INDIGENOUS PEOPLES/ETHNIC MINORITIES AND POVERTY REDUCTION

PACIFIC REGION

Roger Plant

Asian Development Bank
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AND

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This publication is one of a series of reports on indigenous peoples/ethnic minorities undertaken by the Asian Development Bank (ADB) to strengthen the capacity of its developing member countries (DMCs) to combat poverty in the region and to improve the quality of ADB's interventions as they affect indigenous peoples. The purpose of the report is to provide information on the main issues of indigenous poverty and development in Pacific DMCs insofar as they are relevant for ADB programming, project preparation, and implementation.

The report is based mainly on numerous discussions with governments and concerned stakeholders in several Pacific DMCs (Fiji Islands, Samoa, Tonga, and Vanuatu); with academic and policy institutions and Pacific islanders in Australia, New Zealand, and Hawaii; and within ADB.

Mr. Roger Plant, a consultant, prepared this report under the supervision of Dr. Indira Simbolon, ADB's Social Development Specialist and Focal Point for Indigenous Peoples. Mr. Plant is an international development consultant who has had extensive experience in social aspects of development, including indigenous peoples and ethnic minorities, poverty reduction and social policy, land rights and resource management, human rights, and social protection.

It is hoped that the information in this publication series on the issues and concerns of indigenous peoples/ethnic minorities will help guide national governments and development partners in improving future interventions to recognize, promote, and protect the rights of these peoples.

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OBJECTIVES AND ISSUES

Can a better understanding of “indigenous” issues be of practical value for poverty reduction programs and approaches in the Pacific? How do such terms as indigenous rights and indigenous identity, or indigenous institutions tend to be used in the Pacific context? Is the indigenous paradigm a meaningful one in a region of tremendous ethnic and cultural diversity, but where the vast majority of the population can claim to be indigenous on the grounds of descent from aboriginal populations?

This study aims to explore these conceptual and policy issues, insofar as they are potentially relevant to Asian Development Bank (ADB) operations in its 12 Pacific developing member countries (PDMCs). The report has its origins in an initial request to the author to prepare a set of “indigenous/ethnic peoples’ poverty profiles” for each of the PDMCs. The purpose was to familiarize ADB staff with the main issues of indigenous poverty and development in the Pacific region as relevant for ADB project preparation and implementation. After consultations with both ADB’s (former) Social Development Division and Office of Pacific Operations, it was agreed that an analytical paper discussing the meaning of the terms indigenous peoples and poverty reduction for the Pacific region, and the implications for program and project interventions, could be of more practical value than a country-by-country treatment of these issues.

Widespread discussions within ADB itself, with governments and other stakeholders in several PDMCs, and with governments and academics and policymakers in Australia and New Zealand, would appear to confirm these impressions. At the present time, there has been some escalation of interethnic tensions in different parts of the Pacific region. One clear example is in Solomon Islands where the recent civil conflict, despite its complexities, is generally perceived as an ethnic one between the original inhabitants of different islands. Another clear example is the Fiji Islands, where the indigenous paradigm has been used by politicians and policymakers to promote the interests of the population indigenous to those islands, who comprise approximately half of the overall population, to the possible economic detriment of the substantial Indo-Fijian population.

Whether or not there is open conflict between different ethnic groups in any one island, there are longstanding tensions between what may be termed traditional indigenous institutions in the Pacific region, and those that are often referred to as extraneous or “western” institutions. These are complex issues that need to be examined at some length. Suffice it to say that concerns are being expressed at the highest levels of political leadership concerning the implications for Pacific cultures and societies of certain aspects of globalization. An example is the view expressed by participants at the Sixth Pacific Islands Conference of Leaders (Hawaii, January 2001) that “Real conflicts exist and need to be reconciled between economic and political principles of traditional forms of Pacific Islands’ governance and western liberal democracies.” That conference discussed at some length the tensions between “global and local cultural values,” examining what might be the right mix of communal values and liberal democratic principles for island societies.

Some similar sentiments were expressed by Pacific leaders in their “Biketawa” Declaration, adopted by the Pacific Forum at Biketawa, Kiribati, in October 2000. While stressing their commitment to good governance and the upholding of democratic processes and institutions, the leaders also recognized the “importance of respecting and protecting indigenous rights and cultural values, traditions and customs”. They stressed that the Forum must “constructively address difficult and sensitive issues including underlying causes of tensions.
and conflict (ethnic tensions, socioeconomic disparities, lack of good governance, land disputes, and erosion of cultural values).“4

Of all the Pacific indigenous values that can be seen as under threat from the forces of modernization, those related to customary forms of land tenure are probably the most crucial. For decades, there have been difficult debates concerning the way in which land can be used more productively without undermining these customary values and institutions. Attempts to introduce individual forms of land registration and to promote more open land markets have sometimes met with fierce opposition and have generally floundered. Under indigenous tenure systems, control of land tends to lie with a group of kin or a residential community, with leaders of the group having a high degree of control over land rights. But very different opinions are expressed about the purpose of these indigenous customary tenures and their effect in preventing the emergence of social differentiation and poverty. Many analysts argue that customary land tenure systems, by guaranteeing every family at least some access to productive land, have played a fundamental role in guaranteeing subsistence livelihoods. Others argue that some customary tenure systems, rather than serving the welfare interests of the community as a whole, can reinforce the status of elite groups. In the words of one analyst: “Meanwhile social and political elites continue to use the rhetoric of custom to equate customary land rights and conventions with national or ethnic identity. In so doing they seek to bolster their own status and power by advocating maintenance of customary forms of social interaction and authority.”5

A recent session of the Forum Regional Security Committee identified “ethnic differences, land disputes, economic disparities, and a lack of confidence in governments' ability to resolve these differences fairly,” as key factors underlying political unrest in the region.6 The same opinions were subsequently expressed by Pacific Forum Foreign Affairs ministers7 and in the Biketawa Declaration mentioned above. Based on these considerations, the Forum prepared a special report on land issues in the Pacific for its 2001 Forum Economic Ministers Meeting. Some of its main findings, as they relate to indigenous and customary land tenure concerns, are reviewed further below.

Thus, ethnicity and the broader issues of cultural values and indigenous institutions are matters of very pressing concern throughout the Pacific region at this time. Probably the main reason for this concern is that policymakers sense a very real threat to the region's security if these issues are not addressed. They may be seen as issues of “governance” rather than “poverty reduction” in the narrower sense. However, as ADB’s ongoing work on the general aspects of poverty reduction in the Pacific has emphasized quite clearly, the questions of poverty reduction and governance have to be addressed in an integrated way. Poverty reduction strategies for PDMCs identify civil and social order in the Melanesian group of countries as the overriding priority. They also stress that effective poverty strategies have to be built on an understanding of traditional social institutions, including the reciprocity systems that have provided traditional social safety nets through kinship arrangements. At the same time, these systems and institutions should not be unduly “idealized” or “romanticized”. There is an increase in the “incidence, depth and severity of poverty throughout the Pacific, as the economies become increasingly monetized and traditional support systems are breaking down.”8

Questions of indigenous identity and rights in the Pacific are important for ADB, not least because in 1998 it adopted a Policy on Indigenous Peoples, which is prima facie applicable to its Pacific operations. The policy states that “With a substantial portion of the world's indigenous peoples living in Asia and the Pacific, virtually every country in the ADB's region has an indigenous population.” In the section on organizational implications, it specifies that the Office of Pacific Operations (now the Pacific Department) holds responsibility for the policy as it applies to operations in the PDMCs. The full text of the ADB Policy on Indigenous Peoples is given in the Annex.

And yet certain things became apparent in the course of discussions in several PDMCs. First, this policy is virtually unknown in the Pacific to governments, other stakeholders, and even most ADB operational staff in the region. There has been no attempt to apply it at the project level, for example by preparing the indigenous peoples' development plans that have been quite widely utilized in the Asian context. Second, concerns were expressed that the application of the policy could be divisive in the Pacific context. ADB's policy was seen as applicable to vulnerable or disadvantaged minorities, rather than to a region where most or all of the population could be classified as indigenous.
Nevertheless, some views were expressed that the ADB Policy on Indigenous Peoples could play a useful role in the Pacific. Rather than see the issues in terms of vulnerable minorities versus dominant majorities, one might instead focus on the totality of indigenous institutions in the Pacific, and on their use as instruments for devising and implementing poverty reduction programs. In other words, the ADB policy might be used to support more institutional analysis, placing particular emphasis on the role of indigenous institutions in the development and poverty reduction process.

**METHODOLOGICAL APPROACH**

This report adopts the broader sense of the ADB policy, focusing in particular on the nature of indigenous institutions. The report is structured as follows.

The next chapter concerns the issues of indigenous identity and rights in the Pacific context. It examines how indigenous identity and indigenous institutions are defined in ADB’s Policy on Indigenous Peoples. It then tries to apply these concepts to the Pacific region to learn where aspects of this policy may and may not be relevant.

The third chapter attempts a typology of “indigenous peoples” in the Pacific, examining where there are minorities that have either been accorded a special status, or for whom there could be certain grounds for providing a special status for the protection of their livelihood, culture, and institutions.

The fourth chapter—the main body of this paper—pursues institutional analysis as considered relevant to the issues of poverty reduction, broadly defined. Much of the analysis is concerned with traditional institutions of governance, particularly the “chiefly” systems of governance at different levels. Land tenure concerns also receive particular attention. Gender implications are considered throughout in the thematic analysis, although particular attention is given to the problems faced by Pacific women with regard to land rights and adjudication.

The fifth and final chapter turns to operational concerns for ADB itself, and the possible implications of the earlier analysis for country projects and programs. Certain recommendations are put forward accordingly.
ETHNIC DIVERSITY IN THE PACIFIC: AN OVERVIEW

For ethnographic analysis, conventional distinctions tend to be drawn between three separate groups of the Pacific Islands, namely Melanesia, Polynesia, and Micronesia. The most complex region with the greatest cultural and linguistic diversity is Melanesia, comprising Papua New Guinea (PNG), Solomon Islands, Vanuatu, and the Fiji Islands (which shares many affinities with Polynesia). There is great linguistic diversity. In Vanuatu, with a population of fewer than 200,000, there are no less than 105 Melanesian languages. In PNG, with a population of approximately 4 million, there are some 800 languages. In Solomon Islands, some 400,000 people share about 80 languages. Social systems in most of Melanesia also tend to be small scale, with local chiefs and “bigmen” having strong influence at the local village level, but in most cases very limited influence outside. In places like highland PNG, where colonial contact was late and quite recent, indigenous cultures and belief systems play an important role in everyday life.

The ethnographic structure of the Fiji Islands can be considered exceptional because of the high proportion of settlers of Indian extraction. The Fiji Islands consist of about 100 populated islands, with approximately 90% living on the two main islands of Viti Levu and Vanua Levu. The bulk of the population is divided between indigenous Melanesians and Indo-Fijians descended mainly from indentured laborers imported as agricultural workers during the colonial period. The indigenous population is now the majority, after significant Indo-Fijian emigration as a result of ethnic tensions in recent years. There is, nevertheless, considerable ethnic diversity outside the main population groups. There is a significant Polynesian group from the outlying island of Rotuma and an important presence of Europeans and Chinese. Inhabitants of the Kiribati island of Banaba were settled in the Fiji Islands during the 1940s after their island was largely destroyed by phosphate mining. Recent research has also identified small minorities from other parts of the Pacific (including immigrants from Samoa, Tonga, Tuvalu, and Wallis and Futuna), who often live in small communal settlements and can be considered not to be integrated within mainstream Fijian society.

Polynesia covers a huge area of the Pacific Ocean, stretching from Hawaii to New Zealand. In those two countries, the Polynesian populations have, of course, become small minorities in their original homelands, although in numerical terms, compared with the small population of the average Pacific island, they are large. Social organization in Polynesian society tends to be formal, hierarchical, and rigid, with hereditary leadership sometimes being an important factor. Royalty remains important in some Polynesian states. Compared with Melanesia, Polynesia displays much ethno-linguistic and cultural uniformity. Samoa and Tonga, for example, only have one national language.

Micronesia also covers a vast area, and there are substantial ethnographic differences within its main island groups. In the Republic of the Marshall Islands, consisting mainly of coral atolls and reef islands, there has been considerable displacement as a result of nuclear testing. There are also many immigrants from countries outside the region, particularly the People's Republic of China and the Philippines, leading to reported concerns over the extent of alien employment. In the Federated States of Micronesia, there are considerable cultural differences between the four separate states of Truk, Kosrae, Pohnpei, and Yap. The people of Yap and Palau have ethnic links to Melanesia.
and eastern Indonesia, whereas the people of Pohnpei and Kosrae have more links to Polynesia. ADB has observed that traditional leaders in Pohnpei and Yap continue to exert political influence. Analysts have noted strong cultural distinctions between the outer islands and the “high” volcanic islands. In Pohnpei for example, populations in the two areas speak different languages from each other and have different forms of social organization. High islanders have tended to dominate the outer islanders. And aspects of a feudal situation have been detected in islands such as Yap, noted for its cultural conservatism. A complex caste system of social order survives.

An important factor in parts of the Pacific is emigration to wealthier countries, perhaps most particularly New Zealand and the US. The populations of some Micronesian states, the former US Trust Territories, have free access to the US. And there is a special relationship between New Zealand and several Polynesian islands. There is effectively free access to New Zealand for the populations of the Cook Islands, Niue, Samoa, and Tokelau. For the Cook Islands, Niue, and Tokelau, a far higher percentage of the population lives in New Zealand than in the home country. Even in the case of Samoa, 102,000 or 37% of the population live in New Zealand, and 63% in Samoa. Also, 31,000 Tongans or 24% of the population reside in New Zealand.

This emigration has a number of effects, which will be discussed further below in the institutional analysis. It means that the elite groups are largely educated abroad, sometimes spending their entire youth out of their country. In the Polynesian case, many are exposed to New Zealand “mainstream” cultural values, at variance with those of traditional Pacific societies. Yet, they are also exposed to a different kind of influence. In New Zealand, there is at present a strong resurgence of Maori indigenous identity, and educated Pacific islanders can easily empathize with the situation of their Polynesian brethren. Moreover, many of the Samoan matai or traditional chiefs reside in New Zealand, returning to their homeland for important ceremonial and other events. Thus, traditional chiefs may be as much exposed to external cultures as to those in their own island.

The effect on cultural identity of this large-scale emigration and resulting remittances to the home country, and of the fiscal flows from major donors, is an undoubtedly complex issue. Government officials as well as individuals and families can end up with a “foot in both cultures.” The influence of these destination and donor countries on Pacific values and cultures can be enormous, even if it is sometimes denied. The extent to which PDMCs become extensions of other and wealthier economies within the region is an issue requiring careful examination, given its implications for poverty reduction strategies.

