

# Forests of Fear

The Abuse of Human Rights in Forest Conflicts





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Fern campaigns for the sustainable use of the world's forests and respect for forest peoples' rights. Fern aims to change the policies and practices of the European Union in areas such as forest certification, climate change, aid and trade.



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## Summary


Abuses of human rights occur in forest conflicts all over the world, from Canada and the USA to Brazil, from Kenya to Indonesia. In many cases, blatant and often brutal abuses occur when a conflict escalates, following the violation of internationally recognised rights to land, a decent standard of living, and a clean and healthy environment. Looked at on their own, many of these examples of abuse may be regarded as isolated incidents of criminal activity. Put together, it becomes clear there is a recurring pattern of human rights violations linked to forest loss. Why?

Forests are a contested resource, with many different values and functions for different people. Fair decisions on their use thus need wide participation from all sectors of society. While sustainable development rhetoric and international declarations emphasise the need for participatory decision-making, lack of respect for human rights and democratic processes renders this impossible in many cases.

Giving a political voice to all sectors of society, upholding human rights and ensuring a more equitable balance of power amongst those with differing interests in forests is essential to halt the forest crisis. When this does not happen – when civil society is muzzled and the rights of local communities denied – forests are open to the most ruthless of interests.

This report illustrates the widespread nature of human rights abuses linked to forest destruction. While not attempting to provide comprehensive coverage of such abuses, it provides examples from North and South, from tropical, temperate and boreal forests. Five detailed case studies in four different continents document the chain of causalities leading to human rights abuses. Three country analyses – of Indonesia, Mexico and Canada – sketch how human rights abuses are ‘institutionalised’ by forest laws, power structures and lack of participation. A list of shorter examples illustrates the range of human rights abuses and the spread across different continents. All cases have been carefully checked with the people directly involved and contact details for more information are provided.

The case studies and country reports clearly show that the forest crisis is intricately linked to human rights abuses. Without halting these abuses and creating a climate in which the fate of the forests can be discussed in an open manner with all involved, there is little hope that the ongoing destruction of the world’s forests can be stopped. Yet despite these overwhelming political and social imperatives, in national and international debates forests are often regarded, by NGOs as well as government officials, as a narrow environmental issue; the sustainable management of forests is often discussed in technical terms only.



Even though human rights abuses may be outside the normal remit of environmental groups and government officials addressing forest issues, this report argues that addressing these abuses and the direct and underlying causes that lead to them, is central to a sustainable future for the world's forests.

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## **The indivisibility of human rights**

**This report presents a pattern of widespread violation of civil and political rights – torture, imprisonment, physical abuse and death – in relation to forest conflicts. The evidence is both deeply shocking and little known in the environmental community. However, while these appalling stories grab the headlines, the abuse of economic, social and cultural rights is an equally serious matter.**

**As the United Nations Development Programme has written, the death of more than 30,000 children a year from preventable causes is no less of an abuse of basic rights – the rights to a decent standard of living, health care, education – than torture of a single individual (UNDP, 2000).**

**Rights to religious and cultural freedom, a decent standard of living and a clean and healthy environment are protected in the Universal Declaration on Human Rights. The rights of indigenous peoples to land, access to resources, cultural and spiritual identity and to determination of their own development path are also recognised in several international agreements.**

**Violations of these latter rights, especially concerning access to land and resources, are widespread and have been exhaustively documented by social and environmental groups<sup>1</sup>. We have therefore chosen not to repeat them here. Despite this, we urge readers to consider all these rights as indivisible. The violation of one is no less serious than the violation of another. In all cases, respect for human rights must be a priority for anyone concerned with the future of the world's forests.**

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<sup>1</sup> See [www.forestpeoples.org](http://www.forestpeoples.org) and [www.wrm.org.uy](http://www.wrm.org.uy)



# 1. Internationally agreed human rights

A number of international instruments, widely endorsed by governments, encompass respect for human rights. The primary document is the Universal Declaration of Human Rights (UDHR) (see Appendix A), which was adopted by the United Nations, and all its members, in 1948. The Declaration recognises the primary civil and political rights of all individuals, including the right to life, liberty and security, freedom of speech, expression, religion, assembly and movement within a country, and the right to justice, employment, and education. At the time of its adoption, the UN Declaration was not intended to be binding.<sup>2</sup>

In order to enshrine these rights in legally binding agreements, two related covenants were developed. The International Covenant on Civil and Political Rights (ICCPR) details the fundamental civil and political freedoms set out in the UDHR, and The International Covenant on Economic, Social and Cultural Rights (ICESCR) develops the concepts of economic, social, religious and cultural freedoms further. The ICCPR has been ratified by 148 states and the ICESCR by 143 states (see Appendix B). Implementation of the ICCPR and the ICESCR is monitored by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights respectively. An Optional Protocol to the ICCPR allows the Human Rights Committee to deal with complaints about violations of the rights set out in the treaty. There is currently no complaints procedure for the ICESCR, although an Optional Protocol to provide this is under consideration (Roulet, 1999).

These three fundamental instruments (the UDHR, the ICCPR and the ICESCR) make up what is known as the International Bill of Rights. Other important global human rights instruments are the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the Convention on the Rights of the Child (CRC). Interestingly, the CRC, although the last to be adopted (in 1989), is the most widely ratified convention, with 192 countries party to it. Today all states in the world have agreed to be bound by at least one of the six major international human rights treaties (Lawyers Committee for Human Rights, 1999).

Most recently, in 1999, the United Nations adopted a non-legally binding declaration on protecting those involved in the defence or promotion of human rights (the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms).

As well as these global instruments, there are several regional agreements committing parties to respect for human rights. A series of treaties relate to

## Asia

**A. Ruwindrijarto and Faith Doherty, NGO workers investigating illegal logging in Tanjung Putting National Park, Central Kalimantan, Indonesia, were taken hostage and brutally beaten by employees of Tanjung Lingga, the company responsible for much of the illegal logging, in January 2000. The activists, who worked for organisations that had jointly released a report on illegal logging in two Indonesian national parks in August 1999, were held for three days before interventions from diplomatic representatives and civil society organisations, including local indigenous leaders, secured their release (EIA, 2000).**

*More information from Environmental Investigation Agency, [www.eia-international.org](http://www.eia-international.org); e-mail: [info@eia-international.org](mailto:info@eia-international.org) or Telapack Indonesia, [www.telapack.org](http://www.telapack.org); e-mail [telapak@indo.net.id](mailto:telapak@indo.net.id)*

**Twelve people were arrested when police ended an occupation by Benuaq Dayak peoples of oil-palm plantation company London Sumatra in East Kalimantan**

**in May 1999. The Dayak peoples have been struggling against the destruction of their forests and use of their land by the plantation company since 1996. Following the police action, outsiders were forbidden to enter the area and the police chief reportedly issued a “shoot on sight” order if there were further demonstrations. Court trials have since been held (Down To Earth, 1999b).**

*More information from Lembaga Bina Benua Puti Jaji, e-mail banua@smd.mega.net.id, or Komite HAM Kaltim, e-mail ham@samarinda.wasantara.net.id, or Masyarakat Adat Dayak Benuaq, e-mail advokasi@rad.net.id*

***Indigenous Moronene people were forcibly evicted from their homes within the Rawa Aopa Watumohai National Park, Sulawesi, Indonesia, in October 1998 by local government officials, National Park staff and troops. Eighty-eight of the indigenous people’s houses were burned in the operation. This follows a similar incident in 1997, when 175 houses were burned and around 300 families forced to move. The Moronene claim the forested land is their***

human rights in the Americas, monitored and, in some cases, enforced by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. A similar system exists in Europe and regional charters and commissions exist in Africa and the Arab world; an African Court has been established but it is not yet operational.

Indigenous peoples have rights to maintain and enjoy their cultures and to maintain their traditional ways of life; to own, develop, control, use and manage communal lands and resources traditionally owned or otherwise occupied and used by them; to represent themselves through their own institutions; to apply and enforce their customary law; to free and informed consent; and to full participation in decision-making. These rights are established in the International Covenant of Civil and Political Rights, the International Covenant of Economic Social and Cultural Rights and the Convention on the Elimination of Racial Discrimination. All these are binding on parties that have ratified them. Recently these and other rights have been consolidated into a draft UN Declaration on the Rights of Indigenous Peoples, which is currently being discussed by the UN Human Rights Commission, and a Proposed Inter-American Declaration on the Rights of Indigenous Peoples, presently under consideration by a Working Group of the Organisation of American States (OAS) Permanent Council.

Binding instruments exclusively focused on indigenous rights have also been developed by the International Labour Organisation (ILO), first in Convention 107, the Indigenous and Tribal Populations Conventions, agreed in 1957. This agreement was subsequently revised and in 1989 became Convention 169, the Indigenous and Tribal Peoples Convention. A special clause in ILO 169 deals with indigenous peoples’ rights to be consulted and share in the benefits of any mineral exploitation on their land in cases where the State has retained ownership of such resources. The Convention is accompanied by an enforcement mechanism. Ratification of ILO 169 is much less widespread than the UN Conventions mentioned above, with 14 signatory countries. A few countries with significant indigenous populations have signed it however, including Colombia, Ecuador, Venezuela, Peru, Bolivia, Guatemala and Mexico.

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<sup>2</sup> However the Declaration has since been judged to be legally binding both as an expression of norms of customary international law and as an authoritative elaboration of the obligations of states set out in the Charter of the UN.

## 2. Participation as a key element of sustainable development

The principle of broad participation in decision-making as a critical element of sustainable development has gained almost universal acceptance in the past two decades. In 1979 the UN's Food and Agriculture Organization endorsed a 'Peasant's Charter' which stated that:

*"participation by the people in the institutions and systems which govern their lives is a basic human right, and also essential for realignment of political power in favour of disadvantaged groups and for social and economic development"* (FAO 1981).

The Brundtland Commission of 1987 recommended the need for widespread involvement in development of an informed public, NGOs, the scientific community and industry, and that:

*"their rights, roles and participation in development planning, decision making and project implementation should be expanded"* (World Commission on Environment and Development, 1987).

Subsequently, these ideas gained a firmer footing with the Rio Earth Summit in 1992. The Rio Declaration on Environment and Development stated in Principle 10 that:

*"Environmental issues are best handled with the participation of all concerned citizens, at the relevant level."*

Principle 22 of the Rio Declaration emphasises the special role of indigenous people in achieving sustainable development:

*"Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognise and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development."*

The concepts of participatory decision-making and multi-stakeholder processes were also firmly endorsed in the non-legally binding 'Forest Principles' agreed at Rio<sup>3</sup>. Participation of all interested parties in forest planning is covered in Principle 2(d)<sup>4</sup> and the role and rights of indigenous people and other forest dwellers is stated in Principle 5<sup>5</sup>.

Subsequent inter-governmental discussions on forests have continued the emphasis, with the Intergovernmental Panel on Forests (IPF) in its final report in 1997 stressing the importance of mechanisms to involve all interested parties in

**ancestral territory. Those who were forced to move in 1997 were offered no alternative land or means of support, and remain living in the area (Down to Earth, 1999a).**

*More information from Suluh Indonesia, e-mail [suluh@kendari.wasantara.net.id](mailto:suluh@kendari.wasantara.net.id) or WALHI, e-mail [walhi@walhi.or.id](mailto:walhi@walhi.or.id)*

**Sulak Sivaraska, an activist in Thailand, was arrested for staging a solo sit-in protest at the site of a proposed gas pipeline between Thailand and Myanmar in March 1998. The pipeline, which has now been built, was vigorously opposed by local villagers who were concerned about possible explosions resulting from poor safety standards. Construction of the pipeline has resulted in the loss of a significant area of forest. Sivaraska was charged with obstructing the pipeline construction (World Rain-forest Movement, 1999b).**

*More information from Sulak Sivaraska, e-mail [kc@ffc.or.th](mailto:kc@ffc.or.th)*

**Jurin Ratchapol, a villager active in protesting against the encroachment into mangrove forests by shrimp farmers in Thalang district, Phuket, Thailand,**

was shot and killed on 30 January 2001, as he collected cashew nuts near the Watchara shrimp farm. Jurin had earlier received death threats after he reported cases of mangrove encroachment to the police. A worker at the Watchara shrimp farm was arrested and charged with the murder (Anon, 2001). In a similar case, Siripote Cheechang, a member of the tambon Pa Khlok Administration Organisation who also led local people against mangrove forest encroachment in Thalang district, was severely injured when hit twice by a car in October 2000. Police believe the incident was attempted murder plotted by some forest encroachers. (Anon, 2000).

