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# OUR LAND, YOUR LAWS: Protecting the Rights of Sri Lanka's Adivasis



**CPA** CENTRE FOR POLICY ALTERNATIVES  
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**06**

**Issues facing  
the Eastern indigenous  
community**

- Ahinsaka Perera

**28**

**We need legislation to  
validate our rights**

- Uruwarige Wannila Atto



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CENTRE FOR POLICY ALTERNATIVES  
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மீதல் கொள்கைகளுக்கான நிலையம்

The Centre for Policy Alternatives (CPA) is an independent, non-partisan organisation that focuses primarily on issues of governance and conflict resolution. Formed in 1996 in the firm belief that the vital contribution of civil society to the public policy debate is in need of strengthening, CPA is committed to programmes of research and advocacy through which public policy is critiqued, alternatives identified and disseminated.

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# Index

<b>Editor's note</b>	<b>4</b>
<b>1. Issues facing the Eastern indigenous community</b> - Ahinsaka Perera	<b>6</b>
<b>2. Myths and reality about the Veddas</b> - Nishanka Wijemanna	<b>15</b>
<b>3. Those of the forest: What should we do for the Vedda?</b> - Dhanuka Kahandagamage	<b>21</b>
<b>4. We need legislation to validate our rights</b> - Uruwarige Wannila Atto, Chief of Adivasi Community	<b>28</b>
<b>5. LOSING COUNT: Assimilation without census</b> - Nallathambi Velayudham, indigenous community leader from Batticaloa and Trincomalee	<b>32</b>
<b>6. Chased from our homelands, with even more problems</b> -Sudavannia, Adivasi leader of Rathugala	<b>35</b>
<b>7. Soon Adivasis will only be seen in photographs...</b> Henanigala Adivasi Leader	<b>37</b>
<b>8. Official discrimination that disillusion us</b> - Vimalavathi of Danigala Mahabandala	<b>39</b>
<b>9. Marginalised, outcast- don't we have rights?</b> - Seela - the wife of an Eastern Adivasi leader	<b>41</b>
<b>10. A generation who prefer to live in the jungle</b> - Adivasi leader of Galwalayaya	<b>43</b>
<b>11. This Indigenous chief mixes concrete for a living</b> - Thalawarige Priyantha Atto- Dalukana	<b>45</b>
<b>12. Trapped in a place like a prison</b> - Gunaratne: the Iron man from Dambana	<b>47</b>
<b>13. Our land under your law</b> - Lalinda Wickremeratne	<b>49</b>





## Editor's note

At a time when Sri Lankan citizens are planning to celebrate 75 years of ownership of an independent state, it is also an opportune moment to reflect on where we have progressed concerning the rights of indigenous communities. It has been 15 years since the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the General Assembly on Thursday, 13 September 2007. However, Sri Lanka has not been able to adopt a domestic legal or policy framework, in line with the declaration, even after 15 years consisting of formal and positive provisions to ensure the survival, dignity and well-being of indigenous peoples in the country. The pressing need and collective responsibility of establishing a legal framework for the indigenous peoples now rests with citizen representatives, policymakers, leaders and decision-makers of political parties.

It is questionable whether the indigenous communities of Sri Lanka have a conducive socio-economic and political environment that guarantees their basic rights even at this juncture when we are celebrating 75 years of independence. Meanwhile, in the absence of legal or policy recognition that is sensitive to their unique civil, political, socio-economic and cultural dynamics and traditions the discrimination, suppression and neglect of the indigenous communities have intensified in recent times. This is a tragic dilemma that we find ourselves in as a country, since

we were one of the countries to adopt the democratic governance systems long before many other states in Asia.

At present, we do not even have formal and updated data and information about the socio-economic conditions of the various Adivasi groups living in the country today. The main reason for this situation is the removal of the classification 'Vedi' in the ethnic groups list in the population censuses conducted after 1963. This was a great injustice meted out to the Adivasi people. Given the context of such a background, these communities are faced with insurmountable challenges that rob their dignity and self-esteem when identifying themselves as the Adivasi people of this land, including their efforts to express their culture, traditions, use their own language, engage in a vocation of choice and the exercise of the freedom of movement.

Many administrative or executive decisions as well as the actions of law enforcement authorities repeatedly highlight how insensitive we are as a society towards the protection and freedom of indigenous communities in this country. The repeated ignorance and violations over several decades are nothing but a grave repetition of the mistakes that are further ingrained into society and instilled as a norm.

Therefore, in my opinion, at this moment, when we are preparing to celebrate 75 years of independence is the most appropriate and historic opportunity that is presented to us to rectify the mistakes of the larger populace of this country. The responsibility to ensure recognition and accept the indigenous community as the guardians of natural resources including land, water, wildlife and their habitats, as well as to take key steps to further strengthen these provisions within the broader definition of the right to life, is now before us.

We strongly believe that this opportunity will be utilised to positively reflect the political will and commitment by the State to comply with the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly and to also take necessary measures to ratify the 1989 International Labour Organisation Convention on Indigenous and Tribal Communities, No 169.

**Lionel Guruge**

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**Centre for Policy Alternatives**

**January 2023**

# Issues facing the Eastern indigenous community

Ahinsaka Perera

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The indigenous communities of Sri Lanka can be identified as a self-sufficient community with a lifestyle reliant on a simple economic model of limited production through a relationship of labour and natural resources, as seen in the early ages of human civilisation. This community who lived deep in the forests, hunting, collecting wild honey, and engaged in *chena* cultivation and fishing, have virtually lost their entire traditional livelihood and way of life due to the development policies adopted by the governments of Sri Lanka, that have robbed the indigenous groups of their access and harmonious integrated life in the forests.

The relocation of this community away from their inhabited homelands and banning access to their forests where they lived harmoniously with nature celebrating their culture, traditions, rituals and practices, have thrown indigenous people to unknown terrain. They are faced with serious challenges, unable to go back to their self-sufficient lifestyle maintained over the generations or following their age-old customs and traditions. They had to abandon their medicinal

knowledge and treatments implemented through a combination of plant and animal substances, ritualistic treatments and sorcery passed down the generations orally. The unique art, culture and musical techniques brought down the generations through memory are now fading away, even as they are slowly being stripped of their belief systems and worship. These communities are now faced with the challenge of not being able to continue the self-sufficient lifestyle integrated with the forests and maintain their unique identities. The community that did not face food and medicine shortages and scarcity in history, find themselves in a predicament where they do not even have a clear process to find food since they have been banished from their heritage forests, without providing a sustainable livelihood. In some areas, the indigenous groups have been given arable and paddy lands, but at present, they are not in a position to cultivate these lands since the lands have been reallocated or encroached and acquired by different communities. Since the children of the original inhabitant indigenous communities are prohibited from entering



the forests and without land for cultivation or settlement, they have been unable to assimilate with the lifestyle of the indigenous community or the ordinary people and remain lost between the two worlds. This dilemma could be witnessed as a common feature everywhere the eastern ingenious communities live.

Therefore, it is possible to identify a number of common challenges faced by the indigenous people in the east, as well as unique challenges faced by the communities in their own localities.

## Muttur - Nallur

- The indigenous community who inherited a forest-integrated way of life have lost their entire traditional life with the declaration of the forest as a forbidden area.
- Even though they were provided arable and paddy land, they again lost these lands after the war. Access to some lands has been barred and they have not been permitted to cultivate, while it is alleged that some of the other lands have been forcibly acquired by others.
- Though people who acquired and occupied the lands of the indigenous community evacuated the lands, they are still working towards securing these lands.
- They have been deprived of earning an income through agriculture since obtaining water for irrigation from the Ullaikkulam lake has been blocked off by demarcation. There has been no solution provided for drinking water, despite showing evidence that the well from which drinking water was obtained has been closed. Therefore, obtaining water from the lake which is identified as an inherited lake, for irrigation and drinking water from this lake, is still an unresolved issue.
- There is still no solution to the problem that has been referred to regarding the loss of lands of the indigenous community that has been demarcated with new boundaries instead of using existing boundaries. The issue of the boundary line between the recently created village of Iqbal Nagar and the village of Nallur, which existed for a while, is also an issue that needs to be resolved immediately.
- Allegations have been made that even though the indigenous community have generational inheritance and ownership to these lands, they are not given the land, while those who come from outside the villages are given two acres of land each.
- There has been a serious allegation that the government officials, including the District Secretary in charge of this area who are Muslims, are not working towards resolving the issues of the indigenous community.
- There is no agreement on the payments made to the indigenous community on labour work in this area and they are being exploited in a systematic manner.
- The allegation made that the indigenous community have been deprived of the opportunity to engage in the fishing industry since that occupation has been

taken over by others.

- There has been no solution to the problems faced by the Indigenous communities despite the appeals forwarded to several Presidents of the country, many politicians and officials.
- The temple where religious observances were performed has been demolished and a new temple has not been built.

## Vakarai

- The indigenous community, who were forbidden to live in the jungles of Mankeni, were settled in Kunjamkulam with an allotment of one acre each. The community that decided to resettle because of the fishing opportunity with the Kunjamkulam lake and the existence of the forest area, have been banned from entering the forest and have now a scant opportunity for fishing because the lake has dried up.
- The government does not have an accurate estimate of the indigenous people since the families of the 24 indigenous communities in the Batticaloa District have not been fully covered in the government census.
- Therefore, even the indigenous leader is unable to accurately state the number of indigenous families living in the district.
- Houses built for the families who were given land and settled in Kunjamkulam are not adequate and therefore two to three families live in one house.
- Divisional secretaries had informed them that land would be given to families without lands or houses. However, the decision of the divisional secretary had become null and void since the wildlife department has not given permission to allocate lands citing their legal provisions.
- A new generation of families without houses and lands have not been provided with the Samurdhi.
- The roads leading from this village to the nearest town are in a dilapidated condition, making it difficult for these people to get transportation and related services.
- In terms of education, there is difficulty for children to go to school and tragic incidents have been reported regarding their health and safety with villagers claiming that there have been situations when mothers have given birth on the roads while they were taken to hospital and cases where both the mother and the newborn babies have died as a result of poor health conditions.
- According to the request of the *Wariga Sabha* to build the roads, the officials from Batticaloa conducted a field trip, but no steps have been taken to build the roads.
- There is an acute shortage of teachers from the first year to the fifth year in Maduramkulam school in the area. The school is operated by allocating several lessons commonly to all classes by the principal. Despite the fact that the Provincial Education Director has been informed repeatedly in this regard, no solution has been found so far.



- Kunjamkulam lake is silted up due to siltation. If the lake is dug and repaired, it will be possible to use it for their fishing livelihood, irrigation and also as a drinking water source. However, no action has been taken up to date.
- The communities who could not get a proper harvest from their cultivation without fertilisers and pesticides barely survive by eating boiled wild yams dug from the forest areas. This is a common feature found in many indigenous villages today.
- It has been reported that even the lands cultivated by these people have been acquired stating that they belong to the wildlife department.
- An elephant fence had been erected in Kunjamkulam village, but it has not been functional and as a result, wild elephants enter the village in the evening after 6.00 pm. There have been numerous requests to rectify the fence which have fallen on deaf ears.

## Mahaoya - Pollebedda

- The migration of the indigenous community took place after Dr. Spittel settled ten families belonging to the indigenous lineage of Danigala Warige in this area due to the spread of a contagious disease. It is reported that they were originally given the opportunity to live according to their lifestyle integrated with the forests. However, with banning entrance to the forests citing forest encroachment, their

traditional forest-integrated life has been lost, their way of life shattered, and today these people have been reduced to a community that cannot even find their own food.

- The original indigenous settlers have cultivated paddy fields themselves and although the Mahaweli Authority has announced that they will provide lands to their children's families, they have not been given lands yet. There are over 70 landless indigenous families that live in this area. The Mahaweli Authority has given the lands that the indigenous people claim as their own inherited lands, to people from other provinces for cultivation. The Mahaweli Authority has announced that the government will provide compensation to the indigenous people who claim that their lands were destroyed, but no compensation has been paid so far.
- After discussing with the Divisional Secretary and the District Secretary about the above situation that this community is facing today, the construction of a cultural centre has commenced but the work has not been completed.
- The issues of the community have been discussed by the Divisional Secretariat, but no necessary steps have been taken so far.
- Indigenous people are continuously ignored when they approach government institutions for various services required. They claim that they receive responses such as "come later" "come back another day" "the person in charge is not there

today" etc. They also claim that there have been instances when their Samurdhi benefit has been removed if they fail to attend even one meeting.

- It has also been alleged that the Pollabedda indigenous leader Gunawardena distributes the subsidies and relief material received from the government for the community only among his children and relatives.

even the minimum standard of housing required for survival.

- Since the leader of the Pollebedde indigenous community, Gunawardena, allegedly distributes the government subsidy and the permits to collect wild honey amongst his immediate family, the rest of the community has lost livelihood opportunities and the subsidies received from the government.

## Mahaoya - Galvalaya

- The indigenous migration to this area was due to the settlement of seven families belonging to the Talawariga who were brought from Bingoda by Dr. Spittle due to an outbreak of a disease. It is reported that they were originally given the opportunity to live a simple and contented life integrated with the forests. However, with entrance to the forests being prohibited they have been rendered helpless.
- The land that belonged to the indigenous people has been given by the Mahaweli Authority to the residents of the outlying areas, and a significant number of these indigenous families have lost their paddy land since they did not have deeds.
- Although the area has received electricity connections, the tribal families have not received electricity.
- Due to the dilapidated road facilities and the lack of public transport facilities, it has been extremely difficult for children to go to school.
- A significant number of families lack

## Henanigala

- The migration to this area has taken place with the construction of the Mahaweli Reservoir, with the indigenous community who lived in the jungle beyond Kotabakiniya, away from Dambana, being resettled in this area stating that the reservoirs would submerge their inhabited lands. When the indigenous community were brought to this area, families belonging to all five tribes were included in it and the people have only expressed their desire to resettle based on the promise that the forest area would be allocated to them to maintain their forest-integrated lifestyle and that they would be given arable land for cultivation. These indigenous people who lived a contented life in the forest, are now as in the case of others being rendered helpless with access to forests prohibited, disrupting their traditions and sustainable lifestyle. Their traditional lifestyle, practices and belief systems have collapsed in the face of these restrictions
- Among the 650 families living here, there are two types of families, namely, those

who are considered unauthorised settlers and subfamilies. These families are deprived of paddy land to cultivate and deprived of home ownership which is a serious problem. Only 5% of the families have received land.

