independence from France in 1960. In the absence of reliable census data, these indigenous groups, some of which still live by hunting and gathering in the forests, are estimated to make up between 1.4 per cent and 10 per cent of the national population.

Building on the National Action Plan on the Improvement of the Quality of Life of Indigenous Peoples (2009–13), in February the Republic of Congo adopted the continent's first law on indigenous rights. Act No. 5-2011 on the Promotion and Protection of Indigenous Populations contains provisions on cultural rights, education and collective and individual rights to land; it explicitly prohibits any form of discrimination or forced assimilation.

While passage of the law is laudable, its enforcement will pose challenges. In November, a local NGO, the Congolese Human Rights Observatory, reported ongoing forced labour and debt servitude of some indigenous people by members of the Bantu majority. The UN Special Rapporteur drew attention to the same abuses in his report.

The law's provisions on individual and collective rights to land and natural resources, and mandating consultation on any measures that may affect indigenous communities, may also prove difficult to enforce. In the area of agriculture, the Congolese government agreed in March to grant long-term leases of 80,000 hectares of arable land to a South Africa-based company in an effort to boost productivity.

Indigenous peoples rarely hold formal titles to lands they have traditionally used, increasing the risk that their lands may be designated as vacant or unproductive. In such cases, the lands would fall under state ownership and could potentially be made available for lease or sale.

Timber has been the country's second largest

export, after oil, and the resulting deforestation has in places threatened the livelihoods of indigenous communities. The Republic of Congo exports primarily to the EU and China; it was the first Congo Basin nation to agree and sign a Voluntary Partnership Agreement against illegal logging under the EU FLEGT Action Plan. As part of the process, the government has reportedly committed to improvement in the areas of participation of civil society in the allocation of forest rights; inclusion of local and indigenous people in forest management, including through a community-based approach; and enforcement of rules and agreements between companies and local communities.

The Congolese government also participates in the UN-REDD initiative, launched in 2008 to combat climate change by reducing deforestation and forest degradation in developing countries. It is negotiating a pilot project under the programme. Some elements of the national REDD+ strategy would reportedly take place in areas inhabited by indigenous peoples, and the process has highlighted the need to ensure that they take part in and benefit from the activities.

In his report, the UN Special Rapporteur noted the potential impact of the REDD programme on indigenous lands and resources, but drew attention to concerns expressed to him about inadequate consultation and participation of indigenous peoples in the REDD process, as well as a perceived lack of detail regarding the rights of indigenous peoples to share in the benefits of any government revenues from the programme. In 2011, the Congolese government announced a 1 million hectare reforestation project (roughly 5 per cent of the national territory).

Rwanda

In 2011, a landmark visit by the UN Independent Expert on Minority Issues, as well as examinations by the UN Committee for the Elimination of Racial Discrimination (CERD) and the Universal Periodic Review (UPR) process, highlighted key concerns about treatment of the Batwa community. The Batwa number around 33,000, or roughly 1 per cent of Rwanda's population; according to the Independent Expert, they live 'in conditions of great hardship and poverty on the margins of mainstream society'.

In the aftermath of the 1994 genocide, in which as many as 800,000 to 1 million people – a large part of the country's minority Tutsi population, along with Batwa and moderate Hutus – were killed, the Rwandan government undertook to promote reconciliation between the ethnic groups by constitutionally outlawing ethnic distinctions. However, experts noted that the government's refusal to recognize the existence of minority or indigenous groups has had a negative impact, contravening international standards by which ethnicity can be recognized on the basis of self-identification and undermining official efforts to address inequalities.

Specifically, CERD voiced concern at the weak impact of government measures to help Batwa, who continue to suffer poverty and discrimination with regard to access to education, housing, social services and employment; and at the failure to replace lands expropriated from them for the creation of nature reserves, disrupting their traditional lifestyles.

One area of controversy in late 2010 and 2011 was the official 'Bye Bye Nyakatsi' programme for replacing traditional thatched roof houses with iron-roofed ones. While the government described the programme as an effort to ensure adequate housing for all, experts argued that it affected Batwa disproportionately due to their frequent use of traditional building methods, and that it had in the short-term appeared to leave many without shelter.

Dealing with the legacy of the genocide

CERD, the Independent Expert and the UPR outcomes all expressed concern about vaguely worded laws prohibiting 'genocide ideology' and 'divisionism'. Though the authorities pledged to review the laws, they continued to be used to prosecute government critics, including journalists and opposition politicians, for what in many cases appeared to be the simple exercise of free speech.

The International Criminal Tribunal for Rwanda (ICTR) continued to prosecute those responsible for genocide and other serious violations of international humanitarian law during 1994. At the end of 2011 there was one person awaiting trial, three cases in progress, 44

completed cases, and nine accused still at large. A female former government minister, four senior military commanders and two leaders of the dominant political party in 1994 were among those found guilty and sentenced during 2011. For the first time, in 2011 three cases were transferred from the ICTR to Rwandan jurisdiction.

West Africa

Ukoha Ukiwo

Mali

The fragility of Mali, one of Africa's landlocked countries, was exposed with the resumption of

Left: A Tuareg woman carries water through a sandstorm at Lake Banzena, Gourma Region, Mali. *Abbie Trayler-Smith/Panos.*

the Tuareg rebellion in northern Mali following the revolution that toppled the Libyan dictator Muammar Gaddafi. Nomadic Tauregs are one of Mali's nine main ethnic groups. Mali has experienced a series of Tuareg uprisings since the 1960s, in which Tuaregs have demanded recognition of their identity and an independent state in the north of the country. The latest uprising ended the fragile peace established between separatists and the government in 2009. Insurgents organized themselves under the banner of the National Movement for the Liberation of Azawad (MNLA), a movement founded at the end of 2011, spurred by the return of thousands of Tuaregs from fighting for Muammar Gaddafi in Libya.

The resumption of the conflict towards the end of 2011 led to the displacement of pastoralists in northern Mali to other parts of the country and to neighbouring Niger Republic. Many of the internally displaced (IDPs) and refugees had to leave their livestock when fleeing, while those who could salvage some livestock have difficulty being admitted to IDP and refugee camps, which are not designed to provide sanctuary for livestock.

During 2011, minorities also faced difficulties arising from the commodification of natural resources. For instance, Dogon people, who live in the arid Mopti plateau region, faced exploitation by water privatization programmes, which have reduced their access to water, excluded them from water management and undermined Dogon culture, which is intimately linked to water. In June 2011, the Mali Committee for the Defence of Water wrote in a report that these water privatization programmes were in violation of a 2010 UN Resolution that declared the right to water and sanitation as a fundamental human right.

The Malian government has recently granted about half a million hectares of land concessions to large investors, according to a 2011 report by the Oakland Institute. Thousands of hectares of land were sold to mainly foreign buyers during 2011, by the government, which is desperate for foreign investment, at a very low price, displacing smallholder farmers and minority groups. The biggest buyers include Malibya from Libya (100,000 hectares), China (17,000 hectares), the West African Economic and Monetary Union (14,000 hectares) and Tomota, a Malian company (100,000 hectares).

Land deals include the right to extract water for irrigation at very low prices, which is radically reducing water available for indigenous groups and farmers. For example, a lease granted to Moulin Moderne du Mali – a public–private

partnership with the Malian government – involves a rent-free lease of 20,000 hectares on the banks of the Niger River. This project has affected the Samana Dugu indigenous community in the Office du Niger, West Africa's largest irrigated zone. Samana Dugu who opposed the deal report serious threats to their livelihoods, with little or no consultation or compensation. The Secretary of State in charge of development in the Office du Niger zone denies that the communities living on the leased lands are indigenous and has stated that such communities have 'installed themselves' on the land without permission. Violent attacks on indigenous groups and smallholder famers have been reported. In June 2010, men, women and young people from the Samana Dugu community protested against the work of bulldozers and the cutting of hundreds of their trees. About 70 gendarmes were brought in to quell their protest. Protesters were beaten and about 40 of them were arrested, among them 14 women.

Despite Mali's limited availability of arable land and food scarcity, much of the land leased is used to grow crops for bio-fuels or for water-intensive rice cultivation. The land acquired by the Libyan company in Segou, the most fertile region of the country, also includes a 40 km canal. In November 2011, farmers and indigenous groups organized an International Conference of Peasant Farmers in Sélingué which aimed to stop the land and water grabs.

The livelihoods of minorities in Mali are also increasingly negatively impacted by gold-mining. The growing presence of multinational companies involved in gold-mining across western Mali is having an adverse impact on pastoralists and agriculturalists. For example, Fulani, Soninke and Bamana minority groups have been negatively impacted by cyanide poisoning caused by the Sadiola mine in the far west of the country. There are also 200 artisanal mining sites, most of which operate outside the government's regulatory framework. Mining methods are mostly substandard, involving use of highly poisonous mercury and exploitation of child labour.

Nigeria

The year 2011 can be described as the 'Year of Minorities' in Nigeria because the country elected its first civilian president from a minority ethnic group. Dr Goodluck Jonathan, an Ijaw from the Niger Delta region, was sworn in as president following the death of President Umaru Yar'Adua in 2010. In the April 2011 general elections, Jonathan defeated General Muhammadu Buhari, former military head of state and candidate of the opposition Congress for Progressive Change (CPP), which drew most of its support from the Hausa and Fulani ethnic groups in the north.

However, apart from its symbolism, the electoral victory of Jonathan has not changed the fortunes of minorities in the country. Although the amnesty for Niger Delta militants which came into force in 2009 held for much of 2011, Niger Delta minority communities – including Etche, Ijaw, Kalibari and Ogoni – continued to experience environmental devastation due to oil spills and gas flares. Decades of oils spills from multinational oil company operations, sabotage of pipelines and widespread gas flaring have left the Niger Delta heavily polluted. Oil spills from dilapidated infrastructure were aggravated by spillage caused by the activities of oil thieves. Throughout the year, authorities of the Nigerian National Petroleum Corporation (NNPC) repeatedly acknowledged that 150,000 barrels of oil were being lost to illegal oil bunkering every day.

A 2011 report published by United Nations Environmental Programme (UNEP) found that oil contamination in Ogoniland is widespread and severely affecting the environment. Cleaning up oil pollution in the Ogoniland region may require US$ 1 billion and take up to 30 years. The UN report found that oil contamination had migrated into the groundwater in at least eight spill sites that the Anglo-Dutch oil giant Shell had claimed they had cleaned up, according to Human Rights Watch (HRW). The Ogoni forced Shell to stop exploration and production activities in their land after the Nigerian government ordered Ogoni environmental rights activists, including Ken Saro-Wiwa, to be killed in 1995. At the end of February 2012, the US Supreme Court heard whether or not corporations can be held liable for complicity in human rights abuses outside the country. The case specifically concerns the alleged involvement of Shell in the torture and killing of

Ogoni activists.

In the north-central region of the country, inhabited mostly by ethnic minorities, several communities continued to witness violent clashes between local farmers and migrant herders. Clashes are linked to increasing desertification, which has forced pastoralists to move southwards in search of pasture for their cattle. Pressures on land arising from an increase in population and land grabbing by commercial farmers have undermined existing regulations on resource use as encroachment on pastoral corridors and grazing reserves forces pastoralists to graze on farmlands. Estimates of casualties vary. HRW reported that 200 people were killed in Plateau State between January and April 2011.

Between January and June 2011, 100 people were killed in clashes between Tiv farmers and Fulani herdsmen in Benue State, and over 20,000 persons displaced and scores of communities destroyed. Towards the end of the year, another 5,000 people were displaced in Benue and Nasarawa States as Fulani herdsmen clashed with farmers. Up to 10 people were killed in the attacks. The perennial tensions between herders and farmers over land and water use have become more complicated as the two occupational groups are on opposite sides of the ethno-religious faultlines. Attacks perpetrated by suspected members of the Boko Haram Islamist group, which launched several suicide attacks in Nigeria, including the August bombing of the UN office in Abuja, have increasingly targeted farming communities in dispute with pastoralists. The ethnic and religious dimensions of the conflict appear to be overshadowing the underlying basis, which is competition over natural resources. The government has focused on so-called anti-terrorism campaigns while failing to address resource depletion and ethnic conflict in the country, particularly between minority groups. ■

Alaska (US)
CANADA
UNITED STATES
NORTH PACIFIC
ATLANTIC OCEAN
Hawaiian Islands (US)
MEXICO
CUBA
HAITI
DOMINICAN REP.
Puerto Rico (US)
BELIZE
JAMAICA
GUATEMALA
HONDURAS
EL SALVADOR
NICARAGUA
COSTA RICA
VENEZUELA
PANAMA
GUYANA
Guyane (Fr.)
COLOMBIA
SURINAM
ECUADOR
PERU
BRAZIL
BOLIVIA
PARAGUAY
SOUTH PACIFIC
CHILE
URUGUAY
ARGENTINA

Americas

Maurice Bryan

The resource-rich Americas region is socially and economically diverse, with millions of indigenous and African descendant populations as well as immigrants of European, Asian-Pacific and Middle Eastern ancestry. In 2011, the most disadvantaged and vulnerable continued to be people of African and indigenous origin. This is due to the enduring influence of cultural attitudes, economic policies and social patterns established during the earliest centuries of colonial expansion. These are still reflected in contemporary issues such as dislocation from traditional lands for large-scale agriculture and natural resource extraction.

During 2011, the strong global competition for diminishing primary resources – including by newly industrializing nations – contributed to an increasing drive to exploit previously untouched lands, alternative energy sources and untapped mineral deposits. Significantly, many of these are located in the often remote areas traditionally occupied by indigenous and African descendant communities. The result is that during 2011, indigenous peoples and African descendants in most Central and South American countries continued to struggle against attempts to separate them from their ancestral lands, and in North America fought against efforts to limit their right to control the resources within their territories.

Clearly seen but treated hard

In South American countries such as Bolivia, Chile, Ecuador and Peru, indigenous peoples who protested against government decisions to use natural resources for revenue accumulation were sometimes criminalized. Indigenous peoples and rural African descendants who mobilized to defend their interests – in Argentina, Colombia and Honduras – were often seen as 'standing in the way of development', resulting in their being not only criminalized by the state but also threatened, harassed, forcibly evicted and sometimes even assassinated by non-state agents. Constitutional allowances and international treaties such as the UN International Labour Organization Convention No. 169 (ILO 169) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), and the Inter-American Court of Human Rights (IACtHR) standards developed to safeguard the rights of these populations tended to have only a limited effect.

In 2011, the consistent failure of most states in the Americas to comply with these norms in good faith, often resulted in non-receipt of promised land titles, privatization of communal lands, forced removals and inadequate access to decision-making processes on the use of their territories, resources and the resulting revenues. A specific recurring factor, where large resource extraction and infrastructure projects are being planned or implemented, was inadequate compliance or complete circumvention of legally required free, prior and informed consent processes. Activists in countries such as Canada, Ecuador, Guatemala and Peru especially pointed to the lack of standard national guidelines and mandated procedures that can and ought to be followed by national officials during such consultation processes.

Added to this reality, indigenous and African descendant communities in most Central and some South American states faced constricted public investment, limited economic opportunities, poor access to social services, high levels of public insecurity and the strong influence of organized criminal enterprises. All of these challenges were exaggerated by the generally weak state presence in remote geographical zones, as well as by fragile institutions, uneven justice administration, politicized judicial systems, and continuing high levels of corruption and impunity – particularly in Central and South America. In Central American states especially, this was reflected in the ongoing militarization of civil society and the increasing use of private paramilitary forces in the service of powerful special interest groups bent on the dispossession of indigenous and African descendant communal lands.

Partial to progress

A key element in forcible land alienation during 2011 was the continuing drive to expand large-scale mono-crop bio-fuel plantations, as well as the extensive region-wide efforts to increase hydrocarbon extraction, mining, and mega-projects such as dams and highways through traditionally held lands. All of these had a direct and also indirect – mostly negative – impact on indigenous and African descendant communities

that were routinely excluded from key planning and decision-making processes and denied opportunities for meaningful prior consultation, often prompting them to seek legal redress. As a consequence, during 2011, some governments that earlier enjoyed significant support from indigenous groups and organizations, especially in Bolivia and Ecuador, found such cooperation diminishing as original peoples sought to safeguard or exercise their legally guaranteed rights.

During 2011, the combination of these factors coupled with unprecedented climate disasters – extensive floods and landslides – across all of Central America as well as in many South American countries, posed significant challenges to vulnerable indigenous and African descendant communities. The overall result was a continuing constraint to their self-determination, general socio-economic stagnation and, in extreme cases, further degradation of the quality of their lives.

Argentina

According to the Additional Survey on Indigenous Populations, published by the National Institute of Statistics and Censuses (INDEC), the indigenous population in Argentina is about 600,000. A census was conducted in 2010 but was criticized by minority and indigenous activists for lack of accuracy and under-counting of Argentina's African descendant population and the 19 indigenous peoples. These include Mapuche, Toba, Wichi/Mataco, Guaraní/Mbyá, Chiriguano, Quechua and Aymara.

According to local MRG partner organization Casa de la Cultura Indo-Afro-Americana, a major preoccupation of indigenous communities during 2011 continued to be insecurity over land-ownership and the many problems and delays they encounter when trying to obtain legal titles. Indigenous people such as the Toba, Wichi/Mataco and Mapuche continued to be especially concerned about the lack of dialogue and participation prior to the start of resource extraction and other economic projects on their lands. In many instances, land traditionally occupied by indigenous groups was appropriated by the authorities, especially at the provincial level.

This contributed to conflicts between indigenous communities and private resource extraction companies, which, in contrast to the affected groups, are significantly facilitated by legal authorities and the judicial system.

Natural gas explosion

According to the US Department of Energy, Argentina possesses the world's third largest potential reserves of unconventional gas – 774 trillion cubic feet. Reports by Argentina's Neuquen Observatory on Indigenous Peoples' Rights indicate that of the 59 Mapuche communities in southern Argentina, 19 are affected by the hydrocarbon industry or live in areas being considered by companies looking to expand exploration.

In the Chubut province in Patagonia, an oil concession granted in June 2011 prompted Mapuche Tehuelche communities to hold a *trawun* (parliament) in mid-October to evaluate the impacts of the industry. In Chaco province, 12 resource extraction blocks have been created. Some affect indigenous Wichi, Qom and Moquit lands, where the local Servicios Energéticos del Chaco and the state-owned Argentina Energy Service began exploring for hydrocarbons in mid-2011.

This expansion is meeting with criticism. Members of the Mapuche community charge that the Argentine government's aggressive push to increase energy supplies by allowing oil company exploration on their lands will cause irreversible social and environmental damage. In November 2011, the Gelay Ko Mapuche community in Neuquen province blocked gas-well drilling work on their land by the US oil company Apache. Among their complaints was that they had not been consulted about the project. They demanded that the provincial government create commissions to evaluate the social and environmental impact as well as to monitor oil company activities.

During 2011, Salta province in northern Argentina was also the scene of conflict between the extractive industry and indigenous groups. In October and November, the Wichí Lewetes Kalehi and Lote 6 communities tried to stop seismic testing on their territory. They reported being harassed by the police as well as by the

Above: An indigenous woman walks near the village of Colchani, Bolivia, on Salar de Uyuni, the biggest salt lake in the world. The people of the village make a living by mining the salt. *Ivan Kashinsky/Panos.*

exploration company contracted by the Unión Transitoria de Empresas Maxipetrol.

Following an 11-day visit to Argentina in 2011, the UN Special Rapporteur on the rights of indigenous peoples, James Anaya, concluded that the government must strengthen legal mechanisms securing indigenous land-ownership and establish a meaningful dialogue with communities in decisions which affect them.

Continuing marginalization

In addition to territorial issues, Argentina's indigenous peoples in their often remote locations remained concerned about the lack of access to adequate education. This includes bilingual instruction and inter-cultural exchanges to help keep indigenous languages alive while also acquiring a standard Spanish-language education.

Many indigenous communities retain their own languages, but illiteracy rates in the country's north-east, where many indigenous peoples live, is more than twice the 1.9 per cent national average. Lack of access to bilingual education is partly due to a shortage of trained teachers; in part, this is caused by an absence of measures to facilitate university entry for eligible indigenous students.

Bolivia

Bolivia is a landlocked country, extremely rich in natural resources but with a historically downtrodden indigenous majority (approximately 60 per cent of the population). Bolivia's first indigenous president Evo Morales, has internationally championed the rights of indigenous peoples and the environment. Nonetheless, the country relies heavily on resource extraction as the main source of the revenue and foreign exchange used for national development.

In Bolivia, resource extraction is also a cottage industry. There are about 650 mining cooperatives consisting of some 75,000 mostly indigenous members, which operate in the mineral-rich but impoverished western highlands. The artisan miners extract tin, tungsten, silver, zinc and gold. Hundreds of women cooperative members work up to 14 hours a day in the freezing tunnels dug into the side of high-altitude mountains and deep underground. Previously, women miners were given the most menial tasks and were only recently recognized as cooperative partners and shareholders; now there are some women-only cooperatives. Still, women miners with little schooling and limited financial experience remain at a particular disadvantage when selling minerals to intermediary buyers.

Indigenous sceptics

In April 2010, Bolivia hosted the 'The First World Conference of the People on Climate Change'. It included the drafting of a Universal Declaration of Rights for 'Mother Earth', which assigns the earth value that is independent of human interests – including the right to be respected and cared for. However, during 2011 a number of proposed development mega-projects have caused some indigenous organizations to question the government's international stance, while their home-grown environmental and social concerns apparently go unaddressed.

In 2011, organizations such as the 1 million-member Confederation of Indigenous Peoples of Bolivia (CIDOB) continued to complain about slow progress in titling of indigenous ancestral lands and plans to establish settlements in forest reserves, including attempts by new settlers to undermine indigenous territorial rights. Indigenous groups are also concerned about plans for hydroelectric dams and the ongoing seismic testing, drilling and mining operations throughout the Amazon basin and south-eastern Bolivia. CIDOB has accused the government of using 'dishonest and corrupt prior consultation methods' to obtain approval from indigenous communities for some projects. This includes the construction of the US$ 415 million trans-Bolivian trade/export highway linking Brazil's Atlantic coast with Chile's Pacific coast.

Highway blues

One 300 km stretch of this 1,400 km route is slated to run between the departments (provinces) of Beni and Cochabamba, crossing the Isiboro Sécure National Park and Indigenous Territory (TIPNIS). The park land is collectively owned by some 15,000 people of the Moxeño, Yuracaré and Chimane indigenous groups, who were granted collective property rights in 2009. Some organizations are opposed to any major road construction through TIPNIS, however the government argues that the road is needed to promote national integration and provide services, such as health and education to remote indigenous communities. Protests turned violent during 2011.

Critics charge that the highway project runs counter to the 2009 Bolivian Constitution, which grants broad rights to indigenous communities, and to national laws that declare TIPNIS and other collectively owned land the 'inalienable and indivisible' property of indigenous communities. Arguably the strongest accusations relate to Bolivia's apparent non-compliance with ILO 169 regarding free, prior and informed participation with respect to projects affecting indigenous territories. Bolivia ratified the convention in 1989.

A coalition of dissenting groups – indigenous and environmental activists, spearheaded by CIDOB – began a 500 km march from Beni to La Paz in August, to protest against the road. In September 2011, about 1,000 of the anti-highway protest marchers were stopped by police. According to media reports, security forces used tear gas and truncheons to break up the gathering. Hundreds of activists were also detained but later released. Several high-profile government officials resigned over the violent crackdown.

At the end of September 2011, President Evo Morales suspended highway construction plans. The government announced that local regions and indigenous peoples would be given a chance to vote in a referendum, although it could take up to six months or more to organize one. And in October, Bolivia's lower house approved a bill formally suspending construction of the Beni–Cochabamba portion of the highway pending a consultation with the affected indigenous

peoples. It also officially declared TIPNIS an ecological reserve that is of 'fundamental interest to the nation'. However, the delay did not meet with universal approval within indigenous circles. Towards the end of 2011, another organization, the Indigenous Council of the South (CONISUR) which represents 20 member-communities in the affected reserve, organized a march of their own – this time in support of the road project.

As Bolivia's rights advocates pointed out, the 2011 highway controversy highlighted the need for standard procedures that can be followed in prior consultations with indigenous communities. A draft bill on prior consultations had already been introduced in the Bolivian Congress. It outlines binding procedures and standard legislative and administrative guidelines for mining, logging, oil drilling or infrastructure projects. However, at the end of 2011, as observers noted, given the current dispute over the TIPNIS highway project, there could be a notable delay in the passage of this particular measure.

Lithium expansion

In early 2011 Bolivia moved a step closer to the goal of becoming a world leader in the production of lithium and its by-products – the country has the largest reserves in the world. Lithium is a key ingredient in the manufacture of the rechargeable batteries used in millions of mobile phones and laptop computers. Lithium reserves are located in the country's Salar de Uyuni, a vast expanse of scenic lakes, marshes and salt flats in Bolivia's mineral-rich south-west Potosí province. Traditionally indigenous communities in the area have relied on the Salar de Uyuni for salt harvesting, llama herding, the production of highly nutritious quinoa grains and, recently, for tourism.

With lithium sales expected to jump from US$ 100 million to US$ 103 billion annually over the next 20 years, a number of international corporations and governments have been seeking deals with the Bolivian government. Among these is the giant Sumitomo Corporation, which already has a stake in the controversial San Cristóbal silver, zinc and lead mine also located in the Potosí region. San Cristóbal is a large water-intensive (it uses 50,000 litres a day) open-pit mine that threatens local soil and water quality. In April 2010, angry community protesters set fire to offices and overturned loaded railroad cars used to export minerals.

Artisanal mining has a long history in the area, and it was the Uyuni Regional Peasant Federation that initially proposed the industrial lithium mining project. Therefore, south-west Potosí's indigenous communities in general welcome the new industry. Nonetheless, there are unresolved issues related to land-ownership and resource royalties. Potosí civic and union leaders believe the department is entitled to a greater part of the lithium benefits for local development; in 2011, the government allocated just 5 per cent of lithium royalties to the area.

Additionally, some indigenous communities are especially concerned about the potential for a serious water crisis as a result of mining in an area already short of this resource for traditional agriculture and herding. Large quantities of toxic chemicals will also be needed to process the lithium. Experience in neighbouring Chile points to the possibility of chemical leaching, mountains of discarded salt, soil contamination and huge canals filled with chemically polluted water. At the end of 2011, indigenous communities in Potosí could only hope that the government's US$ 30 million allocation for lithium waste-management and other measures to reduce environmental impact will be enough to avoid potential problems.

Brazil

A century after thousands of mainly Anglophone Afro-Caribbean workers moved into the Brazilian Amazon to build the Madeira–Mamoré 'rubber boom' railway, a new wave of Caribbean migrants is now arriving to join Brazil's estimated 90 million African descendant population. Brazil has become an increasingly attractive destination for economic migrants from Haiti, who find it difficult to get entry visas for their first choice countries – the US and France. Since the 2010 Port-au-Prince earthquake, around 4,000 Haitians have gone to Brazil in search of economic opportunity; with some 85 per cent finding employment.

In January 2012, the Brazilian authorities announced a one-off plan to grant residence visas to those Haitians already in the country while tightening border controls.

Murder of Guarani leader

Large infrastructure projects in Brazil such as dam and highway construction have played a major role in promoting expansion into the Amazon since the 1970s, bringing deforestation and land-grabbing conflicts, including the invasion of ancestral lands and massacres of indigenous people.

According to Amnesty International, in early November 2011 Nísio Gomes, a religious leader and rights defender of the Guarani indigenous group in the south-western Brazilian state of Mato Grosso do Sul, was made to lie on the ground by some 40 masked gunmen and then executed in front of his son and community members. His body was taken and three children were abducted. It is the latest incident in the decades-long land dispute between Guarani and local ranchers who – with impunity – employ hired gunmen in violent attacks against indigenous people attempting to reclaim ancestral lands. The spiritual leader and up to 70 other Guarani had recently returned to their traditional lands after being evicted by cattle ranchers some 30 years ago.

Based on federal government estimates, there are over 40,000 Guarani in Brazil. This makes them the largest indigenous group in the country. However in 2011, their existence continued to be threatened by the extensive patchwork of cattle ranching, and soya and sugar cane biofuel plantations illegally established on their traditional lands.

Uncontacted community

In the Amazon state of Maranhão, Awá, one of the last nomadic hunter-gathering groups left in the Amazon, now face extinction according to Survival International. In the 1980s a railway was built through Awá territory to extract massive iron ore deposits; loggers, settlers and cattle ranchers soon followed. Survival International estimates there are currently only about 350 surviving members, more than 100 of whom have had no contact with the outside world.

Case study

Belo Monte Dam: Drowning out indigenous protests in the Brazilian Amazon

Belo Monte, which translates as 'Beautiful Hill', is located in the northern Pará state of Brazil. Ever since the federal government publicized its intention to construct a giant hydroelectric energy facility in the Amazonian rainforests of Pará, a heated national and international debate has arisen over the form, function and implications of the project – especially with respect to indigenous peoples and the overall environment. The Belo Monte hydroelectric dam project was first proposed back in 1987 by the Brazilian power company Electrobras. Despite its massive size, it was intended to be just one unit of a monumental six-dam Amazon megaproject; however the resulting outcry led to the shelving of the other five plans. In 2005, the Belo Monte project was declared a priority by the administration of President Luiz Inácio Lula da Silva. Dam construction was then fast-tracked by the Brazilian Congress leading to increased overall momentum as well as the related controversy.

Contention within the government itself led to the resignation in late 2009 of two senior environmental agency officials. Brazil's Federal Public Prosecutor's Office also filed suit to stop the dam. It charged that the region's indigenous peoples had not been consulted as required by the Brazilian Constitution (Article 231) as well as by Brazil's obligations under ILO 169 and other international agreements.

Upon taking office in 2009, Lula's

Case study continued

successor, President Vilma Rousseff, continued to push for construction while criticism mounted. The government argued that the massive US$ 17 billion project is crucial for development and will create jobs, as well as provide electricity for millions of homes.

Opponents of the Belo Monte dam charge that the hydro-project offers little real benefit either to indigenous communities or to the majority of the national population. In addition to displacing thousands of indigenous people, they state that it will produce publicly subsidized energy primarily for the large privately owned extractive industries in the Amazon region.

The Belo Monte dam is expected to produce around 11,200 megawatts of power and will be the third largest in the world. When completed in 2019, the 5 km wide dam will back up the Xingu River, which is one of the main tributaries of the giant Amazon River, and flood 500 square km of pristine rainforest land, drowning trees and wildlife and causing population dislocation.

The National Indigenous Foundation (FUNAI) – the government agency responsible for protecting the country's indigenous Amerindian population – has publicly claimed there will be no direct effects on any indigenous group. However, this does not apply to indigenous peoples on lands that are not demarcated as tribal territory. In fact, although the Brazilian government estimates that the dam will displace about 16,000 people, environmental groups such as Amazon Watch put the figure at 40,000. They point out that it will directly affect the livelihoods and threaten the survival of the thousands of Arara, Juruna and Kayapó indigenous peoples who live downstream. Environmentalists warn that diverting some branches of the Xingu River will cause abnormally low water levels during the dry season. This will likely disrupt the reproductive cycles of some species of turtles and fish that have

Below: Activists gather in Avinada Paulista, São Paulo, Brazil, to protest against the Belo Monte Dam in June 2011. *Pedro Ribeiro*.

traditionally provided food security for Amazon indigenous communities. In addition, according to electrical engineering experts, even under optimum conditions the huge costly dam will only function at 10 per cent of potential capacity during Brazil's three- to five-month dry season.

In the face of the apparent inevitability of construction, a united opposition emerged, consisting of indigenous communities, the Movement of People Affected by Dams – which claims to represent 1 million people displaced from their lands by other dams – as well as several environmental organizations and scientists. In late 2010, indigenous groups filed a complaint with the Inter-American Commission of Human Rights (IACHR). They claimed their right to free, prior and informed consent had not been respected.

During February 2011, a Brazil federal court judge blocked dam construction citing 29 unmet environmental criteria. The government appealed the stop order. At the end of March 2011, the IACHR also asked Brazil to stop the dam's licensing process until its developers consulted with indigenous groups and environmentalists in the area.

The Brazilan government's response was immediate, uncompromising and unprecedented. The country's foreign ministry publicly rejected the IACHR request, calling its move 'unjustified'. President Rousseff also decided to immediately halt Brazil's approximately US$ 800,000 annual contribution to the IACHR. Furthermore, the government decided to withdraw from Brazil's 2012 participation in the IACHR itself. The country suspended the membership on the IACHR of Brazil's candidate – a former Human Rights Minister under the previous administration. Shortly thereafter, in June 2011, the Brazilian environmental agency gave final approval to the dam.

In November 2011, in response to more suits filed by environmentalists and indigenous groups, a federal court handed down a ruling in favour of the project. While one judge raised concerns, another noted that while consultations with indigenous groups were 'informative', they were not relevant to the decisions made by the Brazilian Congress. Judge Maria do Carmo Cardoso argued that since the actual infrastructure of the Belo Monte dam and its reservoirs would not be physically located on indigenous lands, she saw no need for consultation with the indigenous groups. There was also special concern about her statement that 'indigenous peoples should consider themselves "privileged" to be consulted about large projects that affect their livelihoods'.

The conflicting opinions of the judicial panel as well as the fact that the case involves a constitutional issue, all but ensures that the legal turbulence caused by the Belo Monte dam and its effect on indigenous populations will continue to eddy all the way up to the Supreme Federal Court of Brazil. ■

Chile

In 2011, the acute socio-economic divide persisted between the majority population and most of the indigenous peoples of Chile, especially Mapuche people in the south and Aymara in the north. In southern Chile, discontent over the historical loss of ancestral lands, waterways and forest resources continued to smoulder during 2011. In the mineral-rich arid north, many indigenous Aymara men and women joined a rural-to-urban exodus, aggravated by national policies that do not recognize collective land rights.

Mapuche resistance 2011

In late November 2011, Mapuche protesters in the southern region of Araucania once again clashed with Chilean police. They demonstrated against plans to build an airport on Mapuche land; police used tear gas against the demonstrators, who were blocking the highway. In January, the Santiago Court of Appeals had rejected the Mapuche claim and ruled that the airport project could go ahead. The decision was criticized for not adequately taking into account the consultation requirements of ILO 169. The Chilean government has reportedly committed to holding roundtable talks and set aside US$ 40 million for local development.

Earlier, in June 2011, four Mapuche prisoners being held in Victoria prison in southern Chile ended their 86-day hunger strike after Chile's Supreme Court agreed to lower their sentences from between 20 and 25 years to a maximum of 15 years. The four were charged with an October 2008 shotgun ambush on the police convoy of a public prosecutor, who lost a limb. Roman Catholic Church mediators and human rights advocates pledged to convene a commission to review the use of Chile's anti-terrorism legislation against indigenous activists.

Mapuche demonstrations and hunger strikes have been an almost annual occurrence since 1984 when the state enacted the Anti-Terrorist Law No. 19.027 during the military dictatorship of General Augusto Pinochet. The law was aimed at curbing Mapuche protests over the loss of their lands and resources. Among other controversial features, the law allows for military trials and the use of anonymous witnesses who cannot be cross-examined by the defence. During 2010, a total of 34 Mapuche prisoners staged a hunger strike at several facilities in south-central Chile in protest against the law. This ended after 82 days when the government agreed to amend the Anti-Terrorist Law, and to stop using military tribunals against Mapuche civilians.

Right: A Mapuche woman is detained by police officers during a demonstration in support of four imprisoned Mapuche activists outside of Chile's Supreme Court in Santiago, June 2011. *AP Photo/Roberto Candia.*

Nevertheless the controversial anti-terrorism legislation was used once again against the four prisoners charged in the 2008 convoy attack. The repeat use of the law was seen as a violation of the 2010 accord and considered reason enough to mount another hunger strike in 2011.

Water resource ownership

Resource extraction and water rights affected Chile's indigenous populations during 2011. In Chile, water is not a public good nor is it any longer a resource tied to land-ownership – as it was up to the mid 1980s. Water privatization in the 1980s gave priority to commodity production for international export – grapes and other fruits, cereals and vegetables – and favoured majority urban areas.

Water management is regulated according to the 1981 Water Code and, like the anti-terrorism legislation used against the Mapuche, it was developed by the Pinochet regime. It is based on private sector development of water markets and infrastructure with tradeable water permits. Regulatory agencies are meant to provide oversight, but critics have charged that Chile's system for buying and selling water is exceptionally permissive, with little government control or environmental safeguards. They also point to growing competition for water between agro-industry operators, resource extraction industries and the nation's cities in a situation of limited supply. A 2005 reform to the 1981 Water Code addressed some social equity and environmental protection concerns but did little to alter the underlying structure. Private ownership of water resources is so concentrated in some areas that a single electricity company from Spain, Endesa, has bought up to 80 per

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cent of the water rights in a large part of the Mapuche-claimed south, causing an outcry. While privatization may have encouraged infrastructure investment, academic researchers and environmentalists argue that Chile's system is inherently unsustainable because it promotes speculation, endangers the environment and allows smaller interests like indigenous communities to be squeezed out by powerful forces, like Chile's giant mining industry.

Chile's water originates in springs and glaciers high in the Andes mountains. While it is a low emitter of greenhouse gases, it is the planet's ninth most vulnerable country to climate change. One result is that many of the glaciers are melting at an increasing rate, and the Fourth Assessment Report from the Intergovernmental Panel on Climate Change (IPCC) warns that some glaciers could be gone over the next decades. This would very likely increase the competition for diminishing water rights and sharpen the existing divide.

Chile has the largest reserves of copper on the planet and is now the world's number one copper producer. Copper is primarily mined and processed in Chile's arid northern desert at sites owned by the state mining giant Codelco Chile. Water is a key ingredient in the various stages of copper extraction. The copper mines on average consume 11.5 cubic meters of water per second – in an extraordinarily dry ecological zone.

Discussion over water management in the northern copper-bearing desert is relatively recent. This zone is home to the historically marginalized and excluded Aymara and Atacameño indigenous communities, who have attracted less media attention than indigenous groups in the south. According to researchers at the University of Chile, the indigenous populations and their livestock in the north are having to leave their Andean slope villages because of acute water scarcity.

Mineral extraction industries such as lithium and copper mines, bottled water enterprises and medium-sized northern cities such as Arica, Iquique and Calama have appropriated the available water rights. They siphon off rivers and tap scarce water supplies. This has left some Atacama towns to dry out and wither.

Traditional Andean indigenous agricultural life is centred around high water table marshes known as the *Bofedal*, used for feeding llamas and alpacas. The ecologically integrated *bofedales* need permanent water inundation to survive. If water is diverted or reduced, the sun burns the plant roots causing permanent ruin. Nevertheless in Chile, indigenous collective water rights have never been recognized by government agencies. Springs that accumulate in the mountains on indigenous lands can be traded away leaving parched *bofedales* that cannot be revived.

University of Chile researchers reported that the rights to the highland spring in one of the indigenous communities of the Salado River tributary of the Loa River were given to the copper mining giant Codelco Chile. After 1985, this cut off the community water source and caused permanent damage to fields used to feed thousands of llamas and sheep. By 2011, the Saldo River community had become almost completely depopulated, with most of the former residents now living in urban zones.

In Tarapaca, the national electric company of Chile and the Department of Irrigation diverted the natural flow of the high plateau Lauca River for irrigation in the Azapa Valley and hydro-electricity for the city of Arica. The springs dried up and this affected the *bofedales*. Pastoralists had to reduce their herds or move to the city.

At Chusmiza, a remote *altiplano* Andean village rich in warm sulphur springs, Aymara engaged in a seven-year legal battle against a mineral water bottling enterprise they claimed had illegally deprived them of their land and water sources. In 2009, they won the right to suspend the bottling business but failed to gain the water concession itself.

Indigenous residents claim that Quillagua was formerly a unique oasis in the Atacama desert, fed by the Loa River, until mining companies bought up much of the water use rights. According to the University of Chile, in 1987 the military government reduced the supply of water to Quillagua by more than two-thirds. Then, in 1997 and 2000, during the critical rainy summer months, two episodes of contamination killed off the shrimp and ruined the river for crop irrigation or livestock. An initial study concluded that the 1997 contamination – including heavy metals associated with mineral processing – had

probably come from a Codelco copper mine. Codelco denied any responsibility, and blamed heavy rains for sweeping contaminants into the water. Chile's regional Agriculture and Livestock Service refuted Codelco's findings and attributed the contamination to human actions. According to the head of the Aymara indigenous group in Quillagua, without suitable water many residents responded to outside offers to buy the town's water rights. They sold and left. The mining company, Soliloquies (SQM) ended up buying about 75 per cent of the rights in Quillagua. By 2011, the once shrimp-filled Loa had been reduced to a polluted trickle running through the town. Just 150 residents were left in what was once a settlement of over 800 people and which for the past 37 years has appeared in the *Guinness Book of World Records* as the 'driest place on earth'.

With water sources diminishing and the *bofedales* drying out, the carefully constructed terraces on the Andean slopes – that had sustained Aymara for thousands of years – continue to be abandoned and the rural-to-urban exodus accelerates. In 2011, dislocated indigenous populations continued to migrate to northern cities such as Calama, Arica and Iquique.

Arica

Of the more than 100,000 Aymara in northern Chile, the majority – approximately 60,000 – now reside in Arica. The coastal city – a tax- and duty-free zone – is Chile's most northern city, located 19 km from the border with Peru, and serves as the Pacific exit port for landlocked Bolivia. Culturally diverse Arica is also home to a significant Afro-Chilean population of approximately 8,000. Activists from the Afro-Chilean Alliance have been increasing efforts to achieve official recognition of Afro-Chileans as an ethnic group in a country where diversity has never been a part of national policy.

After almost four years of concerted negotiations with the Chilean government – during which official promises were publicly given and community hopes raised – in September 2011, the state officially rejected the request to include questions about Afro-Chilean demographics in the 2012 census. Economic reasons were cited for the exclusion.

Chile's nationalism, which focuses on promoting cultural homogeneity, ensured that Arica's large Aymara population – although officially recognized – also remained socially marginalized. Even more, in 2011 they continued to be widely regarded as indigenous migrants from Peru or Bolivia – not as home-grown descendants of the first peoples of northern Chile, who have been dispossessed by the country's water resource extraction policies.

Colombia

The efforts to reclaim or remain on ancestral lands and protect basic rights continued to be a major focus of many indigenous peoples and African descendants in Colombia during 2011.

Along with what they see as systemic socio-economic and political exclusion they continued to feel the worst effects of the long-running internal armed conflict. Although arguably less pervasive than in previous years, the negative impact of the conflict on these populations continued, along with the state's unswerving policy of total eradication of insurgency groups. Reports by Colombian think-tank Nuevo Arco Iris indicated a 10 per cent increase in attacks compared to 2010, as both sides struggled to regain or retain strategic territory. Most of this occurred in rural zones with majority Afro-Colombian and indigenous populations. They continued to be targeted as suspected collaborators by both sides and to experience assassinations, bombings and high displacement levels during 2011 – especially in the northern Cauca department.

The Presidential Agency for Social Action and International Cooperation (Acción Social) reported that between 2010 and 2011 some 86,312 people were displaced nation-wide. However, based on independent monitoring, the Colombian NGO Consultancy on Human Rights and Displacement (CODHES) puts that figure at 280,000.

According to a CODHES report released in 2011, from 1985 to 2010 some 5.2 million people (11.4 per cent of Colombia's population) have been internally displaced – the highest rate of internally displaced persons (IDPs) in the world.

The ongoing counter-insurgency programme

was launched in 2007 during the presidency of Alvaro Uribe. It was described as an initiative to bolster investor confidence and help realize 'democratic security policies'. Half of the total number of Colombia's IDPs fled their areas during President Uribe's eight years in office. Officially called the 'National Plan for the Consolidation of Territory', it was implemented in 86 of Colombia's 1,141 municipalities. According to CODHES, of the 86 municipalities involved in the programme, 44 had the highest rates of violent land seizure, massacres and people killed.

Moreover, CODHES reports that transnational mining industries are now active in 21 of those 86 municipalities, and large-scale mono-crop cultivation of oil palm, teak and rubber as well as cattle-rearing is occurring on 'consolidated territory' in 14 others. Much of this is fertile communally held land claimed by displaced indigenous and Afro-Colombian communities, most of whom are small-scale or traditional subsistence farmers.

The Victims' Law

After nearly five decades of armed conflict and millions of IDPs, in June 2011 the Colombian Congress passed the landmark Law 1448, entitled the Victims and Land Restitution Law (Victims' Law). Government sources explained that Law 1448 seeks to restore to rightful owners some 17 million acres of land stolen over the past 25 years and also to assist and compensate the relatives of those killed. Observers cautioned that implementation could be an enormous challenge and, according to the BBC, officials estimate it could take up to a decade to realize and cost US$ 20 billion (£12.3 billion).

Although Law 1448 is seen as a step in the right direction, critics point to the failure to compensate all of those affected. Reparations are being directed at those who were victimized from 1 January 1985 onwards; however, there are concerns about coverage for victims of more recent crimes committed by the so-called 'neo-paramilitaries' or 'criminal gangs'. These are the successor groups that arose following the 2005 official demobilization of Colombia's main paramilitary umbrella organization – the Self-defense Forces of Colombia (AUC). By many accounts, these outlaw bands of well-armed mercenaries continue to be the most active land disposessors.

During 2011, rural farmers, Afro-Colombian and indigenous community groups indicated that these paramilitary gangs, operating under names such as 'Black Eagles', 'Los Rastrojos' (Field Stubble) and 'Gaitainistas' (The Bagpipers) continued intimidating, displacing and assassinating victims with impunity. This includes targeting those who work to improve the living conditions or secure the rights of rural populations. In early 2011, a threatening leaflet signed by the self-styled 'urban commandos' of 'Los Rastrojos' was received by human rights defenders and UN agencies. Rights activists and advocates have learned not to take such threats lightly.

Apart from the general issues of Law 1448, perhaps the biggest initial surprise for indigenous and Afro-Colombian communities was the non-inclusion of reparation allowances for their populations. This is despite their being among the main victims of the conflict and being repeatedly subjected to forced displacement, killings, rapes and abduction.

NGOs such as MRG partner CIMMARON (Movimiento Nacional por los Derechos Humanos de las Comunidades Afrocolombianos) estimate that nearly 30 per cent of all IDPs – approximately 1.5 million – are of African descent. In addition, although indigenous Colombians constitute only about 3 per cent of the estimated 45 million national population, Acción Social indicates that indigenous people make up a disproportionate 15 per cent of the IDP total.

To address Afro-Colombian and indigenous exclusion from the Victims' Law, the government introduced a separate provision granting special powers to President Juan Manuel Santos to enact an executive legal decree. It was to be shaped by a six-month process of free, prior and informed consultation with the respective communities. While a group of Afro-Colombian organizations established an informal consultative roundtable, the state opted to use its own Consultative Commission for Afro-Colombians and to run consultative commissions at the departmental (provincial) levels. Afro-Colombian organizations such as the Proceso de Comunidades Negras

en Colombia (PCN) and the Afro-Colombian Solidarity Network (ACSN) argued that the state's commissions were mandated purely by government edict and not properly free. They petitioned for direct local-level participation in the consultation process, but this did not occur. As CIMMARON explained, Colombia's African descendant population numbers over 15 million, so their communities are by no means monolithic.

Enter Law 4635

Nonetheless in early December 2011, President Santos decreed Law 4635, thus creating a mechanism for government compensation and assistance to displaced Afro-Colombians and indigenous peoples. Members of the PCN and the ACSN – among others – once again charged that Colombia's black, Raizal and Palenque communities had been denied their constitutional right to prior consultation and informed consent. They especially pointed to the lack of any preparatory meetings with the state to discuss draft texts and establish the overall consultation methodology.

In contrast to the Afro-Colombian experience, according to the University of the Andes, indigenous communities were able to establish a national-level roundtable (Mesa Permanente de Concertación Indígena) which first met with the government to agree on the basic methodology to be used during the consultation process. The indigenous roundtable prepared its own draft decree with special provisions and negotiated with the government over reconciling their draft with the government's version. They also agreed on the modalities of the prior consultation.

Issues of return

Nonetheless, with land rights being central to the Colombian conflict and military offensives again on the rise, advocacy groups argue that ensuring the safe return of Afro-Colombians and indigenous people to their ancestral lands ultimately will determine the usefulness of the new legislation. NGOs including Human Rights Watch have highlighted the difficulty of protecting those attempting return while violence and dispossession are still occurring and strong links remain between various political actors and the paramilitary groups responsible for clearing the lands of people in the first place.

Colombian rights defenders caution that attempts to return dispossessed lands could initiate a new wave of violence and expulsions. Many of the armed groups have become quite wealthy by selling vacated lands to large agro-industry and mining transnationals.