More information from Mangrove Action Project: [mangroveap@olympus.net](mailto:mangroveap@olympus.net)

**Hundreds of forest dwellers and members of local NGOs in Pakistan were arrested on 4 June 1999, while they were staging a peaceful sit-in and hunger strike against the illegal distribution of forest royalties. The people from the District of Dir have been struggling against timber smuggling and appropriation of logging royalties. Most of**

national forest programmes, the recognition of indigenous peoples' rights, land tenure arrangements and conflict resolution schemes (IPF, 1997). Most recently, the World Commission on Forests and Sustainable Development concluded in its final report that improved transparency and greater participation in forest decision-making would contribute greatly to a better future for forests (World Commission on Forests and Sustainable Development, 1999).

Similarly, funding institutions and international agencies recognise that participation in decision-making is vital to any development project, and most have policies in place that enshrine these principles. The World Bank's Forest Policy (currently under revision) requires borrowers to consult the interest groups in a particular area, and requires a client country to

*"promote active participation of local people... in the long-term sustainable management of forests"* (World Bank, 1993).

The Bank also has an indigenous peoples' policy (currently under review) that includes requirements for the development process to foster respect for the rights of indigenous peoples and specifies that the strategy for dealing with them must be based on

*"informed participation of the indigenous people themselves"* (World Bank, 1991).

The European Union's documents contain statements along similar lines. A 1999 Commission Communication on Forests and Development confirmed that a participatory process, community empowerment, recognition of democratic principles and indigenous peoples' rights were fundamental to any contemporary forestry project. (Commission of the European Communities, 1999). The Development Council meeting in November 1998 adopted a resolution on indigenous peoples and development, among others, recognising their rights to

*"full and free participation in all aspects of development"*

and

*"to choose their own development paths, which includes the right to object to projects, in particular in their traditional areas"* (Fern, 1998).

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<sup>3</sup> Non-legally binding authoritative statement of principles for a global consensus on the management conservation and sustainable development of all types of forests. July 1992

<sup>4</sup> 'Governments should promote and provide opportunities for the participation of interested parties, including local communities and indigenous people, industries, labour, non-governmental organisations and individuals, forest dwellers and women, in the development, implementation and planning of national forest policies'.

<sup>5</sup> 'National forest policies should recognise and duly support the identity, culture and the rights of indigenous people, their communities and other communities and forest dwellers. Appropriate conditions should be promoted for these groups to enable them to have an economic stake in forest use, perform economic activities, and achieve and maintain cultural identity and social organisation, as well as adequate levels of livelihood and well-being, through, inter alia, those land tenure arrangements which serve as incentives for the sustainable management of forests'.



### 3. The stark realities

The need for full and informed participation by all interested parties in any development project is almost universally recognised in policies and rhetoric. Similarly, freedom of speech and expression is a fundamental principle enshrined in numerous international human rights agreements to which governments have committed themselves. The rights to life, liberty, security, freedom of movement and the rights of indigenous peoples are also protected. The principle of free, prior and informed consent is growing in acceptance and spreading across multiple sectors.

Nonetheless, as the examples throughout this report show, in almost all major forested areas people's civil and political rights are violated when they try to make their voices heard. Despite the fact that all states have agreed to be bound by at least one of the six international human rights treaties, a major gap still exists between ratifying the treaty and implementing it.

In the Amazon Basin, many forest disputes are related to the long-running struggle for land. While the murder of rubber tapper Chico Mendes hit the headlines in 1988, the killing of hundreds of other Indians associated with land disputes in the years since his death has passed relatively unreported by the international media. The 1998 Annual Report by the Pastoral Lands Committee in Brazil actually revealed an increase in land disputes and associated violence over previous years, with 47 rural workers murdered in relation to land conflicts in 1998 alone (Rio Maria Committee, 1999).

In many other countries in South and Central America, including Chile, Colombia, Honduras and Mexico, local communities are struggling to defend their forests against commercial exploitation or development. When all efforts at negotiations fail, communities or activists may have no other option but to resort to peaceful demonstrations. Human rights abuses, often at the hands of the police or military, have followed, including arrest, imprisonment, violence and murder.

The depleted forests of South-east Asia are also the scene of many conflicts. Large-scale arrests in Sarawak, Malaysia, in the 1980s occurred when indigenous groups and their supporters mounted blockades to prevent logging of the forests. The conflicts in Sarawak are still continuing, with blockades and demonstrations occurring in 2000.

According to the World Resources Institute, the Indonesian media reported in March 2000 that some 50 logging concessions covering ten million hectares had been forced to suspend operations because of conflicts, sometimes violent, with local communities, many of whom had occupied concessions and thrown the loggers out (WRI, 2000). As well as logging, the massive spread of industrial plantations of oil palm, rubber and trees for pulp and paper is the cause of many

those arrested were released shortly afterwards, but three people are facing charges for their involvement in the movement. This incident follows a similar case in 1997, when a march by hundreds of forest people to the district capital Peshawar was met with violence by police, who beat the demonstrators and arrested approximately 120 people. A subsequent enquiry into illegal timber practices supported the forest peoples' claims, but the recommendations of the enquiry have not been fully implemented, hence the protests in 1999 (World Rainforest Movement, 1999d).

*More information from SUNGI Development Foundation, e-mail: mus4@hotmail.com*

**Enyang Ak Gendang was shot and killed by Police Field Force in Sarawak, Malaysia, in December 1997 after an oil palm company started clearing his village's land. The killing happened during a violent conflict between villagers and police after the villagers had confiscated the company bulldozers (a practice in keeping with their traditional law). Three other indigenous people and eight policemen were also injured. Gendang's widow has filed a**

**suit against the police and authorities for negligence and unlawful shooting of her husband (IDEAL, 1999).**

*More information from Bruno-Manser-Fonds: [www.bmf.ch](http://www.bmf.ch) or e-mail [info@bmf.ch](mailto:info@bmf.ch)*

**Forty-two Iban people were arrested in Sarawak, Malaysia in June 1997 while trying to have a peaceful dialogue with land surveyors working on behalf of the oil palm plantation company that was threatening to take over their land. The Iban were reportedly beaten, kicked and assaulted with machine guns by the police; one lost consciousness as a result of the attack. The group were ordered to sign a commitment to keep the peace for six months and pay a fine to secure their release. All except three of the group (who needed to be released for medical treatment) refused to do so and remained in detention. In August 1997, an appeal court found they had been wrongfully arrested and that the fines and bond were unjustified. The Iban have filed a suit against the police for wrongful arrest. (IDEAL, 1999).**

*More information from Bruno-Manser-Fonds: [www.bmf.ch](http://www.bmf.ch) or e-mail [info@bmf.ch](mailto:info@bmf.ch)*

disputes in the region (in Malaysia and Indonesia, in particular), with land being taken from local communities and allocated to companies without the communities' consent. The same pattern of escalating conflict leading to human rights violations often follows.

The Central African forests of the Congo Basin and the vast boreal forests of Russia have been less commercially exploited to date. However, with the more accessible forest areas becoming exhausted, and demand for timber and other natural resources growing, these areas are being opened up. With one or two notable exceptions, NGO activity in these regions is less developed than elsewhere, and information on forest disputes has been hard to obtain. However, the allocation of large chunks of forests to foreign logging interests, with little input from forest-dwelling communities, creates the conditions under which conflicts are likely to occur.

The fate of the temperate and boreal forests of North America has been heavily disputed. Throughout Canada and the United States, communities and activists have tried to prevent logging operations first through campaigning and negotiation, then resorting to demonstrations and physical blockades. Arrest and imprisonment are common, but more insidious means are also commonly used to silence opposition and suppress information in North America. In the US, government forest service employees who have tried to speak out against environmentally damaging logging in public forests have been subject to threats, discrimination and job transfers. Use of the legal system to prevent debate has become commonplace in Canada and the USA with the rise of Strategic Lawsuits Against Public Participation, known as SLAPPs (see below)

In many other countries, including those with low forest cover, forests are hotly contested. Small, isolated areas of forest, or even remnant patches of trees, can be the centre of major conflicts. In Kenya, Australia, the UK and the Netherlands, disputes involving forests or woodlands have become highly-charged conflicts. While not necessarily leading to human rights abuses, and therefore not directly relevant to this report, it is worth noting that these conflicts often result when part of civil society feels that the democratic procedures and decision-making processes have failed.

## SLAPPS

**A SLAPP (Strategic Lawsuit Against Public Participation) is a legal injunction most commonly used by large corporations to freeze protest activities and is usually accompanied by an exorbitant claim for compensation for economic damage supposedly caused by the protest. Because the legal process is complicated and drawn out, a SLAPP suit can tie-up a protestor's or organisation's resources for a long time, rendering him/it unable to continue campaigning, or only with greatly reduced effectiveness. In fact, the real purpose of a SLAPP may not be to win the case, but simply to prevent informed public debate about issues of concern. In the USA, nearly 90% of all SLAPPs that go to court are unsuccessful and the cases are often viewed by judges as nothing more than legal harassment (Tollefson and Promislow, 1997).**

## 4. Case studies

The following more detailed case studies show the chain of causality leading to human rights abuses of local people protesting against logging or the establishment of plantations, pulp mills or development projects. In each of these cases the protesters clashed with more powerful interests leading to repression, imprisonment, torture and murder. However if, as in the case of the Lubicon, human rights are finally being upheld and land and resource rights recognised, the destruction of forests is halted. Respect for all human rights, including indigenous peoples' rights, is a precondition for the protection and sustainable use of the world's forests.

### 4.1 Villagers in Riau province, Sumatra, Indonesia

Mr Rasyid, a 32 year old Indonesian from Lubuk Jambi village in Riau province, Sumatra, Indonesia, was stabbed to death by a security guard on 15 July 1998, during a demonstration of villagers against Riau Andalan Pulp and Paper (RAPP), a plantation company that has taken over their land. Nine months earlier, on 8 October 1997, two people needed hospital care and many others were hurt after police violently dispersed another demonstration against the same company. In April 1998 Marganti Manalu, the lawyer acting for three villages in their land claims against the company, was sentenced to three years in jail for incitement and sabotage of RAPP's property – charges which he vehemently denies.



**Marganti Manalu**

These incidents are part of a long-running dispute over land and forests used by RAPP and their parent company APRIL (with support from Finnish giant UPM-Kymmene) for a pulp and paper mill. The conflict has centred on land, used for the mill and associated developments, claimed by three villages (Kerinci, Sering and Delik), and the claims of other communities to portions of the 285,000 ha concessions that APRIL has been allocated in the province. The operation allegedly involves clearing some areas of natural forest to supply the mill and make way for Acacia plantations; this, and the role of UPM-Kymmene in the

*At least seven forest activists (Thomas Jalong, Wong Meng Chuo, Jok Jau Evong, Gara Jalong, Raymond Abin, Harrison Ngau and Andy Mutang) from Sarawak have had their passports removed or not renewed, some for as long as eight years. Thomas Jalong, an indigenous activist from Sarawak, had his passport removed when he tried to travel to Tokyo for the International Tropical Timber Organisation meeting in 1992. Officials stated that he had been stopped because of his involvement in an anti-logging campaign outside the country. Despite appeals to the courts, Jalong's passport had not been returned by December 2000, more than eight years later. More recently, Raymond Abin, also an activist from Sarawak, had his passport taken from him at Kuala Lumpur airport in March 1997, as he tried to leave for a conference of the International Alliance of the Indigenous Tribal Peoples of the Tropical Forests. According to Malaysian immigration, attending NGO meetings made him a dangerous person (IDEAL, 1999; Bruno-Manser-Fonds, pers. comm.). More information from Bruno-Manser-Fonds: [www.bmf.ch](http://www.bmf.ch) or e-mail [info@bmf.ch](mailto:info@bmf.ch)*

**The offices of the Cordillera People's Alliance (CPA) in the Philippines were raided in April 2000 by four men believed to be from the government's Military Intelligence Unit. The CPA is a federation of Indigenous Peoples organisations in the central mountain region of Northern Luzon that has been at the forefront of the indigenous peoples' struggles for land and resources. Important documents and equipment were removed during the raid (Global Response, 2000a). More information from Philippines Indigenous Peoples Links, e-mail [tongtong@gn.apc.org](mailto:tongtong@gn.apc.org)**

**Subanen people in the mountains of Zamboanga del Norte, Philippines, were reportedly beaten and kicked by miners from a Canadian mining company, TVI, and armed police as they tried to break-up a non-violent blockade by the Subanen on 6 September 1999. Two people were detained for two days then released. The Subanen, whose claim to the forested mountains was officially recognised in 1997, are trying to prevent large-scale mining on their land. In August 1999, the**

enterprise, has caused further, international controversy. Paper from the mill has been marketed in Europe under the 'Paper One' label.

The conflict escalated in 1997 when, despite a stalemate in negotiations between villagers and the company about compensation for land used for the mill, RAPP started to build a road through the communities' land. When villagers blocked the road site to prevent construction, RAPP invited the Indonesian military to help them, and in June 1997 the locals were forced to leave the site. In September, the villagers blockaded the road once again. On 8 October, the mobile police arrived and dispersed the demonstration using violence and tear gas, resulting in the injuries. Further disturbances followed, in which RAPP property was set on fire by protesters and a RAPP employee was caught by villagers and harassed. Several community leaders were arrested, including Manalu; the others were released without charge but Manalu was detained.

