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Discrimination and Protection  
of Minorities  
Working Group on Indigenous Populations  
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Items 4 and 5 of the provisional agenda

REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND  
PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF  
INDIGENOUS POPULATIONS (Item 4)

CONSIDERATION OF THE EVOLUTION OF STANDARDS CONCERNING  
THE RIGHTS OF INDIGENOUS POPULATIONS (Item 5)

Report of the Secretary-General

Addendum

The present document contains information submitted by the following NGO's:  
International Fellowship of Reconciliation; Indian Law Resource Center; and  
Salvation Army.

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INTERNATIONAL FELLOWSHIP OF RECONCILIATION

[Original: English]

[11 April 1984]

The International Fellowship of Reconciliation (IFOR) wishes to present two situations of indigenous populations for the consideration of the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities:

The Hmong and related tribes of Laos;

The Chakma and other tribes of the Chittagong Hill Tracts of Bangladesh.

By presenting the conditions of these two indigenous populations we do not in any way suggest that the majority population of Laos, the Lac, or the majority population of Bangladesh, the Bengali, are not equally indigenous populations of their respective areas.

Five criteria applied in choosing situations to be presented by IFOR:

- (a) Degree of coercion used to implement government policy;
- (b) Degree of popular participation in decision-making concerning social change and development; possibility for the population to organize outside of governmental structures;
- (c) Degree of availability of national governmental structures for hearing appeals against governmental decisions, recourse to courts of law, role of national parliament, governmental boards of inquiry;
- (d) Degree of availability of informal structures of appeal: press, other mass media, journals, national non-governmental organizations;
- (e) Degree of access to the area for research on the conditions of life by independent scientific observers (anthropologists and social scientists) both national and foreign.

The above criteria correspond in many ways to the categories used in the Report of the Working Group on Indigenous Populations at its second session (E/CN.4/Sub.2/1983/22) categories which we follow in this presentation.

I

The Hmong of Laos, an estimated 350,000 people prior to the refugee exodus following the change in government in 1975 are part of a wider community of related populations found in parts of Burma, China, Laos, Thailand and Viet Nam. This indigenous population estimated at 3 million are referred to as Yao, Meo, Miao and Man, as well as by other terms indicating their tribal identification (cf P. Kunstadter (ed) Southeast Asian Tribes, Minorities and Nations (Princeton University Press, 1967) and F. Le Bar, G. Hukey, J. Musgraue, Ethnic Groups of Mainland Southeast Asia (New Haven, Human Research Area Files, 1964). These groups are often referred to by the general term - derived from their usual location in mountainous areas - of "hill tribes" or by the French term Montagnards as a large part of the ethnographic studies on these populations was carried out by French ethnographers, the most widely read being George Condominas.

We will use the term Hmong, which is the general term used by this population for itself, although the Hmong subdivide themselves into subgroups: Hmong Vert, Hmong Blanc etc. In practice, Hmong society is based on patrilineal clans, and a person's first self-identification is on a clanic basis. For a discussion of Hmong names and terminology cf. J. Lemoine Un Village Hmong Vert du Haut Laos (Paris: CNRS, 1972).

Prior attention in the United Nations system has been given to the Hmong by the High Commissioner for Refugees, by United Nations agencies dealing with efforts to reduce opium production, by the United Nations Conference on the Least Developed Countries, and by the United Nations team investigating charges of chemical weapons use in south-east Asia. The condition of the Hmong has been mentioned by delegates at the United Nations Commission on Human Rights, but there has as yet been no systematic discussion of the human rights situation.

A. The right to life, to physical integrity and to security

Since 1941 when Laos was occupied by Japanese troops and the Hmong joined French and Lao guerilla forces against them, the Hmong have been rather constantly involved in war and guerilla action.

From 1955 until 1975 Laos was the scene of constant struggle between the Royal Lao Government and the Pathet Lao. There were Hmong forces on both sides in this civil war in which other countries participated as well. Men and boys were drafted and coerced into military activity. Hmong villages were relocated, others destroyed. War is a prime violation of the right to life, and war brings in its wake endless other violations of human rights.