- Deprived of access to the forest and arable land, these people can travel through the forest to the Maduru Oya Reservoir for fishing. But since the forest is a prohibited area, there is an obstacle because if they travel through the forest, they will be subjected to heavy fines by the court.
- The youth had an opportunity previously to find manual labour work in Colombo and other areas, but due to the current situation in the country, they have lost that opportunity.
- A family has four or five children and parents cannot afford to send their children to school due to their limited income. But if the children are not sent to school, the parents are liable before the government which is another serious problem faced by these people.
- The roads are dilapidated and the people face similar difficulties encountered in other areas such as obtaining proper health and educational services. The children's education has been affected similarly in other areas.
- There is no agreement regarding the wages paid to these people in this area for manual labour work. Indigenous people are paid less than others.
- Even the poorest families have not received the Samurdhi subsidy. It has

been reported that the names of those selected for the Samurdhi subsidy are being cut off and the benefits are allocated to friends of officials.

- The indigenous community are ignored by government officials when they try to get redress to their grievances.
- Illiterate women who have no source of income are forced to go to court because microfinance companies have given loans without any feasible project. Pollebedda, Galvalaya and Dalukana tribal women are also facing this problem and most of the victims of this crisis are the tribal women of the Henanigala area.

## Dahlukana

- In the Dimbulagala forest area, this indigenous community, who inherited a simple self-sufficient lifestyle, said that they only obtained salt from outside sources. But today, the forest is out of bounds, and people have been plucked out of the forest without even providing a plot of land to cultivate or to live on. Therefore, these people are now forced to enter into manual labour work for their sustenance to find some income. Their self-reliant simple economy has been converted to an unstable dependent mechanism.
- Although the *Wariga Sabha* had informed the young indigenous leader not to go for labour work, the leader had to lay aside the traditions and lifestyle to pursue labour work to support his family.
- Although the indigenous community in

this area, which is about 200 were not given paddy and arable lands, those from the outlying areas were given paddy and arable lands from this area.

- These people's houses also do not have water and electricity and the issue of household toilet facilities is also an unresolved issue for a significant number of people.

## The tragedy of the Indigenous youth

- The youth that have not been educated sufficiently are faced with significant greater challenges among the indigenous youth, consisting of a minority who have been educated through schooling while a majority have not received adequate education. They have become outcasts in society since they have been prohibited from entering the forests to engage in the livelihood of their choice coming down the generations or the opportunity for an alternative livelihood by providing them with arable land. They are now unemployed and outside of the labour force not by choice but by a series of external factors that have robbed them of their identity and skills passed down the generations. The only alternative for them is labour work, which is irregular and not sustainable.
  - The loss of the livelihood of the older generation has resulted in the rapid deterioration of the culture, tradition, customs, practices and the entire ecosystem of sustenance known to the indigenous community. Therefore,
- even when the youth talk about their culture and their inherited traditions, they do not have a physical connection or a practising reality which makes them wonder – *who am I?* as they are sadly pushed towards becoming a part of a community without an identity of their own or worse a community with a robbed identity. One needs a belief system to sustain life and the indigenous community had their own religious beliefs and rituals such as sorcery, witchcraft, submission to various deities of their belief, ancestral worship etc. integrated into their livelihoods and daily life. However, when there is no possibility to physically engage in a lifestyle that is necessary to practise their rituals and beliefs, how can they make such a system their own? This is a struggle they are going through, unable to be congruent with themselves based on their beliefs. These communities are faced with an identity crisis, and while they are not allowed to enter the forests anymore, still say "*we prefer the life in the forests*", exposing this profound dilemma.
- There is a growing fear within this community that the restrictions placed on the youth robbing them of the opportunity to embrace the unique identity of the indigenous community may signal the end of the indigenous identity maintained for centuries.



## Indigenous Identity and State Governance

- The *Wariga Sabha*, held annually with the regional tribal leaders of all the areas where the indigenous community live along with their leader, Uruwarige Wannila Aththo considers all the problems faced by their people and a memorandum is prepared and presented to the Minister of Cultural Affairs who participates in the *Wariga Sabha* (council) on behalf of the government. Although, traditionally an assurance is given to look into the grievances of the indigenous community it never becomes a reality since the government does not take a policy decision regarding this matter. This has resulted in the indigenous community harbouring the growing reality that they are not recognised as people of this country and that they have been neglected.

Indigenous people can be given representation to the public committees of the decision-making local government body which is the *Pradeshiya Sabah* and the divisional administrative unit, the divisional secretariat. However, no decision has been taken so far.

## Recognition of Indigenous Community (Adivasi) as an autonomous community

As reiterated by every regional leader starting from the chief tribal leader Uruwarige Wannila Aththo, their basic request is to be given the opportunity to return to their usual way of life to live freely as an autonomous people. If not, to provide a specific way of life for themselves.

Here are some of the main areas that were highlighted for the attention of the authorities in this regard:

- Developing a firm policy position that encompasses the Adivasi communities in this country, taking into consideration the policies adopted in countries like Australia and India regarding the Adivasi community.
- The formulation of a sustainable way of life for the indigenous people should be a way of life that preserves the values and traditions that these people have maintained so far.
- Providing the necessary infrastructure to maintain the traditions followed by the indigenous communities for collection, and gathering of food, preservation of food, *chena* cultivation, including traditional medicine and treatment methods, systems and governance. To understand that the animal population in the forest can be sustainably maintained and the forest can be protected in accordance with the traditions that have been followed by the indigenous community even if animals are hunted for food.
- Providing facilities to develop the literacy of indigenous children that is restricted to a limited language framework.
- To provide the necessary facilities to develop and grow as an independent autonomous citizen community with self-esteem instead of a group with a dependent mentality that is built on donations through a lifestyle that serves as some exhibition products to the curious.

- To approve and enforce a permanent legal provision through an act in parliament that any regime that comes to power will be subject to act upon.
- The law to be approved by the Parliament providing an opportunity for the indigenous community to be represented in the public committees operating in the *Pradeshiya Shabhas* and Divisional secretariats.

# Myths and reality about the Veddas

**Nishanka Wijemanna**

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The word Adivasi that we use is of foreign origin. We cannot imagine that there are people called Adivasi in Sri Lanka at this time in history. According to Nandadeva Wijesekara or Spittel when considering the Veddah tribe in Sri Lanka, it is a tribe that is spread all over Sri Lanka. When they are categorised, they are mainly divided into two groups called the river-based Vedda and meat-eating Vedda or forest Vedda. However, the main point is that these people walked into civilisation. They are no longer collectors of food or hunters. As far as I understand, it was the same in the past.

We still believe, some unconfirmed facts, that there were civilisational and structural features here before the arrival of the Aryans. There is a belief that the people we now call Vedda may have been among those groups. For example, iron extraction, crop cultivation and trade. If we look carefully, we can see that Sri Lankan Vedda has planted cotton. He has sold honey. Trade deals and transactions have been carried out by them. So how do we position him as a Vedda?

## **Fiction and reality**

They had entered civilisation. After the arrival of slightly advanced Aryans, he again retreated into his own territory. This is the theory that I am developing. Often there are not enough facts to reveal some of its areas. But it can be found. Also, there is a great similarity between the Vedda and the Sri Lankan 'Yaksha' tribe. Even 'Wanniyala-aetto' believe that there was a connection between the Sri Lankan 'Yaksha' tribe and the Veddas. What I am attempting to say is that the 'picture' shown to us by local and foreign experts is wrong. There is a barbaric person in that picture. The foreigners only wanted a showpiece. For example, in the book 'Vedda', Seligman in a bid to display a Vedda as a showpiece gets a Vedda, who is dressed like an ordinary Sinhalese to adorn himself with leaves and develops the model called a Vedda around 1910. This keeps happening over the ages. A model called Vedda is developed for foreigners or locals to see. He is shown to be an uncivilised barbarian. Some of the Sri Lankan Veddas also need this. I call it an unfortunate feature.

Any human species gradually approaches the main civilisation in a particular country and gets attracted to and merges with the core characteristics. For example, Aboriginal people in Australia come with their restrictions, traditions and customs. Similarly, the Sri Lankan Vedda enters the larger civilisation. Not only that but what we can see is that there was no big difference between the Sinhalese and the Vedda in Ceylon beyond the person in the urban area even in the 1800s and 1900s. The Sinhalese in the dominant Vedda area in Uva and the Vedda are not two people. Both are engaged in *chena* cultivation. The Sinhalese cultivate paddy fields, the Vedda does not like to get involved in paddy fields and takes a step back. Both are engaged in land farming. Both kill animals. One is not too loyal to a religion. The other is loyal to a religion. According to this situation, what happens little by little, is that when the Vedda crosses over to this side, he stops killing animals because of the relationship with religion.

## Retreat from civilisation

To give a simple example, there were two or three schools in the Thimbirana area beyond Dambana and beyond Gurukumbura in the nineteen forties. They are closed now. All those who went were the Vedda community. They celebrated the Sinhala New Year and went to temples. Where are these people now? These people have slowly departed from civilisation and returned to a tribal lifestyle. This is the representation of the role model portrayed for the Vedda and not the authentic version. These people develop the model - a Vedda should be bare-bodied, have an axe, etc. A showpiece of a Vedda is established. What is the need? The desire is tragic, isn't it? Their land has been taken over by the Sri Lankan

state. Large areas of land that would have been used for hunting or farming were banned and turned into sanctuaries or they have been converted into protected forests. They don't really have any source of income. Meanwhile, they see the dominant society. It is impossible for them, even if they have the desire to open up to it and approach mainstream society. But the young desire to enter into it. The adult takes a step back, but they like it too. I have seen a lot of Vedda comrades in Kotabakini holding a handphone to their ear and an axe on the other shoulder.

At this moment, the problem of the Sri Lankan common people is felt by them too. It is about to explode. This happened to us with the pandemic. We thought they wouldn't feel it. Because they should be in a somewhat self-sufficient economy with a simple lifestyle and living conditions. But it is not like that, they have accumulated material goods like us. They were watching TV and wanted to go to school. They needed to buy clothes, slippers and medicine and wanted to go to the road. Travel by bus. This tragedy is now heard everywhere. It is heard from Kotabakini, Dimbulagala, Polla Badda and Rathugala. This is not something that can be avoided. My suggestion is that they need to find a production economy to enter the modern world while retaining their value system. They need to create an economic pattern of products that suit them. This is not there now. They cannot achieve success by making necklaces out of small seeds or performing traditional dance rituals when guests visit. But they have the aspirations to reach higher. When you go to Kotabakiniya, you will see houses with towers of the Doric order on the side of the road.

They are trying to build a modern house



with concrete pillars like ours. I am not saying there is anything wrong with it, it should be done. They have good values, medicines, restrictions, and traditions followed in food gathering or chena cultivation. They are everlasting values. I don't want to touch them. They can enter modernity retaining these values.

## Neglected sources

I go to the Dambana school because I am a teacher. We can see that most of the children's birth certificates indicate Sinhala as their ethnicity. There is no Vedda ethnicity. The ethnicity is Sinhalese. Most of the children are given contemporary names such as Samanthika and Ruwan. A long description of naming can be found in Nandadeva Wijesekaran's book. The name is taken through the generations while a little behind the parallel modern Sinhala names. When we say Wijeratne, they also will call Wijeratne after a while. They don't use old names like Kaira. The use of those names also shows that the previous generation did it by studying and exploring. I know that it will not be okay to call 'Sudu Kuma'. But the most serious problem for them is surnames. There is a slight hesitation when you call for Uru Warige Shiroma. However, not only Uru Warige, many surnames in Sri Lanka have originated from the Veddas. According to Gananath's Obeysekera's records, *Kimbul Lobbe Herath*, *Dissanayakalage Saman*, *Vanasinhalage Dahanayake*, are all old Vedda surnames. When they join the Sinhalese with surnames, it becomes a Sinhala surname. When we say *Konara*, we know that *Konara* means the forest. There are many *Konaras* and *Heraths* in the Uva province of Badulla.

A nobleman of Matale named Herath

from the Vedda tribe kept guard in Matale to stop the enemies. Our history conceals these matters. We do not consider Vedda's aristocracy and his rural setting. Mohottala in Kivule is not a man who lived in a cave. He was a wealthy man from the Vedda tribe who had an army of five to six hundred men and built a house like a 'Walawwa' in Kivula gedera. There were three hundred people for Rala. He built an anicut and was engaged in agriculture. They helped us a lot in the 18 rebellion. In the battle of Wellassa, there were more from the Vedda tribe than the Sinhalese. They go to Mahaoya and invite Thalabandara to come to the battle. They are in favour and come to the battle with an army. Once they were defeated they retreat and hide. That's a different thing. But at that moment they united together. What is in it is not the work of forest dwellers but the work of a civilised man. Therefore, we need to take back the concept of Vedda and create an opportunity for them to live a good life and provide a method to develop his personality to lead a meaningful life rather than expecting him to be a wild barbaric character. We need to provide them with education and health so that they can be proud of themselves without being a showpiece. Sometimes I go to Mahiyangana Hospital to see how many people come for a test. We think that the Vedda community is healthy and live with their indigenous medicines. But nothing like that takes place. They are not healthy. The use of local medicine is also very poor. Like us, they are a group who come to Dambane Hospital for coughs and colds, and come to the clinic to get medicine for many non-epidemic diseases. Therefore, both groups need to wake up and think again about these matters. At the same time, we can see that

rural Vedda is treated less than rural Sinhalese. He is underweight. Even in a school, we see that the government is doing very little to provide infrastructure. A lot of things are done by well-wishers. Therefore, a separate discourse should be held and we need to increase the research on them.