The 1998 stabbing occurred during a demonstration near Lubuk Jambi village in the Cerenti sector of APRIL's concessions in southern Riau. Villagers claim that about 2,000 ha of their traditional village land has been planted with Acacia by RAPP. The demonstration was dispersed by RAPP security forces using a bulldozer, and several village motorcycles were destroyed. Mr Rasyid was chased by one of the guards and stabbed three times; he died two days later in hospital.

This conflict is one of many in Indonesia between plantation companies and local communities. Land has been allocated to commercial interests, often controlled by powerful political figures, with little regard for the local communities that depend on it for their livelihood. Violence and repression of villagers trying to exert their rights frequently follows.

*Source: FoE Finland; Down to Earth, UK.*

*More information from Friends of the Earth Finland, e-mail [kunnas@sll.fi](mailto:kunnas@sll.fi)*

## 4.2 Friends of the Lubicon, Canada

*"The whole issue of this case is about corporations controlling what anybody says about them. It's a silencing action"*

Kevin Thomas, Friends of the Lubicon defendant.

In 1995, Canadian courts banned NGO Friends of the Lubicon (FOL) from undertaking certain (normally legal) campaign activities, including communicating specified messages to the public. The three-year ban was imposed before the full case requesting the ban, brought by a subsidiary of the Japanese forestry company Daishowa, had been heard in court. When the matter did finally come to court, the campaign activities in question (a boycott of Daishowa's products) were ruled not only legal but (in the judge's words) *"a model of how such activities should be conducted in a democratic society"*.

In 1988, the Lubicon people of northern Alberta, Canada, found out from newspaper reports that the Alberta government had granted Daishowa logging rights to an area that included their 10,000 square kilometre traditional territory. Despite clear and outspoken opposition from the Lubicon people against





Friends of the Lubicon protests

Daishowa's plans to clear-cut Lubicon lands, the company constructed a huge pulp mill to use the timber, and in late 1990, started logging Lubicon land. After a request for help from the Lubicon, FOL launched a consumer boycott of Daishowa's paper bags in August 1991. The boycott was extremely successful: by the end of 1994, 47 companies representing over 4,300 retail outlets all over Canada had committed not to use the bags. Similar boycotts were also organised by other groups in Canada and Europe.

In January 1995, Daishowa lodged a case with the courts for an injunction against certain boycott activities organised by FOL – apparently a classic SLAPP (see page 12). A series of interim court appearances and appeals during 1995 resulted in Daishowa being granted a temporary injunction banning the boycott until the full case could be heard. The case finally came to full trial in late 1997, and the judgement refusing the permanent injunction was announced on 14 April 1998.

One of the arguments in the case, and one that was covered by the media, was whether a positive outcome for Daishowa, banning the boycott activities of FOL, and (by extension) making it possible to prove any consumer boycott in Canada illegal, would be an infringement of the right to free speech. The court decision effectively upheld these concerns. In its reasoning, the court said *"If the great principle of freedom of expression protects a corporation... then is there any reason why the same principle should not protect a small group of consumers... from saying to fellow consumers: Here is the reason why you should not buy Daishowa's products?"*

Although Daishowa initially lodged an appeal against the decision, the company eventually made an unequivocal commitment not to log in Lubicon territory until all land and resource rights had been settled. The boycott was called off and the appeal finally abandoned in May 2000.

multinational company Rio Tinto withdrew from its interest in mining on Subanen territory (Survival, 1999b), but TVI remains. More information from Survival International, [www.survival-international.org](http://www.survival-international.org), e-mail: [info@survival-international.org](mailto:info@survival-international.org) or Philippines Indigenous Peoples Links, e-mail [tongtong@gn.apc.org](mailto:tongtong@gn.apc.org)

**Harassment and intimidation of opponents to the Sardar Sarovar Dam in India is ongoing. The dam would flood 39,000 ha of land in Gujarat, Maharashtra and Madhya Pradesh states, 13,700 ha of which is classified as forest land. A further 4,200 ha of forest land has been cleared so far to relocate people displaced by the project. At least 43,500 families will be directly affected by the reservoir. Since 1994, violence and intimidation has taken place on a regular basis, with violations occurring in at least 40 tribal villages in the affected area. Recent incidents have included the ransacking of the offices of Narmada Bachao Andolan (NBA – the leading group opposing the dam) in December 1999; the arrest of around 100 people on their way to a rally in**

**Rajpipla, Gujarat, in August 2000; and the arrest and physical abuse of two people, one of whom was volunteering for NBA, in October 2000 (Global Response, 2000b; NBA, pers. comm.).**

*More information from Narmada Bachao Andolan, medhapatkar@vsnl.com*

**Fifteen people were injured when government rangers tried to forcibly trans-locate people living inside the forested Nargarhole National Park in Karnataka State, India. Three people, including a pregnant woman, were admitted to hospital as a result of the incident. The Park is the site of a controversial Global Environment Facility funded eco-development project, and there have been previous cases of violence over the same issue. On this occasion, the Forest Department were attempting to move families from the Kolengere settlement, despite a World Bank Inspection Panel report in December 1998 which concluded that forced relocation from the park was in violation of the Bank's Directives and the Karnataka government's subsequent assurance that translocation**

In a separate process, a ruling from the UN Human Rights Committee (the body responsible for monitoring implementation of the International Covenant of Civil and Political Rights) in 1990 found that, by not recognising the Lubicon's territorial and cultural rights and by active violation of those rights caused by state sanctioned resource exploitation activities, Canada was in violation of Article 27<sup>6</sup> of the ICCPR.

*Source, and more information from: Friends of the Lubicon: [www. tao. ca/~fol](http://www. tao. ca/~fol), E-mail: [fol@tao.ca](mailto:fol@tao.ca)*

### 4.3 The Penan and Dayaks, Sarawak, Malaysia

Thirty Penan people from Sarawak, Malaysia, were injured and four were arrested when trying to deliver a letter to the logging giant Samling on 13 March 1997. The incident happened when some 75 Penan attempted to meet Samling officials near their village of Long Kerong, in the Ulu Baram area. The Penan were met by the Police Field Force who, according to witnesses, beat them indiscriminately. The four who were arrested (Pusu Bujang, Wan Musang, Beripin Wan and Jangin Jalong) were kept on remand until 21 March, during which time Pusu Bujang and Wan Musang were kicked and hit by police. On 21 March they appeared in court charged with illegal assembly, and were released on bail. However, on leaving the court, they were immediately re-arrested and charged with stealing a chainsaw. The police eventually withdrew all the charges against the four.

This is just one incident in the long-running struggle of the indigenous Penan and other Dayak groups to protect their forest from logging and to gain recognition to their traditional rights over the land. Since the mid-1980s over 700 Penan have been arrested. The Penan are heavily dependent on the forest for hunting and



*photo Bruno Manser*

**Since the mid-1980s the Penan have to resort to peaceful logging-road blockades**

gathering and see themselves as guardians of resources for future generations. Sarawak's Chief Minister, Abdul Taib Mahmud, estimates that 90% of Sarawak's forest has been logged or degraded in the past 20 years (Barui, 2001). The struggle to save the forests gained international media attention in the late-1980s when the failure of the authorities to listen to letters, petitions and delegations forced them (and other indigenous groups) to resort to peaceful blockades to keep out the loggers.

Throughout the struggle, the Penan and other indigenous groups have met with repression and violence by the authorities. In November 1987, the Sarawak government passed an amendment to the Forest Act to allow anyone erecting blockades to receive up to two years in jail and a fine of up to US\$2,000. Despite this, thousands of indigenous people participated in mass blockades, some of which lasted for several months. Often the authorities resorted to violence to dismantle the protests, and literally hundreds of people were arrested (e.g. 21 Penan arrested on 10 December 1988 – ironically, World Human Rights Day; 105 Penan arrested in January 1989; and 117 Penan and Kelabit, another indigenous group, arrested in September 1989). Some of those arrested were released, others were held in detention or charged. For example, 86 of the 117 arrested in September 1989 were held for two months in overcrowded cells before being released.

Although the media attention has declined, the land struggle, and the abuses of both civil and indigenous rights, is on-going in Malaysia. Blockading is also continuing: Penan from the Apoh/Tutoh area mounted blockades in August 2000 to halt the activities of three timber companies, Lajung Lumber Sdn. Bhd., Shin Yang Sdn. Bhd. and Rawood Sdn. Bhd., on what they claim is their land. The blockade was lifted in late August when the people needed to attend to their farms, but it was resumed in January 2001. The communities have been struggling against Lajung Lumber for several years: six Penan from Long Sayan village have filed a suit against the police for wrongful arrest, false imprisonment and malicious persecution after they were arrested at a blockade on their customary land in 1996.

*Sources: IDEAL (1999); IDEAL (2000); Bruno-Manser-Fonds (www.bmf.ch); Rengah Sarawak (www.rengah.c2o.org); Sarawak People's Campaign (www.rimba.com).*

*More information from Bruno-Manser-Fonds: www.bmf.ch or e-mail info@bmf.ch*

#### 4.4 **Rodolfo Montiel Flores and Teodoro Cabrera Garcia, Mexico**

Rodolfo Montiel Flores and Teodoro Cabrera Garcia, farmers from Guerrero state, Mexico, were sentenced in August 2000 to six years eight months and ten years in jail, respectively. Montiel, the co-founder of the Organization of Campesino Ecologists of the Sierra de Petatlán and Coyuca de Catalán, was a leading campaigner against the uncontrolled logging in the region's forests. On 2 May 1999, soldiers stormed into the village of Pizotla and arrested him and his colleague Cabrera for supposed illegal weapons possession and marijuana

**would only be conducted with the consent of the people concerned (World Rainforest Movement, 2000c).**

*More information from Coorg Organisation for Rural Development, e-mail: david@giasbg01.vsnl.net.in*

### **Americas**

**Environmentalists at Bella Coola in British Columbia, Canada, were subject to numerous violent attacks by anti-environmentalists in the summer of 1997, including assaults on a woman on board a fishing boat the MV Starlet on 12 July 1997. The environmentalists were helping people from the local community and the Nuxalk Nation protest against the logging of rainforest on their land (Forest Action Network, 1997).**

*More information from Forest Action Network, e-mail fanbc@fanweb.org*

**The Elaho valley in British Columbia, Canada, has been the scene of a bitter forest dispute. Environmentalists protesting at logging in the valley by Interfor (International Forest Products) were beaten by a**

**mob and their camp destroyed in September 1999. In September 2000, activists Betty Krawczyk (72 years old) and Barney Kern were sentenced to one year in jail for their part in the peaceful anti-logging protests (although their sentences were later reduced); six others were also found guilty, including one journalist who was at the scene simply to video the events. In contrast, five loggers found guilty of the September 1999 violence were given one year's probation and sent on a conflict-management course (Western Canada Wilderness Committee, 2000; Hamilton, 2001).**

*More information from Western Canada Wilderness Committee  
[www.wildernesscommittee.org](http://www.wildernesscommittee.org),  
e-mail  
[joe@wildernesscommittee.org](mailto:joe@wildernesscommittee.org)*

**Jack Ross, arrested at a protest to prevent construction of a logging road at Perry Ridge in the Slocan Valley, British Columbia in February 1998, spent 70 days in jail without a trial because he refused to sign an agreement to stay away from the blockade site. Ross was acquitted of all charges against him when his case came to court and the**

cultivation. Another farmer, Salomé Sánchez Ortiz, was shot in the head and killed as he tried to run away from the soldiers.

The Sierra de Petatlán, with mountains reaching nearly 10,000 feet above sea level, contains some of North America's most pristine old-growth forests. The forest is an important watershed for the land below, where farmers grow their crops. Heavy logging in the 1990s has resulted in serious deforestation: satellite images of the Sierra de Petatlán and Coyuca de Catalán from 1992 and 2000 show that nearly 40% of the region's forest has been lost in the past eight years (Greenpeace Mexico, 2000).



**Rodolfo Montiel Flores**

reforesting exploited lands, and challenging excessive logging through peaceful protests and legal procedures. Their activities were met with silence.

Faced with inaction from the authorities, the farmers organised their first action in February 1998, blockading the roads to prevent the transport of timber from the forests. The road blockades were repeated over the following months. In mid-1998, Boise Cascade withdrew from the area, citing difficult business conditions. However, the excessive and illegal logging continued.

Following their arrest in May 1999, Montiel and Cabrera were held incommunicado for five days, after which they signed confessions admitting to charges of weapons possession and marijuana cultivation. The Mexican government's National Human Rights Commission and a Danish medical team that examined the two men have both confirmed that the pair were tortured prior to signing the confessions, although the Federal Government's Attorney General denies these allegations.