In December 1975 the Royal Lao Government was abolished, and the Lao People's Democratic Republic was proclaimed. Some 60,000 Hmong, many from families which had served with General Vang Pao in the royal forces left Laos for Thailand.

The way of life of the Hmong is largely linked to the ecological setting of the mountainous areas in which they have lived. This has made resettlement outside south-east Asia difficult. There have been a number of studies on the question of Hmong resettlement in the United States, France, etc. Life in the refugee camps in Thailand is often debilitating.

It has not been possible for non-Lao anthropologists and social scientists to enter the Hmong area of Laos since 1975. Therefore information on the current human rights situation of the Hmong in Laos is from interviews with refugees, diplomats and aid workers who have served recently in Laos but not in the hill areas which is said to be a restricted area even for Lao nationals. Information has been checked with anthropologists who had worked in Laos prior to 1975.

It is reported that the Lao Government considers the Hmong as unreliable citizens, that many are arrested and sent to "re-education" camps. Families considered "pro-American" have had their homes burned and farm animals killed. There are reports of bombing of whole villages.

The Lao Government is aided by the Government of Viet Nam, and it is reported that Vietnamese troops are directly involved in repression against the Hmong.

Villages are abandoned as people retreat into more inaccessible areas.

There are reports of sporadic guerilla activity carried on by some Hmong; this is one more indication of the spiral of violence. However, the bulk of weapons and trained military is on the side of the Lao Government.

B. The right to land and to natural resources; the economic and social rights of indigenous populations

(In an area in which land and agricultural production is virtually the whole economic system, it is useful to combine the right to land with economic and social rights.)

The Hmong engage primarily in "slash and burn" itinerant agriculture. The staple food is dry mountain rice. Opium has been the major cash crop and was grown for export.

There are indications of efforts by the Lao Government to prevent "slash and burn" agriculture to protect trees desired for the export of timber. While this may be a worthwhile goal, it seems that it is done with a high degree of coercion and no training in other agricultural techniques. The shift from a "slash and burn" agriculture to one more ecologically sound requires a good deal of discussion, of popular participation and of field tests of new agricultural techniques. None of these measures seems to have been taken.

There are indications of largely coercive movements of population to the low lands in order to cultivate wet rice. The war (1955-1975) has created manpower shortages in the low lands, and more men are needed for wet rice production. A policy of labour migration may be in order, but it is the coercive aspect of labour migration which poses human rights considerations.

There have been efforts after 1975 to develop "collective" agriculture based on State-run farms or State-created "co-operatives". This policy created widespread resistance and seems to have been dropped or left in abeyance.

C. The right to autonomy and political institutions and representation of indigenous populations

It is difficult to analyse the current public administration in Laos as a whole or to look behind the formal governmental structures. There is little political science or public administration research being done in Laos. There is no independent press or other independent media which would help in an analysis. No national elections have been held since the establishment of the Government in 1975.

There is no formal autonomy of the provinces in which the Hmong live. Prior to 1893 Laos had a governmental system of largely autonomous zones with their own rights and obligations. From 1893 to 1895 the French colonial administration designed a centralized and standardized administration by dividing the State into counties and provinces. The successive Lao Governments have kept the French administrative pattern. Political and social realities, however, never fitted the administrative divisions, and greater or less degrees of autonomy continued, often depending on the distance from the capital.

Political and administrative autonomy was always to have been one of the "rewards" the Hmong were to have been granted by the groups for which they fought: The French, the royal Government, the Pathet Lao. In practice, autonomy has been promised by all and granted by none.

The Government's economic plan, as presented to the United Nations Conference on Least Developed Countries in Paris 1981, concentrates its investments and economic development projects in areas other than those inhabited by the Hmong. Likewise, education, health and veterinary services are not developed in the Hmong areas, and there are no plans for the extension of services to Hmong areas.

D. The right to develop their own cultural traditions, language, religious practices and way of life

The Hmong have had a culture largely separate from that of the Lao majority. During the period of the colonial and royal Governments, the Hmong culture was neither encouraged nor systematically discouraged. The Lao majority consider the Hmong inferior and of interest only because of their fighting ability and their cultivation of opium.

