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# THE THEORY OF MULTICULTURALISM AND CULTURAL DIVERSITY IN CAMBODIA

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## Abbreviations

ADB	Asian Development Bank
COM	Council of Ministers
EFA	Education For All
GDP	Gross Domestic Product
HDR	Human Development Report
ILO	International Labour Organization
IMC	Inter-Ministerial Committee for Highland Peoples Development
MoCFA	Ministry of Culture and Fine Arts
MoI	Ministry of the Interior
MoRA	Ministry of Religious Affairs
NGO	Non-Governmental Organization
NPRS	National Poverty Reduction Strategy
PFT/DFT	District/Provincial Facilitation Teams
PPA	Participatory Poverty Assessment
PRK	People's Republic of Kampuchea
PRSP	Poverty Reduction Strategy Paper
RILGP	Rural Investment and Local Governance Project
SOC	State of Cambodia
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations International Children's Emergency Fund
UNTAC	United Nations Transitional Authority for Cambodia

# 1. THE THEORY OF MULTICULTURALISM

## 1. *Introduction*

The aim of this diploma thesis is to discuss and assess the rights of cultural minorities in Cambodia in the light of theories of multiculturalism. More precisely, this thesis compares and contrasts the situation and aspirations of indigenous peoples in Cambodia with Will Kymlicka's theory of multicultural citizenship. There are a number of reasons to pay attention to the rights of indigenous peoples and to do so in Cambodia specifically. First, indigenous peoples are considered among the world's most disadvantaged groups and belong to the most vulnerable and impoverished segments of the population in virtually all of the countries in which they are found. This is due to a variety of reasons, among them their exclusion from the decision-making process, their small numbers of members, their great cultural distance to the majority group, their geographical isolation, their fragile ecology, and because their ways of live tend to be greatly at odds with modernity<sup>1</sup>. Indigenous peoples in Cambodia are no exception in this respect. A second reason to discuss the situation of indigenous peoples is closely related to a dramatic reversal that has been taking place in many countries in the way indigenous peoples are being treated, particularly in the West and in Latin America. Previously, the expectation was that indigenous peoples would cease to exist due to dying out, inter-marriage, or assimilation. Frequently, governments adopted policies to accelerate this process. This approach has changed radically. Today, all Western and most Latin American countries accept the idea that indigenous peoples will exist into the indefinite future as distinct societies alongside the majority culture, and that they should have the land claims, cultural rights, and self-government rights needed to perpetuate themselves as distinct societies. A remarkable process of decolonization is taking place throughout these countries, as indigenous peoples regain their lands, self-government, and customary law<sup>2</sup>.

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<sup>1</sup> It is not least for these reasons that the United Nations has initiated the International Decade of the World's Indigenous Peoples. The goal is to foster international cooperation to help solve problems faced by indigenous peoples in such areas as human rights, culture, the environment, development, education, and health. However, this initiative is in its tenth year and has brought little improvement in most parts of the world. Indigenous groups continue to face multiple threats to their beliefs, cultures, languages, and ways of life, and the disadvantaged situation of indigenous peoples all over the world remains very challenging (UNDP 2004: 29).

<sup>2</sup> Some examples of this shifting approach toward the accommodation of indigenous peoples in Western countries include the establishment of a Sami Parliament in Scandinavia, the emergence of "Home Rule" for the Inuit in Greenland, the constitutional endorsement of Aboriginal rights in the 1982 Canadian constitution, the revival of treaty rights through the Treaty of Waitangi in New Zealand, various laws and court cases confirming self-determination rights for American Indians and the recognition of Aboriginal Australians' land rights in the Mabo decision (for a detailed discussion of the Mabo decision see Hinchman and Hinchman 1998). Countless legal and constitutional changes in Central and Latin America confirm the recognition of indigenous rights, and it is here where most ratifications of the relevant ILO Convention No. 169 on Indigenous and Tribal Peoples have been made.

This process corresponds to recent developments in international law, which today reflects the most advanced practice of Western countries regarding indigenous rights. Land claims, customary law, and self-government for indigenous peoples are all firmly recognized in recent international documents, such as the International Labour Organization's (ILO) Convention No. 169 and the United Nations' (UN) draft Declaration on the Rights of Indigenous Peoples (Anaya 1996, Anaya 2002). Besides these declarations of indigenous rights, international financial organizations – such as the World Bank and the Asian Development Bank (ADB) – have adopted policies designed to recognize and respect the distinct rights of indigenous peoples.

These developments in Western and Latin American countries and in international norms stand in stark contrast to the situation in Asia. Only very few states in Asia are moving towards the greater recognition of the distinct needs and rights of indigenous peoples<sup>3</sup>. An indication of this contrast is that no Asian country has yet ratified ILO Convention No. 169. Cambodia is no exception. Moreover, indigenous groups in Cambodia receive even less attention compared to neighboring countries for a number of reasons: Cambodia is regarded as the most culturally homogenous country in the region and indigenous peoples make up only a very small proportion of the overall population. In addition, indigenous peoples in Cambodia are characterized by a remarkably low level of political organization and mobilization. Given this contrast between Asia and other parts of the world, and between Cambodia and other Asian countries, it will be interesting to analyze and discuss the situation of indigenous peoples in Asia in general and in Cambodia in particular. There is another reason to pay particularly attention to indigenous peoples in Cambodia, which is closely associated with poverty reduction. Even in countries which have successfully reduced poverty, ethnic minorities frequently represent deep pockets of poor people who are being left behind (UNDP 2003: 19). Arguably, this is the case in neighboring Vietnam. At the same time, widening ethnic gaps have proven to have a destructive impact on the overall development in many countries. In part for this reason, the current Human Development Report focuses on the rights of cultural minorities (UNDP 2004a: v). Given the history of civil war and ethnic conflict and the need for reconciliation in Cambodia, a good case can be made that Cambodia in particular cannot afford to neglect the specific rights and needs of its indigenous population.

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<sup>3</sup> In some parts of India, for example, self-government, communal land titles, and various affirmative action programs have been adopted. Indigenous land rights have been confirmed in Nepal, Taiwan, and New Caledonia. The Philippines have recognized and strengthened indigenous rights through the Indigenous Peoples Rights Act in 1997. However, in most Asian countries indigenous peoples continue to face harsh policies and their distinct needs and rights are being neglected. In many countries, indigenous peoples continue to have little or no legal protection of their land rights while policies encourage settlement in their homelands. For a number of case studies involving Asian countries and indigenous rights see Magallanes and Hollick 1998 and ILO 2000b.

There are a number of reasons to use Kymlicka's theoretical framework for the discussion of indigenous rights in Cambodia. Kymlicka was among the first authors to systematically theorize the rights of cultural minorities and his theory is widely regarded the most influential in its field. This is reflected in the fact that the most prominent critics of multiculturalism use his concepts to formulate their objections to minority rights. In addition, political problems stemming from cultural diversity are becoming an increasingly important theme in the development literature. This is mirrored particularly in the United Nation Development Programme's (UNDP) Human Development Report 2004 (UNDP 2004a), which is titled *Cultural Liberty in Today's Diverse World* and "makes the case for respecting diversity and building more inclusive societies by adopting policies that explicitly recognize cultural differences—multicultural policies" (UNDP 2004a: 2). This report implicitly and explicitly draws heavily on Kymlicka's theory. Moreover, Kymlicka provided a background paper and served as the Report's peer reviewer and principal consultant. The Human Development Report is among the most influential and most widely read publications in the development literature and indicates the general direction of the development discourse. The development literature in general and this report in particular are relevant in the Cambodian context, because Cambodia is considered among the least developed countries and is ranked low on the UNDP's Human Development Index. Applying Kymlicka's theory to Cambodia helps to identify and exemplify the concepts and principles which underlie this report and the international norms of indigenous rights it reflects. Another reason to apply this theory to Cambodia is to test the author's assumption that important elements of his theory are valid in many Asian countries (Kymlicka 2003). Furthermore, Kymlicka's theory presents a distinctively liberal conception of minority rights. Although Cambodia is not a liberal state, many people in Cambodia aspire to liberal institutions and practice. This is reflected in the frequent use of the term in public discourse as well as in Cambodia's Constitution<sup>4</sup>. Given these aspirations, discussing the challenges of cultural pluralism in the light of liberal principles seems a particularly worthwhile exercise in Cambodia, and Kymlicka's theory offers a suitable framework to do so. Moreover, this theory is capable of explaining and justifying the dramatic changes regarding the recognition of indigenous rights in Western and Latin American countries mentioned above. Applying it to Cambodia can help to capitalize on the experience of these countries in accommodating their indigenous populations. Furthermore, the discussion will show