The health of both men is deteriorating in jail. Montiel has complained of intense pain in his abdomen since being tortured and Cabrera had to undergo an operation because of severe beatings to his back suffered during army detention. Prison conditions are bad and food is scarce. Montiel's wife and six children have twice been forced to flee their home because of threats.

Amnesty International has declared both men Prisoners of Conscience, and on 6 April 2000, Rodolfo Montiel was awarded the Goldman Environmental Prize in recognition of his efforts to prevent deforestation. However, an appeal against the



jail sentences by lawyers of the Mexican Human Rights organisation, PRODH, was dismissed on 27 October 2000. On 7 February 2001, the Sierra Club were successful in scheduling a face to face meeting with Mexico's new president Vicente Fox, during which he promised to launch a new investigation into the case and to take appropriate steps to find justice.

Their case is now under appeal. However, one week before the second anniversary (2 May 2001) of their arrest, the Mexican Attorney General, Rafael Macedo de la Concha, submitted an opinion of guilt with the court reviewing the appeal. This contradicts several public statements by President Fox including one to Amnesty's Secretary General, Pierre Sané (Amnesty, 13 March 2001)

Montiel and Cabrera's campaign has finally resulted in some action by the authorities to tackle the uncontrolled logging. On 16 November 2000, the Environmental Prosecutor suspended logging in several communities of Petatlán and Coyuca de Catalán, including Montiel's community of El Mameyal. Some of the suspensions were lifted in April 2001.

*Source, and more information from, PRODH, e-mail [prodh@sjsocial.org](mailto:prodh@sjsocial.org)*

## STOP PRESS

*8 November 2001.*

**As this report was going to press the Mexican government announced the release of Rodolfo Montiel and Teodoro Cabrera. The release of the two men comes less than a month after the murder of their original defence lawyer, prominent human rights defender Digna Ochoa, who was shot to death on 19 October 2001 in her office in Mexico City. Ochoa's murderers left a note threatening workers at the PRODH human rights centre, raising concerns for their safety and that of all human rights and environmental activists in Mexico.**

## 4.5 Professor Wangari Maathai, Kenya

Professor Wangari Maathai and approximately 20 supporters were attacked and beaten by private security guards as they planted trees in the Karura Forest north of Nairobi, Kenya, on 8 January 1999. Police at the scene allegedly stood by and allowed the attack to happen.

The Karura forest is an area of publicly owned land north of Nairobi. Historically excluded from livestock grazing and tree cutting, it was gazetted as forest by the colonial government and, although the forest has been encroached upon by the developing city, around 1,000 ha have survived. During 1998, Maathai's Green Belt Movement and other organisations planted over 15,000 trees in an attempt to restore degraded areas of the forest.

In December 1998, the forest was apparently allocated to a private individual for development. Private security guards installed themselves at the site, harassing

**injunction that led to his arrest was later overturned. The British Columbia government is now seeking a permanent injunction to keep local residents away from the area so that logging can go ahead, despite scientific evidence that logging would result in a high risk of serious and potentially dangerous landslides (Valhalla Wilderness Society, 1998).**

*More information from Valhalla Wilderness Society, e-mail [vws@vws.org](mailto:vws@vws.org)*

**Gavin Edwards of Forest Action Network was attacked in 1994 by a group of 25 men after participating in a protest against Interfor's logging operations in Ure Creek north of Whistler, British Columbia. Edwards was dragged from his tent at night, assaulted and forced to leave the camp, which was then burned down.**

*More information Forest Action Network, e-mail [fanbc@fanweb.org](mailto:fanbc@fanweb.org)*

**Organisations that have faced SLAPPs in Canada, (see page 12) because of their participation in logging disputes include Friends of Christmas Mountain, sued by**

Repar for trying to save the last old-growth forest in New Brunswick and The Carmanah Forestry Society, sued by Fletcher Challenge (now TimberWest) after protests against its logging of the Walbran Valley on Vancouver Island. The Fletcher Challenge SLAPP also named around 40 individuals. Other individuals that have faced SLAPPs for their participation in forest campaigns include 10 activists challenged by Interfor for their campaign to prevent the company logging in Nuxalk territory near Bella Coola. Academic John McInnis faced by a suit from Mitsubishi because of his outspoken criticism of the company (Taiga News, 1997).

More information from Forest Action Network, e-mail [fanbc@fanweb.org](mailto:fanbc@fanweb.org)

**Kenowuia Nury Bokota, Mauricio Diaz and Jorge Anikuta**, three children from the indigenous U'wa population, Colombia, died in February 2000 during police action to evict some 450 people from a road blockade using tear gas, riot sticks and bulldozers. Three other children were injured. The U'wa have been

visitors, including the tree planters, and uprooting tree seedlings planted by the environmentalists. Although Maathai objected to the allocation and the presence of the guards by letter to the police and the legal authorities, no action was taken.



**Wangari Maathai**

1989, she was involved in a successful campaign to oppose the building of a skyscraper in Uhuru Park, Nairobi's only down-town park. Her activism has resulted in previous violent abuses: in January 1992, after she spoke out on a political matter, police surrounded her house in Nairobi for two days before ripping the bars off a bedroom window and arresting her. In March of the same year, she and three other protestors were clubbed unconscious by police while holding a hunger strike to demand the release of political prisoners. More recently, Maathai was arrested in March 2001 after supporting community members in Mwea, Kirinyaga district, in their efforts to sensitise the public about the government's intention to degazette 167,000 ha of forest. She was later released without charge.

Recognised as a leading campaigner for the environment and human rights, Maathai was awarded the prestigious Goldman Environmental Prize in 1991.

More information from Green Belt Movement, e-mail [gbm@iconnect.co.ke](mailto:gbm@iconnect.co.ke), or Gaia Foundation, e-mail [rachel@gaiainet.org](mailto:rachel@gaiainet.org)

The Kenyan Attorney General later apologised for the beating Dr Maathai received, acknowledged that the papers giving ownership of the forest to the developers were not clear, and promised her police protection for any further demonstrations at Karura Forest. Despite this, demonstrators were once again hurt when police violently broke up a peaceful protest at the forest in February 1999.

Dr Maathai is the coordinator of Kenya's Green Belt Movement, a tree planting and women's empowerment movement that has involved 50,000 women in Kenya in planting over 10 million trees to help reduce soil erosion and desertification and to provide fuelwood and fruit. In

<sup>6</sup> Article 27 of the ICCPR states that: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

## 5. Country analyses

Control over forest resources varies greatly from country to country. This chapter examines how non-participatory decision making processes contribute to bitter conflicts over forests in three countries – Mexico, Indonesia and Canada. In Mexico, President Vincente Fox declared deforestation ‘a national security issue’ as his administration ordered large-scale raids against illegal logging to disarm the often heavily armed loggers and timber barons (Stevenson, 2001). As the Indonesia case study shows, the current forest law institutionalises the abuse of social, cultural, economic and indigenous rights. Meanwhile Canada, the world's largest exporter of timber products, has been condemned twice by the UN Human Rights Committee for failing to respect indigenous peoples’ rights. In all three countries protests against forest loss have led to serious human rights abuses. To halt the forest crisis in these countries, as elsewhere, structural reforms need to take place to uphold human rights and protect the forests.

### 5.1 Power structures and forest control in Mexico

*Contributed by Chantal Marijnissen, Fern*

Mexico is a large and extremely diverse country with a range of forest and non-forest habitats and varying levels of social and economic development. Forest loss is occurring very rapidly in Mexico: deforestation is currently running at over 500,000 ha a year (FAO, 1999). Ex-independent green Senator Adolfo Aguilar Zinser estimates that at the current rate of devastation, Mexico has only 54 years of forest resources left. Deforestation, he says, has caused the floods and mudslides that have taken more than a thousand lives in the past three years (Ross, 2000).

Of Mexico's forested land, 80% is on ‘ejido’ properties, the remaining 20% is either privately owned or held in some other form of social ownership. An ejido is a form of social property that resulted from the 1910 Mexican revolution and subsequent land reforms. Most campesinos (subsistence farmers) and most indigenous people live on ejidos, which are divided into three parts: the population centre, the common area and individual plots.

In November 1992 the Mexican Constitution was reformed. Modifications to Article 27 allowed ejido land to be privatized (so that it is no longer community owned) and enabled foreign companies to enter into direct contracts with ejidos to buy resources such as timber. In making these changes, the Mexican government was both seeking a way for ejidatarios to increase productivity on their lands and to attract direct investment from domestic and foreign

**mounting a massive struggle against oil exploitation by the US corporation Occidental Petroleum in forest they claim to be their ancestral territory. Thousands of soldiers and police have been involved in protecting the interests of the company and there are numerous incidents of brutality and abuse of the U'wa. For example, protests by the U'wa and their supporters were violently attacked by police on 24 and 25 June 2000. Several people were injured and over 30 people arbitrarily detained (Just Earth, 2000; Project Underground, 2000).**

*More information from Project Underground, [www.moles.org](http://www.moles.org), e-mail: [carwil@moles.org](mailto:carwil@moles.org)*

**Alonso Domico Jarupia, a leader of the Emberá-Katio people in Colombia, was shot dead outside his house on 25 August 1998. The Emberá were objecting to a dam on the Sinú river, which would flood their land and 7,000 ha of forest. When the company building the dam reneged on an agreement with the Emberá over compensation, the Indians succeeded in getting a court injunction halting construction of the dam. Local land-owners (who**

stand to gain financially from the dam) then brought in a paramilitary group to ensure the project was completed. Tension increased after a ruling by the Colombian court in November that the project could only go ahead with the Indians' consent; violence included the murder of six Emberá-Katio by paramilitaries in December 1998 and January 1999. In October 2000, a deal was finally reached, giving alternative lands and financial compensation to the Indians (Survival, 1998a; Survival, 2000; Corporate Watch, 1999).

More information from Survival International, [www.survival-international.org](http://www.survival-international.org), e-mail: [info@survival-international.org](mailto:info@survival-international.org)

**Pehuenche people and ecologists clashed violently with police in Chile in July 1998 when police tried to break up a demonstration against the Ralco dam. The Pehuenche were not properly consulted before approval was given to the dam project, which will flood 3,400 ha of their forest and construction had begun before compensation issues were fully resolved. In the demonstration over 100**

corporations, primarily in anticipation of NAFTA (Cornelius & Myhre, 1998).

The consequence of the legal reform has been the extensive sale of timber resources and the accumulation of land by landowners and big companies. Due to the power structures within the ejido system, many indigenous farmers have benefited little from this process.

Within the ejido system of land tenure, forest exploitation is controlled through a rigid system of economic and political organisation known as 'cacicazgo'. Within some ejidos, power has become concentrated in one or two families, the caciques, who control the ejido governing structures (*comisariado ejidal* or *the consejo de vigilancia*), and/or (in the case of forestry activity) those who transport the harvested wood. Outside the ejido, the cacicazgo network includes the ejido administrator (who is generally external), the providers of technical forestry services, the representatives for the companies buying the wood and, in some cases, the government authorities with responsibility for the forestry sector (Guerrero et al., 2000).

In some cases the cacicazgo system is manipulated to obtain contracts for timber that primarily benefit the caciques and the companies buying the wood. This may occur in spite of Mexico's Agrarian Law requiring the involvement of an institutional ejido organization. Although the contracts for wood are generally approved in the ejido assemblies, these assemblies can be controlled by the caciques, who could ignore the views of the majority in the assembly.

Unable to control the logging of their lands, many Mexican farmers have attempted to resolve the problem by making official complaints to the Mexican federal ministry of environment, PROFEPA. Between 1996 and 1999, PROFEPA received 411 forestry related complaints (*denuncias populares*). In 2000, a staggering 1,986 forest-related complaints were made, constituting 44% of all complaints for the year (PROFEPA, 2000). According to PROFEPA, 30% of the complaints have been resolved, 36% are awaiting resolution and 30% are being processed. During 1998-1999, the NGOs COSYDDHAC (Comisión de Solidaridad y Defensa de los Derechos Humanos, A.C.) and Fuerza Ambiental assisted in the preparation and follow-up of 43 judicial actions against illegal cutting in Chihuahua state. None of these cases had been resolved by March 2000, even though the time limits for resolution had expired (Guerrero, 2000). In some instances, the inefficiency of PROFEPA can be attributed to lack of personnel and resources. In other cases it appears that the 'inefficiencies' are more intentional, a consequence of the complicity among the authorities, caciques, intermediaries and timber companies.

Faced with this situation, some campesinos, including the group led by Rodolfo Montiel and Teodoro Cabrera (see page 17), have resorted to peaceful protest to try to save their forests. The response of the authorities to such activities is illustrated by the imprisonment of these two leaders.