For example, Melanesia does not have the economic “safety-valve” of easy emigration. Not only does this drastically reduce the scope for increasing family incomes through remittances, but also it means that population and land pressures are becoming far more acute than in Polynesia. This, more than any inherent aspects of ethnic or cultural diversity, is likely to account for the sharp growth in interethnic tensions throughout Melanesia at present. However, while it means that the Melanesian countries now have greater challenges with regard to the material aspects of development and poverty reduction, it may also result in greater real independence to determine the path of their own development.

**INDIGENOUS IDENTITY: ITS MEANING FOR THE PACIFIC**

**The Definition of Indigenous in the Asian Development Bank’s Policy**

The definition of indigenous peoples is considered at some length in ADB’s 1998 policy on the subject. It is made clear that the term indigenous peoples encompasses a generic concept, and is used by ADB only as a “working definition”. It can also embrace the concepts and terms of cultural minorities, ethnic minorities, tribals, natives, and aboriginals. The ADB working definition states that

> Indigenous peoples should be regarded as those with a social or cultural identity distinct from the dominant or mainstream society, which makes them vulnerable to being disadvantaged in the processes of development.

There are two main functional criteria in this definition. One is that there should be a dominant ethnic
group, and that indigenous peoples are somehow distinct from it. The other is that indigenous peoples may be disadvantaged. As will be discussed further below, these concepts can only with difficulty be applied to most Pacific islands and societies.

ADB—following the trends in emerging international law on indigenous issues—identifies two “significant” characteristics that serve to identify indigenous peoples. One is descent from population groups present in a given area, most often before modern states or territories were created and before modern borders were defined. The other is maintenance of cultural and social identities; and social, economic, cultural, and political institutions separate from mainstream or dominant societies and cultures.

ADB’s definition identifies some additional characteristics, which are not necessarily part of the “vulnerable minority versus dominant majority” paradigm, and which seem to relate more to the manner in which certain peoples conduct their lives and livelihoods. Two of these characteristics are economic systems oriented more toward traditional than mainstream systems of production; and unique ties and attachments to traditional habitats and ancestral territories, and natural resources in these habitats and territories.

The ADB Policy on Indigenous Peoples also discusses the significance of indigenous identity for overall approaches to development. It draws some distinctions between what are perceived as the “specific interests of indigenous peoples” on the one hand, and “national goals” or the “interests of dominant and mainstream societies” on the other. It is clarified that “protection of indigenous peoples from development” or the “maintenance of a status quo for indigenous peoples” should not be a development objective. At the same time, the policy places much emphasis on the particular characteristics of indigenous cultures and institutions, accepting that these are differentiated from dominant or mainstream ones.

Indigenous peoples’ desires to protect their cultural identities and to preserve aspects of culture based in ancestral lands and resources are receiving increasing recognition within the international development community. Increasing recognition is being given to the principle of indigenous peoples determining their own pace and path of development, and there is increasing recognition that social and cultural diversity is in the interest of society and is not an obstacle to national development or economic stability.

### Defining Indigenous in the Pacific: The Complexities

The term *indigenous* is quite widely used in the Pacific, both in academic discourse and in policy documents. The meaning and implications are inevitably somewhat different from those in other parts of the world, including Asia. It tends to refer to all of those “customary” or “traditional” institutions, whether of governance or of land tenure, which are perceived as different from those of western parliamentary democracies, or of typically western market economies. To an extent, the so-called traditional institutions may predate European colonialism. But this is not necessarily the case. The institutions are themselves fluid, undergoing continuous transformations alongside broader economic and social changes. As will be seen later, some of the so-called traditional institutions are colonial creations, examples being some national structures to permit chiefly participation in policymaking.

In only a limited number of cases can vulnerable minorities be identified. There are some exceptional cases, such as French Polynesia, where indigenous islanders such as the Kanaks of New Caledonia are subject to overseas rule. In most islands, almost all the population can claim to be indigenous on the grounds of descent. There are again important exceptions, such as the Fiji Islands, which will be considered at some length below. And there are several cases where small pockets of the population have moved from one island to another and may retain a different ethnic identity in the island of their eventual settlement (or resettlement). Examples are the Banabans in the Fiji Islands (settled from Kiribati in the 1940s after their island was severely damaged by phosphate mining); the Solomon Islanders in Samoa (imported through organized labor migration for plantation agriculture in the past century); the Kapingamargi peoples resident in Pohnpei since the era of German colonization; the Gilbertese resident in Solomon Islands since the 1960s, following the unsuccessful efforts of the British colonial government to settle the Phoenix Islands; and other landless outer...
islanders squatting in the major islands and urban centers of various countries in the region.

The key issue is self-perception as indigenous. Why do organizations identify themselves as indigenous? In what circumstances do they campaign under a banner of indigenous rights? How does the use of the “indigenous umbrella” help them defend their interests against outsiders? Some examples follow.

In PNG, where almost the entire population can be perceived as indigenous on the grounds of descent, the issue of indigenous identity, among other things, has arisen in the context of mining agreements. As one analyst has observed however, villagers would not normally perceive themselves as disadvantaged ethnic minorities. Nevertheless, they may realize that they stand to negotiate improved benefits and compensation with mining companies if they identify themselves as indigenous. As Colin Filer has described the situation:

In PNG at least, there is a certain irony in the fact that the State does treat its local landowning communities as if they were disadvantaged ethnic minorities, by giving them all sorts of special privileges and preferences as soon as they have the good fortune to find that they are the landlords of a large-scale mining project. But it does not matter whether these local landlords put on their “tribal” hats, in their dealings with lucrative tenants—unless, like the landowners of the lower Ok Tedi River, they find that they can only get a reasonable share of the benefits (and a smaller share of the costs) by winning the support of international allies who really do care about the correct choice of hat.13

In fact, the origins and causes of the interethnic tensions remain a hotly debated issue in Solomon Islands. Some analysts argue that cultural differences between the inhabitants of the different islands are minimal, and that the causes should instead be sought in such economic factors as land accumulation by Malaitans, or the disruptive impact of mining activities on Guadalcanal.15 One author recently pleaded that “...there is a need to look beyond ethnicity as the only cause of the crisis.....Ethnicity is merely the avenue through which peoples' frustration becomes manifested.”16 Whatever the immediate causes of conflict, Solomon Islands seems to represent a clear case of an aggressive reinforcement of local identities, in which the “indigenous paradigm” can also be used to exacerbate resentment against a settler population.

In Melanesian countries, with their extraordinary diversity of language and cultural institutions, the concept of indigenous identity may be very much linked to local value systems. In the Polynesian islands—as shown further below—there can be a stronger sense of national indigenous identity vis-à-vis external values, and economic and political institutions. A single indigenous language, widely used in both oral and written communication, can be a vital factor in promoting this sense of indigenous identity. Samoa is perhaps the most important country in this regard in Polynesia.
Is it possible to measure any correlation between ethnicity and poverty in the Pacific? Is it even worth attempting to do so? It would be rather pointless in most islands to attempt such an exercise, for conceptual as well as data limitations. The data are not available, and it is often meaningless to draw distinctions between indigenous and nonindigenous populations. At the same time, there is some evidence that pockets of immigrants from other islands can endure poverty and hardship in certain PDMCs when they live in isolated communities, and can be excluded from broader systems of social protection.

The Fiji Islands appears to be the only PDMC where systematic data are available concerning the relative incidence of poverty for different ethnic groups. In other cases, there has been very limited poverty assessment. Indeed, as ADB analysts have frequently found, it can be difficult to discuss poverty in the Pacific context. Pacific governments are often reluctant to discuss the issue, insisting that the essence of their social systems is a safety net (based on communal land access and various forms of kinship-based reciprocity) that prevents the emergence of the material poverty and extreme poverty that are now affecting other developing regions.

THE MEANING OF POVERTY: CONCEPTUAL ISSUES

As international finance institutions including ADB give increasing attention to poverty reduction, indeed making this an overarching strategy for all interventions, there are some understandable concerns to identify which sectors or groups of any national population tend to be most affected by the incidence of poverty or extreme poverty. In many parts of the world, and for many institutions, ethnicity has been one of the factors taken into account in poverty mapping. This has been the case in Latin America, for example, ever since World Bank economists identified a correlation between ethnicity and poverty, demonstrating that indigenous peoples tended to be represented disproportionately among the extreme poor. The policy implications of such analysis and the circumstances in which it may be advisable to target poverty reduction programs specifically at indigenous communities have been discussed elsewhere.

When it comes to poverty concerns in the Pacific as they relate to indigenous peoples or ethnic groups, the issues are doubly complex. Not only is it almost impossible to differentiate between indigenous and nonindigenous (except in the Fiji Islands where the ethnic differences are clear and a good database on incomes and poverty is available), but also there is much controversy concerning the nature of poverty in the Pacific, and even whether it is a serious concern. As other ongoing ADB analysis has argued, there is an increase in the incidence, depth, and severity of poverty throughout the Pacific, as the economies become increasingly monetized and traditional support systems are breaking down. ADB's new Pacific strategy also observes that poverty is beginning to increase in the Pacific, and appears to link this to the partial collapse of traditional support mechanisms:

Until recently, poverty was not regarded as a significant problem among the PDMCs, which have high per capita incomes by developing country standards and relatively productive subsistence sectors. Cases of need that did exist were thought to be taken care of by the redistributive mechanisms of the kinship networks. However, poverty is a significant and growing problem in the PDMCs due to two decades of weak economic performance, fairly rapid population growth and urban drift, and growing inequalities. Traditional support mechanisms are under strain, and in some instances are breaking down.
It is certainly true that poverty—sometimes quite acute in the form of deprivation of basic assets and income—is on the increase in parts of the Pacific. It is well known that rootless persons in the growing urban areas of Melanesia, most notably Port Moresby, are experiencing a form of asset deprivation poverty that is leading to frustration, violence, and some social breakdown. This is a very different matter from the poverty of those in some outer islands, measured as lack of access to education, income, and basic social services. The latter groups have access to the fruits of subsistence. The extent to which they have a perception of poverty should probably be measured by such indicators as emigration, either overseas or to urban areas of the same island.

A term somewhat in vogue among development analysts and practitioners today is poverty of opportunity. This term is prominent in the most recent human development report by United Nations Development Programme (UNDP) for the Pacific. More conventional definitions of poverty are in terms of income levels and differentials; or through a more holistic definition of the human poverty index, covering such dimensions as health, education, access to services, and wealth. The poverty of opportunity approach assumes a broader focus, the underlying idea being that many more people are denied basic human opportunities than are denied a minimum income. In UNDP’s view, this is a “useful description of the Pacific.” Poverty in this broader sense could also “refer to a denial of opportunities in material wellbeing, access to markets, job security, political and social freedoms, and other dimensions that are more difficult to quantify.”

Some ongoing ADB analysis has also been using the poverty of opportunity approach, examining, for example, the manifold constraints that can prevent Pacific islanders from having more effective market participation, and from competing more effectively in the global economy. The approach can lend itself to analyzing constraints in traditional land tenure systems, or in forms of governance that are based on traditional institutions. But it is a potentially open-ended paradigm, because it can be led by ideological preconceptions with regard to public policy issues (the need for more privatization, the need to promote more open land markets, etc.), rather than attempting to understand local institutions and values, and why there tend to be particular perceptions and aspirations with regard to poverty reduction and the creation of wealth. Furthermore, many of the introduced systems of modern government in the PDMCs have failed even to maintain, let alone to improve, the productivity of essential public services.

ETHNICITY AND POVERTY IN THE FIJI ISLANDS

In 1997, the Government of the Fiji Islands and UNDP published a poverty study, which included data on income inequality by ethnicity between three main groups, namely the indigenous Fijians, the Indo-Fijians, and the smaller group of “others” comprising people of all other races. More than anything else, the data demonstrated the complexity of this kind of analysis for the purposes of devising poverty reduction strategies. Overall, incomes were lowest for Fijian households and highest for “other” households. “Other” households included the generally wealthier European and Chinese communities, as well as the poor mixed-race and Solomon islander communities that accounted for some of the most disadvantaged groups in the Fiji Islands. Indo-Fijian households were over-represented among the very poor and very rich households. On average, the lower-income Indo-Fijian households fared somewhat worse than their lower-income Fijian counterparts.
INDIGENOUS INSTITUTIONS OF GOVERNANCE

Why is Governance such a Vital Aspect of Poverty Reduction?

Some views of Pacific leaders regarding basic dilemmas of governance were mentioned in the introductory chapter. But the parameters of a discussion on governance need to be set out quite carefully. ADB analysis has often focused on economic aspects of governance, with particular reference to such issues as transparency, accountability, and corruption. As tensions grow in the region, however, it is increasingly recognized that the basic political institutions of governance, although apparently based on open democratic principles, may lack the legitimacy and support that enable them to operate effectively.

Nation building and national identity are at stake in some multi-island Pacific countries. In particular, the Melanesian multi-island states are very weak, perhaps constructed rather rapidly in the late colonial period without any unifying cultural or linguistic identity. In Micronesia and Polynesia, political institutions may be more stable. In these two subregions, there is still a complex array of institutions at both local and national levels, involved in different dimensions of economic and resource management. Many investment decisions concerning infrastructure development, construction of schools or other public facilities, or other forms of land use, require the approval of local and traditional authorities. Thus, poverty reduction programs can in many cases be implemented more effectively by supporting such institutions, rather than seeing them as potential impediments to market-oriented development.

Moreover, for the broader dimensions of poverty reduction strategies, an understanding of the local and national dimensions of traditional forms of Pacific Island governance is of equal importance. If traditional leaders enjoy genuine community support, they will be the persons best able to reflect the perceptions and concerns of local communities before national decision-taking bodies. In this sense, it would be appropriate to identify the most suitable mechanisms for giving traditional leaders a voice in national affairs. In some cases, this is more easily said than done because local leaders may have no interest in or understanding of the concept of a nation, as was apparently the problem with such late colonial constructs as the National Council of Chiefs in Vanuatu. Traditional leaders can also represent their own economic interests and may have a strong bias against gender or other forms of social equality within local communities.

Finally, it should be stressed that a focus on the region’s economic and social systems and institutions is warranted, because the economic options for small islands are necessarily limited. Pacific islands are undoubtedly affected by globalization trends. Some market reforms and measures to promote greater private investment can well have positive effects on material livelihoods. But there are very real constraints due to the remoteness from most markets and the inevitable dependence on wealthier countries for fiscal resources and remittances. All of this calls for careful and gradual approaches to poverty and development, and understanding and building on institutions that are well entrenched within society.
This section does not pretend to provide a comprehensive assessment of traditional or indigenous institutions of governance. Instead, it aims to provide a broad overview of the kind of indigenous institutions involved at all levels. This can set the stage for identifying the type of institutional concerns of governance that could merit more attention in future ADB programming.