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<sup>4</sup> Interestingly, there are at least five explicit references to liberalism in the Constitution, in the preamble and in the Articles 1, 50, 51, and 134. Article 1, for example, states that "Cambodia is a Kingdom with a King who shall rule according to the Constitution and to the principles of liberal democracy and pluralism". Article 51 determines that "The Kingdom of Cambodia adopts a policy of liberal democracy and pluralism".

that Kymlicka's theory is consistent with the aforementioned declarations of indigenous rights in international law and capable of justifying their objectives. Increasingly, Cambodia is being expected to comply with these international norms of indigenous rights, not least due to a growing rights-consciousness among members of the affected groups and increasing relationships between local organizations and international networks advocating for indigenous rights. This trend is being reinforced by the considerable involvement of international organizations in Cambodia. For example, the World Bank and ADB have already determined that their policies on indigenous peoples apply to hill tribes in Cambodia<sup>5</sup>. There is widespread agreement that an appropriate policy for Cambodia's indigenous peoples is needed. However, there is little consensus about what such a policy might look like. Given the increasing importance of international norms for indigenous rights in Cambodia, applying Kymlicka's theory and evaluating its limitations can contribute to a well-informed debate about whether or not the associated models can and should be applied in Cambodia. The aim of this thesis is to contribute to this debate and ultimately to the development of a viable and justifiable policy for Cambodia's indigenous peoples.

The first part of this thesis discusses political theories of multiculturalism which will then be applied to cultural diversity in Cambodia. A brief discussion of the course of the minority rights debate in three stages serves as a point of departure. Afterwards, central elements of Will Kymlicka's distinctively liberal theory of minority rights will be introduced. This discussion is not limited to indigenous peoples. Rather, discussing Kymlicka's complete typology of cultural minorities will facilitate contrasting the situation and aspirations of indigenous peoples with those of other cultural minorities. Following a discussion of the importance of cultural membership for the individual, various arguments justifying certain group-rights will be introduced and assessed. The argument will then turn to recent developments in political theory associated with the emerging position of liberal nationalism. The first part will be summarized in its final section with emphasis on the implications for indigenous peoples. Along the way, criticism leveled against Kymlicka's theory will be put forward and discussed. The second part is concerned primarily with indigenous peoples in Cambodia. It will begin with a general overview of Cambodia's cultural minorities. Afterwards, the

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<sup>5</sup> Based on a screening study, the World Bank determined that its policy on indigenous peoples – Operational Directive 4.20 – applies to highland peoples in Cambodia. In the context of the Rural Investment and Local Governance Project (RILGP), the bank states that “at present, Seila [the Royal Government's decentralization program] objectives and procedures do not explicitly consider program impacts on the various ethnic minorities residing within program provinces. As a prerequisite to World Bank support, however, RILGP must meet the requirements of Operational Directive 4.20” (World Bank 2003: 2). In this situation, World Bank policy requires the borrower to develop an Indigenous Peoples Development Plan consistent with various demands of Operational Directive 4.20. Similarly, ADB determined that its Policy on Indigenous Peoples applies to hill tribes in Cambodia (ADB 2002: pp. 1).



incorporation of various groups into the Cambodian nation-state and their integration into Cambodia's mainstream society will be discussed in light of the concepts introduced in the first part. The argument will identify Cambodia's hill tribes as indigenous peoples and highlight the involuntary nature of their incorporation, while stressing the importance of these groups' survival for the well-being of their individual members. The discussion will assess current policies towards indigenous peoples in Cambodia with particular emphasis on the Royal Government's current decentralization program. This part will include the results of empirical research carried out in three northeastern provinces.

Based on the research results as well as the earlier discussion, this paper will explore ways to better accommodate the needs and fair demands of indigenous peoples in Cambodia. Along the way, the validity and limitations of Kymlicka's concepts in the Cambodian context will be assessed. The hypothesis is that Kymlicka's theory provides a valid framework to analyze cultural diversity in Cambodia and to understand the challenges involved in accommodating various indigenous peoples. Accordingly, this paper supports the view that meaningful measures of self-government rights, language rights, land rights, and special representation rights for these groups are needed to allow them to sustain their existence as distinct societies. However, institutionalizing these rights is likely to take a shape significantly different from the 'multination federation' model preferred by Kymlicka. Given the situation of indigenous peoples in Cambodia and the nature of the Cambodian state, the local level of government is likely to provide the framework for these groups' accommodation. More research is needed with the active involvement of group members in order to develop local models that effectively correspond to the specific situations, needs and interests of Cambodia's indigenous peoples. The following sections give a brief overview of the philosophical debate over multiculturalism in three stages. The term multiculturalism here is associated with a diverse set of ethnocultural groups, among them national minorities, immigrants, and indigenous peoples. Very few authors were working in the field of multiculturalism only twenty years ago. This situation has changed dramatically. Today, questions of multiculturalism and minority rights are among the most hotly debated issues in contemporary political theory, since managing cultural diversity has become one of the central challenges of our time. Different conceptions of minority rights have shaped various stages of the debate over multiculturalism. Those different conceptions are subject of the following sections.

## 2. *Three Stages of the Debate over Minority Rights*<sup>6</sup>

### 1. **Minority Rights as Communitarianism**

The debate over the rights of minorities during the 1970s and 1980s was essentially framed in terms of the old controversy between liberalism and communitarianism, which was revitalized by John Rawls book *A Theory of Justice* (1971)<sup>7</sup>. Rawls supports the priority of individual freedom and autonomy over shared values and the claims of communities<sup>8</sup>. This position came under criticism by various communitarian authors. For example, Michael Sandel criticized that persons in Rawls' theory are represented as isolated and unbounded individuals. He points out that individuals are constituted through groups or communities and embedded in a particular social infrastructure (Sandel 1982). Sandel's teacher, Charles Taylor, and the political philosopher Michael Walzer took similar views (Taylor 1992, Walzer 1983). From the communitarian perspective, individuals are products of social practices and do not revise their conception of the good life. Communitarians stress the priority of shared values and various forms of communities, while liberals insist on the priority of the rights of free and equal citizens. Since struggles for minority rights involve ethnocultural communities mobilizing for the protection of their groups, it was believed that one's position in the minority rights debate derived from one's position in the communitarianism debate. At this stage, the assumption was that promoters of liberalism would oppose minority rights as subordinating individual autonomy, while communitarians would support minority rights as protecting communities from the corroding influence of liberal individualism. Ethnocultural minorities were thought to maintain a more collective way of life and to have not yet settled for liberal autonomy. From the communitarian perspective, minority rights provide those groups with appropriate protection against the corrosive aspects of individualism and help to promote the value and significance of the community (Van Dyke 1985: 193-224).

At this stage of the debate, supporting minority rights was bound to endorsing the communitarian critique of liberal individualism, and to understanding minority rights as defense of community-oriented minority groups against liberalism. Supporters of minority rights agreed with communitarians that minority rights contradict liberal individualism and admitted that this simply highlights the inherent failure of

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<sup>6</sup> This controversy is part of a broader debate in political science on citizenship. At least five models are prominent in this debate: France (defining citizenship based on territory, *jus soli*), Germany (defining – until recently – citizenship exclusively by birth origin, that is: in ethnic terms, *jus sanguinis*), United States (as an 'immigrant society'), Switzerland (as an old and successful multinational state), and Canada. Canada was the first country to formulate and implement multicultural policies.