The Hmong have a traditional religion based on the spirits of nature and partly divine culture heroes. The majority Lao are Buddhists, and Buddhism was the religion of the State at the time of the royal Government. However, Buddhism in Laos has little proselytising drive, and few, if any, efforts were made to convert the Hmong to Buddhism. Prior to 1975, there were a few foreign Christian missionaries among the Hmong, and a small percentage of the Hmong have become Christian. Buddhism is no longer considered the State religion by the current Government, and there is no discernable governmental policy toward traditional Hmong religious life.

As religious observances and cultural rituals among the Hmong are carried out by older family members and clan heads rather than by a specialized clergy, it is the breakdown of family life through war, exile, "re-education camps" that is the major hindrance to the development of cultural traditions.

Recommendations

Short-term concern must concentrate upon an end to systematic repression, loss of life, break up of the family, forced migration and forced changes in agricultural policy.

Longer-term concern will also have to concentrate on the policies for the economic and social development of the national minorities in Laos.

There is a need, in co-operation with the Government of Laos, for a systematic study by United Nations experts of the Hmong area so that a more comprehensive analysis may be made and a development policy with due regard for human rights principles can be suggested.

II

The Chittagong Hill Tracts, the largest administrative district in the area is situated in the south-eastern part of Bangladesh. The district is bounded on the north by India and the east by Burma. On the west is the Chittagong district with its important port city.

Within the Chittagong Hill Tracts are some 600,000 indigenous people, often referred to as tribals (upajatis). They are divided into the following 13 groups with an approximate population given for each, drawn from the 1981 census. Given the prevailing tensions in the area when the census was taken, the figures can only be approximate:

ETHNIC GROUP	POPULATION
Chakma	400,000
Tangsungya	80,000
Chak	20,000
Mogh	100,000
Khiang	2,000
Khumi	2,000
Tripuri (Tippera)	15,000
Murung	20,000
Mro	5,000
Lushai (Lushei)	2,000
Bown	3,000
Bonjugi (Bonjogi)	2,000
Pankhui (Pankho)	2,000
	<hr/>
	653,000

This population belongs to the khmer-tibeto-burman language family and display mongoloid features.

The majority of this population is Buddhist, with Hindus and Christians making up a much smaller number.

Political-historical background

From 1860 to 1947 the area was under British colonial administration. In 1900 the British designated the area an "Excluded Area" and placed limitations on new settlers as well as providing for other elements of autonomy.

August 1947 to December 1971. The area was part of East Pakistan. At the time of the creation of the States of India and Pakistan, the representatives of the Chittagong Hill Tracts Peoples' Association, the only representative body at the time, maintained that since religion was the main criterion for partition, the Hill Tracts should be made part of secular India. However, the Hill Tracts and Chittagong district was awarded to Pakistan, in part because East Pakistan would have been without a major port if the whole area including Chittagong had gone to India. Thus the tribal people were considered by the Pakistani authorities to be pro-Indian.

1972 to the present. The area is Bangladesh.

#### Difficulties of fact-finding

There are great difficulties to acquire systematic information concerning events in the area. No current anthropological work is carried out in the Hill Tracts. Journalists are limited in their possibilities to enter the area. Interviews have been carried out by members of our organization in the administrative centre Rangamati and in parts of the rural area but under difficult conditions. Such interviews are not a scientific social investigation.

Under the current martial-law government of Bangladesh, there is no parliament in session where Chittagong Hill Tracts policy could be debated or boards of inquiry set up.

Thus in our recommendations we highlight the need for systematic on-site study of the area, its development potential, existing socio-economic and ethnic patterns so that plans may be drawn up with due regard for upholding human rights principles.

#### A. Right to life, to physical integrity and to security

On 15 February 1972, representatives of the Hill Tracts peoples' political party, the Parbottya Chattagram Jana Sanghat (PCJSS), sent a deputation to the leader of the newly independent country Sheikh Mujibur Rahman to press four demands:

- (a) Autonomy of the Hill Tracts with its own legislature;
- (b) Retention of the 1900 regulation in the Bangladesh Constitution;
- (c) Continuation of the tribal Chief's offices;
- (d) Constitutional provisions restricting the amendment of the regulation and imposition of a ban on the influx of non-tribal people into the district.