Torture, disappearances and extra-judicial executions remain widespread in Mexico, despite numerous legal and institutional reforms. This is in part due to the lack of political will to ensure human rights-related laws are applied, and the judicial system's ineffective protection of individual guarantees and lax approach to rights abuses. Although the Federal Law to Prevent and Punish Torture states



that no confession obtained under torture can be used as evidence, judges place a strict burden of proof on the defendant to establish not only the torture but also a clear causal link between it and the confession. Superficial medical reports by Public Ministry doctors make it even more difficult to establish the existence of torture, as they generally show a clean bill of health and no evidence of mistreatment. Additionally, judges give greater value to the first confession than to subsequent declarations, on the assumption that the first declaration – often made without advice from an attorney or public defender – is the most truthful.

## 5.2 Human rights and forests in Indonesia

*Contributed by Sandra Moniaga, ELSAM*

Indonesia has 10% of the world's remaining forest resources and is second only to Brazil in its amount of tropical forest. Forests provide the homes and source of livelihood for approximately 30 million indigenous people in Indonesia.

Rapid deforestation and violations of indigenous and other local peoples' rights have been regular occurrences in Indonesia, especially during the past three decades. These twin problems are indivisible. The government of Indonesia designates most indigenous territories as state forest lands. As such, the legal rights of indigenous peoples to natural resources is unclear and their incentives for conservation and sustainable management are undermined. Forest management in Indonesia has been dominated by large-scale exploitation activities undertaken by the commercial forest concessionaires and many indigenous territories have been leased to companies for production activities without the consent of indigenous peoples. Other territories have been allocated as conservation areas designated by the state, also without the indigenous peoples' consent (ELSAM, 1997).

There are two main categories of human rights violation relating to forests: the institutionalised violations due to forestry policies, laws and programs and the particular cases that occur when resulting conflicts are handled with an authoritarian approach.

The institutionalised violations can be found, for example, in laws such as the Basic Forestry Law No. 5/1967, which was used as the prime legal basis for forestry management in Indonesia until 1999 and Forestry Law No. 41/1999. These laws explicitly state that 'adat' forests, or the indigenous peoples' forests, are classified as state forests and give the Minister of Forestry primary legal jurisdiction to manage the forest resources in an undemocratic manner. These laws were developed based on a narrow, simplistic and state-biased interpretation of Article 33(3) of the 1945 Constitution, which states that:

*"Land, water and their natural riches are controlled by the state and are to be utilized for maximum prosperity of the people".*

The government of Indonesia thus claims a total area of 143 million hectares of forest lands as being under its jurisdiction, ignoring the social relationship millions of people have with these ecosystems.

protesters occupied a road that was being constructed for the dam and four were arrested. Reflecting the Chilean government's determination to get the dam approved, *Domingo Namancura*, the Director of the Statutory Indigenous Rights Council in Chile (CONADI), was removed from his post in August 1998, just weeks before a crucial vote on the legality of land swap agreements between the dam-building company and the Pehuenche. Namancura, once a supporter of the dam, had spent more than a year interviewing the Pehuenche families and subsequently found that he could no longer give his approval for the scheme to go ahead. Two other CONADI members known to be against the dam were forced out two weeks earlier and Namancura himself was a replacement for a previous CONADI director who was asked to resign the year before, just prior to the release of a CONADI report opposing the project (International Rivers Network, 1998; International Rivers Network, 2000).

*More information from International Rivers Network, e-mail [monti@irn.org](mailto:monti@irn.org), or Gabb, e-mail [gabb@reuna.cl](mailto:gabb@reuna.cl)*

**An employee of the forestry company Mininco in Chile admitted in September 1999 that he had been bribed to falsely accuse a group of Mapuche Indians of vandalism against the company's property. The Mapuche are involved in a long-running struggle for recognition of their rights and have been subject to repeated harassment over many years. Forestal Mininco has established massive monoculture plantations on land claimed by the Indians and many observers (including local government officials) suspect that several instances of sabotage of the company's property and plantations may have been carried out by people associated with the company or their security firms, in an attempt to discredit the Mapuche (World Rainforest Movement, 2000b).**

*More information from Mapuche Documentation Centre, e-mail [Jorge.calbucura@soc.uu.se](mailto:Jorge.calbucura@soc.uu.se)*

**Carlos Antonio Luna, a community leader and environmentalist from Catacamas, Honduras, was murdered in May 1998 as he was leaving a meeting at the municipality where he served as a councillor. Luna had**

Prior to the mid 1960s, the Indonesian forestry sector emphasized the importance of extraction of plantation teak in Java. After the fall of Soekarno's regime in 1966, when the Basic Forestry Law No. 5/1967 was introduced, the dipterocarp trees in the outer islands of Indonesia were identified as one of the main sources of economic income for the nation (Munggoro, 1998). Many forest-based industries – especially logging companies – were granted hak pengusahaan hutan (HPH) or logging concessions on the Outer Islands (Moniaga, 1993). The government of Indonesia then produced a series of regulations that enabled investors to exploit the natural resources with minimal regard for the science of tropical rainforest management or indigenous knowledge.

Under the authority of the Basic Forestry Law, the government classifies forest lands into four major categories: (1) protected forests, (2) production forests, (3) nature conservation forests, and (4) conversion forests (Moniaga, 1993). In 1970 the government began to develop a master plan for forest land use called the Consensus Forest Land Use (Tata Guna Hutan Kesepakatan – TGHK). After a new Spatial Law was introduced in 1992 the government required each provincial government, in co-operation with the sectoral technical departments, to prepare a Provincial Spatial Plan (Rencana Tata Ruang Daerah). The principle was that, once the Provincial Spatial Plans (which should be more holistic and democratic) became available, the TGHK would no longer be valid. In reality, however, the Department of Forestry dominated the harmonisation process and often relied on the designations in the TGHK to define forest control and use in the Provincial or District Spatial Plans.

According to the TGHK, approximately 70% of the total area of forest land may be allocated for exploitation purposes and the rest, approximately 30%, for conservation. By 1991, a total of 57.9 million ha of forest lands had been allocated for logging. Plantation development is also proceeding fast. In 1998 the Department of Forestry was expanded to become the Department of Forestry and Plantation Development, a move that has resulted in the acceleration of the conversion of classified “converted lands” to large-scale plantations.

In 1999, the new Forestry Law was enacted but it is based on a similar paradigm as the previous legislation. In the same year, the new Regional Autonomy Law No. 22/1999 was enacted, with a strong emphasis on district, rather than provincial, autonomy. The law provides a legal foundation for the decentralisation of natural resource management, but is contradictory to other existing laws that are yet to be amended.

These forest laws and arrangements have institutionalised the abuse of social, cultural, economic and indigenous rights into the Indonesian system. While the government of Indonesia is clearly responsible for these violations, other parties such as the World Bank, the Asian Development Bank and individual countries which provided substantial support to the Suharto regime should also accept some responsibility. These institutions, which should be championing human rights issues, cannot deny their knowledge of the violations that are embedded in the Indonesian system.

These institutionalised violations of economic, social and cultural rights, and the conflicts that result because of them, often lead to the violation of civil and political rights, as demonstrated by the cases cited in this report. In many of these

cases, government officials, the police or military are responsible for the abuse. In others, the staff of logging or plantation companies are implicated.

As well as the direct causes of these violations, underlying factors such as the centralization of forest administration, uniformity of forest management systems, the level of corruption, militarism and the high demand of the export market on Indonesian forests and plantation commodities can be identified.

Although there has been some recent fundamental change in the political arena, where for the first time Indonesia had a relatively democratic election process in 1999, in reality the former regime remains in various strategic political and administrative positions. The second amendments to the 1945 Constitution that were made in August 2000 provide some constitutional basis for human rights promotion, but the forestry sector remains as powerful as it was, being dominated by the central government. Simultaneously, local authorities are trying to gain as much power as possible through the rapid development of regional autonomy. This power struggle has resulted in a chaotic situation in the use of forests and the enforcement of human rights principles.

There is growing pressure from civil society for a fundamental reform of natural resource management in Indonesia. This may consist of (a) redefinition of the relationship between the state and the people, including the abolition of Hak Menguasai Negara (state control rights over natural resources), (b) transformation of the management regime toward a pluralistic community-based natural resource management, (c) decentralisation of authority in managing natural resources, (d) transformation of the government institutions to enable better co-ordination and a holistic and integrated approach, and (e) a democratic and equal allocation process.

For past human rights violations, a new mechanism should be established to enable fair and proper investigations, the formulation of an action plan and the rehabilitation, restitution and compensation of any losses from the abuses, taking a victims-based approach. The process should be developed in the spirit of regional autonomy development and reconciliation between the state and civil society, including indigenous peoples.

### 5.3 Participation and politics in Canada

*Contributed by Chanda Meek of the Boreal Footprint Project*

Canada has one of the last large remaining expanses of primary forests on earth – the charismatic temperate rainforest of British Columbia to the expanses of boreal forest reaching through the heart of the country to Labrador and Newfoundland and into the mixed-species Acadian forests of the Maritime Provinces. Canada now ranks as the world's top forest products exporter, exporting more than 85 million cubic metres of wood-based products per year (FAO, 2001). Since colonization, Canada has rapidly industrialized through the development of its vast resources, most of which indigenous peoples agreed to share through friendship treaties made before and during the nineteenth century. Several provinces, however, were never covered through treaties, e.g. most of British

**been working to expose the illegal timber harvest and to halt the colonisation and destruction of La Mosquitia region (Anon, 1998).**

*More information from CODEFFAGOLF, E-mail cgolf@sdnhon.org.hn*

**Juan Ramon Lezema of the Pemon people in Venezuela was beaten unconscious by soldiers in December 2000, after the army made repeated visits to his village, San Rafael de Kamoiran and interrogated several villagers. The Pemon are opposing the construction of an electrical power line through the Imataca Forest Reserve, Canaima National Park and the Gran Sabana region, which would supply electricity from Venezuela to Brazil. In July and August 1998, about 1,000 Indians blockaded a road to prevent construction workers passing and villagers from Mapauri prevented construction work on their land. The National Guard violently broke up these protests, using guns and tear gas, injuring three demonstrators (Global Response, 2001, Survival, 1998b).**

*More information from Survival International: [www.survival-international.org](http://www.survival-international.org) or e-mail [info@survival-international.org](mailto:info@survival-international.org)*

**Gerson de Souza Melo, leader of the Pataxó Hã Hã Hãe, was arrested without a warrant at a road block on 15 December 1999 as he returned from a session of the Bahian Legislative Assembly's Human Rights Commission. The Pataxó Hã Hã Hãe have been struggling for recognition of their rights to land in the Pau Brasil area of Bahia state, including remnants of the once dense Atlantic forest. De Souza Melo's arrest followed a period of heightened tension between the Pataxó Hã Hã Hãe and the authorities after approximately 1,200 indigenous people occupied nine estates on demarcated indigenous territory in November 1999. Two policemen were shot dead when police stormed the camps, although the Indians deny responsibility for the deaths. Several indigenous people were beaten during the police operations, and twelve Indians were detained for three days; De Souza Melo was released after being held for a week. Other violations suffered by the Pataxó Hã Hã Hãe during their struggle have included the murder in April 1997 of Galdino Jesus dos Santos, who was covered in petrol and burnt alive by five youths at a bus stop in**

Columbia, Quebec, Newfoundland and Labrador. In these provinces land rights are still under dispute.

From its very beginning, European settlement in Canada was supported and pursued through the aggressive export of raw or lightly processed resources. As early as 1871, Prime Minister Sir John A. Macdonald noted:

*"We are recklessly destroying the timber of Canada, and there is scarcely a possibility of replacing it"* (as cited in May, 1998:34).

Amongst Northern countries, Canada has one of the lowest ratios of wood-based jobs per hectares cut (0.002 jobs/m<sup>3</sup> based on 1998 harvests) because provincial subsidies encourage highly mechanized harvesting (for pulp, paper and oriented strand board) over value-added processing. Such practices make it difficult to manage for multiple values and uses (e.g. tourism, non-timber forest production, wildlife, wilderness) within crown lands – lands that fall under the responsibility of the provincial governments – much less to uphold treaty and aboriginal rights which recognise indigenous peoples' rights to live in, use and benefit from their traditional lands. These rights are even more compounded by the split in jurisdiction within Canada.

Canada's forests are managed by provinces (and territories) under varying environmental and natural resource management regimes and agencies. However, responsibility for treaty and aboriginal rights, as affirmed through the 1982 Canadian Constitution, lies with the federal government. The jurisdiction on forest management and land right issues is therefore split between the provincial government (forest management) and the federal government (indigenous peoples' rights). In practical terms, the federal government is in a politically weak position to assert federal policies on land use planning and management and more often acts as a technical advisor through its research hub, Natural Resources Canada. Even resources over which the federal government has jurisdiction, such as fisheries and navigable waters, suffer from lax enforcement and budget cuts (Canadian Senate Subcommittee on the Boreal Forest, 2001).