<sup>7</sup> The following section is informed by Kymlicka 2001b: 17-38.

<sup>8</sup> For a recent endorsement of this position in the development literature, see Sen 1999. The author is also among the main contributors to the UNDP's concept of human development and wrote parts of various Human Development Reports, not least the most recent one which deals with cultural diversity.

liberalism. Maybe the most elaborate communitarian supporter of minority rights at this stage of the debate was Vernon Van Dyke. In his book *Human Rights, Ethnicity and Discrimination* (1985) he provides an extensive account of the practice of collective rights in numerous countries. Contained in his extensive selection of examples is his criticism of the “arbitrary and unjustified” individualism of liberal democratic theory. Van Dyke concludes that traditional liberalism “needs to be modified so as to recognize the just claims of certain kinds of groups – that is, so as to concede them rights that are distinct from and not reducible to individual rights” (1985: 195). Like many communitarians, Van Dyke remains ambiguous towards liberalism and leaves open whether he criticizes it from within or outside the liberal tradition. His position is characteristic of the first stage of the minority rights debate, in that it endorses the communitarian critique of liberalism and views minority rights as defending cohesive and communally-minded minority groups against the invasion of liberal individualism.

## 2. Minority Rights within a Liberal Framework

These assumptions were increasingly questioned. It became more and more clear that most ethnocultural groups in Western states are not seeking protection from modernity, but asking for equal participation in modern liberal societies. Even if some members of national minorities contemplate secession, they mostly do not want to create illiberal communitarian societies. In modern democracies, the obligation to individual autonomy crosses ethnic, linguistic, and religious boundaries. The debate over minority rights thus turns into a debate between groups and individuals who disagree about the interpretation, not about the validity of liberal principles. Supporters of multiculturalism suggest that some group specific rights are in line with – and might indeed be required by – liberal-democratic principles. The question at this stage of the debate is not how to protect illiberal minorities from liberalism, but whether minorities which support liberal principles nonetheless need minority rights. Various authors have strengthened this position of *liberal culturalism*, which insists on the critical significance of cultural identity and national membership for the autonomy of individuals. They point out that pressing interests associated with culture and identity are consistent with liberal freedom and equality (Miller 1995; Spinner 1994).

Margalit and Raz, for example, stress the importance of groups to the well-being of their members and point out that the moral importance of the group’s interest depends on its value to individuals. For these authors, individual well-being depends on the successful pursuit of goals and relationships. Goals and relationships are products of culture and depend for their existence on shared patterns of expectations, traditions, and conventions. In this perspective, understanding of one’s own culture is what

determines the boundaries of the imaginable for the individual. Cultural membership profoundly affects a person's opportunities and ability to engage in meaningful relationships. Moreover, peoples' sense of identity is bound to their cultural membership, and their individual self-respect depends in part on the esteem in which their group is being held. Cultures are particularly well-suited for individual self-identification because they provide the safety of effortless secure belonging. Accordingly, "individual dignity and self-respect require that the groups, membership of which contributes to one's sense of identity, be generally respected and not be made a subject of ridicule, hatred, discrimination, or persecution" (Margalit and Raz 1995: 85). In Kymlicka's theory, the position of liberal culturalism – and the link between groups and the well being of its individual members – is closely related to the concept of *societal culture*, which will be discussed in some length in section 4. In short, Kymlicka argues that people make choices about various conception of the good life based on beliefs about the value of these conceptions. Having such beliefs requires an understanding of the meanings attached to them by culture, history, and language. Consequently, only access to a societal culture provides individuals with meaningful choices. Culture is the precondition of individual autonomy (Kymlicka 1995a: 75-106).

The second stage takes the debate beyond the frontline of individualism versus collectivism that characterized the discussion at its first stage. The question of minority rights is widely debated within liberal theory. Supporters of liberal culturalism support the view that some minority rights advance liberal values. Because special status for minorities presents a stark contrast to the ideal of a 'neutral' liberal state, the burden of proof lies on its defenders. Liberal culturalists aim to meet this burden of proof by showing the significance of cultural membership in protecting individual freedom and self-respect. They seek to support the view that minority rights supplement individual freedom and equality. The scope of group-specific rights within liberal theory remains deeply controversial<sup>9</sup>. The challenge facing liberal culturalists is to differentiate between minority rights that restrict individual rights from minority rights that supplement them. Kymlicka aims to tackle this problem by distinguishing 'internal restrictions' from 'external protections'. Internal restrictions are minority rights which restrict the freedom of group members. In contrast, external protections are designed to reduce the group's vulnerability to external pressures (Kymlicka 1995a: 34-48). This distinction will be discussed in section 6.

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<sup>9</sup> According to Kymlicka, liberal culturalism emerged into the consensus position amongst liberal theorists (Kymlicka 2001b: 38). This assumption is surely overstated, as there remain influential liberal objections to multiculturalism. A good example is Barry's recent book *Culture and Equality*, which offers a polemical criticism of multiculturalism, with Kymlicka's theory as its main target (Barry 2001).

### 3. Minority Rights as Response to State Nation-Building

The second stage of the debate is also being increasingly challenged, because it is said to misinterpret the role of ethnic identities and language in the liberal state, and because it misconceives the requirements the state places on minorities. The underlying assumption of the second stage has been the ethnocultural neutrality of the liberal state. What characterizes the third stage of the debate, then, is that this assumption becomes increasingly contested. Typically, liberals have strongly endorsed a strict separation of church and state. As this ideal of 'benign neglect' has contributed heavily to accommodate religious diversity, many liberals have assumed that the model of the neutral state can be applied to cultural diversity as well. Both spheres, culture and religion, are thought to be privatized, that is, not the concern of the liberal state. There are no official cultures with public privileges and the state is understood to be indifferent towards the reproduction of various ethnocultural groups. As with religion, citizens are free to pursue and promote matters of culture in their private lives, while the standard operations of the liberal state do not privilege one religion or culture over the other. For many liberals, the United States provides the clearest manifestation of these principles, since it does not have a constitutionally recognized official language (Walzer 2001: 100). To become American, then, means to agree to certain principles of democracy and individual freedom, while it does not necessitate allegiance to any particular culture. Other theorists claim that the separation of state and culture marks the difference between liberal 'civic nations' and illiberal 'ethnic nations' (Pfaff 1993: 162). While ethnic nations take an active interest in the reproduction of a particular culture and identity, civic nations define national membership entirely in terms of respect for principles of democracy and justice. In the West, claims of minorities for accommodation beyond the common citizenship rights have traditionally been rejected with reference to the principle of ethnocultural neutrality. Because minority rights represent a radical departure from the ideal of a 'civic nation' or 'neutral state', the burden of proof at the second stage of the debate lies with defenders of group-differentiated rights. As was discussed in the previous section, Kymlicka aims to meet this burden of proof by showing that cultural membership is the precondition of individual freedom and autonomy.