## Identity crisis

The Sri Lankan state during the time of D.S.Senanayake, uprooted the Vedda community from their traditional homelands as these were to be submerged in the Senanayake Samudraya, and resettled them elsewhere. Also, in the 1980s, after being released from Kotabakiniya, they were settled in Henanigala and paddy fields were given to them. As I said at the beginning, the Sri Lankan Vedda tribe are not knowledgeable about the paddy cultivation process in the aquatic civilisation. But he is an expert in growing crops on dry land. They know the monsoon time, they know what to sow and they have similar characteristics to us. Both groups don't want to dispense a lot of labour. As Harari says, we are making a big mistake when we enter the agricultural civilisation. They make a man who wants to be in the field 24 hours a day and destroy his labour and time. That is what happens in agricultural civilisation. He is deprived of distributed labour - or rest. Vedda has no such desire of losing his rest and tending the fields at night. This is the phenomenon they are facing in Henanigala. Therefore, they leave the fields.

If we turn back and reflect on the world in a critical manner, we can see that the Red Indians had a big problem when they landed in America. The Seattles stand up when the ancient knowledge system, the core system is attacked by those invading the borders. There

are quotes in our books that say 'rivers are our daughters', 'the sky is our friend'. There is a conflict between the tribe and the white man who believes that he is the most modern and superior civilised person. There was no such conflict in the Sri Lankan context. The Sri Lankan Vedda did not retaliate or take up arms when Vijaya came to Ceylon or with the arrival of the Dutch or the arrival of the Portuguese or the arrival of whites. In general, the Aryan and Vedda tribes had a close relationship. The transactions between the two were friendly; no history book in Sri Lanka records the Veddas engaging in a civil struggle. Now, what has happened to the man who has journeyed along this civilisation in this manner and now takes on the mantle of the modern Vedda or Vedda tribe?

Their problem is that they don't see a way forward for his production process and economy. Also, they have not created a conducive environment for this purpose or caused him to suffer because of the thing that has influenced him. And as long as he remains a showpiece Vedda, he will be more susceptible and affected more than us by anything such as a sudden outbreak, an epidemic, etc.

If young people are eager to go to the forest, it is approaching suicide. You can never go back into history. You cannot go inside the forest. Even if they go they will come back. We are too cultured to leave. The same is true of Vedda. He has seen the world in one way or another, and after seeing the world, he does not go back. Let me tell you a simpler situation. Does the child of the modern Sinhala farmer go down to the muddy field? I know as a teacher and as I walk through the colonies I am made aware. The child of the modern farmer prefers to go to Colombo and

mix concrete rather than till the fields. They prefer to own a touch phone, to sell it back.

## The challenge of education

Why can't we make the Vedda educated? Professor Ratnapala or Seligman has said certain things. His vocabulary is very limited. That is the thinking space. It is not possible to expand this space, according to the limited vocabulary. But now his vocabulary is broader. They don't know the ancient vocabulary or the Vedda language. That is why Dambane Gunawardena has to go to Pollebedda and start a language class for the Vedda community. But that was not successful. They will not like it. After a while, Gunawardena comes back to say that it is not working. Why does Gunawardena get involved in this matter? In order for the Vedda culture to exist, the language must exist within his culture. But now the language spoken by Vedda is not Vedda language. There are a few synonyms. Let's say, there is a word in the Vedda language to name the monkey. But they are calling the monkey '*Uda Keligna*'. The other type of monkey is called '*Kandan Thalanna*'. We call a betel nut cutter a giraya, they call it '*Puvak Kapana Yamakaya*'. The specific word associated with the object has been lost. They have lost the word Pavichachchi used for a used product. That's where they get lost. Sinhalese Vedda is re-positioned. His language is not. Either the Vedda should read Seligman's or Nandadeva Wijesekara's books and find the old words, if he goes back to his civilisation. This is a blatant lie and showmanship, fooled by the fact that money will come, they are really deceived.

## Thalabandara and Gunawardena

In 1958, a baby named Thalagama Bandara was born in Pollabedde. That is why he was called Thala Bandara. He passes his scholarship examination. He goes to Bibile Central College. Later, he becomes a teacher and then the principal of the Pollebedde School. Meanwhile, Tennakone Mudiansela's Gunawardena or Dambane Gunawardena is under the half-Vedda and half-Sinhala nomenclature, but he is positioned for modern times from a place where he accepts himself as a Vedda. Comparing these two, Thala Bandara had the desire to bring the baby generation to the modern Sinhalese society. Dambane Gunawardena had a broader concept than that, for the Vedda community to position themselves to preserve their unique identity and personality along with the values of the Vedda people and their cultural life. The Thalagama Bandara's process resulted in the birth of a larger number of students they learned and became Sinhalese. Today they do not call themselves Veddas. If you ask who they are, they will say they are Sinhalese. If you want, you can go to Pollebedda and look at what is happening. As far as I know, there are not even fifty people in modern Kotabakiniya who are bare-bodied, carry an axe on their shoulders, and speak the Vedda language. They speak the language they have adopted and do not test or experiment, and they have no idea about the old language. The Vedda students of the modern Dambane school do not even know the Vedda language. When they are talking, they really have a wish (I'm not imagining this, I go to that school as a teacher consultant) they want to pass the General Certificate of Examination - GCE

O/L, pass the GCE A/L, go to campus, find a job and like us, they want a white-collar job. They have the wish to earn money by dispensing limited physical labour. There are no structural features that can reach it. Not only that, they bring us closer to a dependent mentality again and again. Gifts and support are given to Dambane School. And then the Vedda student can see that so many gifts are being given. How does he stand up? How does it make him independent? He is despondent again. The same feature is visible again. I once told the Principal of the Dambane school to rethink this a little more.

However, this is what I suggest, I like to cut the hair of the Vedda student and make him a Sri Lankan where his identity is unrecognisable. It would be good if a child can be educated as a person who cannot think whether he is Sinhala, Vedda, Muslim or Tamil and can participate in the productive economy of the country. Think about it.



# Those of the forest: What should we do for the Vedda?

Dhanuka Rananjaka Kahandagamage

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## Introduction

Civilisation is the dividing line from barbarism to civilisation in a series of cultural words such as civilised, uncivilised, etc. Thanks to the hegemonic mentality inherent in the modern political context, "Vedda" is still a backward, underdeveloped, dressed in leaves, long-haired metaphor. But the most important thing for society to remember is that Veddas inherit a culture. Within the range of "Vedda" he or she should also be recognised as a cultural quintet.

There are over 75 million indigenous peoples worldwide, of whom seventy percent live in the Asian region. It is about 5% of the total population. In addition to the Vedda community living in Sri Lanka, the Aborigines of Australia, the Pygmies living in Central Africa near the Congo, the Bushmen of the Kalahari Desert, the Sami community of Europe, the Cochins of the Malabar coast of India, the Boro of the Amazon forest, and the Eskimos of the North Arctic region are significant among them.

Meanwhile, in order to identify the dominant narrative about the origin of the Sri Lankan Adivasis or the Vedda community,

the literature associated with anthropological archaeology relevant to this country and the historical knowledge of the leaders belonging to the Vedda community is important.

According to the Mahavamsa, the Vedda people are descended from the children of Kuveni. But according to some Vedda leaders who reject the Mahavamsa which dominated Sinhalese supremacy, their origin dates back to before Kuveni. According to the book "Ancient Ceylon" written by Henry Parker, some Veddas are of the opinion that the Veddas owned the island even before the arrival of the Sinhalese. A popular argument of origin is also the belief that the Vedda community is descended from the Yaksha tribe.

However society generally does not care much about the origin of the Adivasis and, after exploiting the value of the Vedda as a cultural symbol, they have forgotten that their rights and interests as a human community should be upheld.

In a country like Sri Lanka, where there is a multi-ethnic society, it is extremely important to recognise the "Vedda" as a

community that has a unique identity and is more than a mere cultural exhibit.

## Identity of the Vedda

The great rock that holds the cultural integrity of any community is the identity of that community. A group of people whose ethnicity is reflected in a distinct language is called a sociological ethnic group. (socio-linguistic-ethnic group) However, applying this to the Vedda community is questionable because the Vedda community is also familiar with speaking Sinhala. Therefore, it is extremely difficult to consider language as an element of demonstrative value in the subject of their culture and not as an element capable of describing the nature of the people.

Apart from language, another indicator of identity is clothing. The general society has recognised the traditional dress of the indigenous communities as a metaphor for a leaf-draped person, bow and arrow and axe hanging over the shoulder. It is no secret that the majority of the Adivasi community has transformed their clothing culture to suit Sinhalese society. It can be accepted that the majority of the Vedda community migrated towards Sinhala identity through separation from their traditions.

However, there are still many cultural differences that can be distinguished between the general society and the Vedda community. For example, hunting to meet food needs without going to the supermarket and paying money to buy meat like most of society can still be seen in the Adivasi community. Although it is abhorred by civilised society, it cannot be ruled out that it is the identity of the Vedda community.

The problem also arises as to whether the

Vedda people can be given the identity of an 'ethnic group'. However, it is indisputable that the Adivasis practised a number of separate cultural practices, a system of ethics and a set of social, economic, and political practices in their forest habitat.

The religious practices of the Vedda community are also a stimulus to identify them as a separate ethnic group as is their absence from the Sinhalese caste hierarchy.

In "Vedda Village of Anurapura " by James Brow (1978), the focus was on this identity problem, stating that the identity of the Vedda people cannot be determined absolutely. According to Wijesekara in the book "The Grammar of the Sinhalese Language ", some of the Vedda people have the ability to read and write the Sinhalese language. It is reasonable to think that the Vedda community migrated to the Sinhala language because the Vedda language did not develop enough to integrate with the modern world. According to that, the identity of the Vedda people should be read in their cultural identities and lifestyles that are currently preserved.

## Vedda problems

Among the thousand and one difficulties faced by the Vedda community, one problem they have yet to consider is political representation. Whether there has been a sufficient appeal for that in history is a problem.

Neville Bonner, Aden Ridgeway, Kenneth Wyatt, Nova Peris and others belonging to indigenous communities have represented the Legislature and thus the minimal interest of the indigenous people in this country to engage with the political process is regrettable. Therefore, to expand the participation of the

Adivasis in the subject of politics, a program should come from them and the government should also provide support.

Losing their ancestral lands is one of the most tragic hardships a community can face. It is a sad situation that not only the Vedda people but even the North East Tamils are facing today. As for the Vedda people, especially with the advent of the Mahaweli Development Project in 1983, a large number of the Vedda community had to leave their traditional homelands and relocate to the lands given by the government.

However, it is a unique role of a government to provide suitable land to maintain their lifestyle and cultural practices when transferring the poor people to other lands based on such development projects.

It is also possible for the government to resettle them in the lands acquired from the Vedda community after the relevant development works are completed. If it is not possible to do so, it is the government's responsibility to award damages based on the hardships and damages caused to the Vedda community due to such a change of residence.

Apart from this, one of the main difficulties faced by the traditional Vedda community is that they are economically very backward and socially isolated. This is a challenge they face in dealing with society. It is a common situation for the Vedda community to take loans from various private institutions due to everyday economic problems and fall further into economic chaos. Accordingly, it is the government's responsibility to create a formal mechanism for the economic upliftment of the Vedda community.

But through this, the Vedda community's own land rights and their own cultural

freedom are being challenged again, which is a complex problem.

The lack of a justice mechanism that is unique to the traditions of the Vedda community is also a difficulty that the Vedda community has been facing for a long time. The Vedda community must also be subject to the common law and in some cases, the Vedda community faces practical problems when various punishments are implemented. For example, when penalties are charged for violations, it is a common situation that practical difficulties arise in finding the money required for it. On the other hand, there is a need to prepare some methods considering that their punishment methods are humane in combination with the general law.

Also, the pressure exerted by wildlife officials when Adivasis use the forest they have enjoyed for generations, is a very common challenge faced by the people. Justice Weeramantri once said that the government is the guardian of the country and not the owner. According to the book "Ancient Ceylon" written by Henry Parker, if the legend is true that even before the Sinhalese tradition, the entire country was owned by the Veddas, then it is extremely important to give priority to their needs when we use the land belonging to them.

However, in the modern globalized social system, it is the responsibility of the government to strike a balance between the interests of the worker and the interests of the common citizen. It is also fair to say that finding a solution to the "Wildlife - Vedda" conflict in a background where a solution to the human -Elephant conflict has not yet been found, can be challenging. However, it is the responsibility of the government officials to be

as flexible as possible for the Adivasis to enjoy the natural resources of the forest inherited by the Vedda community.

Another problem faced by the community is the practical difficulties that arise in accessing the general education process. This situation has arisen especially due to the fact that the medium of education is Sinhala or Tamil and the Vedda community is still close to Sinhala but associated with their own language. It is the government's responsibility to address this language challenge through a teaching method that does not harm their native language.

## **International Conference on Indigenous Peoples**

Even though the state has failed to create a program or mechanism to guarantee the rights of the Adivasis if the local conditions are not affected, various measures have been taken internationally for the social, economic and political security of the Adivasis. It may have been the reason for the many decades of struggles by indigenous peoples around the world on that subject. The culmination of their fight for rights is the United Nations Declaration on the Rights of Indigenous Peoples (2007)

This launch by the United Nations is the embodiment of indigenous rights in international space. Article 1 of this declaration affirms the right of indigenous peoples to enjoy all the human rights recognised by the United Nations and to live happily. This has confirmed that even the Adivasis have human rights that they can enjoy as a result of being born as human beings.