Traditional Institutions of Governance: Some Intraregional Differences

It is impossible to generalize as to the nature of a traditional institution in the Pacific, or as to its role and functions. There are considerable variations between Melanesia, Micronesia, and Polynesia. In Melanesia, the chief institutions of governance exist mainly at the village or local level, although attempts have been made to establish national advisory councils. In Micronesia, there can be great diversity between the islands that make up the separate PDMCs of the Marshall Islands and the Federated States of Micronesia (FSM). Polynesian society is more hierarchical, with long established systems of nobility. Moreover, the indigenous institutions of governance have long been adapted to external models, as part of colonial government or modern democratic nation building. This section provides select examples, examining the role played by these institutions in the political arena and in economic and social development.

Tonga: Monarchy and Nobility

Tonga has been a constitutional monarchy since the late 19th century and this—perhaps like the British Crown—has come to be a traditional institution. Under the 1875 Constitution, some 20 persons were selected from among several hundred thousand chiefs to be the “nobles” of Tonga with special rights and privileges. Significant tracts of land were attached as hereditary estates to this nobility. Up to the present day, there is a fixed number of eiki nopele nobles (usually 33), who enjoy special rights over land. The socially stratified system is now quite widely equated with concepts of Tongan cultural tradition. One explanation is “The strength of the present system lies less strictly in the imposition of chiefly values than in their dissemination throughout society so that each segment of kin and household organization essentially replicates the internal organization of the aristocratic structures of kindred. What appear to have been solely eiki customs of kinship rank are now followed by an emancipated population and have come to represent Tongan culture and tradition.”

The Samoan Matai System

In Samoa, a complex nobility divided into different forms of chiefly status has immense impact on political, social, and economic life. The key element of traditional governance is the chiefly matai system. This is a title bestowed through election by a descent group referred to as the aiga. There are some 20,000 such matai titles at present, nearly all (some 95%) held by males. The system plays a fundamental role in land allocation, with over 80% of the land under traditional matai control. The system has its clearest expression at the village level, each village being made up of a number of aiga which can have several matai titles at their disposal. The village is governed by its matai council referred to as the fono, which is responsible for law and order and for maintenance of health, education, and other social facilities.

At all levels of Samoan society, there are complex systems of hierarchy and chiefly status. Given that the entire population of Samoa is less than 200,000, it can be seen that the matai system is remarkably inclusive: at least one tenth of the entire population (although titles can be held by overseas residents). Even at the village level, matai titles are ranked in a level of hierarchy. There are also high-ranking titles held by groups of “orators” from Samoa’s different traditional districts. Anthony Hooper observed, “The titles are largely honorific (having no direct connection with the administration of land or other material resources) but they are by no means insignificant for that reason. Indeed, they can carry enormous weight, influence and prestige within their districts, and some of them are of wider significance, not only within the traditional sphere but also on the wider national scene.”

The formal role of chiefs in the national political system has evolved over recent decades. After independence in 1962, there were efforts to combine “traditional” and “western democratic” forms of government. Under a 1963 Electoral Act, only the matai were enfranchised and able to stand for national
A national plebiscite in 1990 then decided in favor of universal suffrage, although still under the principle that only matai could stand for Parliament. At the same time, there tends to be corporate decision making at the village level concerning parliamentary candidates. In the 1991 and 1996 general elections, for example, one village ruled that all village members were to vote for a particular candidate in their constituency.

The introduction of universal suffrage in Samoa has been balanced by some strengthening of village authority. The 1990 Village Fono Act gave legal sanction to matai councils to manage their village affairs according to custom and tradition. There have since been difficult cases in this regard, in particular with respect to interreligious disputes when persons propagating a faith different from the predominant one in a village have been expelled from the community, or even had their lives threatened. Indeed, religion can be an all pervasive aspect of “traditional” life in a Samoan community, and has in itself to be considered part of traditional institutions. Immense sums, including a large share of remittances from abroad, are spent on infrastructure and churches for different religious denominations.

For the most part, the balance between traditional and western institutions in Samoa appears to have been managed quite successfully to date. There can be very clear tensions over economic and resource management, and particular land tenure issues, which will be examined in later sections. But it is a moot point whether the relative stability of the chiefly systems in Samoa can be attributed more to their inherent characteristics, to the substantial cultural and linguistic uniformity in a country that comprises only two main islands, or also to certain economic factors. Remittances and the close connections with overseas Samoan families have certainly played a key role in underpinning this economic stability. It is also a moot point whether the matai system may gradually lose influence as more individual wealth accumulates.

The Fijian Great Council of Chiefs

This section focuses on the political institutions of governance at different levels of Fijian society. Since 1874, the Fiji Islands has given particular attention to this issue in its attempt to protect and promote the status of indigenous Fijians. Significantly, it is the only country in all of Asia and the Pacific so far to have ratified the International Labour Organisation’s Indigenous and Tribal Peoples’ Convention, No. 169 of 1989. During the term of the interim Government, the author was given by the Prime Minister’s office a copy of a draft “Blueprint for the Protection and Advancement of Indigenous Fijians and Rotumans.” This formulates certain proposals to “enable indigenous Fijians and Rotumans to fully exercise their rights of self-determination within the unitary State of the Republic of the Fiji Islands. It is to safeguard the paramountcy of their interests in our multi-ethnic and multi-cultural society.” Among other things it proposed that a new Constitution be promulgated before July 2001, to “give effect to the collective desire of Fijians that the national leadership positions of Head of State and Head of Government should always be held by them.” Under the Blueprint proposals, the new Constitution should also address other issues of importance to Fijians and Rotumans in line with terms of reference as approved by the Great Council of Chiefs.

Any understanding of these “indigenous institutions” in the Fiji Islands needs a sense of history. The country was colonized by Britain under an 1874 Deed of Cession that bound it to “preserve the Fijian way of life.” To this effect, although immigrant workers were steadily introduced from India after the late 1870s, British policy was to establish a Native Fijian Administration through which the Fijians were governed indirectly. Fijian chiefs continued to govern their people and attempts were made to recognize the preexisting political structures. However, it is often argued that the British gave undue importance to the more hierarchical structures in the east of the country, failing to incorporate the more equitable elements of its predominantly Melanesian society. Moreover, when popular representation was first introduced in the Fiji Islands in the early 20th century, the growing Indian population was left without any representation.

Under colonial rule, the highest body in the Fijian political hierarchy was the Great Council of Chiefs (or Bose Levu Vakaturaga). A series of other institutions was established to protect Fijian economic and political interests. One Fijian analyst observed:

Fijian ethno-nationalism was very much a colonial construct when diverse social groups were centralized under a patronizing colonial system
through colonially constructed neo-traditional institutions such as the Great Council of Chiefs, Ministry of Fijian Affairs, Native Land Trust Board, Provincial Councils and Fijian Affairs Board. These institutions officially defined the political and cultural boundaries of ‘Fijianess,’ and also provided the cultural prism through which Fijians defined their identity and worldview in relation to ‘others,’ especially the emerging “Indian threat.” Although they were colonial constructions, over the years these institutions came to be regarded as “traditional” and immemorial part of the Fijian vanua (socio-cultural formation).27

Since independence in 1970, a critical issue has been how to balance Fijian and Indo-Fijian interests. Indigenous Fijians continue to enjoy control over the majority of the land (see below). The Constitution provided for a parliamentary democracy on the Westminster model, although seats were divided along ethnic lines to ethnic Fijians, Indo-Fijians and “other races.” The Great Council of Chiefs held approximately one third of the seats in the Senate.

As a result of a military coup in 1987 on the grounds of defending indigenous Fijian interests, measures to protect the economic and political status of ethnic Fijians have sparked growing interethnic tensions. ADB’s most recent economic report on the Fiji Islands28 states:

In 1990 a new Constitution was drafted and promulgated. The principal difference between it and the 1970 independence Constitution was the inclusion of additional safeguards for indigenous Fijian interests: in particular, a majority of seats in the House of Representatives were reserved for Fijians. The Constitution also required that the Prime Minister be a Fijian. These measures were intended to ensure that Fijians would retain control of the Government regardless of the ethnic composition of the population. The racial base of the 1990 Constitution explicitly discriminated against the Indo-Fijian population and remained a source of discontent to that community and many overseas observers.

Indo-Fijians subsequently began to emigrate in significant numbers.

The influence of the Great Council of Chiefs has certainly increased in recent years, partly as a consequence of the political crisis. In the drafting of the democratic 1997 Constitution, the coalition of Indo-Fijian parties advocated a strong position for the Council of Chiefs, recognizing that it could play a conciliatory role in response to interethnic tensions. With the escalation of the crisis, the Council has played an important power-brokering role. It has also been seen as promoting a more moderate position than the advocates of a Fijian “ethnonationalist” vision who use the discourse of indigenous rights to promote Fijian rights and privileges at the deliberate expense of the Indo-Fijian population. One academic writer has strongly put forward this view, arguing that recognition of the prerogative of Fijian chiefs in the Great Council of Chiefs is central to the concept of “political inequality supporting a partnership across difference,” together with a “reciprocal responsibility of indigenous people to meet the needs of the non-indigenous.”29 At the same time, it would appear that the more extreme “ethnonationalists” have also been trying to strengthen the role of the Council of Chiefs in order to further entrench indigenous Fijian interests at the expense of more openly democratic and accountable systems of political representation.

Melanesian Examples: Local Chiefs, “Bigmen,” and Wantoks

In the Melanesian PDMCs of PNG, Solomon Islands, and Vanuatu, the role of chiefs in governance appears to be very different from the cases so far described. Their role is far more prominent at the local level; attempts to create broader mechanisms to give traditional authorities an effective role in national policy making have not so far met with success. Formal structures may exist, as in Vanuatu, but they have not had significant impact. The failure to incorporate these powerful local actors in national identity building is now causing much concern. Many analysts, as noted, see this as an important factor behind the growing conflicts in the Melanesian region.

As in the Fiji Islands, colonial rulers in the rest of Melanesia sought out local leaders as their representatives for “indirect rule.” After independence, both Solomon Islands and Vanuatu undertook constitutional reviews that attempted to increase the role of chiefs in government. In Vanuatu, a ceremonial
Nakamal building was constructed for the National Council of Chiefs in the capital, Port Vila. In Solomon Islands, chiefs were empowered in 1985 to act as magistrates in land disputes. However, there are general perceptions that with democratic rule the chiefs became increasingly marginal to economic and political decision making.30

In PNG—with its relatively huge size, linguistic diversity, and islands distant from the mainland—the concept of traditional authorities has taken on a different meaning. These are the local “bigmen,” leaders who have exercised authority over large territorial areas. Distinctions are generally drawn between the highlanders, who have their own tribal means of dispute settlement, and the coastal area inhabitants. Commercial agriculture was vigorously pursued by colonial powers in the lowlands, but, except for the missionary presence, contact with highlanders was exceedingly limited. The same can be said for the remote but often large outer islands, such as New Britain, New Ireland, Manus, and Bougainville. A common theme of analysis has been the “dysfunctionalism” between both colonial and modern state institutions on the one hand, and traditional institutions on the other. Colonial governments established local development councils at the village level, which the “bigmen” apparently tried to avoid. A western-style parliamentary democracy has existed since independence. The capital city of Port Moresby and its modern state institutions are a different world from the highlands, although modern leaders “who have dormant positions of traditional leadership, act to protect their own future in their home villages by strengthening ‘traditional values’ there.”31

The main problems in PNG have been governance and law and order issues in all their dimensions. Growing crime has been the problem in Port Moresby. Much has been written about the role of traditional wantok (kinship support) system in providing an informal safety net, although there are indications of its gradual breakdown among the urban population. At the broader level, there have been widespread secessionist tendencies. Bougainville has been the best known of these, following disputes over a large mining concession. Other islands have pursued demands for greater autonomy, leading to the establishment of a provincial government system designed to weaken secessionist tendencies. John Connell observed:

Although there have been elements of national unity, including the rapid growth of the principal lingua franca, Tok Pisin, the sense of national unity has been overshadowed by the pervasiveness of localism and regionalism. Ethnic and cultural identities in PNG are not quaint relics of traditional times, but contributing elements to powerful local nationalist struggles that may develop further.32

In the years preceding Solomon Islands independence in 1978, there were intensive discussions concerning the role of kastom and chiefs in the country’s new political institutions. A Council of Chiefs was actually established on the island of Santa Isabel, the only one where a “paramount chief” was recognized. Subsequently, traditional leaders appear to have become fairly marginal to political life.

In response to the recent civil unrest in Solomon Islands, the role of civil society including traditional institutions has again become an important issue of negotiation and debate. Given that the tensions have been largely between the inhabitants of different islands, much of the debate has concerned the appropriate form of decentralized government, rather than the respective roles of “modern” parliamentary and traditional institutions in national government. There have been proposals for a loose federalism based on island states with stronger powers. At the same time the need to build on community-based institutions has certainly surfaced in the discussions. One set of proposals has been to design a new form of provincial government, with youth and women’s groups as well as chiefs represented in a governance structure alongside political leaders. This comes together with proposals to safeguard the land rights of indigenous people (including the recording of customary land rights); and community education programs to be undertaken by the Ministry of Home Affairs and Culture to promote respect for traditional custom, culture, and indigenous rights, together with a greater understanding of cultural diversity.33 This could well be a glimpse of things to come in other islands, particularly in Melanesia, where traditional chiefly institutions can only be seen as one part of a civil society, for which improved mechanisms of participation need to be established.34
Complex Hierarchies: Federated States of Micronesia

The tremendous variety of chiefly systems, and their different role in economic and social life, is well illustrated by the four states that comprise the FSM. Some of these, as in Yap, are seen as extreme examples of cultural conservatism and rigid social hierarchies. But each of the states displays much diversity between main and outer islands. There have also been ample attempts at social engineering during the respective periods of Spanish, German, Japanese, and then US influence.

In Pohnpei, for example, a political order based on the nahnmwarki paramount chief, with a ranked set of 11 royal titles below this, evolved several centuries ago. New settlement districts later established their own lines of royal titles. The German colonial administration aimed to undermine chiefly power, mainly by redistributing land to commoners through individual titles of ownership. Yet, in modern times, chiefs retain an important status as leaders of traditional affairs. As an ADB publication observes, “Chiefly feast houses (nahs) are focal points for the cultural life of Pohnpeians, which revolves around competitive feast giving and competition for prestige and traditional titles”. Despite monetization of the economy, customary obligations require feasting the community chief and the paramount chief for titles conferred. People seeking advancement must provide for such occasions as propitiation ceremonies, marriages, funerals, births, journeys, and arrival of visitors.

Yap has a particularly distinctive social system, dominated by the overlords of the main island of Yap. The inhabitants of the main island are divided among three social orders, which are further broken down into the three levels of chiefs, nobles, and commoners. A caste-like relationship prevails, in which the lowest ranking groups act as the servants of higher-ranking groups that provide the land.