The view that the liberal state is indifferent towards the cultural identity of its citizens is increasingly being rejected. Taylor, for example, objects to the view that "difference-blind" liberalism operates in a culturally neutral manner: "Liberalism is not a possible meeting ground for all cultures, but is the political expression of one range of cultures, and quite incompatible with other ranges". As an "organic outgrowth of Christianity" Taylor notes, "liberalism can't and shouldn't claim complete cultural

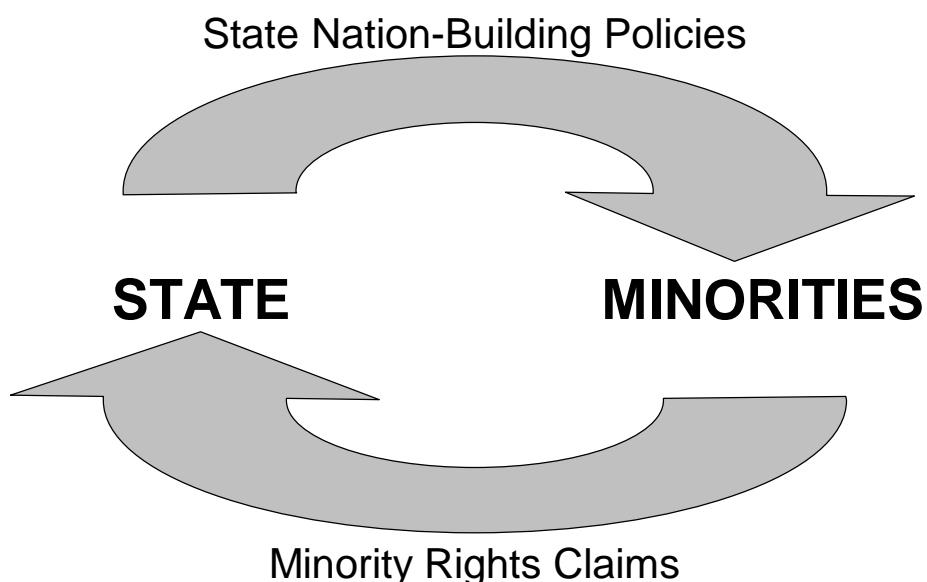
neutrality. Liberalism is also a fighting creed” (Taylor 1994: 62). Kymlicka, too, rejects the ideal of the ethnocultural neutral state. He points out that the religion model cannot be applied to the relationship between the state and ethnocultural groups. While it is possible for the state not to have an official religion, the state cannot help but operate its institutions in particular languages, thereby privileging speakers of this language and putting speakers of other languages at a distinct disadvantage. This does not happen by accident<sup>10</sup>. Kymlicka stresses that the existence of nation-states is the result of deliberate nation-building policies, which are adopted by governments to diffuse and promote a common language, culture, and sense of national membership. A similar view is taken by the Human Development Report (2004a: 2). Among the tools of nation-building are citizenship policy, language laws, education curriculums, public service employment, support for national media, the drawing of internal boundaries, and national symbols (Kymlicka 2001b: 254). The underlying intention of nation-building policies is the promotion of integration into a single societal culture. As a result of guaranteed rights and freedoms, societal cultures in liberal democracies are inevitably pluralistic. However, linguistic and institutional cohesion intentionally constrains this diversity. Governments have deliberately encouraged citizens to view their life-chances as tied to participation in common societal institutions that operate in one national language. By doing so, governments have supported a national identity defined in part by common membership in a societal culture. The United States is not an exception in this respect. Rather, promoting integration into the mainstream culture is a function of a ‘nation-building’ project that has been undertaken in all liberal democracies (Kymlicka 2001b: 242-253). All liberal-democratic states have historically been nation-building states: “they have encouraged and sometimes forced all the citizens on the territory of the state to integrate into common public institutions operating in a common language” (Kymlicka 2001b: 23)<sup>11</sup>. The process of nation-building inevitably privileges members of the majority culture and puts speakers of other languages at a disadvantage. Therefore, the model of the culturally neutral state must be replaced with a model of states engaging in nation building, which offers a very different perspective on the debate over minority rights. Claims for minority rights must be understood in the context of, and as a defensive response to, state

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<sup>10</sup> In the case of the United States, for example, decisions about the boundaries of state governments were intentionally made in a way that ensured the dominance of the English language throughout the territory. Ongoing policies reinforce this dominance in several ways. Children are legally required to learn English in schools. To acquire American citizenship, immigrants are legally required to learn English. In practice, command of the English language is required for employment with the government or to secure government contracts. Kymlicka suggests that these decisions are not accidental exceptions to the principle of cultural neutrality, but tightly interrelated. Together, those decisions “have shaped the very structure of the American state, and the way the state structures society” (Kymlicka 2001b: 25).

<sup>11</sup> Kymlicka mentions that Switzerland might be the only country that did not attempt to develop a single national language and culture (Kymlicka 2002: 346).

nation-building. This relationship is what Kymlicka calls the dialectic of state nation building and minority rights. Thus, Kymlicka arrives at the third stage of the debate. At this stage, the question is no longer how to justify deviation from the ideal of cultural neutrality. Rather, the question is whether minority rights help to protect against unjust disadvantages. The burden of proof at this stage is at least partly on those who object to minority rights.



**Illustration 1: Dialectic of State Nation-Building and Minority Rights, Kymlicka 2002: 362**

In this perspective, it is not cultural neutrality that distinguishes liberal states from illiberal states. Indeed, Kymlicka suggests that nation-building has a legitimate role to play in liberal democratic societies. The benefits associated with nation-building will be introduced in section 8. What characterizes liberal states is that majority nation-building is subject to certain limitations. So far, there is no systematic theoretical account of the liberal limits of nation-building. In a recent book, Kymlicka suggests the following three conditions:

1. No groups of long-term residents are permanently excluded from membership in the nation. Everyone living on the territory must be able to gain citizenship and become an equal member of the nation if he so wishes.
2. The integration required of immigrant groups is understood in a 'thin' sense, and involves primarily institutional and linguistic integration, not the adoption of particular sets of customs, religious beliefs, or lifestyles.
3. National minorities are allowed to engage in their own nation-building, to enable them to maintain themselves as distinct societal cultures (Kymlicka 2001a: 48).

The third stage of the minority rights debate is closely associated with Kymlicka's theory. The dialectic of nation-building and minority rights represents an important innovation in Kymlicka's theory. The associated arguments in his conception of minority rights will be discussed in more detail after his initial theory is outlined.

### 3. *A Liberal Theory of Minority Rights*

#### 1. **Two Patterns of Cultural Diversity**

Any theory of group-differentiated rights must distinguish among various groups in order to assign certain specific rights to them. The major concern of this paper is the rights of indigenous peoples. However, outlining Kymlicka's complete typology of cultural minorities allows to contrast the nature and demands of various groups and to make more plausible the specific rights this theory assigns to indigenous peoples. The central distinction in Kymlicka's theory differentiates between two patterns of cultural diversity: national minorities and ethnic groups. According to this distinction, it is the *mode of their incorporation* into the political community that shapes the nature of a minority group, the identities of its members, and the form of relationship they desire with the larger society<sup>12</sup>. While the existence of ethnic groups comes about by their voluntary migration, national minorities were involuntarily incorporated into larger states<sup>13</sup>. The distinction between national minorities and ethnic groups has a descriptive and a normative level, which are not always well separated in Kymlicka's writing. In very general terms, the distinction asserts on the descriptive level that there are relevant and stable differences between both classes of groups in terms of their histories, current characteristics and future aspirations. On the normative level, the distinction suggests that it is justified to assign different rights to national minorities and to ethnic groups. Because the basis of political legitimacy is the consent of the governed, there are good moral reasons to assign stronger cultural rights to groups whose members did not choose to join the political community.

The distinction between national minorities and ethnic groups corresponds to, and is closely associated with, other important concepts and distinctions in Kymlicka's theory. The table below presents these central terms and their relationships. Following a brief discussion of both types of groups, the argument will address each of the terms in the list and show how they relate to the initial distinction. The second part of this paper will discuss cultural diversity in Cambodia in the light of these concepts. One

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<sup>12</sup> It is worth mentioning that other theorists of multiculturalism base their theories on a similar distinction between immigrant ethnic groups and incorporated national minorities, such as Spinner 1994.