Article 2 recognises the indigenous peoples as a free community and affirms their right to live without discrimination. This situation is similar to Article 12 of the Constitution of Sri Lanka. This affirms the right to equal treatment. Section 5 emphasises that the religious and spiritual values of the Adivasi community should be protected and Article 7 states that the indigenous people have the right to make decisions in the field of their own development, beliefs, culture, health etc. Article 9 affirms the right of indigenous peoples to maintain their cultural customs and the government has the responsibility to ensure that this right is never violated.

Article 10 of the United Nations Declaration is of particular importance and efforts have been made to secure the land rights of the indigenous people through this article. Accordingly, it has been stated that they cannot be removed from the traditional lands they are currently using without the consent of the Adivasis and it has been emphasised that if this is done, a proper compensation system and a system to return their traditional lands should be prepared. In this way, international value has been given to the subject of Vedda's rights through the United Nations Declaration for indigenous rights.

In addition, one of the most important conventions on the subject of indigenous peoples' rights is the ILO Convention 169 adopted by the International Labour Organization. (Indigenous and Tribal People's Convention 1989) Article 2 of this has emphasised the government's responsibility to involve the indigenous community in the development process. Apart from this, a government should work to remove the social



and economic barriers between the indigenous people and the common people. According to Article 7, indigenous peoples have the right to determine priorities that affect their lives during the development process. However, in enjoying these rights, there is no obstacle for the Adivasi community to enjoy the rights enjoyed by ordinary people.

Section 8 of this stipulates that in applying national laws on the subject of indigenous peoples, their customs must be given priority. This is a very important clause on the subject of the identity of the Adivasis and its perpetuation. The identity of the indigenous people cannot be excluded from the justice process. According to Article 9, it is the responsibility of the government to recognise the penal practices of indigenous people as long as they are within the international framework. And according to Article 10, it is stated that their economic, social and cultural conditions should be considered while they should be liable under the common law.

Part II of ILO Convention 169 is almost entirely devoted to the land rights of indigenous peoples. According to Article 13 of the Convention, the government should give special attention and importance to the cultural and spiritual ties of the land subject to the indigenous people when applying the clauses related to the lands of the convention.

According to Article 14, the government must identify the lands traditionally enjoyed by the Adivasis and take steps to secure the rights of the lands they have traditionally owned. According to Article 15, it is also extremely important to secure the natural resources that are consumed by the indigenous people related to their lands.

Thus, it is evident that there is a systematic framework for securing the rights of indigenous people in the international community. But as long as those legal provisions are not incorporated into the local legal systems, securing the rights of the indigenous people will be just a dream.

Various countries of the world have absorbed this situation into their legal systems.

For example, the Philippines has launched a program to protect the rights of indigenous people. This has been done by absorbing important international laws on the subject of indigenous peoples' rights. In addition, Cambodia has created a national policy for the rights of indigenous people and Nepal has incorporated the international laws for the rights of indigenous people into the domestic legal system by ratifying ILO 169.

The applicability of the ILO Indigenous and Tribal Populations Convention is still in force in India and Bangladesh.

Finally, in order to create a mechanism to secure the rights of the indigenous people in our country, it is my personal opinion that a bill based on the rights of the indigenous people should be passed in parliament. For that, by ratifying ILO 169, the internationally accepted laws regarding the rights of indigenous people can be incorporated into the local legal system.

## **Cases that reaffirm the rights of the Vedda**

### **Love v Commonwealth of Australia**

Here, the Australian High Court stated that Aborigines are a group entitled to the same rights as the general population and not a category of aliens.



### **Arturo Rincon Ardilia v The Republic of Colombia**

It was stated here that the lands belonging to the indigenous people should be considered public resources and secured through a special protection mechanism.

### **Yanomami v Brazil**

The importance of securing the cultural identity of the Adivasis was emphasised here.

### **Saramaka People v Suriname**

It was stated here that the Saramaka indigenous community has the right to enjoy the natural resources of their ancestral lands for their survival.

### **Endoris v Kenya**

Here, the African Commission on Human Rights stated that the right of indigenous peoples to maintain their religious rituals is inviolable.

The resistance of the army to our eastern Vedda community, who believed in the Vedda God in the forest, is a good example of this matter.

### **Nation v British Columbia**

In this Canadian case, it was stated that in acquiring the lands of the indigenous people for new development projects, priority should be given to the free will of the indigenous people who have traditionally used the land.

### **Mataquescuintla v Guatemala**

The mining projects carried out by the government in the areas owned by the Adivasis should be carried out with the full consent of the Adivasis.

It is evident that decisions have been made on the subject of securing the rights of indigenous people even in the international

justice mechanisms.

## **Solutions for the Vedda community**

When discussing solutions for the Vedda, the problem arises whether solutions are proposed to build the cultural symbol of the Vedda, or whether solutions are brought to civilise the Vedda like the general community.

This author believes it is more reasonable to propose solutions for the welfare of the traditional Vedda. Leaving aside the discussion of the hegemonic thinking of civil society to leave the Vedda as the Vedda.

The most important proposal for the long-term welfare of the Vedda are the constitutional amendments to be made to secure the rights of the Vedda. This can be done by ratifying a convention like ILO 169 as mentioned earlier. It is only then that the identity of the Vedda becomes legal. The economic decline of the Vedda community is one of the primary problems they face. It is also possible to appoint a committee to look into the possible intervention of the government in this regard. Apart from this, trust can also be established for the elderly through a cabinet decision. It is also essential to provide a mechanism to provide relief to the community through the intervention of the government for those suffering due to microfinance loans

By designating the areas where the Vedda community has lived for generations as a cultural heritage in a country with a wealth of sacred land, a government has the ability to inject more value into their culture, apart from supporting their identity on the one hand. Apart from this, the government can also take necessary measures to attract more

tourists to the areas where the elderly people live. Furthermore, the government has the ability to improve the economic level of that community by preparing a program to involve the Vedda community in the development process of the country.

Also, the government should take measures to improve the education level of the Vedda community and remove the social and economic barriers between the Vedda community and the common people. It is also the government's responsibility to encourage the community to join the political process. If the political representation of the Vedda community can be raised to the level where the Vedda community also gets representation in the legislature, it will undoubtedly be a great stimulus for their rights.

## Conclusion

It is a twist of fate to have to write the conclusion of the letter written for Vedda at a time when the end of Vedda is noticeable. In the end, the question must be raised whether we have inadvertently made the Vedda a mere showpiece in this social system. Apart from the cultural metaphor of Vedda, there is a doubt whether the ideology that Vedda should be established as a civil citizen who likes to use an iPhone, works with a laptop, and goes to work in a car in the globalised society, was ever mooted by the civil society or the diplomatic level.

While the right of the Vedda to remain as a Vedda should be respected, it is a mistake we have committed so far to ignore the loss of the rights of the Vedda for being a Vedda which is enjoyed by the citizen. It should be a dream of the government to make a child who speaks the Vedda language at the advanced level or

ordinary exam be placed first in the island. There is no need to physically display the identity just because you are a "Vedda" and remain a honey collector. We must produce Vedda doctors who give medicine to civil society. Education should be brought closer to the community so that the desire to become a scholar is not infringed upon for being a Vedda. In short, the majority mentality that considers Vedda as a dirty, dressed in leaves and hunting community should be abolished and the opinion should be popularised that Vedda is our respected ancestral community who claimed this country before the ordinary civilians.

# We need legislation to validate our rights

**Uruwarige Wannila Atto - Chief of Adivasi Community**

I became the leader succeeding my father, 25 years ago.

Till the moment of his death my father was of the opinion that the jungle should rightfully belong to our people. However, we have not received any solution to that issue yet. What every government did was cheat us. When I became the leader I was curious to find out where our people were. There are 24 villages including Rathugala, Nilgala, Danigala, Mulgala, Nilliyadda, Bandaraduwa, Pollebadda, Wakare, Kunjankulan, Kayankulan, Akkarekeni, Murthana, Kihibichche, Miningantheni inhabited by our Adivasi community. There are 62 such villages in the Eastern province. Now our community has a population of about five hundred thousand. Five hundred thousand is obviously a big number with the potential of having their own power. I checked to see what problems the communities of these villages are facing. I attended the *Wariga Sabha* (tribal meetings) held in Kallathiv island of Wakare, Henanigala and Pollebedda. Most of the *Wariga Sabha* was held in Dambana. In each of those *Warigha Sabha*, the problems we faced

were discussed.

## We were cheated every time

I attended the human rights conference in Geneva in 1996 and presented our problems. At the Geneva conference, 136 countries signed in favour of finding solutions for our problems. Chandrika Bandaranayake was the president then and the Geneva conference forwarded that memorandum to her. She issued 25 identity cards to us in response to that. Since an agreement was signed, I thought that things would be alright. The agreement was signed between me and the wildlife conservation authority. The agreement allowed us to fish and hunt in the traditional manner. It was my father who taught me the traditional way of hunting. Accordingly, we are allowed to go to the jungle at six o' clock in the morning and must return home by six o' clock in the evening. We are supposed to go to the forest in the dawn, collect whatever we could find and return home by dusk. The agreement states that we are allowed to fish using the traditional methods in specified reservoirs but it has not mentioned what those "specified reservoirs" are. Maahitiya, Ulhitiya, Kadupahara and





Kandeganwila are the available tanks but we have to know which of them are accessible, but the agreement has not specified that. The agreement also states that the Adivasi people are expected to contribute to the development activities of the Maduruoya forest reserve. Nevertheless we were cheated and restricted from entering these places.

## Pass an Act in Parliament

I believe that there should be a separate committee within the parliament to discuss our issues. There should be separate legislation about our community. When the rulers change, rules also change. The Wildlife Conservation Authority is equally bad; just a few months after signing an agreement, the head was replaced. Our Adivasi people have been cheated by everyone. Nobody gives

us proper instructions. What they tell us today does not apply to tomorrow. This is so difficult for us. I have the responsibility to seek solutions that my people are facing as long as I live. In order to solve them a law should be passed in the parliament. When there is no law, things can change according to the whims and fancies of people.

I live within the Maduru Oya reserve. However, to visit Maduruoya I should go to Galkada and buy a ticket. I am no better than the tourists. We do not have any freedom. The young men of these villages have had no steady livelihood since 1983. Farming would keep us going for two to three months but an elephant could destroy the entire cultivation within one night. It is so difficult to continue being awake at night continuously for four

months. However, if we happen to fall asleep just for one night that would be a waste of all our efforts for months and our harvest will be gone. We are forced to fish secretly; if we get caught, we will have to pay a fine of twenty to thirty thousand rupees. These problems need solutions, but complaining to the minister of wildlife conservation, the president and other ministers, does not bring permanent solutions.

### **The destruction after 83**

We came here in 1983, because of the Mahaweli development scheme. The scheme constructed the two major reservoirs Ulhitiya and Maduru Oya. The forests in those areas were destroyed. The lands were destroyed. Just a single patch of land remained at the centre, but not the large forests. People from villages like Karagoda, Gankandevala, Nabundawala, Rathmal Yaya, Vehera Pokuna, Thimirana, Kudawila were moved to Mahaweli lands. The forests were taken for the Maduru Oya reserve. Only Munikirigala was left alone. Munikirigala, Palutagala, Desagala and Kamburagala are areas with big forests.

Our folks who were originally living in the jungles were settled in Henanigala. They were tricked into relocating there. They were given food such as flour and dhal and told that rain is plentiful there. These are not only the faults of the government; our people are to be blamed too. They can easily be deceived by some cheap bribe. Finally, they lost both the community and the lands. Their lands have been mortgaged for six hundred to seven hundred thousand and they have to work for daily wages. Our young men do not have lands. The young men here keep asking me for lands. From where am I supposed to find land? The Adivasi people here face many problems compared to indigenous communities in

other countries. In countries such as Australia, the indigenous people are treated well by the government. However, that treatment changed the indigenous people. We do not expect to be given a deed for every family like in Australia. The people should be given the freedom to live as they wish. When they are denied that freedom they tend to get addicted to various things and the community would be destroyed.

None of these problems were there before the Mahaweli development project. We lived as we wished wherever we wanted. We could eat what we wanted, go to the jungle for days or even stay there. We did not expect anything from anyone and lived as our means would permit. But after 1983 everything was ruined and now the people are disappointed.

### **The learning of the forest has been denied**

There used to be schools in every village. They were government schools. The children from Adivasi families found it difficult to learn our customs at those schools. There should be a separate school for Adivasi children to teach them our customs and traditions, religious beliefs, traditional dances and traditional medicine. Things they teach in government schools tend to get mixed up with these and finally a twisted version surfaces. The school curriculum should be linked with our traditional knowledge. If that content was incorporated, our children would be motivated to learn. If not they tend to drop out. The forest is the best place to learn the customs and traditions of our community. The forest is our school, our university and our shrine.

The jungle is everything to us. When



we went to the jungle with our father we learnt a lot more than the schools could teach. Learning through experience is much more worthwhile than a school education. When I went to the jungle as a child with my father, whenever I saw the footprints of an animal I would ask him whose tracks they are. Then my father would point out those tracks and say this is the elk, this is the monitor and so on. We cannot gain those experiences from school. Moreover, they used to take us to different parts of the jungle and teach us other things related to the jungle like whether the honey was good or bad. It is difficult to learn these from school. We learn the language from home, and the customs, traditions, beliefs and dances from the jungle.

## Let the youth speak

If the older folks object to the younger people wishing to go for jobs, to learn and to live the way they wish, it is really wrong. It is unfair to prevent them from doing so. There are such things as human rights. We should let them have the right to live as they wish. However, no matter what schools they attended, what exams they passed and what positions they secured, they should always remember their origins, their culture, their tribe, and the value of those and feel the necessity to preserve those.

