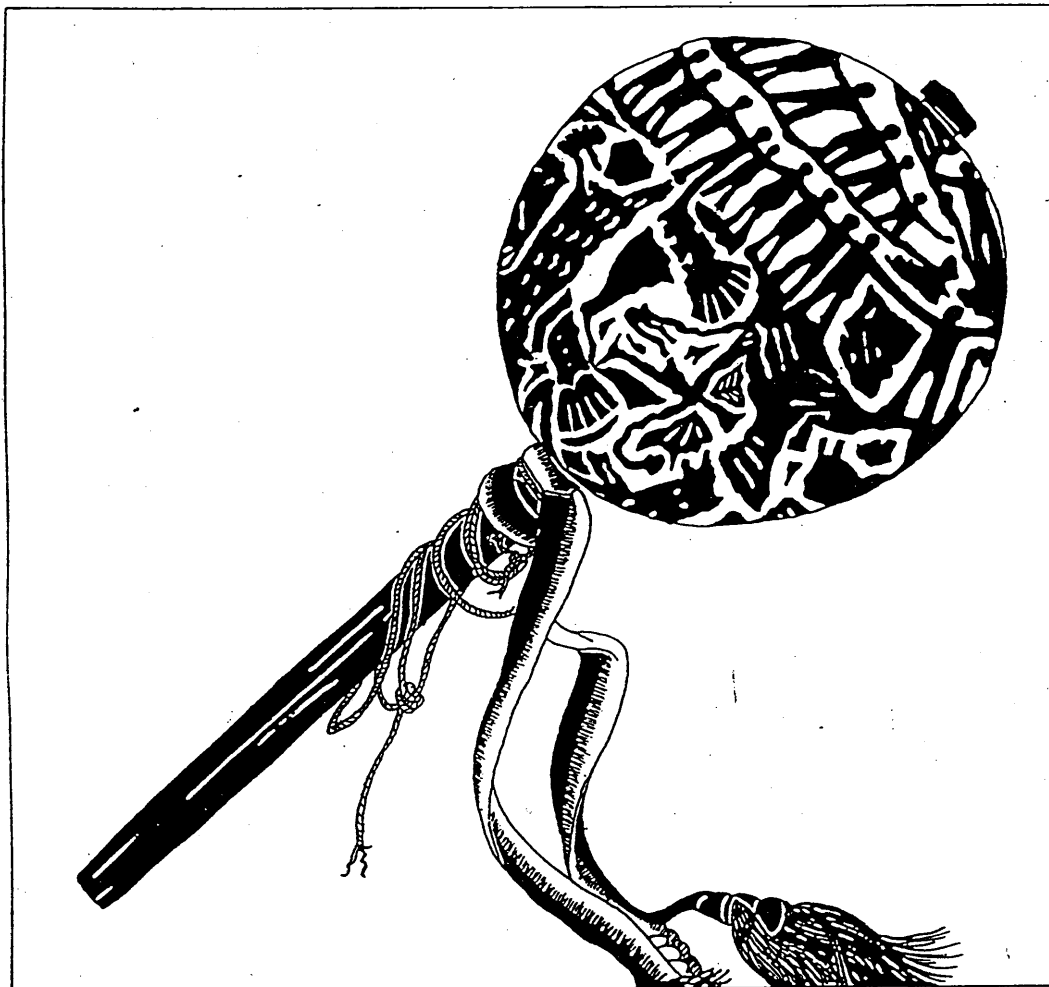


# **VENEZUELA:**

## **VIOLATIONS OF INDIGENOUS RIGHTS**



**REPORT TO THE INTERNATIONAL LABOUR OFFICE  
ON THE OBSERVATION OF ILO CONVENTION 107.**



**Survival**  
for tribal peoples



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**WORLD RAINFOREST MOVEMENT**



**VENEZUELA:**  
**VIOLATIONS OF INDIGENOUS RIGHTS**

**REPORT TO THE INTERNATIONAL LABOUR OFFICE  
ON THE OBSERVATION OF ILO CONVENTION 107**

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**September 1995**

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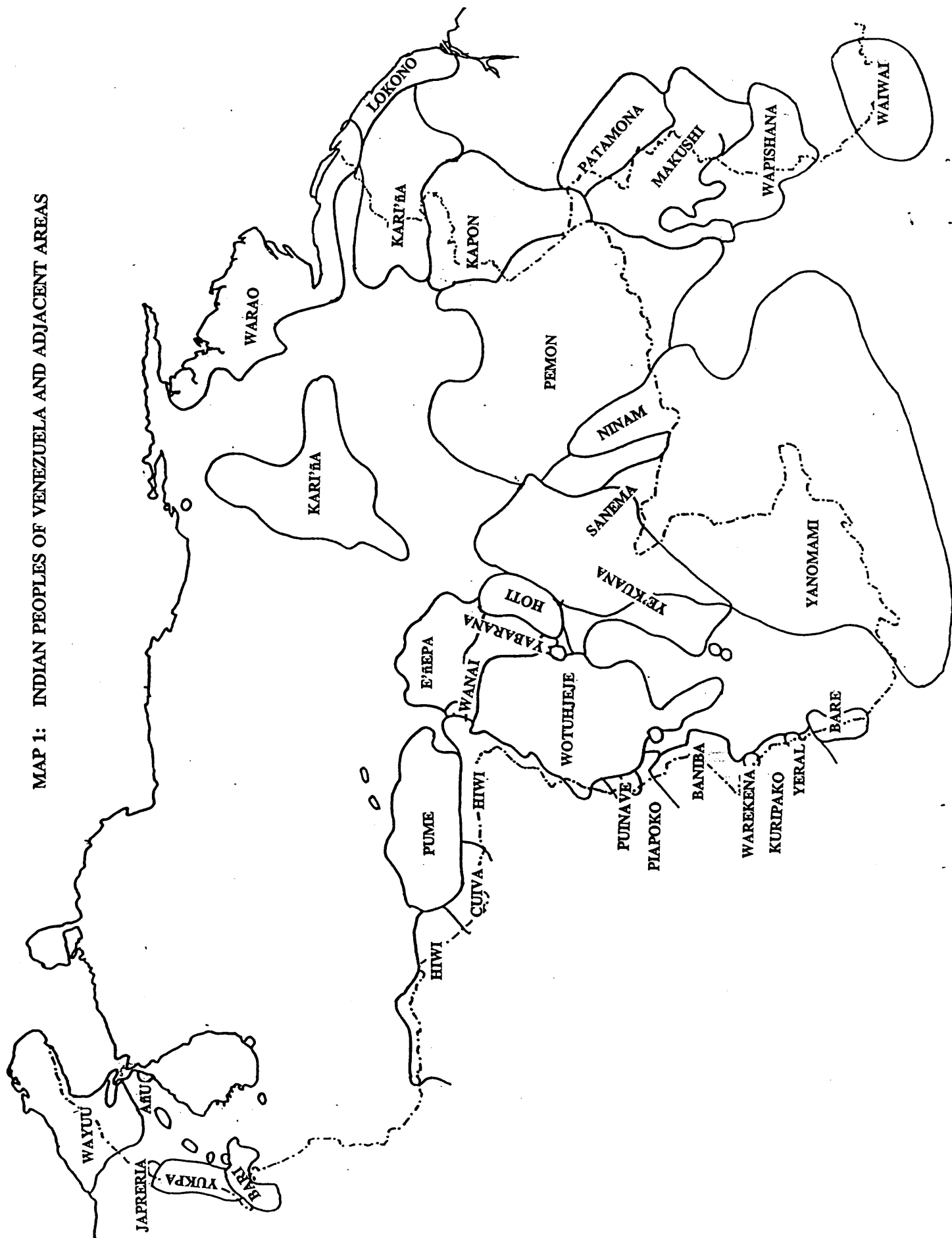
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MAP 1: INDIAN PEOPLES OF VENEZUELA AND ADJACENT AREAS



## 1. SUMMARY

It is now twelve years since Venezuela passed a decree incorporating the International Labour Organisation's Convention 107 on Tribal and Indigenous Populations into national law. However, efforts to give this law effect since that date have been minimal. Especially in the last few years, indigenous peoples have experienced a sharp increase in pressure on their lands by State-directed (and illegal) mining, logging, infra-structural developments and, most recently, 'eco-tourism' ventures. However, Government legislation notwithstanding, the authorities have done little or nothing to protect indigenous interests.

### *Land rights:*

On the contrary, many government departments have ignored or actively denied indigenous rights in particular by authorising or encouraging the usurpation of indigenous lands. Whereas some 72% of indigenous communities remain without any form of land title, in all parts of the country where indigenous people reside there are detailed reports of land invasion and land conflicts.

Colonisation of Bari and Yukpa lands by poor farmers and ranchers continues in the Sierra de la Perija, which has also been opened to large open-cast mines. Local Government has attempted to hand over Kari'ña lands in Monagas to third parties, even though they hold colonial land titles. Ranches have been allowed to take over most of the Yaruro (Pume) Indian reserve in Apure, while a National Park prevents them having access to what is left of their territory. Mining concessions and permits issued by the Ministry of Energy and Mines and the Corporacion Venezolana de Guayana, are handed out with apparent disregard for the indigenous peoples. Logging concessions continue to be handed out throughout Estado Bolivar on the lands inhabited by Pemon, Akawaio (Kapon), Kari'ña and Arawak (Lokono) Indians. Indeed the government forest service lacks any policy towards indigenous people. Forest concessions are also undermining the livelihoods of the Warao of the Delta Amacuro.

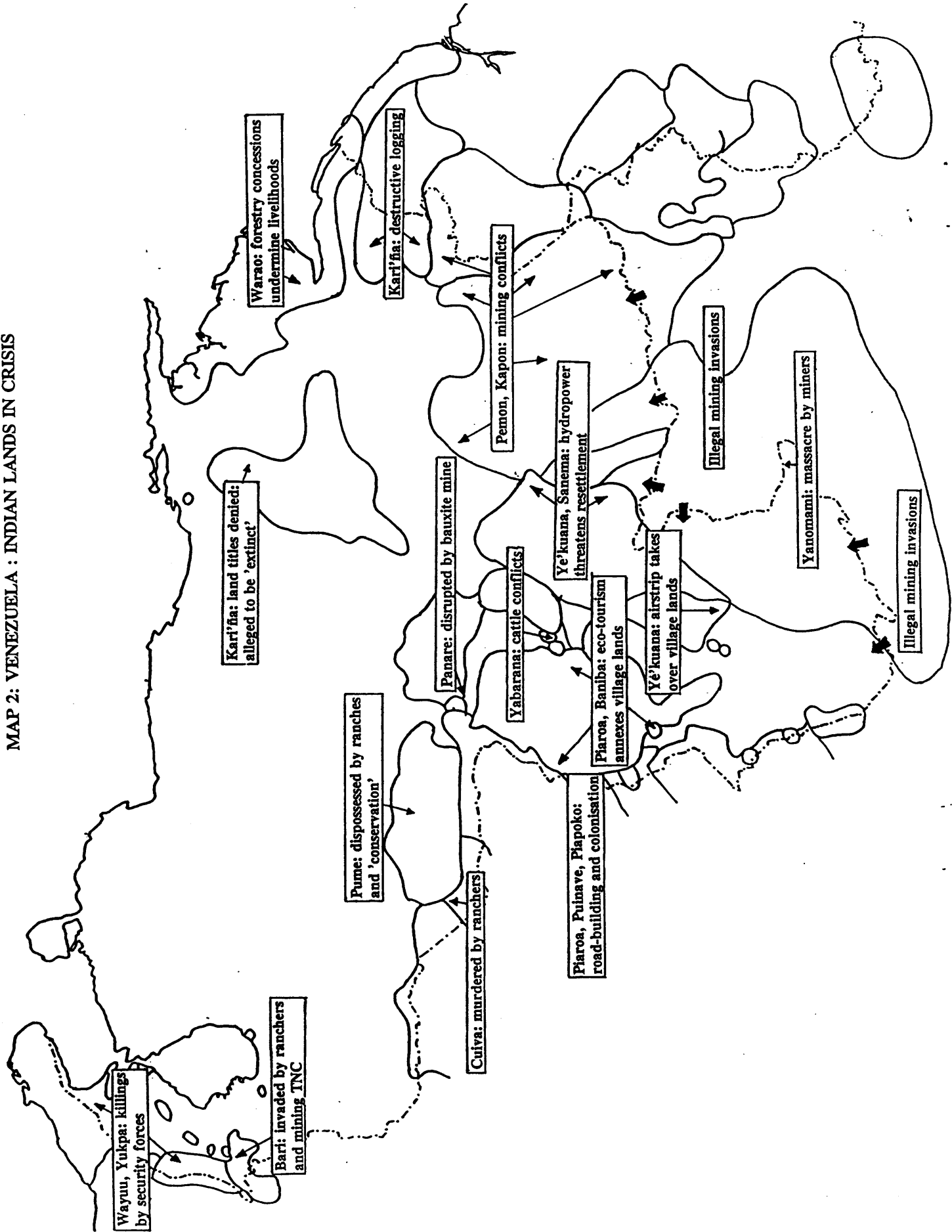
In Amazonas, the most isolated State of Venezuela, land conflicts are also on the increase. Ranches threaten the extinction of the Yabarana, while road-building and colonisation are encouraging land grabs along the middle Orinoco leading to sharp conflicts with Piaroa (Wotuhjeje) and Guahibo (Hiwi). Illegal mining, much of it carried out with the connivance of members of the National Guard and local politicians, is also widespread in indigenous areas. Added to this, 'eco-tourism' camps have begun to be established in many areas leading to serious conflicts, notably among the Piaroa.