<sup>13</sup> One of the earlier attempts to distinguish various classes of groups in order to assign specific rights to them is offered by Van Dyke. From his extensive report of the practice of group rights, Van Dyke derives a set of nine criteria for differentiation (1985: 213-15). The scope of this study does not allow for their discussion. Yet with regard to Kymlicka's distinction, it should be mentioned that each of Van Dyke's criteria would assign a stronger claim to national minorities than to ethnic groups. With his distinction, Kymlicka can be said to have discovered the underlying logic of Van Dyke's criteria for differentiation. Moreover, with his concept of societal cultures – to be discussed later in this thesis – Kymlicka offers a systematic justification of group-differentiated rights that is consistent with core liberal ideas. In this and other regards, Kymlicka's theory can be said to fill precisely the gaps in liberal theory that were revealed and criticized by Van Dyke. More recently, Margalit and Raz developed a set of six characteristics relevant to identifying nations or peoples as candidates for the right to self-determination (1995).



goal of this discussion is to assess whether or not those terms and concepts are useful for describing and analyzing Cambodia's cultural diversity.

	<b>Ethnic Groups</b>	<b>National Minorities</b>
<b>Multicultural States</b>	Polyethnic States	Multination States
<b>Source of Cultural Pluralism</b>	Immigration	Colonization, Conquer, Annexation, Ceding
<b>Mode of Incorporation</b>	Voluntary	Involuntary
<b>Model in Western Democracies</b>	Immigrant Multiculturalism	Multination Federalism
<b>Group-Differentiated Rights</b>	Polyethnic rights	Self-government rights, special representation rights
<b>Rationale</b>	Integration	Accommodation, Separation, Autonomy
<b>Societal Culture</b>	No	Yes
<b>Emerging Consensus: Liberal Culturalism</b>	Liberal multiculturalism	Liberal nationalism
<b>Question</b>	What are fair terms of integration?	What are permissible forms of nation-building?

#### **Illustration 2: Ethnic Groups and National Minorities**

In the case of *national minorities*, cultural diversity arises from the coexistence of two or more nations within a given state. The term 'nation' here is used synonymously with 'people' or 'culture' and defined as "a historical community, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language and culture" (Kymlicka 1995a: 11). Consequently, a given country which contains more than one nation is a *multination state* and the smaller peoples form national minorities. National minorities form previously self-governing and territorially concentrated cultures. In most cases, the incorporation of national minorities into a state occurs involuntarily and often forcefully. In few cases, multination states come about by the voluntary agreement between different cultures to form a federation. Many countries are multinational, since boundaries throughout the world were drawn to incorporate the territory of pre-existing, and previously self-governing, societies. Typically, national minorities want to maintain their existence as distinct societies alongside the national majority. In many instances, national minorities struggle to sustain or regain their institutions of self-government and their distinct languages. Frequently, they demand some form of autonomy and various self-government rights to make more certain the perpetuation of their culture (Kymlicka 1995a: 10).

The second pattern of cultural diversity arises from the voluntary immigration of families and individuals. *Ethnic groups* are not ‘nations’ and do not occupy territories. The existence of ethnic groups in states comes about by individual or familial decisions to abandon the original culture and migrate to another society, leaving behind friends and families. Over generations, ethnic communities with some measure of internal cohesion and organization emerge. States which accepted significant numbers of individuals and families from other cultures as immigrants and allowed them to maintain some of their ethnic particularity are *polyethnic states*. The distinctiveness of ethnic groups is expressed for the most part in family lives and voluntary associations. This is not inconsistent with their linguistic integration and participation in the public institutions of the majority culture. While immigrant groups have struggled for the right to express their ethnic particularity, they usually wish to assert this right in common public institutions: “While ethnic groups frequently demand greater recognition of their ethnic identity, their aim is not to become a separate and self-governing nation alongside the larger society, but to modify the institutions and laws of the mainstream society to make them more accommodating of cultural differences” (Kymlicka 1995a: 11). Unlike national minorities, the recreation of the original culture is neither desirable nor feasible for immigrant groups. Instead, ethnic groups accept the expectation of their integration into the larger culture and the assumption that their children’s life-chances will be bound up with the language and institutions of the host society. Instead of resisting majority nation-building towards their integration into the larger society, immigrants frequently wish to renegotiate the terms of integration, to allow for the maintenance of various aspects of their particular ethnic heritage<sup>14</sup>.

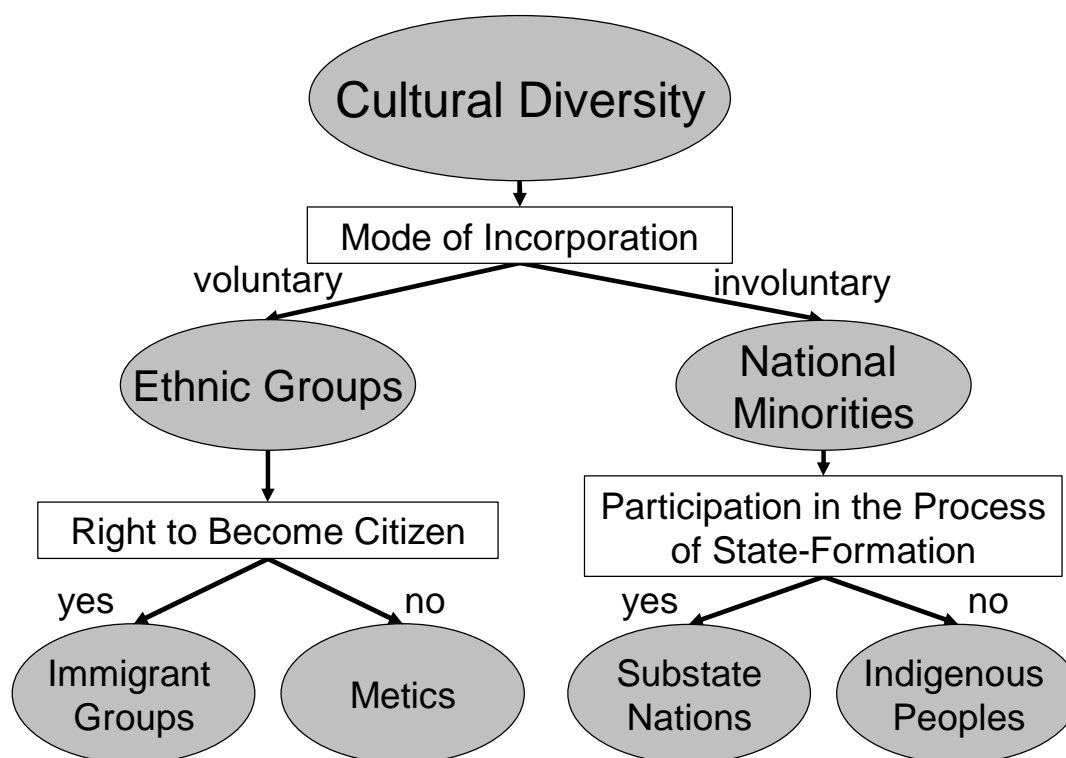
## 2. Indigenous Peoples

Generally, there is no universally agreed definition of indigenous peoples. While Kymlicka treats indigenous peoples as a sub-category of national minorities, other theorists argue that indigenous peoples should be seen as an entirely distinct category with specific rights (Anaya 1996). There are various justifications for singling out indigenous peoples for stronger rights, such as the scale of their historical mistreatment or their ‘radical’ cultural difference. In various writings, Kymlicka has altered and

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<sup>14</sup> Although ethnic groups are not the major concern of this paper, the following subdivision should be mentioned, because it appears to be highly relevant in the Cambodian context. In recent writings, Kymlicka stresses the distinction between immigrant groups and metics. He uses the term ‘immigrants’ exclusively to refer to people who enter a state under an immigration policy and have the right to gain citizenship within a short period of time and under only minimal conditions. In contrast, ‘metics’ refers to a diverse category of groups who do not have the opportunity to gain citizenship, such as irregular migrants, refugees, or ‘guest workers’. The situation of metics is quite different from immigrants, since they face great obstacles to integration. In short, Kymlicka argues that it is morally required, and the only feasible strategy, to allow and encourage long-settled metics to follow the immigrant path to integration (Kymlicka 2002: 357-59, 2001a: 152-76). This appears to be highly relevant with regard to ethnic Vietnamese in Cambodia. The second part of this paper will touch on this matter again.