During 2011, several local leaders who campaigned for community land return were killed. According to Reiniciar – an NGO that represents a group of victims in a case before the IACtHR – over 19 human rights defenders were murdered in Colombia during 2011, bringing this total to 104 over the past four years.

In June 2011, Ana Fabricia Cordoba, a noted female Afro-Colombian leader of displaced communities and a member of the Ruta Pacífica de las Mujeres (Women's Peace Route), was assassinated on a Medellín city bus by a gunman. Local human rights organizations indicated that she had accused the Medellín police of supporting the local far-right paramilitary structure and had reported multiple death threats but obtained no protection. Her husband and son had previously been killed.

Observers also note that even if people return they are unlikely to find any of their former structures, infrastructure or even the landscapes they once knew. The PCN cites the case of African descendant communities (Jiguamiando and Curvarado) in the Choco department, where in February 1997 4,000 people were forced to leave their homes by the army and right-wing paramilitaries. Undaunted, the communities decided to fight for their territorial rights.

In late 1999, when the communities returned as part of a process of restoring rural property, they found that their 35,000 hectares of communally held lands had been acquired by bio-fuel investors and overrun with large palm oil plantations and other monoculture crops. The area had been clear-cut and the soil degraded. In March 2011 after nearly 14 years of death threats, leadership assassinations and community intimidation by both state agents and armed illegal groups, the government finally officially titled 25,000 hectares to these victims. However, the state offered no assistance for land clearance of the large palm trees or the re-establishment of the victims under safe physical conditions. PCN claims that persecution

by 'neo-paramilitaries' has continued, despite complaints to local and national authorities, and at the end of 2011 the communities were still unable to enjoy a peaceable return.

Ancestral mining

According to Afro-Colombian activists, the difficulties with inclusion in Law 1448, plus the lack of social investment in their communities, as well as ongoing land dispossessions are all occurring in a developmental environment that privileges large-scale export-oriented resource extraction and agro-industries. This is at the expense of traditional economies of self-sufficient small-scale farming and artisan mining which are still practised by rural Afro-Colombian communities – and in which women play a key role.

The Colombian government's policy of 'modern efficiency' is not only encouraging expropriation of community lands for industrial mining. It is also specially targeting small-scale low-impact community artisan miners with proposed new legislation to make such practices illegal.

The Colombian Network Against Large-scale Transnational Mining estimates that nearly 40 per cent of Colombian territory is now given as concessions for industrial mining projects by large UK, Canadian and US-based transnationals.

In 2011, the Afro-Colombian La Toma gold mining community of northern Cauca – which was established in 1637 – continued to resist land loss and the inroads of giant transnational industrial gold mining companies such as AngloGold Ashanti, whose mining practices, they argue, can cause significant environmental damage.

According to the PCN, as a result of their fight to protect their land rights, for the past three years the Community Council leaders of La Toma have been facing death threats from local paramilitary gangs. Nevertheless, in mid-2011, on the grounds that the Afro-Colombian communities were not informed or consulted about the impact of the government's plan of action on their territories, Colombia's Constitutional Court ruled against the policy of trying to outlaw artisan mining in favour of intensive industrial extraction. Local community leaders remained doubtful, as such big economic interests are at stake.

Case study

Afro-Colombian women defend their heritage

'*I'm really proud of mining, of course. In this region most women are miners, because that's how we earn a living to raise our kids. For me it's really unfair, because there are people who come from other places to occupy our mines. I mean, they want to come and take over territories where there's mining. The mines should be just for people from here, we make our living from mining, and if they come and take the fruits of our labour away from us, then what will happen to us? We'd have to leave here, but I think the only way we would leave is in our coffins.*' Jazmín Mina, an Afro-Colombian woman miner.

Afro-Colombians have been carrying out small-scale, ancestral mining in the Cauca region of Colombia since the days when their emancipated enslaved ancestors settled here in 1637 to mine the gold found in the hillsides. Today the miners' descendants continue to chip away at the red earth in search of small

Below: Jazmín Mina, an Afro-Colombian miner. *MRG/Morris Producciones.*

specks of gold, and see it not only as a means of earning a modest living, but also as an activity intrinsically linked to their culture and ethnicity.

One of the most important towns in the area with a large population of Afro-Colombians was Salvajina. It was blessed with plentiful natural resources, fertile farmland, abundant water sources and, most importantly, huge reserves of minerals beneath the soil.

In 1985 the Colombian government decided to build a vast hydroelectric plant on the Cauca River. The subsequent flooding of the surrounding area meant that around 1,300 Afro-descendant families were displaced to the nearby town of La Toma, where, as compensation for the upheaval they had experienced, the government promised them electricity, running water, health care and schools. In 2011 the Afro-Colombian residents of La Toma were still waiting for those promises to be honoured.

Between 2002 and 2010, while gold prices soared on world markets, Colombia's government gave out 7,500 mining exploration titles to national and foreign mining companies, such as AngloGold Ashanti, eager to exploit the precious resource. In La Toma, many of these concessions overlapped with areas where Afro-Colombians have practised ancestral, family-run mining operations for generations.

Afro-descendants and indigenous communities in Colombia have the constitutional right to be consulted prior to resource extraction projects in the areas where they live. But La Toma residents, who were never consulted before mining titles were granted, decided to take the matter to Colombia's Constitutional Court. In April 2011, the court made a decision to suspend all further mining titles in the area – requiring that title-holders carry out 'adequate consultation' before proceeding with further mining plans. The decision is a victory for La Toma, but only time will tell if it will be effective in halting powerful multinational mining interests. ■

Ecuador

In early October 2011 in the Andean highlands of southern Ecuador, Canadian company Iamgold's Quimsacocha extraction project was voted down by a community referendum. It overwhelmingly rejected mining, with 92 per cent of people voting against.

According to the government, however, the referendum is invalid because it was not authorized by state institutions. In contrast, CONAIE (the Confederation of Indigenous Nationalities of Ecuador) – the country's most powerful and influential indigenous umbrella organization – not only actively supported the referendum, but also strongly advocated it should be replicated wherever communities are affected by mining. During 2011, other local governments also called for a total ban of mining activities in jurisdictions where such projects are located.

The Andean community referendum – the first of its kind in Ecuador – raised basic constitutional questions regarding autonomy, the extent of state powers and the rights of local governments to control land use and regulate industries.

Since 2008, indigenous organizations in Ecuador have become increasingly critical of government policies on water rights and exploitation of natural resources. They complain that the government has been attempting to divide the indigenous movement over these issues. According to the CONAIE, there are currently 189 indigenous Ecuadoreans charged with terrorism, sabotage and other public safety-related crimes and for protesting against the privatization of natural resources. These include the president of the CONAIE and three other prominent indigenous leaders who have been protesting against state control of access to water. Meanwhile, President Rafael Correa has accused protesters of 'standing in the way of development' and argues that resource extraction revenues can be used to develop other economic sectors such as agriculture.

Words or deeds?

The conflict is all the more pertinent given that, after his 2009 second term re-election, President Correa has spoken out vigorously

on environmental justice. As in Bolivia, his administration pioneered the granting of special rights to 'Mother Nature' in the 2008 Constitution and has made public gestures towards ending the extraction economy. Ecuador is South America's second largest oil exporter to the United States. Oil revenues account for more than half of the national budget; there are an estimated 1 billion barrels of heavy crude in the Amazon bordering Peru. At the UN in May 2007, President Correa made an innovative offer to leave Ecuador's largest oil reserves underground in the Amazon. The country was willing to forego an estimated US$ 9.2 billion in revenues in exchange for international community compensation and debt cancellation for conserving the biosphere. However, by early 2011 there were plenty of promises but very little real cash. Some countries, such as Germany, that initially made financial commitments to the fund had actually withdrawn their offers.

At the end of 2011, this seems to have left the government little choice but to proceed with exploration plans in an area of pristine Amazon rainforest which is home to the nomadic Tagaeri and Taromenane – indigenous groups who voluntarily reject contact with the outside world. This will not only elevate the risk to indigenous communities of more environmental disasters like the Chevron-Texaco oil spills in the Amazon but also increase chances of the extended litigation that seems to be required in trying to obtain redress.

Chevron

In February 2011 – after nearly two decades of litigation – an Ecuadorean court found the American oil giant Chevron liable for US$ 18 billion in damages stemming from contamination caused by Texaco. Between 1964 and 1990, Texaco – which merged with Chevron in 2001 – drilled roughly 350 wells across 7,000 square km of Amazon rainforest. The company made some US$ 30 billion in profits.

In 1993, Texaco was accused by Amazon indigenous communities of dumping 68 billion litres of toxic materials into Amazon streams and rivers that people used for fishing, bathing, swimming and drinking water.

The lawsuit was filed on behalf of 30,000 indigenous and *mestizo* (mixed) members of some 80 rainforest communities who demanded the company clean up the pollution and pay reparations for the health damages. The trial opened in November 1993 in the US Federal Court, but after nine years of hearings was then moved to Ecuador in October 2003 – at Chevron's request. During the trial, Chevron admitted that Texaco had deliberately discharged 68 billion litres of toxic 'production water' directly into the environment. Texaco also created and abandoned more than 900 unlined waste pits that seeped pollution into the earth, spilled more than 17 million gallons of pure crude oil into the rivers and streams and continually 'flared' contaminants without any environmental controls. However, Chevron argued that Texaco spent US$ 40 million cleaning up the area during the 1990s and also signed an agreement with Ecuador in 1998 absolving it of any further responsibility. Nonetheless, environmental activists visiting the Amazon site in 2009 wrote about finding a tangled jungle landscape with oil slicks, festering sludge and rusted pipelines.

The plaintiffs accused Chevron of trying to hide the extent of its environmental crimes and cited ailments such as leukaemia, cancers, liver failure and respiratory and skin problems. Eventually, in February 2011, after nearly 18 years of legal struggle they won the historic US$ 8.6 billion verdict, which was more than doubled after the company failed to make a public apology. The judgment was also enforceable in the US, based on the 2003 trial relocation agreement.

The Ecuadorean court also found that Chevron repeatedly tried to delay the proceedings as well as threatened judges in efforts to evade liability. Chevron appealed the sentence, and then sued the indigenous plaintiffs in the US, citing Ecuador's violations of the US–Ecuador Bilateral Investment Treaty and international law. The oil giant also took its case to the International Permanent Court of Arbitration in The Hague, which, in February 2011, ordered Ecuador 'to suspend any judgment against' Chevron. In September 2011, a US appeals court overturned a decision to block the fine collection and at the end of 2011, an Ecuadorean appeals court upheld

the 14 February 2011 ruling in all its parts.

The Amazon petroleum contamination by Texaco is considered by many to be the worst oil-related disaster on record, surpassing the 1989 *Exxon Valdez* oil tanker spill on the coast of Alaska as well as the 2010 BP deepwater rig explosion oil spill in the Gulf of Mexico. However, in a further example of the long uphill battle indigenous litigants can face against powerful resource extraction companies, Chevron challenged the fine, arguing that lawyers and supporters of the indigenous groups conspired to fabricate evidence.

Guatemala

As in other countries in the region, resource extraction also had an impact on indigenous peoples and minorities in Guatemala during 2011. In late December 2011, the Inter-American Commission on Human Rights (IACHR) withdrew an earlier recommendation to suspend operations at the controversial Goldcorp Marlin gold mine in the Guatemalan province of San Marcos.

The facility, located near the border with Mexico, has been the subject of an ongoing series of human rights-related complaints by indigenous communities. In addition to the IACHR, the ILO's Committee of Experts and the UN Special Rapporteur on the rights of indigenous people had also recommended operation suspension until local communities are adequately consulted. Moreover, the Canadian mining company's own human rights assessment had also advised the company to halt land acquisition and mine expansion pending community consultations.

According to the NGO Mining Watch Canada, just prior to the IACHR ruling reversal, the Guatemalan government, in conjunction with a company-sponsored water committee, released a hydro-geological study that apparently contradicted the perceptions of local Mam Maya communities that the Marlin mine is contaminating their local water supply and should be closed.

Although the report's lack of impartiality was questioned, it seemed enough to prompt the IACHR to rescind its decision. In Guatemala, environmental impact studies cited by the government are usually financed and contracted

Case study

Guatemala's agrofuel plantations feed land dispossession

Ever since the Spanish Crown granted colonial land titles for what were ancient traditional Maya lands, indigenous communities in Guatemala have been involved in a continuous struggle for land rights.

In mid-March 2011, hundreds of Guatemalan army and police anti-riot personnel using live ammunition and tear gas, evicted thousands of residents of 14 small Maya Q'eqchi' villages located in the municipality of Panzos, Alta Verapaz, in the fertile Polochic River Valley. According to the Guatemala Solidarity Project (GSP), the affected Maya Q'eqchi' – who were regarded as 'land invaders' – were given an hour to gather all their possessions and were not allowed to salvage their crops, which were close to harvest. Following the government security crackdown, masked paramilitaries hired by a privately owned sugar cane company reportedly dismantled and burnt hundreds of homes and destroyed crops.

With nowhere to go, some 800 Maya Q'eqchi' families – including thousands of children – were left to camp out in the rain with no shelter or food; many on the sides of roads. According to local leaders, the raids came just one day after a community delegation had met with the big land-owners in a government-negotiated meeting. The impending eviction was never discussed.

While this can be seen as another clash in the long-running post-colonial struggle between the indigenous people of the area and settler families of European origin, there is now a bio-fuel element involved. At issue is

Case study continued

access to traditional Maya Q'eqchi' ancestral land in one of Guatemala's most fertile river valleys. During the 36-year Guatemalan civil war, the Maya Q'eqchi' of Panzo – like many other indigenous communities – experienced massacres and were driven off ancestral lands into the Sierra de las Minas mountains. The subsequent post-conflict peace accord allowed for return and the promise of territorial security. By 2000, with credit available to allow rural communities to buy land, dozens of Maya Q'eqchi' communities believed they were close to finally gaining land deeds. However, the bio-fuel boom was about to change all that.

This came in the form of Guatemalan sugarcane refining interests, reportedly with strong links to the sitting government. They were able to secure large loans of up to US$ 31 million from regional and multilateral development banks, which enabled the company to move sugar and ethanol refining operations away from traditional cane-producing zones on Guatemala's south-west coast and relocate them across the country in the Polochic Valley. Meanwhile, between 1998 and 2006, palm oil production was introduced into the valley. According to estimates by the Guatemalan National Institute for Agrarian and Rural Studies, between 2005 and 2010 the area of the country given over to oil palm plantations increased by 146 per cent.

In the Polochic Valley, both palm oil producers and the newly arrived sugar ethanol interests began a systematic land assembly process. According to Oxfam, this often involved negotiating sales or rental of small farms accompanied by thinly veiled death threats to discourage refusals. The agrofuel producers then appropriated the farms and evicted the indigenous residents to create the large sugarcane and palm oil plantations. Along with the displacement of thousands of indigenous peasant families, the need for large amounts of irrigation water has prompted diversion of the Polochic River. Environmentalists claim this has destroyed wetlands and ruined surrounding farms, when unprecedented annual floods result as the river tries to regain its channel.

According to local media, in 2009 the sugarcane planting initiative went bankrupt and the lands were left abandoned. This encouraged the historically dispossessed Mayan Q'eqchi' to begin moving back down from their refuge in the nearby mountains. They re-established settlements on the lands they formerly occupied before the consolidation process and began sowing subsistence crops. In a region with high rates of malnutrition, this cultivation is vital to ensure that the impoverished families barely avoid starvation.

However, in late 2010 a solution was developed for the bankrupt sugar company involving recapitalization with investment by the largest exporters of sugarcane-produced ethanol in Central America – who have also expanded into palm oil cultivation. As a result, in February 2011 local radio stations began running advertisements reportedly paid for by the sugar company calling on former cane workers to evict the indigenous families from the plantation lands. A few weeks later, in mid-March 2011, the armed government security forces and plantation paramilitaries moved in to get the job done.

Between March and August 2011, private helicopters were used to drop grenades on the cornfields that survived destruction, aimed at intimidating the families trying to harvest the crop. Community land rights defenders were also threatened and murdered and families attacked at night by masked paramilitary forces.

In June 2011, the Guatemalan Human Rights Commission and a coalition of local and international organizations petitioned the IACHR which approved precautionary protective measures for the 14 communities. It called on the Guatemalan government to take concrete steps to 'prevent irreparable harm' to the communities and persons at risk.

In addition to questioning the social disruption of indigenous people in the Polochic Valley, critics have accused Guatemalan bio-fuel producers of being more interested in profiting from climate change subsidies than in meeting climate change goals. These subsidies include the UN Framework Convention on Climate Change's 'Clean Development Mechanism' (CDM). Since 2008 almost all the palm oil extraction companies in Guatemala have received

CDM certification, allowing access to the available financial credits and making it possible to expand their activities.

With recognition that bio-fuel production was actually devastating environments and communities around the world, the World Bank and the Inter-American Development Bank placed a freeze on bio-fuel loans while they prepared so-called 'sector strategies'. One of these strategy mechanisms – the Round Table on Sustainable Palm Oil (RSPO) – is supposed to help identify 'environmentally friendly' palm oil producers. Two of the large Polochic Valley producers have received RSPO certification. This allows them access to additional financing, thus making it potentially possible to expand production even more – onto land claimed by indigenous people. Even less favourable for the displaced in the Polochic Valley is that the new version of the programme for Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (REDD+) allows palm oil plantations to be considered as green 'forested' areas and earn carbon capture credits. It therefore also provides an additional incentive for Guatemala growers to keep expanding sugarcane and palm oil acreages under cultivation.

Meanwhile, in the Polochic Valley at the end of October 2011, the intimidation, sporadic attacks and displacement were still continuing, and the Commission of Petitioners for Preventative Measures was forced to denounce the failure of the Guatemalan government to comply with the precautionary measures recommended by the IACHR. No aid had reached the affected families, and nothing had been done by the government to resolve the land conflict.

By year's end, as Guatemalan bio-fuel enterprises continued to position themselves to benefit from multi-million dollar international climate change reduction payouts, the evicted indigenous Mayan Q'eqchi' of the Polochic Valley were left landless, homeless and at the mercy of whatever charitable handouts they may happen to receive from those sympathetic to their plight. ■

by the mining companies themselves.

Critics, including the Guatemalan Constitutional Court, have noted the permissive mining climate encouraged by the Guatemalan government and, in 2008, even deemed some practices unconstitutional. These include Articles 19 and 20 of the country's Mining Law, which lets extraction begin while the relevant paperwork is still being processed, and Article 75, which allows mining companies to discharge tailings pond effluents directly into surface water.

Despite the ruling reversal, the IACHR did retain some precautionary measures. It ordered that Guatemala now has an ongoing obligation to ensure that community water quality is suitable for domestic and irrigation uses. It also requested the government to advise the IACHR on how this duty is being fulfilled.

The Center for International Environmental Law (CIEL) and Mining Watch Canada cautioned that the IACHR decision represented an alarming trend in the Americas, that regional member states now seem to be able to force and even threaten the organization into weakening its human rights decisions. As further evidence, they cited the earlier 2011 ruling reversal, when the IACHR backed away from its order to the Brazil government to halt construction of the controversial Belo Monte dam.

Honduras

Two years after the June 2009 coup d'état in Honduras, African descendant Garifuna as well as indigenous peoples have been attempting to regroup and recover lost socio-economic and political gains, including the ability to teach the Garifuna language in schools and to be informed of and included in land negotiations.

In 2011, a Constitutional Assembly of Afro-Honduran and Indigenous Women was held in the town of Copán Ruinas. According to the female Garifuna leader and coordinator of the Fraternal Organization of Black Hondurans (OFRANEH), the major objectives of the 300 women – representing Lenca, Maya Chortí, Garifuna, Tawaka, Miskito, Pech and Tolopan indigenous groups – was to strengthen alliances to ensure greater inclusion of female voices and experiences at both community and national decision-making levels. They also sought to

examine a number of their specific gender concerns such as ethno-cultural and institutional invisibility, which they argue go mostly unaddressed within the international women's rights movement. Of special overall concern were issues related to community autonomy, resource extraction and territorial loss. The dispossession of communal lands of African descendant Garifuna, Miskitu and indigenous peoples – to establish tourist enclaves and especially to enlarge palm oil plantations – has advanced very rapidly over the past decade. These groups have not only been deprived of territory but also excluded from any benefits. Garifuna have been killed, threatened and economically pressured to give up their territory according to OFRANEH.

Only 20 per cent of Honduras land area is arable. Approximately half of that is located in the Caribbean Coast departments of Atlántida and Colón – an area where Afro-indigenous Garifuna have traditionally established communities and farmed on communally held territory dating back to 1797. Garifuna organizations point out that approximately 95 per cent of the 300,000 Garifuna who reside in Honduras live in the communities within these two departments. Wealthy and powerful commercial and political elites in Honduras now desire this coastal property and are aided considerably by policies of international financing institutions and global investors.

Since passage of the 1992 Agricultural Modernization Law which prioritized profitability, the Honduran government has supported the removal of 'backward' Garifuna and small farmers from what are deemed 'unproductive' lands to install capital-intensive export-oriented oil palm plantations and also tourism projects. The US Department of Agriculture's Foreign Agricultural Service (USDA-FAS) reported in 2009 that 1,150 square km – half the cultivable land in Honduras – is devoted to oil palm.

Consequently in 2011, Garifuna in Honduras continued to see the major portion of their lands overwhelmed by vast mono-crop oil palm plantations, further limiting their access to productive soil and fishing sites. In Garifuna society, women are the main cultivators and traditionally land is passed along matrilineal lines, so land dispossession has dealt a particularly strong and direct blow to women.

Adding to the land loss, during 2011 the Honduran National Congress approved plans to establish separate development regions with model 'charter' cities on Garifuna communal lands. These special new zones would in effect be an independent territory – virtual city-states within the country, each with its own governor, its own laws courts, private security forces, independent international trade relations, authorized inhabitants and manufacturing complexes under the complete control of foreign corporations.

Garifuna have resisted through highly visible pre- and post-coup political demonstrations and protests, as well as via their bilingual community radio station Faluma Bimetu, which suffered an arson attack in 2010. This and other radio stations created the Honduran Community Radio Network in 2010, to enhance their activities. The fact that their broadcasts regularly denounce the seizure of ancestral lands, and the related harassment and murders by armed paramilitary groups puts them at special risk. And in 2011, Congress considered suspending the granting of frequency permits and licences for low-power stations – citing airwave over-saturation.

Meanwhile, those involved in palm oil production in Honduras face weak oversight mechanisms. In July 2011, the UN Clean Development Mechanism Board (CDM) approved a palm oil biogas project of the Honduran company Grupo Dinant. This company has been involved in land conflicts in the Aguan Valley, which indigenous and other activists have linked to serious human rights abuses, including some 50 killings. In August 2011, one month after the CDM Board decision, Biofuelwatch.org reported that 12 more people were killed in land disputes in the Aguan area. Six of the murders reportedly took place on oil palm plantations. Over 900 Honduran Armed Forces personnel were sent to guard the plantation zone, where heavily armed palm oil company security forces were already deployed.

Consequently, at the end of 2011, affected indigenous and Afro-Honduran populations found little reason for optimism. Given the long-

standing land-based nature of their societies, continued massive land loss will create enormous challenges to the ability of Garifuna communities to retain their distinctive way of life and culture, which UNESCO has listed as one of the World's Intangible Cultural Heritages.

Peru

In June 2011, former army officer Ollanta Humala won the presidency of Peru. In a precedent-setting move, he chose Afro-Peruvian Susana Baca as culture minister, making her the first African-descendant government minister in the history of the Peruvian state. Baca, aged 67, is an internationally renowned singer of the rich Afro-Peruvian musical cultural tradition and winner of a 2002 Latin Grammy.

Before his election, Humala – who campaigned as a populist – sought to assure companies they could proceed with existing and new multi-million dollar resource extraction projects. At the same time, to help ease community concerns over mining and oil drilling, he promised that Peru's natural resources would be used to improve the lives of the mostly poor indigenous and Afro-Peruvian people in the country. Nevertheless, during 2011, increasing social conflict over mining in both the indigenous Andean highlands and lowland Amazon rainforest threatened the implementation of large-scale mining and oil extraction projects. The result was an increase in mining protests involving as many as 200 disputes nation-wide.

Amazon protest

In October 2011, some 500 indigenous Shuar men and women from Peru's northern Amazon blocked the Morna River to stop Canadian energy company Talisman carrying out oil exploration on their ancestral lands. The area traverses land inhabited by Achuar, Shapra, Shuar and Kandoshi indigenous groups. It also crosses the internationally protected Pastaza River Wetland Complex, the largest wetland area in the Peruvian Amazon. Indigenous groups are particularly concerned about the risk of contamination of ancestral hunting and fishing grounds. Traditional hunting practices help guarantee food security and supplement any income gained from wage labour or other activities.

Their protests occurred within a new legal climate in Peru. In August 2011, the new Peruvian Congress unanimously passed the groundbreaking Consultation with Indigenous Peoples Law. It will now be mandatory in Peru to seek indigenous peoples' consent before development projects are allowed to proceed on their lands. It is one of the first instances in the Americas where a binding legal framework has been developed to implement ILO 169 and the UNDRIP, both of which Peru has backed. The new law also mandates that indigenous peoples be consulted before Congress can approve any proposed law that could affect their rights.

However, despite the new legislation, engaging in prior consultations with Peruvian indigenous groups that have chosen to remain in voluntary isolation may pose a practical as well as a legal challenge. Based on sightings by neighbouring indigenous communities, loggers and other outsiders, it is estimated that more than a dozen autonomous nomadic indigenous groups live in voluntary isolation in the country's Amazonian regions. Many inhabit the remote forests near the Brazilian border, relying on their territory for subsistence. They remain highly vulnerable to easily transmitted common diseases and reject contact with the outside world, which is both the source of infections and of intrusion into their territories. Their mortality rate first spiked in the 1980s when oil exploration was initiated in the area. By the year 2000, five reserves had been established in the Peruvian Amazon basin to protect isolated indigenous peoples. In addition to existing protected areas, indigenous organizations have filed petitions for five more reserves.

New mining regulations

During October 2011, however, the Peruvian state proposed new regulations governing oil drilling, mining and forestry operations in these remote rainforest reserves.

Critics, such as Peru's largest Amazonian indigenous organization AIDESEP, the Inter-Ethnic Association for the Development of the Peruvian Amazon (Asociación Interétnica del Desarrollo de la Selva Peruana) charged that the new regulations threaten nomadic indigenous

groups and are designed to help expand exploration and extraction into already designated indigenous reserves. Under the proposed regulations, extractive activities can be carried out in indigenous reserves deemed 'untouchable' under Peruvian law, provided there is a real public need and the state guarantees the use of methods that 'respect these peoples' rights.' The new rules call for the establishment of a 'comprehensive protection committee' for each reserve, which will consist of government officials, representatives of neighbouring indigenous communities and an anthropologist. There is to be a coordinator for each reserve, as well as a strategic plan and a series of monitoring mechanisms.

At the root of the Amazon conflict are contradictory provisions of the 2006 indigenous protection law. This provides for the establishment of reserves to protect the territory used by indigenous or original peoples in isolation; that is until they decide to settle in communities and seek legal title.

Critics question whether this is just a conciliatory initial step on the way to eventual assimilation. They also note that the regulation comes just as the consortium operating the Camisea gas field in the Peru's southern Amazon basin plans to expand operations into a block which overlaps the Nahua-Kugapakori (nomadic) Indigenous Reserve. AIDESEP points out that oil or gas leases already overlap several indigenous reserves in Peru and the organization has so far tried without success to have the government redraw extraction leases to eliminate such overlapping to avoid the shrinkage of indigenous territories. In October, the newly constituted

Left: Andean people protest against Newmont Mining's Conga gold project during a march near the Cortada lagoon in Peru's region of Cajamarca in November 2011. *Reuters/Enrique Castro-Mendivil.*

Peruvian government retreated from the planned regulations.

Cajamarca protests

Although before elections Humala pledged to use resource extraction revenues as a means of improving the lives of Peru's most disadvantaged, after taking office in July 2011 anti-mining opposition often tested his government's resolve to realize this. Most extraction projects in Peru are located in rural highland and lowland zones with majority indigenous populations, consequently it is they who are most negatively affected by mining.

In November 2011, thousands of indigenous men and women in the city of Cajamarca in northern Peru began a protest against plans by the US-based Newmont Mining Corporation to open a goldmine in the high Andes. The resistance included an 11-day general strike that closed schools, hospitals and businesses and stopped buses from running in the region.

The US$ 4.8 billion Conga Mine Project is the biggest mining investment in Peruvian history and is located at 13,800 feet (4,200 metres) in the Andean mountains. The gold reserves are worth about US$ 15 billion at current prices. The Conga project is jointly owned by Peruvian precious metals mining company Buenaventura, and the multi-billion dollar project had been approved by President Humala on the grounds that it would be a major source of government revenue and generate thousands of jobs. Newmont Mining had promised to provide a series of specially constructed reservoirs to replace natural glacier-fed mountain lakes that would be eliminated by the mine. In addition, the company claimed their project plans had been drawn up in consultation with local communities following 'exhaustive' environmental studies. Nevertheless, the protesters maintained the proposed new mine would destroy their natural water supplies, cause pollution and create health problems.

Newmont Mining has been operating in Peru for over two decades. To some extent, the 2011 protests represent the latest manifestations of ongoing community dissatisfaction with the mining company's presence in their region. The US company already operates the Yanacocha gold mine located near to the proposed Conga mine site. In 2000, there was a mercury spill at the Yanacocha mine, which produced lasting anger in the community. Consequently, four years later, in 2004, when the company sought to expand the Yanacocha mine onto the nearby Cerro Quilish mountain, the resulting protests brought exploration to a halt. Then as now, the issue involved pollution and reduction of water supply to communities that have traditionally regarded natural sources of water in both a practical and a spiritual light.

The mining company now runs extensive community development programmes in the area, but these have failed to diminish concerns over the potential dangers of mining. It has certainly not stopped residents from wanting to halt expansion – or, even more – from trying to stop mining in Cajamarca altogether.

Faced with daily street demonstrations, a general strike that paralysed the region for 11 days and a multi-billion dollar project stuck in its tracks, the President tried to negotiate with the protest leaders in Cajamarca. But after failing to reach any agreement, Humala felt forced to declare a one-week state of emergency.

The state of emergency suspended freedom of assembly and allowed the army to help police end the protest marches and rallies. Security forces used rubber bullets and tear gas against demonstrators, and fired live rounds after some demonstrators began vandalizing mining company property. Up to 30 people were reportedly injured. Newmont Mining then suspended work on the mine, after the government requested help in calming the situation and asked for more dialogue with the highly sceptical local community.

In early December 2011, the head of the civic association as well as the leader of the Environment Defense Front of Cajamarca (EDFC) were detained briefly after addressing a congressional panel. The EDFC leader indicated the organization's intent to file a legal

Case study

Athabasca tar sands: Heavy repercussions for indigenous communities

The Athabasca tar sands extraction programme in western Canada is the largest industrial project on earth. However, indigenous communities downstream from its multi-billion dollar operations have called it 'a slow industrial genocide'.

Currently, indigenous communities in Alberta and throughout North America are battling to safeguard their lands, cultures, heritage and health against the hyper-project and its proposed transcontinental delivery pipelines.

The tar sands are a mixture of sand, clay and heavy crude oil (bitumen) lying under 140,000 square km of ancient northland old-growth forest and peat bogs in north-eastern Alberta, Canada. Historically, the tar-like bitumen was used by the indigenous Cree and Dene communities to waterproof their canoes. Today the extensive bitumen deposits are regarded by experts as the second largest source of oil on the planet after Saudi Arabia. This has implications for several indigenous communities in the area since the tar sands are located within the traditional indigenous territorial boundaries of Treaty Eight (1899). Besides land tenure, the treaty guarantees local indigenous peoples the cultural right to hunt fish and trap.

Once a sparsely populated area of pristine northland forest, clean rivers and fish-filled lakes, over the past decade the Athabasca delta – a UNESCO heritage site – has become a devastated and bare semi-desert of enormous open-pit mines and huge contaminated tailings ponds that can be seen in views of the earth from space – not to mention also on the ground by indigenous communities in their vicinity.

Four huge oil sands mines are currently in operation and two more are in the initial stages of development. Among existing sites is the enormous Syncrude-operated mine, which is the largest open-pit mine (by area) on the globe. Even so, according to the provincial government of Alberta, only 3 per cent of the estimated bitumen reserves have been mined to date. At the projected 2015 production rate of 3 million barrels of oil per day, experts expect the Athabasca tar sands to keep producing oil for the next 170 years. This has caused indigenous communities and environmentalists on both sides of the Canada–US border to realize the extent of the challenge that may lie ahead in efforts to safeguard their rights and continued existence.

Currently, the tar sands produce about 1.5 million barrels of crude oil daily. The bulk (97 per cent) is exported to the US. This has made Canada the largest supplier of oil and refined products to the US, ahead of Saudi Arabia and Mexico. It has also led to increased interest in the tar sands project among US Native American activists and organizations.

Extraction is costly and destructive. Large-scale strip mining removes the entire surface layer ecosystem, consisting of old-growth forests, peat marsh and other habitat of importance to local fauna. This affects animals such as moose and caribou traditionally hunted by indigenous communities. According to the Indigenous Environmental Network, the Beaver Lake Cree First Nation has experienced a 74 per cent decline of the Cold Lake herd since 1998 and a 71 per cent decline of the Athabasca River herd since 1996. Today, just 175–275 caribou remain.

Tar sands extraction also burns huge amounts of natural gas. Carcinogenic emissions are released into the air and enter the food chain in an area where hunting and fishing have long been traditional survival activities. The extraction also deeply affects the strong cultural identification and spiritual connection which indigenous communities feel with the earth.

Processing

There are issues related to processing as well. Transforming the extracted bitumen into the synthetic crude oil piped to refineries in the US and Canada requires large-scale upgrade facilities that also use large amounts of water and energy,

with smoke stacks billowing pollutants into the air. According to the Indigenous Environmental Network, each barrel of oil produced from the tar sands takes from 110 to 350 gallons (or 2–6 barrels) of water. And Greenpeace reports that tar sands operations leak millions of litres of toxic waste into the Athabasca River and the groundwater.

Impact on indigenous health

The scale of the operations has prompted real concern for the well-being of indigenous populations. Heavy metals, including cobalt, lead, mercury and arsenic, are naturally present in oil sands, so consequently extremely large quantities of toxic chemicals are discharged. These end up in the Athabasca River and its tributaries, then flow northward (downstream) further into indigenous territories. Although impact assessments were among the conditions of existing agreements signed between indigenous and extraction companies, the bulk of the research defending tar sands development is done by monitoring programmes affiliated with the oil industry. But independent studies have shown high deformity rates in fish caught downstream and that other wildlife food sources have been negatively affected as well.

Since toxic tar sands waste has been entering the river, groundwater and the food chain, ultimately it may be entering humans as well. In 2006, according to the Indigenous Environmental Network, an unusually high rate of rare cancers was reported in the community of Fort Chipewyan. In 2008, the Alberta Health Ministry confirmed a 30 per cent rise in the number of cancers between 1995 and 2006. However, the study was preliminary and many residents consider it to be a conservative estimate.

Oil pipeline distribution

Besides the impact of the tar sands, there are also legal and environmental concerns about pipeline delivery systems and refineries which threaten communities and landscapes throughout North America – especially in indigenous, rural and poor settlements. Two major pipeline projects are under consideration. One is Keystone XL, a pipeline that is intended to run from Alberta in western Canada across the North American continent to refineries on the US coast of the Gulf of Mexico. The other is the North Gateway project from the tar sands in Alberta to tanker ports in Kitimat, British Columbia. An agreement has been signed between the Enbridge Pipeline System and PetroChina to build two parallel 1,200 km pipelines from Alberta to the west coast port. Critics such as the Indigenous

Below: The Suncor oil sands plant north of Fort McMurray, Alberta, Canada. ***Dan Woynillowicz/The Pembina Institute.***

Case study continued

Environmental Network claim the project would cross 785 waterways, fragmenting wildlife habitats and affect fragile salmon fisheries. Indigenous environmental activists note that between 1999 and 2008, the Enbridge pipeline company was responsible for 610 spills. Moreover in 2010, it was responsible for a 1 million gallon spill of tar sands crude into the Kalamazoo River in Michigan; the second largest spill in US history. As well as environmental concerns, indigenous groups also claim the pipeline developments are in violation of commitments – particularly regarding prior consultation and consent – made through various treaties and the UNDRIP, which Canada initially voted against but then signed in 2010.

Nevertheless major oil companies, banks and investors are pouring billions of dollars into Alberta tar sands development; there are currently 64 companies operating several hundred projects, including major European-based multinationals.

Indigenous resistance

In Canada, the provincial governments are responsible for setting environmental and natural resource development policies, however responsibility for prior consultations and accommodation of indigenous concerns rests at the federal level. So far, Canadian courts have failed to define clearly what consultation means, and this is further complicated by jurisdictional issues between the provincial and federal levels. In late November 2011, the Chief and Council of the Athabasca Chipewyan First Nation (ACFN) rallied outside of Shell Canada corporate headquarters in downtown Calgary, Alberta. They stated that Shell's failure to take agreed-upon measures to lessen the project's impact has harmed ACFN's constitutionally protected rights and culture. Moreover, Shell's proposed massive expansion and new projects are in an area that is very important to ACFN's traditional way of life.

To date, there have been five tar sands-related legal proceedings brought before Canadian courts by indigenous communities. In 2007, the Woodland Cree First Nation (WCFN) filed a suit against the Alberta government and Royal Dutch Shell over inadequate consultation about *in situ* mine expansion. In 2008, the ACFN filed a suit against the provincial government of Alberta over lack of consultation. Agreed-upon meetings and discussions were not held; nonetheless the court of appeal ruled that an Alberta government webpage entry constituted consultation. The decision is contested, as it ignores both the internet technological divide and good faith negotiations on behalf of the Canadian government. It will likely end up in the Supreme Court of Canada. In 2008, the Prairie Chipewyan First Nation also launched a lack of consultation lawsuit against the Government of Alberta regarding the mining project approved on their territory. In 2008, the Beaver Lake Cree First Nation filed a lawsuit based on 20,000 infringements of their treaty rights. The Cree are specifically concerned that Total's planned Surmont *in situ* project will further decimate caribou populations through habitat fragmentation. In 2010, the Duncan and Horse First Nations were granted a Supreme Court of Canada hearing regarding consultations over impacts on the Peace River complex, which is located in traditional territory. The community reports massive losses of wildlife and habitat fragmentation.

Pipeline protests

In addition, there are also suits and protests specifically related to the pipelines that threaten First Nations communities not only in Canada but also Native American communities throughout the US. The traditional territories of the five indigenous communities of the Yinka Dene Alliance cover approximately one-quarter of the proposed Northern Gateway route. In February 2011, they rejected the company's revenue-sharing offer, citing the risk of oil spills and accusing the company of lack of respect for their rights. According to indigenous leaders, over 80 indigenous communities in British Columbia (BC) located along more than half of the Alberta to BC pipeline and tanker route have indicated that the project is against their laws and will harm both themselves and fellow indigenous nations living near the extraction zones.

Indigenous peoples from the headwaters of the Fraser River watershed to the Pacific coast have united under the 'Save the Fraser Declaration' and are working to ban the pipeline altogether. Company offers to have indigenous communities borrow money to purchase a small fraction of the pipeline met an unfavourable response. Indigenous leaders indicate they are not willing to compromise the well-being of future generations in return for cash. In solidarity with indigenous communities from Canada, US-based indigenous communities have also sworn to stop the pipeline project. In early November 2011, thousands of protesters circled the White House in Washington to demonstrate against the controversial Keystone XL tar sands pipeline and to press President Barack Obama and the US State Department to deny the permit. In January 2012, President Obama rejected the proposal, although the project looked set to be an election-year issue.

Given its 34 million population size, Canada is a relatively large emitter of greenhouse gases. According to the Kyoto Protocol, Canada was meant to have cut its greenhouse gas emissions by 6 per cent from its 1990 level by 2020. Rather, it is heading towards a 16 per cent increase, or more like 30 per cent if forestry is included. In June 2011, Canada was criticized for under-reporting the contribution of the tar sands project to its overall emissions. The government states that the tar sands project contributes about 5 per cent, but researchers believe the figure is closer to 10 per cent. In December 2011, Canadian Minister of the Environment Peter Kent indicated that Canada will be formally withdrawing from the Kyoto Protocol, thus becoming the first country to pull out of the global treaty. He argued that withdrawal allows Canada to continue generating jobs and economic growth. Canada's indigenous communities, who live near the booming tar sands project, are already aware of what such growth means for them. ■

complaint against the government. The Conga mine controversy also led to the resignation of the Vice Minister for the Environment, who had previously headed an anti-mining NGO. He cited a leaked ministry memo that indicated the Conga mine would indeed hurt the local ecosystem despite company claims to the contrary.

At the end of 2011, the anti-mining protest marches in the Peruvian highlands were still occurring, along with continued demands by the indigenous communities to cancel the project. By all appearances, the gold that drove the destiny of the old Inca empire will continue to propel the protests of Peru's contemporary indigenous populations in 2012. ■

RUSSIA
KAZAKHSTAN
MONGOLIA
UZBEKISTAN
TURKMENISTAN
KYRGYZSTAN
TAJIKISTAN
AFGHANIS-
TAN
Jammu and
Kashmir
CHINA
PAKISTAN
TIBET
NEPAL
BHUTAN
BANGLADESH
INDIA
BURMA
LAOS
THAILAND
VIETNAM
CAMBODIA
NORTH
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TIMOR-LESTE
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Futuna (FR.)
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Asia and Oceania

Nicole Girard, Irwin Loy,
Marusca Perazzi, Jacqui Zalcberg

Central Asia

Matthew Naumann

Central Asia was more peaceful in 2011, with no repeats of the large-scale violence that occurred in Kyrgyzstan during the previous year. Nevertheless, minority groups in the region continue to face various forms of discrimination. In Kazakhstan, new laws have been introduced restricting the rights of religious minorities. Kyrgyzstan has seen a continuation of harassment of ethnic Uzbeks in the south of the country, and pressure over land owned by minority ethnic groups. In Tajikistan, ethnic Uzbeks have also reportedly come under increased pressure from the authorities, often for alleged membership of banned Islamist groups. Meanwhile, Chinese nationals in Tajikistan have reportedly been targeted by new legislation tightening rules on marriage with foreigners, following public disquiet over the alleged acquisition of land by China in the country. In Turkmenistan the 'Turkmenization' policy continues, with school children now reportedly required to provide evidence of their ethnic origin for unclear reasons. Finally, in Uzbekistan the challenging human rights situation continues to affect all ethnic groups, while the increasing shortfalls in flow of the Amu Darya River disproportionately blight the ethnic Karakalpak population, who live in its delta area.

Kazakhstan

President Nursultan Nazarbaev of Kazakhstan has consistently voiced a desire for inter-ethnic accord and tolerance in the country. However, his government continues to tighten its control over religious minorities. Since October 2009, President Nazarbaev has promoted a National Unity Doctrine put together by the Assembly of the People of Kazakhstan – an umbrella body that represents the interests of minority ethnic groups – which stresses the consolidation of a Kazakhstani identity drawing on the multi-ethnic nature of the country. However, this doctrine is opposed by nationalist groups, who interpret it as an attack on ethnic Kazakh identity, language and culture.

Language policy is part of this debate. The government has a long-term strategy to gradually increase the use of Kazakh language at the expense of Russian, the other official language, particularly in public settings. While use of Kazakh is steadily increasing in the public sector, Russian is still widely used by Russians, other ethnic minorities and many urban Kazakhs. Ninety-four per cent of the population speak Russian, while only 64 per cent speak Kazakh. In September, the Chair of the Kazakhstan Association of Teachers at Russian-language Schools reportedly stated in a roundtable discussion that now 56 per cent of schoolchildren study in Kazakh, 33 per cent in Russian, and the rest in smaller minority languages. In higher education, a slight majority study in Kazakh and just under half use Russian. The number of students enrolled in university courses taught in Kazakh has quadrupled since the early 1990s. However, in September, discontent with the speed of language reform led to a group of intellectuals and opposition leaders writing an open letter to the President, the Prime Minister and parliamentary leaders, calling for removal of Article 7 of the Constitution, which guarantees that Russian can be used as well as Kazakh in official communications. President Nazarbaev is reported to be categorically opposed to such a change.

A snap election in April saw Nazarbaev re-elected with 95.5 per cent of the vote. Two prominent opposition politicians did not take part because they failed to pass the required Kazakh language test. In elections for the Majilis, the lower house of parliament, held on 15 January 2012, about a quarter of the 98 candidates elected by party list appeared to be from Russian-speaking ethnic minorities (of whom almost half were women). This represents a substantial increase on the previous parliament. A further eight out of the nine representatives appointed by the Assembly of the People of Kazakhstan were from minority ethnic groups. Two Assembly-nominated deputies were women, representing the Slavic and the Tatar-Bashkir communities.

Over the past 20 years, about a million ethnic Kazakhs have returned or migrated to Kazakhstan under the state-run Oralman scheme (named after the ethnic Kazakh diaspora) – settling largely in Mangistau, South Kazakhstan and Almaty provinces, and the cities of Almaty and Astana. They have come primarily from Mongolia, China, Afghanistan, Iraq and Turkey, as well as Russia and other Central Asian republics. Reportedly these immigrants have faced problems with land allotments, employment, and access to Kazakh- and Russian-language training. Another concern is the acquisition of citizenship, though there have been some measures taken to simplify this in 2011. Some politicians claim that failures in migration policy were partly responsible for strikes by oil workers in Mangistau and Aktau provinces in December that saw 16 deaths; and that ethnic Kazakh immigrants are linked to the new Islamist groups purportedly responsible for bombings and attacks on the police in 2011.

The upsurge in Islamist activity in 2011 has caused concern among authorities. On 22 July, President Nazarbaev reportedly called for increased surveillance of religious communities and for unspecified 'extremist religious ideology' to be 'strictly suppressed'. A new Religion Law, which came into force on 26 October, restricts the rights of religious minorities in contravention of Kazakhstan's human rights commitments. The new law imposes a complex tiered registration system, bans unregistered religious activity, imposes religious censorship and requires both central and local government approval to build or open new places of worship. The new law could mean that only the Muslim Board, which is the state-backed religious authority for Sunni Muslims, and the Russian Orthodox Church are recognized as top-tier religious organizations.

Further plans are under discussion to build on this law by banning all independent and ethnically based mosques (such as Uighur, Tatar or Chechen), taking over all formal Islamic education, and using the state-controlled Muslim Board to control and report on all permitted Islamic activity. While there is no prohibition on men wearing beards and women wearing *hijab* in the new legislation, the introduction of the new law appears to have been accompanied by a crackdown on these statements of religious faith in some areas.

Kyrgyzstan

Following the turbulence of the overthrow of President Kurmanbek Bakiev and the clashes between ethnic Uzbek and Kyrgyz groups in 2010, during which over 400 people died and many more were wounded and displaced, Kyrgyzstan had a quieter year in 2011. Elections on 30 November saw the peaceful transfer of power to Almazbek Atambaev, who had been prime minister under interim President Roza Otunbayeva. Atambaev drew most of his support from his native north of the country. Those who voted among minority ethnic groups in the south also tended to support Atambaev, whose appeals to inter-ethnic unity reassured them more than the nationalist rhetoric of the candidates who came second and third. Though two ethnic Russians and one ethnic Kazakh were among the initial 83 candidates, by the time of the vote, only ethnic Kyrgyz were standing. Overall, the election campaigns were marked by an increased use of nationalist rhetoric by politicians and the media, which implicitly scapegoated Uzbeks for the 2010 violence and broader problems.

Back in March, the grief of some ethnic Kyrgyz – who lost relatives during the 2010 violence and created the 'Osh Martyrs' movement – was channelled into demonstrations in Osh and Bishkek against Atambaev, other members of the 2010 interim government, and Uzbek community leaders, whom the group considers to be jointly responsible for the violence.

A new coalition agreement, formed after Atambaev's victory, led to the exclusion of the more nationalist Ata Jurt party from power, with the other four parliamentary parties agreeing the composition of a new government. Under the new government formed in December 2011, Ravshan Sabirov, who in 2010 had become the first ethnic Tajik parliamentarian in Kyrgyzstan, became its first ethnic Tajik minister, responsible for social welfare. There are no other representatives of minority ethnic groups in the new government.