The Venezuelan Government is in clear violation of Article 11 of Convention 107 on a national scale.

### *Individual rights:*

Violence against Indians is also on the increase. The 1993 massacre of Yanomami Indians by Brazilian miners penetrating the Upper Orinoco not only remains unpunished but likely to occur again. Mining incursions across the border have been reported all along the border with Brazil from La Neblina in the south west to the Upper Caroni in the east. Killings of Indians by military and police forces have been reported from Goajiro (Wayuu) and Yukpa areas in the north-west of the country. There have been a number of further attacks against Cuiva hunters and gatherers in the State of Apure. Indigenous and human rights organisations have watched helplessly at the lack of official investigation of these abuses.

MAP 2: VENEZUELA : INDIAN LANDS IN CRISIS



These instances illustrate the way that the Venezuelan Government is in violation of Article 2 of the Convention.

*Health:*

Provisions of health care to the indigenous peoples of Venezuela is minimal, falling far below the standards of service provided to other citizens. The indigenous census of 1992 revealed that 86.8% of indigenous communities lack a dispensary.

This lack of health care has led to major problems for the indigenous peoples especially isolated communities in remote areas far from medical centres and with relatively little experience of western infectious diseases. Epidemics, notably of malaria, have been widely reported among the Yanomami and Sanema groups of Bolivar and Amazonas States but local dispensaries lack even basic resources to combat these problems. Tuberculosis, signalled as endemic in the Caura and Paragua areas in early 1980s, remains unaddressed. Added to these problems, there is growing evidence of mercury pollution of streams, rivers and ecosystems from uncontrolled placer mining.

This negligence by the Venezuelan Government is in violation of Article 20 of the Convention.

*Education:*

The Venezuelan Government has passed laws in accordance with its obligations under the Convention to provide the indigenous peoples of the country with education on an equal footing with the rest of the national community, specially adapted to their cultures with an emphasis on primary education in their mother tongues. However, application of these laws has been inadequate.

According to the indigenous census of 1992 65% of indigenous communities lack schools. Over 40% of indigenous individuals over 10 years old are illiterate and nearly 56% of those between 5 and 24 years old do not attend any kind of school.

The Venezuelan Government is thus not meeting its obligations under Articles 21 and 23 of the Convention.

*Development policy:*

This serious situation is made even more worrying by the fact that the Government, at national, regional and local levels, has announced new plans to rapidly open the interior to further development through mining, logging, hydropower projects, road-building and eco-tourism. Venezuelan non-government organisations have, in particular, voiced concern about a new mining law, presently being rushed through Congress, which will encourage foreign investment in the mining sector. The indigenous peoples are clear that none of these plans should be pursued until their rights, especially their rights to land, are first secure.

In view of this worsening situation, it is suggested that the Secretary General of the ILO considers sending a special mission to Venezuela to verify the situation and provide advice to the government on how its laws and policies should be revised in line with its obligations under ILO Convention 107.

## 2. INDIGENOUS PEOPLES IN VENEZUELA: BACKGROUND

According to the 1992 Indigenous Census there are some 315,815 indigenous people in Venezuela representing at least 30 different peoples. Of these 42% are urban dwellers, the remaining 183,982 people living widely dispersed in the remoter parts of the national territory in some 1,494 rural settlements (OCEI 1994).

Table 1:

### THE INDIGENOUS POPULATION OF VENEZUELA BY STATE AND ETHNIC GROUP

| Ethnic Group | Total         | Amazonas     | Anzoátegui  | Apure       | Bolívar      | D. Amacuro   | Monagas     | Sucre      | Merida     | Trujillo  | Zulia         |
|--------------|---------------|--------------|-------------|-------------|--------------|--------------|-------------|------------|------------|-----------|---------------|
| Akawayo      | 811           |              |             |             | 811          |              |             |            |            |           |               |
| Añú          | 17440         |              |             |             |              |              |             |            |            |           | 17440         |
| Arawak       | 248           |              |             |             | 248          |              |             |            |            |           |               |
| Baniva       | 1192          | 1166         |             |             | 21           | 5            |             |            |            |           |               |
| Baré         | 1226          | 1225         |             |             | 1            |              |             |            |            |           |               |
| Barí         | 1520          |              |             |             |              |              |             |            |            |           |               |
| Eñepá        | 3134          | 139          |             | 1           | 2994         |              |             |            |            |           | 1520          |
| Guajibó      | 11608         | 9418         |             | 726         | 1462         | 2            |             |            |            |           |               |
| Jodí         | 643           | 257          |             |             | 386          |              |             |            |            |           |               |
| Kariña       | 11141         |              | 6610        |             | 3391         |              | 766         | 374        |            |           |               |
| Kurripako    | 2816          | 2770         |             |             | 46           |              |             |            |            |           |               |
| Mapoyo       | 178           |              |             |             | 177          | 1            |             |            |            |           |               |
| Pemón        | 19129         | 16           |             |             | 19113        |              |             |            |            |           |               |
| Piapoko      | 1333          | 1169         |             |             | 164          |              |             |            |            |           |               |
| Piaroa       | 11539         | 9368         |             |             | 2165         | 3            | 3           |            |            |           |               |
| Puinave      | 774           | 774          |             |             |              |              |             |            |            |           |               |
| Pumé         | 5419          | 2            |             | 5383        | 34           |              |             |            |            |           |               |
| Sáliva       | 79            | 79           |             |             |              |              |             |            |            |           |               |
| Sapé         | 28            |              |             |             | 28           |              |             |            |            |           |               |
| Uruak        | 45            |              |             |             | 45           |              |             |            |            |           |               |
| Warao        | 24005         |              |             |             | 33           | 20981        | 2725        | 266        |            |           |               |
| Warekena     | 428           | 427          |             |             |              | 1            |             |            |            |           |               |
| Wayuu        | 168729        |              | 2           |             |              |              |             |            | 209        | 75        | 168443        |
| Yanomami     | 15012         | 13347        |             |             | 1665         |              |             |            |            |           |               |
| Yavarana     | 319           | 319          |             |             |              |              |             |            |            |           |               |
| Yekuana      | 4472          | 2671         |             | 11          | 1789         | 1            |             |            |            |           |               |
| Yeral        | 744           | 744          |             |             |              |              |             |            |            |           |               |
| Yukpa        | 4174          |              |             |             |              |              |             |            |            |           | 4174          |
| Others       | 274           | 32           |             |             | 22           |              |             |            |            |           | 220           |
| Non Indig.   | 7355          | 589          | 355         | 96          | 382          | 131          | 185         | 58         | 34         | 1         | 5524          |
| <b>TOTAL</b> | <b>315815</b> | <b>44512</b> | <b>6967</b> | <b>6217</b> | <b>34977</b> | <b>21125</b> | <b>3679</b> | <b>698</b> | <b>243</b> | <b>76</b> | <b>197321</b> |

Source: OCEI 1994:24

Whereas the majority of the country's indigenous peoples have been driven to extinction or assimilated into the national mainstream over the past five centuries, in the more isolated parts of the country indigenous identities remain strong and, locally, they may constitute a high proportion of the population. The situations of the different ethnic groups are very diverse and, even within many groups, living conditions and cultures vary widely, in particular because of changes brought about by contact. Whereas some villages are still very isolated and almost uncontacted by government agencies, others are fully integrated into the market economy and public education systems.

In general, government policy towards the indigenous peoples has shown little coherence or definition. The highly centralised nature of most government decision-making since the 1960s has provided relatively little scope for local or regional initiatives to influence national policy; decision-making at the centre has been insulated from indigenous concerns. State institutions charged with responsibility for indigenous affairs have been, and continue to be, poorly resourced, politically marginal and have limited authority. Since the 1970s, responsibility for indigenous affairs has been situated with the Departamento de Asuntos Indigenas in the Ministry of Education, but this body is not authorised to work on the issue of greatest importance to indigenous peoples, land.

In recent years, the situation of the indigenous peoples in the country has begun to change. On the one hand, efforts to decentralize government have provided a little more scope for attention to be paid to indigenous affairs at the regional level, especially by governments in States where indigenous people are relatively numerous. More importantly, indigenous peoples themselves have begun to mobilise and organise themselves into local, regional and national organisations and this has ensured that indigenous affairs have begun to receive far greater attention in the national media.

At the same time, pressure on the interior has intensified considerably. Whereas the 1960s, 1970s and early 1980s were characterised by a booming coastal economy based on oil wealth, which resulted in little pressure on indigenous lands, a decline in agricultural production and a general drift to the cities, since 1983 this trend has been reversed. A chronic macro-economic crisis has developed, triggered by a huge national debt and massive capital flight, which led to bounding inflation, currency devaluations and cut-backs in government spending, with consequent reduced government services especially to the poor and marginal sectors. Responding to these pressures the Government has sought to liberalise the economy by encouraging foreign investment, the repatriation of fugitive capital and by opening up previously ignored areas to logging, mining and infra-structural developments. The same impetus to garner foreign exchange, coupled with the reduced value of the bolivar (the national currency), has encouraged a major expansion of tourism.

### 3. VENEZUELA AND ILO CONVENTION 107

Venezuela passed legislation incorporating the International Labour Organisation's Convention Number 107 on Tribal and Indigenous Populations into national law, through congressional decree 3,235, on 3 August 1983 (*Gaceta Oficial* Año CX: Mes X). Through administrative oversight this information has never been officially passed to the International Labour Office, for which reason the ILO does not list Venezuela as having ratified the Convention.