complemented his initial dichotomy of national minorities and ethnic groups, and has defined various sub-categories. However, the distinction between national minorities and ethnic groups remains a central feature of his theory. In recent works, Kymlicka suggests subdividing national minorities into *substate nations* and *indigenous peoples*. In this view, the major difference is the groups' *role in the process of state-formation*: "stateless nations were contenders but losers in the process of European state-formation, whereas indigenous peoples were entirely isolated from that process until very recently, and so retained a pre-modern way of life until well into this century" (Kymlicka 2001b: 122). While indigenous peoples existed outside the system of modern nation-states, substate nations aspired to such a state but failed in the challenge and, consequently, do not have a state in which they form a majority. Substate nations find themselves sharing a state with other nations for reasons such as conquer, annexation, ceding, or royal marriage. Indigenous peoples are peoples whose homelands have been overrun by settlers, colonists, or conquerors and who have been involuntarily incorporated into states run by people whom they regard as foreigners. In contrast to substate nations, indigenous peoples do not seek a nation-state with competing economic and social institutions. Rather, indigenous peoples tend to demand the ability to maintain certain traditional ways of life while participating in the modern world in their own fashion. Indigenous peoples demand respect for and recognition of their culture to overcome their status as second-class citizens, non-citizens, or slaves (Moses 2002: 57-68). Kymlicka continues to stress that important characteristics are shared by substate nations and indigenous peoples. In particular, all these groups formed complete societies in their historic homeland prior to being incorporated into a larger state, and they tend to resist state nation-building policies (Kymlicka 2002: 349-55). The following illustration provides an overview of Kymlicka's typology.



**Illustration 3: Pattern of Cultural Diversity, cp. Kymlicka 2002: 348 - 365**

In her recent book *The Claims of Culture*, Seyla Benhabib devotes many pages to criticizing various aspects of Kymlicka's theory. In particular, she objects to the distinction between national minorities and ethnic groups. Firstly, she insists that a sharp distinction between those classes of groups is hard to sustain on the descriptive level (2002: 61). Other authors, too, argue that there is a range or continuum of different groups with different levels of cultural pervasiveness and institutional completeness that does not fit into these two categories<sup>15</sup>. Secondly, Benhabib criticizes the distinction between national minorities and ethnic groups on the normative level, stating that it is not static but dynamic. In her view, Kymlicka insists upon the historical genealogy of the integration of groups which she claims is tantamount to cultural essentialism. In her view, Kymlicka's distinctions alone "cannot suffice for us to differentiate between the recognition claims and aspirations of distinct human groupings" (2002: 64).

Regarding the first criticism, Kymlicka does not claim that his dichotomy represents an eternal law. He agrees that there are hard cases and grey areas and that there are many ethnocultural groups that do not fit into the two categories, like 'guest-workers', illegal immigrants, Roma, or African Americans. However, a sharp distinction between immigrants and national minorities can be found in almost any liberal democracy and those types represent the most common types of cultural pluralism. Given the

<sup>15</sup> Such as Young 1997, Parekh 1997, Forst 1997, Carens 1997.

widespread acceptance for this differential treatment, it seems that it does not simply reflect ethnocentric prejudice. Rather, it appears to mirror different aspirations and a different sense of legitimate expectations on the part of the groups in question. Taken together, the distinction describes an important and stable difference between various kinds of ethnocultural groups. Regarding the criticism on the normative level, Kymlicka is aware that his distinction is dynamic and agrees that – in principle – ethnic groups can become national minorities and vice versa. Moreover, while these two classes represent justifiable and fairly successful models of ethnocultural accommodation, virtually all of the cases which do not fit into either category are the result of injustice and unfairness (Kymlicka 2001b: 57). Neither the case of ‘guest-workers’, illegal immigrants, Roma, nor African Americans can be said to offer a successful model of multiculturalism. As will be discussed later, Kymlicka shows that the patterns of ethnic groups and national minorities are compatible with liberal principles of freedom and equality. Furthermore, his theory can help to identify solutions to the hard cases, at least by showing what is distinctive about them. Given that the two models are widespread and fairly successful, it is plausible to assume that they are most relevant for future-oriented policy making. The second part of this paper will show that the distinction also provides a meaningful description of cultural diversity in Cambodia, and that policy recommendations stemming from it with regard to indigenous peoples are largely valid in the Cambodian context.

Interestingly, Benhabib does not address the situation of indigenous peoples throughout most of her book. Only at the very end does Benhabib mention that “... there are peoples whose cultural identity is rooted in ways of life attached to a particular region, territory, or hunting and fishing domain. These peoples are seeking not to preserve their languages, customs, and culture alone but to retain the integrity of ways of life greatly at odds with modernity ... I think that from the standpoint of deliberative democracy, we need to create institutions through which members of these communities can negotiate and debate the future of their own conditions of existence. I follow Kymlicka ... in advocating certain land, language, and representation rights for indigenous populations” (2002: pp. 184). In Benhabib’s book, it remains unclear what reason justifies this surprising move. Why create institutions through which members of indigenous peoples can negotiate their future but deny such institutions to members of stateless nations? Is it because the ways of life of indigenous peoples are ‘attached to the land’ or because those ways of life are ‘greatly at odds with modernity’? There does not seem to be any reason inherent in Benhabib’s theory of deliberative democracy that would support granting specific rights to indigenous peoples. Moreover, it seems that she falls into the trap of cultural essentialism herself, by

indicating that attachment to land and premodern ways of lives are essential features of indigenous societies. In this view, members of indigenous peoples stop being indigenous as soon as they modernize their ways of life, let's say: drive cars, use cell phones, or live in cities. This does not correspond to the aspirations of indigenous peoples, who in most instances desire to incorporate elements of modernity into their cultures and yet demand recognition and protection of their existence as separate societies. Taken together, Benhabib's theory of deliberative democracy does not allow for a systematic understanding and explanation of the different aspirations of various groups. Moreover, the specific political implications of her model remain unclear. In contrast to Benhabib's concept, Kymlicka's theory is particularly well suited to discuss and analyze cultural diversity because it is comprehensive and capable of integrating and justifying the rights of different classes of groups within a single and consistent theoretical framework. This case will be strengthened during the following sections.

In line with both Benhabib's and Kymlicka's theory, current and emerging international law grants considerable levels of political autonomy to indigenous peoples. Consistent with Benhabib's theory and in contrast to Kymlicka's, there is a strong tendency in international law to strictly separate questions of indigenous rights from the rights of stateless nations and other cultural minorities (Anaya 2002). Generally, the relevant declarations grant considerably stronger cultural rights – such as land claims and customary law – to indigenous peoples than to any other class of group. Under present international law, the specific rights of indigenous peoples are found only under ILO Convention No. 169. This convention does not define indigenous peoples. Rather, it contains a statement of coverage and a subjective criterion, stressing the self-identification of groups as indigenous peoples. However, the statement of coverage underlines that indigenous peoples have lived in historical continuity in a particular area since before the establishment of modern states, maintain a way of life different from other segments of the society, and retain their own institutions and organizations<sup>16</sup>. Thus, it seems that the convention's statement of coverage and Kymlicka's distinctions are very likely to identify the same groups as indigenous peoples. The specific rights of indigenous peoples contained in Convention No. 169 are considerably different from human rights and other minority rights in that they are intended to allow for a high degree of autonomous development and to

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<sup>16</sup> More precisely, the statement of coverage in the convention's first Article spells out that the convention covers those "peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural, and political institutions". It is worth mentioning that Cambodia is a member of the ILO but did not yet ratify Convention 169, as all countries of Asia and Africa have.

allocate authority to those groups so that they can make their own decisions (Eide and Daes 2000: 8). Although referring to peoples, Convention No. 169 does not deal with the question of whether indigenous groups have the right to self-determination. More far-reaching rights are proposed in the UN's draft Declaration on the Rights of Indigenous Peoples. If ratified by the General Assembly, this declaration will determine in its Article 3 that indigenous peoples have the right to self-determination and, by virtue of that right, are entitled to determine freely their political status and pursue their economic, social, and cultural development. In its political implications, Kymlicka's theory is consistent with both Convention 169 and the UN's draft Declaration on the Rights of Indigenous Peoples. It is worth mentioning that the World Bank and the Asian Development Bank have adopted policies designed specifically to provide guidance to staff in dealing with indigenous peoples, in particular because both organizations have considerable operations in Cambodia. And the definitions in both policies are likely to identify the same groups as indigenous peoples as Kymlicka's typology does<sup>17</sup>. The objective of the World Bank's policy is to ensure "full respect for [indigenous peoples'] dignity, human rights, and cultural uniqueness" (World Bank 1991: Article 6). It would not be consistent to respect indigenous peoples' 'cultural uniqueness' and yet promote their integration. Thus, the World Bank's policy appears to promote the cultural integrity and survival of indigenous peoples, similar to the other positions discussed in this section.