Until the rejection of these demands, the representatives of the indigenous peoples had followed a policy of non-violence and of peaceful and democratic negotiation in keeping with their dominant Buddhist values.

Since 1972, the Chittagong Hill Tracts has been the scene of a spiral of violence and counter-violence. Military and police forces have been sent into the area and new Bengali settlers have been organized into irregular units - the Ansar (Islamic guards).

Members of the Hill Tracts tribes have organized guerilla groups, the most powerful being the Shanti Bahini (Peace Force). Although the Shanti Bahini began as irregular groups basically to protect villages, they have developed into a guerilla operation with training in the use of arms; ideological indoctrination - the whole pattern that makes for guerilla warfare. There have been Shanti Bahini operations against new settlers and the police. In order to raise money for arms and supplies, they have raided banks and kidnapped persons for ransom.

Thus there is a cycle of violence and counter-violence, of raids and reprisals. Military force is, of course, much greater on the part of the military and the police. The majority of the population is caught between the army and the Shanti Bahini, and many suffer terribly from the consequences.

Violence seems to have led to a militarization of the whole area with armed forces taking increasing decision-making power away from the civilian administration.

There are reports of widespread violence on the part of the military and the police - sometimes aided by armed new settlers who have been organized into paramilitary units. There are reports of whole villages burned by the military, of widespread looting of household goods and farm animals.

There are constant searches of houses and any stocks of food, kerosene or medicine are considered suspect. Such constant searches create an atmosphere of fear and insecurity.

There is a policy of regrouping villages into fortified villages, somewhat similar to the strategic hamlets policy carried on during the war in Viet Nam. Relocation is often carried out through coercion.

There have been accusations of police brutality and the use of torture for interrogations.

Reports of rape are widespread - rape by the military, the police and new settlers. There are reports of gang (multiple) rapes. In certain societies victims of rape are more dishonored than the rapist. Thus rape victims have considerable social and family problems - reduced possibility of marriage, divorce, etc.

B. Right to land, to natural resources, the economic and social rights

The right to land, linked to the influx of new settlers is an important element in the tensions of the Hill Tracts area.

The part of the tribal populations who live in the valleys farm rice with a plough and have a land tenure pattern much like the Bengali farmers. Other tribal farmers, especially those living on the slopes, have a slash and burn shifting agriculture, here called Jhum. The usual jhum pattern is for small plots being worked to be considered private land, larger areas to be cultivated later are considered group or communal land. The Bangladesh Government now seems to consider all non-private land as "public property" that it may redistribute to whom it sees fit. Such distribution of common lands to new outside settlers makes social friction inevitable in a village structure.



From 1960 to 1963 a large hydroelectric dam and plant were built at Kaptai on the Karmapuli river. Much good cultivable land was submerged and some tribal people became landless. Some migrated to India and others to Burma. However, the dam created a new landless class within the area which is an element of social instability.

There has been a steady growth of new Bengali immigration into the Hill Tracts. The approximate population distribution is as follows:

<u>Year</u>	<u>Tribals</u>	<u>Bengali Muslim</u>
1951	287,274	26,150
1970	498,162	76,564
1980	653,000	225,000

Although the population density in the Hill Tracts is low in contrast to other districts of Bangladesh, the carrying capacity of the hill land may be low, making the area already well-populated.

There has been a governmental policy of settling landless farmers from other districts of Bangladesh in the area, at a time when there are still landless tribals as a result of the Kaptai dam construction.

There has been a good deal of resentment on the part of the tribals against the new settlers, and one of the demands of the Shanti Bahini is the expulsion of all new settlers since the creation of Bangladesh in 1972. Such demands are as unrealistic as they are unjust, but they do indicate the high degree of social tensions.

The Hill Tracts are also rich in forest - some of the wood being exported. There is a start of fruit tree growing, the fruit being sent to the cities.