Traditional Institutions and Poverty Reduction: Strategic Concerns

Very different views can be put forward concerning the potential contribution of these diverse institutions to poverty reduction. When the institutions themselves are so varied throughout the Pacific and are often changing over time, broad generalizations may be of little value. Many of them provide for social obligations from community members toward their chiefs, which can entail the delivery of food and other items, and can easily add to the burden of material poverty. Under reciprocity arrangements, the key issue is the degree of responsibility accepted by traditional leaders to provide for all community members according to need.

Despite the differences, some general issues do seem to stand out. Development and poverty interventions, at either national or local levels, cannot afford to ignore these institutions. Social engineering attempts, which have tried to brush them aside in land or other institutional reforms, have met with opposition and have often floundered. The remaking of these institutions can be very complex, particularly when tensions surface between different ethnic or island groups. Growing gender consciousness and the growth of church-based and other civil society organizations are among the factors that affect the composition and decision-making role of traditional institutions.

A framework of “social capital” would clearly be useful, to examine the role of these institutions from a political economy perspective at both macro and micro levels, and as a conceptual tool for examining how such institutions adapt to external factors.

INDIGENOUS LAND TENURE AND POVERTY REDUCTION: CONTEMPORARY DILEMMAS

Land Tenure Debates: The Main Issues

Of the demands for special rights made by indigenous peoples worldwide, those for traditional lands and related natural resources tend to receive the most attention. Maintenance of customary land tenure regimes, in which traditional chiefs usually enjoy considerable powers over land allocation within the community, can be an essential feature of indigenous identity.

In some contexts, however, special protection for the customary land rights of indigenous peoples can come at a potential cost. The special status can involve certain restrictions on the rights to sell, transfer, or
mortgage the lands in question. Some customary land tenure regimes can be prejudicial to land security for women. Others can prove inequitable, for example when substantial land areas are reserved for various categories of chiefs and nobles.

In recent times, agrarian policies throughout the world have aimed to enhance security of private land tenure and ownership in order to promote the freer operation of land markets. There have been certain nonmarket exceptions, adopted on environmental or even cultural grounds. Biospheres and environmentally protected areas are one such example. The ancestral lands of indigenous communities have been another. Notably in Latin America, there has been a recent trend to vest communal title over very substantial land areas in the hands of the legal representatives of indigenous communities. Indigenous peoples can also enjoy a measure of control over the natural resources pertaining to these lands, or at least the right to participate in the profits deriving from mineral and other extractive activities within their traditional land areas. There has been a recent trend in parts of Latin America to legislate on these matters, permitting indigenous organizations to participate together with state bodies in negotiations with oil, gas, hydroelectric, and other resource-use companies.

Yet, for indigenous peoples worldwide, there is a basic dilemma (which is amply recognized in ADB’s Policy on Indigenous Peoples). Indigenous peoples may have their own particular forms of land use and allocation, based on their own cultural values, but they almost invariably produce for the market, at least the right to participate in the profits deriving from mineral and other extractive activities within their traditional land areas. There has been a recent trend in parts of Latin America to legislate on these matters, permitting indigenous organizations to participate together with state bodies in negotiations with oil, gas, hydroelectric, and other resource-use companies.

How do these concerns apply in the Pacific? Customary forms of tenure are not seen as exceptional land tenure regimes for the protection of vulnerable groups. Rather, the situation is the opposite of that found in most developing countries. Freehold land tends to be the exception, while the majority of land is held under customary tenure regimes. Thus, traditional land tenure regimes are sometimes perceived among the constraints that constitute traditional and cultural resistance to a more dominant role for the private sector. This view can be seen, for example, in ADB’s most recent Pacific strategy, which refers to land issues in its section on the sociocultural context. It is observed that “Access to land, so critical to private investment, is substantially influenced by local custom.” This “prevents the use of collateral for credit.” Further, with insufficient land for subsistence living, “rural people need to move into the cash economy and to bring customary lands into the cash economy.” Similar concerns are reflected in a number of ADB country assistance plans for the Pacific. In the FSM, for example, a concern is that “Legal and regulatory frameworks, including those governing access to land, have also proven to be impediments to attracting and realizing new investment and, in some cases, have driven away potential investors.”

However, attempts to promote individual forms of land registration and freehold ownership have a long and unsuccessful history in the Pacific. Smallholder farming and plantation agriculture were quite vigorously promoted during the colonial period. The legacy survives in a limited amount of freehold ownership, for example in Samoa. Upon independence in some countries, there has been a trend away from freehold ownership and toward recognition of customary forms of tenure. Perhaps the most extreme case has been in Vanuatu, where the concept of freehold ownership was terminated by law upon independence in 1980. The new Vanuatu Constitution ruled that all land belonged to indigenous custom owners, except the lands acquired by the Government in the public interest. In other Pacific countries, including PNG and Solomon Islands, customary forms of landownership have also been strengthened by postindependence provisions.

There is, thus, a potential clash between “indigenous customary” and “western” forms of land and property ownership, which has never been effectively resolved since independence. Some analysts continue to advocate a gradual transition toward registered private forms of ownership on both economic and social grounds. In practice, however, external funding agencies generally refrained from intervening in Pacific land tenure issues, accepting their sensitivity and the degree of attachment to customary land tenure arrangements. As observed in an earlier sociocultural analysis conducted for ADB, “...however strong the case for modest reforms of customary tenure, the issue is
surrounded with political land-mines, from which most governments are likely to try to steer clear.39

Pacific leaders have emphasized that land reform is a “problem that cuts much deeper than just economics.” Competition over land is at the heart of the conflicts, often referred to as ethnic conflicts, that have broken out or threaten to do so in much of Melanesia. This is true in different ways for the Fiji Islands, PNG, and Solomon Islands, with some latent pressures emerging more recently in Vanuatu.

The concept of indigenous land rights has had very different implications for different Pacific countries, depending on their colonial legacy, their demographic composition, and also the investment policies that have been pursued in recent times. In some cases, indigenous paradigms of land use and ownership can be in quite open conflict with western paradigms based on individual and alienable ownership. It might be assumed, for example, that western models are introduced mainly to improve security for foreign investors. Yet, some reforms to indigenous systems may be advisable, both to provide local economic incentives and to bring about improved land management. There have been cases where clarification of rights under modified indigenous systems has resulted in better production incentives, in improved land and environmental management, and in interim title solutions while parochial disputes are being negotiated. There are also cases where the issue is not so much of individual versus communal titles, as of clarification of individual rights under communal systems of tenure.

In some cases moreover, population growth has severely affected the capacity of indigenous systems to handle land disputes. This may not be an argument for the outright replacement of local indigenous systems, but it may require the provision of assistance to overwhelmed traditional land adjudicators as part of the modernization process. In such cases, it is important to assess where the improvements are needed, what the extent of such improvements should be, and what are the acceptable alternatives.

Overall, the issue of comprehensive land tenure reform should not be confused with that of improvements in land management and administration. Pacific islanders may resist the former, seeing it as externally imposed and driven in large part by the needs of overseas private investors. The latter can proceed within the scope of existing traditional and constitutional arrangements, but still requires considerable investment in institutional capacity building.

The following section compares the experience in six Pacific countries, Fiji Islands, PNG, Samoa, Solomon Islands, Vanuatu, and FSM. This prepares the ground for a summary review of the main land policy concerns, as relevant to poverty reduction.

**Indigenous Land Rights in a Multiracial Society: The Case of the Fiji Islands**

In the Fiji Islands, the maintenance of a special status for indigenous or “native” lands has been a cornerstone of the policies for protecting the economic and social interests of indigenous Fijians vis-à-vis other ethnic groups. Formally, the land area is divided between the three categories of native land, state land, and freehold land. The first category accounts for well over 80% of the overall land area, although a far smaller proportion of the economic value because less than 10% of this land is cultivable. Freehold land has remained fairly stable at approximately 8% over the past century, much of this prime commercial land owned by persons of European descent. The Indo-Fijians, who comprise slightly less than half the population, own less than 2% of the land. The vast majority of Indo-Fijians are tenants and subtenants who depend on indigenous Fijians for leased land.

The concept of inalienable “native lands” was first developed by the British colonial government in the late 19th century. A Native Land Commission was established in 1880 to survey holdings, record the owners, and register ownership at the level of the mataqali or clan. According to one analyst, this Commission “ignored the initial recommendations of the Council of Chiefs in the 1870s that favored a more individualized approach.”40 This was apparently seen as a temporary measure, with the policymakers of the period assuming that Fijian lands would eventually be parcelled on an individual basis. Lands for which the Commission could find no claimants, or for which the registered landowning mataqali subsequently died out, were recorded as state land.

In the early 20th century, the mataqali groups had considerable freedom to lease out their native lands, and concerns were expressed at the growth of such leasehold arrangements. In consequence, the colonial
government created a new category of Native Reserve Land, which could not be leased to non-Fijians. In 1940, it also created the Native Land Trust Board (NLTB)—still in existence today—as the only agency with the powers to lease any form of native land. The NLTB was instructed to administer all such lands “for the benefit of the Fijian owners,” but now appears to enjoy considerable discretion to lease out native lands without requiring consent from the mataqali groups concerned.

The Fiji Islands’ land tenure rules can be seen as part of a delicate “balancing act” of the late colonial period, which aimed to guarantee security of the indigenous Fijian population over their lands, while at the same time making land available to the Indo-Fijian population through rentals and leasehold arrangements. However, when so much real authority has been vested in an agency like the NLTB, issues of concern have included the size and distribution of rental payments, and also the duration of the leases.

While much of the rental income has served to pay the NLTB’s own administrative costs, the remainder has been distributed on a differential basis to mataqali members in accordance with chiefly rank. As described in ADB’s most recent economic report on the Fiji Islands:

Many of the traditional owners feel that the amount they receive is far less than the land is worth. In part this concern is a result of the disbursement formula, which reflects the traditional structure of Fijian society where the chiefly hierarchy (Tauranga) is responsible for the land. Under the current arrangements, payment is divided according to the status of the recipient, with 5 percent going to the Tauranga ni Taukei, 10 percent to the Tauranga ni Yavusa, 15 percent to the Tauranga ni Mataqali and the balance, 70 percent, being shared among the members of the Mataqali or kinship group. In some cases the Tauranga share their receipts with the other members of the Mataqali, but in other cases they do not. Quite often the individual members receive very little income at all. When people are receiving only a few cents per year for land that is yielding hundreds of dollars, they can become resentful. This resentment has overflowed into the negotiations over the renewal of long-term ALTA leases.

The term ALTA refers to the Agricultural Landlord and Tenants Act of 1966. This required the NLTB to offer tenants an initial lease for a 10-year period, renewable for 2 subsequent 10-year periods if the land was not required by Fijians. A 1976 amendment to the ALTA had later strengthened security of tenure for Indo-Fijians, by granting initial leases for an extended 20-year period. ALTA lease rents have been low, fixed at a maximum of 6% of the unimproved capital value of the land in question, but problems have arisen with regard to longer-term land security for Indo-Fijian tenants once the leases have expired. ALTA itself is no longer in force, but certain leases have been renewed under existing provisions of the Native Land Trust Act. Thousands of other leases are now reaching their termination date, or will do so over the next decade, and the reluctance of certain mataqali landowning groups to renew leases is one factor behind the growing interethnic tensions in the Fiji Islands. Particular concerns have been expressed about the need for an adequate degree of security to encourage sufficient investment by tenant farmers in leased sugar lands.

The Fiji Islands is sometimes put forward as a model deserving replication in other Pacific islands, in that it holds out strong guarantees for protecting indigenous Fijian land rights without impeding economic and social development. Yet, in the Fijian case, the concept of indigenous land rights does not appear to be linked with a particular form of land use and allocation. Indeed, official policies dictate that formal control over the use of indigenous lands is largely entrusted to the NLTB. As in other Pacific islands, there is evidence of growing discrepancy between the formal rules governing land use and the reality of everyday practice. Gerard Ward observed that informal deals over land are now commonplace. Landowners who have customary claims to particular parts of a mataqali holding can obtain higher rents through such informal deals than when the land is leased through the NLTB. They can also eliminate the rental shares due to chiefs and can enter into lease arrangements for shorter periods than the NLTB would allow.

PNG: Resistance to Land Registration

In PNG—with its large land mass on the main island and ample opportunities for plantation agriculture—there has been a series of efforts to promote land registration, including the registration of
customary lands on either an individual or collective basis. Yet, in a country with some 800 language groups, and where the most common landowning group is the clan, customary tenure continues to operate on 97% of the land.

Early colonial land policies, while recognizing the broad principle of native title, also promoted the forced participation of indigenous Papuans in cash-crop farming. Under the Native Plantations Ordinances of 1918 and 1925, customary land areas could be declared as Native Plantations, enabling compulsory forced labor under official supervision. A Native Land Registration Ordinance of 1952 then provided for registration of customary lands, with either communal or individual titles of ownership, although no titles had been registered by the time this law was repealed in 1963. During the pre-independence period, Australian policy was to promote individual registered titles along the lines of the Australian Torrens system. An example was the Land (Tenure Conversion) Ordinance, 1963, providing for the registration of individual freehold titles in customary land.

After PNG attained self-governance in 1973 and then full independence in 1975, the tide shifted in formal terms toward greater recognition of customary land rights. The newly independent State was bound by its Constitution to respect and safeguard customary forms of ownership. A Commission on land matters advocated a policy that built on the customary base of PNG society, avoiding the extremes of both collective and individual ownership, and facilitating the spontaneous adaptation of customary tenures. An outcome was the Land (Tenure Conversion) Ordinance, 1963, providing for the registration of individual freehold titles in customary land.

More recently the desire to stimulate commercial land use for both forestry and plantation development has brought renewed pressures for land registration programs. A watershed was the World Bank-led Land Mobilization Project of the early 1990s, which aimed to promote agricultural and forestry development through measures including improved land administration. One analyst observes that the “approach taken to customary land registration under this project was ambivalent,” but that certain measures were “effectively for individualisation of customary tenure.”44 In any event, the proposals for land registration provoked serious unrest in parts of the country and eventually persuaded the Government to withdraw them.

No further attempts have been made since then to implement comprehensive land registration programs. However, the implications of customary tenure for agricultural productivity remain a source of quite intensive debate. A substantial amount of cash-cropping, particularly coffee, and also commercial forestry take place on customary land. Customary tenure appears not to have impeded other commercial ventures, for example mineral development, when there have been satisfactory arrangements for participation in profits or compensation for damages.

Indeed—as observed earlier—negotiations between local communities and large extractive companies appear to have given a new impetus to the concept of “indigenous identity” in PNG.