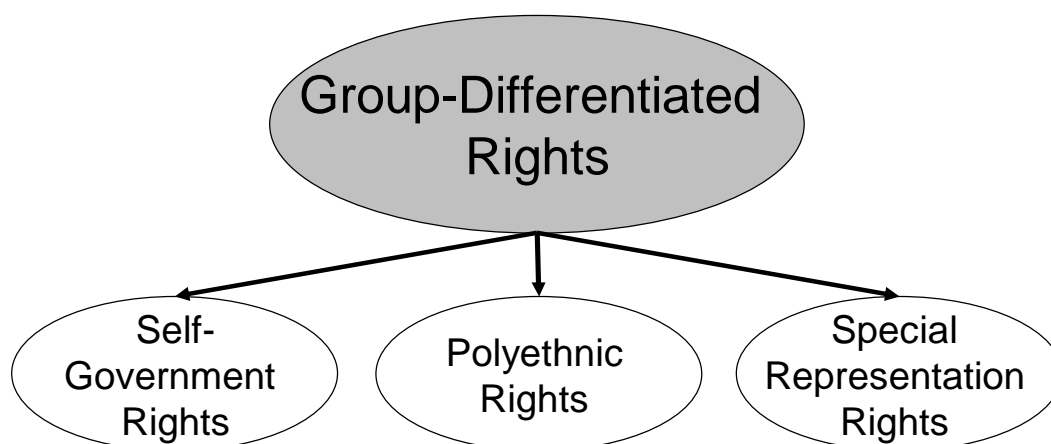
Again, while Kymlicka treats indigenous peoples as a sub-category of national minorities, other theorists, as well as international law, tend to treat indigenous peoples as a distinct and separate category. However, this paper will not discuss that difference in depth because it has little bearing on the Cambodian case. To anticipate an important insight of the second part of this thesis: applying Kymlicka's typology to cultural diversity in Cambodia leads to the conclusion that there are no national minorities other than indigenous peoples. In other words, there are no sub-state nations. In Cambodia, all the theories and positions introduced in this section – namely: Kymlicka's typology, Benhabib's theory, Convention 169, the UN's indigenous declaration, and World Bank policy – would single out hill tribes as indigenous peoples and grant rights to sustain their distinct existence exclusively to these groups. While the last sections dealt with different classes of groups, the next section will deal with different classes of group-specific rights.

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<sup>17</sup> World Bank Operational Directive 4.20 identifies indigenous peoples by the following characteristics: (a) close attachment to ancestral territories and the natural resources in them; (b) presence of customary social and political institutions; (c) economic systems primarily oriented to subsistence production; (d) an indigenous language, often different from the predominant language; and (e) self-identification and identification by others as members of a distinct cultural group (World Bank 1991).

### 3. Group-Differentiated Rights

For liberals, the protection of individual civil and political rights is of central importance in accommodating cultural differences. In many instances, the protection of those common rights is sufficient to provide space for cultural diversity. However, liberal culturalists point out that in other instances it is only through measures beyond common citizenship rights that cultural differences can be accommodated. Kymlicka claims that virtually every modern democracy is using one or more group-specific mechanisms to accommodate cultural differences. He distinguishes between three forms of group-differentiated rights: self-government rights, polyethnic rights, and special representation rights. This typology is related to the initial distinction between ethnic groups and national minorities: in general, Kymlicka suggests that national minorities – including indigenous peoples – can legitimately demand self-government rights and special representation rights. In contrast, ethnic groups typically demand – and should be granted – polyethnic rights (Kymlicka 1995a: 26-33).



**Illustration 4: Group-Differentiated Rights, cp. Kymlicka 1995a: 26-33**

**Self-government rights** typically involve the devolution of powers to a political subunit which is substantially controlled by the members of a minority group and which substantially corresponds to the group's traditional homelands. Self-government rights in the form of some political autonomy or territorial jurisdiction are typically demanded by national minorities to ensure the free development of their cultures. Its most extreme form is secession. One way to acknowledge self-government is federalism, which divides powers between the central and various regional governments. It is particularly well suited where national minorities are territorially concentrated, because the internal boundaries can be drawn so that the group forms a majority in one of the subunits. This can ensure that members of the group are not



outvoted by the larger society on vital issues<sup>18</sup>. In most cases in North America, federalism is not a valid option for indigenous peoples because they rarely form a majority in one of the sub-state units. Moreover, no redrawing of state boundaries could create majorities of indigenous peoples due to the large influx of settlers. Self-government for most indigenous peoples has been achieved through a system of reserved lands and substantial powers have been devolved from the federal government to the tribal or band council. Increasingly, Indian tribes or bands were able to acquire control over health, education, family law, policing, criminal justice, and resource development. In effect, they became “a third order of government, with a collection of powers that is carved out of both federal and state/provincial jurisdictions” (Kymlicka: 1995: 30). Similar systems are being sought by indigenous peoples in many parts of the world<sup>19</sup>. Kymlicka supports the view that the incorporation of indigenous peoples into states should be a voluntary act of federation, which recognizes those groups as distinct peoples and respects their inherent right to self-government over their homelands. In this view, indigenous groups should have the freedom to determine for themselves how to manage their traditional homelands within the constraints of principles of justice (Kymlicka 2001b: 133-51). Self-government for national minorities is not seen as corrective, transitional measure for past oppression, but as inherent and therefore permanent.

**Polyethnic rights** are typically demanded by ethnic groups in polyethnic states. The demands of ethnic groups have challenged the expectation that their members would abandon all aspects of their cultural heritage. Their claims have gradually expanded beyond the rights to freely express their particularity without fear of discrimination in the larger society. Kymlicka argues that policies designed to prevent discrimination are primarily directed at guaranteeing the common rights of citizenship and should therefore not be considered group-differentiated rights (Kymlicka 1995a: 31). In contrast, polyethnic rights are positive measures such as the recognition of minority cultures in the curriculum or public funding of cultural practices, such as for ethnic

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<sup>18</sup> Federalism is used in Canada to accommodate national diversity with regard to the Quebecois. Moreover, following the demands of the Inuit indigenous group, the Canadian government has approved the redrawing of federal boundaries, so that members of the Inuit form a partially self-governing majority in Nunavut, the eastern half of the Northwest Territories. Nunavut covers about one-fifth of the Canadian land mass (Levy 2000: 307). In contrast, deliberate decisions in the United States were made not to utilize federalism for the accommodation of cultural diversity. Consequently, none of the United States' existing sub-state units serves to secure self-government for a national minority (Kymlicka 1995a: 29). However, self-government for national minorities in the United States is instead achieved outside the federal system (such as in Puerto Rico and Guam) and through political institutions inside existing states (such as Indian reservations). Kymlicka argues that the absence of constitutional protections has tended to make national minorities in the United States more vulnerable. At the same time, those mechanisms can be adjusted more flexibly to the needs and interests of various national minorities.