Currently exploration is being undertaken for oil, minerals - such as uranium - and natural gas. Natural gas reserves seem promising.

There must be a policy that provides adequate employment for the tribals in the development of these resources and a fair share of the revenue from the sale of these resources.

C. Right to autonomy, political institutions and representation of indigenous populations

Under British colonial rule, there was a high degree of autonomy, largely a form of indirect rule through local chiefs, a police force drawn from the tribal population, with limitations on new settlers in the area. The reasons for this colonial policy would require a detailed analysis. However, many tribal leaders look to these provisions of 1900 as a model, and they have made repeated demands for similar provisions.

The nature of adequate political autonomy can only be negotiated by the people of Bangladesh themselves, and just representation of the Hill Tracts tribes should be part of a restored democracy in Bangladesh.

D. Right to develop their own cultural traditions, language, religious practices and way of life

War, violence and chronic insecurity are prime factors in the breakdown of a cultural tradition. Peace and mutual respect are the only ways that a right to develop cultural traditions can be maintained.

The family which is the base for the transmission of cultural values is dislocated. Whole villages are displaced. Some persons have sought refuge in India and Burma.

Buddhist monks, prime transmitters of cultural values, have been killed, and temples destroyed. It is not possible to ascertain motivations. Some see in these acts a religious-based prejudice on the part of the Islamic majority; others see such destruction as the inevitable result of general fighting.

Recommendations

1. Need for a political settlement so as to bring an end to the spiral of violence and counter-violence. There is a need to bring together moderates from the Government and respected leaders of the tribals such as Upendra Lal Chakma, the former M.P. and Raja Tridip Roy, the Chakma Chief, to bring an end to violence and repression and begin to work out a new and just socio-political pattern for the area.

2. Need to teach political and non-violent methods to safeguard rights of tribals so that armed violence is not the only technique being proposed to defend one's culture and rights.

3. Need for a new, up-to-date land-use survey so that discussion and planning can be carried out on a solid factual basis.

4. Need for discussions in good faith between government planners, tribal representatives and the Bengali already settled in the area on development policies for the benefit of all. There should be a freeze on new migration or settlement in the area until agreed upon policies can be drawn up and explained to all.

5. Need to assure greater benefits to the tribals than heretofore of development projects, increased employment possibilities and the sale of natural resources.

6. Need to open the area to humanitarian relief both national and foreign and to provide special rehabilitation possibilities to the victims of violence.

INDIAN LAW RESOURCE CENTER

[Original: English]

[15 May 1984]

The Indian Law Resource Center submitted two documents: a summary of the discussion regarding the definition of indigenous populations, as contained in the reports of the first and second sessions of the Working Group; a document entitled "United States Denial of Indian Property Rights: A Study in Lawless Power and Racial Discrimination". \*/

\*/ The full text of both documents is available for consultation at the Secretariat.

THE SALVATION ARMY

[Original: English]

[16 May 1984]

The Salvation Army states in its letter that it has "continued sympathetic interest in the welfare of indigenous populations. Earlier correspondence indicated that our survey showed that the Salvation Army was involved in most areas where particular problems exist. Our people are therefore alert to the needs of these minority groups and we shall continue to monitor the situation from our perspective.

"We register our support for the Plan of Action from 1984 onwards and look forward to receiving a clear definition of the term 'indigenous populations' regarding which there does seem to be a lack of clarity.

"We have nothing new to offer at this juncture, but would simply comment that we see most of the 'rights' outlined as being the common right of all people, and wonder if there is not some danger in creating a separate scale of rights for special groups. True, it is incumbent on the majority to see that the minority understand and receive their share of the common right. We feel sure that those studying these matters will recognize the possibility of encouraging instead of dispelling the isolationist mentality which forms part of the problem. This danger seems to be implicit in the first two 'rights' stated. There is, of course, a necessity for greater understanding on both sides in seeking a process of integration which still allows the maintenance of such aspects of indigenous culture as are essential to the dignity of historic peoples, while encouraging them to emerge from the shadows of the past to allow their children to enjoy the fruits of modern development."