President Atambaev is likely to follow the principles of the Concept of Ethnic Development and Consolidation in the Kyrgyz Republic, drawn

Above: Children in a damaged *mahalla* or Uzbek neighbourhood in southern Kyrgyzstan – an area affected by the inter-ethnic violence in the summer of 2010. *Sofia Skrypnyk/ Nonviolent Peaceforce.*

up under Otunbayeva to increase levels of trust between different ethnic groups. The principles call for the rule of law, respect for human rights and cultural diversity, preservation of the identity of ethnic groups and non-discrimination, ensuring equal opportunities for political participation and transition from ethnic identity to civil identity. The concept also calls for an education system in which young people from all minority groups learn to speak Kyrgyz, the state language, rather than continuing to rely solely on Russian for inter-ethnic communication. The draft concept was adopted by the Assembly of the Peoples of Kyrgyzstan, an umbrella body for minority ethnic groups, on 17 June 2011.

However, in the same month, parliament voted to approve a document developed by the Ata Jurt party, which proposed another approach to ethnic policy, founded on the notion of Kyrgyz ethnicity as the central element of nationhood, and set out cultural and language policies focusing on Kyrgyz identity. Approval of this document shows that nationalist ideas have broader support in parliament than just within Ata Jurt. One contentious issue, for example, is the current provision that internal passports state a person's ethnicity. In his inauguration speech, Atambaev spoke of his desire to see this provision removed, in order to promote civic rather than ethnic nationalism, while senior Ata Jurt figures wish to see it maintained as a symbol of identity. There are ongoing efforts to reconcile these two approaches, and the results of this policy debate will be crucial for peace-building efforts in Kyrgyzstan in the coming years, and will have major repercussions on ethnic relations.

The situation in southern Kyrgyzstan remains strained. While inter-ethnic violence has largely abated, and many houses have been built with international support to replace most of those destroyed in the violence, widespread economic, social and legal harassment of the Uzbek community continues. Local newspapers in the city continue to publish derogatory and inflammatory articles targeting the ethnic Uzbek population.

Human rights organizations continue to document arbitrary detention and torture in

police custody, predominantly of ethnic Uzbeks. Between July and September, Human Rights Watch (HRW) recorded 10 cases of arbitrary arrest and torture of ethnic Uzbeks; two died as a result of torture. Trials stemming from the June violence in southern Kyrgyzstan have also been marred by physical attacks on lawyers and ethnic Uzbek defendants. Police and other officials have refused to intervene, and only one investigation into these attacks has so far gone to court.

Meanwhile, the vast majority of the crimes committed during the violence, disproportionately those targeting ethnic Uzbeks, remain unsolved. Women who have been victims of gender-based violence and often now face serious psychological and health problems, feel unable to approach the authorities for support because of their community's conservative traditions, and the hostility of the overwhelmingly ethnically Kyrgyz police. Prolonged detention of Uzbek men, and increased outflow of migrant workers to Russia from already high levels have led to a rise in female-headed households in the city.

Prominent government figures have alleged that support for militant Islamist groups has increased among ethnic Uzbeks. However, some analysts see the reports as merely a pretext to justify further discrimination and persecution against the minority.

Official approval of some houses that have been rebuilt in ethnic Uzbek areas of central Osh remains unclear, as the local government continues to press for implementation of a master plan which would see these areas replaced by high-rise buildings. The more inclusive inter-ethnic policies of successive national governments have had little sway in recent years in Osh, where Mayor Melis Myrzakmatov continues to play to his nationalist powerbase, musing on an independent police force for the city and building massive monuments to Kyrgyz folk heroes.

The trend of transition from Uzbek- to Kyrgyz-language schooling is continuing for many children in southern Kyrgyzstan. This is partly because of concerns about the quality of Uzbek-language education, particularly given the acute shortage of modern textbooks in the language. There are also few prospects for higher education in Uzbek, after the two universities in Kyrgyzstan that taught in

Case study

Land scarcity fuels ethnic conflict in Kyrgyzstan

Several violent incidents revived fears of ethnic conflict in December 2011. Such disturbances in rural areas of Kyrgyzstan are caused by a complex range of factors, including migratory pressure driven by poverty, and perceived injustice caused by historical disparities between ethnic groups. This case study seeks to shed light on these ongoing tensions.

When two brawls broke out between teenagers of Kyrgyz and north Caucasian ethnicity in the northern Chuy Valley in December 2011 and January 2012, analysts feared these had the potential to provoke wide-scale inter-ethnic conflict. There have been various sizeable minority farming communities that have had relatively good relations with local Kyrgyz neighbours in the Chuy Valley since the 1930s. However, the lack of economic viability in remote mountainous areas following independence, coupled with a rise in ethnic nationalism, has meant that Kyrgyz internal migrants from impoverished areas have increasingly begun to lay claim to such farmland.

Meanwhile, both a parliamentary and a government commission were established in January 2012 to investigate clashes that broke out on 28 December between ethnic Kyrgyz and Tajik in the far south-west of the country, which resulted in the looting of Tajik-owned shops and the burning of houses. This area has seen complex migratory patterns in recent years, with ethnic Kyrgyz moving away in large numbers to find work abroad or in the capital, while ethnic Tajiks from across the

Case study continued

border have bought up land and property in their place. In an area where the international boundaries are not yet clearly defined, this trend is of concern to some of the ethnic Kyrgyz population.

Almost a third of Kyrgyzstani adults, including Kyrgyz and other ethnic groups, work as migrant labourers in Russia and Kazakhstan, and in recent years many from the countryside have moved to Bishkek for work. Until poverty and disparities between regions are addressed, grievance over land ownership fuelled by a sense of ethnic entitlements has the potential to lead to further outbreaks of violence in both the north and south of Kyrgyzstan.

Ethnic tensions over land have a long history in Kyrgyzstan. Until the 1930s, the ancestors of today's ethnic Kyrgyz were primarily nomadic, taking livestock high into mountain pastures in the summer and returning to lowland for the winter. Kyrgyz pastoralists were forced out of the fertile valleys of what is now the Kyrgyz Republic when other ethnic groups settled there under the Russian Empire in the nineteenth century, with Turkic-speaking sedentary relatives of the Kyrgyz living in the southern Fergana Valley, and European ethnic groups moving into the northern Chuy Valley.

After the Russian Revolution, in the 1920s, the borders of the Kyrgyz Republic were defined, and all citizens were ascribed ethnicities – most of the Turkic-speakers in the Fergana Valley were recorded as Uzbeks, while the vast majority of pastoralists were now officially Kyrgyz. In the 1930s, these ethnic Kyrgyz were forced to give up private ownership of their livestock and end their nomadic lifestyles, often to live in demanding mountainous areas. These mountain communities received massive subsidies from central government as compensation. At the same time, further waves of European migrants were encouraged to move to the Republic during much of the Soviet period, while other ethnic groups, such as north Caucasian ethnicities and Meskhetian Turks, were deported there *en masse* before and during the Second World War. While some of these immigrants moved to cities, others joined collective farms in the valleys, many of which were ethnically based.

As the Soviet economy and its subsidies collapsed in the 1980s, many Kyrgyz found themselves unable to survive in the mountains and massive internal migration began to the cities and farmland in the valleys. Riots occurred in the south in 1990 when ethnic Kyrgyz, who had been forced by poverty to leave their mountain villages, demanded land in the grounds of a primarily Uzbek collective farm. The total number of deaths in the violence is unknown, but 171 deaths were officially reported.

Soon after, Askar Akaev became President. After independence in 1991, he sought to maintain Kyrgyzstan as a multi-ethnic state with international support. When nationalists in parliament passed legislation that favoured ethnic Kyrgyz in land ownership and use, President Askar Akaev vetoed it three times, before a less discriminatory land privatization act was passed in 1997. In the first years of independence, much of the demand for good farmland among ethnic Kyrgyz was met in northern Kyrgyzstan from land left by the thousands of Russians, Ukrainians, Germans and others who left the country for their historical homelands. However, people from many other ethnic groups, including Dungans (ethnic Chinese Muslims), Meskhetian Turks and ethnic groups originating from the North Caucasus continued to farm the land that their families had tilled for decades or centuries. Meanwhile, in the south, the Uzbek community continued to farm much of the fertile land in the Fergana Valley.

In 2005, Akaev was overthrown in the face of widespread allegations of corruption and growing authoritarianism. The protesters were predominantly rural Kyrgyz, and many reported that they had

been promised land in the Chuy Valley. An ethnic Turkish community faced severe threats in 2005, and a largely ethnic Dungan village experienced wide-scale damage to its buildings in 2006. There are reports that this violence was in part caused by resentment among ethnic Kyrgyz internal migrants that they were renting fields from non-Kyrgyz.

In June 2010, larger-scale inter-ethnic violence occurred in southern Kyrgyzstan between ethnic Kyrgyz and Uzbeks, with at least 475 fatalities. Although the direct impact was primarily in urban areas, rural families displaced by the violence in the south were among the most severely affected as they returned to find houses fully or partially destroyed, farming machinery and tools looted or burned, and livestock stolen or dead. Meanwhile, many of the ethnic Kyrgyz participants in the conflict had come from impoverished remote mountainous districts with pastoralist traditions such as Alay and Karakulja.

In the aftermath of the rioting, Kyrgyz-language media outlets tacitly repeated the assertions of certain prominent politicians that land in Kyrgyzstan belonged to ethnic Kyrgyz and that Uzbeks should be regarded as mere tenants. On 7 November 2010, a group of about 1,000 Kyrgyz attempted to seize about 70 hectares of land from Uzbeks near Osh. The authorities took action to disperse the squatters, with promises to look at their requests for land in 2011. In April, it was reported that the government was planning to allocate 31,200 plots of unused land around Osh city, but that the number of registered applicants for land was twice that and rising. While this has alleviated pressure on livelihoods, the fact remains that good agricultural land in the country's fertile valleys is at a premium. As the incidents in 2010 and 2011 show, tension remains high among communities in both the north and south of the country. ■

the language were closed in 2010. Ethnic Uzbek parents around southern Kyrgyzstan have elected to send their children to Kyrgyz-language classes. There has also been active support for the move to Kyrgyz-language teaching among prominent members of Kyrgyzstan's ethnic Uzbek community, who see this as a way to improve ethnic relations.

The situation of religious minorities is relatively better in Kyrgyzstan than in neighbouring countries. However, problems still remain. For instance, two Jehovah's Witnesses, arrested in May 2011 for possession of Hizb-ut Tahrir Islamist literature which they maintain was planted by police, were released on appeal in July. Human rights groups have also expressed concerns that many parliamentarians appear to want to erode the secularism enshrined in the country's constitution by providing extended breaks for prayers on Fridays and opening a Muslim prayer room in the parliament building.

Tajikistan

Tajiks comprise the largest ethnic group in the country, accounting for 79.9 per cent of the population. Other groups include Uzbeks (15.3 per cent), Russians (1.1 per cent) and Kyrgyz (1.1 per cent). Only two of the 63 parliamentarians in Tajikistan are ethnic Uzbeks. Uzbeks primarily live in the west of the country, near the border with Uzbekistan. Tajikistan's plans to build a major hydroelectric dam at Rogun have aggravated relations with neighbouring Uzbekistan and have reportedly led to the Uzbek minority facing increasing pressure inside the country.

One barrier to political empowerment for the Uzbek community is the government's language policy. Though the Constitution guarantees linguistic plurality, media reports reveal that in practice the use of anything besides Tajik in public discourse is discouraged, and few radio or television broadcasts are in Uzbek. In addition, civil servants are required to speak Tajik. Language policy also inhibits upward mobility for Uzbeks. University applicants must be fluent in Tajik. Although schoolchildren study the Tajik language for two hours a day, for many rural Uzbeks this is not enough to master reading and writing.

Non-nationals of Tajikistan wanting to marry

Above: Soldiers at a checkpoint on the road to the site of the Rogun dam, Dushanbe, Tajikistan. *Carolyn Drake/Panos.*

local citizens have been hit by new legislation passed in January, which requires foreigners to have lived in the country for a year before they can marry locals and to sign pre-nuptial agreements committing them to providing housing for their spouse. Reportedly, the changes target two specific groups – male Afghan citizens and ethnic Uighurs from China – some of whom are suspected to enter into marriage with local women to secure residence rights and accelerate acquisition of citizenship. There are fears within Tajikistan that immigrants from China will fill the vacuum caused by the mass migration of Tajik citizens seeking employment in the Russian Federation. Fears of an influx from China were raised in the media following the decision of Tajikistan to lease 2,000 hectares of land to China's Xinjiang Uighur Autonomous Region in January 2011.

Ethnic Kyrgyz women in Tajikistan are increasingly falling victim to bride kidnapping, which is widespread in Kyrgyzstan. Media reports suggest that some of their ethnic Tajik neighbours in the north-eastern Jyrgatal district have begun to copy the practice.

In March, Forum 18 reported that all religious activity independent of state control, by Muslims, Christians, Jews, Jehovah's Witnesses and other religious believers, has continued to be targeted by the state. Violations perpetrated by the government include: demolitions and closures of mosques, churches and the country's only synagogue; a ban on all religious activity without state permission; arbitrary jailing of Muslims and criminal charges against Jehovah's Witnesses; limitations on the right to share beliefs; and tight

government censorship. The government justifies the imposition of these controls by the impact of extremism and Islamization on national security. In 2011, it continued to carry out military raids against alleged Islamist militants who had been hiding in areas that were opposition strongholds during the civil war in the 1990s, particularly the Rasht Valley, home of the Garmi community.

In a visit to Tajikistan in October, US Secretary of State Hillary Clinton suggested that recent steps to control faith could drive 'legitimate religious expression underground' and fuel extremism.

A law passed in August to ban children under 18 who are not receiving state-approved religious education from places of worship, appeared in October to be targeting mainly independent Muslims. Members of other religious groups continued to face legal problems, including a Jehovah's Witness with Uzbekistan citizenship, who was deported to Uzbekistan in September despite having a legal right of residence in Tajikistan.

Turkmenistan

It remains difficult to access information about minority issues in Turkmenistan because of the lack of press freedom and restrictions on civil society. There is no disaggregated national data available on the demographic composition of the population and the enjoyment of rights. Extrapolating from a mid-1990s census, the country has Uzbek, Russian and Kazakh and other minority communities. It is clear that minority groups continue to be sidelined from many educational, training, employment and political opportunities as a result of the government's continuing policy of Turkmenization, which sets out preference for persons of Turkmen origin, especially in the field of education and employment. The authorities have not undertaken measures to prevent these practices, or to improve the situation.

There are no ministers or deputy ministers from minority ethnic communities in Turkmenistan. Heads of regional and district administrations are likewise all ethnic Turkmen. Even in predominantly national minority areas, persons from these minorities only occupy low-ranking posts. The President is required to speak Turkmen, and all 14 candidates for the 2012 elections were ethnic Turkmen.

Marking a new development in the Turkmenization strategy, in September it was reported that, for the first time, school children were being required to give personal information on immediate family members going back three generations. Authorities gave no explanation for this new requirement, which resembles previous policies for those applying for public employment and higher education that the UN Committee on Economic, Social and Cultural Rights also expressed concern about in November. Meanwhile, in spite of specific legislative provisions, the possibilities for ethnic minorities to study in their mother tongues are limited. It is reported that the country's few remaining Russian-language schools are in great demand, with parents paying large bribes to administrations or local education authorities for admission.

In January, new travel restrictions were reported for those planning to enter or exit the country. This is likely to have particular repercussions for those with dual Turkmen-Russian citizenship, which has been made invalid in recent years by the authorities in Turkmenistan.

In more positive news, Turkmenistan has made progress in combatting statelessness. Several thousand persons were registered as stateless, and 3,000 received citizenship in 2011. In December, the country acceded to the UN Convention relating to the Status of Stateless Persons. Most of these people were left stateless at the break-up of the Soviet Union in 1991, having moved to Turkmenistan originally from former Soviet republics such as Armenia, Azerbaijan, Moldova, the Russian Federation, Tajikistan and Uzbekistan.

The Kazakh minority in Turkmenistan numbered around 90,000 in 1995, but many have taken advantage of Kazakhstan's Oralman scheme, which supports ethnic Kazakhs abroad voluntarily repatriating to the country. In May, a court in Turkmenistan announced it had conditionally freed Bisengul Begdesinov, a prominent ethnic Kazakh, following a fraud and bribery trial. Among his activities within the community, Begdesinov helped ethnic

Kazakhs to privatize property and relocate to Kazakhstan under the Oralman scheme. Despite being freed, Begdesinov was refused an exit visa to leave Turkmenistan in December, leading to speculation that this was an attempt to intimidate Kazakhs residing in Turkmenistan to discourage them from privatizing their apartments.

Religious minorities in Turkmenistan continue to suffer discrimination. Plans to revise the Law on Religion, after a December 2010 report by the Organization for Security and Co-operation in Europe (OSCE) criticized many of its provisions for violating international human rights standards, have been shelved until 2012. The OSCE recommendations included an end to the ban on unregistered religious activity and on the private teaching of religion. The law also has no provision for conscientious objection to military service. Two Jehovah's Witnesses were imprisoned in the summer for their conscientious objection. While one was amnestied in August 2011, the other was sentenced to two years in a labour camp, after which he may be sent to another labour camp, where seven other Jehovah's Witnesses and one Protestant pastor are known to be held. Meanwhile, there have been further reports of harassment of Protestants by the police and religious authorities.

Uzbekistan

Given the restrictions placed on the media, civil society and human rights work in Uzbekistan, it is hard to get a clear picture of the situation of minorities within the country. HRW reported in 2011 that in recent years, arrests and persecution of political and human rights activists have increased, and credible reports of arbitrary detention and torture of detainees, including several suspicious deaths in custody, have continued. HRW itself was forced to close its office in Uzbekistan in June. However, the country's continued strategic importance as an entry point to Afghanistan appears to have meant that NATO countries feel obliged to tone down their criticism of the country's human rights situation.

Tight state control continues to curb any potential retaliatory action against Uzbekistan's ethnic Kyrgyz minority following the ethnic violence of 2010 and ongoing discrimination faced by ethnic Uzbeks in Kyrgyzstan. A small demonstration held by a local human rights group in Tashkent to mark the anniversary of the ethnic conflict in southern Kyrgyzstan and protest the continuing discrimination faced by Uzbeks resulted in 15 activists being briefly detained in June. Nevertheless, there have been reports of ethnic Kyrgyz leaving Uzbekistan for Kyrgyzstan in 2011, particularly the Fergana Valley provinces of Jalalabad and Osh, in fear of retaliation.

Uzbekistan's already strained relationship with Tajikistan has deteriorated in recent years, partly due to the belief that a new hydroelectric dam being built upstream in Tajikistan would reduce Uzbekistan's water supplies. This has reportedly led to the Uzbek minority facing increasing pressure inside the country.

This year has seen ethnic Tajik nationals of Tajikistan working in Uzbekistan coming under suspicion. A former metallurgist was sentenced by a military court in August to 12 years in prison for espionage. His lawyer denied the accusations. In September, another ethnic Tajik was reportedly deported for inciting ethnic hatred; the man denied having been involved in Tajik–Uzbek issues.

The situation of religious minorities remains difficult in Uzbekistan due to tight state control of religion. According to Forum 18, followers of all faiths are subject to National Security Service surveillance, which can often be highly intrusive, as well as the use of informers inside religious communities. Muslims who wear atypical clothing or longer beards, and Protestants, appear particularly vulnerable. In 2011, Protestants had religious literature seized and destroyed, were fined, and prevented from leaving the country after importing religious literature. Meanwhile, a scheduled visit by the Russian Orthodox patriarch in November was postponed, reportedly because the government disagreed with the appointment of a bishop for the country. As of spring 2012, there was no indication when the visit might take place. Many religious groups remain unable or unwilling to officially register, while those that do operate legally continue to be pressurized to prevent children attending worship and not to proselytize.

Case study

A sea that fled its shores

With the retreat of the Aral Sea, thousands of Karakalpaks have lost their livelihoods and are being forced off their land.
The shrinking of the Aral Sea by 90 per cent and desertification of most of its territory is one of the most visible environmental disasters in the world over the last fifty years. While improved water management has led to modest growth in the volume of Kazakhstan's northern portion of the sea in recent years, there is little prospect of similar changes in the southern section, which is surrounded by the Autonomous Republic of Karakalpakstan, a part of Uzbekistan.

This environmental disaster has had serious economic, social and health consequences for the ethnic Karakalpak population, which is native to the region immediately around the sea. A 2011 report by the United Nations Environment Programme (UNEP) on the Amu Darya River shed further light on the serious social, economic and health impacts of the Aral Sea crisis on the Karakalpak population. They have lost their traditional livelihoods and are being forced to move away from the sea to find work and healthier environmental conditions.

The three largest ethnic groups in Karakalpakstan by population size are Uzbeks, Karakalpaks and Kazakhs. There has been no census in Uzbekistan since 1989, but it is believed that the Karakalpak population is about 500,000–700,000, of whom the vast majority grew up in this area. Karakalpakstan is one of the two poorest regions of Uzbekistan, and the Karakalpak population suffers higher levels of poverty, unemployment and sickness than their Uzbek neighbours. Ethnic Karakalpaks, who are culturally close to Kazakhs, have lived in the delta of the Amu Darya River and the Aral Sea area for several hundred years. Their traditional lifestyle revolved around cattle breeding, fishing and irrigated agriculture.

However, these sources of livelihood have become increasingly unviable since the 1950s, when the Soviet Union developed a massive system of dams, canals and water pumping stations in Central Asia. Major rivers were diverted to irrigate cotton and other water-intensive crops in arid areas and deserts. Irrigated land expanded by 150 per cent in the Amu Darya Basin (primarily in Uzbekistan and Turkmenistan) in this period. At this time, most ethnic Karakalpaks became farmers, producing cotton, rice and other crops, primarily on collective farms.

Since independence, Uzbekistan has made some efforts to move away from cotton monoculture. But the volume of water reaching the sea has continued to shrink, as industrial and domestic use of water also increases. UNEP reports that more than 50 per cent of Amu Darya irrigation water is lost due to lack of canal lining, excessive filtration, evaporation and other reasons.

The Aral Sea disaster has destroyed the region's fishing industry. In addition, desertification is under way in much of the surrounding agricultural land. Local climate change, especially falling rainfall, is also affecting farmers further afield. A local farmer told RFE/RL in July that the situation in the Amu Darya delta is worsening:

'This is the third time during the last 10 years that the flow of water has been this low in the Amu Darya,' he said. 'Things are only getting worse here, and because of this people are abandoning the village.'

In addition to the drop in water flow, the quality of drinking water in the area is deteriorating because of the toxic residues of past over-use of pesticides and defoliants. Exacerbated by grossly inadequate levels of health care, this has led to rises in kidney, thyroid and liver diseases and anaemia caused by reduced iron absorption, as well as tuberculosis and cancer.

Resolution of the Aral Sea problem is complicated by interstate disputes over water use.

Case study continued

Uzbekistan's government is alarmed about the building of large hydroelectric dams in upstream countries, particularly the Rogun Dam in Tajikistan. There are also concerns about the long-term effects of glacial retreat on river flow, and of increased demand for water in Afghanistan, another upstream state. In order to mitigate the current and future water quantity and quality problems of the Aral Sea Basin, collective solutions will need to be found to improve water sharing and cooperation throughout the Basin.

Meanwhile, in the face of the loss of livelihood opportunities and health concerns, the Karakalpak population is faced with difficult decisions. While the mainstay of the region's economy remains agriculture, many have moved south to the region's capital Nukus, where there are few work opportunities. Less than 9 per cent of the workforce is involved in industrial production, and there is limited access to credit to develop new businesses. Others have moved to Uzbekistan proper or migrated to work in the stronger economy of Kazakhstan, where they often face discrimination. Unofficial estimates suggest that 50,000–200,000 Karakalpaks have made the move to Kazakhstan. Karakalpaks remain one of the most threatened minorities in Uzbekistan because of the ecological catastrophe. Their position will not improve without significant external intervention to tackle the problems of the southern Aral Sea. ■

Below: A Karakalpak man stands in front of old discarded fishing boats that once worked on the Aral Sea, in Karakalpakstan, Uzbekistan. ***Jason Larkin/Panos.***

South Asia

Irwin Loy

The quest to develop natural resources was a burgeoning issue in many South Asian countries during 2011. Authorities face a dilemma when pursuing such development: taking advantage of natural resources can be a vehicle used to pull populations out of poverty, yet in doing so the needs and livelihoods of local populations are often ignored. Across the region, minorities and indigenous peoples continued to experience ongoing conflict throughout the year, in many cases related to land rights and unfettered natural resource extraction.

Afghanistan

The start of 2011 ushered in a political crisis in Afghanistan, which saw President Hamid Karzai locked in a stalemate with the country's Independent Electoral Commission (IEC) over the results of the disputed 2010 parliamentary elections, raising questions about his legitimacy. Ultimately, in August Karzai announced that the final authority on election results indeed rested with the IEC.

The year marked the start of significant troop withdrawals of NATO forces from Afghanistan. In June, United States President Barack Obama ordered his country's military to withdraw 10,000 troops by the end of the year, with a more significant pull-out to occur by mid-2012. Other NATO countries made similar plans.

But with the reduction of foreign troops, there are significant question marks over how Afghan forces will perform on their own. Civilian casualties in the country continued to soar. The UN Assistance Mission in Afghanistan (UNAMA) documented 3,021 civilian deaths in 2011, an increase of 8 per cent compared with 2010 and a 25 per cent increase from 2009. Seventy-seven per cent of the deaths were attributed to anti-government forces, although critics noted that the tally appeared to exclude a substantial number of civilians who were killed during NATO-led night raids.

Afghan Local Police (ALP) will in part step in to replace international troops, particularly in rural areas. But in a September report, Human Rights Watch (HRW) warned that such a civilian defence force could ratchet up ethnic tensions if authorities fail to prevent ethnic or political interest groups from commandeering the process.

A year after US officials announced the discovery of US$ 1 trillion worth of untapped mineral deposits in the country, Afghanistan made significant moves to profit from its resources. In late December, authorities announced they had inked a deal with China National Petroleum Corporation to explore for oil in the northern Amu Darya Basin.

In November, Afghanistan awarded contracts to Indian and Canadian companies to develop the potentially lucrative Hajigak iron ore deposit in Bamyan province, home to ethnic Hazara. But watchdog groups were quick to warn of the dangers associated with resource development. A local civil society organization, Integrity Watch Afghanistan said: 'In the peaks of opportunity, Hajigak Mine can be a source of revenue, employment and development, or a curse if not [dealt with] properly.' Afghanistan is a candidate country for the Extractive Industries Transparency Initiative (EITI), and its government has committed itself to EITI's internationally recognized transparency principles.

Religious and ethnic tensions continued to simmer throughout 2011. There were reports that children from Hindu and Sikh communities were forced to drop out of school because of bullying.

In December, a suicide bomber killed at least 19 people at a funeral procession. The blast went off in Uzbek and Tajik-dominated Takhar province, where Taliban attacks had been relatively rare until recent years.

Also in December, at least 60 died and another 200 were injured when a suicide bomber struck an important Shi'a shrine in Kabul, in an attack blamed on Pakistani militants. On the same day, a bomb detonated near a Shi'a mosque in the northern city of Mazar-i-Sharif, killing four. The attacks coincided with the major Shi'a festival of Ashura.

Above: Hazara girls tending crops in Bamiyan province, Afghanistan. *Iva Zimova/Panos.*

The year also saw much debate over the US and the Afghan governments' stated plans to involve the Taliban in peace talks. Considering the Taliban's history in Afghanistan, the situation for minorities – particularly women from minority communities – remains a crucial concern. Some members of a coalition of ethnic minorities, made up of prominent opposition leaders who were members of the former Northern Alliance that fought against the Taliban in the 1990s, have said they support peace talks, but minority communities must be a part of the discussion if they are to be successful.

Advocates say women's rights in the country are already under threat, despite the previous 10 years of relative progress. An Oxfam briefing issued in October said: 'The Afghan government has already demonstrated its willingness to sacrifice women's rights for political ends.' The paper referred to the Shi'a Personal Status Law that President Karzai approved in 2009, in exchange for political support from fundamentalist elements within the Shi'a community. The highly criticized legislation allows husbands to withhold food from their wives for not having sex, hands custody of children to fathers in divorce proceedings and forces women to seek permission from their husbands in order to work.

The Karzai-appointed High Peace Council, which is tasked with seeking peace talks with the Taliban, also includes former warlords, critics say. A deputy chair of the council told the Institute for War & Peace Reporting that women should not fear a reconciliation agreement with the Taliban. But he also said women should not expect 'unconditional freedom in areas where Islamic rules and Afghan values were dominant'. In any event, the future of the peace talks is far from certain. In September, a suicide bomber assassinated Burhanuddin Rabbani, an ethnic Tajik who had headed the High Peace Council, dealing an early blow to the process itself.

The year also ended in controversy after Karzai replaced three members of the Afghanistan

Independent Human Rights Commission (AIHRC). Authorities said the commissioners had finished their terms on the independent body, but rights groups questioned whether the move was in response to the AIHRC's planned release of a report covering war crimes in the country, which was scheduled to be released during 2012.

Bangladesh

In Bangladesh, the issues of ethnic identity and land rights were closely intertwined in 2011. This was underscored by the government's failure to resolve tensions in the Chittagong Hill Tracts (CHT) area of south-eastern Bangladesh, home to at least 600,000 indigenous people. Not only did the authorities again fail to implement the long-delayed peace accords meant to bring stability to the region, but also Bangladeshi officials in effect denied the existence of indigenous people in the country, much to the surprise of the communities themselves and of a UN Special Rapporteur tasked with assessing the situation.

During the year, Bangladesh passed amendments to its Constitution that struck the term 'Adivasi', or indigenous, from the documents and replaced it with 'small ethnic groups'. Some communities in the CHT said the government refusal to recognize non-Bengalis in the area as indigenous will only come as a further threat to livelihoods, culture and language. Bangladeshi officials contended that allowing special treatment for any population would not be in the country's best interests and proceeded to press the case with foreign diplomats and UN agencies, according to local media.

In May, the UN Special Rapporteur urged Bangladesh to set a timeline to implement the CHT peace accord, which has largely languished since it was signed in 1997. For years, the CHT has been the site of conflict between indigenous people and Bangladeshi authorities. In addition to heavy militarization, the government has also exacerbated the conflict by encouraging Bengali settlers to move into CHT areas, a policy which has had consequences that play out in the form of present-day land disputes. The Special Rapporteur, Lars-Anders Baer, said land was the crucial issue in the CHT:

'Indigenous peoples have lost and are continuing to lose their ancestral lands at an alarming rate as a consequence of forceful eviction from and expropriation of their lands through development projects and occupation by the military.'

In the meantime, the violence continued in the CHT area throughout 2011, often pitting local indigenous populations against Bengali settlers. In April, indigenous villagers allegedly killed three Bengali settlers; in retaliation, settlers allegedly attacked nearby villages and set fire to at least 60 homes. Local rights groups say similar violent disputes over land were common throughout 2011. According to the NGO Kapaeeng Foundation, which campaigns for the rights of indigenous peoples, violence in the area saw more than 130 homes of indigenous people burned to the ground. Indigenous women also bore the brunt of the violence. The group recorded 16 rapes of indigenous women nationwide, including five who were also murdered.

The prolonged tensions mean that indigenous children in the area are among the country's least educated. Literacy rates among ethnic minority children from the CHT are far lower than the national average. Medical authorities said hospital facilities in the area are also dangerously under-staffed, a key problem which is contributing to high infant mortality rates in the district, namely 63 deaths for every 1,000 live births, compared with the national average of 49.

Elsewhere, worries over the proposed Phulbari Coal Mine project in north-west Bangladesh were a dominant issue for environmentalists. The project would involve an open pit coal mine, which critics say would devastate almost 6,000 hectares of farmland and uproot nearly 130,000 indigenous people who rely on farmland.

Peaceful protesters, who opposed the Phulbari project, were also subject to violence. In May, advocates accused 'thugs' linked to the government of assaulting protesters during a rally. In December, riot police used batons and tear gas to break up another demonstration against the Phulbari project.

Religious discrimination is prohibited under the Bangladeshi Constitution, yet NGO Odhikar nonetheless recorded multiple rights violations

against religious minorities in the Muslim-majority country. These included more than 100 reported injuries to religious minorities as well as 25 attacks on places of worship. In one April incident recorded by Odhikar, supporters linked to a parliamentarian with the ruling Awami League party allegedly attacked a Hindu temple and several homes in central Bangladesh. The supporters then reportedly attacked local reporters who had arrived to cover the violence. In February, the Asian Human Rights Commission said officials in Gazipur District disrupted an annual convention of Ahmadiyya, even though prior permission had already been granted.

The NGO Bangladesh Minority Watch (BDMW) also recorded several alarming instances of violence against Hindus, in which girls and women were targeted. In October, a 15-year-old Hindu girl was gang raped and killed. In August, BDMW said another Hindu girl was abducted and then forcibly converted to Islam.

Bangladesh's Rohingya refugees continued to face problems throughout the year. The NGO Refugees International warned that the Rohingya, an ethnic minority from neighbouring Arakan (or Rakhine) State in Burma, enjoy few rights in Bangladesh and are subject to abuse. It is believed that more than 200,000 Rohingyas live in Bangladesh, though most of them are not officially recognized as refugees. The situation is particularly troubling for women. The NGO says reports of sexual violence against unregistered refugees have increased over the last year.

The government has long viewed the Rohingya as illegal migrants. Throughout 2011, Burma made international headlines as it incrementally allows greater freedoms for its citizens. Yet Rohingya in Bangladesh remain wary of the reforms and are unlikely to return there soon.

Women from minority communities were also the subjects of deep concern throughout the year in Bangladesh. During a February session, the UN Committee on the Elimination of Discrimination Against Women (CEDAW) expressed concern about the prevalence of violence against women, including rape and acid attacks. The CEDAW Committee said minority women often suffer many forms of discrimination, yet Bangladesh has only limited information or statistics about disadvantaged women and girls.

Case study By *Oliver Scanlan*

A year of broken promises

'My grandfather used to tell me not to go in there,' the old man points to a wide expanse of grass where Bengali children are playing football, 'because of the tigers in the forest'. He is a member of the Garo community; one of Bangladesh's estimated 46 indigenous or *Adivasi* peoples. He is an activist fighting for his people's ancestral forests in Modhupur, in north-central Bangladesh. And he is losing.

When the Awami League swept to power in 2008, their election manifesto included unparalleled commitments to Adivasi communities of Bangladesh, both in the restive CHT region in the south-east and in the 'plain-lands'. The League promised to implement the 1997 Chittagong peace accord that brought the 30-year insurgency to an end, and to secure the plain-lands Adivasis access to their forests and lands. But in 2011, when Bangladesh passed amendments to the Constitution that denied Adivasis their right to identity, these promises were severely undermined.

Communities that live in the CHT and those that live in the plain-lands face distinct problems, according to recent research by Bangladeshi scholars. The CHT, still under military control, has seen enormous demographic changes over the past 60 years. Following a massive influx of Bengali settlers as part of a government-sponsored programme, today Adivasis are a minority in their own land. Over the past 30 years, collectively managed land in the CHT shrank from 76 per cent of the total to 26 per cent. Adivasis have lost their land, through forced eviction and expropriation, to Bengali settlers, the forests department and the military.

The plain-lands, while not subject to the same degree of military control, constitute a far larger area, and indigenous groups are

more numerous but more diffuse. There are at least 34 plain-lands communities spread over 90 per cent of Bangladesh's territory compared with 11 groups inhabiting the 10 per cent that comprises the CHT.

In the plains, indigenous groups are nominally governed by the same laws and protections as other Bangladeshis. However, because of far lower literacy rates and discrimination, they are overwhelmingly more vulnerable to land theft, largely through the non-existent implementation of Bangladesh's principal land act, which prohibits the transfer of land from 'aboriginal' to 'non-aboriginal' tenants without the written permission of local government officers. The results have been similarly disastrous.

A recent survey of ten plain-lands groups found that all of them had suffered land deprivation to some extent in the last 30 years. The hardest hit communities include the Patro of the north-east, where 68 per cent of households reported land expropriation, Santals in Rajshahi district (65 per cent) and Rakhain of Patuakhali in southern Bangladesh (45 per cent).

As a result, certain communities are now on the brink of extinction in Bangladesh; only a few hundred Lushai remain in Bandarban district in the CHT; and fewer than 3,000 Patro in north-east Sylhet. Adivasi activists are adamant that both substantive rights regarding their identity, as well as rights to lands and forests, must be recognized and enforced by the government if their communities are to survive.

The 15th Amendment of the Constitution had the potential to address the identity issue as an essential precursor to resolving land and forest disputes. By enshrining the term 'Adivasi' in law, as opposed to the pejorative term '*upajati*', the government could have signalled its acceptance of a multicultural state.

Instead, on 30 June 2011, the amendment passed with provisions that excluded the term 'Adivasi', and replaced it with 'small ethnic groups' to refer to Bangladesh's indigenous peoples. It also upheld the legal recognition of the pejorative term '*upajati*'. The people of Bangladesh, according to the new law, are now to be know universally as 'Bengalis', completely denying the rights of Bangladesh's minorities to self-identification.

So the Garos of Modhupur continue to hold rallies; the national Adivasi activist organizations continue to hold roundtables in Dhaka. But the climate is gradually worsening as the high expectations that accompanied the Awami League's election to power in 2008 have dissipated. State-sanctioned violence against indigenous groups, often related to land disputes, also continues unabated.

By choosing to continue the mono-cultural nation-building project inherited from its predecessors, and eschewing efforts to address land issues and human rights abuses, 2011 was the year that the government of Bangladesh broke faith with its indigenous citizens. ■

Below: A Garo woman in the Madhupur forest, Bangladesh. ***G.M.B.Akash/Panos***

India

As elsewhere in South Asia, the pursuit of natural resource development without full consultation with predominantly indigenous local communities continued to exacerbate tensions in India. In one prominent project in India's Odisha state (formerly known as Orissa), which is home to more than 100 indigenous groups, South Korean steel giant POSCO has been granted rights to a US$12 billion steel project in the area.

Opponents were bolstered after Tribal Affairs Minister Vyricherla Kishore Chandra Deo publicly denounced the project, saying it would come at the expense of tribal peoples' rights. Still, tensions simmered throughout the year as authorities moved in to acquire land for the controversial steel plant. In December 2011, rights groups said non-violent protesters demonstrating against the POSCO project were injured after a private force confronted them.

By the end of the year, Abhay Sahoo, a local political leader who had rallied farmers against forcible land acquisition in Odisha, had been arrested. Amnesty International claimed that the authorities falsely charged him in a bid to silence his campaign. Increasingly large demonstrations calling for his release continued into the new year.

The POSCO project was one of many controversial development plans throughout the country. Many of these proposed projects are putting local indigenous groups up against corporations. In Arunachal Pradesh province alone, authorities are planning for a network of 168 individual hydroelectric projects, according to media reports. The rush to develop the province's hydro potential has drawn criticism from advocates for indigenous people as well as authorities in downstream districts.

Yet, as the year progressed, Indian authorities pushed forward with new plans for further development. In March 2011, the Asian Human Rights Commission (AHRC) deplored plans for a power plant project in Madhya Pradesh. The proposed project, the AHRC warned, would deprive local indigenous communities of vital access to food and water supplies. Indigenous people had earned a hard-fought victory in 2010 when the Dongria Kondh tribe managed to convince Indian authorities to block plans by the

UK's Vedanta Resources to build a bauxite mine in Odisha province. But that decision is under appeal and was scheduled to be revisited in mid-2012.

In August 2011, Shehla Masood, an environmentalist who campaigned for the rights of indigenous people, was shot dead at her home in Madhya Pradesh state. Her murder remains unsolved. Local media have questioned whether her death was linked to her advocacy against diamond mining in her state, involving the world's second largest mining company, Rio Tinto.

In 2011, the government's response to the ongoing conflict with the Maoist movement, known as the Naxalites, continued to be a major human rights issue. By the end of the year, the government claimed an 'historic low' in Maoist-related violence. Officials said the number of civilians who died as a result of the

Left: An Adivasi woman carrying a pot of water on her head in front of a Vedanta aluminium refinery in Lanjigarh, Odisha state, India.

conflict was at its lowest level in two decades. Yet violence continued to blight 2011. In May, rebels killed and dismembered the bodies of 10 policemen. In July, Maoists in central India blew up a bridge, resulting in the deaths of four people. At the same time, government forces also bear responsibility for deadly violence. In March, security forces in Chhattisgarh state were accused of killing three indigenous people in a week of violence that saw almost 300 homes burned, according to Amnesty International. Three women were sexually assaulted and 300 homes were destroyed and looted. Amnesty also deplored the killings of 25 Maoist suspects, including 10 indigenous people, in Odisha during the early part of the year. Police have claimed the suspects were armed combatants, though rights activists dispute this.

The government's handling of the Maoist insurgency is critical to minority rights. While the rebels claim to represent some of India's most marginalized, including Dalits and indigenous people, it is often these communities that get caught up in the violence. A positive move came in 2011, when the Supreme Court declared that the Chhattisgarh state authorities should disarm and disband the notorious Special Police Officers (SPOs), also known as 'Salwa Judum' or 'Koya Commandos'. The poorly trained militias are alleged to have committed serious human rights violations.

Across the north-east, including Assam and Meghalaya States, a worrying scarcity of communal land in the area is one of the drivers of what has become a rarely reported ethnic conflict. According to a report by the Internal Displacement Monitoring Centre and the Norwegian Refugee Council, almost 50,000 people were displaced during violent clashes between the Rabha and Garo peoples as the year began. Monitors say at least 76,000 remained homeless as of November 2011.

Dalits and indigenous people continue to suffer from the poorest health statistics in the country, caused by poor sanitation and inadequate access to safe drinking water and health care facilities,

Case study By *Satbir Singh*

'This land is our land' – mining, conflict and India's Adivasis

Numbering 85 million, India's 600 Scheduled Tribes or *Adivasis* ('original people') are kaleidoscopically diverse and make up nearly a quarter of the world's indigenous peoples. Concentrated in an area of central and eastern India that stretches from Maharashtra to West Bengal, many tribal groups share their homelands with some of the most significant mineral deposits in the world – resources which have attracted increasing interest in recent years, precipitating mass displacement, worsening poverty and fuelling one of the world's longest-running conflicts.

Adivasis are by far the most vulnerable and marginalized socio-economic group in India; gaps in poverty, literacy and mortality between tribal and non-tribal groups are widening, despite the economic changes sweeping India. These challenges have been compounded in recent years by the arrival of global mining giants, for whom governments have used the colonial Land Acquisition Act of 1894 to forcibly displace millions from their ancestral lands. This deepening poverty and alienation have fuelled the decades-old Maoist-Naxalite insurgency, with the 100,000-strong militia consolidating its grip in areas of weak government, high malnutrition and mass displacement. The government's security response has in turn brought an influx of personnel and weapons into the region. With poor accountability and an often blurred boundary between the counter-insurgency mandate and broader economic imperatives, civilian populations

Case study continued

are often caught in the crossfire and fall victim to atrocities on both sides of the conflict.

Child soldiers are routinely recruited on both sides of the conflict. In addition to the 50,000-strong security force deployed under 'Operation Green Hunt', up to 7,000 youths – many Adivasis themselves – have been armed by the Chhattisgarh state government as 'Special Police Officers' with the *Salwa Judum* or 'purification hunt'. In July 2011, the Supreme Court ordered the Chhattisgarh state government to dismantle the Salwa Judum and investigate all allegations of human rights violations, including the recruitment of child soldiers. Chhattisgarh Chief Minister Raman Singh responded that his government is not inclined to disarm its Special Police Officers and has not yet taken any steps toward investigating atrocities.

In January 2011, in the state of Odisha, the central Ministry of Environment and Forests gave final clearance to Korean steel giant POSCO for a US$ 12 billion refinery and captive port. A number of *panchayats* (village councils) who have expressed their opposition to the acquisition of their lands have seen their constitutional right to consultation undermined by the deployment of state security forces. In the village of Dhinkia, state officials described the *panchayat* leaders as 'encroachers', calling in state troopers and threatening to 'use force if necessary'. Abhay Sahu, leader of the anti-POSCO movement in Odisha, was arrested in November and journalists, activists and academics are now unable to enter the proposed displacement zone.

Elsewhere in India, opposition to mining-related displacement continued to be a dangerous undertaking throughout 2011. In August, 38-year-old activist Shehla Masood was shot dead after calling for an investigation into allegations of illegal mining by Rio Tinto. In Chhattisgarh, Soni Sori was arrested for alleged involvement in a Maoist protection racket. The Adivasi schoolteacher and human rights activist was stripped, beaten, repeatedly raped and electrocuted, and remains in custody despite demands from domestic and international human rights groups for her release. No investigation has been initiated and the Dantewada police chief Ankit Garg, an officer named by Sori as being involved in her torture, was awarded a medal for gallantry by the President of India in January 2012.

Such disregard for serious allegations is commonplace and, along with the intimidation, disappearance and persecution of opposing voices, it has contributed to a culture of impunity within the security forces in the region. Political and mining interests have become fused through a complex web of campaign financing and corruption, which has led to security forces frequently straying from their mandates. Some individual units of both state and rebel forces have independently formed relations with private bodies. In 2011, a general manager of Indian multinational Essar Group was arrested for paying Maoist rebels to secure 267 km of pipeline through Odisha and Chhattisgarh.

For their part, mining giants responded to growing hostility in 2011 with aggressive public relations campaigns. Vedanta Resources launched a short film, 'Creating Happiness', broadcast daily across television networks. It trumpets the philanthropic efforts of the company, whose bauxite projects in Odisha have attracted international condemnation for destroying the sacred Niyamgiri hills and driving the Dongria Kondh tribe to near-extinction. Tata Steel similarly launched an advertising campaign highlighting the employment generated by mining. Their new tag-line, 'Values stronger than steel' does little for the 12 Adivasis shot dead in 2006 by police in Kalinganagar for protesting against the construction of the Tata steel plant.

Though they do not provide redress, these campaigns are proving remarkably successful in shifting public opinion outside the region in favour of big mining and driving a wedge between tribal and non-tribal communities. In this state of exception, corporate criminals become 'national champions', displacement becomes 'creating a good investment environment' and any opposition to the violation of domestic and international law becomes an act of terrorism, never to be spoken of out loud. ■

according to a report published by an NGO coalition in December 2011. The survey report found that nutritional indicators for Dalits and some indigenous groups dropped below the general population as children grew up. Girls, too, were more likely to have stunted growth or be underweight, the report stated. Prime Minister Manmohan Singh called child malnutrition 'a national shame'.

In a positive move, however, the state of Madhya Pradesh in July became the first in the country to set up a specialized court tasked with prosecuting crimes against scheduled castes and tribes. But, in an example that illustrates the problem of unaccountability for perpetrators of such crimes nationwide, it was reported that Andhra Pradesh state has a backlog of as many as 1,600 cases.

In July, more than 20 people were killed in a series of bomb blasts in Mumbai. Another bombing at the Delhi High Court in September killed 17 people and injured more than 90 others. But right groups are also warning that authorities' pursuit of terrorism suspects is snaring innocent civilians from religious minorities, particularly Muslims. An HRW report documented the alleged use of torture and coerced confessions of terrorism suspects.

In a related example, authorities released seven Muslim youths in November, who had been convicted of bombing a mosque in 2006. The case had become an embarrassment for investigators, who now blame Hindu extremists for the attack. In November, an Indian court sentenced 31 people to life in prison for their roles in the deaths of 33 Muslims who were burned alive during the 2002 Gujarat riots.

In August, the State Human Rights Commission of Jammu and Kashmir State revealed the discovery of more than 2,000 unidentified bodies found in mass graves in northern Kashmir. HRW urged India to investigate the long-standing claims of enforced disappearances in Indian-administered Kashmir.

During 2011, questions were raised over exploitative tourism practices in indigenous communities in parts of India. Survival International called for the closure of a main highway in the Andaman Islands, which passed through land occupied by the endangered Jarawa tribe. Tourism in the area, critics warn, amounts to little more than a 'human safari'. A video showing a local police officer commanding Jarawa girls to dance for tourists later sparked outrage.

Nepal

Nepal courted a constitutional crisis throughout much of 2011, as it continued its uneasy transition from a Hindu monarchy to fledgling democracy. The country failed to hammer out a constitution by what had been a May 2011 deadline. By the end of the year, officials were saying that they would cement a new constitution by mid-2012, but at the time of publication yet another deadline was missed.

In one sense, these delays present an opportunity for some of the country's most marginalized – including indigenous people, Dalits and women from minority communities – to have a greater say in the drafting of such an important document. Prominent advocates are demanding that women be guaranteed proper representation in state institutions. Other advocates have expressed fear that women have been left out of the process altogether.

Indigenous people, too, have not been fully represented in the discussions. A July submission by local advocacy organizations to the CEDAW Committee noted that indigenous people have been unable to freely choose their own representatives in the process to draft the new constitution. Rather, the process demands that participants come from political parties. In a joint submission, the National Indigenous Women's Federation (NIWF) and the Lawyers' Association for Human Rights of Nepalese Indigenous People (LAHURNIP) said: 'Because the political manifestos do not promote indigenous peoples or indigenous women's rights, it is difficult to achieve effective collective representation.'