Even though the government banned us from entering the forest, they did not provide us with any means of living. If they did then our community would be preserved. The people of power do not tolerate Adivasi people.

## They want our people to vanish.

Despite that, whenever they are organising some grand event, they will call me and say “O’ chief, please bring ten people at least.” I am no better than the elephants in religious processions. People remember the elephant only during the Perahera season. Just like they welcome the heavily decorated elephant, they welcome me in grandeur with drums and dances. However, they change their tune once the ceremony is over. They say that to preserve a nation, the nation’s major ethnic group should be preserved. Well, I am telling you that we, the Adivasi people are that major ethnic group.

Just because the Adivasi people are represented in committees of local government authorities, it is difficult to say that these problems will be solved. I have spoken to the international community about the problems of Adivasi people more than any other leader who was there twenty-five years ago. However, none of them have been solved yet. If we bring ten requests only one or two will be addressed. It is good if we are represented in provincial and local governments. There are ministries for Samurdhi, Social Service, and Buddhist heritage, but nothing in the name of Adivasis.

# LOSING COUNT:

## Assimilation without census

**Nallathambi Velayudham,**

The indigenous community leader from Batticaloa and Trincomalee

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I am the leader of the indigenous community living in Batticaloa and Trincomalee. I have identified about 1500 Adivasi families in some of the villages I visited. However, there are more indigenous people living in other villages and I have not visited those villages yet. No census has taken place. We live based on our cultural traditions and if someone comes and asks, we are not able to tell the exact number of Adivasi people. Our native village is “Mangani” and we used to make a living by hunting, collecting wild honey and Chena cultivation. The government banned clearing the forest for Chena cultivation and we lived on the banks of the Kungna Kulam lake. In the meantime, the government brought a proposal for relocation and we were resettled by providing each one an acre of land. If it had not been banned, we would have continued to clear the forest. However, we were able to make a living when we settled here. We moved into these lands in 1963.

Before the war, our families had different types of houses and these new ones were built after the war. Houses were built, one house for each family. During the reign of

President Rajapaksa, I spoke to them and managed to provide houses to those who had lost their homes. We received 30 houses from the government. But now several families are living in the same house and we are faced with various challenges. There is a group still that does not even have a piece of land. Complaints have been made to the Divisional Secretary's Office but we have not received a favourable reply. We have not received any allowances apart from the Samurdhi allowances.

We have received an allowance of Rs. 5000 from time to time but some have not received the Samurdhi allowance. There are about 20 new families and they have not received the Samurdhi allowance. They only received the Rs. 5000 allowances given by the government. There is no allowance for newly married couples.

The cooperative provides rice and the family health worker comes to this area, but nothing has been done to provide these families with anything. It takes over an hour to get an ambulance to our village. Even the road is in very poor condition.



Although we have decided in the '*Wariga Sabha*' that the road should be repaired and informed the authorities, no action has been taken so far. In some cases, officials came and made observations, but no further action has been taken. Although we hope that the government will fulfil these development needs for us, it has not happened yet.

A representative of the government comes to the '*Wariga Sabha*' and we inform him of our needs. Before that, our leader, Uruwarige Wannila Aththo will sign it. Then as a response we get letters from the government and they come and observe the condition of the road and the lake and they leave and then nothing is done. We do not know whether it is a problem of the government or a problem of government officials.

We also have a big problem with

education and we have a shortage of teachers from year 1 to year 5. This is a crisis at Madurankulam College.

Even a house that does not have a good foundation, will be destroyed along the way. In the same way, if the basic education of our children is destroyed, they cannot be prevented from failing as citizens. No matter how many complaints we have made regarding the shortage of teachers, the authorities have not responded.

From our childhood, our livelihood was collecting wild honey, Chena cultivation and fishing. We used to separate into different seasons and engaged in our livelihoods. This season there was no fertiliser for our paddy cultivation and therefore we could not harvest. We did not get a fertiliser subsidy from the government for cultivation. At present, our living conditions are extremely difficult and



we live by eating yam from the wild. The other food supply is fish. We received assistance from India once.

The lake that fulfilled our water needs has now completely run dry. There is a huge drinking water issue in our villages. If there is a solution to the water problem, we can continue cultivation and then will be able to make a living.

We expect the government to clear the silt and repair the lake properly. If we don't receive water, we are afraid that our crops could get destroyed and we will lose our agricultural land. Therefore, despite the financial loss, we will attempt to continue the cultivation activities. We are also scared that the boundary stone that marks the area of the paddy fields will change with the growth of the wild plants if we do not cultivate the paddy fields. So we have the need to continue our planting.

We feel that the government is not fulfilling our needs because we are indigenous people. The government has taken steps to develop other villages but the Adivasis have not received a similar development. Our language is also at risk now. Even at birth, our ethnicity is marked as "Sri Lankan Tamil" without indicating our unique identity. Our language needs to be passed on to the next generation. We should develop a method of teaching it. When we speak in Tamil, there is difficulty in proving to the public that we are from the Adivasi community.

In the past, we used to perform our religious rituals to our gods inside the forest, but now with the emergence of the village, we have lost the ability to do that. Now, when those rituals are performed in the forest, there are questions from the army, so we perform

them in the village itself. Or we worship the Vedi deity inside the Hindu temple.

In the past, Adivasis married Adivasis, and now with the advent of the telephone, Adivasis can be seen marrying people from society. In the past, marriages were conducted by our elders and nowadays it is based on love relationships. For example, people from Vaharai have married from Nuwara Eliya.

In the past, we lived in houses that did not get waterlogged during the rain. But the houses that were built for us were made using inferior types of wood and water seeps into the house frequently. We think it would be good if our houses are properly renovated and also if houses are provided to those without houses.

# Chased from our homelands, with even more problems

**Sudavannia, Adivasi leader of Rathugala**

Our forefathers were originally from Danigala. Our grandfathers and fathers were brought to Rathugala when the Senanayake Samudraya was being built. They were almost forced against their will to leave. They came to Rathugala village in 1938. That was how our mothers, fathers and grandfathers came here. At that time, only the members of our clan lived here. But now people from all villages have migrated to Rathugala and settled down, including Sinhala people and even foreigners. They have even built a hotel here.

We have a cultural festival called *Wariga Sabha Utsavaya*, headed by the chief of Dambana. We have been going to this event for about 40 years, and speakers of the parliament, presidents, ministers, and district secretariats, have been attending. Despite that, none of the issues that we have been facing since we first arrived at Rathugala in 1938 have been solved.

There are about 110 Adivasi families in Rathugala village. There are about 150 outsiders too. All 110 Adivasi families have land. Some of them do not have deeds. In some places, several groups live on the same land. I have two acres of land. I have a deed

for that. However, there are around six of my children and siblings sharing this land. Outsiders have ownership of about 10 to 15 acres. There is a land where our forefathers came and settled in 1938. But we do not have permission to visit that land. Someone has constructed an electric fence around it too. The District Secretary has authority over the land, but complaining to them was no use at all; they simply would not take any legal action. Only 10 to 12 families of our people have deeds for their lands. The others do not have deeds. Some of them have permits.

When I came here as a child, things were reasonably ok. There were no problems. Various problems started around 1985. When we were living in the forest, we had things like meat and honey for food. However, their availability was limited in the villages. We could not go to the forest. The animal population was reduced. The forest was destroyed. Other people went and destroyed the jungle by setting it on fire. It was the people from other villages who did that. When village guards were appointed they were given guns. That was how all the animals were destroyed. People of our clan are not





allowed to go anywhere. That is the level of the downfall of our people. The governors, GAs, “Grama Niladaris” ignore us and neglect their responsibilities towards us. No one cares about us. That is why we are helpless. There are more problems in our village than in any other village inhabited by our clan. I assume our chief of Dambana must have already mentioned this.

None of the people of our clan belonging to my generation had schools to attend. Now our children are in school. When we were living in the jungle, there were no schools and we were not in touch with outsiders either; there were only the people of our own kind. Our knowledge was based on the things our folks do.

None of these issues would have been there if we stayed in the jungle. We lived happily in Danigala too. All our problems started to get worse when we arrived here. When we lived in the jungle we had traditional medicines. There were cures for every illness. They were the source of the stuff

we used to treat our ailments. No matter what the illness was, we turned to the jungle for our need of medicine. We were rarely ill too. All the illnesses and other problems came along when we came to these villages. We are facing a food crisis after we moved here from the villages. Food is rather scarce here. Our children are farming here. Those days there were no fertilisers and other agrochemicals. We used to farm in the jungle itself. Now we are stuck in one place like cattle.

Since the medicines from the jungle are already extinct we have to rely on doctors. If this situation continues, our clan would be extinct within 10-15 years. Some of us are willing to return to the jungle. However, they would not let us live in Danigala. The legislature, officers of the wildlife protection authority and forest conservation authority do not allow us. However, we are of the opinion that we would be much better off in our ancient villages rather than here, even if it means just five to six families living there, we feel that we would have much more freedom.

# Soon Adivasis will only be seen in photographs...

## Henanigala Adivasi Leader

According to our community, this place is called “Senanigala”. Some people call it Henanigala. People belonging to all five clans; Uruwarige, Thalawarige, Moranawarige, Unapanawarige, and Nagallanawarige live here. These are the people who moved from Dambana in 1983. Around 105 families arrived at that time. There have been no Adivasis here before we arrived. Our ancestors had lived in the village called Kotabakiniya in the Dambana area. During the period of D.S. Senanayake, there were only 27 Adivasi families. They built us good houses, gave us two acres of fenced lands and protected us. Along with the development of the country, our lands were taken for the sanctuary. When Gamini Dissanayake was the minister (Premadasa was the prime minister at the time), our fathers had been told *“You can’t stay here. There is a big problem; when the tanks overflow with rain there won’t be a road to travel and elephants will arrive.”*

Our father objected to leaving and stayed behind but when the tank overflowed, there was no way to travel to the village of Dambana.



When the Ulpitiya tank overflowed the roads were flooded. It was only afterwards that we arrived here.

Gamini Dissanayake told us that we have lands in Henanigala. *“You have the jungle for your customs and traditions. We will give you lands close to the forests. Just go there.”* It was only then my father arrived here with the rest, since we could continue with our lifestyle, our customs, traditions and the work of the community. About five years later the Wildlife conservation officers said *“you are banned from being here”*.



From that day we are almost imprisoned and our freedom has been restricted. We have an annual traditional dance. We were given land for that. In the past, we used to prepare things in the forest. Now we have to take permission from the Wildlife Conservation officials annually to do the things related to that custom and to use the resources from the jungle for that.

We are facing another big issue. We have people considered sub families and some others considered unauthorised inhabitants. Only around 105 families have lands and paddy lands. There are around 600 other families without land. Now the Henanigala people visit the Maduru oya in secret to fish. There is some “society” there and the wildlife conservation officers and that “society” keep bothering them. They catch us and file court cases. Then we have to pay around 30,000 rupees per turn. These people are living amidst many hardships. There are around four to five children per family. Unlike in the past, children are supposed to go to school. There would be problems with the government if parents fail to do that. In the early days when we lived in jungles, there was no need for schools. Our children would grow up, find a wife and live their lives cultivating a *chena*. Now around 500 families are unemployed. They are not allowed to visit the jungle or fish. Therefore life is so difficult.

The *wariga sabhava* (a meeting of the tribes) was held last month. Our people gathered the problems from each village and submitted a memo to the minister of cultural affairs. They would just promise something and do a thing or two and we are compelled to hand over another memo the next year. I told our chief this is just fraud and leading

us nowhere. We talk to them each year, and submit memos, yet nothing happens. The government too does nothing. The ministers are able to act only if the Adiwasi people submit written requests. The ministers need the permission of the government to act, but it never happens.

There are GAs and cultural officers but informing them does not result in anything. They would just write to the ministry. The District Secretary is there in Ampara, but informing him does not make any difference. During our last year’s cultural festival, we informed the ministerial secretary that we are having the event on this particular date and expect their help with that. They helped us that year. They always help when we invite them to a cultural festival, yet they do nothing to solve our people’s problems.

Also, there are low-income families here and nothing is done for them. Things are done the way the lady officer in charge of that prefers. We do not receive *Samurdi* or the allowances that poor families are supposed to receive.

These problems are making us even weary of our community’s Adivasi title. People of every jungle are weary of their ancestry. We are basically being ill-treated. When I visit they address me respectfully saying “Oh respected chief, what brings you here?” But others do not receive such respect and are usually asked “Why the hell you are here?”

Within a short time, our community would vanish. There would be no Adivasi people for other people to see.

They will have to depend on photographs to know that people like us existed.

# Official discrimination that disillusion us

Vimalavathi of Danigala Mahabandala

I am the wife of the Adivasi leader. There are so many problems in our village. During the election period, all the candidates around the area come and ask for votes saying that they will provide solutions for the shortcomings and take care of everything. We have children who can do a normal job. The candidates say they will give them jobs, they say they will fix their houses and doors, but none of that is ever done. They keep repeating this and come back when an election is near and they lie and leave again. The government does not help. We are only given the Samurdhi. They have been requested to give us 5000 rupees separately, but the government will not give us that money. We have 3500 rupees from the Samurdhi money. In addition, they have been asked to give 5000 rupees to Samurdhi recipients. But they gave only 3000 and that is from the 5000 rupees they are supposed to give us.