This split jurisdiction has led to a long-standing habit of 'passing the buck' (with none of the agencies taking responsibility). For indigenous peoples the result is that meaningful negotiations have been prevented in those provinces where there are no friendship treaties and hindered the protection and promotion of rights of indigenous peoples in the other provinces and territories. (Canadian Senate Subcommittee on Boreal Forests, 1999).

All of the provincial and territorial governments responsible for forest management confer and set the overall direction for a common Canadian vision of forest management through the Canadian Council of Forest Ministers' yearly meetings. In 1992 the Canadian Council of Forest Ministers developed a Forest Strategy which was designed to implement the vision of sustainable forest management in Canada. This strategy also informed the Canadian delegation to the 1992 Rio United Nations Conference on Environment and Development held that same year. In 1998, the Council revised the strategy and along with other signatories (mostly industry and research groups) committed themselves to the following goals:



*“to ensure that the views of the public are considered in forest management planning and decision-making processes”*

and

*“to ensure the involvement of aboriginal peoples in forest management and decision making, consistent with aboriginal and Treaty rights; and to recognize and make provision for aboriginal and Treaty rights in sustainable forest management”.*

Contrary to Forest Strategy commitments to include civil society participation, Manitoba and Alberta have recently conducted reviews of major forest management agreements behind closed doors with industry proponents (Schneider, 2001 and Forrest, 2001). In many provinces, if there is a public review process, it is often only in an advisory capacity, meaning that its decisions are not binding, and sometimes completely disregarded. In a review of forest management decision-making in Alberta, R. Schneider explains:

*“Because forests in Alberta are managed primarily through policy, and not law, major management decisions are not subject to legislative debate, nor can the government be held legally accountable for the implementation of its plans”* (2001).

Ontario has a fairly complex system of public accountability, including citizen advisory councils and consultation with affected communities. However, the quality of consultation varies and may become overly focused on technical aspects of forest management, which many small communities do not have the capacity to evaluate (Lloyd, 2001).

Despite its oft-stated commitment to public participation and multi-stakeholder processes, Canada chose not to sign the 1998 Århus convention on public participation in environmental decision-making. At the time, Canada argued that it already had an exhaustive public process for decision-making, making the convention unnecessary.

Aside from inadequacies in public participation, human rights abuses related to forest activism tend to fall into two categories: 1) violations of indigenous peoples' rights, and 2) differential prosecution and unusually harsh punishment of protestors (see examples in this report). In addition to a 1990 condemnation by the UN Human Rights Committee for a policy that continues extinguishing indigenous peoples' land rights, Canada was recently condemned by the same committee for ongoing policies and practices which deny indigenous self-determination as well as discrimination against indigenous peoples in general (Assembly of First Nations, 2001).

In the Cree territory of Northern Quebec, the James Bay and Northern Quebec Agreement promised that forestry and hydro development would be managed so that it would not interfere with the existing land use practices of the Crees. For at least 20 years the Crees have appealed to various Ministers of the Quebec Government in an attempt to have the provisions of forestry legislation respect their treaty rights under the James Bay and Northern Quebec Agreement. The agreement, ratified by both Quebec and Canada, explicitly states that it shall prevail over any legislation which conflicts with its provisions. However, when the agreement was put to test in court, both Canada and Quebec sought to have the

**Brasilia, during a visit to the city to further the land claim. (World Rainforest Movement, 2000a; Global Response, 1999; SAIIC, 1997).**

*More information from Survival International: [www.survival-international.org](http://www.survival-international.org) or e-mail [info@survival-international.org](mailto:info@survival-international.org)*

**Paulo Jose de Souza, a Macuxi Indian from the Raposa-Serra do Sol region, Roraima state, northern Brazil, was shot twice by a rancher on 7 February 1999. Three days later, on 10 February 1999, Egon Heck, a missionary, was stabbed by someone working for the same rancher, as he was on his way with a group of indigenous people to the place where Mr de Souza had been attacked. In another incident, Jose Maria dos Santos from Maloquinha village was beaten up by military police on 13 July 1999. The Indians from the Raposa-Serra do Sol area have been involved in a long struggle for recognition of their land, which includes forested areas in the north. They have been subject to extensive violence and harassment: at least twelve Indians are reported to have been killed or died in custody between 1988 and 1998. Recently, tension has**

increased after a decree ordering official recognition of the territory was passed in 1998. Ranchers and the state government have launched a campaign against the decree and several challenges have been lodged in court, including one by the Roraima state government. (World Rainforest Movement 1999a; Survival, 1999a).

More information from Survival International: [www.survival-international.org](http://www.survival-international.org) or e-mail [info@survival-international.org](mailto:info@survival-international.org)

Winfried Overbeek, a Dutch national working with the Brazilian organisation CIMI assisting the Tupinikim and Guarani Indians with sustainable agriculture, was detained by police in March 1998. The Tupinikim and Guarani Indians are involved in a land struggle with plantation company Aracruz Cellulose. After extensive questioning, Overbeek was released but was subject to further investigation and the threat of expulsion from the country. He was finally charged in May 2000 with having interfered in internal political affairs, charges that were dropped by the federal judge in February 2001. Two Brazilian missionaries working for CIMI and two

judge removed from the case after his ruling that modern-day forestry in Quebec is inoperable and unconstitutional (Grand Council of the Crees, 2001). Tensions between government and indigenous peoples became most apparent in the Oka Crisis of 1990, in which Quebec police forces surrounded and attempted to storm a barricade erected by local Mohawks to preserve a nearby burial ground and old growth pine forest that was threatened by developers promoting a golf course. One police officer died in the cross-fire (May, 1998: 122). While this type of exacerbation is rare in Canada, events like Oka underscore the frustration many communities feel when decisions are taken which threaten their lands, livelihoods, and cultures.

Assembly of First Nations Grand Chief Matthew Coon Come explains the seriousness of Canada's policy directions towards indigenous peoples:

*"Since our first contact with Europeans, our position and condition in the Americas has failed to improve. For us, the taking and theft of our lands and resources, and the imposition of alien forms of governance and economic activity, has meant mass poverty, ill health, marginalization, loss of language, and – often – extinction" (2001).*

Until indigenous peoples' rights to their traditional lands, and self-determination are recognised and respected, human rights abuses in Canada will continue unabated. As the Royal Commission on Aboriginal Peoples explains:

*"It is now time to acknowledge the truth and begin to rebuild the relationship among peoples on the basis of honesty, mutual respect and fair sharing. The image of Canada in the world and at home demands no less" (Canada, 2000).*

The treatment of non-indigenous forest protestors in Canada also illustrates human rights violations. Recently, the Attorney General's office in British Columbia initiated a new policy regarding persons found in contempt of court in order to intimidate those who refuse to sign papers annulling their right to protest. James Jamieson, a local water user explains:

*"Clearly the courts are not impartial. Just weeks ago seven BC mill workers received no jail time for defying a court order when they blockaded the dismantling of a West Fraser [saw]mill in Youbou, while environmentalists aren't even allowed early release" (Elliot-Anderson-Christian-Trozzo Water Users Committee, 2001).*

The difference in the treatment of industrial protestors versus environmental ones lies in the unwillingness of the environmental protestors to give up their freedoms of opinion, expression and peaceful assembly, which are guaranteed under the Canadian Charter of Rights and Freedoms. For this refusal, an increasing number of protestors have been found in contempt of court, meaning that the offender must serve their entire sentence. Otherwise, an offender would be eligible for early release.

The federal government, along with the provincial and territorial governments, must implement human rights commitments as well as legally enforceable mechanisms to protect public participation in resource planning.

## 6. Discussion

### Forests as a contested resource

As the case studies and examples throughout this report show, hard-fought conflicts over forests, including abuses of human rights, are widespread. Why? Forests everywhere are a contested resource, offering a multitude of goods and services to many different groups. Forests are home to many millions of people, who rely on them for shelter, for food such as meat, fruits, nuts and other plants and for the provision of products such as firewood, building material and herbal medicine. They maintain soil fertility and watersheds for local and regional communities. Forests (or the land they stand on) can provide timber, oil and minerals or be used to grow cash crops. Forests also have a huge planetary significance, in regulating climate and water flows, and for the maintenance of biological diversity and ecological processes. They are therefore of great public interest. Finally, forests have spiritual importance and are widely valued for their aesthetic and recreational properties.

### Addressing rights to land and resources

At the root of many forest conflicts there is a fundamental question over who owns the forest and who has the right to decide what happens to it. A large proportion of remaining old growth forests is claimed by indigenous peoples under traditional ownership rights. These land rights claims urgently need to be resolved before further decisions on forest use can be taken. In both the northern and southern hemispheres, government allocation of these areas to other uses is therefore, at best, premature, at worst, totally illegitimate, and a violation of indigenous rights.

### The imbalance of power

The World Commission on Forests and Sustainable Development examined the “web of interests” in forests, looking at evidence from several examples of forest conflict around the world. They summarised the pattern that emerged from these conflicts as being:

*“...between rich and poor, between forest dwellers and corporations, between politically strong and weak groups, between economic needs and environmental functions, between private interests and the public interest” (WCFS, 1999).*

In many forest conflicts there is an enormous imbalance in political power. Many studies have shown that people who live in or around forests and rely most directly on them for their livelihood are amongst the most marginalized sectors of society, alienated from the political process (Colchester and Lohmann, 1993). Such groups are also often poor. Weak and disempowered, they have little

trade union leaders from the area have also been under investigation by police, at the request of Aracruz Cellulose, since 1998 (CIMI, 1998; W. Overbeek, pers.comm.). More information from CIMI, e-mail [cimies@terra.com.br](mailto:cimies@terra.com.br)

A 19 year old Indian from the forest-dwelling Nambiquara people was murdered on 23 May 2000, in Mato Grosso state, Brazil. According to the regional office of the indigenous affairs organisation FUNAI, the Indian was shot during a conflict with timber dealers in the Guapore valley in Comodoro municipality. The forest of the Nambiquara and other Indians in the region is under continual pressure from miners and loggers. In 1997 FUNAI and the Federal Police launched an operation to remove 10,000 lumberjacks and miners from the Sararé indigenous area in the same region, after 76 Nambiquara from the Kithauru sub-group were attacked and beaten up by a group of miners and loggers in November 1996 (CIMI, 2000; F. Watson, pers.comm.). More information from Survival International: [www.survival-international.org](http://www.survival-international.org) or e-mail [info@survival-international.org](mailto:info@survival-international.org)

**An Indian from an uncontacted tribe in the Alto Tarauacá area, Acre state, Brazil was murdered and castrated in June 2000. His body was taken by the local medical institute to the state capital Rio Branco. The incident happened after a group of men led by the town councillor invaded the area to cut timber and hunt wildlife. FUNAI believes that three Indians may have been killed, although the remains of only one corpse were recovered (F. Watson, pers.comm.).**

*More information from Survival International: [www.survival-international.org](http://www.survival-international.org) or e-mail [info@survival-international.org](mailto:info@survival-international.org)*

**Mary Dalton, a US Forest Service employee in Tongass National Forest, Alaska, was suspended for 30 days and given a forced transfer in 1996 for challenging and then appealing against a timber sale that she believed would cause extensive environmental damage. At the time, a Forest Service regulation prohibited staff questioning timber sales. Dalton challenged the disciplinary action in court, claiming it was a breach of her right to free speech and that the regulation**

influence on the decision-making process and decisions are imposed on them against their will or without their consent.

By contrast, the economic interests, represented by the corporate sector, frequently have very significant power. David Korten in his book *When Corporations Rule the World* outlined the enormous influence trans-national corporations have over national and even international governance (Korten, 1995). Fern uncovered the large influence of oil companies in undermining national environmental and social law in line with their own economic demands (Fern, 1999). National governments, who in theory are charged with overseeing decisions about forests, are often swayed by the power of big money. As the World Commission on Forests and Sustainable Development points out

*“...governments in cash-strapped countries are often no match for powerful commercial interests in search of resources” (WCFSD, 1999).*

The International Institute for Environment and Development (IIED) suggests the behaviour of companies is even more calculated, identifying

*“logging companies and land speculators seeking out national authorities with weak abilities to protect public forest benefits” as one of the causes of forest problems (Mayers and Bass, 1999).*

The imbalance of power between different interests allows the will of one group to dominate, regardless of the needs or wishes of others. Unable to exert any influence at the negotiation table, politically weak groups that have been excluded from the decision-making process or over-ridden are left with little option but to resort to protest and a conflict situation soon emerges. The abuses of human rights that so often follow are the ultimate expression of the inequality in power between the various interests.