Evolving Customary Tenure: The Case of Samoa

Samoa provides an example of changing patterns of customary tenure, in accordance with demographic trends and development requirements. In formal terms, the vast majority of the land is held in inalienable customary tenure. The independence Constitution of the early 1960s prevented the permanent alienation of some 81% of the total land area, at the same time creating a Land and Titles Court to deal with disputes over matai titles and customary land. Approximately 15% of the land are classified as “public land,” consisting mainly of plantation lands under the control of development corporations. The remaining 4% are held under freehold tenure.

As in other parts of the Pacific, successive colonial governments aimed to stimulate commercial agriculture through the promotion of individual landownership. As of the late 19th century, British, American, and German colonial interests all acquired substantial land areas for plantation development. In
the 1920s, the New Zealand colonial administration then tried without success to legislate a change to individual land tenure, clearly undermining the powers of traditional chiefs. Under one proposal, the matai was to be compelled to subdivide family lands for use by individuals, and any uncultivated lands were to be transferred to district councils for redistribution. Such attempts to introduce formal changes in land tenure were a major factor behind the Samoan resistance known as the mau.

In the Samoan case—unlike that in some other Pacific islands—there can be no suggestion that pre-independence land tenure systems (or land allocation procedures) were any kind of colonial creation. The survival of customary tenure, closely linked to traditional forms of governance and resource allocation, can instead be seen as a manifestation of indigenous resistance to colonial pressures for land tenure reform. But the complex traditional systems have since had to adapt to economic and social change. One author has documented a trend of “customary individualism,” in which individual families have increasingly been asserting rights over, and also bequeathing, the farm plots used or cleared by them. Recent ADB analysis also observes that on-the-ground village practices have “for some time been diverging from what the court would regard as proper custom.” There has been a considerable degree of individualization.

Because of these changes, it is becoming more difficult to define exactly the nature of a “customary land tenure institution.” In Samoa, “There is no written body of law or even legal opinion covering customary land and titles.” The Land and Titles Court has to deal with a myriad complex cases every year and disputes over landownership are clearly quite frequent. Where aiga clans have a great deal of influence at the community level, the issue is often one of local control: “...even today some decisions of the Land and Titles Court are rejected by village communities, and the national Government and police have been unable to act.”

For the future, a key issue is whether the customary tenure system as amended will be a significant obstacle to commercial development, including the investments now being made by the Samoans resident overseas. The government’s economic strategy has been to diversify agricultural products for export as well as for domestic consumption, together with increasing the output of the village agricultural sector. An ADB small business development project in Samoa, currently under preparation, seeks reforms that include revisions to existing registration procedures for customary land leases, with a view to simplifying these procedures to facilitate the more economic use of customary land. Under the project, the use of customary land leases as security will be promoted among finance institutions.

Solomon Islands: Land Tensions and Interethnic Conflict

Throughout Solomon Islands, approximately 87% of the land are under customary tenure. The remaining 13%, the alienated land, include the better coastal land and much of the land area that has been opened up for plantation agricultural development.

As elsewhere, early colonial policies had aimed to open up quite large land areas for commercial development by overseas corporations. Levers Pacific Plantations Limited alone held claims to over 100,000 hectares by 1914. But in the late colonial period, before independence in 1978, steps were taken to pass alienated freehold land back to customary tenure. Timber rights over customary land were leased, rather than purchased outright as under former forest policies, and several thousand hectares on Guadalcanal Island were returned to customary claimants in exchange for long leases over the land areas taken up with commercial crop production. A 1976 report of the Select Committee on Lands and Mining recommended that all rural land alienated before 1963 should be returned to the descendants of its original customary owners. Since 1977, the freehold lands previously owned by persons who were not Solomon islanders have been converted into government leases.

The interethnic tensions since mid-1999, in particular between the ethnic Guadalcanese and the Malaitans resident on Guadalcanal, have served to draw more attention to land disputes and claims. The original unrest has been attributed to frustration by Guadalcanal Provincial Assembly members over the government’s failure to address grievances related to land dealings and interisland migration. Indigenous Guadalcanal villagers resent land acquisition by
migrants, in particular the Malaitans, whether or not this occurred legally. Moreover, a breakdown of customary patterns of land use and distribution among the ethnic Guadalcanese is seen as having contributed to the tensions. Guadalcanal males are known to have sold land in the vicinity of the capital city of Honiara to people from other provinces, despite the traditional matrilineal practices of Guadalcanal society where women are the custodians of the land. The land sales are reportedly resented by women and a younger generation of Guadalcanese who view them as a “sale of their birthright.” Other customary land, originally appropriated by the colonial government, has been sold off in more recent times without due regard for the effects on indigenous communities.

For other analysts, the main issue is not the economic value of the land in dispute, but rather its symbolic importance for the cultural integrity of the Guadalcanese people. In the words of two Solomon Islands authors:

From the viewpoint of Guadalcanal people, men, women and militants alike, land is not the main issue but is used to draw attention to their real grievance; the imposition on them of another island’s traditions, customs and laws by settlers who use the national constitution to justify imposing their own ways and not respecting the customs and property of the host province.

Thus, the recent unrest in Solomon Islands can be attributed not so much to the tensions between “customary” and “individualizing western” forms of land tenure—although this has been part of the problem—as to the tensions between different forms of kastom among diverse islanders of this small nation. Proposed solutions have included customary land registration; and the strengthening of customary landowner associations to give them greater powers and control over the land, as well as greater community influence in the affairs of their community and nation.

As has also been recognized, the registration of customary lands alone may pay little dividends unless more comprehensive support programs are envisaged. These would include development plans for the alienated lands returned to customary tenure, and training for landowners earning royalties from the use of their lands.

Vanuatu: A Radical Experiment in Customary Tenure

Vanuatu, a country where there were substantial British- and French-owned land interests during the colonial era, represents the most comprehensive effort to strengthen customary tenure after independence. Under the new Constitution, all land belonged to custom owners unless acquired by the Government in the public interest. Approximately 20% of the land reverted to customary ownership at that time. To deal with the often difficult issue of identifying the true custom owners, island courts were established to arbitrate on customary land matters. Government consent is also required for land transactions between custom owners and other persons wishing to acquire land.

In rural areas and remote islands, the strengthening of customary tenure has had to take account of Vanuatu’s extraordinary cultural diversity. Although land disputes are to be settled in the village or island courts presided over by the custom chiefs, there can be very wide discrepancies between the customary land tenure systems of the different communities. There are reports of protracted disputes, the solution of which is not helped by the absence of chiefly authority systems beyond the local level. Courts have also been slow to arbitrate when land cases have been appealed. Steps have now been taken to establish a land tribunal to deal with customary land disputes with the assistance of custom chiefs.

Federated States of Micronesia: Indigenous Systems, Land Leases, and Private Sector Development

Land issues are unusually complex in the FSM, as a federation of the four states of Truk, Kosrae, Pohnpei, and Yap with their separate land tenure arrangements. There are nevertheless some broad similarities. The FSM Constitution forbids landownership by foreigners and even by domestic corporations that have nonFSM citizens among their shareholders. Foreigners can lease land, currently with a maximum lease period of 25 years. Group and communal ownership of land is prevalent throughout the FSM. Moreover, there are differences concerning rights of land transfer within the FSM. In Truk, Kosrae,
and Yap, land can be transferred by law to all FSM citizens. In Pohnpei, it can only be transferred to persons from that island.

Some of the main current concerns and significant interisland differences have been reviewed in a recent ADB program of technical assistance for private sector development. The limited land area in the FSM, growing population, and increasing integration with the market economy are placing increasing pressure on the traditions of ownership, and highlight the need for improved security of rights and of land management and administration. Landownership has traditionally been reserved for inheritance within a family or clan, and many land parcels continue to have extended family or clan authority over use and alienation rights. Most lands are nevertheless occupied by private land holders, influenced to varying degrees by customary land tenure systems. Most privately held land has not been surveyed, mapped, registered, or titled.

Cadastral and registration programs have been undertaken in each of the states with varying effects. In the main island of Yap, less than 10% of the land have been registered and titled since a cadastral program commenced some 30 years ago. Truk and Kosrae have made more progress in the initial determination of land parcels, although there is a substantial backlog in the land parcels to be surveyed and mapped, and many outstanding disputes. Pohnpei appears to have made the greatest progress in the cadastral survey of private lands. Altogether, there appears to be growing acceptance that systems for determining landownership now require improvement to facilitate better land use and development.

The main challenge has been to devise a culturally acceptable means of promoting longer-term land leasing and mortgaging as an alternative to the use of freeholds, which can only be owned by FSM citizens. The challenges have been addressed in some recent ADB technical assistance, as will be discussed further below.

**Gender Dimensions**

Any review of indigenous land tenure systems would be incomplete without a discussion of the gender dimensions. Women have traditionally provided much of the labor in subsistence agriculture. There are concerns that women have suffered from recent changes in land tenure and inheritance arrangements. Where cultures have been matrilineal, women have enjoyed considerable influence over land distribution under customary arrangements. There are cases where customary land tenure systems recognize rights for women over paternal lands until the time of their marriage, and these rights can even be transferred when they move to their husband’s village or landowning units. The introduction of individual forms of ownership, or the expansion of commercial agriculture, has tended to prejudice the traditional land rights of women. Widows in particular, as in other developing regions, have lost land security through the introduction of registered forms of ownership.

Such concerns have been highlighted in several case studies on gender in development carried out by ADB in different Pacific countries. In Kiribati, for example, where women were traditionally able to own and inherit land through the collective systems of family-based land tenure, their rights nevertheless tended to be inferior to those of male family members. Codification of land laws has exacerbated gender inequalities, which have taken on greater significance in the context of present-day circumstances of growing land pressure and scarcity, and urban poverty. Problems of landlessness have been detected in regions, such as South Tarawa, where land is scarce and of high value. A rising incidence of divorce has also added to the precarious situation of women, especially if they have no access to natal family land. Similarly, in the Marshall Islands, the commercialization of land has had a negative impact on women. In the past, matrilineal land traditions provided women with a firm economic base, with security and a measure of economic power. As they have lost their traditional rights to land, they have increasingly tended to take land disputes to court. A recent ADB study observes that Tonga is the only Pacific Island country in which land legislation expressly discriminates against women. While all land belongs constitutionally to the King, Tongan men enjoy rights over both town and country allotments. Women’s land rights are both circumscribed and indirect, their inheritance rights being limited to temporary ones in the event of all male lineage members dying out, and succession rights for widows until their death. There are concerns that gender inequalities in the Tongan land...
tenure system assume more significance in the context of land shortages in Tonga and the requirements for accessing development loans. Women’s groups are also concerned at the disadvantages for them of present arrangements in view of the increasing opportunities to plant commercial crops.
Chapter 5

PRACTICAL CONCERNS FOR THE ASIAN DEVELOPMENT BANK

This chapter examines the relevance of the above analyses for ADB operations in the Pacific. First, it reviews some of the relevant experience to date and the attention that has been given to indigenous or ethnic concerns in program and policy interventions. This does not pretend to be a comprehensive analysis of ADB operations in the Pacific—a theme that would be well beyond the scope of the present study. It aims only to illustrate the way in which indigenous and ethnic concerns have been addressed in key strategy documents on poverty reduction and a limited range of program interventions. Second, it looks forward, asking whether the “indigenous paradigm” might be a useful entry point for future interventions.

PAST EXPERIENCE

Policy on Indigenous Peoples and Sociocultural Issues

Although ADB’s 1998 Policy on Indigenous Peoples is seen as potentially applicable to the Pacific region, there have so far been no attempts to disseminate, discuss, or implement it. Officials of ADB’s Office of Pacific Operations (now Pacific Department) tended not to be familiar with the policy and its implications, either at headquarters or in the Vanuatu regional office. Thus, the policy as such has not been the entry point for any ADB analysis, technical assistance, policy advice, or project interventions.

At the same time, the importance of cultural values and institutions is quite widely recognized in ADB’s overall strategy documents, as well as in its commissioned analytical research. There has been general research into the implications of sociocultural issues for economic development. The role of traditional institutions has been discussed in country-specific analysis concerning gender and development. There has been considerable general analysis of land concerns, but this has tended not to enter into analytical depth concerning customary practices or attempted to assess the changes since independence in customary forms of land tenure as they may relate to poverty reduction and general economic development strategies.

Strategy for the Pacific: Overall Approaches to Poverty Reduction

ADB’s most recent Pacific strategy refers to the sociocultural context, including the implications for tribally based cultures of modernization and globalization, and the complexities of traditional landownership. On the first issue, the strategy contains certain criticisms of a value system that elevates tribal and family allegiances above all else:

While this value system has served the Pacific people well over time, it also influences these countries’ economies in particular ways as they modernize and adopt global trends. The tribal system influences the stability of governments (particularly when governments are formed not on the basis of policy mandates but on tribal allegiances), the openness of governments to external investments, the ability of external investors to access land for commercial operations, the capacity of indigenous entrepreneurs to initiate and manage successful businesses while coping with extended family demands, and the ability of
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staff to reliably give time to employment rather than family matters.

Despite certain caveats and implicit criticisms, the ADB strategy does not suggest that there should be a concerted effort to change these sociocultural traditions. Rather, it observes that:

Many traditions are extremely valuable even from an economic point of view, particularly to protect natural resources and provide social security safety nets. Their influence in addressing the major development challenges is real and significant. This needs to be recognized in the development of strategic approaches to enhance development in the Pacific.

With specific regard to poverty reduction strategies, some similar concerns have been raised in ADB’s more recent analysis. One key factor behind the perceived increase in the incidence and severity of poverty throughout the Pacific is seen as the breakdown in traditional support systems, as the economies become increasingly monetized and under the pressure of increasing population growth. One sign of this is that traditional reciprocity systems and social safety nets are no longer truly comprehensive, in that many persons are not part of the system for reasons of ethnic background or local culture, have lived away from their traditional land for generations, and may find it difficult to call upon their traditional rights. 65

Common themes throughout the islands have been private sector development, reform and downsizing of the public sector, reducing the role of government in business activities, and generally reforming economic management in order to increase competitiveness. There has been some emphasis on health and education. Future envisaged strategies aim to continue the emphasis on economic, governance, and public sector reform; on private sector development; and on mainstreaming gender issues. Poverty reduction is to be a unifying theme, with special consideration given to the needs of the poor and vulnerable populations living on remote islands. Fragile environments are to be supported actively through policy support and investments. Supporting strategic objectives include capacity building, infrastructure development, financial sector development, and supporting the role of civil society.

Customary institutions, values, and practices are very often seen as a constraint to private sector development. An example is a recent study on financial sector development. 66 Among the reasons put forward for a “difficult investment climate” are the “cultural issues that inhibit entrepreneurial drive” and which “through dissipation of the assets, often lead to the failure of businesses run by indigenous peoples.” In this same study, particular attention is given to customary land issues, discussed below.