Just as concerns over the wording of the constitution persisted in 2011, so too did the aftermath of Nepal's civil war. Five years after the end of combat, roughly 100,000 people displaced by the fighting have still been unable to return home. Often, it is women who face the most trouble reintegrating. Former female-

combatants, widows of fighters and rape victims have difficulty finding acceptance in their old communities.

Many Dalits were also drawn to the Maoist insurgency. Some joined voluntarily, attracted to an ethos that once preached equality, while others were swept up in the violence between both sides. But, post-conflict, they are returning to a society in which caste discrimination still persists, despite the government's stated efforts to eradicate it.

Rights groups say that Nepal's government has gained little ground in reducing economic inequality in many parts of the country. In the Terai region, economic disparity continues to be a driving force of ethnic tension. The UN Office of the High Commissioner for Human Rights said that the activities of 'armed criminal groups' in southern Terai districts continue to hamper development, and again raised concerns over previous 'credible allegations' of extra-judicial killings in Terai at the hands of security forces.

Multiple cases of caste discrimination were reported during 2011. In August, a Dalit man was stabbed to death after his son married a woman from another caste. Witnesses claimed the woman's family was incensed by the inter-caste union, according to the Nepal National Dalit Social Welfare Organization.

Kyung-wha Kang, the UN's Deputy High Commissioner for Human Rights, voiced concern over caste discrimination following an April visit. She acknowledged the government's adoption of anti-discrimination legislation, but stressed that more must be done to ensure the laws are implemented and enforced.

Rights groups also warned during 2011 that indigenous women are likely to be disproportionately affected by the government's activities on indigenous land, including hydropower construction and the expansion of conservation areas. Current potential ventures, including the Melamchi Water Supply Project in central Nepal and the Arun Valley hydropower project in eastern Nepal, risk being implemented without the support or consultation of local indigenous populations.

In their CEDAW submission, local advocates NIWF and LAHURNIP said indigenous men are often assumed to be the heads of the household, with formal land titles issued in the man's name. NIWF and LAHURNIP specifically highlighted a growing problem facing indigenous women due to the rapid expansion of Kathmandu, the capital city. Since title deeds are usually held by men, indigenous women are being left out of the decision-making process.

The year 2011 also saw incidents of religious discrimination in Nepal. In June, a Buddhist nun was attacked and gang-raped in eastern Nepal. But the problem was compounded when the woman was later expelled by the Nepal Buddhist Federation because she was judged to have lost her celibacy. The decision was later reversed following a public outcry. Rights groups say that poverty among the Tamang indigenous community to which the woman belongs causes families to send younger siblings off to become monks or nuns.

Nepal's Tibetan community continued to bear the consequences of the country's increasingly close relationship with China. In March, police attacked Tibetan protesters who were demonstrating against Chinese rule in Tibet. Tibetans in Nepal were also barred for voting for their government-in-exile, according to media reports, even though India made no such moves towards its Tibetan exile community. Later that month, a Chinese delegation signed a US$ 20 million military aid deal with the Nepalese government.

Pakistan

Pakistan remained a volatile place for religious and ethnic minorities during 2011. This was highlighted by the murders of two prominent politicians who spoke out against the country's controversial anti-blasphemy laws. Critics say the legislation, which levies penalties including life in prison and death, have unfairly targeted religious minorities such as Christians and Ahmadis, but also mainstream Muslims themselves.

The January assassination of Punjab governor Salman Taseer marked a troubling start to the year. The governor had earlier publicly supported a Christian woman, Asia Bibi, who was sentenced to death for blasphemy. Then in March, Shabhaz Bhatti, Pakistan's Minister for Minority Affairs and the only Christian member of the cabinet, was gunned down while on his way to work. The UN Independent Expert on Minority Issues,

Gay McDougall, called Bhatti's death 'an attack on the rights of all religious minorities and on human rights in Pakistan'.

The consequences of Taseer's death continued to reverberate through the year. In the aftermath of the January killing, the ruling Pakistan People's Party backed away from proposed reforms to the legislation. This drew criticism from one prominent member of the party, who warned that the 'appeasement of extremists will have a blow-back effect'.

In October, Taseer's former bodyguard was sentenced to death for his murder; sympathizers demonstrated in support of the accused before court appearances.

In April, human rights monitors say more than two dozen residents of a Christian community in Gurjanwala, in north-east Punjab province, were hurt after they were attacked by a mob, comprising more than 2,000 Muslims. A local NGO, Human Rights Focus Pakistan (HRFP) says the mob attacked homes, schools and churches in the community. The assailants had accused a member of the Christian community of burning a Qur'an.

The next month, HRFP reported that two Christian women were forcibly converted to Islam. Local police subsequently refused to investigate the matter – a common occurrence that is rendering women from minority religious communities, including Hindus and Christians, particularly vulnerable.

Minorities within the Muslim faith also faced persecution throughout the year. In one example, assailants shot and killed a 55-year-old Ahmadi man in Punjab province in what was a suspected hate crime. In May, Ahmadis in Lahore marked the one-year anniversary of one of the deadliest attacks on the community in Pakistan. In 2010, 88 Ahmadis were killed when assailants attacked Ahmadi places of worship. Relatives of the dead bemoaned the sluggish pace of the resulting police investigation. HRW also recorded 18 separate attacks on Shi'a Muslims during the year.

The wider regional conflict continued to affect the Pushtun community in Pakistan. Large-scale bomb attacks occurred near Peshawar, the provincial capital of Khyber Pakhtunkhwa province. For example, a pair of suicide bombers attacked a paramilitary training centre in May, killing more than 80 people. Tehrik-i-Taliban Pakistan, often referred to as the Pakistani Taliban, claimed responsibility. Though it was initially described as a 'revenge attack' for the death of al-Qaeda leader Osama bin Laden, killed in Pakistan by US forces two weeks earlier, local police told media the attack was more likely the latest in a long-standing battle between the Pakistani army and Taliban forces. In August, a suicide bomber killed 48 people at a mosque in Jamrud.

Also in Khyber Pakhtunkhwa province, *The Guardian* newspaper reported on the increasing militarization of the Kalash valley – a development that could pose a threat to the Kalash people. The Pakistani military has been deployed to the Kalash valley for the first time, it was reported, though locals feared they would be caught in the crossfire between the army and the Taliban.

Either way, the continued strength of the Pakistani Taliban remains a serious concern for religious minorities – particularly women. In December, religious extremists destroyed two important Sufi shrines in the Khyber Agency, a region where Pakistani Taliban forces have been active in the past. They have been blamed for at least 25 similar attacks on religious sites in recent years.

In a 2011 report, the NGO Human Rights Commission of Pakistan (HRCP), predicted that the situation can only worsen for the country's minorities, citing a 'direct link between the rise of the Taliban and the suppression and oppression of the minorities and all of those whose beliefs differed with those of the extremists'. Women in tribal areas of north-west Pakistan are particularly threatened by the Taliban. The Taliban continue to oppose education for girls, setting back education targets for minority women in areas where the Taliban hold sway. Maryum Bibi, an official with Peshawar-based NGO Khwendo Kor, told media that women remain fearful: 'Despite the official stance that the Taliban have been defeated, they remain present in remote areas.'

Throughout the year, Pakistan's development of natural resources fuelled conflict in resource-rich areas where minority communities live, such as Sindh and Balochistan provinces. In April, several campaigners with a Sindh group that advocates for greater local autonomy over

natural resource exploitation were abducted. The AHRC pointed a finger at law enforcement and state intelligence agencies, charging that the abductions are part of a long line of 'enforced disappearances' at the hands of state actors.

Balochistan remained a severe and under-reported example of how the development of natural resources without the full consultation of local communities can drive conflict. The south-western province, one of the country's most ethnically diverse, boasts a wealth of resources, including potentially lucrative mineral deposits and rich natural gas reserves. Yet control over such resources has stoked tensions and given rise to a nationalist Baloch movement that has clashed with government forces. Added to a mix that includes foreign interest in resource extraction and the province's prime location on the borders with Iran and Afghanistan, the resulting conflict has had violent and deadly consequences for civilians.

State actors play a central role in the violence, targeting ethnic Baloch suspected of engaging in nationalist activities. HRW recorded the killing of at least 200 Baloch nationalist activists and dozens of disappearances in 2011. In its 2012 *World Report*, the organization concluded that conditions had 'markedly deteriorated' during the course of 2011. Prominent cases included that of Abdul Ghaffar Lando, a Baloch nationalist activist who had been abducted in 2009 and whose body was found in 2011. When the family had gone to the police to register the abduction, the police stated that Lando was being held in detention. In a July report, HRW recorded the cases of 45 recent alleged disappearances; three of the victims were children, the youngest of whom was 12 years old when he was abducted. Human rights activists and academics were also targeted. The local coordinator for the HRCP, Siddique Eido, was killed in 2011. The situation led *The Guardian* newspaper to label the secretive conflict as Pakistan's 'dirty little war'.

Nationalist militants have targeted non-Baloch minority groups perceived to be against the movement. Sunni and Shi'a militants have also been active. In May, an extremist Wahhabi organization claimed responsibility for the murders of 13 Hazara Shi'a Muslims.

As Pakistan battled with severe flooding in Sindh province through September, rights groups reported to MRG that Dalits were being discriminated against because of their caste. Advocates said Dalit families had been turned away from government relief camps and been given unequal access to relief supplies.

Sri Lanka

As Sri Lanka marked another year since the end of its bloody civil war in 2009, the problem of how to ensure justice for wartime atrocities and reconciliation between the majority Sinhalese and the Tamil minority remained unresolved. In 2011, the government and the military issued a pair of reports that sought to address some of the violations, yet ultimately they proved to be a disappointment to rights groups hoping for significant signs of progress.

The government established the Lessons Learnt and Reconciliation Commission (LLRC) in 2010 under a storm of protest from rights groups, who questioned its independence and mandate. The resulting report, released in December 2011, contained some positive measures. MRG, for example, praised the report's acknowledgement of the impact felt by Sri Lanka's minority Muslim community. But MRG was also concerned that the LLRC report did not sufficiently investigate serious allegations of war crimes and crimes against humanity during the final days of the war. The report, MRG noted: 'exonerates the government for the manner in which the military campaign was conducted during the period'.

Earlier in the year, a Sri Lanka defence ministry report made a rare concession by acknowledging that civilians were killed in the government's final assault on the Liberation Tigers of Tamil Eelam (LTTE), commonly known as the Tamil Tigers. However, this report also contended that soldiers used only 'necessary force' and was seen by critics as presenting a one-sided account.

A UN report released in April was far more critical. The panel stated that it had found 'credible allegations' of war crimes and crimes against humanity by both the Sri Lankan government and the LTTE. Many of these allegations focused on the final stages of the war in 2009, when Sri Lanka's army pushed into Tamil areas of the north, trapping hundreds of thousands of civilians in the crossfire. It is

believed that tens of thousands of people lost their lives in the war's final five months. 'The panel's determination of credible allegations reveals a very different version of the final stages of the war than that maintained to this day by the Government of Sri Lanka,' the report stated. The report called on Sri Lanka to begin credible investigations into alleged violations of human rights law; it also urged the UN Secretary-General to establish an independent international mechanism capable of conducting its own investigations. Neither the government of President Mahinda Rajapaksa nor the UN made such moves during 2011.

In the meantime, human rights groups continue to raise concern over recent disappearances. In December, two local human rights advocates disappeared while they were preparing for a press conference in Jaffna. The AHRC also reported on two other cases involving missing men who were later found murdered. Critics say the government has taken little action on these and other forced disappearances.

In November, a UK-based charity, Freedom from Torture, said it had compiled evidence that torture persists in Sri Lanka, despite the end of the war in 2009. The group's physicians assess Sri Lankan asylum-seekers and refugees, mostly ethnic Tamils, often for use in asylum claims. They had found at least one case showing that torture had continued during 2011.

Problems of reintegration for those displaced by the conflict continued throughout the year. Women in particular faced unique hardships upon return. Increasingly, women are bearing the burden of restarting their families' lives. A government report released last year found that nearly one-third of families returning to the Tamil north are headed by women. One Jaffna-based organization, the Center for Women and Development, estimated there were now 40,000 widowed female-headed households in the area – a figure that excludes women whose husbands are missing or detained by the government.

This has resulted in a precarious situation for Tamil women. In a December briefing, the International Crisis Group said there has been an alarming increase in gender-based violence within the community. Women have been forced into prostitution or trafficked abroad. At the same time, estimates suggest that unemployment in the north could be quadruple that of the national average.

In the aftermath of the civil war, its effect on Muslims has been largely ignored. The Tamil Tigers forced out much of the Muslim population from the north. Failure to implement proper reintegration and reconciliation measures in the region will only serve to exacerbate tensions between Muslims and Tamils.

The report from the UN Secretary-General's panel on accountability warns that recent government policies – requiring the national anthem to be sung only in Sinhala, for example – will alienate Tamil-speakers. Tamil groups also complained of destructive sand-dredging activities in Batticaloa district. In December, Tamil groups claimed that two activists, who were former Tamil Tiger members, were arrested after they protested against sand-dredging in the area.

During 2011, advocates raised concern over a tourism development in the Kalpitiya region of western Sri Lanka. They said up to 10,000 people, mostly Sinhalese Muslims, could be displaced or otherwise affected by a complex of hotels planned for the area. This project has raised concern that similar projects in other parts of the country, particularly in the north and north-east, where post-war tensions still run high, could undermine human rights for minority communities. In its annual report released in December, the AHRC raised concerns that the Sri Lankan government's concept of development 'does not include the guaranteeing of human rights'.

South East Asia

Nicole Girard

Across South East Asia, minorities and indigenous peoples are struggling to protect their lands, livelihoods and way of life. In Mindanao in the Philippines, Indonesia's Papua, and ethnic minority regions of Burma, control

over natural resources is central to a number of long-running armed conflicts. In Cambodia, indigenous Kuy are fighting to protect their traditional way of life in Prey Lang forest. In Vietnam and Laos, minority populations have been subject to resettlement as a result of dams and other development projects, largely without consultation. In Burma, dams in Kachin State threaten the livelihood of thousands of minority and indigenous peoples, and in 2011 led to fighting that broke ceasefires with two major armed ethnic groups.

The construction of two major dams, the Myitsone in Burma and the Xayaburi in Laos, was delayed in 2011. This was welcomed by environmental and indigenous peoples' groups, but worry remains over whether construction on Myitsone has actually been halted and how long plans for Xayaburi will be suspended.

Debate on how best to address ethnic conflicts continued in the region in 2011. Thailand made some efforts to increase accountability for human rights violations in the southern Malay-Muslim majority provinces. In the Philippines, peace talks with the Moro Islamic Liberation Front were initiated. The government of Burma secured ceasefires with major armed ethnic groups by the end of the year, making offers of reconciliation not seen in decades of conflict. Some ceasefires, however, had yet to be enacted on the ground.

Burma

Burma convened its first parliament in over 22 years in January 2011, after elections in November 2010. In March, Thein Sein was sworn in as President, officially dissolving military rule. The government has eased restrictions on media, permitted the creation of trade unions, and passed a law to allow peaceful assembly and protest. It has also reached out to opposition leader Aung San Suu Kyi, released significant numbers of political prisoners and pledged to prioritize minority issues. But whether reforms translate into genuine progress remains to be seen. While 17 out of the 22 ethnic political parties won at least one seat in the election (15.7 per cent of available seats), the conduct of parliamentarians is governed by laws criminalizing comments that are considered a threat to national security or the unity of the country, or violate the 2008 Constitution.

Tensions between the junta and armed ethnic groups in the run-up to the November 2010 election broke out into renewed fighting in 2011. The military broke a 22-year ceasefire with the Shan State Army-North in March, mobilizing an additional 3,500 troops. By June, the 17-year ceasefire with Kachin Independence Army (KIA) was breached. By December, an estimated 34,000 people were in displacement camps along the border with China from this recent outbreak; the government was not allowing access to international relief organizations. Increasing militarization in Kachin State led to an increase in human rights violations. In their 2011 report, the Kachin Women's Organization documented the rape by soldiers of 34 women and girls, 15 of whom were subsequently killed. The Burma military's use of rape as a weapon of war has been well documented and continues under the new government.

The fighting in Kachin State broke out at the location of a Chinese-operated hydroelectric dam project at Daepin. Earlier, the Kachin Independence Organization (KIO) sent an open letter to the Chinese government, warning that if it continued with construction of the 6,000 megawatt Myitsone dam on the Irrawaddy River, armed conflict would likely ensue. To the surprise of many, in September the Burmese government temporarily halted the Myitsone, citing public opposition. However, local Kachin groups report that construction at the dam site has continued, and the approximately 1,000 displaced Kachin have not been permitted to return to their homes. The US$ 3.6 billion Myitsone dam is one of eight dams planned on the Irrawaddy River, and is being developed by China Power Investment Corporation (CPI) and Asia World Company of Burma. Ninety per cent of the power is expected to be sold to China. There are serious concerns about the quality and independence of the environmental impact assessment, funded by CPI; a social impact assessment was not carried out (see case study below).

Resource extraction in minority and indigenous peoples' areas has fuelled army land confiscation, property destruction, designation of 'out-of-bounds' high-security areas, militarization and destruction of livelihoods. Both the Burmese army

Case study

Dams feed ethnic conflict in Burma

'The soldiers came to my house and said, "Starting now you cannot grow on the farms near the river," and I asked him back: "Why?" He gave the reason that they will build the dam in that area. They confiscated the land from my farm, it was about 18 acres.'

On 30 September 2011, President Thein Sein announced an indefinite halt to construction of the 6000-megawatt Myitsone dam, on the Irrawaddy River in Kachin State, saying that public opposition to the Chinese-funded dam was overwhelming.

Perhaps the game has changed since the military rulers stepped into their civilian roles. But many remain sceptical. 'We do not trust what the President has said about suspending the Myitsone dam,' said a local affected by the dam, 'we can see the workers and dam construction machines still at the site.' For local communities, the stakes are high. The dam will displace around 15,000 people, mainly ethnic Kachin who revere Myitsone as the birthplace of their culture.

Currently, the Myitsone dam has only been halted until 2016, when Thein Sein's term in office ends. But even if it is permanently shelved, it is only one of 48 dams currently in various stages of development in Burma. Twenty-five of these are 'mega-dams', with a capacity comparable to the Myitsone.

Most of the large dams are located in ethnic minority areas and many are in conflict zones. The fighting that broke a 17-year ceasefire with the Kachin Independence Army (KIA) in June was exacerbated by tensions over Chinese companies surveying future dam sites.

Ninety per cent of the power from these dam projects will be exported to Burma's neighbours. Chinese companies are involved in many of the projects, but Burma has also signed agreements with Thailand, Bangladesh and India. The dams are expected to bring revenues of US$ 4 billion for the Burmese government. But according to Sai Sai of the Burma Rivers Network, the dams will not improve the lives of Burma's ethnic nationals: 'These mega-dams are fuelling further conflict, not benefiting the people of Burma,' he said.

Loss of land, loss of life

The dams are proceeding without any proper consultation with ethnic minorities and indigenous peoples, and, for the indigenous communities, without their free, prior and informed consent. Compensation for their loss of land and livelihoods has been inadequate. In Karenni State, power plant-related development and militarization of the area saw 114 villages flooded; 12,000 people displaced; an estimated 18,000 landmines planted; local communities subjected to forced labour, sexual violence and extra-judicial killings; and prioritized water scheduling leading to crop destruction. Eighty per cent of the local population still has no access to electricity.

For years, the Burmese government has used anti-insurgency military operations to clear areas for dam projects. In 1996, for example, fighting in central Shan State led to the displacement of nearly 60,000 people, clearing the area for the Tasang dam on the Salween River. Since 2005, some 25,000 people in Karenni State have been forced by military offensives away from the Weigyi and Hatgyi dam sites. More recently, in the case of the Shweli dams in Karenni State, villagers were ordered off their land by the military and given a three-year 'grace' period, with some small compensation. 'The Government said it will give half the worth of land and property as compensation, but I absolutely do not believe that they will,' one man from the Molo village said.

Case study continued

The very existence of some communities is under threat. The Weigyi dam on the Salween River will submerge the ancestral lands, cultural sites and means of livelihood of Yin Ta Lai people, of whom only 1,000 remain.

If the new Burma government is serious about heeding the voice of the people, it should halt all dam projects in conflict zones. Consultations prioritizing the protection of minority and indigenous peoples' rights, coupled with the development and implementation of environmental policy and law (including land policy) based on international standards, is the only way any of these dams should proceed. Otherwise the dams could spell disaster for the affected communities.

'I have grown up in this village since I was born by drinking the water from the Shweli River. My livelihood is fishing which is related directly to this river. After we leave we do not know what we will do for our livelihoods or how to earn money to survive.' Molo villager facing eviction ■

and armed ethnic groups have relied on natural resources for funds, drawing heavily on logging and mining, including gemstone mining. Burma is the biggest producer of jade in the world and the most significant jade mine is in Kachin State, with little of its wealth reaching the people.

The Shwe oil and gas pipeline project is being advanced by the China National Petroleum Corporation along with companies from Korea and Burma and is slated for completion in 2013. Started in 2010, the 2,800 km pipeline will bring gas to China from Burma's western coast. Over 800 km runs across Burma through territory occupied by armed ethnic groups, in Shan State in particular. The pipeline is set to ignite conflict in minority regions, as Chinese workers are brought in to construct it and the Burma military is used to protect it. Widespread land confiscation for the pipeline corridor is leaving farmers jobless and fishing grounds off-limits, contributing to rising migration. Local people are able to secure only low-wage, temporary and unsafe jobs on the project, and are reportedly unable to complain about working conditions or wages without retribution.

A draft land law was proposed in parliament in 2011, but according to the Asian Human Rights Commission (AHRC), under the law farmers could be evicted to make way for whatever government officials claim to be in 'the national interest'. The law was reportedly drafted without consultation with key stakeholders or land law experts.

The Myanmar National Human Rights Commission was established in 2011, mandated to investigate complaints on human rights violations. But critics questioned whether it is in line with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles), if its members – many of whom were generals under the previous military regime – are hand-picked by the state.

The elections did not improve the situation of Rohingya Muslims from Arakan State, denied citizenship on the assumption that most are not from Burma but come from Bangladesh. Thousands flee every year the harsh restrictions and persecution from Burma's government, ending up as asylum-seekers throughout Asia. In December, the government agreed to repatriate 2,500 refugees from Bangladesh on condition that they already have citizenship in Burma, effectively excluding many ethnic Rohingya.

While serious clashes continue in Kachin State and parts of Shan State, late in the year some positive progress was made in peace talks between the government and armed ethnic groups. A new Internal Peace Building Committee was created by the government, which has offered joint political talks with all such groups, an offer not seen during the 60 years of conflict. By mid-December, two major armed ethnic groups had reached ceasefire agreements. For Burma's ethnic minorities, this offered some hope for their future.

Cambodia

In 2011, four top former leaders of the Khmer Rouge faced proceedings in the Extraordinary Chambers in the Courts of Cambodia (ECCC),

set up to try those charged with crimes committed during the Khmer Rouge regime (1975–9). The ruling Cambodian People's Party (CPP) under Prime Minister Hun Sen has been accused of interfering with the proceedings and the trials have been plagued by controversy. Bringing the leaders of the Khmer Rouge to justice will be an important step for the Cambodian judiciary to prove its effectiveness in addressing a grave historical wrong. It could also be significant for minorities, including the ethnic Vietnamese and Cham Muslims, whose persecution as part of the larger aims of the Khmer Rouge could in itself constitute genocide.

Civil society faced direct attacks, including new laws which were introduced or drafted during 2011, according to a report published by the Cambodia League for the Promotion and Defense of Human Rights (LICADO). These included an anti-corruption law, a draft trade union law, and a draft law on associations and NGOs. Individuals working to defend the rights of indigenous peoples continued to be threatened by the Cambodian government in 2011, in particular those combating land-grabbing by corrupt officials. By the end of the year, Human Rights Watch (HRW) estimated that at least 60 people were imprisoned or awaiting trial for protesting against forced evictions and land-grabbing.

The government continues to grant large economic land concessions (ELCs) for hydro-electric projects, mining and agricultural plantations. Land concessions are granted, often in an illegal way, over community land, and with no regard to national laws that require public consultations and environmental impact assessments, or laws that stipulate that state concessions cannot be granted in forested areas.

Prey Lang forest, home to Kuy indigenous people, who depend upon it for their sustenance and livelihoods, is a case in point. Peaceful community and civil society efforts to protect it have been curtailed by the authorities in a conflict that escalated throughout the year. Government officials have recognized this large primeval forest as an important area for conservation, but according to the Prey Lang Network, a local activist group, more than 40,000 hectares of the forest have been granted for rubber plantations, while 27 exploration

Case study By *Mao Chanthoeun*

Cambodia's Kuy people rally to save 'our forest'

I am Mao Chanthoeun, a Kuy, from Chaom Svay Village near Prey Lang forest in Kampong Thom, Cambodia.

I was born here about 30 years ago. My parents and grandparents were also born here. We've always been dependent on Prey Lang, which in Kuy means 'our forest'.

When I was young, the forest was large and thick. Prey Lang gave us food, medicines, and housing materials. We collected resin for sale. Since resin trees can be tapped for generations, this was sustainable. We lived happily.

In 2002, we learned that Cambodia's forests were being destroyed. Our forest was threatened. We fought back. With hundreds of other Cambodians, we protested against logging concessions and they were suspended.

We had a time of peace. Our communities agreed rules to preserve the forest. This became harder over the years. Poaching and illegal logging took their toll.

In 2009, rubber companies came, first to build roads and then make plantations. We don't know why they would grow rubber here; the soil is not good. We think they want to profit from logging.

We began organizing our Network in 2007. The Prey Lang Community Network has members in all four provinces straddled by the forest. I've been a community representative for six years. We've petitioned the government to protect Prey Lang, cancel agro-business and mining concessions, and rehabilitate cleared areas. We also want the government to recognize us as Prey Lang's co-managers.

We conduct local patrols to try to stop illegal activities. We also went to the capital city to call on the country to help us. To get

Case study continued

attention, we dressed like the 'avatars' we saw in a movie. When we put on blue faces, people paid attention to us.

In my community, we confronted someone who illegally cleared forest. When a group of us, including the village chief, uprooted his cassava, he brought legal complaints against us. Those are still pending.

Now we are suffering. Thousands of resin trees have been cut; many families have no income. Even our rice paddy is not good since we have lost water.

In November, when I was six months pregnant, I joined hundreds of other Network members in laying claim to the forest. For almost two weeks we walked from all directions across the forest to stop illegal activities and to confront plantation companies. The walk was difficult. We had little food and water. We were often cold in the rain.

I feared my baby had died inside me. But I had to go on for the sake of all children. Life is not worth living if we lose our forests.

My husband left me while I was pregnant. Now four months later, I am alone with my baby boy. It's not easy for me to live. Whenever I go out, others must accompany me; illegal loggers are angry with me for challenging them.

Today, in the village, a local businessman announced on a loudspeaker that everyone must shun me or face consequences. He claims I'm 'inciting' people because I tell them their rights and encourage them to protect the forest.

My community and our Network are strong. We have good cooperation. We work together to solve our problems peaceably. Now my neighbours are circulating a petition to support me.

I try not to lose hope. But it is difficult when one confiscated chainsaw is replaced by two others.

We ask the world to join us in saving Prey Lang. 'Our forest' belongs to everyone.

Case study provided by the East-West Management Institute / Prey Lang Network. ■

Below: A woman at a protest in Phnom Penh, Cambodia, in May 2011. Around 100 local activists attended a demonstration appealing to the government to save the Prey Lang forest. *REUTERS/Samrang Pring.*

licences and related concessions have been handed to mining companies. Logging continues although the government stopped granting logging concessions in 2002, and the creation of logging roads has taken an environmental toll as well as opening up the forest to new migrants.

According to the Cambodian Center for Human Rights (CCHR), authorities detained over 100 peaceful protesters in August, many from the Kuy community, for distributing pamphlets about the issue; in December, local authorities filed complaints against members of CCHR on charges of 'incitement' for holding training seminars for locals. Soldiers hired by a mining company that has been illegally granted an ELC in Prey Lang have prevented Kuy women from gathering tree resin, according to a 2011 Amnesty International report.

Cambodia does have laws that recognize and protect indigenous peoples' access to land. But they are often not implemented, or are flagrantly violated. Those who defend their legal rights risk intimidation, violence and imprisonment. Despite some actions, Prime Minister Hun Sen appears unwilling to seriously address these issues.

Indigenous peoples and Cham Muslims are recognized under Cambodia's Constitution, but other ethnic minorities, such as ethnic Vietnamese and Khmer Krom, are denied citizenship, are therefore unable to access health care and education, and endure social discrimination. Lack of citizenship combined with endemic poverty makes ethnic Vietnamese women vulnerable to trafficking, mostly within Cambodia, and forced prostitution. 'One third of girls and young women of Vietnamese origin are reported to be sold into prostitution,' according to a 2011 report by the UN Committee on the Rights of the Child.

Indonesia

Discrimination, harassment and violence against religious minorities in Indonesia increased in 2011. The Setara Institute, an Indonesia religious rights monitoring organization, recorded 244 such incidents, up from around 200 the previous year; government officials, military and police were responsible for many of the incidents.

Ahmadiyya Muslims continued to be one of the main targets for violence and abuse. Three Ahmadis were killed in February in West Java, after a group of 1,500 people attacked 21 of them, in order to expel them from the village. Police did little to intervene. Twelve men were tried, and received sentences of between only three and six months, on a variety of charges but not for manslaughter.

By September, 26 regencies and municipalities across the country had issued decrees banning or restricting Ahmadiyya religious practice, stemming from a 2008 ministerial decree preventing public propagation of the Ahmadiyya faith. The decree contradicts President Susilo Bambang Yudhoyono's continual assertion of Indonesian 'tolerance', and is justified on the logic that restricting the religious expression of minorities serves to protect them from violence.

The government continues to push the Religious Tolerance Bill, but rights groups have denounced the draft bill, completed in October, for limiting certain activities in the name of tolerance. For example, the bill attempts to regulate proselytizing, celebration of religious holidays, construction of houses of worship, holding of funerals and organization of religious education. The bill continues to define and punish blasphemy; existing laws on blasphemy have already served to discriminate against and harass religious minorities.

Indigenous peoples have long struggled to realize their rights in the Indonesia state, especially the right to land and free, prior and informed consent. In May, as part of the government's agreement with Norway over the Reducing Emissions from Deforestation and Forest Degradation (REDD+) project – a US$ 1 billion project to protect forests and reduce carbon emissions while fostering economic development – President Yudhoyono, declared a two-year moratorium on new concessions in primary forest and peat lands. But this was flouted: ongoing illegal clearing of these protected lands in Central Kalimantan by a Malaysian company was reported by Indonesian NGOs.

In December, the Indonesian parliament passed a new bill which will allow the government to acquire land from citizens in the name of a vaguely defined 'public interest'. The legislation is intended to settle disagreements over

evictions and speed up infrastructure projects. Those affected do not have the right to appeal and compensation is only provided upon proof of certification of land-ownership, often lacking in the case of indigenous communities. A coalition of Indonesian NGOs says the bill is a direct threat to the rights of indigenous peoples and is likely to increase conflict over land.

Indigenous communities struggling to secure their right to land won a small victory in September, as two articles of the 2004 Plantation Act were dropped after being declared unconstitutional by the Constitutional Court for discriminating against indigenous farmers. The articles, which prohibited damaging plantation land or equipment, or preventing plantation business have been used to imprison and fine hundreds of people who have protested against corporate grabs of ancestral lands, especially by palm oil companies.

However, in October, the Indonesian government curtailed the legitimate activities of rights defenders by passing the long-debated Intelligence Bill – giving law enforcement power to spy on civilians to protect 'national security'. Military documents exposed by HRW in 2011 suggest that unlawful military spying on peaceful activists in Papua is commonplace.

In Papua, the government failed to make any progress towards implementing the rights granted to the province under the Special Autonomy Law of 2001. At least three people were killed in October by security forces during the Third Papuan People's Congress, a peaceful gathering of indigenous Papuans demanding a referendum on independence from the Indonesian state. Security forces have yet to be held accountable. Six indigenous Papuan men were charged with treason, adding to the approximately 40 existing Papuan political prisoners, according to the AHRC. Cases of torture, arbitrary detention and military operations continued to be reported during 2011 in the provinces of Papua and West Papua.

Indonesian military and special police forces conducted massive counter-insurgency 'sweeping' operations aimed at suspected Free Papua Organization (OPM) separatists in the central highland area of Panai, West Papua. The *Jakarta Post* reported that at least 500 people had fled from Dagouto village since raids in November.

Case study

The campaign against destructive palm oil plantations

The rapid expansion of palm oil plantations in South East Asia is being driven by rising global demand for edible oils and bio-fuels. Thailand and the Philippines have a burgeoning palm oil industry, plantations have been established in Cambodia, and Vietnam is exploring the possibility of cashing in on this crop.

Malaysia and Indonesia are the top producers of palm oil in the world, and in these countries the industry fuels land dispossession and loss of livelihoods for indigenous peoples. Global consumption of processed palm oil more than doubled over the last ten years, with demand increasing mostly in China, India and Eastern Europe. Large-scale production in Malaysia and Indonesia started in the late 1980s and rapid expansion between 2007 and 2010 has devastated bio-diverse rainforests, replacing them with mono-crop 'green wastelands'.

Millions of hectares of land have been swallowed by these plantations: an estimated 4.6. million hectares in Malaysia, and 9.4 million in Indonesia. Both countries intend to continue increasing the amount of land dedicated to palm oil. In Malaysia's Sarawak state, the government plans to double the area devoted to palm oil while Indonesia plans to double its palm oil production to 20 million hectares by 2020. This expansion will continue to be driven by large estates, rather than independent smallholders.

To achieve this expansion, the governments of Malaysia and Indonesia have handed over indigenous peoples' lands for palm oil, despite their customary land claims. In Sarawak, Malaysia, and in Sumatra, Indonesia, oil plantations have polluted rivers, destroyed wildlife that once supported indigenous peoples' livelihoods, and led to communities being evicted from their lands. Many of the land conflicts in these countries are directly related to the expansion of palm oil.

Indigenous peoples' opposition to palm oil expansion has become increasingly violent. In November 2011, indigenous Dayak Benuaq peoples in Indonesia's East Kalimantan province protested against the conversion of their lands into palm oil plantations. But the Malaysia-based PT Munte Waniq Jaya Perkasa company has continued to clear the land and evict the community, supported by the police and other security personnel, according to reports from local NGO Telapak.

Communities like Dayak Benuaq, who struggle against palm oil plantations, meet violent reprisals. According to the Borneo Resource Institute, in February an indigenous community in Rumah Ranggon, Sarawak, Malaysia, were intimidated by a hundred armed men, allegedly hired by the palm oil company to force residents to halt their blockade protecting their forests. Police later arrested the leader of the armed group.

A flood of these incidents has led to increased pressure on palm oil companies to prevent abusive and destructive practices. The industry formed a Roundtable on Sustainable Palm Oil (RSPO) in 2004, to promote sustainable palm oil practices and raise the environmental profile of the industry. Comprising oil palm producers, manufacturers, investors and social and environmental NGOs, the RSPO has created a process to have plantations certified as sustainable.

Some NGOs have refused to join the RSPO, arguing that its standards have not done enough to address land disputes and environmental issues. But others, such as Sawit Watch, Indonesia's leading watchdog NGO on the palm oil industry, have participated and helped shape the RSPO's criteria for certification. The standard affirms the rights of indigenous peoples to their customary lands, requires adequate compensation, and insists that no lands can be taken from indigenous peoples and local communities without their free, prior and informed consent. The standard also requires the fair treatment of smallholders and prohibits discriminatory practices against women.

One of the biggest players in palm oil – Singapore-based Wilmar International, a leading agribusiness group in Asia – is a member of the RSPO and has made various commitments to sustainable palm oil production. In November, however, the Forest People's Programme in partnership with Sawit Watch released a report documenting continued land confiscation, evictions and intimidation by the Indonesian police on behalf of Wilmar's suppliers against an indigenous community in Jambi. Director of Sawit Watch Abetnego Tarigan commented: 'Frankly we are very disappointed. We expect leading members of the RSPO to scrupulously adhere to the agreed standard.'

While the RSPO has developed strong standards through consultative processes, further efforts are needed to ensure that these standards are implemented. But in September, the Indonesian Palm Oil Association withdrew from the RSPO, and the Indonesian government says it will now implement it own 'green' standards for sustainable palm oil. The Malaysian government is also starting its own certification process for 'sustainable' palm oil. This has drawn accusations that these versions of sustainable palm oil are 'greenwash' and a watering down of the RSPO's criteria. The international community must continue to demand palm oil that follows the sustainability model provided by the RSPO, along with implementation that protects the rights of affected communities. ■

Local media estimate the military operation has forced about 10,000 people to flee their villages, and that 20 villagers had been shot. The raids had been escalating since April. Indonesia's National Commission on Human Rights (Komnas HAM) called on the National Police chief to withdraw all troops from the area.

In 2011, police admitted to receiving pay-offs from the US-owned Freeport-McMoRan to protect their Grasberg gold and copper mine in Papua, the largest gold mine and third largest copper mine in the world. This mine project has long been criticized for violating the rights of indigenous Papuans through land confiscation, environmental destruction and militarization. Indonesian military forces who 'protect' the mine have reportedly raped Papuan indigenous women.

Papua has consistently had the highest rate of HIV infection in Indonesia, at 15 times the national average. In May, the head of the Papuan AIDS Prevention Commission reported that the number of people living with HIV/AIDS in Papua jumped by 30 per cent in four months, to over 17,000. Mimika, the district of Freeport McMoRan's mine, had the highest increase and overall number of HIV/AIDS-infected people, with associated high numbers of prostitutes and brothels. While these numbers do not differentiate, past studies have suggested that prevalence of HIV/AIDS among Papuans is twice as high as among non-Papuans.

The rights of indigenous Papuans to their ancestral lands also continued to be threatened by the Merauke Integration Food and Energy Project (MIFEE), a mega-agro initiative launched in 2010, which involves the conversion of a vast area of land, including forests, into plantations. In a report submitted to various UN mechanisms in 2011, an NGO coalition claims that MIFEE has proceeded without regard for the principles of free, prior and informed consent, and has forcibly acquired around 2 million hectares of traditional lands. The military has also reportedly been harassing those resisting the project. In October 2011, President Yudhoyono set up the Unit for the Acceleration of Development in Papua and West Papau (UP4B) to stimulate economic development. Little attention has been given to Papuans' right to autonomy and self-governance, however.

Laos

The ninth Party Congress of Laos People's Revolutionary Party (LPRP) was held in 2011. But there were few new faces to be seen. Elections for the National Assembly were held shortly after, with the LPRP winning all but four of the 132 seats in this one-party state. Ethnic minority parliamentarians won 38.6 per cent of the seats in the National Assembly. However, party members secured their positions through patronage, rather than by campaigning for the rights of minority communities.

There are at least 240 ethnic groups in the country, but the Lao government only officially recognizes 49. Most minorities live in the mountainous highland areas, whereas the Lao majority has traditionally been in the lowlands, dominating political and economic life. Ethnic minority villages have been subjected to government relocation programmes since the 1970s, increasing in scope in the 1990s, ostensibly aimed at ending swidden agriculture and opium production.

The Lao government aims to transform the country into the 'battery of South East Asia' by exporting the power generated by numerous hydroelectric projects. In June, the National Assembly announced plans to complete ten large-scale dam projects between 2011 and 2015; five are already under construction. The proposed 1,200-megawatt Xayaburi dam on the Mekong River has attracted the most controversy. It will displace an estimated 2,100 people, the majority of whom are ethnic minorities (including Khmu, Leu and Hmong), and threaten the livelihoods and food security of another 200,000 people. The Xayaburi project is backed by Thai companies, and Thailand is expected to be one of the main beneficiaries of the power generated.

The Mekong Rivers Commission, a regional river basin organization, twice delayed a decision on whether to approve the Xayaburi dam in 2011, under strong pressure from Laos's neighbours, pending further environmental studies. However, with the tacit approval from Lao authorities, the Thai dam building-company is proceeding with construction work, without consulting affected minorities.

In 2011, a national survey carried out by the Lao government estimated that 5 million

hectares – about 21 per cent of the country's total territory – has been granted as concessions to either domestic or foreign parties, mainly for mining exploration (85 per cent). Many land concessions in Laos have also been granted to foreign companies from Vietnam, Thailand and China, for large-scale agribusiness plantations, such as bio-fuels, rubber and eucalyptus, as well as mining and hydro-electric projects.

Though all land is state-owned in Laos, communal land use rights are recognized under the Constitution and various national laws. But land and forest concessions have been granted without proper documentation or implementation of legal processes, leaving local livelihoods unprotected, according to a 2011 report by the NGO Forest Trends. Such concessions are often facilitated through bribe-taking by local and central officials. Affected groups are left without access to their traditional livelihoods or adequate compensation, despite a government decree guaranteeing it.

Displacement and government attempts to eliminate swidden agriculture have had a disproportionate impact on minority and indigenous women from communities such as the Khmou and Phone, where their status derives from their role in such agricultural activities.

In November 2011, the Laos government issued its first set of communal forest land titles, acknowledging the community rights of four villages to bamboo forests in Sangthong district near Vientiane. It is hoped that communal titles will now be issued in other areas of the country where minority and indigenous groups are at a high risk of being displaced from their land.

In one positive development, the Lao Ministry of Energy and Mines proposed amendments to the Minerals Law in 2011 in order to address loopholes that were thought to be giving free rein to mining companies, for example to use sites for purposes for which they were not granted, such as logging and plantations. Other proposed changes include stricter environmental standards and increased compensation for affected communities.

Freedom of religion is guaranteed in the Lao Constitution, but in practice some laws are used to suppress unsanctioned religious activities. Many ethnic minorities in Laos practice animism/ancestor worship or have converted to Christianity. In 2011, rights groups continued to report incidents of local authorities harassing and illegally detaining members of Christian communities.

In 2011, the group of over 4,000 Hmong that were forcibly repatriated to Laos from Thailand in 2009 are reportedly still facing 'severe restrictions' on their freedom of movement and are unable to make a living.

Malaysia

Civil society in Malaysia, including those organizations struggling to secure the rights of minorities, continued to experience restrictions on the right to assembly. In September 2011, Prime Minister Najib Razak pledged to repeal the Internal Security Act (ISA), which allows the authorities to detain people indefinitely without charge or trial. The move was welcomed by a broad range of civil society organizations, but Razak's commitment was questioned as authorities continued to arrest people under the ISA.

Razak proposed two other pieces of legislation. The Race Relations Bill was set to be debated in parliament in 2012 but Malaysian human rights organization Suara Rakyat Malaysia (Suaram) argued that the draft law would not adequately protect minorities from hate crimes. At the time of writing, it appeared that the government was going to drop the initiative.

In December, the senate passed the controversial Peaceful Assembly Bill, despite widespread opposition from local civil society and international NGOs. The law bans street protests, prohibits those under 21 years old from assembling peacefully, and provides a wide range of powers to the police.

The new legislation comes after crackdowns on protests throughout 2011, including protests by religious minority organizations. In February, authorities denied a request by the Hindu Rights Action Force (HRAF) to conduct a peaceful anti-discrimination march. HRAF was banned after a peaceful demonstration in 2007 for the rights of religious minorities in Malaysia. Authorities arrested at least 59 members of HRAF and the Hindu Rights Party (HRP) hours before the rally began. All were released on bail, charged with being part of an 'illegal association'.

Above: A Penan family at a temporary shelter in Malaysian Borneo. *Sofia Yu.*

The HRAF protest was in part sparked by controversy over the novel *Interlok*, compulsory reading for students in secondary school, that includes racial stereotyping of Indian and Chinese communities. On 15 January, the novel was removed from the syllabus, but the decision was reversed on 28 January. It remains on the syllabus, but sensitive words will be removed. Many in the Indian community and others think the book generates inter-racial conflict.

Shi'a Muslims, listed as a 'deviant' sect by Malaysia's Islamic law in this majority Sunni Muslim state, also continued to face difficulties. In May, in the central state of Selangor, authorities broke up a gathering of Shi'a who were celebrating the birthday of a daughter of the Prophet, on accusations of proselytizing. Four people were reportedly detained.

In August, police raided a Methodist-Christian Church in Selangor, accusing members of attempting to convert Muslims at a charity event, an accusation the group denied. Soon after, rallies against alleged Christian proselytizing were held across the country, organized by Himpun, an *ad hoc* coalition of Muslim groups pushing for a conservative, pro-Muslim Malay agenda.

In April, Abdul Taib Mahmud was reelected as Chief Minister of Sarawak – a forested state on the island of Borneo – continuing his 30-year reign over a state where 50 per cent of the population are indigenous people, collectively referred to as Dayak or Orang Ulu. Elections were marred by reports of vote-buying and intimidation of indigenous communities. International observers as well as local election monitors were reportedly not allowed into the state, and some indigenous people were not registered to vote because they had been denied national identity cards. At least 480,000 people (one-third of eligible voters), largely from rural areas affected by land-grabbing, are not registered to vote. Members of the Penan community say they have repeatedly sought identity cards but

their applications are never processed.

In 2011, accusations of corruption against the Chief Minister gained momentum: the UK government announced it would investigate accusations of money-laundering against him. Taib has notoriously provided business contracts to his family and associates for logging, hydro-electric projects and palm oil plantations in Sarawak. Three Chinese state-owned companies are helping to build a network of as many as 51 controversial dams to spur rapid industrial development. Many of these concessions have been granted in territories contested by indigenous peoples, whose rights are recognized under Malaysian law. Less than 10 per cent of Sarawak's forest is reportedly left intact, a figure hotly contested by the Chief Minister.

In June, the Malaysian national human rights institution, Suhakam, announced its National Inquiry into the land rights of indigenous peoples, and has so far received almost 900 land rights complaints. Suhakam plans to conduct a series of consultations in affected areas and release its report by June 2012.

Indigenous community attempts to enforce their traditional land rights in Malaysian courts have had mixed results. In September, members of indigenous groups lost their decade-long fight against state confiscation of land to construct the controversial 2,400-megawatt Bakun dam in Sarawak. The Federal Court ruled that the state had not violated their native customary rights. However, the Chief Judge of Sabah and Sarawak expressed concern that provisions in the land code seem to give wide powers to ministers to override customary land rights. In October, with the help of Sinohydro and China Export Import Bank, the dam became operational after nearly five decades of delays.

Indigenous groups won a victory in September, when the state government postponed the construction of the Baram dam, set to displace 20,000 people. Strong resistance from affected Kayan, Kenyah and Penan groups is thought to have been the impetus behind the decision. However, the dam will only be delayed for further social impact assessments and until the Baleh dam is complete, a project that will resettle fewer communities. Also in September, the High Court in Sabah and Sarawak ruled that the Forestry Department had issued illegal logging licences for land covered by native customary rights of the Krian people. It is hoped that this ruling will have positive implications for land rights cases pending in lower courts against state confiscation of indigenous ancestral lands; estimates of the number of cases vary from around 200 to over 300.

Philippines

Conflict and displacement affecting Philippines' minority groups continued during the first year and a half of Benigno Aquino III's presidency, both as a result of militarization and natural disaster. The Moro Islamic Liberation Front (MILF), a major armed Islamic group, is currently engaged in peace negotiations with the government. The Mindanao region, home to a significant number of Muslim Moro or Bangasmoro, has seen a long-running struggle with armed insurgency groups seeking autonomy in the majority Christian Philippine state. Negotiations resumed in February 2011. While an agreement was reached in December to create a functioning autonomous government for the Moros, negotiations are ongoing and will have to address the rights of minorities within Moro territory, a major cause of the breakdown in talks in 2008.

Mindanao is also the ancestral territory of indigenous groups, collectively known as Lumad.

In northern Cordillera, in the Luzon region, a variety of heterogeneous indigenous groups are collectively referred to as Igorot. Indigenous groups in the Mindoro region of the Vasayas are collectively called Manygyan. Many indigenous communities across the country have been drawn into the conflict between the central government and the New People's Army (NPA) – the armed wing of the Communist Party of the Philippines (CPP) that has been fighting for over four decades for a communist take-over. Communities have been accused of supporting the NPA and targeted by anti-insurgency operations of the Armed Forces of the Philippines (AFP). In February, the government resumed negotiations with the CCP-NPA in Oslo for the first time in six years. But talks stalled later in the year.

Both human rights defenders from indigenous communities and those supporting their rights

have been targeted for extra-judicial killings, threatened and harassed throughout the Philippines. During Aquino's first 18 months in office, the National Alliance of Indigenous Peoples in the Philippines (KAMP) recorded 13 indigenous rights activists killed, at least 4 of whom were resisting mining in their communities.