Under this law the Venezuelan Government has accepted the obligation to revise its national laws, policies, institutions and practice to ensure that they respect indigenous rights. Among the main obligations, on which this report focuses, are the following:

#### Basic human rights:

##### Article 2:

*1. Governments shall have the primary responsibility for developing co-ordinated and systematic action for the protection of the populations concerned and their progressive incorporation into the life of their respective countries.*

*2. Such actions shall include measures for -*

*(a) enabling the said populations to benefit on an equal footing from the rights and opportunities which national laws or regulations grant to other elements of the population.*

#### Land:

##### Article 11:

*The right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy shall be recognised.*

This provision of the ILO's Convention has very significant implications for Venezuela's indigenous people. The law firmly establishes the principle that indigenous peoples' rights to their land are based on 'aboriginal title' and derived from immemorial possession. Their rights do not therefore depend on any act of the state, as they precede it. Moreover, as Gordon Bennett's (1978) study of the background discussions of the Convention show, the Convention considers 'land' to be generic and to include the woods and waters upon it. The law thus has important implications for state agencies leasing rights to natural resources in indigenous areas; they must accept that the indigenous peoples are the legal owners of the land and the resources upon it.



**Health:**

**Article 20:**

- 1. Governments shall assume the responsibility for providing adequate health services for the populations concerned.*
- 2. The organisation of such services shall be based on systematic studies of the social, economic and cultural conditions of the populations concerned.*
- 3. The development of such services shall be co-ordinated with general measures of social, economic and cultural development.*

**Education:**

**Article 21:**

*Measures shall be taken to ensure that members of the populations concerned have the opportunity to acquire education at all levels on an equal footing with the rest of the national community.*

#### 4. INDIGENOUS RIGHTS IN VENEZUELAN LAW:

The 1961 Constitution of Venezuela, promulgated after the close of a period of dictatorship and the opening of the present period of party political democracy, makes special provisions for the indigenous peoples of the country.

Article 77, clause 2, of the Constitution provides for

*'the law to establish a special system as required to protect the Indians and permit their incorporation into the life of the Nation'.*

These principles have been only very partially secured by more detailed laws and it remains the case that Venezuelan laws regarding indigenous peoples are unclear, in some instances contradictory, and largely unenforced (Coppens 1972; Arvelo-Jimenez, Coppens, Lizarralde and Heinen 1977). Taken together they could however provide a significant degree of protection to the indigenous peoples if they were backed by a coherent policy.

Presidential Decree 250 of 1951 regulates access to Indian areas. Under the Decree all visits to indigenous areas by non-Indians are subject to special permissions issued by the Department of Indigenous Affairs, which is currently in the Ministry of Education. The Decree is however rarely applied to Venezuelan citizens and is not considered to apply to anyone working for government programmes. Tourists are also considered exempt. As a result it has become, in effect, a system for regulating access to indigenous areas by foreign scientific investigators.

In 1979, the Government also passed Presidential Decree 283 which provides for a bilingual intercultural educational system for the Indian communities of the country. The intention of the decree was to provide the legal basis for establishing a nation-wide schooling system that would help secure the future of the country's indigenous cultures through the provision of teaching materials in all the indigenous peoples' languages. However efforts to apply the law were vague. In 1982 some more concerted efforts were made to the programme that year; standardised alphabets were developed for a number of the indigenous languages, school books published and training courses set up. However, due to political changes and budgetary constraints, the programme was soon deprived of adequate financing and is no longer functioning (Villalon 1994).

The lack of a coherent policy towards indigenous peoples is clearest with regard to land. According to the latest national census of indigenous people in 1992, 72% of all indigenous communities lack any title whatsoever to land (OCEI 1994:31). Moreover, of those 28% which claim some kind of title very few have secure land ownership in accordance with their rights under ILO Convention 107.

A very small proportion of indigenous communities secured titles to their lands in the colonial period (*titulos coloniales*), amounting to about 1% of the indigenous communities of the country (OCEI 1994:31). These land titles may still be considered legally valid though many have been misplaced, have not been registered in accordance with subsequent land tenure laws and overlap with other more recent titles granted to third parties.

Following independence in 1821, however, no special legal provisions were made to secure indigenous tenure rights. In common with many other Latin American countries, authority was exercised in indigenous areas by Catholic missions on behalf of the State, under the (still unrepealed) Ley de Misiones. This law gave considerable autonomy to the missions to regulate the areas entrusted to them but, although the paternalistic care of the missions protected the Indians to some degree from outside pressures, no provisions were made to secure indigenous land rights.

Of course, indigenous individuals have been free to seek land titles to plots of land like other Venezuelan citizens, but because this breaks with tradition and implies political connections with local and national government few have been able or willing to avail themselves of this option. To date in only 3% of indigenous communities do any individuals report having ownership of any lands as private land holdings (OCEI 1994:31).

The legal situation of the indigenous peoples only changed significantly in 1960, when Venezuela passed its Agrarian Reform Law, Article 2d of which

*'guarantees and acknowledges to the indigenous population that it may actually keep its communal or extended family condition, without diminishing the rights which belong to it as Venezuelans, in accord with the above sections, the right to have the benefit of the lands, woods and waters that they occupy or which belong to them in those places where they habitually dwell, without prejudice to their incorporation into the national life as conforms with this and other laws.'*

Articles 52-56 of the same law prioritise the creation of cadasters of land holdings in areas of marked land disputes.

Application of this law has been patchy, however. In the first place the land reform has been largely limited to allocating State lands classified as *ejidos* and *tierras baldias* to peasants and Indians, rather than in reallocating under-utilized lands (*tierras ociosas*) concentrated in the hands of wealthy farmers. The law has thus not been used to restitute Indians who have already lost their lands to other interests.

Even in its implementation on State lands the land reform has not been without problems for indigenous people. In its early phase of application, despite Article 2d of the law, the National Agrarian Institute (IAN) did not seek to distinguish indigenous communities from other peasants. Indigenous persons were thus provided with individual land titles, thereby breaking up once communally-owned territories. Subsequent reforms within IAN led to indigenous and peasant communities being granted provisional titles as collectives, as provided for under the Act. Legal personality for holding these titles was assured through establishing *empresas indigenas*, modelled (too) closely on the *empresas campesinas* by which communal titles were also given out to peasant communities under the direction and control of IAN (in accordance with Article 58). Many communities have experienced severe problems adjusting their traditional systems of resource use and decision-making to the exigencies imposed by the *empresas indigenas*. Their problems have been made worse by the fact that, in many cases, the areas allocated to indigenous communities by IAN were often small in extent and did not embrace indigenous hunting, fishing and collecting territories. The land reform was, in effect, 'peasantising' indigenous peoples (Arvelo-Jimenez 1982;

1993; 1994).

However, IAN personnel were not wholly unresponsive to indigenous complaints and by the early 1980s sizable provisional land titles were being given out to more flexibly defined *empresas indigenas* which were loaded with less financial and administrative commitments. Between 1972 and 1982, 152 provisional land titles were handed out to indigenous communities in the States of Anzoategui, Monagas, Apure, Zulia, Amazonas, Bolivar and in the Amacuro Delta (Clarac 1983).

Progress with IAN's titling system has also been frustrated by political opposition. Under the law, IAN cannot transform its provisional titles into definitive titles without the State lands concerned being first transferred to its jurisdiction by the Ministerio de Agricultura y Cria (MAC). In many cases competing interests with political connections have prevented MAC from passing lands to IAN, which is perceived by many land-owners as a 'communist' enclave within government. The process of securing definitive community title to indigenous lands is thus fraught with political obstacles. To date no single Amazonian Indian community in Venezuela has gained secure title to its lands.

IAN's political space was further constrained in 1984 when its indigenous programme staff took the side of the Piaroa Indians in a violent land conflict with a rich cattle rancher in the Manapiare valley (Colchester 1984). Although the Piaroa retained effective control over their lands, the legal dispute remains unresolved and, under heavy political pressure, IAN was forced to sack the staff who had supported the Indians. Since 1984, IAN's programme to title Indian lands has been virtually paralysed. Not one provisional title has been accorded to an indigenous community in the State of Amazonas since 1986 (ODH 1995).

Indian lands have also been given limited legal protection by a number of other means. In 1961, through Ministerial Decree, an area of 1,887 square kilometres of the Sierra Perija in western Venezuela was set aside as a 'zone occupied by indigenous people' to be shared by the Bari and Yukpa. Although there was little institutional backing given to this decree, its existence did slow the penetration of Bari territory by colonists for many years. In 1975, the Governor of the State of Apure passed a decree delimiting an area of some 8,380 square kilometres as a 'zone reserved for indigenous people'. However, the decree has never been turned to effect through any institutional follow-up and the Pume Indians of the State have since that time lost almost all these lands to cattle ranchers and national parks (Colchester and Fuentes 1983:72-74).

Very large areas of State lands in the interior have also been legally defined by various decrees as *Areas Bajo Regimen de Administracion Especial* (ABRAE), which are entrusted to various departments within the Ministerio de Ambiente y Recursos Naturales Renovables (MARNR). The ABRAE, which include National Parks, Protected Zones, Hydraulic Reserves, National Monuments, Forestry Reserves, Forest Lots and a Biosphere Reserve, are in turn subject to further regulations controlling access and use of the resources within the areas concerned.

The legal status of these ABRAE is not entirely clear. Since they are legally defined as 'public utilities', they are generally considered as being incompatible with private ownership of lands since they are considered to confer on the State rights equivalent to land ownership.

On the face of it, they thus constitute a serious obstacle to indigenous land ownership. No less than 55% of the State of Amazonas, for example, is defined as falling within various ABRAE.

These legal interpretations are not certain, however. In the north of the country, the Venezuelan State has accommodated private land ownership titles within a number of National Parks, while restricting further building and forest conversion. Likewise, in 1993, with the agreement of MARNR, 19 provisional titles were awarded to Indian communities in the Reserva Hidraulica on the Upper Cataniapo and Sipapo Forest Reserve, under IAN's land titling programme, with the aim of preventing colonisation of the area by outside settlers and thus conserving forests in this essential water-catchment. Moreover, Decrees 1,635 and 1,636 of 1 August 1991 which, respectively establish the Upper Orinoco-Casiquiare Biosphere Reserve and the Parima-Tapirapeco National Park within it, explicitly recognise the rights of the resident indigenous peoples to continue their land use in a sustainable manner. The Decree establishing the Biosphere Reserve also explicitly states that it is in conformity with ILO Convention 107 thus, by implication, accepting indigenous rights of land ownership within the Reserve. These precedents suggest that community rights of land ownership can be asserted within ABRAE, while rights of resource use are subjected to legal restrictions in conformity with the management objectives of the ABRAE in question.

Although the Agrarian Reform law and Decree 3,235 of 1983, whereby ILO Convention 107 was incorporated into Venezuelan law, imply that indigenous peoples' land rights are to be respected, few of the line ministries are aware of these legal provisions. Logging concessions are thus handed out in indigenous areas without indigenous rights being considered. Lands classified as *ejidos* and *tierras baldias* are treated as if they were unencumbered by other claims and once legally classified as *lotes boscosas* or *reservas forestales* can be allotted to other interests, subject only to the various forestry laws and regulations. Mining rights are handed out in a similar way. Indeed mining and logging concessions frequently overlap.

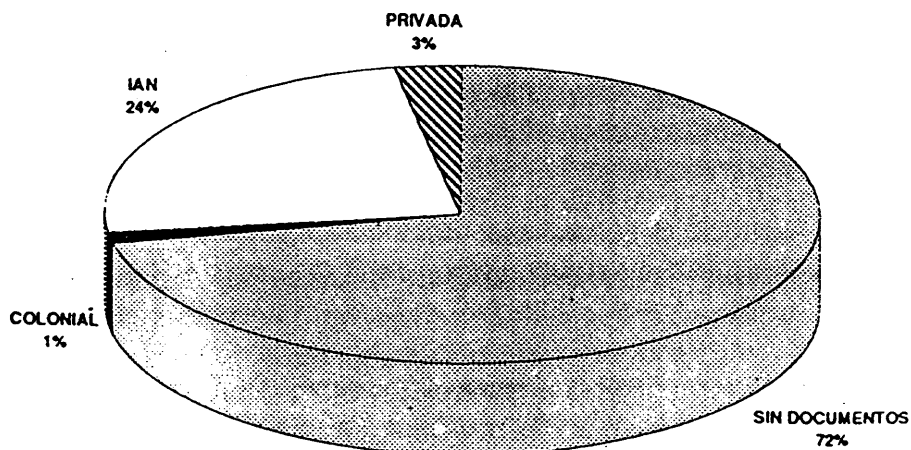
Efforts by Congressmen and non-Governmental Organisations to get the Venezuelan Government to ratify ILO Convention 169 and introduce a new '*Ley de los Indigenas*' have not been successful.