Customary Land Issues

ADB has given considerable attention to customary land issues, both in its general analysis for the PDMCs and in policy interventions and advice in individual countries. The main overall concern has been the constraints that traditional land tenure arrangements constitute for private sector development. The recent Pacific strategy, for example, expresses the long-held concerns that access to land, so critical to private investment, is substantially influenced by local custom:

Most land remains under complex traditional ownership structures that do not provide formal ownership but provide access to land for family and community members. This prevents the use of land as collateral for credit. However, with rural populations growing there is not enough land available for subsistence living. Rural people need to move into the cash economy and to bring customary lands into the cash economy. In addition to constraining land structures, cultural and religious obligations in the PDMCs affect the viability of businesses or the ability to handle cash economy-type transactions.

The recent ADB study on financial sector development highlights the land issue and makes recommendations for reform. Land tenure is singled out as one of the main reasons for a difficult investment climate. It recommends that governments review the possibility of amending their relevant land acts to enable customary lands to be mortgaged or leased for business and commercial purposes, or to enact legislation to authorize the conversion of customary land to a form of freehold that could be mortgaged or leased. It
recommends furthermore that some PDMCs take the necessary steps to remedy the uncertainty concerning the ownership and boundaries of customary lands, which hampers their mortgaging and leasing. Actions in these areas should emerge from a process of consultation with all stakeholders. Finally, it suggests that PDMC governments should establish a nonpolitical public agency to manage customary lands, or at least to supervise and facilitate their management.

Of the individual PDMCs, land tenure issues have figured in ADB’s policy dialogue and program development in Samoa and the FSM. In Samoa, they have been addressed quite extensively in the context of a loan and technical assistance grant for small business development. The project, the main intended beneficiaries of which are from the rural sector, envisages reforms to promote the more economic use of customary land. Under the project’s assurances, a working group is to formulate a pilot scheme to free up customary land for commercial activities in designated areas. In the longer term, the Government is to undertake a comprehensive review of its laws relating to land. However, the approach taken is a cautious and incremental one, aiming to introduce individual smallholdings on a limited and pilot scale without challenging the overall basis of communal land tenure. The project recognizes that issues relating to the economic use of customary land are sensitive and are unlikely to be resolved fully within the five years of project implementation.

In the FSM, land issues have been addressed in some detail through a technical assistance project, preparing a loan for private sector development. The context, as seen earlier, is fairly similar to that in Samoa. With growing population pressures and increased market integration, the slow process of land registration is seen as an impediment to the improved utilization and development of land. Several consultancies identified the “barriers” to opening up the land system. In particular, one legal consultant identified the options for long-term land leasing and leasehold mortgaging. The investment project has broad-ranging objectives, to establish a sound infrastructure for land records and management consistent with private landownership and the development of markets in land and real estate rights.

The FSM technical assistance also sought to assess the likely impact of the investment project on poverty reduction. As is argued, the maintenance of landownership within the traditional family clan or structure and the uncertainty of land-use rights have considerably limited the efficient and effective use of land, and in some cases aggravated the exploitation of weaker members of society. Thus, a key objective of the investment project is to clarify and secure land rights, to increase the possibility of land being used where the expected economic and social returns are higher for both individuals and the community. While the program does not foresee any negative effects of improved land administration on the poor, it will not necessarily lead to increased land distribution to the poor. However, the more productive use of land resulting from registration and titling should directly benefit small landowners and the entire community including the landless, through the anticipated increase in incomes. In the longer term, the new land arrangements should enable the landless to purchase lease rights on land, thereby improving their economic and social conditions.

**PROSPECTS AND OPPORTUNITIES**

**Applying the Asian Development Bank Policy on Indigenous Peoples**

It would be highly unwise to embrace artificially the issues of indigenous identity and indigenous institutions, simply because an ADB policy has been adopted on the subject. Moreover, a large part of ADB’s policy—notably those aspects that deal with indigenous peoples as vulnerable groups, marginalized from the remainder of society—is quite clearly not applicable to the Pacific context. The “indigenous paradigm” can also be highly divisive in such political and demographic contexts as the Fiji Islands, where the promotion of special rights and privileges for one ethnic group are at risk of constituting discrimination in violation of internationally recognized human rights standards.

Thus, it is important to identify where and in what circumstances the *indigenous* and *ethnic minority* concepts can be of potential relevance to ADB’s strategic thinking and practical operations. It is also important to consider what kind of intervention is most useful to address these issues. Are there circumstances where indigenous/ethnic minority issues should be part of the
overall policy dialogue with governments? Are there arguments for providing specific support for indigenous institutions, as part of capacity building and support for civil society and nongovernment organizations? Are there issues that merit further analysis and research, perhaps through a regional technical assistance program of activities? In its general project preparation, might ADB refine its consultative procedures to ensure that representative indigenous authorities and institutions are more involved in project and program selection and monitoring? The following section discusses these and related issues.

Where are Indigenous Issues Most Relevant?

The question of institutional relevance has to be addressed in two different ways. First, where can we usefully identify indigenous and ethnic minority populations, as target groups for operational purposes? Second, when and how should attention be given to indigenous institutions?

On the first point, there are some (admittedly few) ethnic minority groups that may be in need of special protection and attention. They have been identified in earlier sections in various islands. They are at risk of disproportionate poverty. Project preparation should give special attention to them, in particular as new poverty-oriented interventions focus on remote areas and outer islands. A small regional technical assistance, covering five or six PMDCs, could cover their numbers, location, socioeconomic situation, institutions of governance, degree of interaction with wider society, and major concerns.

The far more important point is the so-called “clash of cultures” between the traditional, indigenous or customary institutions of the Pacific, and those of the western-oriented models of social and economic development. This is a matter of crucial importance for all aspects of governance, including economic management. It will surely be impossible to design and implement effective poverty reduction programs with adequate civil society and local participation, unless ADB gives full attention to these concerns in their future program and policy interventions.

These issues have been addressed tangentially in several ADB reports and publications. However, the findings appear often to be based more on assumptions than on empirical research and analysis. Moreover, it is assumed that indigenous institutions of governance or land tenure are largely static, rather than adapting to economic and social change. Further, there is a tendency to perceive these institutions as some form of constraint—which have to be accepted, because of the degree of legitimacy that they appear to enjoy from local societies—rather than as entities that might be encouraged and supported as positive partners in the development process.

The difficult issue, in multi-island states with very diverse linguistic and other cultural traditions, is how to build on local value systems and institutions in order to foster a wider sense of national identity. The Polynesian islands are usually seen more as “success stories” because of the homogeneity of their languages, cultures, and institutions of local governance, which has perhaps made it easier to find the right mix of national elected institutions and local-level institutions. In Melanesian societies, this has proved much more difficult; the problems of governance are now becoming so serious as to threaten national stability.

With the new emphasis on governance, local participation, and capacity building, the questions are whether ADB and its PDMCs wish to address issues of this nature in future technical assistance or even loan operations. The references cited earlier in this paper to the views echoed recently by Pacific leaders in their summit meetings and other high-level fora, suggest that these are indeed critical issues of high political priority. Security, governance, law and order, and national cohesion are at the top of national agendas, at least in Melanesia, and the land tenure issue cuts across all of them. In Vanuatu, for example, a key aspect of the ADB program has been its support for the Comprehensive Reform Program (CRP) introduced in 1998 to improve efficiency in public sector and economic management. One achievement of the CRP has been strong public participation in the reform process and a convergence of local ownership around the key theme of improved governance. Within this process, attention has also been paid to the role of traditional institutions in governance. Indeed, the recent policy dialogue carried out under the CRP in Vanuatu illustrates well how the role of chiefly and customary institutions can be addressed in a reform process of this kind.
Customary Land Rights

The portrayal of customary tenure models as subsistence or nonmarket institutions, as opposed to western models, can be erroneous. Most informed analysis demonstrates that Pacific islanders participate actively in the market economy, including commercial production for export, once given the opportunities. There are many examples of such commercial ventures on customary lands. But there are huge differences between the experience of PNG, where local communities can negotiate directly with overseas investors, and the more bureaucratic arrangements in the Fiji Islands where the NLTB assumes the right to represent indigenous interests. All of this suggests that a concerted effort would now be useful in order to examine ways in which village communities can participate more actively in market production without undermining their customary tenure.

A recent paper for the Pacific Forum Secretariat has aimed to identify the characteristics of a good land policy adapted to the present-day market environment. There has to be room for private sector initiatives, allowing for security of investment, a transparent process of land registration as appropriate, and fast and effective mechanisms for dispute resolution. But group ownership needs to be recognized, access to land is required for traditional purposes, and some defined areas of land with particular spiritual importance need to be protected. As a general point, indigenous communities as landowners need to be directly and systematically included in discussions on issues relating to their land.

As land tenure systems evolve, this final principle is arguably the most important. If local communities need access to credit and other inputs, and if they actively seek greater market integration, they will most likely display an interest in adapting their traditional land tenure systems to the modern market environment. There may be conflicts of interest, including gender and intergenerational differences, and some new pressures from Pacific islanders resident abroad who are keen to invest their overseas earnings. But it is important to understand that traditional systems can adapt to modernization, if the groundwork is done carefully and in full consultation with local communities.

SPECIFIC RECOMMENDATIONS

Applying the Asian Development Bank Policy on Indigenous Peoples

The existing policy may not be the most useful starting point for ADB operations in the Pacific, as they touch upon the concerns of indigenous institutions addressed in this paper. It is unlikely that specific projects would need, or benefit from, an indigenous peoples’ development plan. While this can be a useful tool in the Asian context, where indigenous peoples are more likely to comprise vulnerable minorities in need of special protection, it would rarely be so in the Pacific. However, it is still important that the policy be better known among Pacific Island governments and ADB’s constituents. It may be advisable to hold a seminar on these issues in the near future, examining the relevance of the Policy on Indigenous Peoples to the economic and social context in different parts of the Pacific. At the very least, such an interchange might serve to strengthen the present policy and to identify aspects that can be of operational relevance. It is also important to identify where vulnerable ethnic communities exist in specific islands and to examine through participatory consultations the problems they may have in benefiting from mainstream development programs and institutions.

Addressing Indigenous Institutions of Governance

It is important to take stock of the diverse traditional institutions of governance, including the chiefly systems, and of their potential role in development and poverty reduction programs. This seems of most importance in Melanesia. Improved consultation with these institutions at various levels would facilitate the design of more effective poverty reduction programs, particularly in remote areas. It is important to identify in more detail than has at present been the case how these institutions are changing, how they are adapting to the challenges of modernization, how they interact with national institutions, and what their potential role can be in conflict resolution. An objective of an initial research or technical assistance
program could be to identify mechanisms for consulting with traditional authorities in the design, implementation, and monitoring of poverty reduction programs.

**Land Tenure Concerns**

While ADB has on many occasions addressed land tenure issues in the Pacific, it has done so with a particular focus. The entry point has often been to assume that traditional systems are a constraint to efficiency and productive development, and thus to advocate their reform. There has been little attempt to understand the actual working of customary regimes, their evolution over time, and the scope for devising poverty reduction strategies on the basis of customary tenure regimes. A better understanding of these issues and of the cultural differences within the region would greatly assist future ADB policy and program interventions. Better understanding would allow us to identify the conditions under which certain incremental reforms may be advisable, for example, where landlessness is increasing and traditional forms of dispute resolution are no longer operating effectively. Analytical work of this nature is necessary before ADB can envisage or promote more comprehensive reforms such as the creation of new entities to manage customary land.

It is proposed that ADB now undertake a series of studies on customary land tenure issues that are linked to operational concerns. For example, the issues discussed earlier in this paper can have relevance for ADB interventions such as its infrastructure projects, which deal with land acquisition. The gender dimensions also require more systematic analysis in the light of current trends toward commercial land use, so that clear policy advice can be given as to how to improve women's land security through law and administrative reforms, legal literacy programs, or other measures to improve women's participation in the benefits of economic and social development.

Moreover, where incremental reforms are introduced with the aim of increasing agricultural efficiency or promoting greater access of the landless to land parcels, the impact on poverty reduction needs to be evaluated with great care. As ADB is now promoting certain reforms or improvements of this nature in individual countries, it would be advised to demonstrate the impact on poverty reduction through longitudinal studies with community participation over a fixed period of time. Such studies would need to be widely disseminated and discussed. Otherwise, ADB and other external actors would run the risk of being perceived as agencies that promote private sector development and investment for its own sake, with insufficient regard for the longstanding cultural institutions and values of the Pacific islanders concerned.
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ENDNOTES

1 Cook Islands, Fiji Islands, Kiribati, Marshall Islands, Federated States of Micronesia, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu.

2 The report is based mainly on discussions with governments and other concerned stakeholders in Fiji Islands, Samoa, Tonga, and Vanuatu; and with governments, academic and policy institutions, Pacific islanders, and other informants in Australia, New Zealand, and Hawaii. Several weeks were also spent at ADB's headquarters to discuss the issues with relevant project and program officers and to review loan and strategy documents. While only a limited number of PDMCs could be visited in connection with the study, every attempt has been made to consider the issues in other countries, and as far as possible to make the study of general application to the Pacific region. Thus, in Australia, New Zealand, and Hawaii, particular attention was given to meeting informed persons from Papua New Guinea, Solomon Islands, and the Micronesian islands, and academic and policy specialists on these countries.


4 Biketawa Declaration, Kiribati, 28 October 2000.


9 This chapter draws heavily on the section on Oceania in Connell (2000).

10 ADB (1993).

11 ADB (2000).


15 During conversations with the consultant, some Australian government representatives in Canberra insisted that Solomon Islands' conflict should not be interpreted strictly speaking as an ethnic one, and that more attention should be given to underlying economic factors.

16 Kabutaulaka (2000).

17 Psacharopoulos and Patrinos (1994).


19 See preliminary reports in ADB (2001b).

20 UNDP (1999).


22 James (1997).

26 Of the 12 high chiefs who signed the Deed of Cession, 11 were from eastern Fiji Islands, where the style of chiefly rule apparently coincided most easily with British hierarchical notions of government. For more details see Lawson (1997).
27 Ratuva (2000).
30 White (1997).
31 See, for example, Wanek (1996).
33 Kudu (2000).
34 This point is being addressed in the research of the Australian National University's *State, Society and Governance in Melanesia* project. See in particular Douglas (2000).
36 For more details, see Plant and Hvalkof (2001).
37 ADB (2001c).
38 ADB (2000).
41 ADB (1999).
46 O’Meara (1987).
47 Report and Recommendation of the President to the Board of Directors on a Proposed Technical Assistance Grant to the State of Samoa for the Small Business Development Project (RRP: SAM 33167). ADB, Manila, October 2000.
48 O’Meara (1987).
51 Report and Recommendation of the President to the Board of Directors on a Proposed Technical Assistance Grant to the State of Samoa for the Small Business Development Project (RRP: SAM 33167). ADB, Manila, October 2000.
54 Kabutaulaka (2000).
56 Kudu (2000).