The AFP has long been implicated in these and other politically motivated killings over the last decade. Rudy Dejos, a B'laan indigenous community leader in Santa Cruz, Davao del Sur, was killed in February 2011 along with his adult son. According to HRW, Dejos' body showed signs of being tortured. He had previously been threatened by the AFP; the police blame the NPA, but his family is not convinced.

Conflicts relating to mining concessions in Moro and indigenous peoples' lands continued throughout 2011. The Xstrata-controlled Sagittarius Mines-proposed open-pit gold and copper mine in Tampakan, South Cotabato drew particular controversy. The company intends to push forward its application despite evidence of lack of free, prior and informed consent on the part of affected B'laan communities, as well as a province-wide ban on open-pit mining that was declared in 2010. The company claims it has the backing of local communities, while activists question whether those who support the project understand its environmental consequences. The mine will straddle the territory of four ancestral domains of the B'laan indigenous people. The project has led to a string of violent incidents in 2011, including the murder in February of a S'bangken indigenous leader who supported it. The NPA has attacked the mine in the past and warned of further violence if the project proceeds.

In January, Aquino instituted a counter-insurgency programme, the Oplan Bayanihan (OB), ostensibly to foster peaceful relations between conflict-affected communities and the military. KAMP has argued that it only increases militarization in indigenous areas. In October, the NPA attacked three mining operations in Surigao del Norte, killing three private security guards and damaging equipment. In response, the government agreed to allow mining companies to hire militias to protect their sites. A statement released by the Special Committee of the Koronadal Indigenous Peoples Women Gathering, an indigenous women's coalition, said: 'This sounds like a blanket call to intensify attacks against us.' According to KAMP, 60 per cent of the total land area of the Cordilleras has been approved for mining applications and operations. Indigenous communities in Pampanga and Cagayan Valley also contend with the massive influx of large-scale mines.

In November, the Internal Displacement Monitoring Centre (IDMC) reported that 34,000 people remained displaced following separate instances of heavy fighting between the AFP and MILF, as well as suspected renegade MILF groups, in October in Basilan and Zambonga Sibugay provinces. Drawing on UN Office for the Coordination of Humanitarian Affairs (OCHA) findings, the IDMC reported a total of 46,000 displaced at that time.

On 17 December, tropical storm Washi hit northern and south-western parts of Mindanao. By January 2012, over 1,200 had died in the flash floods. The devastation was exacerbated by deforestation, leading the Autonomous Region of Muslim Mindanao's (ARMM) recently appointed governor Mujiv Hataman to declare a logging ban in ARMM, at the behest of the central government.

Thailand

In July, Thailand elected its first female Prime Minister, Yingluck Shinawatra of the Pheu Thai party, younger sister of ousted Prime Minister Thaksin Shinawatra. Her supporters, mainly rural poor from the north, had previously filled the streets of Bangkok with their protests. Her leadership has since been tested by flooding in the central provinces and increasing violence in the south.

Conflict continued to plague Thailand's four southern-most provinces, where Malay-Muslims are a majority in this majority Buddhist state. Since 2004, these provinces have endured a violent separatist insurgency. Insurgents target civilians for extra-judicial killings and regularly detonate explosives in public areas. From 2004 to the end of 2011, nearly 5,000 people have been killed in the conflict. Thai military and security forces have been accused of arbitrary arrests, detention without charge and torture of Malay-

Muslim suspects, under the Emergency Decree and martial law.

Yingluck Shinawatra's Pheu Thai party won no seats in the south, but her campaign promises included increasing the number of Muslims permitted to attend the hajj and more public input into decision-making processes. According to Deep South Watch, a local conflict-monitoring organization, violence spiked in the month after Yingluck Shinawatra's appointment.

In December 2010, then Prime Minister Abhisit Vejjajiva attempted to quell the unrest through changes to the recently revived Southern Border Provinces Administrative Centre (SBPAC), a civilian body that oversees development and policy-creation. It can now receive complaints on mistreatment by security forces and has the power to discipline or remove officials or police officers. But by October Yingluck Shinawatra's Cabinet had replaced the administrative head of the SBPAC, to the disappointment of southern Muslims who saw this as a political appointment that did not reflect their interests. In December, the Cabinet extended the Emergency Decree for another three months.

Human rights defenders working to achieve justice for victims in the southern provinces continue to face threats. In April, the AHRC reported that Yaena Salaemae was being harassed by security forces for her work to achieve justice for the seven Muslims shot by security forces while peacefully protesting in 2004. A further 78 protesters had died after the group had been herded into trucks to be taken into detention.

In the case of the 2004 disappearance of lawyer Somchai Neelapaijit, who had also fought for the rights of Muslims, the defendants were acquitted in March on technical grounds.

Thailand's diverse indigenous peoples have also been engaged in a long struggle to defend their rights. Hundreds of thousands of indigenous people have been denied Thai citizenship, stemming from state neglect, corruption or rejections on the basis that many have migrated from Burma. In cooperation with NGOs and UN agencies, the government has enabled some to receive Thai citizenship, but in 2011 approximately 30 per cent or 296,000 of Thailand's indigenous peoples still lack citizenship. They are consequently denied access to health and education services, face restrictions on their movement and endure harassment by state authorities.

For decades, indigenous peoples have been forcibly evicted and relocated from their lands on grounds of national security, development and resource conservation. In the north, smaller mountain-dwelling ethnic groups, including Akha, Hmong, Karen, Lahu, Lisu and Mein, struggle to survive economically and culturally in the face of development projects, land-ownership issues and the influx of ethnic Thais.

In July, officials at Kaeng Krachan National Park, Phetchaburi province, stormed and burned a total of 90 homes and rice barns in a Karen village. Officials justified this as a means to prevent forest destruction, even though it is the constitutional right of these Karen to reside in the forests, as they have been on the land for generations. Many of the families remain displaced, some reportedly hiding in the forest without sufficient food or shelter.

On 3 September, Tatkamol Ob-om, a Karen community activist brought the case to the National Human Rights Commission. He was shot and killed on 10 September. A warrant was issued for the arrest of the park director Chaiwat Limlikitauksorn, who later turned himself into police, denying the charges. He has since been released on bail and has retained his role as park head, still justifying his violent evictions of the Karen village.

Forest officials have blamed Karen traditional swidden agriculture – pejoratively known as 'slash and burn' – for contributing to forest degradation and global warming. From 2005 to 2011, 38 cases of 'global warming' were brought against Thailand's indigenous forest-dwelling peoples, nine of which have been settled resulting in fines of over 18 million baht. Marine park conservation has also pushed indigenous Moken and other sea nomads off their territory, making it illegal to fish in protected waters. These and other such cases criminalize indigenous groups for practising their traditional livelihoods and residing in areas to which they have ancestral land rights claims.

Vietnam

January 2011 saw the reappointment of Prime

Minister Nguyen Tan Dung for a second five-year term in the Politburo of Vietnam's Communist Party (CPV), the ruling party in this tightly controlled one-party state.

Vietnam officially recognizes 54 ethnic groups, among whom the majority ethnic Kinh make up 86 per cent of the population. Ethnic minority and indigenous groups have significant populations in the northern highlands, central highlands and the Mekong delta region – including Hmong, Khmer, Muong, Tay and Thai. In the central highlands, in Gia Lai and Dak Lak provinces in particular, about two dozen indigenous groups collectively self-identify as Montagnards, many of whom are also Protestant Christians.

Vietnam's central highlands are rich in natural resources, including bauxite. In September, a Chinese-backed bauxite mine in Lam Dong province began operations, despite unusually high levels of public criticism about environmental consequences and Chinese involvement. Bauxite is a mineral used to produce aluminum, and, with the third largest reserve of bauxite in the world, the government has shown little regard for the concerns of central highland peoples, including over potential contamination of water resources as well as adverse impact on crops.

Land in Vietnam is state-owned – with individual land use rights – and can be re-appropriated for state interests. With forests and mineral-rich lands in minority and indigenous areas, state land confiscation can have a devastating effect on these communities. In her January 2011 report on her official visit to Vietnam in 2010, the Independent Expert on Minority Issues, Gay McDougall, noted the massive resettlement caused by the Son La hydropower plant, where 91,000 people belonging to ethnic minorities were relocated by 2010 – the largest resettlement programme in Vietnam's history. Ten different groups have been affected, the majority being ethnic Thai. The Vietnam Union of Science and Technology Associations reported: '[R]elocation is breaking down existing social structures and community relationships and creating trauma for minority groups … Most are left without any agricultural land.'

In May, seven land rights defenders, some of

Case study

Asia's Commission on Human Rights

The establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) on 23 October 2009 marked a momentous achievement for human rights in the region. But there is no explicit mention of the rights of indigenous peoples and minorities in its mandate and civil society organizations continued to push to include these rights in the draft ASEAN Declaration on Human Rights.

The AICHR has been criticized for getting tied up in procedural issues, failing to consult with civil society and for being unable to receive information officially from civil society groups about severe human rights violations. There is also concern about the independence of the commissioners, inadequate resources and an unclear protection mandate.

There is no specific mechanism for the protection and promotion of minority or indigenous peoples' rights within the AICHR. Civil society groups created an Indigenous Peoples Task Force in order to lobby and inform ASEAN and its relevant bodies, particularly to establish a focal person for indigenous issues and to establish an ASEAN Working Group on indigenous issues.

The team drafting the Declaration on Human Rights was formed by the AICHR and was expected to present its first draft in January 2012. The drafting process has been held largely behind closed doors and the terms of reference have not been made public. ■

whom also struggle for religious freedom, were tried for 'subversion' in the Ben Tre People's Court; all received prison sentences ranging from two to eight years. Pastor Duong Kim Khai was one of those found guilty. A leader of the Mennonite 'Cattle Shed' religious group – so-called because their church was confiscated by authorities and they began using a shed for worship – has assisted people in the Mekong delta with land rights claims.

The government maintains strict controls on freedom of religion, permitting only state-sanctioned religions, and using complex registration requirements, surveillance and intimidation to control the practice of faith. Religious activists and those practising 'unauthorized' religions are targeted by the government. In July, police arrested three Catholic activists as they returned from a conference abroad. Twelve more religious activists were arrested by the end of September, the majority of whom were later charged with 'subversion'. In December, Nguyen Van Lia, a 71-year-old who has raised international awareness about the situation faced by fellow-members of the Hoa Hao Buddhists, was sentenced to five years in prison for distributing 'anti-government' propaganda.

Vietnamese authorities continued to use violence and intimidation in the central highlands and north-west provinces, especially against Protestant ethnic minorities and others conducting 'unsanctioned' religious practices. Since the state restricts foreign media in these areas, it is difficult to get a clear picture. HRW, however, reported that thousands of Hmong Christians began protesting in the north-west province of Dien Bien at the end of April. This was met by a violent response from the military, with unconfirmed reports of numerous deaths and injuries. According to the BBC, the protesters demanded more religious freedom, secure land rights and greater autonomy.

Unrest over land rights and the struggle for religious freedom in the central highlands during the last decade has made the area a security concern for the government. In a 2011 report, HRW detailed how security forces have used violence, arbitrary arrest, imprisonment and torture, as well as forced public renunciations of faith and declarations of allegiance to the state, against indigenous Montagnards. HRW further reported that since 2001, more than 350 Montagnards have been imprisoned for public protests, attending unregistered house churches or trying to flee to seek asylum in Cambodia.

Vietnam has, however, demonstrated a sustained effort to collect disaggregated data on its ethnic minority populations in order to implement more effective development projects. In 2011 a recent study by the government in conjunction with UN agencies reaffirmed that ethnic minorities in Vietnam have worse health indicators, particularly for minority women, who had less access to reproductive health care than their majority counterparts.

East Asia

Marusca Perazzi

China

The year 2011 revealed unmistakable signs of ferment and frustration in Chinese society. Unsettled by the pro-democracy Arab Spring uprisings and the country's scheduled leadership transition in October 2012, the government launched the largest crackdown on human rights lawyers, activists and critics in a decade. This resulted in tightened internet censorship, persecution of high-profile critics, and an increasing number of forced disappearances and arbitrary detentions.

During 2011, the Chinese government continued to limit religious practice to officially approved religious institutions. There was a continued crackdown on unregistered religious organizations, including underground Christian groups. In April, the government pressured a Beijing landlord to evict the Shouwang 'house church' with 1,000 congregants from its location in his restaurant. Consequently, services were held outdoors attracting police attention and resulting in the temporary detention of more than 100 of its members. Thousands of Falun Gong spiritual practitioners, members of a group targeted by the authorities, continued to face intimidation, harassment and arrest. The

government continued to heavily restrict religious activities in the name of security in minority areas, particularly in Tibet and Xinjiang.

While ethnic minorities in China constitute only 8 per cent of the overall population, they inhabit large areas rich in natural resources, especially energy and minerals, in some of the most impoverished regions of the country. For example, Inner Mongolia has rich coal deposits; Xinjiang is known to have China's largest oil and gas reserves; Tibet has massive deposits of gold, copper and rare earths, as well as much of the country's water resources.

Over the past decade, these areas have been the target of the government's 'Go West' campaign. Ostensibly, the government's goal has been to reduce regional disparities and bring economic development to the western provinces and autonomous regions (Ningxia, Tibet, Inner Mongolia, Guangxi and Xinjiang); critics have defined the campaign as 'internal colonization', aimed at bringing large areas in minority regions under control so as to exploit their natural resources to support further development along the country's east coast.

During 2011, the Chinese government called for accelerated development in minority areas under its 12th Five-Year Plan (2011–15). Also in 2011, the US Congressional Executive Commission on China (CECC) reported that in ethnic minority autonomous regions the Chinese government continued to implement top-down development policies that have undercut the promotion of regional autonomy and limited the rights of minorities to maintain their unique cultures, languages and livelihoods, while bringing a degree of economic improvement. The government push on development also meant an intensification of the long-standing majority Han migration into minority areas. These new arrivals have disproportionately benefited from economic opportunities, which has caused resentment among ethnic minorities. Also, the environmental degradation that accompanies natural resource exploitation continues to exacerbate tensions.

Xinjiang Uighur Autonomous Region

The Chinese authorities have continued to

Left: A Tibetan monk sits in his room with a photo of the Dalai Lama and Karamapa on the wall at a monastery in Sichuan province, China. Photos of the Dalai Lama are prohibited in China but many monks carry one secretly. *Shiho Fukada/Panos.*

implement a repressive security regime in Xinjiang Uighur Autonomous Region, since violent riots broke out in July 2009 – the worst ethnic conflict in recent Chinese history. According to Human Rights Watch (HRW), the government has still not accounted for hundreds of people detained after the riots and continues to target human rights activists.

Tensions in the region have been exacerbated by increasingly tight controls over religious practice and use of minority languages. Government-led development projects have undermined the rights of Uighurs and other non-Han communities. Employment practices in both the private and public sectors have also continued to discriminate against Uighurs and other non-Han groups, who together comprise roughly 60 per cent of Xinjiang's population.

During the summer of 2011, the region was the scene of several violent incidents. In July, at least 18 people were killed when rioters, some armed with homemade explosives, attacked a police station in the city of Hotan. And on 30 and 31 July, at least 13 people were killed and 44 injured in two episodes in Kashgar, the state news agency Xinhua reported. Following these incidents, the authorities launched an anti-terrorism campaign in August, targeting illegal religious activity and implementing patriotic education campaigns.

In October, Xinhua reported that the government was considering new stricter anti-terrorism legislation, claiming that the country faced serious threats from Islamist groups. In December, police killed seven Uighurs accused of being terrorists in Pishan County, a Uighur-majority area near the Pakistan border. However, overseas Uighur groups said they doubted the official account of events.

Land seizures in the ancient Uighur city of Kashgar also stirred up resentment. Eighty per cent of traditional Uighur neighbourhoods in Kashgar were scheduled for demolition by the end of 2011, and many Uighurs have been forcibly evicted and relocated to make way for a new city centre, dominated by the Han population. Forced evictions have become a routine part of life in China amid rampant development. But rural land grab disputes hit new highs in 2011 and are spreading further into undeveloped regions of western China, according to an October report by Xinhua's magazine, *Outlook Weekly*.

Ningxia Hui Autonomous Region

Violence also broke out in the Ningxia Hui Autonomous Region in north-west China. On 30 December 2011, police clashed with ethnic Hui Muslims in Taoshan village. According to the Hong Kong-based Information Centre for Human Rights and Democracy, 50 people were injured and two people killed after authorities declared a newly refurbished mosque illegal and the police tried to demolish it.

Grassland policies

At a State Council meeting in April 2011, authorities called for 'more forceful policy measures' for 'speeding up development of pastoral areas, ensuring the state's ecological security, and promoting ethnic unity and border stability'. This strengthened ongoing grassland policies that impose grazing bans, and resettle herders, forcing them to give up their pastoralist lifestyle, which affects Mongols, Tibetans, Kazakhs and other minorities. Critics have questioned the effectiveness of such policies in meeting the declared goal of restoring degraded grassland, while affected communities report forced resettlement, inadequate compensation and loss of traditional livelihoods and culture.

Inner Mongolian Autonomous Region

During the year, rising ethnic tensions in the usually relatively calm Inner Mongolian Autonomous Region rattled the Chinese authorities. In May, a Mongolian herder protesting against the destruction of traditional grazing land was killed by a Han driver transporting coal in Uxin County. The incident sparked the worst demonstrations in two decades in Inner Mongolia. Protesters called for the government to respect herders' rights

and condemned the exploitation of grasslands. While the government executed the truck driver responsible, the mining project that caused the protest continued.

Further protests broke out when another herder was killed by an oil truck in a similar incident in October. This prompted the government to tighten security and cut off internet and mobile-phone access to large parts of the region, according to the Southern Mongolian Human Rights Information Center (SMHRIC). Mongolian herders continue to complain that their traditional grazing lands have been ruined by mining, that widespread desertification is turning the grassland to dust, and that the government has forcibly relocated them into settled houses.

Tibetan autonomous areas

The situation in the Tibet Autonomous Region, and other Tibetan autonomous areas of Qinghai, Sichuan, Gansu and Yunnan provinces grew increasingly tense throughout 2011. Since the brutal crackdown on protests that swept the plateau in 2008, Chinese security forces have maintained a heavy presence. Large numbers of Tibetans, including intellectuals, monks and farmers, have been imprisoned, and monasteries, seen by the Chinese government as the focus of dissent, have been subject to intensified controls and political pressure. Tibetans are increasingly economically marginalized, as development has brought an influx of majority Han Chinese into Tibetan regions; the newcomers dominate the job market, and local businesses as well as culture.

During the second half of the year, there was a wave of self-immolations mainly involving Buddhist monks and nuns across eastern Tibet. In March, a monk from the Kirti monastery in the Tibetan Ngaba region of Sichuan province set fire to himself in protest against Chinese rule and the ongoing repression of Tibetan religious and cultural identity. In August, local authorities imposed heavy prison sentences on three Tibetan monks who had assisted him. Ten more Tibetan monks and one nun had self-immolated by mid-November, all expressing their desperation in the face of ongoing repression. By March 2012, a reported 30 Tibetans had set themselves on fire in Tibetan areas of China to protest against

Case study By *Gabriel Lafitte*

Mining Tibet

Gold

Tibetans call the Plateau of Tibet 'the land surrounded by mountains'. Among the massive mountain chains, a few peaks are especially sacred, attracting pilgrims from afar. In rugged eastern Tibet, nowhere is as sacred as the hidden land of Kawa Kharpo.

The sacred Kawagebo mountain sits on the border between the Tibetan Autonomous Region and China's Yunnan Province; its eastern side is part of the Three Parallel Rivers area, a UNESCO World Heritage Site. In February 2011, a small gold-mining operation started near the village of Abin, which is on the western side of Kawagebo, along the path of an 800-year-old pilgrimage route that circles the mountain, attracting tens of thousands of Tibetans annually.

In 2012, Tibetan villagers, acting out of reverence for the holy peak, attempted to stop the operations of a Chinese mining company. The response was threats and violence from company representatives, then harassment and arrests by local police. On two occasions, men armed with wooden sticks with nails reportedly attacked villagers, injuring more than a dozen.

After efforts to negotiate with the local government failed, villagers pushed US$ 300,000 worth of mining equipment into the Nu River. A leader of the group was arrested, but later released when 100 villagers surrounded the local police station where he was being held. A few months later, however, mining resumed and tensions grew. Harassment, death threats and attacks on villagers increased, and some women and children fled to other villages to escape the violence.

On 20 January 2012, a village leader who had tried to confront the mining company was arrested by local police. Some 200 community members surrounded the police station, resulting in violence and injuries on both sides,

with at least one villager hospitalized with serious injuries. Hundreds more villagers from the surrounding area joined in. On 23 January, with tensions mounting, a local government leader ordered the mine closed and the equipment trucked out of the village.

This story represents a rare victory in the struggle against the despoiling of the landscape of Tibet. All too often, local Tibetan communities are powerless, knowing that any protest will be quickly labelled as 'splittist' and a challenge to China's rule, invoking a massive security presence to quell dissent. The Kawa Kharpo episode is remarkable, both because the villagers won and because the world got to hear about it, due to a brave conservationist from the Chinese environmental NGO Green Earth Volunteers, who witnessed the protest and reported it. Usually, such protests are not only swiftly curbed but all mention of them is repressed.

Mining is widespread in hundreds of locations across Tibet, despite official bans on small-scale gold mining in 2005 and 2007. The soaring price of gold, and the even faster rise in Chinese domestic demand for gold, has made Tibet a magnet for gold-seekers. The environmental cost of gold mining is extremely high, with cyanide and mercury being used in the processing, despite their toxic effects on those living downstream. The most systematic way of extracting gold in a river is to assemble a dredge, a house-sized machine on tracks, which crawls along, chewing up everything whilst gathering the specks of gold. These methods are highly destructive, yet Tibetans have been unable to form their own community associations, speak up, articulate their concerns and let the world know.

Hydroelectric power

Unfortunately, Abin is but one of many Tibetan villages threatened by economic forces. There is a greater overarching threat to the region, namely hydroelectric dam development. The government is increasingly turning to Tibet to solve China's impending water and energy crisis.

Along the Nu River (known as the Salween once it reaches Burma), the longest free-flowing river in mainland south-east Asia, a 13-dam cascade has been proposed. The scheme includes several dams in or very close to the World Heritage Site mentioned above; these would wipe out portions of the pilgrimage route around Kawagebo and displace numerous communities along the river valley. Although the project was put on hold in 2004 in the wake of widespread protest, it is certainly not dead.

Last year, the World Heritage Committee issued a statement expressing concern over reports of unapproved construction under way at one dam site on the Nu River, and surveying work – including road-building and drilling – at three others. But in February, Chinese officials revealed plans to resume the Nu River dams as part of China's ambitious hydropower plans to meet its renewable energy targets. The project will displace 50,000 people belonging to ethnic minorities, including Lisu, Nu and Tibetan people.

Nearly all the dams scheduled for construction in China by 2020 are in Kham, one of the three provinces of Tibet, which is now administratively fragmented into the Chinese provinces of Sichuan, Yunnan, Qinghai and Tibet Autonomous Region. Kham is not only a historically coherent province of Tibet, all of its counties and prefectures are officially designated as areas of governance by and for the Tibetans as a people. But west-to-east transmission networks will increasingly supply coastal China with electricity from Tibet, triggering serious questions as to whether Tibetans will benefit in any way. The Kham hydroelectric dam cascade is not for rural electrification, to provide light for nomad children to study by night and improve their school grades. It is not for Tibetan farmers to buy electric threshing machines for their barley crops, or for village millers to roast and grind the dried barley seeds to make *tsampa*, the staple of the Tibetan diet. The ultra high voltage lines will pass them by, en route to factories in Shanghai and Guangzhou. ■

government policies

The self-immolations have raised the level of tension and distress in Tibet to new heights. Security forces have used violence when raiding monasteries, searching for signs of allegiance to Tibet's exiled spiritual leader, the Dalai Lama, and arbitrarily detaining monks. Demonstrations, vigils and expressions of moral support for protesters seen as martyrs by the wider population have been met with ever tighter security clampdown. The wave of self-immolations has caused the central authorities considerable embarrassment but has resulted in no change in their repressive policies.

The recent acceleration in natural resource development has led to increasing conflict and protests in the region. The completion of the Qinghai–Tibetan railway in 2005 and new highways is spurring an economic boom in Tibet, including hydropower and mining (see case study on page 162). For example, Tibetans protested against the Gyama mine project, controlled by Vancouver-based China Gold and located just upstream of Lhasa in 2010. The mining operation has reportedly dried up spring waters, poisoned drinking water, killed animals and destroyed flora and fauna in the region. Despite this, in August 2011, China Gold announced that it will proceed with a major expansion of the project.

Across Tibet, nomads are being systematically and often forcibly relocated into settled communities as part of a policy known as 'ecological migration'. For example, since 2005, 50,000 Tibetan nomads have been relocated from the Sanjiangyuan National Reserve in Qinghai province on the Tibetan Plateau into unfamiliar urban areas where there are few economic opportunities. Some experts have pointed out that the locations of the recent self-immolations correspond, 'with a few exceptions', to areas of intensive resettlement. Social problems – such as high levels of unemployment and crime – have quickly emerged in these areas. The government's ostensible goal is to preserve fragile ecosystems and to counteract the negative impact of over-grazing. But during 2011, the boundaries of the reserve have quietly been redrawn to allow for large-scale gold mining by Inter-Citic, a Canadian mining company, near the source of the Yellow River.

The government is ramping up its hydropower ambitions in a bid to meet renewable energy targets, resurrecting projects previously shelved for environmental reasons. The NGO International Rivers has reported that China has begun to build a series of dams in ethnic minority regions of south-west China, including the Jinsha (upper Yangtze), Lancang (Mekong) and the Nu (Salween) Rivers.

Japan

The year 2011 was a very challenging one for Japan as it struggled to cope with the economic, social and political aftershocks of the most devastating earthquake and tsunami in 140 years, which struck the country in March. The disaster left 20,000 dead and many more homeless, and triggered the meltdown of three reactors at the Fukushima nuclear plant.

Although Japan promotes itself as a homogeneous society, the country has significant numbers of minority and indigenous groups, including Burakumin, and indigenous Ainu and Okinawans. Korean and Chinese minorities have had a long-standing presence, along with newer arrivals from South America and Asia, who continue to appear vulnerable to exploitation, prejudice and discrimination.

The estimated 200,000 Burakumin belong to a social minority of the same ethnicity as other Japanese but are nevertheless victims of deep-seated caste-based discrimination. Modern reforms, including regarding access to housing and employment, have improved social conditions to some extent, but the root causes of their marginalization – social discrimination and prejudice – have not been adequately addressed by the government.

Ainu were officially recognized by the government as indigenous settlers of northern Japan in 2008 but, to the disappointment of many activists, this recognition has failed to address problems of social and economic marginalization. Amid growing frustrations over the lack of tangible progress securing their rights, at the end of October, Ainu representatives formed their own political party. There are an estimated 30,000–50,000 Ainu in Japan. Research carried out in 2006 indicated that

the number of Ainu living on welfare was over three times the national average, and that the proportion of Ainu receiving higher education was one-third the national average.

Over the centuries, Ainu have been stripped of their land, resources and traditional livelihoods. More recently, Ainu people have been caught up in a struggle to control their ancestral waterways. A government plan to build a second dam on the Saru River in the Hidaka Region of Hokkaido has raised concerns about the rights of the Ainu people. The first Nibutani dam on the Saru River, the most important river for local Ainu, was completed in the 1990s. In a landmark decision in 1997, a district court judge ruled that the government had illegally expropriated land owned by Ainu farmers to construct the dam and recognized Ainu's cultural rights. The ruling did not reverse the all-but-completed dam, but the case set a precedent and, as a result, work on the second Biratori dam further upstream was delayed until 2010. And now, as it is going ahead, the Ainu community has become engaged in the construction process of the dam, aiming to ensure preservation of local Ainu culture.

But in other cases, the government has failed to uphold Ainu rights. In a collective statement made at the UN Permanent Forum on Indigenous Issues in May, the NGO Asia Indigenous People's Pact along with other civil society organizations accused the Japanese government of failing to fully implement indigenous rights. According to the statement, the Mombetsu city government in Hokkaido prefecture authorized plans to build an industrial waste dumping site near the Mobetsu River in February 2010, a sacred salmon spawning site for Ainu, without obtaining their free, prior and informed consent. The statement also condemned the heavy presence of US military bases in Okinawa territory as a form of discrimination against the Okinawan people. A new base is under construction at Henoko/ Oura Bay, plus six helipads elsewhere, despite long-standing opposition from local indigenous communities. In response to their protests, the authorities have filed a lawsuit forbidding local indigenous members to stage sit-ins at the heliport construction site.

In 2011, the Japanese government yet again failed to respond to requests by the UN Committee on the Elimination of Racial Discrimination (CERD) and the UN Committee on the Elimination of Discrimination Against Women (CEDAW) to provide economic and social data reflecting the situation of minorities, and data to expose the extent of violence against minority women. CEDAW has also requested data on the education, employment, social welfare and health status of minority women.

Taiwan

The 14 officially recognized indigenous groups in Taiwan make up about 2 per cent of the island's population (collectively referred to as '*yuanzhumin*') and mostly inhabit the central mountains and the eastern coastal region. Ami constitute the largest group, and they along with the Paiwan and the Saisiat communities are able to maintain a visible traditional cultural life. Other smaller groups (known as '*pingpu*' or lowland tribes) are still fighting for recognition. Other communities on the island include the majority Hokkien/ Minanese (69 per cent), Hakka (13 per cent) and more recent immigrants from mainland China and elsewhere.

While historically Taiwan's indigenous peoples have been discriminated against and deprived of fundamental freedoms including their land rights, in recent years the government has invested more funds to support indigenous peoples' culture. The Taiwanese government has also adopted a number of laws and regulations to protect indigenous peoples' rights, including with regard to political participation, culture and language. However, serious inconsistencies and contradictions in legislation alongside partial implementation of laws guaranteeing the rights of indigenous peoples have partly thwarted progress towards self-governance.

The government has pursued a policy of economic development which, according to local indigenous activists, has negatively affected indigenous peoples' traditional lands. Forested areas and land with mining potential have been claimed as national property; areas of natural beauty have been designated national parks for tourism; and the government has reportedly also taken large tracts of land from indigenous communities living in mountainous areas under

the pretext of national security. At the end of January, members of the Ami indigenous group protested against the government's occupation of their traditional land. Subsequent discussions with officials failed to make any progress. In June, about 300 Paiwan leaders and representatives from other indigenous groups demonstrated in Nantien village in Taitung County against government plans to build nuclear waste facilities. Also in 2011, academics and civil society and indigenous groups successfully managed to stop the construction of a section of coastal highway that would overlap with the ancient Alangyi Trail in south-west Taiwan and pass through previously untouched coastal forest used by indigenous people for hunting.

In June, indigenous groups rejected the draft Indigenous Autonomy Act, which sets out the legal framework and process for establishing autonomous regions for indigenous peoples, saying it was disrespectful, unconstitutional and violated the Indigenous Peoples Basic Law. Indigenous groups are concerned that the Act does not define or grant them rights to indigenous lands, and that if it is passed, they would lose much of their input into decision-making. This prompted activists to criticize the government in December for failing to implement the Indigenous Peoples Basic Law, as already passed by Taiwan's highest legislative assembly in 2005.

Ongoing protests are evidence that a number of indigenous communities have not benefited from Taiwan's economic boom, partly due to economic disparities and lack of proper access to education in their areas. Education is still a key issue, with endangered indigenous languages put at great risk of extinction, despite constitutional guarantees and the National Language Development Act.

On a positive note, in 2011 Taiwan's legislature adopted a law to implement the UN Convention on the Elimination of All Forms of Discrimination Against Women, and followed up by establishing a national Department of Gender Equality in 2012, both key steps to combat gender discrimination. Much remains to be done, since trafficking and child prostitution

Left: Taiwanese indigenous activists shout slogans during a protest outside the Executive Yuan in Taipei in January 2009. Hundreds gathered to protest against what they said was a lack of protection for historic land rights. *REUTERS/Nicky Loh (TAIWAN).*

remain significant issues. To combat such illegal practices, the Taiwanese authorities announced that they will adopt a zero tolerance gender violence policy, as well as judicial measures to strengthen protection mechanisms and improve law and order.

Oceania

Jacqui Zalcberg

Oceania is made up of some of the most ethnically diverse populations in the world. While Oceania is not often associated with large-scale resource extraction, the region is gaining increasing attention for its natural resources. For the small island states of Oceania, the sea remains a key resource, and many of the subsistence needs of the peoples of the region, including food security and livelihoods, are underpinned by marine resources. The explosive growth of Asian fish markets has put increasing pressure on Pacific marine resources and is affecting people's livelihoods. This has been compounded by the impact of climate change, where higher sea temperatures have led to loss of marine habitats which also impact on the fish and shellfish that support many coastal communities in the region.

Moreover, the rise of China as an economic power coupled with the high global demand for mineral resources has contributed to the accelerated pace of exploitation of previously untouched natural resources in the region. For example, a Chinese corporation is building its first large nickel mine in Papua New Guinea.

However, in many instances the economic benefits of these large-scale extraction projects have not properly benefited the indigenous peoples in whose lands, waters and territories these resources are found. Typically, weak Pacific island governments have allowed foreign companies to extract resources, principally timber, fisheries and in some cases minerals, with little benefit for their own peoples. This exploitation is causing loss of wildlife habitat and pollution of environments, which have an enormous impact on local peoples and communities. Moreover, as many indigenous communities throughout the region attach spiritual values to their surrounding ecosystems, the development of these projects impacts significantly on their cultural practices.

Other social ills plague the indigenous peoples of the region, most notably the extreme rates of violence against women and the exploitation of girls, with rates of abuse and rape in the Pacific among the highest in the world.

Fiji

Fiji has suffered four coups and a military mutiny since 1987, mainly as a result of tension between the majority indigenous Fijian population and an economically powerful Indian minority. Over five years have passed since the most recent 2006 coup d'état by Commodore Josaia Voreqe Bainimarama, who has since assumed the post of prime minister. During this time, Fiji's military government has been heavily criticized for its infringement of rights to free speech, press, peaceful assembly, and association. However, Bainimarama lifted martial law in January 2012 and indicated that consultations on a new constitution would begin shortly thereafter, with a promised return to democratic elections within the next two years. He has stated that it was a priority to end ethnic tensions, and to put an end to a system that classifies Fijians based on ethnicity. Regulations introduced when martial law was lifted raised fears that government critics could still be silenced.

Papua New Guinea

With more than 800 indigenous tribes and languages, Papua New Guinea has the most diverse indigenous population in the world. Papua New Guinea is also one of the poorest countries not only in Oceania, but in the world. The country faces some serious obstacles to development, with some of the worst health and education outcomes in the region, driven by high

levels of poverty and a largely rural population, often living in remote locations.

Geologically, Papua New Guinea contains many natural resources, including copper, gold, oil and natural gas. The government hopes that greater exploitation of the mineral wealth of the country will provide an opportunity to increase wealth and result in significant social and economic change. For example, the PNG LNG (Papua New Guinea Liquefied Natural Gas) Project operated by ExxonMobil subsidiary Esso Highlands, is the country's largest gas development project and is predicted to double Papua New Guinea's gross domestic product.

Yet the case of the PNG LNG Project highlights the tensions generated by many such development projects in Papua New Guinea. For example, the land upon which the project will take place is registered as state land and has been leased by the government of Papua New Guinea to Esso Highlands. However, local communities have filed a legal claim, citing their customary land rights. Moreover, in 2011, after a local boy died due to toxic poisoning from a project site, landowners forced the temporary closure of the Hides gas conditioning plant. A landslide in early 2012 destroyed communities living below a quarry used by the PNG LNG Project and was believed to have killed at least 25 people; the Red Cross feared that the final figure could be closer to 60 fatalities. Locals are demanding a full investigation into the connection between the quarry and the landslide, as a preliminary report failed to even make mention of the mine. There are fears that the increasing tensions between indigenous local communities and the company could lead to civil unrest in the region.

Other large-scale mining projects in Papua New Guinea are also being contested by local communities. Communities at Krumbukari in Madang Province are opposed to the development of the Ramu nickel mine. Arguably one of the richest nickel deposits in the southern hemisphere, the project, which is being run by a company jointly owned by the Chinese state company China Metallurgical Group Corporation (MCC) and the Australian-based Highlands Pacific, will result in the dumping of over 100 million tonnes of slurry waste at sea – a practice banned in both China and Australia. In 2010, indigenous community leaders challenged the validity of the mine's environmental permit, which was issued by the government against the advice of its own experts. In December 2011, however, the Supreme Court dismissed the appeal, ruling that the company can proceed with its activities.

The Barrick Porgera mine continues to be the subject of ongoing tension, particularly regarding the severe environmental impact and human rights abuses associated with mining. Human Rights Watch (HRW) published a report in 2011 detailing serious violations, including gang rape, committed by security guards against members of the local community. The company, Barrick Gold, conducted an internal investigation, but HRW pointed out that it should have acted before being prompted to do so. In 2011 a 'Request for Review' of the project was filed by two community groups and Mining Watch Canada against Barrick Gold under the Organization for Economic Co-operation and Development (OECD) Guidelines on Multinational Enterprises, alleging breaches of the guidelines regarding sustainable development, human rights and the environment. The Canadian OECD National Contact Point has jurisdiction over the matter as Barrick Gold is a Toronto-based gold mining company and owns 95 per cent of the Porgera mine through subsidiaries.

Australia

Indigenous Australia

The year 2011 has been a significant one for indigenous peoples in Australia. A referendum to recognize indigenous Australians and remove racially discriminatory provisions in the Constitution now seems likely, following a recently released expert report which received bipartisan support. The report recommended, among other things, the constitutional recognition of Aboriginal and Torres Strait Islander peoples, and the insertion of a prohibition on racial discrimination.

Another important national initiative to recognize the fundamental place of indigenous peoples in Australia is the National Congress of Australia's First Peoples, whose first board took office in July 2011. Established with the support of the Australian government, the Congress is

Above: The late Aboriginal elder Ned Cheedy, who worked to preserve the law and culture of the Yindjibarndi people in the Pilbara of Western Australia. *Juluwarlu Group Aboriginal Corporation/Alan Thomson.*

a national representative body for Aboriginal and Torres Strait Islander peoples, which has been notably lacking since the abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC) in 2005. The Congress is independent and will provide a formal national mechanism with which the government, the private sector and community groups can partner with indigenous and Torres Strait Islander peoples on reform initiatives.

Much attention in previous years was paid to the Northern Territory Emergency Response (NTER) laws, which put in place a number of extraordinary measures, including an income management regime, imposition of compulsory leases, and community-wide bans on alcohol consumption and pornography, purportedly to protect indigenous children and communities. These measures were internationally criticized as discriminatory and in breach of Australia's international human rights obligations. The federal government recently announced a new legislative framework intended to replace the NTER, the Stronger Futures in the Northern Territory Bill 2011. Yet a Senate Committee inquiry has already received criticism of the proposed legislation, namely that it extends many aspects of the measures introduced in 2007 as part of the NTER and continues to raise serious human rights concerns.

Statistically, indigenous Australians still continue to occupy the bottom rung across the full range of development indicators. Education, health and life expectancy indicators fall significantly below non-indigenous averages. Moreover, indigenous peoples are highly over-represented in the criminal justice system: according to figures released in 2011, the imprisonment rate increased by 59 per cent for indigenous women and by 35 per cent for indigenous men between 2000 and 2010. Indigenous people are 14 times more likely to be sent to jail than non-indigenous people.

Indigenous minors are particularly at risk; indigenous girls and boys are 23 times more likely to be imprisoned than their non-indigenous counterparts. The situation of extreme indigenous disadvantage has been addressed by a number of targeted nation-wide policies, most notably the 'Closing the Gap' strategy, launched in 2006 that has set clear targets to improve the lives of indigenous Australians. However, recent analysis indicates that the government is on track to meet only two of its six targets under this initiative.

While Australia has been found to contain a plethora of high-demand natural resources, the mining sector does not appear to have benefited indigenous peoples, upon whose lands these resources are often found. To the contrary, it appears that many traditional owners have not been properly consulted regarding the development of such projects on their lands, and many are outright opposed to their development.

For example, the Yindijbarndi people have been challenging a proposed project by Fortescue Metals Group to develop the Soloman Hub iron deposit in the Pilbara region. The land on which the iron ore is found is subject to a long-standing native title claim by the Yindijbarndi people, who have requested that emergency powers be invoked to stop the development. Yet in December 2011, the Minister for Indigenous Affairs of Western Australia removed or amended previously imposed conditions requiring the company to identify and protect Yindjibarndi heritage, allowing the project to proceed without key safeguards for the more than 200 sites of cultural significance contained on the proposed project site.

The Anindilyakwa traditional owners of the region near Groote Eylandt, off the Northern Territory coast of Arnhem Land, are also deeply opposed to the development of a project to undertake open-cut mining of manganese on the sea bed. The area has very important cultural significance for both the Waunindilyakwan, and the Nunnggubuyu peoples who inhabit the area; communities carry out burial rites and believe the sea is where reincarnation takes place. It is also a key source of subsistence and economic resources for the communities.

Another highly controversial project is the processing plant for an offshore gas hub off the Kimberley coast at James Price Point, Western Australia. A deal was struck between some of the indigenous traditional landowners of the region, Woodside Petroleum and the State of Western Australia. The agreement included a generous benefits package; foresaw high-level cultural and economic engagement from traditional landowners in the proposed project; and gave traditional landowners rights to oppose the development on environmental grounds, in return for foregoing native title claims over that land. The deal caused a lot of tension within the community. Opponents of the project claimed that not all traditional landowners were consulted, that the project would destroy ancient Aboriginal sacred sites, and that it was pushed through under the threat of compulsory acquisition. In December 2011, the Western Australian Supreme Court ruled the notices of compulsory acquisition invalid, but state authorities and the company insisted that the decision would not stop the project.

Indigenous peoples also fought the proposal to build the Limmen Bight iron ore mine inside Limmen National Park in 2011. The project would involve the construction of a pipeline out to Maria Island in the Gulf of Carpentaria, which would impact on the land and waters of the Marra people, for whom the island is a deeply sacred site. The community are not opposed to the mining project per se, but they have objected to the transport of the ore via pipelines through traditional sacred areas.

To mitigate some of the concerns around the dominance of the resource industry, including environmental issues, and to ensure that the Australian society as a whole benefits from the resource boom, an important national discussion evolved around a government proposal to introduce a controversial 30 per cent minerals resource rent tax (MRRT or mining tax) on big mining companies. After much discussion, the tax cleared the first major hurdle, passing through parliament's lower house and will go to the senate in early 2012, with predictions that it will enter into force later in the year.

Minorities and migration

Topics of migration and asylum-seekers continued to capture Australian national

attention. In 2011, a number of boats transporting migrants ran aground or sank in Australian waters, leaving many people dead, including women and children. Nevertheless, the Australian government maintained bipartisan support for its mandatory detention policy for all refugees and asylum-seekers. While the government has indicated a shift in policy to release all children from detention, there still appear to be numerous minors mandatorily detained for extended periods. A government proposal to send 800 asylum-seekers to Malaysia in return for 4,000 processed refugees, the so-called Malaysia Solution, was declared unlawful by the High Court of Australia. The government has declared that it will pursue the initiative through legislative amendments.

Strong political desire to criminalize and prosecute all aspects of illegal migration led to the passing of anti-people-smuggling laws with mandatory minimum sentences in 2011. The laws have resulted in the arrests of over 493 people, however criticism of the scheme has been strong. In particular, of those charged under these offences, only six people were actual organizers or facilitators of the smuggling operations. The rest are reportedly deceived into working on these ships as crew members, and thus may themselves have been victims. Moreover, some of the detained crew members claim to be children, yet the processes used to determine their age are such that, to date, all are nonetheless held in adult prisons.

New Zealand

New Zealand's general election, held in November 2011, saw the incumbent Prime Minister, John Key of the National Party, retain his position. The Maori Party won three seats, down two from the previous election, and has formed a coalition government with the National Party.

The Maori enjoy a relatively strong position in society compared to other indigenous peoples around the world, thanks to the Treaty of Waitangi. New Zealand also has a very sizeable minority population of Pacific Islanders, and an Asian minority community. Both Maori and minority groups are often, however, in situations of economic and social disadvantage. A recent study on infectious diseases has illustrated that Maori and Pacific Islanders suffer from higher rates of disease and are twice as likely to be hospitalized as those New Zealanders of European heritage. Asians are the minority group most often perceived to be discriminated against.

Maori have long been seeking more secure protection of their treaty rights through constitutional provisions. The government recently announced that it is planning to undertake a constitutional review process, which will include a review of Maori representation, the role of the Treaty of Waitangi and other constitutional issues.

Regarding mining, New Zealand has a wealth of as yet untapped natural resources. The current government has put economic growth at the top of its agenda and is keen to emulate Australia's mining success. One proposal tabled was to open mines in national parks and other protected lands. The strength of the public backlash led to the proposal being abandoned in 2010; however, the government is now working with community leaders on the possibilities of mining on Maori-owned land.

The controversial Marine and Coastal Area Bill, which replaces the much-debated Foreshore and Seabed Act 2004, was passed in 2011 in parliament. The original act vested the ownership of the public foreshore and seabed in the government, thereby extinguishing any Maori customary title over that area, while private title over the foreshore and seabed remained unaffected. The act was strongly criticized as being highly discriminatory against the Maori community, by both Maori themselves and international actors, including the UN Special Rapporteur on the rights of indigenous peoples, and the UN Committee on the Elimination of Racial Discrimination. The new bill purportedly restores the customary interests extinguished by the Foreshore and Seabed Act. Yet in order to obtain customary marine title under the new law, a Maori group must prove that it has used and occupied the area claimed according to custom (*tikanga*) without substantial interruption from 1840 to the present day, and to the exclusion of others, which is an extremely high threshold. ■

ICELAND
ATLANTIC OCEAN
NORWAY
SWEDEN
FINLAND
RUSSIA
ESTONIA
LATVIA
LITHUANIA
Kaliningrad (Rus.)
IRELAND
UNITED KINGDOM
DENMARK
BELARUS
NETHERLANDS
GERMANY
POLAND
BELGIUM
LUXEMBOURG
CZECH REP.
UKRAINE
SLOVAKIA
FRANCE
SWITZERLAND
LIECH.
AUSTRIA
MOLDOVA
HUNGARY
SLOVENIA
ROMANIA
CROATIA
BOSNIA AND HERZE.
SERBIA
MONTENEGRO
BLACK SEA
GEORGIA
PORTUGAL
ANDORRA
MONACO
SAN MARINO
AZERBAIJAN
SPAIN
Kosovo
BULGARIA
ARMENIA
MACEDONIA
AZER.
ITALY
ALBANIA
TURKEY
GREECE
CYPRUS

Europe

Katalin Halász

The year 2011 marked the tenth anniversary of the 11 September 2001 attacks on the United States. These al-Qaeda attacks and subsequent incidents in European cities, with bombings in Madrid in 2004 and London in 2005, fuelled fears that immigrants and ethnic, religious and linguistic minorities could present a security threat in Europe. European policy-makers responded by tightening immigration laws and imposing stricter controls over newcomers. New or strengthened anti-terrorism laws have had profound implications for migrant and minority communities.

The events of September 2001 also served to compound existing Islamophobia. Right-wing commentators have ramped up fears in recent years, amid growing economic and social problems caused by the global recession. The European Network Against Racism (ENAR) and other human rights groups used the anniversary to appeal to European countries to move away from the politics of fear and acknowledge human rights abuses committed during the so-called 'global war on terror'. In May, Council of Europe Commissioner for Human Rights Thomas Hammarberg voiced his concern that the official responses to the attacks have undermined human rights in Europe, while at the same time he called for respect to be paid to those who lost their families and friends. Islamophobia continues to rise. According to figures released by the French Interior Ministry, 115 cases of attacks and harassment against Muslims were reported to police in France in the first nine months of 2011; the Muslim umbrella group, Conseil Français du Culte Musulman (CFCM) commented that the figure was probably a gross underestimate since many cases go unreported. CFCM feared that these figures will increase ahead of the 2012 general election, as the main political parties remain divided in an ongoing national debate on secularism and the place of Islam in French society.

In April 2011, France became the first country in Europe to ban wearing a full-face veil, *burqa* or *niqab*, in public, which some Muslim women regard as a religious duty. In July, a law banning the full-face veil also came into force in Belgium; and in February the central German state of Hesse forbade public sector employees from wearing the garment. These measures not only stigmatize minority women but also risk effectively excluding them from access to essential social services.