## 5. VIOLATIONS OF THE CONVENTION: LAND

Since Venezuela gave national effect to ILO Convention 107 in 1983, no legal changes have been made to better secure indigenous peoples' rights to land in conformity with Article 11 of the Convention.

Whereas 72% of the indigenous communities remain without any form of land title (OCEI 1993), most of those with some kind of title are either involved in land disputes or only have provisional land titles. Land titling of indigenous areas under the Agrarian Reform Law has been virtually paralysed since 1983.

Figure 1. Land tenure and indigenous communities in Venezuela



Source: OCEI 1994:31

The Government is thus failing to give effect to its obligations under Article 11.

Moreover, apart from failing to legally secure indigenous title, the Government has shown little willingness to prevent the annexation of indigenous lands by other interests. As the following detailed case notes substantiate, the past few years have witnessed an intensifying pressure on indigenous communities' lands, which has often been unchecked or even promoted by State institutions. The following reports focus in particular on the land conflicts of the last three years.

### *The Kariña of Monagas:*

In 1993 the Kariña Indians (Caribs) of Monagas State of Central Venezuela faced the alienation of their lands to make way for a local development programme. The case concerned the Kariña Indians of the community of Jesus, Jose y Maria de Aguasay whose land rights were denied by the Municipal Council of Maturin on the grounds that, as they were extinct as a people, their land titles (*titulos coloniales*), were invalid.

The Indians' land titles were accorded them in 1783 and were registered in the regional cadaster in 1967 and, according to the Indians, had been recognised by the National Agrarian Institute and the Ministry of Justice. However, the regional authorities of the Maturin Municipal Council passed a Municipal Ordinance in 1987 declaring the lands unoccupied and they sought to reallocate some 10,564 hectares of Kariña land to third parties. The Kariña have thus filed a case in the Supreme Court asking that the Municipal Ordinance be declared null and void.

The case, one of the first in Venezuela to deal with Indian land claims in the courts, is considered crucial by local NGOs. If the court finds against the Kariña - declaring them extinct as a people - it will be a major setback to all of the country's Indians, whose claims to their lands are often more tenuous than these Kariña, who secured land titles in the colonial era. As one local NGO points out:

*'The case is of a great importance since it deals not only with these people's land rights but also with the acceptance of the very existence of the country's indigenous peoples as integral parts of the nation.'*

### *The Bari and Yukpa of the Sierra de la Perija:*

As noted the lands of the Bari and Yukpa Indians was given partial legal protection in 1961 through the creation of an indigenous reserve. However, the status of the reserve remains ambiguous and according to the Department of Indigenous Affairs does not secure the Indians' title to their lands and the Indians' rights within the reserve are equally undefined (Carta del Departamento de Asuntos Indigenas a ASOCLIVA, Agosto 1992; Dra. Josefa Camargo, Fiscal General, personal communication to Survival International, October 1993).

In recent years, this reserve has come under heavy pressure. In the south, the territory of the Bari has been heavily invaded by colonists, many from Colombia, who are linked to Colombian guerrilla bands. Despite the fact that the Bari have frequently reported this problem to the local IAN office no action has been taken to expel the settlers. To the West, along the border with Colombia, the upper slopes of the Sierra de la Perija was declared a National Park in 1978, making traditional subsistence activities illegal and effectively excising a large proportion of the reserve (Colchester and Fuentes 1983:74). Now, to the East, the Bari find themselves threatened by coal-mining, as concessions have been granted on the eastern slopes of the Serrania de Abusanki. The invasion has been denounced by the Catholic Church.

In August 1992 the Ministry of Mines awarded concessions to MAICCA (Masip Interchem CA) for coal exploration within both the Bari Indigenous Reserve and the Sierra de la Perija

National Park. On 1 September 1992 a further five coal mining concessions were awarded to the parastatal, Corpozulia, some of which overlap Yukpa communal lands and recognised as such through the issuance of titles by IAN (Survival International 1993b; Barbosa Morillo 1993). Other concessions which will affect indigenous communities have been awarded to Carbones de Perija (Carboper), Carbozulia and Sociedad Mercantil Consultores Mineros CA (Consuminca). The mining concessions were granted without any consultation with the Indians or with the Procuraduria Agraria, the Fiscalia Indigena or the Ministry of the Environment. According to Venezuela's Code of Administrative Procedure this is illegal (Kuppe 1994).

The concessions have been contested by the Fiscalia Indigena, the Environment Ministry, Survival International and lawyers of the Clinica Juridica ASOCLIVA on behalf of the Bari and Yukpa. Due to this pressure, the concessions were frozen in 1993 but none have been overturned. Since the coal mining will be open-cast it will destroy large tracts of indigenous land and profoundly alter the Indians' resource base through hunting, fishing and agriculture.

Activities by Carbozulia on Yukpa land have met with resistance from the Indians. In March 1993 the Yukpa of Sirapta community prevented Carbozulia from placing machinery on their land. The company sought to harass the leaders and persuaded the local Tribunal in Machiques to order the arrest of two Yukpa who had to flee the community to avoid arrest (Barbosa Morillo 1993). In addition Maraven, the State oil company, has initiated oil exploration and conducted seismic tests in the Bari reserve and on some Yukpa communal land. Many of the Indians have denounced these incursions and reported destruction of crops during the tests (Survival International 1993c). Logging on Indian land is an increasing problem in the reserve, most notably by the company Tablica, which, despite the opposition of a number of Yukpa communities, has removed quantities of hardwood from their land. Much of the Valle de los Motilones in the centre of the reserve has also been taken over by ranchers who have cleared pastures and laid barbed wire fences across Bari and Yukpa land (PROVEA 1994:173-175). The Bari and Yukpa have contested this expropriation of their lands and the obstacles the fences present to travel to and from the regional town of Machiques. In one incident an Indian woman being rushed to hospital died when a rancher prevented the vehicle from crossing the land he had appropriated (Survival International 1993b).

Twenty-two Yukpa communities secured provisional land titles to parts of their lands in 1978, under the Agrarian Reform programme. The titles have never been made definitive. The titles cover only the immediate area surrounding the communities and are not sufficient to meet the Indians' subsistence needs (Kuppe 1994). The Yukpa community of Japreria is under threat from El Diluvio dam (FNI 1993). The community has now moved to the Yukpa village of Sirapta having received minimal compensation for the destruction of housing and nothing for the loss of their land, in contravention of Article 12 of the Convention (Barbosa Morillo 1993b).

Frustrated at the total lack of progress in gaining official recognition of their land rights, the Yukpa, through lawyers working for the NGO Unidad de Apoyo Legal Nacional-ASOCLIVA have taken their case to the Venezuela's Supreme Court demanding that their land should be recognised in accordance with ILO Convention 107, the National Constitution and the Agrarian Reform Law and demanded the right to a judge (*juez natural*). In 1995, the Court's



Vice President (Dr Abel Burelli) rejected the Yukpa's appeal (*demanda de amparo*) simply on the grounds that the Yukpa had another case in the tribunal. In the latter case, the judge ruled that the Indians had no right to the services of lawyers, in contravention of Article 7 paragraph 3 and article 10 of Convention 107.

### ***Indian lands in Estado Bolivar:***

#### ***Impacts of Mining:***

Small-scale gold and diamond mining has a very long history in what is now Estado Bolivar in Venezuela. By the 1880s gold miners were active in the Upper Cuyuni area and these activities intensified considerably after the 1960s. However, these small-scale mining efforts funded by private capital were not a government priority. On the contrary, the Government's emphasis was to promote industrial-scale mining funded by loans from international banks. Major iron mines and steel works were initiated in the 1960s, when overall control for the development of the State was entrusted to a parastatal, the Corporacion Venezolana de Guayana. The industry was linked to a massive hydro-electric development, supported by the World Bank and other international financial institutions, on the Caroni river - the Guri dam - controlled by a subsidiary para-statal enterprise EDELCA. The dam led to the repeated displacement of Pemón Indians, who were twice relocated by officials to make way for the expanding reservoir.

In the 1980s, with support from the InterAmerican Development Bank, the CVG set up another subsidiary, Bauxiven to develop a bauxite mine on the lands of the Panare (E'ñepa) and Mapoyo (Wanai) Indians in Distrito Cedeño. The development was associated with an aluminium smelting plant powered by hydro-electric dams on the Suapure, an area also occupied by Piaroa and Panare villages.

The financial shocks of the 1980s caused a shift in emphasis, however. Unable to service existing loans and thus constrained from promoting further large-scale mining by State enterprises, the Government sought to diversify the mining economy by encouraging small-scale mining funded by private capital. Small concessions to mine for alluvial diamonds and gold, subject to simplified regulations and controls, were thus handed out liberally by the Ministry of Energy and Mines, taking little or no account of existing indigenous communities, titles or land claims. The result was a veritable invasion of Indian lands in the eastern part of the State, especially along the road from Tumeremo to Santa Elena de Uairen. By the late 1980s at least 30,000 people were believed to be prospecting and mining in southern Venezuela, the great majority illegally (Goodwin 1994:7).

Mining also boomed along the major rivers. For example, by 1991, an estimated 12,541 non-indigenous people, 20% of whom were foreigners, were engaged in mining in the Upper Caroni basin alone, substantially outnumbering the estimated 3,757 indigenous people in the same area (Barreto and Perez-Puelles 1991)

Land disputes between Indians and miners flourished, but Indian complaints to government authorities have fallen on apparently deaf ears. Since the mining laws and regulations make no mention of the need to respect indigenous rights, the authorities feel justified in ignoring their grievances. Much of the small-scale mining is informal, unregulated and illegal but even in these circumstances complaints from indigenous communities receive little follow-up.

Indeed it is widely reported that members of the National Guard and police turn a blind eye to illegal mining in exchange for a share of the profits (eg El Nacional 24 May 1994 and see below).