We have nothing to live for. No one did *chena* cultivation or farming this time. There is no fertiliser. We have to also clear the forest to cultivate. They don't even allow us to clear sections from the big forests. No official - not



even the officials in the vicinity - will provide us anything despite our hardships. Irrespective of how much they help other villages, we don't even get a third of it. It comes through the Divisional Secretary, and they don't allocate it for us. We are not even given the Samurdhi allowance. They provide the allowance to

other areas of the Nilgala divisions such as Bulupitiya, Nilgala, Hamanawa and exclude us. We are provided 3500 rupees' worth of food stamp money and 3000 rupees from the 5,000 due to us which totals to 6500 rupees per month. This is how they treat our entire division. The government gives a directive for the officials to provide us these allowances, but the decisions are made by the officials at the lower levels. The government is not aware of what these officials are doing. I recently heard on TV that they are saying to give 5000 rupees to poor families. There are no government employees in our village. There is no one doing a job. The people in the village make ends meet by working as day labourers or by engaging in *chena* cultivation. Samurdhi money is not given as soon as it is received. It is given around the 20th and 25th of the month. There are 100 families in the village, and most of them are living in great difficulty.

We face a lot of discrimination. When aid or relief is granted, we are excluded. During the elections, they come canvassing saying that they will give houses and jobs. However, no one from our indigenous family has been given a job by the government. Even though the people don't usually study, there are some who have studied and can be given even a small job. We don't even receive such opportunities.

We face a lot of discrimination; the officials don't care about us. Our children used to go to Galgamuwa school, but even at the school, the other children have treated our children differently calling them Adivasi children. They don't do that anymore but it used to be like that.

There are still traditions that males follow with regard to food as Adivasis but there is

nothing unique that the women follow.

We are also going through changes now. People from outside our villages come and get married to our girls. Even our sons have got married from outside the village. Even our children are getting used to the city life and culture.

We are being treated unfairly by officials. The Divisional secretaries, ministers and officials do not care about us which makes us extremely sad.



# Are we the outcasts? Don't we have rights?

**Seela - the wife of an Eastern Adivasi leader**

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**M**y name is Sheela, and I am from the Kunjakulam village, we used to live there. We moved to this village in 1966 and the road has not been repaired to date. In the early days, children were born in our village but now you have to go to the hospital to give birth. At first, we did not need the ambulance to go to the hospital, as there was a hospital close by, but now we need to go in an ambulance since it is far. The road to the hospital is not properly constructed. We have to give birth in the village and then go to the hospital since the roads are really terrible. Now there is an ambulance but earlier there was no ambulance. Even if you try to go in a three-wheel from here the road is not good.

When the village children are taken to the hospital, we take them with us. Sometimes mothers give birth while travelling and some have died while going to the hospital to give birth and there have been stillbirths. We moved into this village relying on all government officials. I am now 59 years old and all this time I have spoken about the houses, the roads and our living conditions. Come and see the state of our houses. We

are asking to convert our houses into stone houses. We didn't ask them anything else. We are only asking for land to live on, the land we found in the village. We are not asking for anything else, we are only asking for our land to be given to us.

If you want to live, the people in the village should do agriculture, but many people here do not have land. This year the weeds have been removed and crops have been planted properly. No licence or permit was obtained for farming this time. There is no help for the way we farm. We are suffering here. The government does not care about us. The governments do not care about us because we are Adivasis or something else. They are not helping us. See the roads of other villages and they are properly constructed and repaired. But when you come to the villages where the Adivasi people live there have been no renovations. Come and see our house, this house is not suitable for living. You cannot stay in these houses during the rainy season. The roof is leaking during rain and water comes into the house.

Children have to use this road to go to

school. If it's the rainy season, you can't go anywhere using this road since it is inundated. The white uniforms of school children turn muddy brown for the rain. After school, they bring clothes soaked with mud. Continuous rain means no change of clothes for school the next day. Why do we have to live like this? These governments are responsible for our situation. Do they even know that people like us live here? Are we the outcasts? Don't we have rights? We are marginalised because we are lower-class people.

Previously there was light and now the light is gone. We ate fruits and fish but now there is no way to cook. Now we have to eat yam from the wild but that is also scarce. So what do we do with food? Our life is a struggle. There are no fish in the lake.

Our livelihood is based on fishing and collecting honey. We don't know any other livelihood but now come and see our lake. It has run dry. This is not the time to harvest honey either. Then the struggle is how we should live. All our forests are being destroyed. We came here in 1965 and until today we do not have any assistance. Four families have to live in one house. We don't have houses. We are not asking too much from this government, we only want a reasonable place for us to live in. Houses that are livable.

# A generation who prefer to live in the jungle

## Adivasi leader of Galwalayaya

We moved here from a village called Danigala. Dr. Spittel brought around 10 families here and provided us with food and medicine. Our father was there at that time. Now he is 105 years old. Now we are living amidst many difficulties. The reason is that we are not allowed to go into the jungle; we are not allowed to search for medicine; we are not allowed to gather honeycombs. That is banned by law.

Moreover, the jungle has been destroyed. The government officials neither take care of us nor discuss our problems. This is making things difficult for us.

We did not have any problems when we first came here.

We freely visited the hills and ate and drank as we wished. White people used to provide us with food and money those days. Things were not as hard as they are these days. Poramal Aththo became the leader when our first two leaders passed away. Gomba Aththo succeeded him. After his death, we lost all support. I am the current leader of our clan now.

People of our community did not contest



elections in those days. Recently I contested with one of our young men. We received a comparatively limited number of votes. We have requested the District Secretary provide housing for our people. We have taken them and shown them the situation. There is some more work to be done. When they invite me, I attend the committee meetings of the development committees of the District Secretaries office and tell them about our problems. Then the District Secretary would

forward our grievances to other officials and ask them to look into them. But we have not received any solutions yet.

We are trying our best to maintain our Adivasi customs and traditions. Otherwise, it would be the end of our community. If our younger generation does not get to know about these, they would have to live just like anyone else. For our community to continue we should stay in our traditional places. Even at present the majority of young ones are willing to go back to the jungle. Only a few of them are willing to mingle with society. Most of them follow the steps of our generation. Even the schooling children visit the jungles with us. Even after marriage, our young people prefer to live in our traditional homes.

We face a lot of discrimination when we interact with society.

Even though I do not face such issues my own people are discriminated against. Whenever we go to offices to get something done, we face hardships right from the beginning. They ask us to go and come back later. The higher officials even threaten us and ask us not to come. If we fail to attend a Samurdhi meeting due to an illness, they threaten us saying they will sanction our food stamps. My food stamps were sanctioned for almost 12 years. I received it again during the time of Sajith.

Nowadays our children are allowed to attend schools in the city without any issue. I can speak and get things done. Those who are not so good at learning like to live like us. Those who are good at it prefer to go for jobs. In the past, we used to go to the jungle and make our own medicine out of herbs, bark, roots and fruits. Now those medicines are no longer there. We can find practically nothing

in the forests. The reason is the destruction of the forest. We never set fire to the forests in those days, but people are doing it now. We can no longer find medicinal plants because of that. The cultivation of maize in lands adjoining the Rambaken Oya caused many difficulties for us. It destroyed the environment. We started getting sick. They use agrochemicals for maize cultivation. They are released into reservoirs and contaminate our drinking water, we get sick.

We have spoken to officials asking for justice, but it has been useless. Those areas are destroyed.

We have many common problems. We do not have paddy lands and houses. Therefore it is so hard to survive. The Mahaweli officials did not provide lands to around 60 to 70 Adivasi families. There are around 362 families here. Around 70 people do not have paddy lands. Paddy lands have been sold to people from far-off places. The Mahaweli authority has sold these lands to them.

The Mahaweli officials ruined our lands. That is how we became landless. A section of our lands was lost for the irrigation canal and the five acres of paddy land we had to cultivate were distributed among different people. We too were given one and a half acres of land but our children received no land at all. They promised us compensation for the lands taken over for the canal, but most of the people have not received the compensation yet.

We faced difficulties during the war as well.

The LTTE came here and they shot my brother.

Life is so difficult.



# The Indigenous chief mixes concrete for a living

**Thalawarige Priyantha Atto - Dalukana**

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It was my father who appointed me as the leader. My father passed away a long time ago. I am happy about being an Adivasi leader at a young age. My father's heritage is valuable to me. I am glad that I could continue the clan. Our people are supportive.

I am rather disappointed that the government is neglecting us. It was only Sajith Premadasa who gave me this little house. There are no privileges for my leadership position. We are neither allowed to visit the chenas, nor the hills. In fact, we are not allowed to do anything. Therefore, I have given them up. When my father was alive, we used to visit the jungle to collect food from there. There is food in the jungle, but we are not allowed to go there. It is the police, the wildlife protection authority and the department of archaeology who do not allow us to be there. There are ruins of early Adivasi settlements on this hill. We are not even allowed to go there.

Now we are working in paddy fields for rent. We do not get anything from anyone. There is a plot of land just above the "Namal pond" that I wanted to convert to a chena but

permission was denied. There are many others who are cultivating that land but I was not allowed to do so. I would love to cultivate a chena. I want to do that and live in freedom, but they are not letting me.

There are around 200 Adivasi families in our village. We would not be able to continue our generation as Adivasi people. We presented several requests to the last Warigha Sabha (Tribal gathering). There are many people here with no access to water and electricity. We requested to let them have those facilities. We requested them to renovate this shrine. A certain politician from Mahiyanganaya attended the Wariga Sabha. We informed him about all the difficulties we are facing. We do not even have canoes and nets to go fishing. We have to work as hired labourers on a daily basis.

Nowadays many Adivasi people do not wish to reveal their identity. I visit the town wearing a sarong and carrying an axe. People respect me for that. But I also feel a bit embarrassed. When I visit construction sites with other young men, all the others are well-dressed. Sometimes I dress like this and



sometimes I wear shorts and a shirt. I have even visited Colombo to mix concrete. Then I wear trousers and a shirt.

I feel it is a shame to be mixing concrete considering that I am the Adivasi leader of Dalukana. But what else could I do? I have to live after all. This is not the sort of work that an Adivasi leader is supposed to do. Even the folks at Dambana have told me “Don’t work. Just stay at home and then everything will be provided for”. However, I have received nothing yet. I have spoken to many journalists just like this. I have been in this position for eight years now and I have been telling them about my problems throughout these eight years.

Our children probably may not live as Adivasi people. The reason for that is none of our requests are granted and our people are getting tired of that. As the leader, I would

like to see my son continue this identity and currently, he is quite willing too. However, with the way things are going, I do not know whether that would be possible.

# Trapped in a place like a prison

**Gunaratne: the Iron Man from Dambana**

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**M**y name is Gunaratne and they call me the Iron Man of Dambana. I studied Sinhala in school, I went to school and know Sinhala well.

Actually, the way I see our future is very different now, unlike in the past. In the past, we could walk freely in this forest. Now we are banned from entering the forests. Our children will never be allowed to go into the forest and play as we did. I remember when we were little children. I have also played in forests but our children will not stand a chance to play in the forests. There is a chance that our children will not even be able to go to the forest where we lived, things have changed so much

If you say that Adivasi's life is in the forest, it is correct. But now we have lost that opportunity. We are now trapped in a place like a prison. These things have been banned by the government, we are not free anymore.

In the past, we would go to the forest to collect wild honey, drink some water, and dig up yam for food. We boiled the yam and ate as a family but today we don't have that freedom as a family. We will protect our clan whatever

the challenges or difficulties that lie ahead of us. We will do chena cultivation wherever we can and protect our generation. I can't imagine what will happen after we die. If the government recognises this and realises that they need to protect this group of people of Sri Lanka, then they will survive. The present-day children will be like you someday. Even now the country is in ruins. At first, it was the fertiliser issue. Next came the fuel issue. When you look at it like this - the first thing that comes to mind is tsunami – nature is teaching us, and we need to learn from these examples. If at least now they realise that there is a group of Adivasi people in Sri Lanka, and decide to assist, we can protect the next generation.

It is very sad when you think that our generation will be no more. But as I said before, I am still telling you that the rulers must protect it. We need to establish our freedom. There is a law in Sri Lanka and we are subject to that law. That's right. Also, there are many who have studied in this school. There are teachers, there are people in the wildlife, the police, the army and all over the place. Irrespective of where they go, when

they come back they live like us. When they come home for the holidays they are back to their usual ways. That is not a problem. If our generation ends, we will also lose our culture, rituals, dances and songs. No matter what kind of dance types are, it is not as good as a traditional dance. It doesn't matter if there is up-country or low-country dancing, there is nothing like shaking your limbs and dancing freely when you dance. Dancing for our rituals starts at 6 pm today and will not be able to finish even by 6 pm tomorrow. It will finish around 8 or 9 o'clock. There are separate dances when the children are sick when the leopard plans to attack the cattle, dances for blessing people etc.

Wildlife officials are there to protect this forest. We also have a lot of children. You can get help from us, when we go to the forest we only hunt male animals. But we don't hunt this animal when it is playing, drinking water or when it is eating. We only hunt male animals and do not kill female animals since it restricts growth. Now there are hunters everywhere. It is our Adivasi people who are caught up in it all at the moment. The Sinhalese community from all over the place including Padiyathalawa and Maha Oya, are involved in hunting wild animals. If we are allowed to go to the forest, we can reduce this hunting. Our people will hunt only certain animals, but these hunters will kill any animal as soon as they enter the forest. They use guns but we use bows and arrows and the forest will not be destroyed.