Right: Migrants from Libya, being transported to Lampedusa, Italy. These people were among almost 500 people rescued from a skiff in the Mediterranean Sea. *UNHCR/F. Noy*

An event shook the continent on 22 July, when two attacks – in the Norwegian capital of Oslo and on the nearby tiny island of Utøya – claimed the lives of 77 people. As it emerged that the perpetrator of the gruesome massacre, Anders Behring Breivik, had links to extreme right-wing groups, the European Union's (EU's) Fundamental Rights Agency (FRA) and EU politicians warned against xenophobia and growing intolerance in Europe.

The far right continues to grow across Europe, espousing an ideology that openly embraces hard-line nationalist, anti-immigrant and xenophobic rhetoric. In some EU countries – such as Sweden, Finland, Hungary and the Netherlands – far-right parties have experienced sudden electoral successes in recent years. However, in other countries, such as France, Italy, Austria, Denmark and Switzerland, where they are an established part of the political architecture, far-right parties have experienced varying degrees of electoral support in 2011.

In France, Marine Le Pen, the daughter of Jean-Marie Le Pen took control of the 38-year-old National Front party in January 2011 and recorded increased support in the first round of the 2012 presidential election. Swiss and Danish far-right parties lost ground in the 2011 national elections, showing a positive shift away from their decades-long influence on mainstream politics.

But in Germany and in the Czech Republic, extremists and neo-Nazi groups took to the streets. In May 2011 around 150 neo-Nazis tried to march through the mainly alternative district of Kreuzberg in Berlin. Participants in the march chanted '*Wahrheit macht frei*' ('The truth makes one free') – a slogan resembling the one at the gates to several Nazi concentration camps, such as Auschwitz and Dachau, '*Arbeit macht frei*' ('Work makes one free'). In Dresden 17,500 protested against the annual neo-Nazi

march to mark the anniversary of the bombing of the city during the Second World War. Neo-Nazi gatherings and marches took place in other towns and cities across the country, which is fighting a hard battle against extremism. Far-right supporters also faced opponents in the Czech city of Brno in May, when eight extremists were detained, including one German. In Italy, a member of an extremist group killed two Senegalese traders and injured others in December in an attack that was condemned by Italy's President Giorgio Napolitano as a 'blind explosion of hatred'.

The popular protests and ensuing unrest in North Africa and the Middle East in 2011 brought thousands of migrants and asylum-seekers to European shores.

The UN estimated that at least 1,400 people died crossing the Mediterranean in the first seven months of 2011, most as they tried to flee Libya. The UN refugee agency UNHCR urged European states to improve their mechanisms for rescue at sea. In May, a delegation of the Committee on Migration, Refugees and Population of the Parliamentary Assembly of the Council of Europe (PACE) visited Lampedusa, a tiny Italian island in the Mediterranean Sea, where large numbers of those fleeing North Africa were arriving, and called for rapid action. But prior to the visit, the EU rejected Italy's call for help with funds and accommodating migrants, criticizing the country for raising false alarms. In fact, according to UNHCR, over 55,000 boat migrants, including at least 3,700 unaccompanied children, reached Lampedusa from North Africa in the first seven months of the year. By September, the Italian authorities declared the island an unsafe port. The decision was taken in the wake of violent disturbances which saw Tunisian migrants damage the island's reception centre and other buildings.

Amid fears of a flood of North African migrants, European countries' first reaction was to close their borders and to press for re-admission accords with governments in the Middle East and North Africa. Italy and France proposed a radical revision of the Schengen Agreement – the regime of passport-free travel within the EU's borders – in order to allow member states to restore border controls. The agreement covers more than 400 million people in 22 EU countries, as well as Norway, Switzerland, Liechtenstein and Iceland. Germany, the Netherlands, Greece and Malta also supported the move to curb freedom of travel, one of the cornerstones of an integrated Europe, while still underlining the importance of an 'open Europe'.

This policy shift followed the Danish government's decision to reintroduce security

checks at the country's borders with Sweden and Germany. But after the European Commission criticized the 'unjustified' new border controls, the new centre-left Danish government agreed to roll back the controversial policy. However, at an emergency meeting on immigration and the Schengen Agreement in June, EU leaders agreed to establish a 'safeguard mechanism' allowing the reintroduction of internal borders in exceptional circumstances. The European Council President Herman Van Rompuy insisted this did not weaken the basic principle of free movement of persons, stating that 'the mechanism now allows "as a very last resort" the exceptional reintroduction of internal border controls in a truly critical situation'. But the move to reinstate internal border checks in the EU's Schengen zone was sharply criticized by Commissioner Hammarberg: 'It is proof that Europe is not living up to its own declarations about human rights', he said.

In its annual review of the application of the EU's Charter of Fundamental Rights, the FRA underlined three major concerns: member states' poor treatment of asylum-seekers; continuing social exclusion of the Roma; and poor personal data protection. The FRA also provided evidence on the persistent discrimination against minorities in many areas of life, including employment, education, housing and health care. Both the FRA and the European Parliament repeated calls for the adoption by EU member states of the draft anti-discrimination directive, which was proposed in 2008. But Germany and other member states halted any dialogue on the draft, which would add to the existing EU anti-discrimination legislation by forbidding discrimination based on religion or belief, disability, age or sexual orientation in access to goods and services, education and social benefits.

Recent surveys show that discrimination is rife in Europe – both within EU member states and beyond EU borders. In February, the FRA published its first ever EU-wide survey on multiple discrimination. The survey showed that people belonging to 'visible' minorities, such as people of African origin and Roma, are more likely to be discriminated against on more than one ground compared to other minorities. Surveys on discrimination outside the EU confirm the high degree of discrimination faced by many minorities in Europe. The Macedonian Centre for International Cooperation found that 67.7 per cent of the interviewees believe people suffer from discrimination on an ethnic basis. An opinion poll carried out by the Centre for Democracy and Human Rights in Montenegro revealed that one-fifth of the respondents did not want an ethnic Albanian neighbour.

Right: Roma children at the village of Cetățeni, Romania. *Cinty Ionescu.*

The 2011 European Commission on Racism and Intolerance reports on Azerbaijan, Cyprus and Serbia also highlight concerns regarding the institutional and legislative frameworks to combat racial and religious discrimination. The Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities welcomed a number of measures Armenia has taken to further the implementation of the Framework Convention but, in a report issued in April, pointed to the lack of comprehensive anti-discrimination legislation, as well as the urgent need to take action to protect minorities from racially motivated violence, and promote minority cultural, media and linguistic rights.

Roma

Europe's 10–12 million Roma continue to face a climate of increasing violence, harassment and intimidation across the continent. Roma communities, who live dispersed across Europe, were targeted for mass expulsions and evictions throughout 2011. The French government's campaign to evict and deport Roma, which attracted strong international criticism in 2010, continued aggressively in 2011. In June, the French Interior Minister Claude Guéant announced plans to return as many as 28,000 allegedly illegal immigrants in 2011.

Roma continued to be targeted for ongoing evictions in other countries in Europe. According to the European Roma Rights Centre (ERRC), evictions were carried out during 2011 by Albania, Bulgaria, France, Italy, Macedonia, Romania, Serbia, Slovakia and the UK. Between April and October, 46 evictions affecting 5,753 people were recorded by the organization in

France. Between June and August, at least 500 Roma were evicted from camps in Marseille. The Italian authorities have also been aggressive in pursuing a policy of evictions, affecting thousands of Roma in both Milan and Rome in recent years. Between April and December, ERRC monitored 131 evictions (usually affecting many households at a time) in Italy. Roma support groups reported evictions taking place during the spring of the Roma community in the Magliana aqueduct area of Rome, several families in the Piazza Lugano settlement in Milan and a family in Prato. With no alternative accommodation being provided, these clearances had disastrous consequences for the affected families.

In northern Romania, the local authorities of Baia-Mare erected a concrete wall to separate a Roma community from the rest of the town. In response to criticisms of institutionalized racism and ghettoization, the mayor of the town claimed that the wall was to protect citizens against car crashes.

In Portugal, the municipality of Vidigueira destroyed the water supply of 67 Roma (including children, pregnant women and elderly people) in February. After an intervention by ERRC, the authorities restored the water supply, but the reconnection was not made known to residents and living conditions remain deplorable.

In Serbia in June, Police Minister Ivica Dacic issued an official apology to a Roma family, four years after their son was brutally beaten by police in the eastern city of Vrsac. Police brutality is widespread in the country according to human rights groups. ERRC also raised concerns about disproportionate use of police force in Lviv city in western Ukraine, and urged authorities to investigate unlawful discriminatory identity checks of Roma youth, including fingerprinting and document verification without any allegation of involvement in criminal activities.

In Hungary, Roma were targeted by a far-right vigilante paramilitary group – 'For a Better Future'. The group deployed patrols in the northern village of Gyöngyöspata. The intimidation reached its peak in March, when 1,000 black-uniformed neo-Nazis marched through the village with dogs and armed with

whips and chains. These incidents prompted the UN Special Rapporteur on racism, Githu Mujgaj, to visit the village in May and meet with representatives of the Roma community, local politicians and police authorities. He said that the country had yet to effectively tackle racism, xenophobia and related intolerance.

Forced sterilization of Roma women remains an unresolved issue in some countries. Roma women in the Czech Republic are still waiting for adequate redress for irreparable injuries two years after the Czech government under Prime Minister Jan Fischer expressed regret for individual sterilizations. However, a 20-year-old woman won her human rights appeal against Slovakia before the European Court of Human Rights (ECtHR) in November. In its first judgement on sterilization, the Strasbourg court ordered Slovakia to pay €43,000 in damages for violating the human rights of a woman who was sterilized without her informed consent.

Amid growing controversy, the European Commission adopted the EU Framework for National Roma Integration Strategies in June. This was welcomed as a step forward and will enable the EU to take steps to fight anti-Roma discrimination and racism. But MRG has pointed out that the Framework, by narrowly focusing on the social and economic situation of Roma, falls far short of fully tackling the challenges of Roma exclusion. It remains to be seen how well the European Commission and the member states convert the Framework's human rights commitments into tangible and ambitious national strategies that are effectively implemented. Sadly, only 15 out of 27 EU member states had met the end of 2011 deadline for submitting national integration strategy reports.

Bulgaria

Issues concerning ethnic and religious discrimination featured prominently in public debates in Bulgaria in 2011. The mistreatment of the Roma community – who make up more than 10 per cent of the country's population and are the country's second largest ethnic minority after ethnic Turks – continued to remain a grave concern. Gay McDougall, UN Independent Expert on Minority Issues,

Case study

Corporate abuse flows along the Baku–Tbilisi–Ceyhan oil pipeline

Early in 2011, the UK government ruled that a BP-led oil consortium was not carrying out the human rights responsibilities of multinational companies in its operations on the controversial Baku–Tbilisi–Ceyhan (BTC) oil pipeline. The 1,770 km pipeline runs from offshore oil fields in the Caspian Sea near Azerbaijan's capital Baku, to Tbilisi, the capital of Georgia, and on to the port of Ceyhan on the southern shores of Turkey in the Mediterranean Sea. Construction of the BP flagship project started in 1993 and was completed in 2006. BP has consistently promoted the BTC pipeline project as exemplary in its approach to human rights.

The ruling followed a complaint lodged in 2003 by a group of six NGOs and human rights organizations under the Organization for Economic Co-operation and Development's (OECD's) Guidelines for Multinational Enterprises. The BTC pipeline passes through areas with significant ethnic and religious minorities; Kurdish villagers living in north-eastern Turkey have struggled to hold the consortium accountable for alleged human rights abuses associated with its development. Between 2003 and 2005, the NGO coalition conducted annual fact-finding missions to areas along the route of the BTC pipeline in the three countries.

The coalition found that the BTC consortium had failed to ensure that the project complied with OECD guidelines and the Voluntary Principles on Security and Human Rights, which say that: '[C]ompanies should record and report any credible allegations of human rights abuses by

public security … Where appropriate, companies should urge investigation and that action be taken to prevent any recurrence.' Since the inception of the project, human rights campaigners in Turkey and the UK have been alarmed that Kurds and members of other local communities have faced intimidation and interrogation by security forces when they have raised objections to the pipeline. Ferhat Kaya, a local human rights defender, was reported to have been detained and tortured by the paramilitary police for insisting on fair compensation. The coalition argued that intimidation deterred local people from participating in BP's consultations about the BTC pipeline's route and from seeking compensation for loss of their land and livelihoods.

The group also found that, in Turkey, the BTC project has contributed to displacement of the Kurdish minority, who have been subject to state repression for decades. In north-eastern Turkey, where Kurds constitute 30–40 per cent of the local population, displacement has been less a result of direct military action against the supporters of the Kurdistan Workers' Party (PKK) – which was more the case in other parts of the country – but was due to gradual economic pressure and state harassment. Affected villagers described the BTC pipeline as an added pressure on them to leave; it disrupted their subsistence agricultural production without providing any compensation or alternative source of income. There were also allegations that the BTC project discriminated against ethnic minorities in relation to employment practices and in the carrying out of development programmes.

In Georgia, concerns were raised about expropriation of land, poor environmental standards, lack of consultation or compensation for damage caused, unacceptable use of untested materials during construction and labour violations. In Azerbaijan, serious concerns were raised over compensation for land, corruption and restrictions on local press and affected communities regarding criticism of the project. But the most serious issues relating to minorities were raised in Turkey. The UK government ruled that, despite widespread awareness of the heightened risk of intimidation, BP failed adequately to respond or to investigate allegations brought to its attention of cases of abuse by state security forces in Turkey guarding the pipeline.

The ruling could set a new precedent for multinationals to implement more robust human rights impact assessments. Rachel Bernu of the Kurdish Human Rights Project reflected on the ruling, saying that:

'It has taken eight years for the claims of villagers facing repression in this isolated area of Turkey to be recognized. We hope this ruling marks a turning point for the governments and companies involved so that villagers receive just compensation, and human rights are not only respected but also promoted through investment in future.' ■

visited the country in July in order to assess the situation of minorities – particularly Roma, Turks and other Muslim minorities. She concluded that government measures to address the deep-rooted discrimination, exclusion and poverty faced by Roma have been superficial and inadequate. Bulgarian government commitment to Roma equality remains weak: Roma unemployment rates are peaking at 80 per cent; in the capital, Sofia, 70 per cent of the Roma population lives in dwellings without access to basic infrastructure such as running water, sewerage, paved streets, waste collection or street lights. The current financial crisis has put a strain on resources, but, as highlighted by the Independent Expert, the government's current inconsistent pilot project-based approach will never be sufficient to address these socio-economic challenges.

Roma have also been the victims of forced evictions. Although the government, in its third periodic report on the implementation of the International Covenant on Civil and Political Rights, stated that Roma were only evicted after extensive legal procedures were carried out, giving Roma time to find alternative accommodation, reports by the Bulgarian Helsinki Committee, ENAR Bulgaria and Justice 21, a Bulgarian human rights organization, do not support this view. The Bulgarian Helsinki Committee pointed to large-scale house demolitions in Sofia and Burgas in 2009, and in Yambol and Maksuda in 2010, noting that few if any alternatives were provided and that the evictions were often accompanied by excessive use of force.

In September, an incident in Katunitza, in which a Bulgarian teenager was killed by a Roma driver allegedly linked to a notorious crime-boss, the self-proclaimed 'Gypsy Tsar' Kiril Rashkov, sparked violent clashes in the village. Anti-Roma protests spread across the country. The right-wing party Ataka held demonstrations and demanded tough action from the government, even calling for the death penalty to be reinstated in the country.

Prime Minister Boyko Borisov came under criticism for not reacting quickly enough to the unrest. The ERRC and Amnesty International urged the Bulgarian authorities to protect Roma and to conduct a full investigation and prosecution of all responsible perpetrators. The UN also voiced deep concern about the anti-Roma rallies and accompanying hate speech. Although incitement to racial hatred and discriminatory public communication are prohibited under Bulgarian law, these provisions are rarely enforced. MRG has stated its alarm that non-enforcement of the law creates a sense of impunity and erodes what little mutual trust remains between Roma and non-Roma communities.

These events stirred up panic among other minority communities as well. Turkey's *Hürriyet* newspaper reported that the Turkish community in Bulgaria feared a nationalist backlash in the wake of the anti-Roma rallies. And on 20 May, Ataka provoked clashes with Muslims gathered for Friday prayer at the Banya Bashi mosque in Sofia, protesting against the use of loudspeakers to issue the call to prayer. Bulgarian politicians condemned the ensuing violence and desecration of religious symbols.

Shortly after, the ruling political party GERB distanced itself from the far-right Ataka by proposing a declaration adopted by the parliament which condemned the attack on the mosque. The secretary of the Chief Mufti's Office, Husein Hafazov, provided a detailed account of numerous cases of harassment of Muslims in Bulgaria, including: threats against Muslim women wearing headscarves, setting dogs on them and spitting, painting the walls of religious schools and mosques with anti-Islamic slogans, destroying mosques and religious property, and physical attacks.

Other religious minorities also suffered from harassment, physical attacks and damage to property in 2011. The Jewish community has long suffered from anti-Semitic attacks. In 2011, a Jewish organization, Shalom, published its first bulletin on 'Anti-Semitic actions in Bulgaria in 2009–2010', which includes a long list of acts of religious desecration and damage to religious buildings. In April, the House of Prayer of Jehovah Witnesses, a legally registered religion in Bulgaria since 2003, was violently attacked in a rally organized by VMRO (the International Macedonian Voluntary Organization) in Burgas.

Greece

On 3 January 2011, the Minister for Citizen Protection, Christos Papoutsis, announced plans to build a 12.5 km fence along its border with Turkey, to prevent undocumented migrants entering the country. The minister stated that some 128,000 migrants and asylum-seekers reached Greece in 2010, more than 40,000 of them crossing the border from Turkey at the Evros border post. Greece's land border with Turkey is more than 200 km long, running mostly along the Evros River, and is increasingly used by Asian and African migrants to enter the country since traditional routes across the central and western Mediterranean have been blocked by strengthened maritime surveillance and bilateral repatriation deals between Italy and Spain with various African countries. But it is unlikely that a 12.5 km fence will prevent waves of immigrants from flowing into the country.

Various agencies, including the European Commission, UNHCR and the International Organization for Migration, expressed concern that the fence would simply make migrants more dependent on people-smugglers and therefore more vulnerable. Fears that many more would drown in the river at the hands of smugglers are compounded by serious shortcomings of the Greek asylum system, which has been described as 'dysfunctional' by the UNHCR. The FRA carried out a field research mission in the Evros region in January and concluded that the humanitarian situation of asylum-seekers and migrants, particularly those held in detention centres, was extremely worrying.

Despite the international outcry, the Greek government moved ahead with plans to build the fence. 'We have unemployment and serious problems', commented Papoutsis, who denounced the 'hypocrisy of those who criticize'. Just days after the announcement of plans to build a fence, Papoutsis put forward a plan to use floating prisons and old army bases to house undocumented migrants. Greece's administrative court subsequently approved the plans to build a fence, and construction began in February 2012, despite the EU's refusal to fund the project.

Also in January 2011, the Greek parliament passed a new law to remove control of asylum-seekers from the police and hand it over to a new asylum service that will deal with a backlog of applications. The law also puts in place a procedure for appeal following the rejection of an asylum request. The move comes after repeated delays. In 2011, the largest groups of people came from Afghanistan (with 44 per cent), as well as Algeria (16 per cent), with other smaller groups arriving from Pakistan, Somalia and Iraq.

In September 2011, Human Rights Watch (HRW) raised grave concerns regarding the conditions of migrants and asylum-seekers kept in detention. Unaccompanied children, single women and mothers with children are housed with unrelated adult men in overcrowded conditions. HRW accused the EU and its member states of becoming 'complicit in Greece's shameful conduct' when a multinational team of FRONTEX (the EU border agency) border guards were deployed along the Turkish border and helped Greece apprehend and detain undocumented migrants. At the same time, the ECtHR fined the Belgian and Greek authorities after Belgium had sent an Afghan back to Greece. In December, the European Court of Justice advised courts in the UK and Ireland that transfers of asylum-seekers to Greece should not take place if their human rights would be jeopardized. By the end of the year, Germany, the UK, Sweden, Norway and Iceland had suspended transfers of asylum-seekers to Greece because of the poor conditions awaiting them there.

The impact of the worst economic and social crisis in Greece's recent history has been felt among the country's minority and migrant populations. The Turkish minority in Western Thrace has been severely affected economically, according to the Anatolia News Agency, as a result of the collapse of the local tobacco industry and small businesses that were their primary source of income. Government restrictions on tobacco-growing had affected the local Turkish community even before the economic crisis, and the small number of factories left in the region have gradually closed.

The economic crisis has weakened migrant workers' labour rights, rendering this group increasingly vulnerable. On 25 January, 250 migrants in Athens and 50 in Thessaloniki began a hunger strike to protest against their living conditions and insecure legal status. The strike

ended after six weeks when the government offered a deal for them to obtain residence permits, which ensure continuous employment and social insurance payments.

The legal requirements for acquiring Greek citizenship have changed to allow second-generation migrants who were born in the country or have studied in Greece for six years to apply for Greek citizenship. Further legislative changes have made it easier for long-term residents to vote and stand in local elections. Another initiative established local integration councils that act as consultative bodies for migrants. As the Greece Section of ENAR has commented, these developments were positively received by civil society and migrant communities, but there is still concern over whether these reforms will be implemented effectively.

Social tensions increased between the majority population and minority and migrant communities throughout 2011, according to ENAR-Greece and HRW. The number of racist incidents and hate crimes against minorities and migrants has increased with the rise in the number of migrants and asylum-seekers over past decades. The economic crisis has exacerbated already existing xenophobia, Islamophobia and anti-Semitism in Greece. Local media often associate migrants – and especially Muslims of different ethnic backgrounds – with crime and criminality, ENAR-Greece pointed out. Far-right groups, such as Golden Dawn, with xenophobic, nationalist and anti-immigrant agendas are gaining popularity.

On 6 December 2011, the government proposed a draft measure to tighten Greek laws on speech that incites hatred, discrimination or violence, in line with EU rules on hate speech. In the same month, HRW issued a report on increased racist violence in Greece, welcoming the trial of three people who assaulted an Afghan asylum seeker in Athens in September 2011. This was the first trial of its kind since 1999, even though racist violence in the capital has increased in recent years, reaching alarming proportions in 2011. As HRW stated, this case is just the tip of the iceberg in the crisis-torn country, where the police and state authorities remain tardy and ineffective in responding properly to racist violence.

Case study

Sami rights to culture and natural resources

In January 2011, James Anaya, the UN Special Rapporteur on the rights of indigenous peoples, issued his report on the human rights situation of the Sami indigenous people living in the Sápmi region of Norway, Sweden, Finland and Russia. A semi-nomadic people, who rely on reindeer herding, hunting, gathering and fishing, the Sami are united by a common identity and linguistic and cultural bonds.

Reviewing the situation of Sami in the Nordic countries, the Special Rapporteur concluded that they do not have to deal with many of the socio-economic concerns that commonly face indigenous peoples throughout the world, such as serious health problems, extreme poverty or hunger. In particular, the governments of Norway, Sweden and Finland each pay a relatively high level of attention to indigenous issues, at least in comparison to other countries. However, more remains to be done to ensure that Sami people can pursue their right to self-determination and their right to natural resources.

The Sami population is estimated to be between 70,000 and 100,000 in northern Europe, with about 2,000 living in the Russian Kola Peninsula. Of the three Nordic countries, Finland hosts the smallest Sami population of about 9,000. The first elected Sami body within any of the Nordic states was the Sami Delegation (Sámi Parlamenta) in Finland, established in 1972, and now replaced by the Finnish Sami Parliament (Sámediggi). There are now Sami parliaments in all three Nordic countries, with varying degrees of authority, as well as the regional Sami Parliamentary Council.

Finland

Sami are recognized as indigenous people by the Constitution of Finland, which also stipulates their right to cultural autonomy within their homeland, noting that 'in their native region, the Sami have linguistic and cultural self-government'. However, large-scale natural resource exploitation and development projects threaten the traditional way of living for the reindeer-herding community. In February 2011, the world's fourth largest mining company, Anglo-American, conducted exploratory drilling in a Sami reindeer-herding area, and found large deposits of nickel, copper and gold. The Canadian mining company First Quantum is also conducting exploratory drilling in the region.

The expansion of mining activities could make reindeer herding increasingly difficult in Finland. Relevant legislation does not acknowledge or grant any special land rights to the Sami community or acknowledge any exclusive rights for Sami people to pursue their traditional livelihoods. Furthermore, unlike in Norway and Sweden, reindeer husbandry is not reserved for Sami in Finland, but is open to any citizen of the EU.

The Finnish Sami Parliament lacks specific decision-making powers regarding the use of lands or access to water and natural resources in Sami territory. The state is the legal owner of 90 per cent of the land designated as Sami homeland. There is at least a measure of protection, however. The Finnish Reindeer Husbandry Act of 1990 affirms that state authorities should consult with representatives of Sami reindeer-herding cooperatives when planning measures on state land that will have a substantial effect on reindeer herding.

Finland has ratified all major UN human rights treaties, including the Framework Convention for the Protection of National Minorities, and voted in favour of adoption of the UN Declaration on the Rights of Indigenous Peoples. However, the country has not ratified the International Labour Organization Indigenous and Tribal Peoples Convention No. 169 (ILO 169), which would grant Sami stronger land rights as it recognizes the rights of indigenous peoples to land and natural resources as central to their material and cultural survival.

Sweden

On 1 January 2011, the Swedish Constitution was amended to explicitly recognize Sami as a people. This was pursuant to a long-standing request of Sami to be distinguished from other minority groups in Sweden. Nonetheless, the UN Special Rapporteur heavily criticized Sweden in his 2011 report for its failure to tackle the most pressing issues for Sami, in particular those related to land and resource rights. Like Finland, Sweden has not yet ratified the ILO 169.

The Swedish Sami Parliament's powers are limited to monitoring the issues related to Sami culture. It has limited opportunity to participate in decision-making processes when it comes to issues about land and natural resources. In Sweden, 3,000 Sami practise reindeer herding, managing approximately 250,000 reindeer in areas scattered across the northern 40 per cent of the country. The 1971 Reindeer Grazing Act allows Sami to use land and water for themselves and for their stock, but only within certain geographic areas defined by the law. Reindeer-herding rights in Sweden are exclusive and limited to those Sami who live within designated communities, called *samebyar*, and practise reindeer herding as their principal livelihood. But specific reindeer-grazing areas have not been demarcated and Swedish courts put the burden of proof on Sami to demonstrate land use. Sami are required to prove long-term use of the area claimed, despite the fact Sami leave few if any physical marks on the land they use.

'It is remarkable that still in 2011, a colonizing power tells the indigenous population that it must prove its right to exist on its traditional land before the courts of the colonizer', said Mattias Åhrén, head of the Sami Council's human rights unit, commenting on a case in which three Sami reindeer-herding communities in the Härjedalen region were being pushed by the state to sign a tenancy fee agreement, forcing them to pay grazing fees to local land-owners. This follows a lawsuit in 2004, when majority land-owners in Härjedalen successfully claimed that no grazing rights existed for Sami on land to which they hold title. In a positive development during April 2011, however, Sweden's Supreme Court ruled that customary land use, showing due

Case study continued

consideration to reindeer-herding practices, as opposed to Swedish property law, should determine access.

The development of renewable resources, such as wind turbines and hydroelectric dams, is also increasingly encroaching on reindeer-grazing lands in Sweden. Over 2,000 wind turbines have been planned in reindeer-herding areas. In March, Lars-Anders Baer, a reindeer herder and a former president of the Swedish Sami Parliament, called recent developments 'windmill colonialism'. He was specifically reacting to the Markbygden wind farm project, which the Swedish Sami Parliament has criticized regarding the lack of proper consultation, disrespect of their rights and the fact that they were not offered fair compensation for the loss of land and livelihoods. With more than 1,100 wind turbines planned, Markbygden will be Europe's largest land-based wind-power park and will be built in the municipality of Piteå, where the Sami community of Östra Kikkejaur has its winter reindeer-herding pastures.

Sami in Sweden are also not protected from expanding mining projects, as existing mining laws do not contain provisions to safeguard the rights of Sami people. In Kiruna town, Luossavaara-Kiirunavaara AB company has plans to relocate half the town in order to accommodate the expansion of an existing iron ore mine into reindeer-herding lands and vital reindeer migration paths, without consulting the Sami community.

Norway

The Sami National Day on 6 February, commemorating the first Sami congress held in Trondheim, Norway in 1917, is celebrated in all four countries where Sami live today. Norway was the first Nordic country to ratify the ILO 169 and voted in favour of the adoption of the UN Declaration on the Rights of Indigenous Peoples in 2007. Norway has also recognized and apologized for the discrimination and imposed assimilation that Sami people suffered, including the prohibition of their languages under the 'Norwegianization' policies enforced in the past.

The Finnmark Act of 2005 was an important step forward for Norwegian Sami's right to self-determination and control over natural resources. Although the legislation was a compromise between Sami and majority interests, and has therefore met with some criticism, it recognizes that Sami and others have acquired rights to land and resources through long-term customary use. The Act transferred 95 per cent of the land in the Finnmark region to the Finnmark Estate, the board of which comprises local government officials and Norwegian Sami Parliament representatives. Concern has been expressed that the Act does not go far enough to protect the rights of particularly vulnerable indigenous communities, such as the East Sami people.

The right of access to marine resources is a particular worry for Norwegian Sami, due in part to the industrialization of Norwegian fisheries. This has led to diminished local control as well as environmental problems. Also, regulation of stock is decided centrally, without taking into account customary decision-making or local knowledge.

The Norwegian Mineral Act requires that the Sami way of life be safeguarded and that the Norwegian Sami Parliament should have an opportunity to comment when permits are being considered. However, Sami representatives have criticized the limited scope of the consultation process as well as the fact that it is limited to Finnmark and does not extend to traditional lands elsewhere.

Russia

In Russia, the Sami language is endangered, partly due to the comparatively small size of the community. Sami arrived at the Kola Peninsula some 5,000 years ago, but the traditional way of life for the Sami in Russia has been slowly fading away, as they have been pushed back from tundra grazing lands by a steady expansion of industry, forestry and mining, and by urbanization. During the Cold War, Sami reindeer herders were pushed back from a 200-mile exclusion zone along the border, and Sami fishermen were forced away from the shore of the Barents Sea, as

Above: A Sami reindeer herder in Russia. ***Alexander Stepanenko.***

the Soviet military built a network of secret navy installations there. Further threats have emerged as the mineral riches of the Kola Peninsula and its geographical location on the shores of the Barents Sea have made it attractive to the oil and gas, and other extractive industries. Sami also complain that tourism companies keep them from practising their traditional fishing by the Voronya River and Lovozero Lake.

The Shtokman oil field is one controversial project under development that will potentially have a grave impact, not just on the Sami but on other communities living on the Kola Peninsula. One of the largest explored natural gas fields in the world, the shelf deposit lies in the Russian part of the Barents Sea, some 600 km from Murmansk town, a large regional centre on the Kola Peninsula where the Russian part of the Sápmi region lies.

The Shtokman Development AG has plans to extract gas from the sea and transport some to Murmansk; but, from 2016, the majority of the gas will be piped to Europe across the Baltic Sea via the Nord Stream pipeline. Shtokman Development AG is a joint project of Gazprom, Total SA and Statoil ASA. According to the Shtokman company, gas supply in the Barents Sea is enough to meet global demand for a year. A civil society expert group organized by the World Wildlife Fund (WWF) conducted an investigation into the Shtokman project and in February 2011 concluded that environmental damage could be great should development of the field proceed. While large-scale investment in the Shtokman project could improve conditions in Teriberka town, where unemployment is high and living standards are desperately low, experts warn that its environmental impact could have tragic consequences for natural ecosystems in the region and further curtail the traditional way of living of the Sami. ■

Turkey

Electra Babouri

Despite the government's announcement of its 'democratic opening' programme in the summer of 2009, aimed at bringing about a peaceful solution to the Kurdish situation and upholding the rights of all groups in the society, little progress was made in 2010. However in 2011, Turkey witnessed some potentially positive developments.

At the general election in June 2011, the Justice and Development Party (AKP) won a third term in office with 50 per cent of the vote. The election brought Kurdish success too as 36 independents fielded by the pro-Kurdish Peace and Democracy Party (BDP) won seats (rising from 24 in the 2007 election). Seventy-eight women, one of whom is Kurdish, won seats in the 550-seat parliament (rising from 50 in the 2007 election).

Prime Minister Recep Tayyip Erdogan promised that the process to fully revise Turkey's Constitution would commence: 'through consensus and negotiation … with the opposition, parties outside of parliament, the media, NGOs, with academics, with anyone who has something to say'. Changes to the Constitution are crucial for Turkey's minorities, since only three minority groups are currently recognized, namely Armenians, Greeks and Jews; others, including Alevis, Kurds and Roma, remain excluded. Even recognized minorities continue to face discrimination. The Parliament Conciliation Commission has been set up to work on revising the Constitution, with draft expected in 2012. Representatives of minority groups have begun to push for their cultural, linguistic and civil and political rights to be incorporated in the new Constitution, and to be recognized as equal citizens.

In August, the Ministry of Justice established a Human Rights Directorate to help harmonize Turkey's judicial practices with those of the EU. This will hopefully push forward implementation of rulings from the ECtHR. Turkey ranks second after Russia in terms of the number of cases taken to the ECtHR, with nearly half of them on violations of fundamental human rights. In 2011, Turkey topped the list of countries that had been found by the ECtHR to have violated the European Convention on Human Rights (ECHR), with 159 cases.

Following the Kurdish Workers Party (PKK) ceasefire declaration and subsequent decrease of clashes between the PKK and the security forces in 2010, violence escalated again significantly in 2011 with fatalities on both sides. There were also significant Kurdish civilian fatalities as a result of the attacks, and upheaval within these communities continued, particularly in the south-east of the country and near the Iraq border. During an air raid in December 2011 near the Turkey–Iraq border, 35 Kurdish civilians were killed. The government stated that the attacks were targeting armed PKK forces and passed on official condolences to the bereaved families.

In addition, Kurdish officials and activists, most of them allegedly associated with the Union of Kurdistan Communities (KCK) and the PKK, continued to be arrested. In August 2011, 98 former mayors and eight other politicians were arrested because they had demanded better conditions for Abdullah Öcalan, the imprisoned ex-PKK leader. An estimated 9,000 individuals have been arrested since 2009 for alleged links to the KCK. In spring 2011, trials of another 153 Kurds in custody resumed. The defendants in the Diyarbakir Heavy Penal Court asked to conduct their defence in Kurdish, but this was denied by the court.

It remains illegal for Kurdish to be spoken and taught in schools, thus Kurdish pupils continue to face disadvantage, sometimes taking years longer to learn to read and write compared to their Turkish classmates. Moreover, it is prohibited for official signs to appear in Kurdish alongside Turkish. Recently, though, there have been a few positive developments as Kurdish-speaking radio and television have been allowed, and in October the first Turkish University (Artuklu University in the south-east) began teaching a degree course in Kurdish.

Other minorities in Turkey face similar discrimination. Assyrians who have adopted Turkish surnames because of prior legislation now want to go back to using their original surnames, but a Constitutional Court ruling in 2011 said that the law did not permit this. Many Assyrians felt increasingly frustrated and under attack in 2011 as the trial involving

their most sacred site, the 1,700-year-old Mor Gabriel monastery, continues. The monastery is located in Mardin province in south-east Turkey. In 2008, the inhabitants of the villages of Yayvantepe, Çandarlı and Eğlence filed a suit against the monastery, claiming that the land on which it is situated does not belong to the monastery. Simultaneously, some government authorities filed similar land-related suits against the monastery. Assyrian representatives rebut these claims and have brought their case to the ECtHR. The first hearing has yet to take place.

Alevis, whose belief system combines elements of Shi'a Islam and pre-Islamic folk customs, make up 10–30 per cent of Turkey's population according to unofficial estimates. In school they have to take compulsory religious education classes that exclude their own belief system. Alevis, whose places of worship are not recognized, have requested that they be exempt from these compulsory classes and some have taken the issue to court. Despite an ECtHR ruling in 2007 that such exemption should be permitted, Turkey's Department of Education has not yet complied with the verdict. In December 2011, Education Minister Ömer Dinçer pledged that passages in Turkish history textbooks that are antagonistic towards Armenians and Assyrians would be amended.

In 2011, the Greek Orthodox Patriarchate and others continued to demand that Turkey allow the Halki seminary on the island of Heybeliada to be reopened. The seminary trained generations of patriarchs and was shut in 1971. Turkish courts have ruled that an old orphanage should be handed back to the Patriarchate, and in August the government signed a historic decree to return property seized 75 years ago from minority foundations, including schools, stores and houses.

Since Turkey collects no disaggregated data on minorities, it is difficult to gain a clear picture of how the situation looks for minority women in the country. But at the fourth UN Forum on Minority Issues in November, a Turkish NGO, Association for Social Change, highlighted the acute levels of discrimination faced by Kurdish women as a result of customs regarding women and girls, sexual violence, employment and poverty. The latter is more acute within these communities as, due to the conflict over the decades between PKK and Turkey, many have been displaced from their land.

The government took some steps in 2011 towards safeguarding women's rights. In May, Turkey was the first signatory to the Council of Europe Convention Against Domestic Violence and Violence again Women. However the situation remains grave. According to a report based on a national survey by a consortium of Turkish academic institutions, in the south-east of the country, one in two women have experienced violence, which is above the national average. A report by Roj Women's Association, which works on Kurdish and Turkish women's rights, states that: '[I]n 80 per cent of cases, victims of custodial rape were Kurdish women, and in 90 per cent of cases women cited political or war-related reason as causes for their arrest.' Despite there being legislation and relevant protections in place to help protect women, such as emergency shelters, these laws exclude unmarried and divorced women and those married according to unrecognized religions. The gaps in the law, coupled with the lack of enforcement, perpetuates the cycle of incidents not being reported, perpetrators not being penalized and women not being able to escape their violent environments.

Economic development

Turkey's continued economic growth has often affected its minority communities negatively. As many of these groups may be socio-economically vulnerable and reside within areas earmarked for development, they have been unable to assert their rights or benefit from these projects. For example, in 2008 several thousand Roma were evicted from the Sulukule area (one of the oldest permanent Roma settlements in the world) in Istanbul. The Roma in Sulukule ended up having to sell their homes to private investors and the Fatih municipality and moved to a new district, Tasogluk. But costs of this alternative accommodation proved to be too high, and Sulukule residents have subsequently had to move again to find affordable housing.

In 2011, other minority families, including Roma, Kurds and Greeks, have been threatened with eviction and some have been forced to

leave Tarlabaşı, a small area in the middle of the city. Some of the Kurds living in Tarlabaşı had settled there after they had been displaced from south-eastern Turkey during the 1990s, when the conflict between the Turkish government and the PKK was particularly violent. Residents were intimidated and threatened by the local municipality and law enforcement officials, according to an Amnesty International report. Residents facing eviction had not been consulted, given adequate notice, access to legal remedies, or given adequate alternative housing or compensation. Some officials reportedly forced residents to sign eviction notices without permitting them to read them.

These problems are not restricted to urban redevelopment. In March 2011, a report launched by Turkish and German civil society organizations highlighted how Turkish dam construction projects have caused severe human rights violations. Dams are developed without meaningful consultation with the affected communities, and without sufficient compensation or the provision of alternative income sources for those affected. The report highlighted the particularly vulnerable Sarıkeçili Yuruks, who are Turkish nomads who have lived in Anatolia for 900 years and now consist of approximately 200 families. Nomads remain completely dependent on river valleys and pastures to support their subsistence life based on herding.

In the Göksu-Ergene basin in southern Turkey, many small dams and hydroelectric plants are being built. Construction work is closing many of the traditional routes that nomads use to move between winter and summer pastures, leaving many families without water and food.

Development of hydroelectric dams continues, despite the negative impact on humans and the environment. The Turkish government intends to build over 1,700 dams and hydroelectric power plants within the next 12 years.

Some of Turkey's larger proposed dam projects in the Kurdish south-east have sparked fierce opposition. For example, the construction of the 1,200 megawatt Ilisu dam on the Tigris River in south-east Turkey will displace as many as 55,000–65,000 Kurds. European backers withdrew funding in 2009 because of serious problems and strong opposition. But campaigners fear the government will push ahead with the project. Ilisu is only one of a series of dams planned as part of the US$ 32 billion Southeastern Anatolian Project (Güneydoğu Anadolu Projesi) in the Euphrates and Tigris basins that envisions the construction of 22 dams and 19 hydroelectric plants. The US$ 4 billion Beyhan project on the Euphrates is causing great concern that the local population will face forced evacuation. At another project in the Senoz valley on the Black Sea, dam work continues despite court rulings. Large forest sections above the valley have been cleared, causing landslides and soil erosion, and the water is being polluted adversely affecting the local community and killing thousands of fish.

Ukraine

The twentieth anniversary of a referendum that restored the Crimean Peninsula's autonomous status was marked in Ukraine on 20 January 2011. The referendum, approved by 93 per cent of voters shortly before the dissolution of the Soviet Union, continues to cause divisions on the Peninsula. The pro-Russian Sevastopol–Crimea–Russia National Front held a protest on the anniversary, claiming that the 1991 referendum was really about the Republic of Crimea becoming a union republic within the Soviet Union (USSR), not within Ukraine, as the USSR still existed when the referendum was held.

Many Crimean Tatars, who are indigenous to the Crimean Peninsula, boycotted the referendum. According to Refat Chubarov, a Crimean Tatar community leader quoted by the media outlet Radio Free Europe/RadioLiberty (RFE/RL) Ukrainian service, the Crimea's current autonomous status does not guarantee the protection of cultural, social or economic rights of the Crimean Tatars.

On 18 May, more than 15,000 Crimean Tatars gathered in the centre of Simferopol, the capital of Crimea, to mark the anniversary of the mass deportation of the Crimean Tatars by Soviet leader Joseph Stalin in 1944, when the entire Crimean Tatar population was deported to Central Asia and the Siberian region of Russia for alleged collaboration with Nazi Germany. As reported by RFE/RL, the demonstrators carried

Ukrainian and Crimean Tatar national flags and banners with slogans such as 'The deportation of 1944 should be recognized as genocide against the Crimean Tatars!' The Crimea was officially transferred from Russia to the Ukrainian Soviet Socialist Republic in 1954. Crimean Tatars started returning *en masse* to Crimea from Central Asia in the late 1980s and 1990s, and demanded their land and property back. They currently account for about 13 per cent of the Peninsula's 2 million population, 60 per cent of whom are Russians.

In February 2011, the *Kyiv Post* reported on the long struggle of the repatriated Crimean Tatars to reclaim their land. Allegedly a total of 1,400 hectares of land are occupied by 15,000 Crimean Tatars who have been unable to buy land legally on their return to Crimea. Some are now squatting illegally on plots of land without basic infrastructure, running water and electricity. Crimean Tatars and the authorities contest the requirements for obtaining land. Prime Minister Vasyl Dzharty reportedly stated that Tatars do not face discrimination in obtaining land, while according to the newspaper source more than 60 per cent of the Tatars have never received any land and have no place to live.

In its 2011 report, CERD noted that the question of 'restitution and compensation for the loss of over 80,000 private dwellings and approximately 34,000 hectares of farmland upon deportation remains unresolved'. This is a particularly crucial issue since 86 per cent of the Crimean Tatars living in rural areas did not have the right to participate in the process of agricultural land restitution because they had not worked for state enterprises. CERD called for the government to restore the political, social and economic right of the Tatars in Crimea.

At the UN Forum on Minority Issues in 2011, Nara Narimanova of the Crimean Tatar Youth Council, gave evidence on the situation of Crimean Tatar women in Ukraine. High levels of unemployment, poor living conditions and discrimination have put Crimean Tatar women in a particularly vulnerable situation, according to Narimanova.

A major issue is the lack of opportunity for Crimean Tatars to educate children in their mother tongue; there are only two universities where Crimean is taught. In April 2011, the Supreme Council of the Autonomous Republic of Crimea announced that adopting a draft law on languages in Ukraine was an issue 'of extreme urgency'. In February 2012, the Crimean parliament appealed to the Ukrainian parliament to adopt draft legislation that would ensure the use of minority languages in culture and education. The Council of Europe's Venice Commission recommended passage of the draft law in December 2011. The law was also supported by 16 higher educational institutions and the representatives of 36 national minorities.

United Kingdom

The UK prime minister's condemnation of 'state multiculturalism' and call for a stronger 'shared national identity' stirred up heated reactions in Europe. David Cameron, addressing a security conference in Munich on 5 February 2011, argued that previous policies dealing with ethnic and cultural diversity had encouraged different cultures to live separate lives and 'even tolerated these segregated communities behaving in ways that run counter to our values'. Cameron's speech came after the German Chancellor Angela Merkel remarked on the 'utter failure' of Germany to create a multicultural society in October 2010. Stating terrorism as the biggest threat to his country, Cameron was careful to differentiate between Islam as a religion and Islamic extremism as a political ideology. His speech was nonetheless condemned by the opposition Labour Party, who accused him of 'inflaming racial tensions', and by human rights and Muslim community groups. ENAR argued that Cameron's statement reinforced 'prejudice and discriminatory perceptions against immigrants, and more generally against British Muslims largely perceived as foreigners'.

Policing was also a key concern in 2011. The fatal shooting of Mark Duggan by the police in Tottenham, north London, on 4 August sparked off violence after years of simmering tensions between locals and the police; riots quickly spread across other neighbourhoods in London and cities in England. David Cameron cut short investigations into the underlying causes, asserting that the riots were 'criminality pure

HOME

Left: A caravan burns as police and bailiffs in Basildon, UK, begin the eviction of Travellers living at Dale Farm on 19 October 2011. *Mary Turner/Peace Fellow of The Advocacy Project 2011.*

and simple' and that the 'broken society' must be replaced by a stronger sense of morality and responsibility. But human rights groups urged the UK government to conduct a serious public inquiry into the multi-faceted causes of the riots: public policy; social and racial inequality; high unemployment; and cuts in public services and economic collapse. Questions were raised over police responses, especially their stop-and-search policies, for singling out particular minorities and hindering the promotion of equality.

Issues concerning policing are not without precedent in the country. In January 2012, two men were finally convicted of murdering Stephen Lawrence in April 1993. Stephen Lawrence was a black British youth who was murdered while waiting at a bus stop by a gang of young white people chanting racist slogans. A public inquiry was held in 1998 to examine the initial Metropolitan Police Service investigation, led by High Court judge Sir William Macpherson. The inquiry concluded that the police force was 'institutionally racist', and acknowledged professional incompetence as well as a failure of leadership in the capital's police force.

The UK government has not developed a race equality strategy. This was a key issue outlined in the UK NGOs Against Racism submission, led by the Runnymede Trust, to the UN Committee on the Elimination of Racial Discrimination (CERD) in August 2011. CERD raised concerns about the government's response to the August riots; the reported increase in negative portrayals of ethnic minorities, immigrants, asylum-seekers and refugees by the media, especially pointing to the depiction of minority women as unempowered; and the impact of austerity measures adopted in response to the current economic downturn.

There are an estimated 90,000–120,000 nomadic Travellers and Gypsies in the UK and a further 200,000 who live in housing, according to the Gypsy and Traveller Law Reform Coalition. The Gypsy and Traveller community of Dale Farm in Essex made major headlines in 2011, galvanizing civic action against their planned eviction from a site between the towns of Billericay and Basildon. In March, Basildon Council cut short a decade-long legal battle with the residents, and voted to take direct action and evict 400 residents from Dale Farm, with only a 28-day notice period and a budget of £18 million put aside for the operation after the High Court ruled that the eviction could go ahead. CERD called on the UK government to suspend the planned eviction of Dale Farm residents and to ensure 'a peaceful and appropriate solution, including identifying culturally appropriate accommodation, with full respect for the rights of the families involved'. The eviction affected 90 families, including older residents, women and 150 children. Representatives from the Council of Europe also visited the site and petitions were signed to stop the largest ever eviction of Travellers in the UK.

UK jurisprudence recognizes Irish Travellers and Romany Gypsies as separate ethnic minorities. At Dale Farm, the residents were mainly Irish Travellers. After a short delay granted in September restraining Basildon council from clearing structures until the case had been heard in the High Court, the Court finally ruled that the eviction could go ahead. According to the ruling, the Travellers delayed too long in challenging Basildon's decision, and the council's actions were not deemed to be disproportionate. But hours after the eviction operation started on 19 October, violence erupted. Bricks and debris were thrown at police, as officers used taser electro-shock weapons at close range. The operation to remove caravans and chalets from 51 unauthorized plots finished at the beginning of November, but despite the injunction obtained by Basildon council to prevent reoccupation of the site, some Travellers attempted to return and continue to live there. ■

LEBANON
SYRIA
ISRAEL/OT/
Palestinian Authority
EGYPT
JORDAN
IRAQ
KUWAIT
IRAN
SAUDI ARABIA
BAHRAIN
QATAR
U.A.E .
YEMEN
OMAN
ARABIAN
SEA

Middle East and North Africa

Doreen Khoury

Very few seasoned observers of the Middle East and North Africa could have predicted the wave of uprisings that spread throughout the region in 2011. The self-immolation of Tunisian street vendor Mohamad Bouazzizi on 17 December 2010, the event which triggered the Arab Spring, was a desperate cry for dignity in a repressive state and symbolized the plight of many citizens in the region. Young people in particular, who led the revolutions, felt disenfranchised and disconnected from the decades-old obsolete state ideologies which had failed abysmally to provide employment, social mobility and prosperity.