60 ADB (1998b).

61 See in particular ADB (1996).

62 The issues have been discussed in ADB country briefing papers on Women and Development in Pacific islands including Fiji Islands, Kiribati, FSM, and Tonga. The 1993 study on Women in Development in the FSM has a particularly well informed analysis of culture, history, and gender concerns, examining the differences in the island states of Truk, Kosrae, Pohnpei, and Yap.

63 The chapter on Land Tenure in the PDMCs in ADB (1998a) reviews the main policy concerns and dilemmas, and sets out some proposals for future strategies. It examines the continuity and adaptation of traditional precedents. It warns against the pitfalls of land registration programs; and advises generally that measures are needed to facilitate the passing of costs of administration of land tenure regimes more realistically on to those who own, lease, or otherwise benefit from the land.

64 ADB (2001c).

65 ADB (2001a).

66 ADB (2001b).

ANNEX
THE ASIAN DEVELOPMENT BANK’S POLICY ON
INDIGENOUS PEOPLES
THE ASIAN DEVELOPMENT BANK’S POLICY ON INDIGENOUS PEOPLES

INTRODUCTION

Indigenous peoples can be regarded as one of the largest vulnerable segments of society. While differing significantly in terms of culture, identity, economic systems, and social institutions, indigenous peoples as a whole most often reflect specific disadvantages in terms of social indicators, economic status, and quality of life. Indigenous peoples often are not able to participate equally in development processes and share in the benefits of development, and often are not adequately represented in national, social, economic, and political processes that direct development. While constituting a relatively small part of the population of ADB’s region, indigenous peoples and their potential vulnerability must be regarded as significant in ADB’s development efforts and interventions.

It is neither desirable nor possible to insulate or exclude indigenous peoples from development. Like dominant or mainstream populations—the group or groups in a country that are politically, economically, and culturally most powerful—indigenous peoples have developmental aspirations. However, indigenous peoples may not benefit from development programs designed to meet the needs and aspirations of dominant or mainstream populations, and may not be given the opportunity to participate in the planning of such development. There is increasing concern in the international development community that indigenous peoples be afforded opportunities to participate in and benefit from development equally with other segments of society, and have a role and be able to participate in the design of development interventions that affect them.

The legislation and policies of most member countries of ADB recognize indigenous peoples as citizens. In practice, however, indigenous peoples often experience disadvantage in interaction with dominant and mainstream populations, especially as relates to development. Beyond not benefiting from development or participating in the planning of development, indigenous peoples can be disadvantaged by loss of access to ancestral lands and the natural resources and other sources of income contained in these lands; loss of culture, social structures, and institutions; loss of indigenous knowledge; loss of recognition as indigenous peoples; and a lack of opportunities for effective participation in national, political, and economic processes. Lack of participation in development combined with the loss of access to land and resources have in many cases marginalized indigenous peoples. In some extreme cases, indigenous peoples have suffered physical oppression. In a few cases, indigenous cultures have disintegrated or disappeared.

In its operations, ADB recognizes and respects the sovereignty of its member countries, including national legislation and policy relating to indigenous peoples. However, at the same time, ADB recognizes a responsibility for ensuring equality of opportunity for indigenous peoples and that its operations and assistance in its developing member countries (DMCs) do not negatively affect the welfare and interests of indigenous peoples. If an ADB intervention does affect indigenous peoples negatively, adequate measures must be taken to mitigate the negative impact, or make certain that a compensation plan ensuring that project-affected people are as well off with the project as without it, is prepared and implemented.

ADB’s Policy on Indigenous Peoples defines approaches that recognize the circumstances of indigenous peoples and that identify measures toward satisfying the needs and developmental aspirations of indigenous peoples. The policy focuses on the participation of indigenous peoples in development and the mitigation of undesired effects of development. The policy provides a working definition of indigenous peoples to apply to ADB operations. The policy also addresses laws and international conventions that apply and practices of comparator institutions. Finally, the policy presents a set of objectives and operational approaches and procedures and considers the organizational implications of a formal ADB policy addressing indigenous peoples.
DEFINITION OF INDIGENOUS PEOPLES

Developing a single, specific definition or identification for indigenous peoples would be difficult. Within the Asian and Pacific region, individual indigenous peoples’ communities reflect tremendous diversity in their cultures, histories, and current circumstances. Country by country, the relationships between indigenous peoples and dominant or mainstream groups of society vary.

From the perspective of developing a working definition of indigenous peoples for use in ADB operations, several aspects must be considered. A starting point would be to define indigenous peoples on the basis of characteristics they display. Two significant characteristics would be

- descent from population groups present in a given area, most often before modern states or territories were created and before modern borders were defined;
- maintenance of cultural and social identities; and social, economic, cultural, and political institutions separate from mainstream or dominant societies and cultures. In some cases, over recent centuries, tribal groups or cultural minorities have migrated into areas to which they are not indigenous, but have established a presence and continue to maintain a definite and separate social and cultural identity and related social institutions. In such cases, the second identifying characteristic would carry greater weight.

Additional characteristics often ascribed to indigenous peoples include

- self-identification and identification by others as being part of a distinct indigenous cultural group, and the display of a desire to preserve that cultural identity;
- a linguistic identity different from that of the dominant society;
- social, cultural, economic, and political traditions and institutions distinct from the dominant culture;
- economic systems oriented more toward traditional systems of production than mainstream systems;
- unique ties and attachments to traditional habitats and ancestral territories and natural resources in these habitats and territories.

Indigenous peoples also are described with reference to their ways of life. In many cases, indigenous peoples live in separated communities or cultural or ethnic groupings. Such communities and groupings often are located in areas geographically distant from urban centers and often function at the periphery of the political, social, cultural, and economic systems of the dominant or mainstream society. At the same time, however, it is not unusual to find indigenous peoples’ communities on the fringes of urban areas, comprising indigenous peoples who have migrated but remain distinct from the mainstream. Indigenous peoples’ communities in a given country can reflect varying degrees of acculturation and integration into the dominant or mainstream society.

A working definition employed in ADB’s operations as they affect indigenous peoples is:

Indigenous peoples should be regarded as those with a social or cultural identity distinct from the dominant or mainstream society, which makes them vulnerable to being disadvantaged in the processes of development.

In specific development interventions supported by ADB, the national legislation of the country in which the development intervention is taking place contributes to a basis for defining indigenous peoples. This includes constitutional, statutory, and customary law, as well as international law, including any international conventions to which the country is a party. It would be necessary that other country-specific considerations be taken into account.

An operational determination of a distinct identity for indigenous peoples would be based in the requirements of applicable national law and the applicability of the definitions and characteristics described above. The application of any definition of indigenous peoples should work to differentiate between indigenous peoples and other cultural and ethnic minorities for which indigenous status is not an
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The broader protection of vulnerable groups is an issue addressed in other policies and practices of ADB. Case-specific identification of indigenous peoples affected by ADB operations and approaches to addressing specific indigenous peoples’ concerns would be addressed in the process of initial social assessment and the preparation of an indigenous peoples plan.

INDIGENOUS PEOPLES AND DEVELOPMENT

As socioeconomic development takes place, many development initiatives are extending farther into geographically remote areas often considered the traditional homelands of indigenous peoples; these areas often offer resources such as forests, minerals, and hydropower potential. Roads, power transmission lines, and other infrastructure development initiatives similarly are extending into the traditional areas of indigenous peoples. In parallel with physical and economic development, dominant and mainstream populations and cultures also are extending themselves into the traditional areas of indigenous peoples.

Protection of indigenous peoples from development or maintenance of a status quo for indigenous peoples should not be a development objective. At the same time, it is not uncommon that interests of indigenous peoples differ from those of the mainstream, and that development policies and approaches addressing the interests of dominant and mainstream communities conflict with the interests of indigenous peoples. What may be in the broad national interest may not be in the specific interests of indigenous peoples, and development emerging from dominant and mainstream community-oriented initiatives may arrive in forms not consistent with indigenous peoples’ interests or concerns.

Development, as it is most often pursued, is intended to meet national goals and the interests of dominant and mainstream societies. Reducing poverty and improving the quality of life of people in general most often are the primary objectives of development. However, it is not always the case that poverty reduction and improvement in the quality of life realized from development extend equally to all segments of society, or that improvement reaches each segment of society. Moreover, in mainstream-oriented economic development policies, indigenous peoples may bear a disproportionate burden of the negative social, economic, and environmental effects that such development projects may bring, without realizing commensurate benefits.

Goals and objectives of development

There may be differences in views between dominant and mainstream societies and indigenous peoples’ communities as to the broad goals and objectives that development should pursue. Development viewed from the mainstream often is measured in terms of economic advancement or gain and improvement in a mainstream-based definition of quality of life, and most often places emphasis on economic growth. From the development perspective of indigenous peoples, in addition to economic advancement, there may also be concern for social, cultural, environmental, and community aspects of development—development as a combination of economic advancement and social, cultural, and community development. Indigenous peoples sometimes view the principles and efforts of mainstream development as inappropriate or unsustainable, and as an intrusion into traditional ways of life. The physical intrusions of development interventions into the traditional domains of indigenous peoples, and social intrusions into indigenous cultures, can be viewed by indigenous peoples and others as a violation of rights—human rights, rights to land, and rights associated with the maintenance of culture.

Culture and development

Indigenous peoples’ desires to protect their cultural identities and to preserve aspects of culture based in ancestral lands and resources is receiving increasing recognition within the international development community. Increasing recognition is being given to the principle of indigenous peoples determining their own pace and path of development, and there is increasing recognition that social and cultural diversity is in the interest of society and is not an obstacle to national development or economic
stability. There is increasing recognition that there is
dignity in all cultures, that there should be equality in
opportunity for all segments of society, and that all
segments of society deserve opportunities for equal
access to both the factors and the benefits of
development.

**LAWS AND CONVENTIONS
AFFECTING INDIGENOUS PEOPLES**

**National laws and practices**

With a substantial portion of the world’s
indigenous peoples living in Asia and the Pacific,
virtually every country in the ADB’s region has an
indigenous population. While the effectiveness of
provisions may vary, some countries recognize the
unique status of indigenous peoples and extend the
privileges and protections of citizenship. Few countries
have enacted laws that recognize any rights of
indigenous peoples to ancestral lands, or that support
indigenous peoples regaining and strengthening their
social, cultural, and legal institutions. In many cases,
enforcement of laws that may exist has been
inadequate.

Some countries have experienced conflicts
between interests of indigenous peoples and interests
of dominant and mainstream communities. These
conflicts most often relate to control over and
exploitation of natural resources in the areas
indigenous peoples claim as traditional domains.
Appropriation of ancestral territories or resources in
these territories by governments or external interests
most often is justified as a part of economic
development and growth. Indigenous peoples’ sparse
occupation of large areas of land and nonintensive use
of resources often is characterized by external interests
as economic inefficiency or lost opportunity.
Indigenous peoples’ land and resource management
practices sometimes are viewed as unsustainable or
environmentally damaging.

At the national level, in some cases, new laws,
policies, and other measures may be necessary to
reconcile competing demands and conflicting interests,
especially if interests of indigenous peoples are to be
protected. In any case, however, ADB must respect the
will of governments, including legislation and policy
that exists and the power of eminent domain that
governments possess. Country programs and project
selection will be developed in cooperation with
governments. When difficulties are encountered, ADB
may be able to provide guidance or assistance through
mechanisms such as policy dialogue and technical
assistance.

**International conventions and
declarations**

The international community has shown
increasing concern for the protection of the rights of
indigenous peoples. Conventions and declarations of
the international community provide a broad
framework, as well as specific statements regarding
the protection of indigenous peoples and their interests,
cultures, ways of life, cultural survival, and
development. It may be noted that some international
instruments relating to indigenous peoples have not
been ratified by large numbers of the international
community.

The United Nations *Universal Declaration of
Human Rights* (1948) and *International Covenant on Civil
and Political Rights* (1966) have specific significance for
indigenous peoples. The Universal Declaration provides
a common standard for the human rights of all peoples
and all nations, and proclaims the importance of
traditional, political, and civil rights, as well as basic
economic, social, and cultural rights. The Covenant
spells out civil and political rights and guiding principles
based on the Universal Declaration.

The 1957 International Labour Organisation (ILO)
Convention No. 107, *Protection and Integration of
Indigenous and Other Tribal and Semi-Tribal Populations
in Independent Countries*, addresses the right of
indigenous peoples to pursue material well-being and
spiritual development, and was a first international
instrument in specific support of indigenous peoples.
Largely because of its view that indigenous peoples
should be integrated into the larger society, a view that
subsequently came to be seen by many as
inappropriate, Convention No. 107 was followed in
1989 by the ILO Convention No. 169, *Convention
Concerning Indigenous and Tribal Peoples in Independent
Countries*. 
Annex

Convention No. 169 presents the fundamental concept that the way of life of indigenous and tribal peoples should and will survive, as well as the view that indigenous and tribal peoples and their traditional organizations should be closely involved in the planning and implementation of development projects that affect them. As the most comprehensive and most current international legal instrument to address issues vital to indigenous and tribal peoples, Convention No. 169 includes articles that deal with consultation and participation, social security and health, human development, and the environment. To date, Convention No. 169 has been ratified by only a few countries, and so far by none in the Asian and Pacific region.

Agenda 21 adopted by the United Nations Conference on Environment and Development (UNCED) in 1992 recognizes the actual and potential contribution of indigenous and tribal peoples to sustainable development. The 1992 Convention on Biodiversity calls on contracting parties to respect traditional indigenous knowledge with regard to the preservation of biodiversity and its sustainable use. The Vienna Declaration and Programme of Action emerging from the 1993 World Conference on Human Rights recognizes the dignity and unique cultural contributions of indigenous peoples, and strongly reaffirms the commitment of the international community to the economic, social, and cultural well-being of indigenous peoples and their enjoyment of the fruits of sustainable development.

The United Nations' 1993 Draft Declaration on the Rights of Indigenous Peoples, developed with the direct participation of indigenous peoples' representatives and currently under consideration within the United Nations, addresses issues such as the right to participation, the right of indigenous peoples to direct their own development, the right of indigenous peoples to determine and develop priorities and strategies for the development or use of ancestral territories and resources, and the right to self-determination. The emerging concern for indigenous peoples prompted the United Nations to declare 1993 as the International Year of the World's Indigenous Peoples and the decade from December 1994 as the Indigenous Peoples' Decade.

POLICY OBJECTIVES, PROCESSES, AND APPROACHES WITHIN ADB

Policy objectives

In its operations, ADB observes a policy and associated strategies and approaches that recognize the potential vulnerability of indigenous peoples in development processes, and that ensure that indigenous peoples have opportunities to participate in and benefit equally from development. ADB's strategies and approaches are designed to avoid negatively affecting indigenous peoples in its operations, and to provide adequate and appropriate compensation when a negative impact is unavoidable. ADB's development efforts work to ensure that development initiatives affecting indigenous peoples are effective and sustainable. Such initiatives should be compatible in substance and structure with the affected peoples' culture and social and economic institutions, and commensurate with the needs, aspirations, and demands of affected peoples. Initiatives should be conceived, planned, and implemented, to the maximum extent possible, with the informed consent of affected communities, and include respect for indigenous peoples' dignity, human rights, and cultural uniqueness.