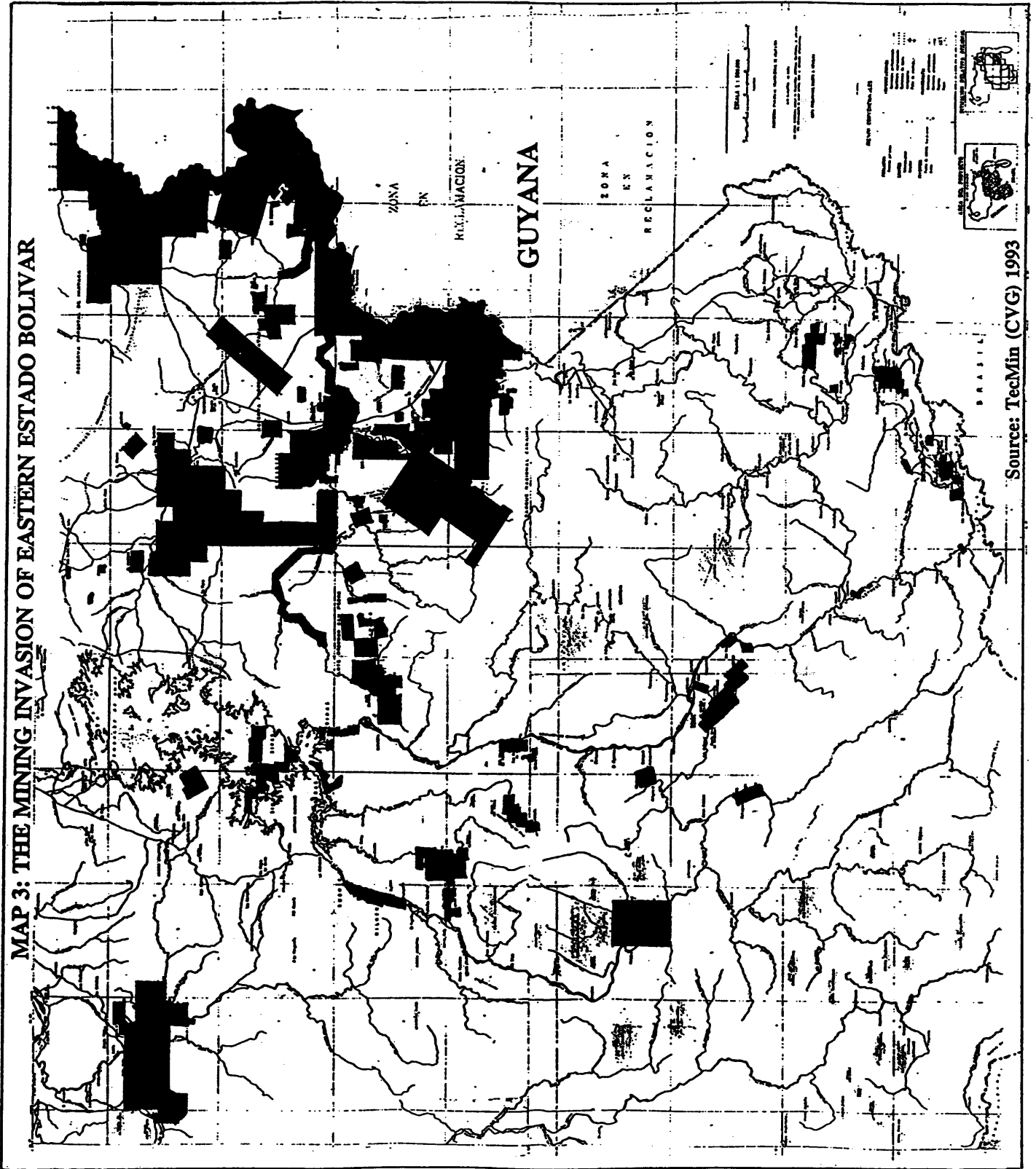
Since 1990, the Government has begun to promote a more vigorous exploitation of these resources by larger-scale private companies, favouring in particular joint ventures between Venezuelan and foreign companies. In 1991 the Government changed regulations and lowered taxes in order to attract foreign investment into the industry. The CVG was given authority to issue mining permits without reference to the Ministry of Energy and Mines. As a result some 367 mining concessions and leases were handed out covering a major proportion of the eastern part of the State and have led to bitter disputes with indigenous communities (Goodwin 1994) (see Map 3).

## Foreign Mining Companies Active in Estado Bolivar

Tombstone Explorations Company Ltd.,  
Canarc Resources Ltd.,  
Golden Star Resources Ltd.,  
Bema Gold Corp. (Labyrinth Resources),  
Gold Reserve Corp.,  
Gold Vessel Resources,  
Venezuelan Goldfields (Vengold) (Ivanhoe Capital Corp.), Cathedral Gold Corp.,  
Carson Gold Corp.,  
International Canalska Resources Inc.,  
Placer Dome Inc.,  
Quecnstake Resources Ltd.,  
Eurus Resources Corp.,  
International Kengate,  
Crystallex International Corp.,  
San Fernando Mining,  
Consolidated Newgate Resources Ltd.,  
Double Down Resources Ltd.,  
Eaglecrest Explorations Ltd.,  
Silverstone Resources Ltd.,  
Shorewood Exploration,  
International Blue Sun,  
Golden Trump Resources,  
Anglo-Andean Exploration Inc.  
Antilles Resources Ltd.,  
Athlone Resources,  
Ballatur Explorations Ltd.,  
Bard Silver and Gold Ltd.,  
Greenwich Resources Ltd.,  
Barkhor Resources Inc.,  
Bolivar Goldfields,  
Cachet Enterprise Corp.,  
Cadre Resources Ltd.,  
Cambior Inc.,  
Consolidated Madison Holdings Ltd.,  
Delgratia Developments,  
Echo Bay Mines Ltd.,  
El Callao Mining Corp.,  
Francisco Gold Corp.,  
Venoro Gold Corp.,  
Geonova Exploration Inc.,  
International Wayside Gold Mines Ltd.,  
Jordex Resources Inc.,  
Kinross Gold Corporation,  
Latin America Gold Inc.,  
Manson Creek Resources Ltd.,  
Metallica Resources Inc.,  
Naxos Resources Ltd.,  
New Aegis Resources Ltd.,  
Nucore Resources Ltd.,  
Randstrom Manufacturing Corp.,  
Rare Earth Resources Ltd.,  
Senn D'Or Inc.,  
Solomon Resources Ltd.,  
Southern Era Resources Ltd.,  
TVX Gold Inc.,  
Marwood International,  
VenCan Gold Corp.,  
Yellowjack Resources Ltd.

Sources: *La Era Agricola* No.19 (1994):22; Minewatch 1994.

MAP 3: THE MINING INVASION OF EASTERN ESTADO BOLIVAR



Source: TecMin (CVG) 1993

The following examples illustrate just some of these conflicts, ones which have been documented by the indigenous peoples organisations of Bolivar State. The organisations themselves point out that, in fact, these kinds of disputes occur in almost all areas where there is mining but they have not been able to document them all because some communities are less organised or live in more isolated areas.

*Pemon of El Frijol:*

Pemon Indians have lived in the tributaries of the Upper Caroni and Paragua rivers since time immemorial. On 12 October 1991 members of the community of El Frijol formally registered a complaint at the headquarters of the Federacion Indigena de Bolivar (FIB). The community noted that although they have resided in the Frijol area itself for at least 50 years, they find that part of their territory has been taken over by a French miner who had been granted a concession on their lands. Mining activities commenced upstream of the community in the creek which supplies the village's drinking water. Faced with the pollution of these essential supplies, the community requested the miner to stop his activities but he responded with death threats and menaced them with expulsion from the area. The miner brought in the National Guard which intervened on his side against the Indians. The community appealed to the FIB to take action to secure their lands (*Actas FIB* 12/9/1991). The community remains without land title.

*Pemon of El Abismo:*

Gold mining has been going on along the road west from Santa Elena de Uairen to Icabaru on the Upper Caroni since the 1960s, but has begun to expand massively with the 1990s mining boom. Environmental organisations point out that despite the fact that the area lies within a Zona Protectora (an area designed to protect the water supplies of the Guri dam) the CVG has been handing out mining concessions in the area. Canadian mining companies moved in in 1993 by buying concessions from well-connected Venezuelans who had managed to acquire mining rights in the area. Yellowjack Resources Ltd, later joined by Solomon Resources, began mining on concessions MIGS I and II in 1993 but faced a barrage of criticism from local indigenous organisations when the full impact of their mines became apparent. The Pemon community of Uaiparu claimed that the concession overlapped an area provisionally titled to them by IAN in 1990. Environmentalists also uncovered the fact that the company lacked the required environmental clearances and was thus operating illegally. As a result of the denunciations in the press, the Venezuelan Government put a temporary freeze on the operations, but the stop order was rescinded in May 1994 (*Minewatch* 1994:50; *Amigransa* 1994; *Sociedad Audubon de Venezuela* 1994).

The Pemon of the area have voiced strong objections to the mining of the Abismo area. In a statement to the press of 21 November 1993 the Pemon stated:

*'They don't permit us to mine because, they say, 'It is important to protect the river, it is necessary to protect the forest'. So they forbade us to mine because they say that mining destroys the river and destroys the forest. We respect that and accept it. We left the mines alone. But now who can explain why they went into the Abismo, the great forest, with much more destructive machines than our mining pans? Why do they take Indians out of the mines, Venezuelan Indians? Why, after excluding the Indians do they permit foreigners to exploit that which they forbid us? We are talking*

*about the Abismo, an important water catchment. Perhaps the most important because it is the source of the Icabaru River, the tributary of the Caroni river... These lands were given to us by the National Agrarian Institute, but only to be used for agricultural purposes. Our small-holdings don't exhaust or destroy the forest. Our people know that the Abismo is their guarantee of life for their children. Now they know it is much more. Now they know that is the source of flora, the source of fauna. The Abismo is the source of water. Our people knew it long ago and therefore we never lived in the Abismo. The Abismo is a 'protected zone'. This means that it can only be used for its agricultural, faunistic, floristic, tourist and recreational resources. It cannot be used for mining. So we do not understand. Why do they give out mining concessions? Who can explain that to us? Who can answer why they did this? We denounce that the communities of Betania, Pampatameru and Apoipo are suffering from the degradation of the River Surucun. We denounce that a Canadian company is destroying the headwaters of the River Surucun. We denounce that a group of 'garimpeiros' is mining the Abismo. Now our people cannot fish. They cannot drink the water. Our people are suffering because the river is our principal source of life. The conservation of the Abismo guarantees us life because our hunting grounds are there. Our fishing is there. Our small farms are there. And it is not only the Abismo. The communities of Playa Blanca and Buena Vista de Uaiparu are suffering because of the pollution of the Bajo Amarillo river and Uaiparu river because of the mines at El Infierno. We do not understand what is happening. We feel disrespected. They do not consult us. They ignore us. We denounce that the tropical rainforest, that is the Abismo, is in grave danger.'* (Archivos Sociedad Audubon de Venezuela; *El Nacional* 7 March 1994)