Future prospects for minorities in the region became a much discussed topic, especially following the tragic outcome of the Maspero demonstrations in Cairo on 9 October 2011, during which Coptic Christians, who were protesting against the destruction of a church in Aswan, were attacked by the Egyptian army, with up to 27 protesters killed. Maspero symbolized the current predicament of minorities after the Arab Spring: will the prejudices and identities of the old order continue to dominate or will public space open to allow minorities to express their culture and enjoy full political participation?

As 2011 drew to a close, the prospects did not look particularly promising. In Egypt, Coptic Christians continued to suffer violent attacks on their property and churches by Islamists while the Supreme Council of the Armed Forces (SCAF) that replaced ousted President Hosni Mubarak repeatedly failed to hold perpetrators to justice. The victory of the Muslim Brotherhood in the Egyptian elections has also caused concerns that non-Sunni minorities will face further discrimination and repression of their religious and cultural rights.

In Libya, the effect on minorities of the six-month conflict by the Libyan rebels to unseat Muammar Gaddafi has been mixed. While Libya's Amazigh minority, also known as Berbers, liberated their lands from Gaddafi's hold and are enjoying freer cultural and linguistic expression, sub-Saharan Africans and Libyan Tawerghans have suffered severe discrimination and violence at the hands of the former rebels and many continue to be detained.

The Syrian revolution, which by the end of 2011 had entered its ninth month, was, according to some observers, in danger of erupting into a sectarian civil war between the regime, led by the Alawite Assad family, and the Sunni-led opposition.

Right: A crowd of Coptic women leaving a church service in Egypt during a Coptic Moulid of Mari Girgis, a religious festival celebrating the life of Saint George. *James Morris/Panos.*

The situation of minorities in other Arab countries did not improve in 2011. In Saudi Arabia, persecution of the Shi'a minority escalated, as the kingdom feared that shockwaves from demonstrations in Bahrain would spill over onto its own soil. Iran's numerous minorities, despite inhabiting regions rich with natural resources, continued to experience high rates of unemployment, poverty and health problems because of weak infrastructure and poor government investment in their regions.

Across the region, minorities have suffered from the confiscation of their land and property, and the degradation of their surrounding environment due to development projects, irresponsible agricultural methods as well as a general lack of government response to climate change. Minorities whose livelihoods have been negatively affected by these problems have received little or no help from their governments, as this chapter will show.

The Arab Spring is an ongoing process, where the relationship between citizens and the state is still being redrawn and negotiated. While the old Arab nationalism may be waning, more inclusive national identities in the region – one more accommodating to minorities and not defined by a dominant religion, ethnicity or language – has yet to form. The full political, social and cultural integration of minorities in Arab countries will be a major litmus test of the success of the Arab Spring.

Egypt

The Egyptian revolution began on 25 January 2011 when protests erupted throughout Egypt, focusing on the symbolic Tahrir Square in Cairo, and eventually led to the resignation of President Hosni Mubarak after 20 years of authoritarian rule. And at the end of 2011, the revolution was

arguably still ongoing, as opposition strengthened against the SCAF, which assumed power after Mubarak's departure. The SCAF has continued to use the repressive practices of the Mubarak era, including bringing its critics before closed military trials. In terms of women's rights, the most prominent violation was the so-called 'virginity tests' on female protesters arrested by army soldiers; the practice reportedly continued into 2012, despite widespread protest.

While the Egyptian revolution created an atmosphere of national solidarity as Egyptian Muslims and non-Muslims united to topple the Mubarak regime, religious and ethnic minorities continued to face discrimination and sectarian attacks. Muslim fundamentalists have been responsible for a number of sectarian attacks on minorities. The SCAF has also been complicit in attacks against minorities, either by ignoring cases of sectarian violence, failing to investigate them or actively engaging in violence alongside extremists. Human Rights Watch (HRW) found that public prosecutors often encouraged extra-legal settlements, thus reducing sectarian attacks to personal disputes. This has fostered a climate of impunity, allowing extremists to target minorities without fear of punishment.

The year 2011 was a grim one for Coptic Christians, who represent between 6 and 9 per cent of the population. Over 10 major attacks occurred against Copts, most of them involving disputes about whether they had permission to build or renovate a church. Under existing laws, Copts must obtain an official endorsement and permission from the local Muslim community to build or renovate a church.

On 1 January, a bombing occurred at a church in Alexandria during the New Year's prayer service, in which at least 21 people were killed and over 70 injured. In March, a crowd burned down a church in the town of Atfih, south of Cairo. Lawyers representing the church told HRW that they had presented the names of 100 suspects alongside video evidence of the arson attack to the local prosecutor, but none of the suspects were prosecuted. In protest, Copts held demonstrations in Cairo, during which at least 13 people were killed and nearly 150 injured in clashes. A crowd attacked the demonstrators, while the Egyptian military apparently stood by for hours without intervening. Also in March, a group of men, alleged to be members of the Salafi movement, adherents of an interpretation of Islam that seeks to restore Islamic practice to the way it existed at the time of the prophet Mohammad, set fire to a flat in Qena owned by a Coptic Christian. The authorities made no efforts to arrest the perpetrators.

In May, Salafists attacked and badly damaged two churches in Cairo's Imbaba district, acting on rumours that a female convert to Islam was being held in a church. The government later reported that 12 people had died in the violence. The Egyptian Initiative for Personal Rights said that security forces knew in advance that Salafists were gathered outside the churches, and failed to take any preventive measures. Christian houses and businesses were also vandalized.

On 30 September, a group of local residents in Al-Marinab village, Edfu Province, set fire to Saint George's church as it was undergoing reconstruction, because they believed that the congregation did not have a permit and objected to the height of the steeple that bore a cross. Authorities confirmed that the church did have a permit. Copts were angered by the governor of Aswan who appeared to justify the attack.

In October, thousands of Copts demonstrated outside the Maspero government building in Cairo, to protest the authorities' failure to punish attacks on Christians. They were met with armoured personnel carriers and hundreds of riot police who opened fire on the crowd. An estimated 24 people were killed, mostly Copts, and about 250 injured. The state media was allegedly also instrumental in inciting sectarian unrest. The SCAF was criticized, as generals denied the use of live ammunition despite video evidence, and the inquiry set up to investigate the incident was headed by a military prosecutor.

In June 2011, a draft law on the construction of religious buildings was issued by the government to replace the previous Hamayouni Decree, dating back to the Ottoman era, which regulated church construction but did not apply to mosques. The law sought to promote religious equality by applying equal regulations to mosques and churches, but was opposed by the Muslim Brotherhood for not abiding by 'measures of justice that are espoused by Islamic sharia [law]'. Coptic Christians also expressed dissatisfaction with the draft law, since they still had to receive permission from governors to build places of worship.

In 2011, Sufi Muslims, who adhere to the esoteric, mystical dimension of Islam, faced attacks and harassment from Salafists who consider them to be heretics. Salafists attacked 16 historic Sufi mosques in Alexandria where half a million Sufis live and which has 40 Sufi mosques. Aggression against the Sufis in Egypt included a raid on a mosque named after and containing the tomb of the thirteenth-century Sufi al-Mursi Abu'l Abbas. Another target was the Qaed Ibrahim mosque, where mass protests were organized during the revolution. Sufi residents of the Egyptian governorates of al-Minufyia and Aswan have also demanded state protection of Sufi institutions and buildings.

Bahá'ís in Egypt have historically suffered from state-sanctioned discrimination and persecution. Most Egyptian Bahá'ís do not have official identity cards which are necessary for access to education, employment, opening bank accounts, receiving pensions and carrying out business transactions. In addition, they have been barred from holding government jobs. Bahá'í marriages are still not recognized in Egypt. While the Supreme Administrative Court ruled that Bahá'ís could obtain official identity cards back in 2008, the implementation of this ruling has moved slowly. Bahá'ís are still banned from forming spiritual assemblies in Egypt.

The Egyptian paper *Youm al Sabe'* reported that on 23 February two homes of Bahá'ís were

set on fire and burgled in Shuraniya village, in the Sohag governorate. According to the Egyptian Initiative for Personal Rights there was strong evidence that state security officers incited the attack.

Following the 2011 revolution, ethnic Nubians began to demand their right to return to their homeland around Lake Nasser. Egyptian Nubians are an ethnic group with a distinct culture and language, and live mostly in the Upper Nile region. Developmental projects in their ancestral lands have led to the loss of their livelihoods which are dependent on farming. In the 1960s, during the construction of the Aswan High Dam, when the surrounding region was flooded to create Lake Nasser, 50,000 Nubians were relocated to less fertile government lands in Upper Egypt. But Lake Nasser has receded over the past decade, making fertile land available again. Nubians were subject to repression under Mubarak's regime because of the strategic location of ancient Nubia on the site of the Aswan Dam and have also seen Egyptian Arab communities settled by the government on the land they claim as their homeland.

In early September, about 2,000 Nubians protested in Aswan City against their marginalization and the elimination of their traditional rights to the land. Protesters set fire to the Aswan governorate headquarters.

Iran

Large-scale protests by government critics and opposition members were held in Iran in 2011, but were met with a heavy crackdown by security forces. On 14 February, opposition groups staged a 'Day of Rage' protest in Tehran and other cities, during which thousands gathered in solidarity with protesters in Tunisia and Egypt, despite the large number of security forces. Police fired tear gas on protesters, killing two people.

In April, the Iranian parliament passed regulations severely limiting the independence of civil society organizations, and created a Supreme Committee Supervising NGO Activities chaired by ministry officials and made up of members from the security forces. Activists from the One Million Signatures campaign, a women's grassroots movement aimed at ending discrimination against women, were targeted in 2011 by the state. Several women are currently detained or serving prison terms for their activities, and many have been held in solitary confinement or have limited contact with their families and lawyers.

In 2011, Iran did not permit Ahmed Shaheed, the UN Special Rapporteur assigned with investigating its human rights record, to enter the country. Widespread discrimination against Iranian minorities in both law and practice continued during 2011, according to an Amnesty International report that noted that minorities face land and property confiscations, denial of employment and restrictions on cultural, linguistic and religious rights. In February 2011, MRG published a briefing which noted that the traditional lands of many Iranian minorities (namely Ahwazi Arabs, Azeris, Kurds and Baluch) are rich with natural resources and provide large sources of wealth for the Iranian government, but local communities experience high rates of unemployment, poverty and disease because of weak infrastructure and poor government investment.

The Iranian government continued to persecute Kurdish activists in 2011, convicting them on vague charges such as 'acting against national security' and 'waging war against God'. Fifteen imprisoned Kurdish activists are believed to be on death row. Death sentences against Zainar and Loghman Moradi, and Habibollah Latifi, were upheld in 2011 following failed appeals. Another Kurdish activist, Sherko Moarefi, was also at risk of imminent execution.

In terms of land rights, there are high levels of property confiscation and governmental neglect in the Kurdish region of north-west Iran – Iranian Kurdistan, Kermanshah and Ilam provinces. The Kurdish region has abundant water resources. Dams have been built by the government to facilitate water irrigation and for hydroelectric power generation, but Kurds are generally excluded from the benefits of this investment. They experience poor housing and living conditions because of forced resettlement, and the expropriation of rural land for large-scale agricultural plantations and petrochemical plants which pollute the surrounding environment.

The Bahá'í faith, with over 300,000 followers in Iran, has long been the target of persecution.

Hundreds of Bahá'ís have been executed, tortured and imprisoned, and many others have been denied livelihoods, education and the right to inherit property. In January 2011, Navid Khanjani, who began advocating for Bahá'í rights after he was denied access to higher education, was sentenced to 12 years in prison. At the beginning of 2012, the case was pending appeal. In March, six Bahá'ís were arrested in Kerman, at least four of them for providing education for young children. The high-profile case of the seven Bahá'í leaders attracted renewed attention and criticism during 2011. Their 20-year prison sentences had been reduced to 10 years in September 2010; however, they were told in March 2011 that the longer sentences had been reinstated. They maintain that the charges against them are without foundation; their lawyers have had very limited access to them. In May, security forces arrested at least 30 Bahá'ís affiliated with the outlawed Bahá'í Institute for Higher Education, a correspondence university.

Several of the country's ethnic minorities – Arabs, Baluchis, Kurds and Turkmen – practise Sunni Islam. These groups are doubly affected by discriminatory policies based on both their ethnic identity and their faith. Sunni Muslim religious leaders are regularly intimidated and harassed by security services and report widespread official discrimination. In 2011, Sunni Muslims in Tehran were banned from congregating at prayers marking Eid al-Fitr, the Muslim holiday that signals the end of the month of Ramadan.

Christian converts regularly face state harassment and arrest. Many belong to evangelical protestant groups, and are regularly charged with 'insulting Islamic sanctities' and apostasy. One of the main targets is the Church of Iran, an evangelical congregation with members throughout the country. In January 2011, the governor of Tehran, Morteza Tamaddon, publicly referred to detained Christians as deviant and corrupt. Pastor Yousef Nadarkhani, who converted to Christianity, has been a frequent target of the Iranian authorities. He was arrested in October 2009; the Supreme Court upheld his apostasy conviction and death sentence in September 2011.

Sufi Muslims have faced growing government repression of their communities and religious practices, including harassment and imprisonment of prominent Sufi leaders and destruction of prayer centres. In January, three lawyers who had defended Sufi members were put on trial. They were reportedly sentenced to 6–7 months' imprisonment for 'propagating lies and creating public anxiety'. Over 60 people, mostly dervishes (members of a Sufi religious order), were arrested in September. In the same crackdown, a member of the Nematollahi Gonabadi Sufi order was reportedly killed. By 2012, at least 11 remained in detention. Also in September, four lawyers who were representing the detainees were also arrested; they were charged in December for spreading lies and membership in a 'deviant group'.

Most of Iran's Ahwazi Arab community lives in the south-western province of Khuzestan, which borders Iraq and contains 90 per cent of Iran's oil wells. Ahwazis are marginalized and subject to discrimination in access to education, employment, adequate housing and political participation. In April 2011, HRW reported that several dozen Ahwazi protesters were killed by security forces during demonstrations over the Ahwazi minority's grievances over state discrimination and denial of economic and cultural rights. Authorities arrested hundreds, prosecuted them during flawed trials where they had limited or no access to lawyers, and executed several.

Sistan-Baluchistan

The Baluch region is rich in energy and mineral resources, but activists claim the government has deliberately pursued a policy of underdevelopment. Baluchistan has the lowest per capita income in Iran, a high infant mortality rate, and the average life expectancy is at least eight years below the national average. As Sunni Muslims, Baluchis have also come under pressure from the government to convert to Shi'a Islam if they want to find employment and access education.

Sakhi Rigi, an ethnic Baluch blogger and former member of opposition leader Mir-Hossein Mousavi's campaign staff, was sentenced in June to a 20-year prison term on charges of 'acting against national security' and 'propagating against the regime.' He was first arrested in 2009.

Case study

Between a lake and a river: government neglect in Iran

Azeris, Lake Urmia

Azeris in Iran have joined together to protest against dam construction on Lake Urmia's tributaries that is destroying the region's ecological and economic resources.

Lake Urmia, a UNESCO Biosphere Reserve, is situated between the East and West Azerbaijan provinces and is one of the largest salt lakes in the world. But over the past 15 years it has shrunk by 60 per cent due to the construction of 36 dams on the lake's tributaries, prolonged drought, and the construction of a major highway bisecting the lake to connect the cities of Urmia and Tabriz. The region now faces a growing ecological disaster, with serious negative consequences on Azeri communities whose livelihoods depend upon the lake.

In April 2011, Azeris gathered to protest in Urmia and Tabriz, calling on the government to save the lake. According to Amnesty International, 70 people were arrested in Tabriz and 20 in Urmia for protesting illegally. During the summer, Azeri activists escalated their protests after the Iranian government dropped plans aimed at reviving the lake. On 24 August, 30 Azeris were arrested at a private gathering, and on 27 August, thousands of protesters in Urmia clashed with riot police, resulting in 300 arrests, according to HRW. Police shot tear gas at protesters and beat them with batons. At another environmental rally in early September, security forces resorted yet again to violence and arrested 60 people.

As the lake recedes, its salt content is gradually dispersed into the local environment, causing increased soil salinity in surrounding farmland. Experts estimate that if the lake dries up completely, the surrounding cities will be covered by layers of salt, eventually displacing up to 1.3 million people. The lake also plays an important role regulating regional weather systems, and its disappearance will lead to damaging shifts to seasonal weather patterns

Thousands of Azeris in the cities of Tabriz and Urmia depend on the lake for their livelihoods, especially for ecotourism, irrigation and salt production. The shrinking of the lake has already affected tourism and regional investment has dropped significantly. Proposals made by the Iranian government to save the lake have been dismissed by activists and experts as short-term measures. For example, rather than launching a cloud-seeding programme to increase rainfall and supply the lake with remote sources of water as the government proposes, activists argue that releasing the water held behind dams would be far more effective in the long run. But for years, the Iranian government has chosen to ignore the problem and shirk responsibility, instead blaming global warming.

Ahwazi Arabs and the Karoun River

In 2011, the World Health Organization declared that Ahwaz City, the capital of the Khuzestan governorate, was the most polluted city in the world, with high asthma levels among children and teenagers due to industrial waste and emissions. Industrial pollution has damaged the natural environment, and marshland biodiversity is so seriously threatened that migratory birds have

Above: An Azeri man in Kandovan, Iran, near Lake Urmia. *Piotr Bystranowski*.

Case study continued

left the area. The Bandar Iman petrochemical complex is a major pollutant, and has created environmental devastation and low fish stocks, directly impacting the livelihoods of the Ahwazis.

Despite or more likely because of their region's strategic importance – most of Iran's oil wells are there – many Ahwazi Arabs have been forced to migrate. The Iranian government has pursued a policy of encouraging ethnic Persians to move in from other provinces. The confiscation of Ahwazi land has been so widespread that it has amounted to a government policy of dispossession. The creation of the Arvan Free Zone in 2005 involved the mass expulsion of Ahwazis and the destruction of their villages. Iranian authorities have also followed a policy of ethnic segregation in Khuzestan, by constructing walls that separate Ahwazis from non-Arab districts and neighbourhoods. In urban areas, many Ahwazis live in shanty towns which lack plumbing, sewerage and safe drinking water.

In recent years, the Iranian government's decision to divert the Karoun River in Khuzestan to other drier regions has had further serious implications on the livelihood of Ahwazis. In May 2011, the director of the Ahwaz Human Rights Organization claimed that the diversion of waters from the Karoon and Karkhe rivers from Arab lands to ethnically Persian provinces of Isfahan, Yazd and Kerman represented a further erosion of Ahwazi farmers' economic security. The river is essential for agriculture and fishing, and is the largest source of income for them. The disruption of water sources will lead to a lack of safe drinking water, diseased fish and a decline in fish stock. River diversion erodes farmer's economic security. The United Nations Environmental Programme (UNEP) has repeatedly warned the Iranian government of the disastrous environmental impact of diverting the Karoun River, but the Iranian government has rejected concerns. The governors of Khuzestan, Chahar Mahaal va Bakhtiari and Lorestan provinces have also reportedly expressed their opposition to the diversion project. The project was due to start in 2011, but as a result of the protests the project was postponed. ■

Iranian security forces were reported to have arrested or killed several members of the pro-Baluch armed group People's Resistance Movement of Iran (PRMI), also known as Jundallah, which was created in 2003 and is considered by both the United States and Iran to be a terrorist organization. In May 2011, nine members of Jundallah were arrested and in July two Jundallah commanders were killed in Baluchistan by security forces. In late August 2011, four members were arrested on suspicion of planning an armed attack in Baluchistan.

Iraq

Chris Chapman

In the run-up to the pull-out of US combat troops at the end of 2011, many observers predicted a significant worsening in the security situation. Certainly the US had played a role in patrolling areas such as the Nineveh Plains and the city of Kirkuk, which have significant minority populations. In fact, while January 2012 saw the highest monthly death toll since August 2010, the number of civilians killed then fell back to levels comparable with the previous year.

Kirkuk city was a centre of much violence throughout 2011, particularly targeting the Turkmen community, notably through killings of prominent individuals such as police officers and business leaders. This prompted the setting up of a parliamentary committee of enquiry, which at the time of writing has still not reported. No-one has claimed responsibility for the deaths but they are likely to be linked to tensions between Kurds, Turkmen and Arabs over political control, access to resources and jobs, and the long overdue referendum over the future status of Kirkuk. Christian churches have also been targeted in the city.

Dohuk governorate, in the Kurdistan region, normally a relative haven of peace, was struck by a series of arson attacks on 37 Christian and Yezidi businesses in December 2011.

According to a survey conducted among 11 minority communities for a 2011 MRG report, minorities in Iraq face considerable problems in gaining proper access to employment, health care or education. Only 47 per cent of members of religious minorities felt safe visiting places of worship. Those surveyed described how they fear wearing religious symbols publicly, especially

minority women, who often need to protect themselves from harassment by hiding their religious affiliation.

The Kurdistan Regional Government (KRG) has signed an exploration and production deal with the international oil giant Exxon Mobil for six blocks, including three in disputed territories bordering the official KRG region. Although the KRG controls these regions *de facto* through the presence of its security forces, its sovereignty over them is not recognized in the Constitution; the federal government has protested against the deal. The blocks include areas of Nineveh and Kirkuk provinces of significant ethnic and religious diversity, in particular a block to the north-east of Mosul, in Nineveh Province, which is inhabited by a patchwork of Shabak, Christian, Yezidi and Kaka'i communities, as well as Kurds and Arabs.

The deal is also controversial because Iraq has still not passed a law on hydrocarbons, defining procedures for awarding oil concessions, the respective rights of the KRG and federal governments to sign deals, the role of foreign companies and export modalities, a draft of which was presented to parliament in 2007. However, the federal government has itself signed exploration deals with multinationals covering fields in the south of Iraq.

Both the federal and Kurdish governments accuse each other of smuggling oil out of the country to bypass revenue-sharing agreements. The KRG has since closed down oil production in protest at the federal government's alleged failure to pay sums owing from a revenue-sharing deal.

In February 2012, an Iraqi court of appeal confirmed death sentences for three people who were convicted of the attack on the Our Lady of Salvation Church in Baghdad in October 2010, in which 44 worshippers, 2 priests and 7 security force personnel were killed. An accomplice was sentenced to 20 years in prison. While the use of the death penalty is deplorable, it should be noted that the sentences break with a tradition of almost complete impunity for large-scale attacks on Iraqi minority communities.

Israel and the Occupied Palestinian Territory

Israel

There are approximately 1.2 million Palestinian Arab citizens in Israel, comprising 20 per cent of the total population. Of these, 82 per cent are Muslim, while the remainder are roughly split between Christians and Druze. There is deep institutional discrimination against Palestinian Arabs in employment, education and property ownership. Palestinian women face further discrimination, both as women and as members of a minority. Though Israel's Knesset has passed highly progressive laws on anti-discrimination and legal protection for women and disabled persons, such legislation does not cover discrimination against the Arab minority on the basis of ethnicity. According to various UN and local statistics, over half of Palestinian families are poor.

Palestinian citizens of Israel are deprived of access to and use of their land under laws aimed at confirming state ownership of land confiscated from Palestinians. In 2011 Adalah, an NGO and legal centre for Arab minority rights in Israel, published a report that points to the lack of development and investment in Arab towns and villages. Palestinian Arab towns and villages in Israel suffer from severe overcrowding, with Arab municipalities representing only 2.5 per cent of the total area of the country. Since 1948, 600 new Jewish municipalities have been established, whereas no new Arab village, town or city has ever been authorized.

In March 2011, HRW reported that the Knesset passed a law authorizing 'admissions committees' in small rural communities to filter out applicants on the basis of vague 'social suitability' criteria. HRW estimated that approximately 300 Jewish-majority communities will fall within the law's definition, although the practice is already common in many others. While the law's sponsors added a non-discrimination clause, statements made at the time indicated their intention to target Arab Israeli citizens. HRW foresaw that other marginalized groups, such as Jews of non-European origin, will be affected.

About 200,000 Bedouin live in the Negev Desert, where they are an indigenous people – a fact which is not recognized by the Israeli government. Since 1948, Israel has built dozens of Jewish towns, villages and farms, confiscated Bedouin lands and attempted to move them into

specific planned townships. Israeli governments have recognized only a few Arab villages in the Negev, even though many were established before the state of Israel. Israel does not recognize Bedouin ownership rights. On 11 September 2011, the Israeli cabinet decided to go ahead with the controversial 'Prawer Plan' which will result in the demolition of thousands of houses in the Negev and force 30,000 Bedouin from their ancestral lands and into townships. The Israeli government sees the plan as an attempt to end the long-standing dispute between the state and its Bedouin population. But the plan has been drawn up without any consultation with Bedouin communities and will in effect extinguish Bedouin land claims without adequate compensation. An MRG report published in December condemned the government's policy towards Bedouin not only as discriminatory but also as a violation of international human rights law. At year's end, the Knesset was expected to consider the enabling legislation soon.

During 2011, the Knesset passed other legislation adversely affecting Palestinian citizens of Israel. One law will lead to fines being imposed on any government-funded institution,

Left: Sabah Ismail, a Bedouin woman, speaks to MRG in 2011 of the horror her family went through when the Israeli government demolished her entire village, Al Arakib, the previous year. Her family now live in a tent in the cemetery in Al Arakib. *Farah Mihlar/MRG.*

including municipalities, that commemorates the 'Naqba', the Arabic term for the destruction of Palestinian villages and the expulsion of their residents following Israel's independence, and any expression deemed to 'negate the existence of Israel as a Jewish and democratic state'. While the law will most clearly affect municipalities, it could also harm attempts by arts groups and other cultural organizations to build bridges between communities through educational programmes.

During January 2012, the Israeli Supreme Court upheld the country's controversial Citizenship Law. According to the legislation, which began as a temporary order in 2002, Palestinians who live in the Occupied Palestinian Territory (OPT) or citizens of Arab countries that are considered 'enemy states' are not eligible for Israeli residency or citizenship if they marry Israeli citizens. Thousands of Palestinian families are thus forced to live apart, move abroad or live illegally in Israel.

The West Bank

Following the 1993 Oslo Accords, the West Bank was divided into three administrative divisions. Area C, comprising 60 per cent of the West Bank, is the Israeli-controlled and administered area. Around 150,000 Palestinians live in this area, alongside approximately 500,000 Israeli settlers. Minority groups include Bedouin who number around 25,000 people in Area C and 40,000 in the whole of the West Bank. The Israeli government has put aside 70 per cent of the land in Area C for settlements, firing zones, the separation barrier, checkpoints and nature reserves, and this land is therefore 'off-limits' to Palestinians.

In 2011, the Israeli authorities continued its practice of house demolitions and forced evictions in Area C and East Jerusalem, violating its obligation to respect the right to adequate housing. The UN Relief and Works Agency (UNRWA) reported that as a result of escalated demolitions by the Israeli authorities in the West Bank, over 4,000 people were either displaced or otherwise severely affected by demolitions during 2011. The vast majority of demolitions were carried out in Area C. In February 2011, for example, Israeli forces destroyed 6 homes and 21 animal pens in Khirbet Tana near Nablus, displacing about 6 families and affecting over 100 people who rely on agriculture for their livelihoods. It was the third time since January 2010 and the fourth since 2005 that the community had experienced large-scale demolitions.

The Israeli authorities continued to revoke residency permits of Palestinians living in East Jerusalem, and in August 2011 the Israeli government approved the construction of 1,600 new Israeli settler homes there. The decision should be viewed against a diplomatic backdrop; it came just weeks before the Palestinian Authority moved to have the Palestinian state recognized at the UN.

In recent years, opposition to the eviction of Palestinians from East Jerusalem has coalesced around the Sheikh Jarrah neighbourhood, located to the north of the Old City. Approximately 60 people have so far been evicted, often with minimal notice, and 500 others remain at risk of displacement. In May, the NGO Avocats sans Frontières issued a report in which it highlighted a key issue, namely the expansion of Jerusalem's municipal boundaries into areas considered by Palestinians as well as the UN to be occupied territory. Thus, the evictions violate the Fourth Geneva Convention which prohibits occupying powers from displacing civilians or transferring groups belonging to its own population into occupied territory.

The Israeli authorities are developing plans to forcibly relocate Bedouin from Area C in 2012. Initially, 2,300 people will be relocated to a site bordering Jerusalem's biggest rubbish dump. It should be noted that attacks by Israeli settlers can also cause displacement. UNRWA noted for example that 19 Bedouin families – 127 people – decided in July 2011 to move from their Area C homes under fear of further settler attacks, citing lack of adequate protection. The forced displacement undermines Bedouin

livelihoods as well as their tribal identity. EU country ambassadors noted in a joint report that settler attacks have increased dramatically from 266 reported incidents in 2010 to 411 assaults in 2011.

Under a planning system condemned as discriminatory by the UN, Israeli authorities have allocated only 1 per cent of Area C for Palestinian development. It is virtually impossible for Palestinians to obtain construction permits, while Israeli settlements receive preferential treatment in the allocation of water and land, and approval of development plans. Settlements built on privately owned Palestinian land and which do not have building permits rarely face demolition.

Several human rights agencies have highlighted the lack of access to safe drinking water. In a report published in December, the UN's Committee on Economic, Social and Cultural Rights (CESCR) noted the continuing destruction of local civilians' wells, roof water tanks, and other water and irrigation facilities, which forces many civilian to leave their home areas.

The CESCR also reported on Israel's continued gross violations of housing and land rights, in particular noting that the Israeli-controlled separation barrier along and within the West Bank has prevented Palestinian farmers from accessing their land and natural resources, affecting their right to work. In 2011, the UN Office for the Coordination of Humanitarian Affairs (OCHA) produced a report on the impact of the barrier on Palestinian communities which has cut off land and natural resources required for agriculture, negatively impacting rural livelihoods. Of particular note is the so-called Seam Zone or area between the Green Line (the pre-1967 boundary between Israel and the West Bank) and the barrier. Access to the Seam Zone by Palestinian farmers is through designated gates and depends on a cumbersome 'prior coordination' system. In the Biddu area, for example, some Palestinian communities have been cut off from almost 50 per cent of their agricultural land in the Seam Zone near the Giv'at Ze'ev settlement. One essential agricultural activity that has suffered is the olive harvest. In October, OCHA reported that the Israeli authorities were denying thousands of Palestinian farmers access to their olive groves in the Seam Zone either due to security reasons or an inability to prove ownership of land. The Israeli authorities have also reportedly been destroying Palestinian crops. The situation has increased food insecurity and impoverished herder communities who have lost access to water, according to the UN Special Rapporteur on the right to food, Olivier de Shuetter.

Lebanon

Lebanon has enjoyed greater freedom of speech than many other Arab countries, and largely avoided the Arab uprisings. But the country continued to be gripped by political paralysis. The national unity government led by Saad Hariri collapsed in January 2011, because of disagreement over the Special Tribunal for Lebanon on the assassination of Rafik Hariri. Competing regional affiliations also played a big part in the government's demise. It took Hariri's successor, billionaire Najib Mikati who was named prime minister in January 2011, six months to form a government. Despite being a coalition of supposedly like-minded parties, including Hezbollah and the Christian Free Patriotic Movement, the new government has also struggled to reach consensus on many local and regional issues. The situation of minorities, both ethnic minority groups and those who do not have citizenship in Lebanon, remained relatively unchanged in Lebanon, except for the influx of Syrian refugees across the border, fleeing the violence there.

There are approximately 455,000 Palestinian refugees in Lebanon registered with UNRWA (comprising 10 per cent of the country's population), around half of whom live in 12 recognized refugee camps. Palestinian refugees are denied citizenship and so have few basic rights, or access to state services. Most Palestinian refugees can only find low-paid temporary employment and cannot work in over 30 professions, such as medicine, law and engineering; women are significantly more likely to be unemployed than men and some families rely on child labour for income. As UNRWA only provides them with basic health services, many cannot access long-term health care. They also face restrictions on their movement, requiring permits to leave their camps.

In February 2011, UK-based Palestinian NGOs the Palestinian Refugee Centre and the Council for European Palestinian Refugees reported on the desperate situation in the refugee camps that are prohibited from expanding and therefore suffering from increasingly overcrowded living space. Prime Minister Mikati promised to grant Palestinian refugees work permits and to grant civil and human rights, but ongoing Lebanese political dysfunction makes it virtually impossible to imagine this happening in the foreseeable future.

By the end of 2011, 4,840 Syrian refugees were registered with the UNHCR and the Lebanese High Relief Committee, the majority of whom had fled from Syria's Homs province. Many are residing with host families in north Lebanon, waiting for the situation at home to stabilize before they return. Their legal status is ambiguous, and they also face the threat of Syrian troop incursions and kidnappings by Syrian agents in Lebanon. Syrian refugees have complained that their movements are restricted by the Lebanese army, since they do not have exit stamps on their passports or identity cards, and that little has been done to ensure their security.

There are about 150,000 Arab Bedouin in Lebanon, who lived in what is now Lebanon before the country was created. Originally self-sufficient, years of urbanization and drought have impoverished them, weakening their customs and traditional pastoral livelihoods. Bedouin in Lebanon have fought for years to be recognized as Lebanese citizens. During Lebanon's only population census in 1932, many Bedouins who failed to register did not get citizenship and thus became stateless. Those without citizenship are given laissez-passer papers, which protect them from arrest and deportation, but does not grant them any civil rights. Because some of their settlements are not recognized, their access to water and electricity is also limited.

Libya

The Libyan revolution began with protests in the eastern city of Benghazi on 15 February 2011 and, like the other Arab Spring uprisings, caught most observers by surprise. By late February, opposition to Colonel Muammar Gaddafi's 42-year rule had transformed into an armed struggle that spread across the country. The opposition formed the National Transitional Council (NTC) in Benghazi. On 17 March, the UN Security Council passed resolution 1973, which paved the way for the imposition of a no-fly-zone against Gaddafi's forces, led by NATO. The Libyan capital, Tripoli, eventually fell to rebel forces in late August 2011, and Gaddafi was captured and killed on 20 October 2011 in the city of Sirte. On 16 September, the UN General Assembly recognized the NTC as the legitimate representative of Libya.

In November 2011, a report by UN Secretary-General Ban Ki-Moon expressed concerns over alleged war crimes committed by rebels, particularly against black Libyans and Sub-Saharan Africans. The report said many of the 7,000 African detainees, including women, had been beaten and tortured.

According to rights groups, rebel fighters killed and detained black Libyans and sub-Saharan African migrant workers, claiming they were pro-Gaddafi mercenaries. However, allegations that Gaddafi employed many Africans from neighbouring countries such as Chad, Nigeria and Sudan as mercenaries appeared to be heavily exaggerated. Many Africans worked in civilian jobs. There have been reports of harassment and violence towards sub-Saharan African migrant workers from rebel fighters and civilians alike, and security missions have allegedly turned into persecution of Africans based on their skin colour. During a field mission in September, HRW reported that Africans held in Libyan prisons were in overcrowded cells with appalling hygiene standards and no access to clean drinking water. In addition, many sub-Saharan Africans have been displaced by the fighting and for fear of reprisals; the largest group of displaced Africans was in the port of Janzur between Tripoli and Zawya, housed in camps with poor hygiene and sanitation conditions. Residents of the camp complained to HRW that armed Libyans frequently entered the camp to harass them and rape women.

During the Libyan revolution, government forces attacking Misrata were partly based in the town of Tawergha, east of Tripoli. Following

Right: A child carries water at a camp for refugees from Tawergha in Benghazi, Libya. *REUTERS/Esam Al-Fetori.*

Gaddafi's fall, Misrata rebels have been accused of serious abuses against unarmed Tawerghans, including arbitrary arrests, beatings and torture. This forced many Tawerghans to abandon Tawergha, which is now described as a ghost town. The UN High Commissioner for Refugees (UNHCR) said that Tawerghans fled mostly to the Jufra region, south of Misrata. An estimated 15,000 people were displaced, and 4,000 Tawerghans sought refuge in three refugee camps. Others have moved to Benghazi, Tripoli, or to southern Libya. Forcing all residents of Tawergha to resettle permanently as a form of collective punishment would constitute a crime against humanity for deportation or forced transfer, HRW said in March 2011.

Libyan Amazigh, also known as Berbers, are the country's largest indigenous minority and faced discrimination and harassment under Gaddafi's rule. The Amazigh language, Tamazight, was outlawed, and Gaddafi passed laws which banned the use of non-Arab Amazigh names on official documentation. Amazigh New Year celebrations were considered un-Arab by Gaddafi, and Amazighs who expressed their culture and heritage were often persecuted by the state.

Amazigh living in the Nafusa Mountains in north-west Libya were among the first to protest against Gaddafi on 18 February 2011. Protesters in the main Nafusa towns of Naluf and Yefren called for Gaddafi's downfall, and an end to the marginalization of Amazigh people, demanding improved infrastructure and political representation. Fighting in the Nafusa Mountains between rebel forces and Gaddafi forces blocked access to food, medical supplies and fuel. As fighting intensified by May, thousands of people fled across the nearby border into Tunisia – nearly 55,000 according to the UN OCHA.

Following Gaddafi's fall, Amazigh activists demanded that Amazigh identity be recognized in Libya's new constitution and for Tamazight to become an official language. Following the expulsion of Gaddafi forces from Amazigh regions, there has been what observers have called a cultural and linguistic renaissance. Schools have begun to teach Tamazight, and a weekly Tamazight newspaper was launched. But the draft constitution outlined by the NTC only vaguely alluded to Amazigh culture and rights – Tamazight was not recognized as an official language for example – and the cabinet of Prime Minister Abdurrahim al Keib appointed in November 2011 did not include Amazigh ministers. This angered Amazigh who fought against Gaddafi forces. Amazigh demands extend beyond cultural and linguistic rights to full political participation. The overthrow of Gaddafi has allowed the formation of indigenous advocacy groups like the National Amazigh Libyan Congress.

Saudi Arabia

The Saudi Arabian authorities were deeply disturbed by the Arab uprisings of 2011, particularly the eruption of popular protests in neighbouring Bahrain and Yemen. The ongoing protests and activism by the majority Shi'a in Bahrain, who are calling for full political rights and integration, have created fear among the Saudi royal family that the Shi'a minority in the country will increase their demands for equality. This deep sense of threat was reflected in new anti-terrorism legislation passed in July 2011 that criminalized political dissent and allowed the government to jail anyone who questioned the integrity of the King for a minimum of 10 years.

Saudi Arabia's 2 million Shi'a are mostly concentrated in the kingdom's eastern province, where most of the oil fields are located. Since Sunni Islam is the dominant religion of Saudi Arabia, and the strict Wahhabi interpretation is the official Islamic school of the state, practice of any other faith is not permitted, even in private.

The 2011 Arab uprisings encouraged a growing civil rights movement among Saudi Shi'a, and there were several protests in Shi'a towns. In February, there were peaceful marches in the Shi'a towns of Safwa and Qatif in the Eastern Province. In early March, around 24 Shi'a were detained following protests in the city of al-Qatif, denouncing the prolonged detention without trial of Shi'a prisoners. They were released shortly after without charge, reportedly only after they signed a pledge not to protest again. Clashes broke out in 'Awwamiyya, a Shi'a town, in

October; 11 security personnel were injured and three citizens, two of them women. On 25 November, four Shi'a men were killed in protests in the most serious outbreak of violence in the Kingdom in 2011 in the Qatif region.

Shi'a cleric Shaikh Tawfiq al-'Amir has been a frequent target of the Saudi authorities. In February, he was arrested for apparently calling for a constitutional monarchy and equal rights for Shi'a in his Friday sermon, but was subsequently released. In August, he was arrested again for statements made in sermons during Friday prayers, although Amnesty International said no formal charges were made.

As with all Arab Gulf countries, Saudi Arabia has for years mistreated domestic migrant workers from countries such as Ethiopia, Bangladesh and Indonesia. Migrant Care and HRW have both documented how domestic migrant workers are often deceived during the recruitment process and made to pay large fees, leaving them heavily in debt. They often work up to 18 hours a day, and some are beaten or raped by their employers. They are excluded from labour laws, and there is poor government oversight on both recruiters and employers. The consent of employers is needed before any worker can leave the country.

Syria

By the end of 2011, the Syrian revolution had entered its ninth month with no sign of the Assad government backing down on its excessive use of violence against protesters and opposition activists. The UN estimated that more than 5,000 people had been killed in the government's crackdown on protests by the end of the year. The increased militarization of the conflict, and Syria's sectarian composition have raised fears that civil war will erupt between the minority Alawites, the sect that President Bashar al-Assad's family belong to and whose members arguably dominate positions of power, and the majority Sunnis. Previous MRG reports have not considered Alawites as a threatened minority, given their elevated position in the regime apparatus, but their close identification with the Assad regime puts them in danger of revenge attacks should the government fall. While there have been worries concerning the possible vulnerable situation of Syria's Christians, who make up between 7 and 9 per cent of the population, MRG did not receive any reports of attacks directed against that community during the year.

Kurds are the largest non-Arab ethnic minority in Syria, estimated at 1.7 million or about 10 per cent of the country's population. Since independence, the Syrian government has sought to eliminate Kurdish identity in Syria by institutionalizing discrimination and racism against them. The 1962 census stripped around 120,000 Kurds of citizenship, amid accusations they were foreigners and thus registered illegally. HRW and other NGOs estimate that there are around 300,000 stateless Kurds living in Syria today.

When the Syrian uprising began, the Assad government sought to placate minorities in Syria and in April issued a decree granting Kurds citizenship. As the citizenship process includes an interview with the state security apparatus, which entails interrogation and intimidation, few Kurds are willing to go through with it. Young Kurdish men who did apply for citizenship were asked to do military service, which might entail joining the army against the protesters.

Since the 1960s, the Syrian government has confiscated many Kurdish lands on the borders with Turkey and Iraq to create the so-called Arab Belt. Bedouin Arabs were brought in and resettled in Kurdish areas. Although Kurdish farmers were dispossessed of their lands, they refused to move and give up their houses.

Years of drought have now exacerbated the situation of Kurds in the northern Hasakeh governate, where the majority of stateless Kurds live. The region has vast arable lands and is the principal producer of cotton, oil, lentils, wheat and barley. But reduced rainfall has decreased the arable land available for cultivation and caused desertification. The result has been reduced agricultural production and a decline in the regional and national economy. The Ministry of Agriculture says that 40,000–60,000 families have migrated from Hasakeh, but Kurdish analysts say that the number is much higher; 30,000 families have left Kamishli city alone. The Syrian government has been slow to respond to the dire agricultural and economic situation of the region.

Kurdish areas initially did not witness many protests for two reasons; at the beginning of the year, the Assad government was quick to reach a rapprochement with the Democratic Union Party, the Syrian branch of the Kurdish Worker's Party (PKK), allowing them to set up cultural centres and schools in Kurdish regions. However, the Kurdistan National Assembly of Syria, composed of 11 parties, is aligned with the Syrian opposition.

Secondly, Kurdish parties have been wary of the opposition Syrian National Council (SNC), since its leader, Bourhan Ghalyoun, had stressed the 'Arab' nature of Syria, and Kurds have distrusted the SNC's relations with Turkey, fearing they will quash their demands for full civil and political rights.

But some Kurds did participate in the uprising. Since March 2011, Kurdish activists have been arrested due to their participation in the opposition local coordination committees. Leading Kurdish activist Mashaal Tammu was killed on 7 October, when armed men forced him out of a house during a meeting with activists and shot him dead. His funeral, which turned into the biggest demonstration in the Kurdish areas since the uprising began, was attended by 50,000 people. State security forces fired on protesters, killing six and wounding several others.

Amid the violence, many Iraqi refugees in Syria no longer felt safe, fearing the very sectarian violence they had escaped from at home; but many were also uncertain about returning to Iraq where instability and violence continues. There are approximately 1 million Iraqi refugees in Syria – over 100,000 of them are registered with the UNHCR.

In June 2011, clashes broke out in the Yarmouk Palestinian refugee camp near Damascus between residents and the Popular Front for the Liberation of Palestine, backed by the Assad regime. Approximately 20 people died, according to Palestinian sources.

In August 2011, UNRWA reported that over 5,000 Palestinian refugees had fled a camp in Lattakia after the Syrian army attacked the area. At least 4 people died with 20 injured. UNRWA said that some refugees had been told by the Syrian authorities to leave. The situation at the camp was described as alarming. According to UNRWA, more than 486,000 Palestinian refugees live in nine official and three unofficial camps across Syria. Although Palestinian refugees enjoy many of the rights of Syrian citizens, UNRWA reported that they lag behind in key areas, such as infant mortality and school enrolment. ■

Reference

Peoples under Threat 2012

Mark Lattimer

Introduction

The association between autocracy and political violence is so strong it can blind us to the dangers of democratization. As democratic advances are made, we assume that populations will be safer. In fact, transitions to democracy are rarely smooth. In addition to the general risk of increased violence that comes from periods of political instability, there is the obvious fact that autocratic forces rarely relinquish their hold on power without a fight. But the dangers can come from democratic forces too: as political space opens up, popular prejudices draw oxygen and populist politicians or militia leaders often seek to exacerbate ethnic or sectarian grievances for their own gain. Minorities can find themselves scapegoated or a target for the anger felt towards the old regime. This conjunction of factors was tragically apparent during the demise of Communist rule in Europe (as it was at its birth). Today, it is increasingly evident in the events unfolding in the Middle East and North Africa.

If 2011 will be remembered as the year of the Arab Spring, then 2012 may well become the year the revolutions soured. In Syria, a military backlash has cost over 9,000 lives so far. The great majority have been civilian victims of government forces, but there are also reports of opposition militias attacking Shi'a families. In Libya, where some 15,000–20,000 people were reportedly killed in the war to overthrow the Gaddafi government, the country has seen the mass forced displacement of black Libyans and sub-Saharan migrant workers, and a widespread pattern of arbitrary detention, torture and extra-judicial execution targeted at individuals or whole communities because of their colour. In Egypt, the rise of Salafist parties since the fall of President Mubarak and attacks on churches have prompted thousands of Copts to leave the country.

The 2012 release of the *Peoples under Threat* index shows that the risk level has also increased dramatically in other states in the region. This is not to negate the very real democratic advances that have already been achieved by the Arab uprisings, but it does underscore the fact that, for civilian populations in general and minorities in particular, the transition to democracy is bloody and its outcome uncertain.

Rising threats in the Arab world and beyond

This is the seventh successive year that the *Peoples under Threat* index has been published to highlight those countries around the world where the risk of mass killing is greatest. *Peoples under Threat* is created by compiling authoritative data on the known antecedents to genocide or mass political killing. While the individual indicators describe the current situation – what *is* happening – the index as a whole seeks to predict what *may* happen. As an early warning tool, it has been widely used by UN officials and other human rights and conflict prevention practitioners. Almost all the significant episodes of civilian killing that occurred over the last year took place in countries which were near the top of, or major risers in, last year's *Peoples under Threat* table.

This year, states in the Middle East and North Africa feature prominently in the major risers (see below). Among the Arab countries, Syria, Libya, Yemen and Egypt have all risen significantly in the table (the first three following rises last year as well).

In Syria, the government accepted a joint UN-Arab League proposal in March 2012 to end the violence, but killings have continued and in April the UN Security Council authorized a UN military observer mission. The fact that the government is dominated by Alawites, an off-shoot of Shi'ism, places Alawite and other Shi'a communities at risk if the conflict intensifies or if the government falls. Assyrian Christians are also deeply concerned about the possibility of attacks from Sunni militants.

In Libya, former rebels still hold up to 6,000 people arrested during or after the armed conflict. Detained without charge or trial, up to half are believed to be sub-Saharan migrants or black Libyans. Human rights groups report that over a dozen have been tortured to death. Systematic

repression continues against the former inhabitants of Tawergha, a town with a mainly black Libyan population of 30,000 who were accused of being Gaddafi loyalists and forcibly displaced in their entirety by the Misrata brigade.

The resignation of President Saleh in Yemen was greeted by human rights campaigners but has not improved the country's risk profile. Fighting between al-Houthis and Sunni tribes in the north has compounded the security challenges faced by a state in a worsening humanitarian crisis, to say nothing of the continuing threat posed by Al Qaeda in the Arabian Peninsula.