Strategies and approaches to development that affect indigenous peoples must include clear mechanisms for accurate, objective analysis of their circumstances. Development processes must incorporate transparency and accountability. The policy on indigenous peoples applies to operations in both the public and the private sectors.

The strategies and approaches employed by ADB in relation to indigenous peoples build on the existing strategic framework and operational experience. The policy addressing indigenous peoples complements and supports, and is complemented and supported by other ADB policies. Compliance with a policy on indigenous peoples does not obviate the requirement of compliance with other ADB policies.
OPERATIONAL PROCESSES

Initial social assessment

The first step in addressing indigenous peoples’ concerns is through the initial social assessment (ISA). An ISA is required for every ADB development project. The ISA identifies intended project beneficiaries as well as groups that might be affected adversely. The ISA addresses people’s needs, demands, and capacities, as well as the key social dimensions that a project must address, such as involuntary resettlement, poverty reduction, human development, gender and development, and vulnerable groups. As such, indigenous peoples would be a specific concern to be considered in the ISA process. The ISA should be undertaken as early as possible in the project development process, preferably by the time of the project preparatory technical assistance (PPTA) fact-finding or other preparatory studies, to ensure that all relevant social concerns will be addressed in project design.

If the ISA determines that indigenous peoples are likely to be affected significantly by an ADB intervention or that indigenous peoples are disadvantaged or vulnerable in an intervention because of their social or cultural identity, a specific indigenous peoples’ plan addressing indigenous peoples and their concerns, that is time-bound and that has appropriate budget provisions, must be developed. This plan would be incorporated as an integral part of project design.

The ISA would address definition and identification of indigenous peoples in the specific context of the project in question. Such definition and identification would consider all relevant factors, including country-specific considerations and national legislation and policy. The indigenous peoples’ plan would focus specifically on indigenous peoples to be affected and specific socio-economic issues that would be significant.

Indigenous peoples’ development plan

For an ADB-assisted development project that affects indigenous peoples adversely and significantly, an indigenous peoples’ plan acceptable to the Bank must be prepared. Beyond addressing indigenous peoples’ populations and relevant social issues, the indigenous peoples’ plan must include specific measures and approaches to be taken to address issues affecting indigenous peoples. A project negatively affecting indigenous peoples must be appropriately redesigned to mitigate negative effects, or include an acceptable compensation plan. The provision of compensation should not be a substitute for efforts to avoid or mitigate negative effects a project may have.

The indigenous peoples’ plan would form a basis for project implementation and for monitoring and evaluation of how a project deals with indigenous peoples’ issues. Specific components or provisions of the plan must be included in the project design; the plan should address questions of sustainability of the proposed project as well as questions of its implementation. The Appendix to this brochure provides key elements to be considered in the creation of such a plan.

The responsibility for preparation of an indigenous peoples’ plan acceptable to ADB and for its implementation rests with the government or other project sponsors. ADB staff involved in the processing of a project affecting indigenous peoples must inform the government or other project sponsors of ADB’s policy on indigenous peoples. The indigenous peoples’ plan should be submitted to ADB by the government or private sector project sponsor preferably along with the feasibility study for the project. As the costs of an indigenous peoples’ plan would affect and be part of the overall cost of a project, and as implementation of the indigenous peoples’ plan would have effects on the overall implementation schedule of a project, preparation of the plan must be completed no later than the appraisal stage of a project. ADB would support the efforts of the government or other project sponsors, as necessary and appropriate, through

- assistance in formulating and implementing the indigenous peoples’ plan;
- assistance in formulating policies, strategies, laws, regulations and other specific actions related to indigenous peoples;
- providing technical assistance to strengthen the capacity of agencies responsible for indigenous peoples; and
- financing eligible costs of implementing the
indigenous peoples’ plan, if requested. For any project, the indigenous peoples’ plan necessarily must be completed before project appraisal.

The indigenous peoples’ plan would include an executive summary, with salient issues of this executive summary preferably to be included in the draft Report and Recommendation of the President (RRP) to be considered in the Management Review Meeting, and in every case in the final RRP for submission for Board of Directors’ consideration.

**Operational approaches**

In development efforts that affect indigenous peoples, it is necessary that ADB integrate concern for indigenous peoples into each step of programming, project processing, and policy development cycles. Beyond program- and project-related considerations, it is likely that structural constraints could affect realization of policy objectives. Such constraints may include a lack of

- an appropriate legislative framework in DMCs;
- necessary capacity or relevant development institutions and agencies;
- detailed and objective knowledge and information about indigenous peoples and their circumstances; and
- accurate and effective representation of indigenous peoples.

In addition to directly addressing the needs of indigenous peoples, strategies to overcome structural constraints should be explored. Effective approaches to information dissemination and communication with indigenous peoples communities should be identified, especially where conventional approaches to information dissemination and communication may not be effective. It may also be necessary to provide specific consideration to matters such as indigenous women’s concerns.

Achievements that have been realized in the implementation of policies addressing indigenous peoples’ concerns may form the basis for considering appropriate adjustments in borrowing countries’ legislation and institutional channels. In this regard, it would be desirable that indigenous peoples’ issues be addressed in project monitoring and evaluation activities, and that indigenous peoples participate in monitoring and evaluation processes. Modalities for policy development could include policy dialogue and other appropriate technical assistance. Ideally, development of necessary strategies would be based on consultations involving ADB, DMC governments, other project sponsors as appropriate, representatives of indigenous peoples, and other stakeholders.

Key issues that should be considered as ADB addresses indigenous peoples matters, and the continuity and development of indigenous peoples’ communities, include

- legal recognition of ancestral domain and the traditional rights of indigenous peoples over land and resources;
- recognized legitimacy of the indigenous social and legal institutions of indigenous peoples; and
- recognition of the right of indigenous peoples to direct the course of their own development and change.

Institutional strengthening and capacity building support for indigenous peoples’ communities should be provided as necessary and appropriate. Similarly, as necessary and appropriate, institutional strengthening and capacity building support should be provided to relevant government entities when such support would increase the effectiveness and efficiency of such entities.
ORGANIZATIONAL IMPLICATIONS

The Office of Environment and Social Development (OESD) holds primary organizational responsibility for implementation of ADB’s policy on indigenous peoples. OESD provides guidance and assistance to other departments and offices on the application of the policy in ADB operations, and consults with these departments and offices on the development of relevant operational practices and procedures.

OESD is responsible for developing and coordinating operational guidelines for implementation and operationalization of the policy on indigenous peoples. These guidelines are developed with the active input and cooperation of other departments and offices of ADB. On an ongoing basis, OESD gathers and disseminates relevant information to other units of ADB.

OESD has a Social Development Specialist as ADB-wide focal point and resource person to provide specific advice and guidance on matters related to indigenous peoples in ADB’s operations. OESD holds responsibility for reporting as required on the implementation and application of an indigenous peoples’ policy.

The Programs Departments are responsible for applying the policy on indigenous peoples as it relates to country programming, and for incorporating such policy aspects in the development of country strategies and in project and technical assistance identification. This process would be a part of policy dialogue with governments. As country-level programming processes, including those related to the preparation of the Country Operational Strategy, are the initial steps in country-level project identification, concern for indigenous peoples’ matters would have significance in these processes. The Programs Departments consider social development issues as they arise in country programming processes and in economic and sector work. Resident Missions are country-level points of contact on matters relating to indigenous peoples and provide advice to Headquarters staff. Headquarters provides necessary support in this regard.

The Projects Departments have responsibility for project-specific aspects of the indigenous peoples policy, including making governments, project executing agencies, and other project sponsors aware of ADB’s policy provisions and requirements. This responsibility will apply to project identification, processing, implementation, and monitoring. The Projects Departments are normally responsible for the initial social assessment process, and for developing appropriate indigenous peoples’ development plans when required.

The Office of Pacific Operations holds responsibility for the indigenous peoples’ policy as it relates to operations in ADB’s Pacific DMCs.

The Operations Evaluation Office, through its postevaluation function, is responsible for assessing the effectiveness of ADB’s operations in implementing and applying the policy on indigenous peoples, and in developing appropriate evaluation criteria.

POLICY ON INDIGENOUS PEOPLES

Policy on indigenous peoples in ADB operations

For development interventions it supports or assists, ADB will ensure that affected populations and persons are at least as well-off as they would have been in the absence of the intervention, or that adequate and appropriate compensation is provided. The policy ensures equality of opportunity for indigenous peoples.

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1 In light of ADB’s reorganization on 1 January 2002, the responsibilities of the Office of Environment and Social Development (OESD) for the implementation of this policy will be undertaken by the Environment and Social Safeguard Division (RSES) in a newly created department, the Regional and Sustainable Development Department (RSDD). The Office of Pacific Operations is now called the Pacific Department. The Programs and Projects Departments were restructured and integrated into four new regional departments, each being responsible for a group of countries. The groupings are: East and Central Asia (Azerbaijan; People’s Republic of China; Hong Kong, China; Kazakhstan; Republic of Korea; Kyrgyz Republic; Mongolia; Taipei, China; Tajikistan; Turkmenistan; and Uzbekistan); the Mekong (Cambodia, Lao PDR, Myanmar, Thailand, and Viet Nam); South Asia (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka); and Southeast Asia (Indonesia, Malaysia, Philippines, and Singapore). Each regional department will be responsible for applying the Policy in the concerned developing member countries in the subregion. The Operations Evaluation Office is now called the Operations Evaluation Department (OED).
The policy ensures the ADB interventions affecting indigenous peoples are

- consistent with the needs and aspirations of affected indigenous peoples;
- compatible in substance and structure with affected indigenous peoples’ culture and social and economic institutions;
- conceived, planned, and implemented with the informed participation of affected communities;
- equitable in terms of development efforts and impact; and
- not imposing the negative effects of development on indigenous peoples without appropriate and acceptable compensation.

The policy, together with practices addressing indigenous peoples, applies in parallel with and does not replace or supersede other ADB policies and practices. Each of the elements of the policy and practice addressing indigenous peoples are considered within the context of national development policies and approaches, and the fundamental relationship between ADB and governments remains the basis for country-specific operations.

The policy on indigenous peoples ensures that the process of initial social assessment mandated in ADB operations includes specific consideration of indigenous peoples as a potentially affected population. If the initial social assessment identifies indigenous peoples specifically as a significantly and adversely affected population, or vulnerable to being so affected, it is required that an indigenous peoples’ plan acceptable to ADB be prepared by a government or other project sponsors.

ADB will work to develop necessary and appropriate internal capacities for addressing indigenous peoples’ matters in its operational activities.

ADB will work with borrowing member countries as appropriate and necessary to support and assist the development of capacities for addressing indigenous peoples’ matters. As necessary and appropriate, specific institutional development and capacity-building support would be provided to both indigenous peoples’ communities and to governments, consistent with ADB’s policies and approaches addressing institutional development and capacity building.

APPENDIX

Key elements in an indigenous peoples’ development plan

1. The responsibility for preparation of an indigenous peoples plan acceptable to ADB rests with the relevant government or project sponsor. ADB will support the efforts of the government or project sponsor as necessary and appropriate. Key elements in ensuring that an appropriate indigenous peoples’ development plan is prepared include

- preparation, during project design, of a development plan that takes into full account the desires and preferred options of indigenous peoples affected by the project;
- studies to identify potential adverse effects on indigenous peoples to be induced by the project, and to identify measures to avoid, mitigate, or compensate for these adverse effects;
- measures to ensure the capacity or the strengthening of the social, legal, and technical skills of government institutions to be responsible under the project for dealing with indigenous peoples;
- involvement of appropriate existing institutions, local organizations, and nongovernment organizations with expertise in matters relating to indigenous peoples;
- consideration in project design of local patterns of social organization, cultural belief, and ancestral territory and resource use;
- support for viable and sustainable production systems that are adapted to the needs and local environments and circumstances of indigenous peoples;
- avoidance of creating or aggravating the dependency of indigenous peoples on project entities, and instead promoting self-reliance among these peoples;
- capacity building for indigenous peoples communities and organizations to facilitate and support effective participation in development processes; and
- adequate lead time and arrangements for extending follow-up, especially in dealing with
indigenous peoples in remote or neglected areas where little previous experience is available.

Consultation with indigenous peoples groups is key to developing an effective, accurate, responsive indigenous peoples development plan.

2. Indigenous peoples often lack the information, knowledge, analytical and organizational capacities, and political channels and power to influence and direct development processes that directly or indirectly affect their lives. The following basic principles should apply to ADB-supported projects that affect indigenous peoples:

- All development plans for indigenous peoples, including provisions for mitigation measures, should be based on full consideration of the options and approaches, including requirements for consultation, that best meet the interests of individuals and communities affected by projects. Qualified specialists should be involved in the formulation of such plans and mitigation measures, in consultation with the persons affected, both men and women. The development of approaches, plans, and mitigation measures must include consultation with the peoples affected.
- When it is indicated that a project will have adverse effects on indigenous peoples, it is necessary that the scope and impact of such adverse effects be thoroughly assessed by qualified experts or agencies, and that appropriate mitigation measures are identified in feasibility studies. It is preferable that the net impact a project will have on indigenous peoples be not only positive, but also be perceived by indigenous peoples as positive. If individuals or communities must lose their social support systems or ways of life so that a project can proceed, they should be compensated appropriately.
- Project design should take into consideration the social and cultural context of affected peoples, and their skills and knowledge relating to local resource management. Project design should draw upon the strengths of indigenous peoples organizations and communities, as well as traditional social organizations and indigenous knowledge, and as far as feasible should avoid introducing undesirable or unacceptable changes in the way of life of indigenous communities.
- During project preparation, those preparing the project should promote the formation or strengthening of indigenous peoples’ organizations and communications to facilitate their participation in project identification, planning, execution, and evaluation. As needed, provision should be made to train indigenous peoples in project management activities.
- Where previous experience and knowledge of working successfully with indigenous peoples is lacking, pilot-scale operations should be carried out and evaluated prior to the execution of full-scale efforts.
- If government institutions responsible for interaction with indigenous peoples do not possess the necessary legal, social, and technical capacities, or if their relationship with indigenous peoples is weak, the involvement of experienced local community organizations and nongovernment organizations that can serve as intermediaries and that are acceptable to all parties involved, including governments, should be sought. Consideration should be given to traditional representative institutions. Approaches to developing the capacity of government institutions should be explored.
- ADB approval of a project should not be based only on the concept and quality of project design, but also on the orientation, capacity, and operational record of the government agencies or other project sponsors concerned in executing the project.