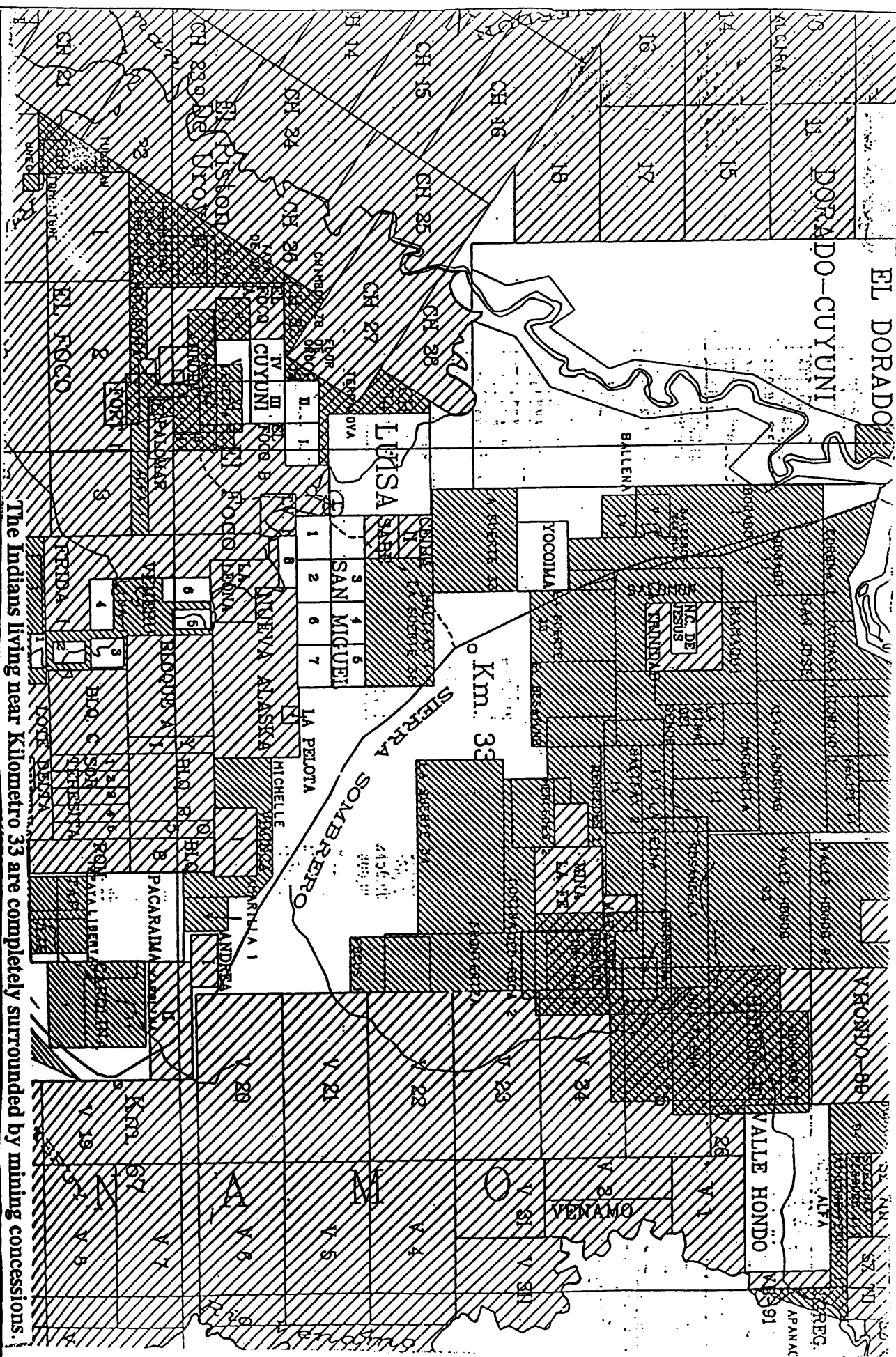
***Pemon and Kapon of Km 33:***

Similar complaints against mining have also been voiced by Indians of Kilometro 33. On 14 January 1993 they denounced the hand out of concessions by CVG and Ministry of Mines on lands where they farm at San Antonio de Roscio in the Sierra Imataca (*Actas FIB* 14/1/1993). The problem was unresolved and later the same year members of the communities of San Antonio de Roscio and Paruruaka came into conflict with the mining companies. The community of San Antonio de Roscio noted that its lands had been invaded by numerous miners on concessions named La Luisa, Halifax 1, La Suerte 36, La Suerte 33, El Foco and Sabe. The community complained in particular about the activities of the Cooperativa Mixta del Sur which had a small concession named San Miguel 01-08 which overlapped their community lands. The Indians note that the company razed a community hut and began mining actions on lands used for rotational agriculture. The Captain of the neighbouring community of Paruruaka also complained that the CVG and Ministry of Energy and Mines had handed out concessions on their lands without taking the community's very existence into account. The community demanded the withdrawal of the mining concessions named El Perico, Rosita 1, Terense del Valle 1 and El Foco (*Actas FIB* 28/7/1994).

***Kari'ña of Bochínche:***

The Kari'ña Indians of Bochínche have also complained, to the Movimiento Indígena de Guayana, of the mining invasion of their lands. Numbering around 600 individuals, according to their own estimates, and distributed in eight communities, the Kari'ña experienced an invasion of their area by artisanal miners during the 1980s. Heavy mining commenced in 1990s with the initiation of activities by the transnational, Monarch, which gained a

MAP 4: THE MINING INVASION OF EASTERN ESTADO BOLIVAR (DETAIL)



The Indians living near Kilometro 33 are completely surrounded by mining concessions.

concession in their territory. The Indians complain that the mining company prohibits them from farming or hunting within the concession area, while mineworkers have abused their women and made threats to the menfolk. Whereas the government remains deaf to the Indians' land claims, the National Guard has taken the company's side during confrontations with the villages chiefs (*Actas MIG* 14/7/1994).

*Pemon and Kapon of the Upper Cuyuni:*

Conflict between miners and Indians has also been reported by the community of Kamaria, on the Boca del Yuruari in Municipio Sifontes, which filed a complaint against the issuance of a mining concession which directly overlaps their community (*Carta al FIB* 13/10/1994). The following month the community of San Juan de Venamu complained of the critical situation they confront because of mining activities in their area. Despite frequent complaints to regional authorities including the Sectoral Director General of the Ministry of Mines and the Commander of the National Guard post at Tumeremo no action was taken by the government to defend the Indians lands (*Actas FIB* 24/11/1994). On 20 January 1995, the community of Santa Maria del Vapor filed a further complaint that a transnational company called 'Oroturva' had set itself up in area. At a meeting with members of the communities of Santa Maria and Kamaria, the Indians told company representatives that they did not agree to the company starting exploitation in the area, since they were fed up with being constantly invaded by logging and mining companies which had broken their cultural patterns and environment and left behind no benefits, only destruction and dispossession. The company replied that, notwithstanding, they would commence work even if to achieve this they had to bring in the National Guard, as they were there legally (*Actas FIB* 20/1/1995).

*Pemon of the Caroni:*

Many of the indigenous communities find their lands being invaded by illegal miners. On 14 June 1993, Pemon Indians of the community of Uriman, denounced the presence of foreign miners who are without any authorisation extracting gold on their lands (*Actas FIB* 14/6/1993). On 11 April 1994, Indians of San Francisco de las Babas denounced gold mining in the Caroni from rafts which, they alleged, was being carried out with assistance of a staff member of meteorological station of the hydropower development parastatal, EDELCA. However, when the National Guard visited the site, they did nothing as, according to the Pemon, they were paid off with gold (*Actas FIB* 11/4/1995).

*Piaroa of the Parguaza:*

In a letter to the Fiscalia Indigenista of 18 May 1993, the Piaroa community Tierra Blanca on the Parguaza complained about a concession to mine clay which had been handed out by the parastatal regional development body, Corporacion Venezolana de Guayana to the Barquisimeto-based mining company ARCILARA (*Archivos MIG*). The appeal for land rights and a rejection of the concession has been supported, in a display of unity, by the Piaroa captains of the neighbouring communities of Pargueña, Pendare, Corianera, Santa Fe, Fundo Nuevo, Los Angelitos, Salto Toro, Salto Maraca and Agua Mena (*Actas MIG* 5/6/1993).

*Pemon of the Lower Paragua:*

ON 29 August 1994, Pemon from the communities near La Paragua filed a complaint with the local commando of the National Guard in La Paragua against illegal mining near El Plomo on the Paragua river. The Indians complained that the raft miners have moved into



the region from the Manteco and Supamo areas, which are heavily infested with malaria. They complained that the results of this invasion had been rising rates of malaria in the Paragua region, the pollution of rivers, miners messing with Indian women and rum drinking. The miners have responded to requests that they move off with menaces and they issued death threats when the Indians took up the issues with the National Guard. The communities called for the expulsion of illegal raft miners from the area (*Archivos FIB*).

#### *Pemon and Ninam of the Upper Paragua:*

A major invasion of the Upper Paragua region by Brazilian miners operating on the Uraricaa river was first recorded in the mid-1970s and brought severe health problems to the local Ninam and Uruak communities (Colchester 1985). Since the late 1980s, the communities of the Paragua have made repeated demands of IAN and other State bodies to regularise their land rights and prevent the illegal mining on their lands. However, no action on the part of Government has been forthcoming. The communities allege that local officials, even those from the regional office of the department of indigenous affairs, far from preventing the mining have been party to the exploitation, notably of the isolated and vulnerable Ninam (northern Yanomami). The Indians complain that despite appeals to all the local officials to resolve these conflicts, the miners remain active on their lands (*Carta de la Comunidad Indigena Jerusalem al Presidente de la Republica* 22/2/94)

#### *Hydroelectric development:*

The Indian communities of the Upper Paragua and Upper Caura rivers now face a new threat. In order to boost water supplies to the Guri reservoir, EDELCA plans to construct a series of dams, named the Trasvase Caura, to divert a large part of the water from the Upper Caura river into the Paragua. A further dam on the Paragua, named Auraima, will regulate the water's flow down into the Guri (*Entre Corrientes* Enero/Febrero 1995:5).

The dams and reservoirs will displace a large number of Indian villages, including members of the Ye'kuana, Pemon, Sanema, Sape and Uruak ethnic groups. The Indians complain that despite a great deal of EDELCA research and activity in the area they have not been informed about the project. The lack of information has led to great concern in the villages which fear that they might be affected (*Actas CONIVE* 29 Julio 1994). Leaked reports from EDELCA suggest that a total of 3,757 Indians from 40 villages will be affected by the project. A larger number of non-indigenous people on the lower rivers will also be affected.

#### *Impacts of Logging:*

Extensive logging concessions have been handed out in Bolivar State without any consideration being given to indigenous land rights. Under Venezuelan Forestry Laws areas of State lands have been categorised as Forest Reserves and Forest Lots and these areas may be leased to concessionaires by the Venezuelan Forestry service, SEFORVEN, after the presentation of a management plan. Indigenous peoples' rights and livelihood are entirely ignored in both the evolution of management plans and the definition of Forest Reserves and Forest Lots. As a consequence, conflict between loggers and indigenous peoples has become widespread and has been made worse by the fact that there is also a good deal of illegal logging.

Foresters acknowledge that logging, as practised in Venezuela, is damaging to the environment. Regulations are inadequate, poorly enforced and widely ignored. A study for the World Resources Institute notes that over-harvesting has resulted in the virtual exhaustion of the most valuable timber species (Centeno 1995).

*Arawak and Kari'ña of the Sierra Imataca:*

One of the heaviest areas of logging in Estado Bolívar is the Sierra Imataca on the eastern border with Guyana. The area is the traditional lands of the Arawak (Lokono), Pemon, Kari'ña and Akawaio Indians and has been inhabited by these peoples since the first historical records in the 16th century. In 1993, the intensification of this logging was denounced by the Indians who have demanded that their rights to land should be accorded priority (PROVEA 1993:154).

*Piaroa of Chivapure:*

In the west of the Bolívar State, Piaroa Indians of the communities of Ahuada-aje, Huaca-aje, Aje-toquio, Chahuaichinoto, Huaramo-aje and Paru-aje, called for a halt to the operations of the Licaima company which commenced logging their lands in the Chivapure valley in 1993 (PROVEA 1993:154). Claiming that the logging is illegal, the Piaroa have repeatedly called on the Government to prevent the logging of their forests and recognise their land rights. They have also denounced the fact that the Government forestry service SEFORVEN allows the logging to continue without regard for their livelihoods, which depend on forest products (*Actas MIG 20/4/1994: Press Release of Ahuada-Aje Community, Archivos MIG*). The national indigenous organisation CONIVE has noted that the 35 year concession agreement grants the company rights to extract timber from 120,000 hectares of Piaroa lands (*Actas CONIVE 29/7/1994*).

*Fundacion La Salle:*

On 17 May 1993 representatives of the communities of Apanau, Araimotupo, Kilometro 41, San Francisco, Kamaria, Santa Maria del Vapor, Paruruaka, Pozo Oscuro, Waicas, Patawaparú, San Flaviano, Kilometro 74, Santa Lucia de Inaway, Santa Lucina de Venamo, San Miguel de Betania, San Martín de Turumban, San José de Kilometro 16 and San Antonio de Kilometro 33 filed a complaint against the issuance of a logging concession to the Catholic Educational and Research establishment, the Fundación la Salle, without taking into account the fact that they were the original occupants of the area (*Actas FIB 17/5/1993*).

*The Warao of the Delta Amacuro:*

Forestry concessions have also been a major source of discontent to the Warao of the Orinoco Delta, who have inhabited the area since Cristóbal Colón's first sight of the South American continent on his third voyage in 1498. Concessions to extract timber from Warao lands have been granted to the Casadel company and another concession to extract palm-hearts has been given to its sister company, Caspodel. According to the human rights organisation PROVEA some 413,000 hectares have been leased out under these contracts, affecting some 360 Warao communities. In an appeal to the Venezuelan President in March 1993, the Warao noted that as a result of the depredations of the companies, soils have been damaged, subsistence collection of palm-hearts has been undermined and small-scale logging has become impossible, denying the Indians' livelihoods and income opportunities (PROVEA 1993:155).