# 'Our land under your law'

**The forest we cannot enter, the life we are deprived and  
the law that alienates us**

**Lalinda Wickramaratne**

Uru Varige Thissahamy, the late leader of the 'Adivasi' community and father of the present leader, is credited as the person who spearheaded the 'Adivasi' revival in Sri Lanka. Address of Warige Wanniya from Sri Lanka of the United Nations Working Group on Indigenous People (UNWGIP) 14th session held in Geneva, 1996 resulted in a letter that was sent to the Sri Lanka President urging the Government of Sri Lanka to recognise and respect the rights of the Wanniyala-aetto to maintain their traditional subsistence and live according to their culture. The working group has also urged the Government to "cease all acts of repression."<sup>1</sup>

There is a remarkable heritage of the many indigenous communities in Sri Lanka. Popularly known as the Veddahs. Historically, Sri Lanka's indigenous inhabitants, the Wanniya-laeto ('forest-dwellers') as they call themselves had repeatedly been forced to choose between alternative survival strategies: either to be assimilated into other mainstream cultures or to retreat even further into a shrinking forest habitat. Today only

a few remaining inhabitants still manage to preserve their cultural identity and traditional lifestyle despite relentless pressure from the surrounding dominant communities and the ever shrinking opportunities for sustenance. The imminent extinction of the culture of Sri Lanka's indigenous inhabitants will only result in Sri Lanka and the world losing a rich body of indigenous tradition and living ecological wisdom that is urgently needed for the sustainable future of the rest of mankind

Indigenous Peoples across the world are also known as First Peoples, Aboriginal Peoples, or Native Peoples. In some countries there are specific terms such as Adivasis (India) or Janajatis (Nepal). In Sri Lanka Indigenous people are referred as 'Veddahs', Wanniyala-aetto, (the word Wannila-aththo itself means 'forest beings') Coastal or marine Adivasis etc.

Safeguarding the land tenure security of Indigenous Peoples is a key foundation for the future of Indigenous Peoples and is one of the key rights and demands of the global Indigenous movement, including in the current climate change context. Indigenous Peoples in all regions of the world have paid

<sup>1</sup> <https://vedda.org/> /A comprehensive website detailing various studies and history of the Sri Lankan indigenous communities

and are still paying a high price for recent decades of unsustainable development.

However, countries are now realising that the rights of indigenous peoples are both essential and of historical significance to the present and future of a nation.

## The world around us

There are 476 million Indigenous people around the world spread across more than 90 countries. They belong to more than 5,000 different Indigenous peoples and speak more than 4,000 languages. Indigenous people represent about 5% of the world's population while a vast majority of them nearly 70% live in Asia. 1/3 of the world's 900 million extremely poor rural people are Indigenous Peoples.<sup>2</sup> Discrimination is one of the reasons why Indigenous peoples make up 15% of the world's extreme poor. Globally, they also suffer higher rates of landlessness, malnutrition and internal displacement than other groups.

Indigenous Peoples can be identified according to certain characteristics:

- Most importantly, they self-identify as Indigenous peoples
- There is a historical link with those who inhabited a country or region at the time when people of different cultures or ethnic origins arrived
- They have a strong link to territories and surrounding natural resources
- They have distinct social, economic or political systems
- They have a distinct language, culture and beliefs

- They are marginalised and discriminated against by the state
- They maintain and develop their ancestral environments and systems as distinct peoples

Each of these characteristics may be more or less important depending on the situation.

The purpose of this article is to briefly explore the development around the world with regard to the recognition of Indigenous Peoples.

## Indigenous Peoples' Rights

The rights of indigenous peoples are not limited to general human rights and minority rights. The rights specific to indigenous peoples, as found in the ILO Convention No. 169 and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) are mostly formulated as collective rights. These rights are regarded as minimum standards for the survival, dignity and well-being of indigenous peoples. Historic injustice is an important normative justification for international standards concerning indigenous peoples' rights, including the colonisation of indigenous peoples and dispossession of their lands, territories and resources, and denial of their right to development in accordance with their own needs and interests. The provisions of the ILO Convention seek to allocate certain authority to indigenous peoples in order to enable them to make their own decisions in matters relating to their internal and local affairs. International instruments specifically acknowledge indigenous peoples' rights to lands.

## Constitutional mechanisms to enable Indigenous

<sup>2</sup> <https://www.amnesty.org/en/what-we-do/indigenous-peoples/>

## representation, participation and consultation

Realising principles of Indigenous self-determination requires institutional mechanisms that enable Indigenous peoples to genuinely participate, be represented and be consulted in state political decision-making that impacts them.

Many countries, such as Australia, Canada and New Zealand, have specialist Indigenous ministries and departments that enable the government to develop and administer policies, programmes and services specific to Indigenous peoples and affairs. Whether such ministries are led by Indigenous individuals is usually a matter of politics. However, Indigenous representation in the executive branch is guaranteed in some constitutions

### Reserved seats in the legislature for Indigenous Peoples

Some countries guarantee Indigenous representation in the legislature by reserving Indigenous peoples legislative seats. There is significant variation in how this is implemented in different countries

The Indian Constitution guarantees reserved seats for the 'Scheduled Tribes' in the lower house of its national legislature and in state legislative assemblies. These time-limited provisions were set to expire in 2020 but were extended for a further 10 years (Indian Constitution 2020, articles 330, 332 and 334).<sup>3</sup>

New Zealand - Māori comprise around 16.7 per cent of New Zealand's population.

The unicameral parliamentary system has incorporated reserved Māori seats.

To facilitate meaningful and independent expression of Indigenous opinions to the state, some countries use Indigenous representative, advisory and consultative bodies that are more separate from, independent of and external to the Constitutional mechanisms to enable Indigenous representation, participation and consultation with government and legislature. Such bodies aim to provide an independent consultative mechanism for representing Indigenous views, to advise, inform and dialogue with the legislature and the executive on relevant Indigenous matters. National Indigenous institutions of this kind can be especially beneficial for uniting disparate Indigenous peoples and groups within the country, to enable them to exercise a more powerful collective national voice in their affairs—as long as the structure also allows different Indigenous groups to exercise their unique views on localised matters. These bodies may be established either complementary to or instead of reserved Indigenous seats and Indigenous quotas in established branches and institutions of the state.

Some Indigenous representative bodies have constitutional underpinnings, while others are purely creatures of legislation. Constitutional status may be sought to help ensure the institution's longevity, stability and authority, while legislative flexibility of design enables the institution to evolve. In Australia, for example, Indigenous advocates are calling for a constitutionally guaranteed 'First Nations voice', because the merely legislated Indigenous bodies of the past were abolished when they became politically inconvenient.

<sup>3</sup> <https://www.idea.int/sites/default/files/publications/mechanisms-for-indigenous-representation-participation-consultation.pdf>

Finland, Norway and Sweden are home to minority Indigenous Sámi populations. While there are no historical treaties between the Sámi and Scandinavian governments (Allard 2018: 25, 27), rights to Sámi self-determination are constitutionally recognised. Finland's Constitution Act of 1999 recognises and protects Sámi language and cultural rights (section 17) and provides that: 'In their native region, the Sámi have linguistic and cultural self-government, as provided by the Act' (section 121). Norway's 1814 Constitution requires that: 'The authorities of the state shall create conditions enabling the Sámi people to preserve and develop its language, culture and way of life' (article 108). Sweden's 1974 Instrument of Government requires that 'The opportunities of the Sámi people and ethnic, linguistic and religious minorities to preserve and develop a cultural and social life of their own shall be promoted' (article 2).

## **Right to be consulted on matters affecting indigenous communities**

Colombian Constitution provides that on decisions about natural resource exploitation in Indigenous territories, 'the Government will encourage the participation of the representatives of the respective communities'. This principle has been enforced by the Constitutional Court, which further detailed the procedural requirements that constitute effective consultation. Effective consultation means that communities must be informed of the extractive project in advance, and the authorities should encourage Indigenous participation that aims to reach an agreement.

The Bolivian Constitution provides Indigenous peoples with the right to 'be

consulted by appropriate procedures, in particular through their institutions, each time legislative or administrative measures may be foreseen to affect them' and mandates 'prior obligatory consultation' with respect to natural resource exploitation in Indigenous territories.

## **Treaties between Indigenous peoples and colonising powers**

Treaties between Indigenous peoples and colonising powers can articulate the terms for future relationships between the parties. Such treaties can contain mutual rights, obligations and promises. Treaties can also articulate agreed principles—such as principles of self-determination—that pave the way for Indigenous representation in state institutions, and the establishment of Indigenous representative and consultative arrangements.

While treaties are important political agreements, they are also subject to the vagaries of politics and power. Historic treaties were usually enacted in circumstances of deep power imbalance. In many cases, the more powerful colonising force would subsequently breach their treaty obligations, leaving Indigenous peoples with little recourse to hold the colonising state to account. As politics and social attitudes change, however, treaties can be useful political and moral tools to pressure the state to live up to past promises. Similarly, mechanisms for contemporary treaty-making can help reset, reform and revitalise relationships between Indigenous peoples and dominant states.<sup>4</sup>

### **Distinct social and cultural groups**

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<sup>4</sup> Mechanisms for Indigenous Representation, Participation and Consultation in Constitutional Systems by International Institute for Democracy and Electoral Assistance) International IDEA



Indigenous Peoples are distinct social and cultural groups that share collective ancestral ties to the lands and natural resources where they live, occupy or from which they have been displaced. The land and natural resources on which they depend are inextricably linked to their identities, cultures, livelihoods, as well as their physical and spiritual well-being. They often subscribe to their customary leaders and organisations for representation that is distinct or separate from those of the mainstream society or culture. Although they have different customs and cultures, they face the same harsh realities: eviction from their ancestral lands, being denied the opportunity to express their culture, physical attacks and treatment as second-class citizens.

Indigenous peoples are often marginalised and face discrimination in countries' legal systems, leaving them even more vulnerable to violence and abuse. Efforts by Indigenous Peoples to maintain their cultural identity or exercise control over their traditional lands, which are often rich in resources and biodiversity, have met with mixed reactions over the years and across the countries of the world.

## History of international initiatives

Across the world diverse international initiatives, as well as already developed normative instruments, contribute to a new generation of international consensus on indigenous peoples' rights. Indigenous peoples themselves have been at the helm of a movement that has challenged state-centred structures and precepts which have continued within international law and global organisations. The efforts to draft a specific

instrument dealing with the protection of indigenous peoples' worldwide date back several decades.

The Resolutions adopted at the 1992 United Nations Conference on Environmental Development include provisions for indigenous people and their communities. The Rio Declaration, and the more detailed environmental program and policy statement known as Agenda 21, reiterate precepts of indigenous peoples' rights and seek to incorporate them within the larger agenda of global environmentalism and sustainable development. The Program of Action adopted by 1994 by the U.N. Conference on Population and Development similarly includes a part on indigenous people and affirms prevailing normative assumptions in this regard. The new and emergent international law of indigenous peoples, which includes ILO Convention No. 169 and customary law, is a dramatic manifestation of the mobilisation of social forces through the human rights frame of the contemporary international system.

## ILO Convention No. 169

ILO Convention No. 169 is significant to the extent it creates treaty obligations among ratifying states in line with current trends in thinking prompted by indigenous peoples' demands. It is now evident that states and other relevant actors have reached a certain new common ground about minimum standards that should govern behaviour toward indigenous peoples, and it is further evident that the standards already are in fact guiding behaviour. Under modern theory, such a controlling consensus constitutes customary international law.

The basic theme of Convention No. 169 is indicated by the convention's preamble, which recognises "the aspirations of [indigenous] peoples to exercise control over their own institutions, ways of life, and economic development and to maintain and develop their identities, languages, and religions, within the framework of the States in which they live." Upon this premise, the convention includes provisions advancing indigenous cultural integrity, land and resource rights, and non-discrimination in social welfare spheres; and it generally enjoins states to respect indigenous peoples' aspirations in all decisions affecting them.

## Indigenous identification

The given examples illustrate the variety of approaches that can be taken to Indigenous identification. Identification rules should avoid unfairly excluding Indigenous people who have suffered cultural, language, land or other losses as a result of colonisation (see the discussion in Morris 2021). Both the ILO Convention No. 169 and IPCAT Question 1 recognise that individuals and groups should be enabled to self-identify as Indigenous or opt-out as they choose. Crucially, the rules for Indigenous identification should be developed in collaboration and consultation with Indigenous people. They should not be imposed.

### Chile

The current Indigenous Law defines Indigenous persons as those who have an Indigenous parent, including adoptive parents; those descended from Indigenous groups, 'provided they have at least one indigenous surname'; and those who maintain the cultural traits of an Indigenous group or whose spouse

is Indigenous (article 2). It further provides that Indigenous accreditation can be conferred by CONADI, a person's Indigeneity may be challenged by another (article 3), and penalties apply where a person pretends to be Indigenous to obtain economic benefit (article 5).

### Bolivia

Some countries set out their identification rules in ordinary legislation, while others entrench them in the constitution and elucidate further details (including processes for recognition by the state) by statute. For example, the Bolivian Constitution (2009) provides that: 'A nation and rural native indigenous people consists of every human collective that shares a cultural identity, language, historic tradition, institutions, territory and world view, whose existence predates the Spanish colonial invasion' (article 30(I)), and 36 Indigenous peoples are recognised by the state (International Work Group for Indigenous Affairs).

### Paraguay

Paraguay's Constitution (1992) recognises 'the existence of indigenous peoples, defined as cultural groups prior to the formation and organisation of the Paraguayan state' (article 62) and the Statute of Indigenous Communities of 1981 established a National Register of Indigenous Communities (Law No.904/81).

### Canada

The Canadian Constitution (1982) defines Aboriginal peoples as 'the Indian, Inuit and Métis peoples of Canada' (section 35), while the evolving and controversial Indian Act of 1876 distinguishes between Status Indians (who appear on the Indian Register) and

Non-Status Indians (who are not registered with the federal government) (Indigenous Foundations).

### **Australia**

In Australia, a three-part definition of Indigeneity has operated since the 1980s, developed in common law and statute. It requires: (a) Aboriginal and/or Torres Strait Islander descent; (b) self-identification as an Aboriginal and/or a Torres Strait Islander; and (c) acceptance by the community as an Aboriginal and/or a Torres Strait Islander. Where proof is required, usually for accessing Indigenous-specific services, this is provided through a 'Confirmation of Aboriginality' from an Indigenous community organisation (AIATSIS).