The imposition of forest policies or management on local people, leading to conflict, is not new. History is full of examples of peoples' rights being extinguished for forestry objectives (Westoby, 1987). Nor is it confined to favouring economic interests. The furtherance of environmental or wildlife conservation has involved similar policies, starting with the very first National Park, Yellowstone, established in the USA in 1872. Indigenous Shoshone communities were forcibly relocated to make way for the park. Violent clashes with Indians followed and caused many deaths (Colchester, 1994). The public interest in forests as a global commons – whether it be for biodiversity conservation or climate stability – is another pressure on areas that may be the home and life support system of communities or tribal people. How to reconcile the management of this global common with the needs and rights of nations and local communities has been the subject of much international debate, but remains unresolved. Recent guidelines on protected areas and indigenous peoples drawn up by WWF and IUCN recognise the role indigenous peoples have often played in conserving biodiversity and that:

*“...there should be no inherent conflict between the objectives of protected areas and the existence, within and around their borders, of Indigenous and other traditional Peoples” (Beltrán, 2000).*



## Private sector responsibility

Following the extensive discussion of the responsibility of Shell for the atrocities by the Nigerian regime in Ogoniland, there is increased acceptance in the corporate sector of the responsibility of companies to ensure human rights abuses are not associated with their operations. The public expectation that they should take an active role in preventing such abuses has led to several companies developing social and human rights policies and some now include environmental and social issues in their reporting to shareholders, referring to the 'triple bottom line' of financial, environmental and social performance. As well as the moral issues, the costs of being associated with human rights scandals are recognised as potentially damaging to business. Beyond Petroleum (formerly British Petroleum) state that:

*"We believe there are significant business risks if we get social performance wrong, and real opportunities for competitive advantage if we do it well"* (BP, 2001).

Alongside the efforts of individual corporations, there is a plethora of guidelines or initiatives that address the social responsibility of multi-national corporations (see Appendix C). Perhaps one of the most publicised initiatives in this area is the UN Global Compact. Launched in 1999, the Global Compact is a set of principles covering human rights, labour and the environment. Companies are called on to embrace these principles, both in their own activities and in the public policies that they support. The UN also has a Code of Conduct for Law Enforcement Officials.

The challenge with all these initiatives is to convert rhetoric into action, policy into practice. All the initiatives are voluntary and most lack independent monitoring and evaluation mechanisms (though some corporations do audit their social performance against their own policies). There is therefore a clear risk that companies will support the Global Compact or a similar set of principles to gain a positive public image, but will do little or nothing to implement the ideals in practice.

### The lack of redress

Very often, the horrific crimes against forest activists, including murder, are not even investigated by the police and the number of prosecutions is pitiful. Crimes against forest protesters routinely go uninvestigated in Malaysia, Indonesia, Brazil and many other countries. The 1998 Annual Report by the Pastoral Lands Committee in Brazil reports that while 1,167 rural peasants were murdered in the 12 years up to 1998, only 86 trials took place (Rio Maria Committee, 1999).

International bodies may be more fair-minded than national courts, but the process of appealing to them is long and complicated. In a rare event in 1998, following a complaint by three concerned organisations, the Interamerican Commission on Human Rights publicly denounced the Brazilian government at an inter-governmental meeting in Venezuela for failing to protect Joao Canuto, president of the Union of Rural Workers of Rio Maria, who had been receiving death threats before his murder in 1985. The government was also criticised for delaying the investigation and trial of suspects for the crime (Servico Brasileiro de Justice e Paz, 1998).

**contradicted a law that allowed "any person" who has commented on a proposed timber sale to appeal the final decision. As a result of the court action, Dalton's suspension was rescinded and the Forest Service regulation abolished, but her job transfer nonetheless went ahead (Wilkinson, 1998).**

*More information from Forest Service Employees for Environmental Ethics, E-mail: [andy@fsee.org](mailto:andy@fsee.org)*

**Buzz Williams, a Forest Service river ranger in the Sumpter National Forest in the South-eastern USA from 1987-1991, received verbal warnings from his superiors, and was accused of insubordination after criticising environmentally damaging timber sales in the Chattooga River corridor. Williams eventually lost his job, supposedly because of a funding shortfall. Tina Barnes, Williams's supervisor, was intimidated, sexually harassed, demoted and forced to resign when she supported him in his views (Wilkinson, 1998).**

*More information from Forest Service Employees for Environmental Ethics, e-mail: [andy@fsee.org](mailto:andy@fsee.org)*

**Cindy Barkhurst, a US Forest Service biologist in the Umpqua National Forest in Oregon State, USA, was removed from her position as leader of an inter-agency endangered species team in December 1998 when the team's findings were relied upon by a federal judge to stop government logging in the Umpqua. The Forest Service claims that her removal was unrelated to the lawsuit (C. Barkhurst, pers.comm.).**

*More information from Cindy Barkhurst, e-mail  
cbark@internetcds.com.*

## **Africa**

**Arolika Irowainu and Jola Ogungbeje from the Ilaje people in Nigeria were shot dead in May 1998 by troops who then removed and refused to return the dead bodies. The American oil giant Chevron has been extracting oil on Ilaje land (which includes extensive areas of mangrove forest) for 30 years, causing a plethora of environmental problems. After the repeated failure of Chevron officials to turn up to meetings, the people peacefully occupied a company barge, where three helicopters loaded with**

Where international corporations are involved in human rights abuses, suing the company in its country of origin for atrocities committed in another country may be a way forward. A group of Burmese citizens took Californian oil company Unocal to court in California for human rights violations committed during construction of a pipeline across the country. While the abuses, which included rape, torture and murder, were actually committed by military personnel from the government rather than by company employees, the plaintiffs argued that, given the appalling human rights record of the Burmese regime SLORC, Unocal could have anticipated what would happen when they asked SLORC to build the roads and facilities necessary for their oil project.

In a similar move, the Amungme Tribal Council of Irian Jaya has sued the mining company Freeport-McMoRan in the Louisiana (USA) courts over the killing of an estimated 2,000 indigenous people at their Grasberg mine in Indonesia. Once again, while the killings were carried out by the Indonesian military, the soldiers were allegedly receiving housing, food and transport from the company in return for security services in the mine area.

### **Linking human rights and sustainable development**

Finding solutions to the difficulties presented by the multitude of demands made on forests (and other resources) is one of the central challenges of sustainable development. The necessity of participatory decision-making and multi-stakeholder processes is widely recognised and endorsed in declarations and policies. These pronouncements, however, worthy as they are, assume that basic elements of governance are already assured – the rule of law, respect for internationally agreed human rights, the functioning of elementary democratic processes. As this report shows, this is frequently not the case. Without these solid foundations, the building of sustainable development is likely to collapse on the shifting sands of repression, violence and the arbitrary abuse of power for personal enrichment.

Basic civil liberties – free speech, freedom of expression, the right to assembly, access to information and the right to inform others (through, for example, a free press and media) – are key to good environmental performance. Without respect for these fundamental human rights, people cannot make their voices heard, organise themselves or express opposition to plans that affect them. Civil liberties are, in fact, one of the most important checks on a government's power. When people affected by any sort of development or policy are unable to protest, those with the greatest political power can dominate at the expense of all others. Upholding the civil and political rights of individuals and populations, then, is key to preventing environmental damage and forest destruction.

The link between the lack of participation in decision-making, human rights abuses and environmental damage is neatly summarised by the United Nations Development Programme:

*“Economic policy-making behind closed doors violates the right to political participation – and is susceptible to the corrupting influence of political power and big money. It creates a disabling environment, ripe for human rights failures. This democratic deficit is widespread in local, national and global economic policy-making – reflected in ... logging that destroys the environment, oil wells that pollute fields and rivers from which people draw their livelihoods.” (UNDP, 2000).*

## **An imperative for the future**

With the on-going depletion of the world's forest resources, rising human populations and growth in the consumption of forest products, the pressure on remaining forests is increasing. Timber, oil and mining companies are moving into ever-more remote areas as the most accessible areas become exhausted. Disputes over forests are thus likely to increase in the coming years.

Upholding civil liberties and respecting human rights is a first step towards enabling a more open process of decision-making on forests and allowing a truly participatory approach. Guaranteeing these civil and political rights empowers people to fight for their social, cultural, economic and indigenous rights. It should therefore be a priority for all concerned with the future of forests.

More radical changes are also needed, however, to ensure those participating in decision-making begin on an equal footing. Finding ways to redress the power balance and to give all interests an equal say at the table is a major challenge for society, crucial not only for forests but for all aspects of development. The principle of free, prior and informed consent must be extended, strengthened and enforced.

Greater focus on a rights-based approach to environmental issues, including forests, would ensure more solutions that are sustainable in the long-term. This requires groups concerned with forest and biodiversity conservation getting more involved in social and political issues. The necessity of tackling these elements of the forest crisis is becoming increasingly recognised. The joint initiative between US-based environmental group the Sierra Club and Amnesty-USA, campaigning for protection for environmental defenders, is a good illustration of how human rights and environmental groups can work together to mutual benefit. As the International Institute for Environment and Development has written:

*“Almost every aspect of forestry is a political activity. All those who want forest goods and services need to find ways to act on this reality, rather than shy away from it”* (Mayers and Bass, 1999).

**troops attacked them. As well as the deaths, at least seven people were seriously injured in the incident.**

**(Environmental Rights Action, 1998).**

*More information from: Human Rights Watch, e-mail [bmanby@gn.apc.org](mailto:bmanby@gn.apc.org)*

**Isaac Osouka, an activist from the Nigerian environmental and human rights organisation Friends of the Earth Nigeria, and Aart van den Hoek from Oilwatch Europe were arrested on 26 May 1998, while they were in Lagos to attend a meeting of the African Forest Action Network. Van den Hoek was released the following day, but Osouka was detained for 32 days under appalling conditions, before being released without charge. They were arrested for being in possession of copies of the monthly environmental and human rights bulletin Niger Delta Alert and other materials on the impacts of oil exploitation in the Niger Delta (Human Rights Watch, 1998).**

*More information from: Environmental Rights Action/Oilwatch Africa, e-mail [oilwatch@infoweb.abs.net](mailto:oilwatch@infoweb.abs.net)*

*On-going abuses in Ogoniland in the Niger Delta, Nigeria, have been linked with the opposition of Ogoni people to road-building activities, funded by Shell. Six people were arrested by police on 23 March 2000 following a demonstration at the site of the proposed road, the construction of which was abandoned. In April, police entered the K-Dere community in the region. At least 10 houses were burnt down, including the house of Ledum Mitee, a leader of the Movement for the Survival of the Ogoni People (MOSOP). At least nine people, including Mitee, were arrested at the time or shortly afterwards. Mitee and two others were charged with arson (of houses that are in fact undamaged) and attempted murder; all the detainees were released on bail within three weeks. According to MOSOP, at least four and possibly as many as ten people were shot dead by police in the violence that took place in the following days (Human Rights Watch, 2000).*

*More information from Human Rights Watch, e-mail [bmanby@gn.apc.org](mailto:bmanby@gn.apc.org)*

## 7. Recommendations

### 1) Drawing attention to the importance of human rights in relation to forests

As this report has highlighted, respect for fundamental civil and political rights is a pre-requisite for a strong environmental movement. Truly participatory decision-making processes and the organisation of public opposition to damaging proposals are vital in ensuring the sustainable use of the world's forests. Addressing human rights abuses is therefore essential to the future of the world's forests.

#### **Recommendation**

**Environmental NGOs are urged to give the strengthening and upholding of human rights and the promotion of truly participatory processes a central place in their campaigns.**

### 2) Training in human rights for forest activists

Most countries have ratified legally binding international agreements on human rights. Redress for violations that occur can thus be sought under the complaints mechanism for the agreement. Challenging companies in their home country may be another way forward.

#### **Recommendation**

**Forest activists and indigenous groups should be trained in human rights and the use of human rights agreements to prevent violations. Such training would include the sharing of experience between groups from different countries and regions.**

### 3) Company human rights database

As companies become increasingly global in their activities, knowledge of the human rights records of a company in one country can be extremely helpful to communities faced with a proposal from a multi-national corporation. Location of such information may not be straightforward.

#### **Recommendation**

**An NGO-run database of the human rights record of major multi-national corporations, their policies and how these are translated into practice should be established, and its availability widely promoted. The database would include contact groups for those people that have suffered from the rights abuses.**

*Eleven people involved in defending the rights of the Ogiek people to continue living in the Mau forest in Kenya were arrested in March 2000, for performing theatre to a group of primary school children during an education programme with the Ogiek community. The charge of "illegal assembly" was dismissed when the case came to court in May 2000. The Ogiek are fighting Kenyan government attempts to evict them from their forest home (Kenya Human Rights Commission, 2000). More information from Ogiek Welfare Council, [www.ogiek.org](http://www.ogiek.org), e-mail: [ogieknet@africaonline.co.ke](mailto:ogieknet@africaonline.co.ke)*



#### 4) Documenting human rights in forest areas

Although it is clear that every year hundreds of people are killed while trying to protect their forests and many more are injured, unlawfully arrested or harassed, there is no catalogue of human rights abuses against forest defenders. Such a database would clearly strengthen the case to put human rights abuses at the forefront of forest protection.