### *Indian lands in Estado Amazonas:*

The Amazon Territory of Venezuela has long been isolated from these pressures and after the collapse of the rubber boom in the 1920s became an isolated backwater where indigenous peoples were the majority population. In the early 1970s, State policy towards the Territory changed. The Government initiated a 'developmentalist' policy that copied the Brazilian military model of road-building and colonization, under a programme rudely titled '*La Conquista del Sur*' (CODESUR). The most tangible expression of this policy was the construction of an all-weather road from the north into the Manapiare valley, which triggered land speculation by ranchers and tourism operators. However, since real pressure to open up the interior of Venezuela was slight - both population and capital being drawn to the oil-rich coast - the CODESUR programme was never more than a political foible and soon lapsed. The road soon deteriorated and became impassable.

The lack of real pressure to develop the interior resulting from the oil boom and the growing awareness of the problems caused by the model of development in Brazilian Amazonia, provided room for the emergence of a different policy emphasising environmental concerns and scientific research. The result was that by the mid-1980s the Ministry of the Environment (MARNR) had become the strongest Ministry in the Amazon Territory (Colchester 1982).

This situation, however, is changing. On the one hand, MARNR has gradually strengthened its presence by defining some 55% of Amazonas as '*Areas Bajo Regimen de Administracion Especial*' (ABRAE). On the other hand, the worsening economic condition of Venezuela's poor, has seen the resurgence of populist policies that promise a rapid opening up of the interior in the name of national development. One result is that the CVG has been given authority to develop the Amazon region in addition to the State of Bolivar.

Since the mid-1980s, the regional capital, Puerto Ayacucho, has more than doubled in size as a result of being linked by road with the rest of the country. Further road-building, mining and plantation schemes are now once again being advocated by parastatals and politicians, a process that has sharpened since 1991 when the Territory was opened to local electoral politics as it was redefined as a State. The previous Governor of the State openly supported illegal enterprises such as mining in National Parks and tourism in indigenous areas. The current Governor has also backed road-building programmes even though these have been opposed by local MARNR officials for their absence of legally required environmental impact studies.

Last year, these 'developmentalist' policies were given new definition through the resurrection of the CODESUR programme as PRODESSUR (*Proyecto de Desarrollo Sustentable del Sur*), which embraces not just the State Amazonas but also the States of Apure and Bolivar and the Delta Amacuro. The programme contemplates the establishment of new frontier settlements, military garrisons, tarmacked airstrips suitable for military jets, colonisation projects and infrastructural development. Conceived by a Commission top-heavy with military planners, PRODESSUR is explicitly a project to counter the geopolitical pressures of Brazilian expansion expressed through Brazil's *Calha Norte* programme. Conspicuously absent from these plans is any recognition of indigenous rights to land (Republica de Venezuela 1994).

The result of this renewed pressure on the Amazon frontier has been an escalation of land

conflicts, previously rare in such a thinly populated area. State policies and agencies have done little to secure Indian lands against these pressures. The examples noted below are some of those which have been documented by the local human rights office of the Catholic Church and indigenous organisations.

*Guahibo of Montaña de Tigre:*

In January 1994, the Guahibo community of Montaña de Tigre complained of efforts by local ranchers to take over their lands with the help of an engineer from the Procuraduria Agraria de Amazonas. The attempt to usurp their lands with the support of a government official was made despite the fact that in May the previous year the Indians had discussed their land claims with IAN, the Procuraduria Agraria, MARNR and the National Guard (ODH 1995).

*Guahibo of Pilon:*

On 5 May 1994, the Guahibo community of Pilon was visited by a Mr Jose Jimenez accompanied by two members of the National Guard who proceeded to threaten the community and assert rights to fence off village lands which have been long used for shifting cultivation (ODH 1995).

*Guahibo of Lora:*

Many Guahibo have long lived, often in shanty town conditions, on the outskirts of the State Capital, Puerto Ayacucho. Commencing on 28 October 1994 officials from the State Municipal Council sought to evict Indians living in the area of Lora, with the aim of parcelling out lots for criollo settlers. The Municipal authorities claimed that the land was subject to their authority as *ejidos municipales*, while the Indians claimed they had been living there for many years. The Guahibo complained that, in seeking to evict them and parcel up the land by force, the municipal workers destroyed their gardens and tore down their fences. It was later confirmed that the lands in question were not *ejidos municipales* but *tierras baldias* and thus subject to the authority of IAN (ODH 1995).

*Yabarana of Rio Parucito:*

The Yabarana people, who have inhabited the Parucito-Manapiare valley since the first historical records and who are now reduced to some 319 individuals, have suffered the progressive takeover of their lands by ranchers ever since the 1974 CODESUR programme sought to open up the Manapiare valley to development. Conflicts between the Yabarana and one rancher, Adolfo Menendez, have intensified as his cattle frequently stray onto the farmlands of the Yabarana in the narrow gallery forests along the river banks, destroying crops and undermining the Indians' livelihood. Indians have complained of maltreatment by cowhands and of receiving death threats from the rancher for crossing the disputed lands (ODH 1994, 1995).

In August 1992 several Yabarana of the community of Chirinos were arrested and imprisoned by the local police when they attempted to defend their gardens from an invasion of cattle belonging to Sr. Menendez (Survival International 1993). After representations by lawyers from the Office of Human Rights at the Vicariato Apostolico and by Survival International, delegations of Yabarana met with the President of IAN, in 1994 and in March 1995. A delegation representing various government bodies and the Oficina de Derechos Humanos in Puerto Ayacucho also visited the area. The president of IAN publicly undertook to resolve the land question in 1994 and an agreement was drawn up between the Yabarana, Sr

Menendez, IAN and the Procuraduria Agraria whereby Menendez would withdraw from Yabarana land. However the regional office of IAN has not enforced this decision and Menendez and his cattle continue to occupy Yabarana land. To date IAN has not granted land titles to the Yabarana.

*Ye'kuana of La Esmeralda:*

Ye'kuana have been inhabiting the site of La Esmeralda since at least 1800 when they were visited by the German explorer Alexander von Humboldt. The community was accorded a provisional land title to 40,000 hectares by IAN in 1977 (Clarac 1983:35). During the 1990s, with financial assistance from the German Government agency for development cooperation, GTZ, the area was developed as a centre for natural science research under the administration of the office of the Autonomous Secretariat for the Environmental Development of Amazonas (SADA-Amazonas), a unit within MARNR.

On 29 March 1995, the Ye'kuana of La Esmeralda in an open letter to SADA-Amazonas denounced the construction of a 2 kilometre long fenced airstrip through the middle of their community. The asphalted strip was established as part of the Government's frontier development programme, PRODESSUR, to allow take-off and landing by airforce F-16s. The Ye'kuana complained that besides involving considerable forest felling, the fenced airstrip impeded community members from walking from one side of their village to the other. The Ye'kuana also complained that the construction company contracted by SADA-Amazonas was excavating gravel from areas they considered sacred sites. They have also expressed concern about further proposed developments in the area including the establishment of a local hydroelectric station by the State enterprise EDELCA which would involve further land clearance and deforestation in the construction of access roads.

*Impacts of Eco-Tourism:*

A growing problem in Amazonas has been the explosive growth of 'eco-tourism' ventures which have been heavily promoted by State Governor, Edgar Sayargo and the ex-Governor Dr. Luis Gonzalez Herrera, who has recently been appointed state commissioner for PRODESSUR and head of SADA-Amazonas.

Under Venezuela's *Ley de Turismo*, prior consultation with indigenous communities is expressly required before any tourism development can go ahead in their areas (Articles 59 and 60) (ODH 1994). This law has been given further precision in Amazonas by the passage of Presidential Decree 625 of 7 December 1989, titled 'Norms on Tourist-Recreational Activity in the Federal Territory of Amazonas'. The decree expressly recognises as 'subsistence areas' those areas used continuously or seasonally by indigenous peoples and also gives protection to the indigenous peoples' sacred areas (*areas de culto*) (Article 27). In such areas no tourist activity may be developed without the previous authorization of Department of Indigenous Affairs and the consent of the communities and the Corporacion Venezolana de Guayana (Article 28). Unfortunately these regulations are routinely ignored in Amazonas and conflict between indigenous communities and eco-tourism ventures has been widely reported, including by the Yanomami of the Upper Orinoco and Pasimoni, the Ye'kuana of the Cunucunuma, the Piaroa of the Uppér Manapiare and the Sipapo, and the Yabarana of the Parucito. Permanent tourist camps established in indigenous areas have been a particular source of dispute.

*Guahibo, Piaroa and Baniba near Santa Barbara:*

In late 1993 and early 1994 there was an intensification of a long running conflict between the 'Safari' tourist camp at Santa Barbara and local Indian communities. The Indians complain that the tourist camp has taken over their lands. During the dispute a traditional dwelling of the Piaroa was burned to the ground and the Indians allege this was a deliberate act of arson by the camp operator. The nearby Baniba community of Macuruco - which received a preliminary title from IAN in 1976 (ODH 1994) - and the Guahibo and Piaroa community of La Venturosa - which received a provisional land title from IAN also in 1976 (Clarac 1983:34) - have complained that the owner of the 'Safari' tourist camp, Otto Wilkeman, has been fencing off their customary lands. In voicing complaints about these incidents to the local authorities, the Human Rights Office of the Catholic Church has alleged that Mr Wilkeman is supported by the Governor of the State, Edgar Sayargo. (ODH 1995).

*Piaroa of Betania de Camani:*

Also in May 1994 the Piaroa community of Betania de Camani was menaced with expulsion from its ancestral territory by a commission composed of members of the National Guard, two officials from MARNR and two villagers from the downstream criollo community of Camani, where tourist camps have been established. Contrary to the State Tourism law, the commission alleged that the Indians' presence in the Upper Camani was illegal and ecologically damaging, and confiscated the Indians radio transmitter which they had been provided with under a cacao development project (ODH 1995).

*Piaroa of Cucurital:*

On the 7 October 1994 Piaroa Indians of the Indian communities of Picua and Porvenir on the middle Ventuari complained that tourism operators were trying to set up a campsite at Cucurital called ALECHIVEN on their customary lands without permission either from the government or from the local communities (ODH 1995).

*Yabarana of the Parucito:*

The Yabarana are also caught up in conflicts with eco-tourism operators. They have protested to the regional offices of the Departamento de Asuntos Indigenas (ORAI) and IAN about the activities of a Colombian rancher, Sr Castaneda who is building a tourist ranch on Yabarana land at Caño Platanal on the headwaters of the Parucito. Supported by the governor of Amazonas State, Edgar Sayargo, he has constructed a number of lodges and an airstrip to accomodate visitors. A businessman from Caracas, Herman Zing (who was involved in a previous land dispute with the Piaroa) has also built a luxury tourist camp, ranch and airstrip near the Yabarana village of Corobita. Tourists are flown in directly from Caracas. The Yabarana have been barred from the land he has claimed, which they have always used for hunting, in order for the tourists enjoy nature walks and hunt jaguar. Local tour operators from San Juan de Manapiare and Puerto Ayacucho regularly take tourists up the Parucito river to visit the Yabarana communities of Majagua and La Colmena and the Panare community at Caño Culebra, without seeking prior authorisation from the Indians.

The Venezuelan Government is in clear breach of Article 11 of the Convention. Indigenous peoples' land rights are being abused throughout the country. The Government itself is failing to recognise and protect indigenous peoples' rights to their lands. It is failing to act when violations of these rights are brought to its attention. It is, moreover, actively pursuing policies and implementing projects which violate these rights.