### **New Zealand**

In New Zealand, legislation defines a Māori as 'A person of the Māori race of New Zealand' including 'any descendant of such a person' (Māori Land Act 1993, section 4). An iwi (tribe) registration letter or other evidence of ancestry may be requested for access to Māori-specific benefits (University of Otago).

### **Norway**

The Norwegian Sámi Act 1987, which established the Sámi Parliament (an Indigenous consultative body), provides that anyone who makes a declaration claiming Sámi identity may demand to be registered as a Sámi elector in their municipality, provided that they: (a) have Sámi as their domestic language; (b) have or have had a parent, grandparent or great-grandparent with Sámi as his or her domestic language; or (c) are the child of a person who is or has been registered in the Sámi electoral register (section 2.6).

### **Finland**

In Finland, legislation states that a Sámi person can self-identify provided that: (a) he or she has at least one parent or grandparent who learned Sámi as their first language; (b) he or she is a descendent of a person who has been entered in a land, taxation or population register as a mountain, forest or fishing Lapp; or (c) at least one parent has or could have been registered as an elector for an election to the Sámi Delegation or the Sámi Parliament (Act on the Sámi Parliament 1995, section 3).

## **UN Declaration on the Rights of Indigenous Peoples**

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the General Assembly on Thursday, 13 September 2007, with a majority of 143 states in favour, 4 votes against (Australia, Canada, New Zealand and the United States) and 11 abstentions (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa and Ukraine).<sup>5</sup>

Years later the four countries that voted against have reversed their position and now support the UN Declaration. Today the Declaration is the most comprehensive international instrument on the rights of indigenous peoples. It establishes a universal framework of minimum standards for the survival, dignity and well-being of the indigenous peoples of the world and it elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of indigenous peoples.

The process adopted by the various countries and the recognition including

<sup>5</sup> UN Department of Economic and Social Affairs Indigenous Peoples

compensation vary by each country. Each country has a journey of their own in terms of recognising the indigenous community. Indigenous Peoples' rights are laid out in the UN Declaration on the Rights of Indigenous Peoples, adopted in 2007. The United Nations Permanent Forum on Indigenous Issues (UNPFII) is the central body within the UN system that deals with Indigenous issues related to economic and social development, culture, the environment, education, health and human rights. The Forum was established in 2000.

## PHILIPPINES

Indigenous Peoples Rights Act 1997 (Republic Act No. 8371 of 1997).<sup>6</sup> An Act to recognise, protect and promote the rights of Indigenous Cultural Communities/Indigenous Peoples, creating a National Commission on Indigenous Peoples, establishing implementing mechanisms, appropriating funds therefor, and for other purposes.

The Act makes provision for the promotion and recognition of the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs), with a view to preserve their culture, traditions and institutions and to ensure the equal protection and non-discrimination of members. The Act is divided into the following Chapters: General Provisions (I); Definition of Terms (II); Rights to Ancestral Domains (III); Right to Self-governance and Empowerment (IV); Social Justice and Human Rights (V); Cultural Integrity (VI); National Commission on Indigenous Peoples (NCIP) (VII); Delineation and Recognition of Ancestral Domains (VIII); Jurisdiction and Procedures for Enforcement

of Rights (IX); Ancestral Domains Fund (X); Penalties (XI); Merger of the Office for Northern Cultural Communities (ONCC) and the Office for Southern Cultural Communities (OSCC) (XII); Final Provisions (XIII).

Chapter I declares that the State shall recognise and promote the rights of Indigenous Cultural Communities and Indigenous Peoples. Chapter II sets forth definitions. Chapter III provides for rights to ancestral domains. Ancestral domains shall be the private property of indigenous peoples; in return, indigenous peoples shall have the responsibility of maintaining the ecology and restoring denuded areas. The right to self-governance and empowerment is provided by Chapter IV; *inter alia*, indigenous peoples shall have the right to use a common justice system. Chapter V sets forth human rights, including freedom from discrimination against indigenous peoples and a right to special protection in times of armed conflict. Chapter VI provides for the recognition of the cultural integrity of indigenous peoples, and for their intellectual property rights with respect to cultural and religious property. Chapter VII establishes a National Commission on Indigenous Peoples (NCIP) which shall have the function of promoting the interests of indigenous peoples. The delineation and recognition of ancestral domains is covered by Chapter VIII. The remaining Chapters provide for procedures for the enforcement of rights, an Ancestral Domains Fund, penalties, and related matters.

## AUSTRALIA

Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of

<sup>6</sup> <https://www.officialgazette.gov.ph/1997/10/29/repub-lic-act-no/8371->



their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination. A number of laws have been passed since the European settlement of Australia, initially by the Parliament of the United Kingdom, then by the Governors or legislature of each of the Australian colonies and more recently by the Parliament of Australia and that of each of its States and Territories.

## CANADA

The Government of Canada recognises that: All relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government. Reconciliation is a fundamental purpose of section 35 of the Constitution Act, 1982.

Aboriginal people are subject to the general law of the land, together with other Canadians, unless there is some Aboriginal treaty or other provision affording special protection

Canadian Aboriginal law is the body of law of Canada that concerns a variety of issues related to Indigenous peoples in Canada. Canadian Aboriginal Law is different from Canadian Indigenous law: In Canada, Indigenous Law refers to the legal traditions, customs, and practices of Indigenous peoples and groups. Aboriginal peoples as a collective noun is a specific term of art used in legal documents, including the Constitution Act, 1982, and includes First Nations, Inuit and Métis people. Canadian Aboriginal law provides certain constitutionally recognised rights to land and traditional practices.

Canadian Aboriginal Law enforces and interprets certain treaties between the Crown and Indigenous people, and manages much of their interaction. A major area of Aboriginal law involves the duty to consult and accommodate.

Aboriginal law, created by Canadian courts and legislatures, is about the legal relationship between Indigenous Peoples and the Crown within the Canadian legal system. Aboriginal law involves the interpretation of Indigenous rights recognised in the Canadian Constitution and other laws created by Canadian governments such as the Indian Act or self-government agreements. Most notably, this body of law includes defining the nature and scope of Aboriginal and Treaty rights under section 35 of the Constitution Act, 1982 and the Crown's corresponding obligations to Indigenous Peoples.

## NEW ZEALAND

New Zealand is decades ahead of other countries in dealing with its colonial past. For 40 years, under the Treaty of Waitangi, a process of reparation has allowed the Maori to be fully recognised at the political level. Indigenous Peoples Rights Act 1997 (Republic Act No. 8371 of 1997). An Act to recognise, protect and promote the rights of Indigenous Cultural Communities/Indigenous Peoples, creating a National Commission on Indigenous Peoples, establishing implementing mechanisms, appropriating funds therefore, and for other purposes.

### The requests submitted in 1996 by Wanniyala-aetto<sup>7</sup>

- The objective of the Wanniyala-aetto

<sup>7</sup> <https://vedda.org/wanniyalaeto-un.htm> Address of Warige Wanniya to the UN United Nations Working Group on Indigenous People ,UNWGIP14 (th session held in Geneva1996 ,

people is to maintain our culture, apart from the dominant society, and protect it against those who seek to change our beliefs, modify our customs or exploit our resources.

- We wish to obtain a legal status in the constitution as indigenous peoples of Sri Lanka recognised by the central government.
- We, the Wanniyala-aetto, the indigenous people of Sri Lanka, want to have the 1983 Sinhalese land acquisition returned to us. The area is 198.72 sq. miles (or 51,468 hectares.). It is our hunting grounds, now labelled as the Maduru Oya National Park. For borders, see Gazette 270/9 1983.11.09.
- We want to return to our traditional migration routes. Areas recognised by us as Kudatalawa, Kiuliaya, Kotabakinni, Kaeragoda, Bullugaha-dena and Kandeganville.
- These are the places where we usually build our houses, where we organise swidden and fallow-cultivations, and arrange small plots of horticulture.
- The remaining part of the Maduru Oya National Park should serve as the hunting and gathering ground of the Wanniyala-aetto.
- Nobody but the Wanniyala-aetto people should be able to live and make a living inside the National Park. We will be responsible for the determination of Wanniyala-aetto identity.
- The Wanniyala-aetto who were relocated to rehabilitation Villages, Henanegalla,

and other land offered by the Mahaweli Development Project may return to their villages of origin.

- The Wanniyala-aetto will not allow encroachers, neither government (State Timber Corporation, Tourist Board, Development Projects, religious institutions or military training camps) nor private entrepreneurs/projects or private individuals inside the park.
- National Park guards will help the Wanniyala-aetto to keep encroachers outside. Game meat is harvested for private consumption only. Honey and medical herbs are sold.
- Appropriate formal (school based) and non formal (practical) education facilities should be provided to us. To be effective, curricula and methodologies should be demand-driven, adjusted to our needs and realities and functional in our life within our communities and in our relationship with outside societies. Education should be bilingual and bicultural. The instructors of our culture (language, history, religion, subsistence etc.) should preferably be given by a Wanniyala-aetto person itself.
- We ask to evolve, adopt and adjust ourselves at our own pace. We no longer use stone tools and clothes of beaten bark. We cannot be asked to regress to a relic part of our culture that died hundreds of years ago, such as the use of bow and arrow. The hunting weapon of today's Wanniyala-aetto, is the muzzle loader, i.e. a shotgun which loads one bullet at time.

## The way forward for Sri Lanka – 10 points

Indigenous Peoples are distinct social and cultural groups that share collective ancestral ties to the lands and natural resources where they live, occupy or from which they have been displaced. The land and natural resources on which they depend are inextricably linked to their identities, cultures, livelihoods, as well as their physical and spiritual well-being. They often subscribe to their customary leaders and organisations for representation that is distinct or separate from those of the mainstream society or culture and face the harsh realities of eviction from their ancestral lands, being denied the opportunity to express their culture, physical attacks and treatment as second-class citizens. The rights of indigenous peoples are both essential and of historical significance to the present and future of Sri Lanka.

The existence of the indigenous cultures and communities in Sri Lanka is important to humanity. The following 10 basic steps could be pursued for further discussion based on the models of other countries that have come to grips with the Indigenous community and their preservation.

- **UNIQUE IDENTITY:** Sri Lanka needs to reaffirm that indigenous peoples are original, diverse societies with their own identities that constitute an integral part of the people in Sri Lanka. It is imperative to consult the Adivasi Communities regarding their requests submitted in 1996 most of which are sadly relevant even after 25 years.
- **CLEAR DEFINITION:** A clear definition or framework to identify

Indigenous people should be established (definition of Indigeneity), which should be enshrined in the constitution as evidenced by the actions taken by other countries that have progressed in this area.

- **INHERENT RIGHTS:** Respecting and promoting the inherent rights of indigenous peoples, which derive from their political, economic, and social structures and from their cultures, spiritual traditions, histories, and philosophies, especially their rights to their lands, territories, and resources, while also guaranteeing respect for indigenous knowledge, cultures, and traditional practices that contribute to sustainable and equitable development and proper management of the environment.
- **HISTORIC INJUSTICES:** Recognising that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonisation and the dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests. This becomes a preamble for all other services as seen in the approach of most countries.
- **ACCESS TO JUSTICE:** Improving the security of land tenure, strengthening governance, promoting public investments in quality and culturally appropriate service provision, and supporting Indigenous systems for resilience and livelihoods are critical to reducing the multidimensional

aspects of poverty that is experienced by all indigenous groups in Sri Lanka. Indigenous communities typically have inadequate access to the justice system. One of the reasons for this is that many communities do not have formal titles to their lands or land tenure security.

- **ELIMINATING ALL FORMS OF DISCRIMINATION:** Eliminating all forms of discrimination that may affect indigenous peoples, and taking into account the responsibility of the State to combat them. This would require instilling grievance systems as well as mechanisms with legal provisions. Indigenous communities are mostly located in remote areas far from protection networks and support systems. Consequently, violations are less prone to be discovered.
- **TRADITIONAL LIVELIHOODS:** Political marginalisation of Indigenous Peoples, racism and disrespect for their traditional use of natural resources, and the criminalisation of their traditional livelihoods add to their vulnerability. The traditional livelihoods of the Indigenous people must be respected.
- **CULTURAL IDENTITY:** The important presence of indigenous peoples and their immense contribution to development, plurality, and cultural diversity, and reiterating our commitment to their economic and social well-being, as well as the obligation to respect their rights and cultural identity need to be guaranteed.
- **RELATIONSHIP WITH LAND:** The relationship with the land and all living

things is often the core of indigenous societies. It is essential to acknowledge the deep and special relationship between indigenous peoples and their lands as fundamental to their existence as well as central to all their beliefs, customs, traditions and culture.

- **LAND IS NOT MERELY A POSSESSION:** It is important to acknowledge that for indigenous peoples the land is not merely a possession and a means of production. Their land is not a commodity which can be acquired, but a material element to be enjoyed freely.

Everything that is natural- god given,  
 the sun, the moon, the wind, the trees  
 and the beauty of the blowing wind, the wild  
 animal  
 who is a part of nature itself belongs to us the  
 Vanniyalaththo  
 the men of the jungle  
 For eternity,  
 to the day that the sun and the moon exist  
 we will belong to the yakka tribe  
 Our forearms possess the strength of a steady  
 rock  
 our minds are filled with beauty  
 that can be compared to the serenity of the  
 jungle  
 our hearts contain the rhythm of the running  
 water  
 we are the men of the jungle<sup>8</sup>

(The Veddah anthem was composed by Dambane Gunewardena, who has the distinction of being the first indigenous person to have gained entrance to a university in Sri Lanka).

<sup>8</sup> Indigenous Communities in Sri Lanka - The Veddahs published by Ceylon Tea Service PLC MJF Group







VOICE OF CITIZENS



CENTRE FOR POLICY ALTERNATIVES  
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