##### **Recommendation**

**NGOs, in co-operation with research institutes, should systematically document human rights abuses linked to forest protection, and present these facts to intergovernmental forest fora.**

#### 5) Regulating corporate behaviour

The relevance of human rights issues to business is increasingly being acknowledged by large corporations. Alongside the efforts of individual corporations, there is a plethora of guidelines or initiatives that address the social responsibility of multinationals (see Appendix C), but none is legally binding or has any enforcement mechanism.

##### **Recommendation**

**The UN should develop a binding, multilateral legal regime for corporate conduct, accompanied by an enforcement mechanism.**

#### 6) Incorporating consideration of the power imbalance into consultation processes

The political status of affected groups or interested parties and the human rights record of a country can have a major impact on the outcome of a decision over forest use. While donor agencies and some private sector corporations include local consultation in their decision-making processes, the effects of political and human rights factors may not be specifically considered. In cases where they are deemed significant, special attention needs to be given to the design and implementation of the consultation exercise and the interpretation of the results. The principle of free, prior and informed consent should be integral to any consultation process.

##### **Recommendation**

**Donors, agencies and corporations should include in their standard procedures for project approval an assessment of the political status of the affected or local communities and the human rights record of the country concerned, before the consultation process is undertaken.**

#### 7) Adoption and implementation of human rights and indigenous rights treaties

There is only one human rights declaration that specifically relates to forest protesters whose human rights have been abused: the UN Declaration on Human

Rights Defenders. Governments should implement this declaration as soon as possible.

As indigenous peoples bear the brunt of human rights abuses linked to forest destruction, the adoption of the Draft Declaration on Indigenous Peoples' Rights would be a big step towards respecting indigenous peoples' rights. Respect for a pre requisite for saving a large part of the world's forests.

### **Recommendation**

**Governments should implement the UN Declaration on Human Right Defenders and adopt the Draft Declaration on Indigenous Peoples' Rights.**

## **Biodiversity and indigenous peoples**

An estimated 300 million indigenous people live in tropical forests. There are no large areas of tropical forests that are not inhabited or claimed by indigenous peoples. Tropical moist forests alone, although covering just 7% of the earth's land surface, are home to at least 1,400 distinct indigenous and traditional peoples<sup>8</sup> (WWF, 2000).

A recent report by the Worldwide Fund for Nature and Terralingua examines the relationship between indigenous peoples, cultural diversity and biodiversity. Between 4,000 and 5,000 of the 6,000 languages in the world are spoken by indigenous peoples. Taking language diversity as a measure of cultural diversity, it is clear that indigenous peoples constitute a large proportion of human cultural diversity. The concurrence of cultural diversity and biodiversity can be quantified by comparing the distribution of language richness and species richness. There is a striking overlap between countries with high numbers of endemic languages and high numbers of endemic vertebrates, birds and flowering plants. There is therefore a large overlap between biodiversity hotspots and land owned or claimed by indigenous peoples. This is not a coincidence. Based on a decade of research it is now widely accepted, both in environmental as well as in social sciences, that conserving biological diversity is directly related to the maintenance of cultural diversity and vice versa: the loss of cultural diversity is part and parcel of the same socio-economic and political processes leading to biodiversity loss. (WWF, 2000)

<sup>8</sup> If areas under current forest cover are considered and about 2,500 if the original extent of tropical moist forest regions is included.



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## Appendix A

### THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

#### *Preamble*

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by

teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

#### *Article 1*

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

#### *Article 2*

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

#### *Article 3*

Everyone has the right to life, liberty and security of person.

#### *Article 4*

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

#### *Article 5*

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

#### *Article 6*

Everyone has the right to recognition everywhere as a person before the law.

#### *Article 7*

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this

Declaration and against any incitement to such discrimination.

*Article 8*

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

*Article 9*

No one shall be subjected to arbitrary arrest, detention or exile.

*Article 10*

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

*Article 11*

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

*Article 12*

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

*Article 13*

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

*Article 14*

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

*Article 15*

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

*Article 16*

1. Men and women of full age, without any limitation due to race,

nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

*Article 17*

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

*Article 18*

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

*Article 19*

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

*Article 20*

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

*Article 21*

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

*Article 22*

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

*Article 23*

1. Everyone has the right to work, to free choice of employment,



to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

#### *Article 24*

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

#### *Article 25*

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

#### *Article 26*

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

#### *Article 27*

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

#### *Article 28*

Everyone is entitled to a social and international order in which

the rights and freedoms set forth in this Declaration can be fully realized.

#### *Article 29*

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

#### *Article 30*

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

## Appendix B

### Status of ratification of selected human rights treaties

July 2001

Country	International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)	International Covenant on Civil and Political Rights (ICCPR) (1966)	Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984)	ILO Convention 107 (1957)	ILO Convention 169 (1989)	Country	International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)	International Covenant on Civil and Political Rights (ICCPR) (1966)	Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984)	ILO Convention 107 (1957)	ILO Convention 169 (1989)
Afghanistan	√	√	√			Chile	√	√	√		
Albania	√	√	√			China	s	s	√		
Algeria	√	√	√			Colombia	√	√	√	√	√
Andorra						Comoros			s		
Angola	√	√		√		Congo	√	√			
Antigua and Barbuda			√			Cook Islands					
Argentina	√	√	√	√	√	Costa Rica	√	√	√	√	√
Armenia	√	√	√			Croatia	√	√	√		
Australia	√	√	√			Cuba			√	√	
Austria	√	√	√			Cyprus	√	√	√		
Azerbaijan	√	√	√			Czech Republic	√	√	√		
Bahamas						Côte d'Ivoire	√	√	√		
Bahrain			√			Democratic People's Republic of Korea	√	√			
Bangladesh	√	√	√	√		Democratic Republic of the Congo	√	√	√		
Barbados	√	√				Denmark	√	√	√		√
Belarus	√	√	√			Djibouti					
Belgium	√	√	√	√		Dominica	√	√			
Belize	s	√	√			Dominican Republic	√	√	s	√	
Benin	√	√	√			Ecuador	√	√	√	√	√
Bhutan						Egypt	√	√	√	√	
Bolivia	√	√	√	√	√	El Salvador	√	√	√	√	
Bosnia and Herzegovina	√	√	√			Equatorial Guinea	√	√			
Botswana		√	√			Eritrea					
Brazil	√	√	√	√		Estonia	√	√	√		
Brunei Darussalam						Ethiopia	√	√	√		
Bulgaria	√	√	√			Fiji					√
Burkina Faso	√	√	√			Finland	√	√	√		
Burundi	√	√	√			France	√	√	√		
Cambodia	√	√	√			Gabon	√	√	√		
Cameroon	√	√	√			Gambia	√	√	s		
Canada	√	√	√			Georgia	√	√	√		
Cape Verde	√	√	√			Germany	√	√	√		
Central African Republic	√	√				Ghana	√	√	√	√	
Chad	√	√	√								

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Greece	√	√	√			Mauritius	√	√	√		
Grenada	√	√				Mexico	√	√	√	√	√
Guatemala	√	√	√		√	Micronesia (Federated States)					
Guinea	√	√	√			Monaco	√	√	√		
Guinea-Bissau	√	s	s	√		Mongolia	√	√			
Guyana	√	√	√			Morocco	√	√	√		
Haiti		√		√		Mozambique		√	√		
Holy See						Myanmar					
Honduras	√	√	√		√	Namibia	√	√	√		
Hungary	√	√	√			Nauru					
Iceland	√	√	√			Nepal	√	√	√		
India	√	√	s	√		Netherlands	√	√	√		√
Indonesia			√			New Zealand	√	√	√		
Iran (Islamic Republic of)	√	√				Nicaragua	√	√	s		
Iraq	√	√		√		Niger	√	√	√		
Ireland	√	√	s			Nigeria	√	√	s		
Israel	√	√	√			Niue					
Italy	√	√	√			Norway	√	√	√		√
Jamaica	√	√				Oman					
Japan	√	√	√			Pakistan				√	
Jordan	√	√	√			Palau					
Kazakhstan	√					Panama	√	√	√	√	
Kenya	√	√	√			Papua New Guinea					
Kiribati						Paraguay	√	√	√	√	√
Kuwait	√	√	√			Peru	√	√	√	√	√
Kyrgyzstan	√	√	√			Philippines	√	√	√		
Lao People's Democratic Republic	s	s				Poland	√	√	√		
Latvia	√	√	√			Portugal	√	√	√	√	
Lebanon	√	√	√			Qatar			√		
Lesotho	√	√				Republic of Korea	√	√	√		
Liberia	s	s				Republic of Moldova	√	√	√		
Libyan Arab Jamahiriya	√	√	√			Romania	√	√	√		
Liechtenstein	√	√	√			Russian Federation	√	√	√		
Lithuania	√	√	√			Rwanda	√	√			
Luxembourg	√	√	√			Saint Kitts and Nevis					
Madagascar	√	√				Saint Lucia					
Malawi	√	√	√	√		Saint Vincent and the Grenadines	√	√			
Malaysia						Samoa					
Maldives						San Marino	√	√			
Mali	√	√	√			Sao Tome and Principe	s	s	s		
Malta	√	√	√			Saudi Arabia			√		
Marshall Islands						Senegal	√	√	√		
Mauritania											

Country	International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)	International Covenant on Civil and Political Rights (ICCPR) (1966)	Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984)	ILO Convention 107 (1957)	ILO Convention 169 (1989)	Country	International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)	International Covenant on Civil and Political Rights (ICCPR) (1966)	Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984)	ILO Convention 107 (1957)	ILO Convention 169 (1989)
Seychelles	√	√	√			Zambia	√	√	√		
Sierra Leone	√	√	s			Zimbabwe	√	√			
Singapore						<b>Total parties</b>	<b>143</b>	<b>148</b>	<b>123</b>	<b>27</b>	<b>14</b>
Slovakia	√	√	√			<b>Total signatories</b>	<b>8</b>	<b>6</b>	<b>11</b>	<b>—</b>	<b>—</b>
Slovenia	√	√	√			√ = parties					
Solomon Islands	√					s = signatories					
Somalia	√	√	√								
South Africa	s	√	√								
Spain	√	√	√								
Sri Lanka	√	√	√								
Sudan	√	√	s								
Suriname	√	√									
Swaziland											
Sweden	√	√	√								
Switzerland	√	√	√								
Syrian Arab Republic	√	√		√							
Tajikistan	√	√	√								
Thailand	√	√									
The Former Yugoslav Republic of Macedonia	√	√	√								
Togo	√	√	√								
Tonga											
Trinidad and Tobago	√	√									
Tunisia	√	√	√	√							
Turkey	s	s	√								
Turkmenistan	√	√	√								
Tuvalu											
Uganda	√	√	√								
Ukraine	√	√	√								
United Arab Emirates											
United Kingdom of Great Britain and Northern Ireland	√	√	√								
United Republic of Tanzania	√	√									
United States of America	s	√	√								
Uruguay	√	√	√								
Uzbekistan	√	√	√								
Vanuatu											
Venezuela	√	√	√								
Viet Nam	√	√									
Yemen	√	√	√								
Yugoslavia	√	√	√								

## Appendix C

### Human Rights guidelines or principles for corporations

#### **Human Rights Principles for Companies**

developed by Amnesty International

[//www.amnesty.org/ai.nsf/index/ACT700011998](http://www.amnesty.org/ai.nsf/index/ACT700011998)

#### **Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy**

developed by the International Labour Organisation

[//www.ilo.org/public/english/standards/norm/sources/mne.htm](http://www.ilo.org/public/english/standards/norm/sources/mne.htm)

#### **Guidelines for Multinational Enterprises**

developed by the Organisation for Economic Cooperation and Development

[//www1.oecd.org/daf/investment/guidelines/](http://www1.oecd.org/daf/investment/guidelines/)

#### **The Global Sullivan Principles**

a collaborative initiative

[//globalsullivanprinciples.org/index.htm](http://globalsullivanprinciples.org/index.htm)

#### **Business for Social Responsibility**

a US-based membership organisation

[//www.bsr.org/](http://www.bsr.org/)

#### **Prince of Wales Business Leaders Forum**

a UK-based forum

[//www.pwbf.org](http://www.pwbf.org)

#### **Voluntary Principles on Security and Human Rights**

developed by a group of extractive sector companies, NGOs and the governments of the UK and USA

[//www.amnesty.org.uk/business/newslet](http://www.amnesty.org.uk/business/newslet)

#### **Global Compact**

developed by the United Nations

[//www.unglobalcompact.org/](http://www.unglobalcompact.org/)

Critical website: [//www.corpwatch.org/un/updates/2001.ibfangc.html](http://www.corpwatch.org/un/updates/2001.ibfangc.html)