## 6. VIOLATIONS OF THE CONVENTION: LIFE

### *Yanomami:*

Illegal mining on Yanomami lands in Brazil has been a chronic problem since the 1960s (Colchester 1985). Since the 1970s miners from these areas have been crossing into Venezuela to exploit the gold and diamonds found in the rivers. In recent years these incursions have grown more frequent. Miners have been reported crossing the frontier into the La Neblina National Park (and travelling further to work the illegal mines in the Yapacana National Park). Other miners have been entering Yanomami territory up the Demini and so into the Upper Siapa. A number of mines have been established in the very headwaters of the Upper Orinoco itself and repeated entries have been reported in the Parima highlands and at Shimadawoche on the Upper Matakuni. In the Upper Caura river missionaries report Brazilian miners active on the Kidi creek on the Merevari, where Sanema Indians have been hard hit by epidemics, and mining near Guaña has also been noted sporadically. Further incursions into the Paramichi on the Upper Paragua have also been reported by Ninam and Pemon, while the extensive invasion of Brazilian miners into eastern Estado Bolívar around Icabaru and down the Caroni is widely known. Conflict with Indians has occurred repeatedly.

In June 1993 illegal Brazilian miners operating on a small tributary of the Upper Orinoco on Venezuelan territory had an argument with local Yanomami in which four Yanomami were killed and another wounded. In a revenge raid the Yanomami attacked the mining camp and killed two miners with shotguns. In a further act of retaliation the miners then descended on the Yanomami community of Hashimo-teri and killed at least twelve Indians: an old man, two elderly women, one young woman, three adolescent girls, three boys and two baby girls. One of the elderly women who was blind was kicked to death and one of the babies was knifed. Those not killed immediately by gunfire were hacked to death by machetes. The corpses were then mutilated and dismembered (Albert 1993).

Despite setting up a Bi-National Commission of Enquiry with Brazil and opening a penal process, the Venezuelan Government has not concluded its investigations of the massacre. Two miners arrested by the Brazilian authorities were released in December 1993. According to members of the official investigative commission, they were able to interview the Yanomami for only two hours and potentially revealing lines of enquiry to identify the killers have not been followed up on (Chagnon 1993; ODH 1995).

Although in March 1994 the Venezuelan National Guard bombed many of the clandestine airstrips in use by the miners along the Venezuelan border, latest reports show a marked increase in the number of miners working illegally in the Yanomami area along the Venezuelan/Brazilian border where air strips have been re-opened (Survival International 1995). The Venezuelan National Guard has taken little action to expel this current wave of goldminers. Further incidents of violence between miners and the Yanomami were reported to the Catholic Church's Human Rights Office in November 1993 and June 1994. In the latter case, three Yanomami were reportedly wounded in an attack by Brazilian miners in the south of the Parima highlands (ODH 1995).

*Yukpa:*

The increasing militarisation of the Sierra de la Perija which lies on Venezuela's border with Colombia has led to harassment of the Bari and Yukpa. Indians are routinely stopped and interrogated when entering and leaving their land. In February 1994, three Yukpa Indians, including one woman, in the Sierra de Perija were killed by two members of the army, while a third man and a child were wounded (PROVEA 1994:176). No persons have been found responsible for the killings (CONIVE 1994). In March 1994 a number of Bari and Yukpa Indians were detained by an army unit who raided the community of El Turpial. Dozens of people were beaten and houses destroyed. Those detained were held for several days and tortured (Amnesty International Annual Report 1994).

*Wayuu:*

On 12 October 1992, two Wayuu Indians were shot and killed by members of the Presidential Guard and DISIP police agents. Five other Indians were also wounded, including one woman and four minors (PROVEA 1993:152).

*Cuiva:*

The Cuiva, a hunter-gatherer group on the verge of extinction in the savannahs and gallery forests of Apure State, have a long history of attacks and massacres at the hands of ranchers. In 1993, three further such incidents were recorded. On 30 March an Indian named Tinari was shot dead. On 15 of April a group of armed men fired on a group of Cuiva out foraging. One Indian was wounded and another remains unaccounted for as a result of the incident. Finally on 2 August another Cuiva working on a farm was found murdered, his body hidden in a garbage tip. According to the national indigenous organisation, CONIVE, and the human rights group, PROVEA, the incidents relate to a land dispute in the area between ranchers and the Cuiva (PROVEA 1993:152).

Indigenous and human rights organisations have been particularly indignant that these serious abuses have not been carefully followed up and no individuals brought to justice. The issue was brought to the attention of the 1994 session of the United Nations Working Group on Indigenous Populations by the National Council of Venezuelan Indians (CONIVE 1994).

The Venezuelan Government's failure to secure the basic human rights of the indigenous peoples of the country and its lack of persistence in investigating these killings constitutes a violation of Article 2 of the Convention.



## 7. VIOLATIONS OF THE CONVENTION: HEALTH

The desperate health situation of the indigenous peoples in Venezuela has been a subject of international controversy for many years. Especially among the more vulnerable and isolated communities in the very south of the country, epidemics of introduced diseases in the complete absence of medical services have caused massive mortalities. The Government has been repeatedly urged to take measures to provide a primary health care service to these peoples (Lizot 1976; Colchester 1985; Lizarralde and Seijas 1991).

Unfortunately, the health situation in much of the interior is getting worse not better. Government funding for the national health service has been declining nationally in real terms and remote health posts in indigenous areas have suffered disproportionately. The 1992 Indigenous Census revealed that 86.8% indigenous communities do not have a rural dispensary (OCEI 1993:29); still more lack ready access to clinics and doctors.

These problems have become especially acute in indigenous areas now being invaded by miners. Miners have introduced new strains of malaria (*Plasmodium falciparum*) as well as common viral infections like chicken pox, 'flu', whooping cough and measles. Gastro-intestinal and skin diseases have also increased (Barreto and Perez-Puelles 1991:21). In the Upper Caura river levels of tuberculosis among the Sanema (Northern Yanomami) have risen to over 25% of the population and repeated epidemics of other infections have devastated the population, where the direct links with mining invasions have been established by a public health study (*Informaciones misioneras*; MSAS 1992; *El Nacional* 4/6/92). Despite these investigations and previous detailed studies no sanitary facilities whatsoever have been provided to the region. Mining is also causing other problems in the Caroni area, where huge ponds of standing water have been associated with problems of onchocerciasis and leishmaniasis. Rising rates of venereal disease linked to increased prostitution have also been reported by one official study (Barreto and Perez-Puelles 1991:21-22).

Added to these problems have been severe health risks caused by the pollution of water supplies with human waste and mercury. A study of the mercury levels in the Caroni river, where the CVG has handed out over 60 permits for dredger mining, revealed mercury levels 182 times the permissible levels and that 80% of the individual miners showed symptoms of mercury poisoning (Goodwin 1994:7).

The negligence of the Venezuelan authorities with respect to the provision of even basic primary health care to the indigenous peoples of the interior has become an international scandal. The Government is in clear violation of its obligations under Article 20 of the Convention.

## 8. VIOLATIONS OF THE CONVENTION: EDUCATION

As noted, in 1979 the Venezuelan Government initiated a programme of bilingual, intercultural education in conformity with its obligations under ILO Convention 107. After several years of study and preparation, the programme was eventually officially launched in 1982. Unfortunately a change of government the following year meant that political support for the policy was almost immediately withdrawn. Since that date the bilingual education programme has been orphaned and the decree establishing it considered almost a dead letter (Villalon 1994:14). Funding for the programme which stood at US\$302,177 in 1984 was reduced to US\$32,135 by 1991 (Oldham 1995).

The indigenous peoples of Venezuela are not only being deprived of any education system appropriate for their own cultures and languages, many are also deprived of an educational regime at all. The 1992 indigenous census revealed that 65.6% of indigenous villages lack even a primary school (OCEI 1993:29). Even those schools that are functioning do so with minimal resources. Over 80% of schools in Amazonas, in one survey, report receiving no materials from the Ministry of Education (Oldham 1995). A result of this official negligence is that over 40% of indigenous individuals over 10 years old are illiterate and nearly 56% of those between 5 and 24 years old do not attend any kind of school (OCEI 1994).

The lack of an effective educational regime in indigenous areas is contrary to Article 21 of the ILO Convention 107.

## 9. CONCLUSIONS AND RECOMMENDATIONS:

The rapidly deteriorating situation of the indigenous peoples in Venezuela is among the most serious in Latin America.

The indigenous peoples are suffering severely from Government discrimination and negligence. In violation of its obligations under national and international law, the Government is presiding over the wholesale takeover of Indian lands by miners, loggers, ranchers and other interests. Land conflicts with indigenous communities are increasing in frequency and there are numerous reports of violence and intimidation, including by members of government institutions. Marginalised from civil society and discriminated against by government, the indigenous peoples are suffering disproportionately from inadequate health and education services.

These abuses amount to serious violations of Articles 2, 11, 20 and 21 of the ILO's Convention 107 on Tribal and Indigenous Populations which was incorporated into Venezuelan law in 1983. They are also contrary to the Constitution of the country and the Agrarian Reform Law, as well as a number of other national laws.

Lack of political will and a culture of discrimination against indigenous peoples underlie these abuses. Government policy towards the indigenous peoples of the country has for a long time lacked coherence or direction. The government institutions set up to protect the indigenous communities are themselves underresourced and marginal with little political support or status. Even when they do intervene in favour of indigenous interests they are routinely ignored.

By contrast, policies to rapidly 'develop' the natural resources of the interior have received considerable government impetus. But policies of timber and forest product extraction, mining, road-building, colonisation and even conservation ignore or marginalise indigenous rights, including rights to land.

The present Government is now intensifying its efforts to open up the interior and has adopted an aggressive forward policy of frontier occupation which is indifferent and even hostile to the indigenous peoples who are the original inhabitants of these territories. In these circumstances further abuses are inevitable.

The situation is deplorable. The Venezuelan State is imposing its authority and sovereignty on the indigenous inhabitants of the territory to which it claims jurisdiction, while failing to uphold their rights both as indigenous peoples and as Venezuelan citizens. Their rights to life, land, property, health and education are being denied, setting their very future in jeopardy.

### *Recommendations:*

The Venezuelan Government incorporated ILO Convention 107 into national law in 1983 but through administrative oversight has never informed the International Labour Office of this act. It is recommended that, in view of the very serious situation confronting indigenous peoples in Venezuela, the Secretary-General of the ILO should approach the Venezuelan Government and suggest sending a special mission to the country to verify the situation and provide advice to the Government on how its laws and policies should be revised in line with international standards.

The Venezuelan Government must act quickly to reverse its present destructive path towards ethnocide. As a first step in evolving a new policy towards the indigenous peoples of the country, the Government should freeze the handout of logging and mining concessions in areas occupied or claimed by indigenous communities. Other projects, such as road-building, colonisation, frontier garrisons and hydropower, should also be put on hold until indigenous land rights are first legally recognised.

The Government should also establish a politically independent commission, including representatives of national and regional indigenous organisations, other NGOs, lawyers and academics, to review the country's national laws and policies regarding indigenous peoples with a mandate to propose revisions to laws, policies and government agencies.

The independent commission should consider the following suggestions:

- that the Government ratify ILO Convention 169 which updates ILO Convention 107.
- that new national laws be established to facilitate the effective recognition and protection of indigenous territories.
- that the Government set up an independent body to provide indigenous peoples with legal advice and assistance.
- that the Fiscalia Indigena be strengthened to provide enough lawyers to investigate violations of indigenous rights.
- that a new government agency with overall responsibility for Indian affairs be established with the powers to secure and protect indigenous land rights and to deal with other crucial issues, such as education and health.
- that an indigenous lands commission be set up with the mandate of clearly identifying lands claimed by indigenous communities.
- that an emergency programme of health care should be developed and applied in indigenous areas, supported by international donations if appropriate.

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