In Egypt, activists' euphoria at the downfall of the Mubarak government has been replaced by increasing anger at the arbitrary detention and torture practiced by the Supreme Council of the Armed Forces. Egypt's Copts total 7 million or more, but the number leaving the country is reported to have increased following attacks and intimidation. The political success of the Muslim Brotherhood and of Salafist parties is also viewed with concern by other religious minorities, including the Shi'a and the Baha'i.

Repressive governments throughout the region have for decades sought to deny political space to Islamist parties. But competition between Islamists and secularists is only one potential axis of political division as those governments weaken and begin to fall. Differences between Sunni and Shi'a, Muslims and non-Muslims, Arabs and non-Arabs are all expressions of an internal diversity in the Arab world that is often underestimated and which depends on traditions of tolerance and mutual respect. In Iraq – whose recent history stands as a terrible warning to other states facing change in the region – each of those differences became fault-lines for mass killing.

Three states on the borders of the Arab world are also major risers in the table this year. International attention on Iran has focused in recent months on the issue of nuclear facilities, but the systematic campaign of repression of opposition activists continues, and reached a new level in the country's north-west, where the conflict with Kurdish militias intensified. Shelling by Iranian tanks and artillery in June displaced thousands. Baluchis, Ahwazi Arabs and Azerbaijanis also accuse the government of long-standing oppression and denial of political participation.

The highest riser in the *Peoples under Threat* table this year is South Sudan, a country which acquired its independence from Sudan in July and which comes straight in at number eight. A history of cattle raiding between the Lou Nuer and the Murle, as well as other groups, has developed into inter-communal violence on a highly organized scale in Jonglei state, affecting some 120,000 people. But the greatest current risk for the peoples of both Sudan and South Sudan comes from the series of conflicts escalating along the border areas between the two countries, constituting 'a serious threat to international peace and security' in the words of a UN Security Council resolution adopted in May 2012. The Council had previously denounced repeated clashes between armies of the two

Major risers since 2011

Rank	Rise in rank since 2011	Country	Group	Total
8	NEW	South Sudan	Murle, Nuer, Dinka, Anuak, Jie, Kachipo	19.50
10	4	Iran	Arabs, Azeris, Bahá'ís, Baluchis, Kurds, Turkomen	18.43
13	2	Yemen	Zaydi Shi'a, 'Akhdam'	16.82
14	16	Syria	Political targets, Shi'a, Assyrians, Kurds, Palestinians	16.59
27	9	Kyrgyzstan	Uzbeks, Russians	13.18
30	5	Thailand	Chinese, Malay-Muslims, Northern Hill Tribes	12.70
36	28	Libya	Black Libyans, Sub-Saharan migrants, Tebu, Berbers	12.51
43	7	Kosovo	Serbs, Roma/Ashkali/Egyptians, Bosniaks, Turks, Gorani	11.99
61	NEW	Mali	Tuareg, Arabs, Maure and others in the north	10.71
64	NEW	Egypt	Copts, Shi'a, Bahá'ís	10.38

countries, cross-border incursions and support to proxy militias. South Sudan now hosts more than 105,000 refugees from the Sudanese states of Blue Nile and Southern Kordofan, including those fleeing months of shelling by Sudanese government forces in the Nuba Mountains.

In Mali, ongoing fighting between government forces and rebel Tuareg fighters has left 150,000 internally displaced and forced more than 160,000 to flee to neighbouring states, according to the UNHCR. A senior UN official drew attention to alarming reports of sexual violence in the north. The crisis developed after the return to Mali of Tuareg who had settled in Libya during Gaddafi's rule, and is just one example of how the fall-out from the Arab uprisings is being experienced across borders in ways that are both unforeseen and uncontrolled.

The huge changes taking place across the Middle East and North Africa, while increasing hopes for democratisation, represent for both religious and ethnic minorities perhaps the most dangerous episode since the violent break-up of the Soviet Union and the former Yugoslavia.

Those at greatest risk

Although a number of states, including Indonesia and Côte d'Ivoire, have slid down the table this year, it is remarkable how those at the very top have clung stubbornly to their place. It is also a rebuke to a fickle media agenda.

In Somalia, a severe drought brought famine to the southern part of the country, including areas inhabited by the vulnerable Bantu minority. The military situation delayed the delivery of emergency aid. Although the militia group al-Shabaab withdrew from central Mogadishu in August, roadside bombs and other attacks are still a regular occurrence and the UN Independent Expert for human rights in Somalia described a 'total collapse of the institutions for law enforcement and the administration of justice' after his visit in April 2012.

In the Democratic Republic of Congo, armed conflict returned a number of times to the east over the last year, most recently in clashes between the Congolese armed forces and the dissident troops of a Congolese general under indictment by the International Criminal Court. The population throughout much of the Kivus and in parts of Province Orientale remains in a state of permanent insecurity.

Since the withdrawal of US combat troops from the streets of Iraq in December, the country

Peoples most under threat – highest rated countries 2012

Rank	Country	Group	Total
1	Somalia	Minorities incl. Bantu, Benadiri and 'caste' groups (Gabooye etc.); clan members at risk in fighting incl. Hawiye, Darod, etc.	23.28
2	Sudan	Fur, Zaghawa, Massalit and others in Darfur; Dinka, Nuba, Beja	22.00
3	Afghanistan	Hazara, Pashtun, Tajiks, Uzbeks, Turkmen, Baluchis	21.49
4	Iraq	Shi'a, Sunnis, Kurds, Turkmen, Christians, Mandaeans, Yezidis, Shabak, Faili Kurds, Bahá'ís, Palestinians	20.92
5	Burma/ Myanmar	Kachin, Karenni, Karen, Mons, Rakhine, Rohingyas, Shan, Chin (Zomis), Wa	20.43
6	Pakistan	Ahmadiyya, Baluchis, Hindus, Mohhajirs, Pashtun, Sindhis, other religious minorities	20.28
7	Dem. Rep. of the Congo	Hema and Lendu, Hutu, Luba, Lunda, Tutsi/Banyamulenge, Batwa/Bambuti, other groups	19.56
8	South Sudan	Murle, Nuer, Dinka, Anuak, Jie, Kachipo	19.50
9	Ethiopia	Anuak, Afars, Oromo, Somalis, smaller minorities	19.42
10	Iran	Arabs, Azeris, Bahá'ís, Baluchis, Kurds, Turkomen newly-settled groups	18.43

receives only a fraction of the international media coverage it once did, but the killing continues, with sectarian violence and extra-judicial executions accounting for over 300 deaths a month. Chaldo-Assyrians, Turkmen, Yezidis and other minorities face ongoing violence and intimidation in the disputed provinces of Nineveh and Kirkuk in the north, as well as in Baghdad. The war continues too in Afghanistan and in the tribal areas of Pakistan. A series of recent deadly attacks on civilians and international missions in Kabul highlight the failure of the new Afghan army to ensure security even in the capital and bode ill for future prospects of peace in a country where ethnic divisions are still profound. The return of refugees to Afghanistan has slowed and up to three million Afghan refugees remain in Pakistan and Iran.

In Burma, the first real steps towards democratisation for many years have seen Aung San Suu Kyi and other candidates from the National League for Democracy elected to parliament, but the country remains at fifth place in the table. A conflict with a long history of atrocities against ethnic Kachin civilians continues against rebels in Kachin state, and the position of Rohingyas as well as other minorities remains of grave concern.

Does development lower the threat?

If the relationship between democratization and the safety of minorities and other peoples is a complex one, how is the level of risk influenced by human development?

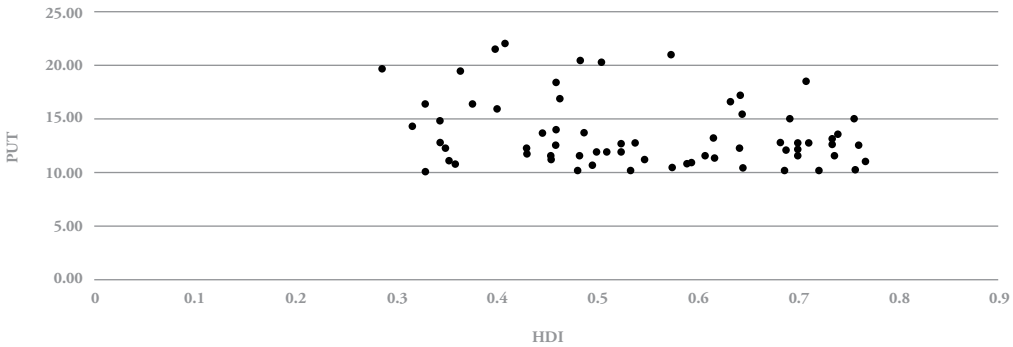
A growing body of academic literature has explored the links between violent conflict and poverty. There is a firm consensus that conflict impoverishes nations, setting back human development many years and stunting health and education prospects across a range of indicators. But on the existence of a causal relationship the other way – i.e. whether low development is a cause of conflict – the conclusions are mixed. Certainly, in a number of studies, Paul Collier and Anke Hoeffler have sought to demonstrate that low growth rates are associated with the outbreak of conflict in developing countries, and that higher rates of educational attainment are associated with a lower risk of internal conflict. Frances Stewart has posited that the likelihood of unrest and violent conflict is higher where there are significant horizontal inequalities in political or economic status between different ethnic or culturally-defined groups. The role of natural resources can be pivotal but complicates the analysis further: researchers have drawn attention to the existence of a 'resource curse', whereby countries rich in natural resources have nonetheless experienced poor development outcomes, due to a number of factors including economic distortion, conflict over resource revenues, and corruption.

The specific risk of mass killing is distinct from conflict risk, not least because episodes of mass killing have occurred where there is no situation of armed conflict prevailing (for more on the link between the two, see box below: 'How is *Peoples under Threat* calculated?'). To explore the potential relationship between level of development and the risk of mass killing, the most recent Human Development Index (HDI) was plotted against the *Peoples under Threat* index (PUT) for every country in the table for which HDI values are available. (Published annually by the UN Development Programme, the Human Development Index is a summary statistic combining the three dimensions of health, education and living standards to serve as a single frame of reference for both social and economic development).

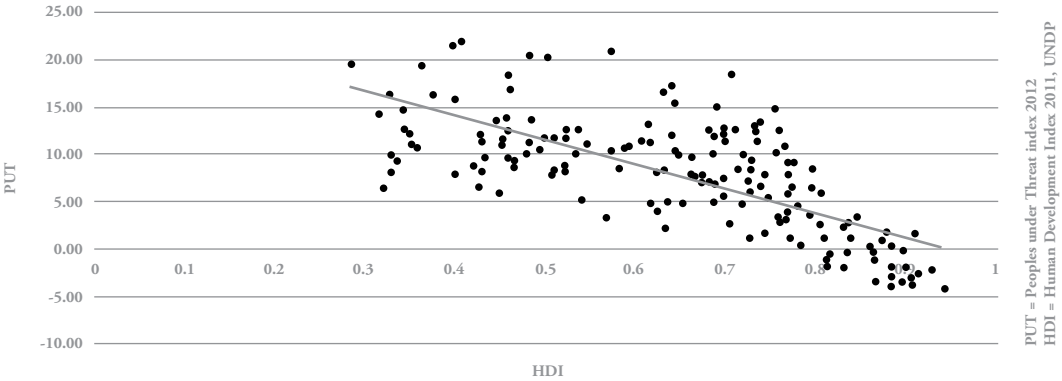
The most striking impression on viewing the resulting graph (see below) is that it is difficult to see a clear relationship between the two indices. A negative correlation does exist, but it is very weak, with values fairly evenly scattered over the graph. Some states in the top 20 places in *Peoples under Threat*, such as Iran and Russia, have a high HDI of over 0.7. There are countries at the bottom of the table with low HDI values, and many states with very low HDI do not appear on the table at all (including, for example, Burkina Faso and Mozambique). The only safe conclusion for policy-making that can be drawn from this initial data is that higher rates of human development (at least for developing countries) do not remove the threat of mass killing.

To investigate the relationship further, PUT values were calculated for a total of 175 countries. (Although it should be noted that as *Peoples*

Human development of peoples under threat



PUT vs HDI (175 countries)



under Threat is specifically designed to gauge the risk of egregious events, its explanatory power at the lower end of the spectrum is limited.) Where PUT is plotted against HDI for this much larger group of countries, a clearer negative correlation does emerge, with the level of risk falling as human development increases. It is notable, however, that the strength of the relationship is heavily influenced by what happens at the right of the graph; i.e. in relation to those countries with very high rates of human development. The correlation between high human development and a low risk on the PUT table only becomes really pronounced in the upper HDI quartile. If the guarantee of safety from arbitrary killing is, in legal and moral terms, a human right, in today's world it is also a luxury.

Additional research by Daniel Openshaw

How is *Peoples under Threat* calculated?

Since the genocide in Rwanda in 1994, our ability to identify those situations most likely to lead to genocide or mass killing has improved. A number of comparative studies of the factors preceding historic episodes of political mass killing had been undertaken since the 1970s, including by Helen Fein and Ted Robert Gurr, but it was not until the 1990s that researchers such as Rudolf Rummel and Matthew Krain pioneered quantitative longtitudinal analysis of a wide range of such factors, enabling the testing of different causal hypotheses. Rummel,

for example, showed the very strong relationship between concentration of government power and state mass murder; Krain demonstrated the correlation between existing armed conflict or political instability and the onset and severity of mass killing.

Following the early work of the Clinton administration's policy initiative on genocide early warning and prevention, Professor Barbara Harff, a senior consultant with the US State Failure Task Force, constructed and tested models of the antecedents of genocide and political mass murder and her results were published in 2003 ('Assessing Risks of Genocide and Political Mass Murder since 1955', *American Political Science Review* 97, February 2003). Her optimal model identifies six preconditions that make it possible to distinguish, with 74 per cent accuracy, between internal wars and regime collapses in the period 1955–1997 that did, and those that did not, lead to genocide and political mass murder (politicide). The six preconditions are: political upheaval; previous genocides or politicides; exclusionary ideology of the ruling elite; autocratic nature of the regime; minority character of the ruling elite; and low trade openness.

MRG has drawn on these research findings to construct the *Peoples under Threat* table, although responsibility for the final table is exclusively our own. *Peoples under Threat* is specifically designed to identify the risk of genocide, mass killing or other systematic violent repression, unlike most other early warning tools, which focus on violent conflict as such. Its primary application is civilian protection.

Indicators of conflict are included in the table's construction, however, as most, although not all, episodes of mass ethnic or religious killing occur during armed conflicts. War provides the state of emergency, domestic mobilization and justification, international cover, and in some cases the military and logistic capacity, that enable massacres to be carried out. Some massacres, however, occur in peacetime, or may accompany armed conflict from its inception, presenting a problem to risk models that focus exclusively on current conflicts. In addition, severe and even violent repression of minorities may occur for years before the onset of armed conflict provides the catalyst for larger-scale killing.

The statistical indicators used all relate to the state. The state is the basic unit of enquiry, rather than particular ethnic or religious groups at risk, as governments or militias connected to the government are responsible for most cases of genocidal violence. Formally, the state will reserve to itself the monopoly over the means of violence, so that where non-state actors are responsible for widespread or continued killing, it usually occurs with either the complicity of the state or in a 'failed state' situation where the rule of law has disintegrated. Certain characteristics at the level of the state will greatly increase the likelihood of atrocity, including habituation to illegal violence among the armed forces or police, prevailing impunity for human rights violations, official tolerance or encouragement of hate speech against particular groups, and in extreme cases, prior experience of mass killing. Egregious episodes of mass killing targeted principally at one group have also seen other groups deliberately decimated or destroyed.

However, some groups may experience higher levels of discrimination and be at greater risk than others in any given state. MRG has identified those groups in each state which we believe to be under most threat. (This does not mean that other groups or indeed the general population may not also be at some risk.) It should be noted that although these groups are most often minorities, in some cases ethnic or religious majorities will also be at risk and in relevant cases are therefore also listed in the table. In some cases, all the groups in the country are at risk of ethnic or sectarian killing.

One indicator that has been tested and discarded by a number of studies is the general level of ethnic or cultural diversity in a society. Krain did not find any correlation between 'ethnic fractionalization' and the onset of genocide or political mass killing. Similarly, neither of the patterns of ethnic diversity tested by Harff had any effect on the likelihood of mass killing (although she did find the minority character of the ruling elite to be significant). These findings are supported by research on the

relationship between diversity and conflict.

The overall measure is based on a basket of ten indicators. These include indicators of democracy or good governance from the World Bank, conflict indicators from the Center for Systemic Peace and other leading global conflict research institutes, indicators of group division or elite factionalization from the Fund for Peace and the Carnegie Endowment for International Peace, the State Failure Task Force data on prior genocides and politicides, and the country credit risk classification published by the Organization for Economic Cooperation and Development (as a proxy for trade openness). For citations and further information, see the notes to the table. For a fuller discussion of the methodology, see *State of the World's Minorities 2006*.

Based on current indicators from authoritative sources, *Peoples under Threat* seeks to identify those groups or peoples most under threat in 2012. ■

Table 1
Peoples under Threat 2012

Country	Group	Conflict indicators		
		A. Self-determination conflicts	B. Major armed conflict	C. Prior genocide/politicide
Somalia	Minorities incl. Bantu, Benadiri and 'caste' groups (Gabooye etc.); clan members at risk in fighting incl. Hawiye, Darod, etc.	4	2	1
Sudan	Fur, Zaghawa, Massalit and others in Darfur; Ngok Dinka, Nuba, Beja	5	2	1
Afghanistan	Hazara, Pashtun, Tajiks, Uzbeks, Turkmen, Baluchis	4	2	1
Iraq	Shi'a, Sunnis, Kurds, Turkmen, Christians, Mandaeans, Yezidis, Shabak, Faili Kurds, Bahá'ís, Palestinians	5	2	1
Burma/Myanmar	Kachin, Karenni, Karen, Mons, Rakhine, Rohingyas, Shan, Chin (Zomis), Wa	5	2	1
Pakistan	Ahmadiyya, Baluchis, Hindus, Mohhajirs, Pashtun, Sindhis, other religious minorities	5	2	1
Dem. Rep. of the Congo	Hema and Lendu, Hutu, Luba, Lunda, Tutsi/Banyamulenge, Batwa/Bambuti, other groups	2	2	1
South Sudan	Murle, Nuer, Dinka, Anuak, Jie, Kachipo	0	2	0
Ethiopia	Anuak, Afars, Oromo, Somalis, smaller minorities	5	2	1
Iran	Arabs, Azeris, Bahá'ís, Baluchis, Kurds, Turkomen	5	1	1
Nigeria	Ibo, Ijaw, Ogoni, Yoruba, Hausa (Muslims) and Christians in the North	5	2	1
Israel/OPT	Palestinians in Gaza/West Bank, Israeli Palestinians	5	2	0
Yemen	Zaydi Shi'a, 'Akhdam'	2	2	0
Syria	Political targets, Shi'a, Assyrians, Kurds, Palestinians	1	2	1
Zimbabwe	Ndebele, Europeans, political/social targets	2	0	1
Chad	Black African' groups, Arabs, Southerners	3	1	0
Cote d'Ivoire	Northern Mande (Dioula), Senoufo, Bete, newly-settled groups	4	1	0
Philippines	Indigenous peoples, Moros (Muslims), Chinese	5	2	1
Sri Lanka	Tamils, Muslims	4	1	1
Russian Federation	Chechens, Ingush and others in North Caucasus; indigenous northern peoples, Roma, Jews	5	2	1
Central African Republic	Kaba (Sara), Mboum, Mbororo, Aka	0	1	0
Burundi	Hutu, Tutsi, Batwa	0	0	1
Nepal	Madheshis (Terai), Dalits, linguistic minorities	2	1	0

Indicators of group division			Democracy/governance indicators				Total
D. Massive movement – refugees and IDPs	E. Legacy of vengeance – group grievance	F. Rise of factionalized elites	G. Voice and accountability	H. Political stability	I. Rule of law	J. OECD country risk classification	
10	9.5	9.8	-2.002	-3.092	-2.427	7	23.28
9.6	9.9	9.9	-1.705	-2.701	-1.320	7	22.00
9.3	9.3	9.4	-1.455	-2.599	-1.898	7	21.49
9	9	9.6	-1.053	-2.272	-1.618	7	20.92
8	8.7	8.3	-2.094	-1.290	-1.501	7	20.43
9.2	9.3	9.1	-0.816	-2.705	-0.785	7	20.28
9.6	8.3	8.8	-1.417	-2.204	-1.612	7	19.56
9.6	9.9	9.9	-1.705	-2.701	-1.320	7	19.50
8.2	8.4	9.0	-1.314	-1.706	-0.756	7	19.42
7.9	8.5	9.2	-1.574	-1.565	-0.901	7	18.43
6	9.6	9.5	-0.823	-2.047	-1.206	5	18.38
7.6	9.6	8.1	-0.853	-1.938	-0.205	8	17.21
8.4	8.6	9.3	-1.282	-2.223	-1.052	7	16.82
8.5	8.7	7.9	-1.676	-0.815	-0.541	7	16.59
8.2	9	9.6	-1.488	-1.209	-1.801	7	16.34
9.5	9.4	9.8	-1.383	-1.532	-1.501	7	16.32
8.5	8.7	9.1	-1.117	-1.554	-1.218	7	15.90
6.5	7.2	8.5	-0.092	-1.559	-0.542	4	15.39
8.6	9.4	9.5	-0.508	-0.825	-0.088	6	15.00
5.1	7.6	7.8	-0.945	-0.887	-0.784	3	14.91
9.6	8.6	9.1	-1.124	-2.145	-1.302	7	14.75
8.7	8.2	8.2	-0.921	-1.541	-1.211	7	14.23
7.4	9	8	-0.533	-1.684	-1.021	7	13.93

Table 1
Peoples under Threat 2012

Country	Group	Conflict indicators		
		A. Self-determination conflicts	B. Major armed conflict	C. Prior genocide/politicide
Angola	Bakongo, Cabindans, Ovimbundu, Pastoralists, San and Kwisi	4	0	1
Uganda	Acholi, Karamojong, Basongora, Batwa	1	1	1
Lebanon	Druze, Maronite Christians, Palestinians, Shi'a, Sunnis	2	1	0
Kyrgyzstan	Uzbeks, Russians	1	1	0
Bosnia and Herzegovina	Croats, Bosniac Muslims, Serbs, Roma	3	0	1
Guinea	Fulani (Peul), Malinke	0	0	0
Thailand	Chinese, Malay-Muslims, Northern Hill Tribes	5	2	0
Equatorial Guinea	Bubi, Annobon Islanders	1	0	1
Georgia	Adzhars, Abkhazians, South Ossetians	5	1	0
Laos	Hmong, other highland peoples	4	0	0
Algeria	Berbers, Saharawi	2	1	1
Colombia	Political/social targets, Afro-descendants, indigenous peoples	3	2	0
Libya	Black Libyans, Sub-Saharan migrants, Tebu, Berbers	2	1	0
Niger	Djerema-songhai, Hausa, Tuaregs	4	0	0
Eritrea	Afars, Saho, Tigre, religious minorities	0	0	0
Turkey	Kurds, Alevis, Roma, Armenians and other Christians	5	2	0
Rwanda	Hutu, Tutsi, Batwa	0	0	1
Uzbekistan	Tajiks, Islamic political groups, religious minorities, Karakalpaks, Russians	1	0	0
China	Tibetans, Uyghurs, Mongols, Hui, religious minorities	5	0	1
Kosovo	Serbs, Roma/Ashkali/Egyptians, Bosniaks, Turks, Gorani	4	0	0
Bangladesh	Ahmadiyya, Hindus, other religious minorities; Chittagong Hill Tribes	3	0	0
Cambodia	Cham, Vietnamese, indigenous hill tribes (Khmer Leou)	0	0	1
Kenya	Borana, Kalenjin, Kikuyu, Luyha, Luo, Muslims, Turkana, Endorois, Masai, Ogiek, other indigenous groups	0	1	0
North Korea	Political/social targets, religious minorities	0	0	0
Haiti	Political/social targets	0	0	0
Djibouti	Afars	3	0	0
Venezuela	Indigenous peoples, Afro-descendants	0	0	0
Azerbaijan	Armenians	4	0	0

Indicators of group division			Democracy/governance indicators				Total
D. Massive movement – refugees and IDPs	E. Legacy of vengeance – group grievance	F. Rise of factionalized elites	G. Voice and accountability	H. Political stability	I. Rule of law	J. OECD country risk classification	
6.6	6.2	7	-1.139	-0.215	-1.244	6	13.65
8	8	8.6	-0.477	-1.120	-0.403	6	13.60
8.5	8.7	8.8	-0.330	-1.528	-0.663	7	13.48
6.5	8.3	8.3	-0.957	-0.956	-1.292	7	13.18
6.8	8.4	9.2	-0.116	-0.665	-0.364	7	13.09
7.7	7.9	9.2	-0.901	-1.812	-1.506	7	12.73
6.6	8	8.5	-0.558	-1.221	-0.196	3	12.70
2.7	6.6	8.2	-1.887	0.240	-1.259	7	12.70
7.5	8	9	-0.173	-0.681	-0.209	6	12.65
5.8	6.5	8.6	-1.634	-0.226	-0.897	7	12.62
6.1	7.8	6.8	-1.009	-1.251	-0.759	3	12.59
8.7	7.5	8.0	-0.186	-1.494	-0.333	4	12.55
4.6	6	7	-1.919	-0.058	-0.976	7	12.51
6.6	7.8	8.6	-0.564	-1.136	-0.568	7	12.48
6.8	6.1	8.1	-2.175	-0.871	-1.292	7	12.21
6	8.3	7.5	-0.159	-0.997	0.104	4	12.19
7.3	8.2	8.4	-1.335	-0.108	-0.312	7	12.11
5.7	7.4	8.7	-2.017	-0.777	-1.373	6	12.05
6.2	7.9	6.9	-1.650	-0.766	-0.347	2	12.01
6.4	7.5	8.0	-0.173	-1.156	-0.639	7	11.99
6.5	9.2	8.9	-0.276	-1.425	-0.768	6	11.82
5.6	7.2	8	-0.873	-0.617	-1.088	6	11.79
8.5	8.7	8.8	-0.231	-1.201	-1.011	6	11.78
5.3	6.9	7.4	-2.208	-0.451	-1.297	7	11.60
9.2	7.3	8.8	-0.716	-0.924	-1.353	7	11.58
7.2	6.2	7.5	-1.140	0.297	-0.715	8	11.54
4.8	7	7.3	-0.905	-1.370	-1.643	7	11.48
7.9	7.5	7.9	-1.272	-0.308	-0.883	5	11.47

Table 1
Peoples under Threat 2012

Country	Group	Conflict indicators		
		A. Self-determination conflicts	B. Major armed conflict	C. Prior genocide/politicide
Tajikistan	Uzbeks, Russians	0	0	0
Cameroon	'Westerners'	2	0	0
Indonesia	Acehnese, Chinese, Dayaks, Madurese, Papuans	5	0	1
India	Assamese, Bodos, Nagas, Tripuras, other Adivasis; Kashmiris, Sikhs, Muslims, Dalits	5	2	0
Mauritania	Haratins ('Black Moors'), Kewri	0	0	0
Guinea Bissau	Balanta, Fula (Fulani), Manjaco (Manjack or Mandyako), Mandinga (Mandinka), Papel (Pepel), Ejamat (Felupe), Jola (Diola), Susu , Cape Verdeans	0	0	0
Serbia	Bosniaks, Ethnic Albanians, Croats, Roma	2	0	1
Vietnam	Montagnards (Degar), other highland peoples, religious minorities	2	0	1
Nicaragua	Indigenous peoples, Creoles	3	0	0
Mali	Tuareg, Arabs, Maure and others in the north	5	1	0
Timor Leste	'Westerners', 'Easterners', Muslims, Chinese"	0	0	0
Guatemala	Indigenous peoples, Garifuna	0	0	1
Egypt	Copts, Shi'a, Baha'is	0	1	0
Belarus	Poles	0	0	0
Madagascar	Côtier, Merina, Indians/Pakistanis	0	0	0
Turkmenistan	Uzbeks, Russians, Kazakhs, religious minorities	0	0	0
Congo (Rep.)	Lari, M'Boshi, Aka	1	0	0
Ecuador	Afro-descendants, Indigenous peoples	2	0	0
Liberia	Dan, Krahn, Ma, other groups	0	0	0

Notes to Table

Sources of the indicators are as follows:

- *Conflict indicators*: The base data used was Monty G Marshall, 'Major Episodes of Political Violence 1946 – 2012' (Center for Systemic Peace, 2012) and, for self-determination conflicts, Monty G Marshall and Ted R Gurr, 'Peace and Conflict 2005' (CIDCM, University of Maryland, 2005) updated for 2011 using figures from Center for Systemic Peace, MRG and the Heidelberg Institute for International Conflict Research (Conflict Barometer 2011, HIIK 2012).

Self-determinations conflicts in 2012 were ranked on a scale of 0 – 5 as follows: 5=ongoing armed conflict; 4=contained armed conflict; 3=settled armed conflict; 2=militant politics; 1=conventional politics. Major armed conflicts were classified as 2=ongoing in late 2011; 1=emerging from conflict since 2006 or ongoing conflict with deaths under 1,000.

- *Prior genocide or politicide*: Harff, US Political Instability Task Force (formerly State Failure Task Force). 1=one or more episodes since 1945
- *Indicators of Group Division*: Failed States Index, Fund for Peace and the Carnegie

Indicators of group division			Democracy/governance indicators				Total
D. Massive movement – refugees and IDPs	E. Legacy of vengeance – group grievance	F. Rise of factionalized elites	G. Voice and accountability	H. Political stability	I. Rule of law	J. OECD country risk classification	
5.9	7.2	8.6	-1.356	-0.911	-1.196	7	11.45
7.3	7.8	8.5	-1.062	-0.576	-1.044	6	11.37
6.6	6.6	7	-0.055	-0.887	-0.630	3	11.31
5	8.2	6.8	0.424	-1.315	-0.058	3	11.16
6.8	7.8	7.9	-0.892	-1.250	-0.876	7	11.14
7.2	5.4	9.2	-0.891	-0.767	-1.351	7	11.02
6.4	7.5	8.0	0.291	-0.406	-0.389	6	10.90
5	5.7	6.9	-1.430	0.129	-0.483	5	10.84
4.9	6	6.8	-0.479	-0.606	-0.828	7	10.74
5.3	6	4.5	0.153	-0.253	-0.481	6	10.71
8	7.1	8.3	0.022	-0.485	-1.209	8	10.57
5.6	6.9	6	-0.355	-0.796	-1.037	5	10.40
6.4	8.3	8	-1.204	-0.907	-0.109	5	10.38
3.6	6.8	8	-1.554	-0.111	-1.046	7	10.15
4.6	5.2	8	-0.798	-1.134	-0.843	7	10.12
4.2	6.6	7.7	-2.029	0.242	-1.455	6	10.08
7.7	6	6.7	-1.031	-0.246	-1.133	6	10.06
6.4	6.9	8.2	-0.279	-0.630	-0.166	7	10.03
8.6	6.8	8.1	-0.226	-0.455	-1.010	7	9.98

Endowment for International Peace, 2011.

- *Democracy/Governance Indicators*: Annual Governance Indicators, World Bank, 2011.
- *OECD country risk classification*: Organization for Economic Cooperation and Development, 'Country Risk Classifications of the Participants to the Arrangement on Officially Supported Export Credits', January 2012. Where no classification is given, a value of 8 was accorded.

Data for South Sudan and for Kosovo include some indicators relating to Sudan and Serbia respectively.

Indicators were rebased as necessary to give an equal weighting to the five categories above, with the exception of the prior geno-/politicide indicator. As a dichotomous variable this received a lesser weighting to avoid too great a distortion to the final ranking. Resulting values were then summed.

The full formula is:
(A/2) + (Bx1.25) + (Cx2) + (D+E+F)/6 + (G+H+I) /-1 + (Jx0.625)

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	International Convention on the Prevention and Punishment of the Crime of Genocide 1948	International Convention on the Elimination of All Forms of Racial Discrimination 1965	International Covenant on Civil and Political Rights 1966	International Covenant on Economic, Social and Cultural Rights 1966
Africa				
Algeria	■	■▸	■●	■
Angola			■●	■
Benin		■	■●	■
Botswana		■	■	
Burkina Faso	■	■	■●	■
Burundi	■	■	■	■
Cameroon		■	■●	■
Cape Verde		■	■●	■
Central African Republic		■	■●	■
Chad		■	■●	■
Comoros	■	■	□	□
Congo		■	■●	■
Côte d'Ivoire	■	■	■●	■
Democratic Republic of the Congo	■	■	■●	■
Djibouti		■	■●	■
Egypt	■	■	■	■
Equatorial Guinea		■	■●	■
Eritrea		■	■	■
Ethiopia	■	■	■	■
Gabon	■	■	■	■
Gambia	■	■	■●	■
Ghana	■	■	■●	■
Guinea	■	■	■●	■
Guinea Bissau		■	■○	■
Kenya		■	■	■
Lesotho	■	■	■●	■
Liberia	■	■	■○	■
Libyan Arab Jamahiriya	■	■	■●	■
Madagascar		■	■●	■
Malawi		■	■●	■
Mali	■	■	■●	■
Mauritania		■	■	■
Mauritius		■	■●	■
Morocco	■	■▸	■	■
Mozambique	■	■	■	
Namibia	■	■	■●	■
Niger		■	■●	■

Convention on the Elimination of All Forms of Discrimination against Women 1979	Convention on the Rights of the Child 1989	ILO 111 Discrimination (Employment and Occupation) Convention 1958	ILO 169 Convention Concerning Indigenous and Tribal Peoples in Independent Countries 1989	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990	ICC Rome Statute of the International Criminal Court 1998	African Charter on Human and Peoples' Rights 2003	African Charter on the Rights and Welfare of the Child 1990
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	International Convention on the Prevention and Punishment of the Crime of Genocide 1948	International Convention on the Elimination of All Forms of Racial Discrimination 1965	International Covenant on Civil and Political Rights 1966	International Covenant on Economic, Social and Cultural Rights 1966
Nigeria	■	■	■	■
Rwanda	■	■	■	■
Sahrawi Arab Democratic Republic				
São Tomé and Príncipe		□	□○	□
Senegal	■	■▸	■●	■
Seychelles	■	■	■●	■
Sierra Leone		■	■	■
Somalia		■	■●	■
South Africa	■	■▸	■●	□
Sudan	■	■	■	■
Swaziland		■	■	■
Togo	■	■	■●	■
Tunisia	■	■	■●	■
Uganda	■	■	■●	■
United Republic of Tanzania	■	■	■	■
Zambia		■	■●	■
Zimbabwe	■	■	■	■
Americas				
Antigua and Barbuda	■	■		
Argentina	■	■▸	■●	■
Bahamas	■	■	■	■
Barbados	■	■	■●	■
Belize	■	■	■	□
Bolivia	■	■▸	■●	■
Brazil	■	■▸	■●	■
Canada	■	■	■●	■
Chile	■	■▸	■●	■
Colombia	■	■	■●	■
Costa Rica	■	■▸	■●	■
Cuba	■	■	□	□
Dominica			■	■

Convention on the Elimination of All Forms of Discrimination against Women 1979	Convention on the Rights of the Child 1989	ILO 111 Discrimination (Employment and Occupation) Convention 1958	ILO 169 Convention Concerning Indigenous and Tribal Peoples in Independent Countries 1989	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990	ICC Rome Statute of the International Criminal Court 1998	African Charter on Human and Peoples' Rights 2003	African Charter on the Rights and Welfare of the Child 1990
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						American Convention on Human Rights 1969	Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights 1988
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Dominican Republic	□	■	■●	■
Ecuador	■	■▸	■●	■
El Salvador	■	■	■●	■
Grenada		□	■	■
Guatemala	■	■	■●	■
Guyana		■	■●	■
Haiti	■	■	■	
Honduras	■	■	■●	■
Jamaica	■	■	■●	■
Mexico	■	■▸	■●	■
Nicaragua	■	■	■●	■
Panama	■	■	■●	■
Paraguay	■	■	■●	■
Peru	■	■▸	■●	■
Saint Kitts and Nevis		■		
Saint Lucia		■		
Saint Vincent and the Grenadines	■	■	■●	■
Suriname		■	■●	■
Trinidad and Tobago	■	■	■●	■
United States of America	■	■	■	□
Uruguay	■	■▸	■●	■
Venezuela	■	■▸	■●	■
Asia				
Afghanistan	■	■	■	■
Bangladesh	■	■	■	■
Bhutan		□		
Brunei Darussalam				
Cambodia	■	■	■○	■
China	■	■	□	■
Democratic People's Republic of Korea	■		■	■
India	■	■	■	■
Indonesia		■	■	■
Japan		■	■	■
Kazakhstan	■	■▸	■●	■
Kyrgyzstan	■	■	■●	■
Lao People's Democratic Republic	■	■	■	■

Convention on the Elimination of All Forms of Discrimination against Women 1979	Convention on the Rights of the Child 1989	ILO 111 Discrimination (Employment and Occupation) Convention 1958	ILO 169 Convention Concerning Indigenous and Tribal Peoples in Independent Countries 1989	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990	ICC Rome Statute of the International Criminal Court 1998	American Convention on Human Rights 1969	Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights 1988
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Malaysia	■			
Maldives	■	■	■●	■
Mongolia	■	■	■●	■
Myanmar	■			
Nepal	■	■	■●	■
Pakistan	■	■	■	■
Philippines	■	■	■●	■
Republic of Korea	■	■▸	■●	■
Singapore	■			
Sri Lanka	■	■	■●	■
Tajikistan		■	■●	■
Thailand		■	■	■
Timor Leste		■	■	■
Turkmenistan		■	■●	■
Uzbekistan	■	■	■●	■
Vietnam	■	■	■	■
Europe				
Albania	■	■	■●	■
Andorra	■	■▸	■●	
Armenia	■	■	■●	■
Austria	■	■▸	■●	■
Azerbaijan	■	■▸	■●	■
Belarus	■	■	■●	■
Belgium	■	■▸	■●	■
Bosnia and Herzegovina	■	■	■●	■
Bulgaria	■	■▸	■●	■
Croatia	■	■	■●	■
Cyprus	■	■▸	■●	■
Czech Republic	■	■▸	■●	■
Denmark	■	■▸	■●	■
Estonia	■	■▸	■●	■
Finland	■	■▸	■●	■
France	■	■▸	■●	■
Georgia	■	■▸	■●	■

Convention on the Elimination of All Forms of Discrimination against Women 1979	Convention on the Rights of the Child 1989	ILO 111 Discrimination (Employment and Occupation) Convention 1958	ILO 169 Convention Concerning Indigenous and Tribal Peoples in Independent Countries 1989	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990	ICC Rome Statute of the International Criminal Court 1998	European Charter for Regional or Minority Languages 1992	Framework Convention for the Protection of National Minorities 1995
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Germany	■	■▸	■●	■
Greece	■	■	■●	■
Holy See		■		
Hungary	■	■▸	■●	■
Iceland	■	■▸	■●	■
Ireland	■	■▸	■●	■
Italy	■	■▸	■●	■
Latvia	■	■	■●	■
Liechtenstein	■	■▸	■	■
Lithuania	■	■	■●	■
Luxembourg	■	■▸	■●	■
Malta		■▸	■●	■
Monaco	■	■▸	■	■
Montenegro	■	■	■●	■
Netherlands	■	■▸	■●	■
Norway	■	■▸	■●	■
Poland	■	■▸	■●	■
Portugal	■	■▸	■●	■
Republic of Moldova	■	■	■●	■
Romania	■	■▸	■●	■
Russian Federation	■	■▸	■●	■
San Marino		■	■●	■
Serbia	■	■	■●	■
Slovakia	■	■	■●	■
Slovenia	■	■	■●	■
Spain	■	■▸	■●	■
Sweden	■	■▸	■●	■
Switzerland	■	■▸	■	■
The former Yugoslav Republic of Macedonia	■	■	■●	■
Turkey	■	■	■○	■
Ukraine	■	■▸	■●	■
United Kingdom of Great Britain and Northern Ireland	■	■	■	■
Middle East				
Bahrain	■	■	■	■
Iran (Islamic Republic of)	■	■	■	■

Convention on the Elimination of All Forms of Discrimination against Women 1979	Convention on the Rights of the Child 1989	ILO 111 Discrimination (Employment and Occupation) Convention 1958	ILO 169 Convention Concerning Indigenous and Tribal Peoples in Independent Countries 1989	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990	ICC Rome Statute of the International Criminal Court 1998	European Charter for Regional or Minority Languages 1992	Framework Convention for the Protection of National Minorities 1995
■	■	■			■	■	■
■	■	■			■		□
	■						
■	■	■			■	■	■
■	■	■			■	□	□
■	■	■			■		■
■	■	■			■	□	■
■	■	■			■		■
■	■				■	■	■
■	■	■			■		■
■	■	■			■	■	□
■	■	■			■	□	■
■	■				□		
■	■	■		□	■	■	■
■	■	■	■		■	■	■
■	■	■	■		■	■	■
■	■	■			■	■	■
■	■	■			■		■
■	■	■			■	□	■
■	■	■			■	■	■
■	■	■			□	□	■
■	■	■			■		■
■	■	■		□	■	■	■
■	■	■			■	■	■
■	■	■			■	■	■
■	■	■	■		■	■	■
■	■	■			■	■	■
■	■	■			■	■	■
■	■	■			■	□	■
■	■	■		■			
■	■	■			□	■	■
■	■	■			■	■	■
■	■	■			□		
	■	■			□		

Status of ratification of major international and regional instruments relevant to minority and indigenous rights

as of 1 February 2012

■ Ratification, accession or succession.

□ Signature not yet followed by ratification.

■▸ Ratification of ICERD and Declaration on Article 14.

■▹ Ratification of ICERD and Signature of Declaration on Article 14.

■● Ratification of ICCPR and Optional Protocol.

■○ Ratification of ICCPR and Signature of Optional Protocol.

□○ Signature of ICCPR and Optional Protocol.

	International Convention on the Prevention and Punishment of the Crime of Genocide 1948	International Convention on the Elimination of All Forms of Racial Discrimination 1965	International Covenant on Civil and Political Rights 1966	International Covenant on Economic, Social and Cultural Rights 1966
Iraq	■	■	■	■
Israel	■	■	■	■
Jordan	■	■	■	■
Kuwait	■	■	■	■
Lebanon	■	■	■	■
Oman		■		
Qatar		■		
Saudi Arabia	■	■		
Syrian Arab Republic	■	■	■	■
United Arab Emirates	■	■		
Yemen	■	■	■	■
Oceania				
Australia	■	■▸	■●	■
Cook Islands				
Fiji	■	■		
Kiribati				
Marshall Islands				
Micronesia (Federated States of)				
Nauru		□	□○	
New Zealand	■	■	■●	■
Niue				
Palau		□	□	
Papua New Guinea	■	■	■	■
Samoa			■	
Solomon Islands		■		■
Tonga	■	■		
Tuvalu				
Vanuatu			■	
Number of states parties	141 (1 sig)	175 (45 Art 14)	167 (115 op)	160 (6 sig)

Compiled by Natasha Horsfield and Electra Barbouri

Sources:

http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en

(http://www2.ohchr.org/english/bodies/docs/RatificationStatus.pdf this has been fully updated as of 2006 so above link more relevant)

http://www.unhchr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet

http://www.iccnow.org/?mod=romesignatures

Convention on the Elimination of All Forms of Discrimination against Women 1979	Convention on the Rights of the Child 1989	ILO 111 Discrimination (Employment and Occupation) Convention 1958	ILO 169 Convention Concerning Indigenous and Tribal Peoples in Independent Countries 1989	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990	ICC Rome Statute of the International Criminal Court 1998		
■	■	■					
■	■	■			□		
■	■	■			■		
■	■	■			□		
■	■	■					
■	■				□		
■	■	■					
■	■	■					
■	■	■		■	□		
■	■	■			□		
■	■	■			□		
■	■	■			■		
■	■				■		
■	■	■	■		■		
■	■	■					
■	■				■		
■	■						
	■				■		
■	■	■			■		
	■						
	■			□			
■	■	■					
■	■	■			■		
■	■				□		
	■						
■	■						
■	■	■			■		
187 (2 sig)	193 (2 sig)	169	22	45 (16 sig)	120		

http://www.achpr.org/

http://www.oas.org/juridico/english/Sigs/b32.html

http://www.cidh.oas.org/

http://conventions.coe.int/

http://www.ilo.org/ilolex/english/convdisp1.htm

http://www.ilo.org/ilolex/english/convdisp1.htm

http://www.iccnow.org/documents/RATIFICATIONSbyRegion_December2011_eng.pdf

http://www.acerwc.org/ratifications/

http://www.iccnow.org/documents/signatory_chart_Nov_2011_EN.pdf

http://www.oas.org/juridico/english/sigs/b-32.html

http://www.oas.org/juridico/english/sigs/a-52.html

http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=148&CM=8&DF=&CL=ENG

Who are minorities?

Minorities of concern to MRG are disadvantaged ethnic, national, religious, linguistic or cultural groups who are smaller in number than the rest of the population and who may wish to maintain and develop their identity. MRG also works with indigenous peoples.

Other groups who may suffer discrimination are of concern to MRG, which condemns discrimination on any ground. However, the specific mission of MRG is to secure the rights of minorities and indigenous peoples around the world and to improve cooperation between communities.

Selected abbreviations

ACHPR – African Commission on Human and Peoples' Rights
AHRC – Asian Human Rights Commission
AU – African Union
CEDAW – Committee on the Elimination of All forms of Discrimination Against Women
CERD – UN Committee on the Elimination of Racial Discrimination
CRC – UN Convention on the Rights of the Child
ECHR – European Convention on Human Rights
ECtHR – European Court of Human Rights
EHRC – European Human Rights Commission
EU – European Union
FCNM – Council of Europe Framework Convention for the Protection of National Minorities
FGM – female genital mutilation
FRA – European Union Agency for Fundamental Rights
HRW – Human Rights Watch
IACtHR – Inter-American Court of Human Rights
ICC – International Criminal Court
ICCPR – International Covenant on Civil and Political Rights
ICERD – International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR – International Covenant on Economic, Social and Cultural Rights
IDP – internally displaced person
ILO – International Labour Organization
IOM – International Organization for Migration
LGBT – lesbian, gay, bisexual and transgender
MDGs – Millennium Development Goals
NGO – non-governmental organization
OAS – Organization of American States
OCHA – UN Office for the Coordination of Humanitarian Affairs
OECD – Organisation for Economic Co-operation and Development
OHCHR – Office of the High Commissioner on Human Rights
OSCE – Organization for Security and Cooperation in Europe
UDHR – Universal Declaration on Human Rights
UN – United Nations
UNDM – UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
UNDP – UN Development Programme
UNDRIP – UN Declaration on the Rights of Indigenous Peoples
UNIFEM – UN Development Fund for Women
UNRWA – UN Relief and Works Agency
UNHCR – UN High Commissioner for Refugees
UPR – Universal Periodic Review
USCIRF – US Commission on International Religious Freedom

Contributors

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Maurice Bryan *(Americas)* is a Caribbean-born writer and communications consultant with a special focus on the use of information technology in a rights-based approach to social and economic development and cultural processes. He has worked in over 25 countries in Latin America, the Caribbean, Asia and Africa, and currently spends most of his time in Central America.

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Minority Rights Group International

Minority Rights Group International (MRG) is a non-governmental organization (NGO) working to secure the rights of ethnic, religious and linguistic minorities and indigenous peoples worldwide, and to promote cooperation and understanding between communities. Our activities are focused on international advocacy, training, publishing and outreach. We are guided by the needs expressed by our worldwide partner network of organizations which represent minority and indigenous peoples. MRG works with over 150 organizations in nearly 50 countries. Our governing Council, which meets twice a year, has members from nine different countries. MRG has consultative status with the United Nations Economic and Social Council (ECOSOC), observer status with the African Commission on Human and People's Rights, and is registered with the Organization of American States. MRG is registered as a charity and a company limited by guarantee under English law. Registered charity no. 282305, limited company no. 1544957.

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The internet's leading information resource on minorities around the globe:
www.minorityrights.org/Directory

minority rights group international

State of the World's Minorities and Indigenous Peoples 2012

Events of 2011

Minorities and indigenous peoples are under increasing threat from governments and private companies wanting to benefit from the resources found on or under their lands. Despite the growing recognition of their rights in international law, once their land is targeted for development – for mining, oil and gas extraction, dams, agribusiness, tourism or conservation – they are often violently evicted with little or no compensation. This year's edition of ***State of the World's Minorities and Indigenous Peoples*** provides a comprehensive and much-needed overview of how marginalized groups are affected by natural resource exploitation and how they are campaigning for their rights.

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