<sup>19</sup> Van Dyke discusses a number of cases of group-differentiated treatment of indigenous peoples in various regions of the world: Van Dyke 1985: 79-110.

organizations and events, or for the provision of immigrant language education in schools. This is mostly defended on the grounds that public funding for art and culture tends to be biased in favor of majority cultural expressions. The most disputed demands are for exemptions from laws that appear to disadvantage members of religious groups, such as exemption from Sunday closing or animal slaughtering legislation for Jews and Muslims, exemptions from helmet requirements for Sikhs, or exemptions from the official dress-codes in schools, police force and the military (Barry 2001: 40-49). According to Kymlicka, this sort of group-differentiated measures – or ‘polyethnic rights’ – “are intended to help ethnic groups and religious minorities express their cultural particularity and pride without it hampering their success in the economic and political institutions of the dominant society” (Kymlicka 1995a: 31). Because the associated cultural differences are not meant to be eliminated, polyethnic rights are seen as permanent. However, the rationale of polyethnic rights is the promotion of integration, not self-government.

There has been increasing interest in the idea of **special representation rights**. The concern in many democracies is that the political process fails to reflect the diversity of the citizenry. This concern is not limited to cultural minorities, but includes any marginalized or disadvantaged group, such as sexual minorities, the handicapped, and some religious minorities (Young 1990). The idea of special representation is that an appropriate proportion of seats in government bodies should be reserved for members of disadvantaged or marginalized groups. Special representation rights are usually being justified as a response to systemic disadvantages in the political process which does not allow for the proper representation of the group’s views and interests (UNDP 2004a: pp. 7). To the extent that these rights are meant to compensate for disadvantages, they are seen as temporary measure, because the removal of disadvantages eliminates the need for those rights. However, special representation is sometimes defended as a result of self-government, because those rights would be weakened if an external body could unilaterally abolish the associated powers. Because the claims for self-government are seen as inherent, so too are the measures of special representation which stem from it (Kymlicka 1995a: 131).

#### **4. Societal Cultures**

As was mentioned earlier, the position of liberal culturalism attempts to show that some minority rights are consistent with liberal freedom and equality. In Kymlicka’s theory, it is the concept of societal cultures that offers the crucial connection between individual freedom and autonomy on one hand and the group on the other. In short, he argues that access to a societal culture is the precondition of the liberal value of freedom of choice. A societal culture is “ a culture which provides its members with

meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres” (Kymlicka 1995a: 76)<sup>20</sup>. This notion of culture is closely related to concepts of ‘nation’ or ‘people’. Societal cultures exist territorially concentrated and maintain a common language as well as shared institutions and practices. Kymlicka argues that the modern world is divided into such societal cultures.

Why is liberal freedom linked to the presence of such societal cultures? Kymlicka identifies individual freedom and autonomy as the defining features of liberalism. Liberalism allows people to choose from among a wide range of conceptions of the good life. Moreover, liberalism grants the freedom to question those beliefs and to rationally assess and possibly revise those conceptions in the light of emerging information and new experiences. When people make choices about various conceptions of the good life, they do so based on beliefs about the values of social practices surrounding them. And to have such beliefs about the value of particular practices requires an understanding of the meanings assigned to it by culture, language, and history. Whether or not an action or project has any significance to people depends on whether, and how, their language attaches meaning to this action or project. For individuals, understanding the cultural narratives provided by their history and language is the precondition of intelligent judgments among available options. It follows that societal cultures not only provide options to citizens, but make those options meaningful to them. Therefore, access to a societal culture is a precondition of liberal freedom and autonomy. Accordingly, group-differentiated rights which secure and promote this access for members of minority cultures should be seen as legitimate from a liberal perspective (Kymlicka 1995a: 75-106).

It is worth noting that this argument corresponds to the second stage of the minority rights debate. The primary concern is with the individual, yet the survival of societal cultures is important to individual citizens. „Cultures are valuable,” notes Kymlicka, “not in and of themselves, but because it is only through having access to a societal culture that people have access to a range of meaningful options“ (Kymlicka 1995a: 83). As was discussed earlier, communitarians deny that individuals can stand back to question and possibly revise their ends, while precisely this capacity is a central feature of liberal freedom. Accordingly, communitarians are typically concerned with sub-

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<sup>20</sup> The concept of societal cultures is explicitly and strongly criticized by Benhabib. She claims that “there are no such ‘societal cultures’” because there is no single culture which extends across the full range of human activities nor a single principle which encompasses both public and private spheres (2002: pp. 60). The scope of this paper does not allow discussing this criticism in depth. However, as the second part will show, Kymlicka’s concept of societal cultures is particularly well suited for indigenous peoples in Cambodia, not least because a separation between public and private spheres is not of great importance here.

national groups rather than with the larger society, because their commitment is to groups which are defined by shared values and common conception of the good. This does not apply on the national level, since moral values or a common way of life are scarcely shared by members of a nation. With his concept of societal cultures, Kymlicka rejects communitarian politics. While a common national identity is not a suitable basis for communitarian politics due to the absence of shared values, it provides suitable grounds for liberal politics precisely for the same reasons: "The national culture provides a meaningful context of choices for people, without limiting their ability to question and revise particular values or beliefs" (Kymlicka 1995a: 93).

Kymlicka stresses that immigrants and national minorities relate very differently to the majority culture. In general, national minorities maintain a societal culture, while ethnic groups do not. Accordingly, the claims of immigrant groups are best met not with self-government rights, but with polyethnic rights. Immigrants bring with them elements of their cultural heritage. However, they have uprooted themselves from their societal culture and left behind the associated set of societal institutions, to which language and historical narratives initially referred. Even if immigrants would hope to re-create their societal cultures, this would be impossible, since immigrants do not come as communities but settle territorially dispersed. In most liberal countries, immigrants are allowed and encouraged to maintain elements of their culture. This, however, is not a change in whether immigrants integrate into the majority culture but how they integrate. While immigrants maintain and nurture aspects of their cultural heritage, it does not take the form of recreating a distinct and institutionally complete societal culture alongside the majority culture. Rather, it contributes new options to the larger society. After a few generations the language of the host country becomes the mother tongue and learning the original mother tongue is not much different from learning a foreign language. For the children of immigrants, it is not their parents' culture but the host society which provides meaningful options. Immigrants do not attempt to set up a separate societal culture, but ask to adapt the institutions and practices of the mainstream society to ethnic differences so as to make the possession of an ethnic identity a normal part of life in the mainstream society (Kymlicka 1995a: 95-101).

The relationship of national minorities to the majority societal culture is different. Members of those groups did not choose to migrate to another state. They did not uproot themselves from their original culture, but formed ongoing societal cultures before they were incorporated into larger states. Their languages and narratives were embodied in a complete set of institutions and social practices, covering the full range of social life and defining meaningful options to their members. National minorities

have typically been determined to maintain and perpetuate their existence as distinct societal cultures, despite enormous economic and political pressures towards assimilation or integration. These groups do not form subgroups within the larger society, but genuinely distinct societal cultures (Kymlicka 1995a: pp. 79).

Can national minorities lose their capability to form and maintain their societal culture? Indigenous peoples in particular have been coercively assimilated in many countries. In such cases, should the group be integrated into the mainstream instead of attempting to preserve what is already lost? Kymlicka notes that in fact a very small number of indigenous peoples has opted to give up their self-government rights and chosen to be treated as a disadvantaged ethnic group. While national minorities surely have no duty to perpetuate a distinct society, the decision whether or not to integrate must be made by members of those groups. Otherwise, the majority would have perverse incentives to profit from injustices towards national minorities, to destroy their societal culture and deny self-government rights based on that destruction. Kymlicka points out that, under appropriate conditions, weakened cultures can regain their strength and richness: "There is no reason to think that indigenous groups, for example, cannot become vibrant and diverse cultures, drawing on their cultural traditions while incorporating the best of the modern world ..." (Kymlicka 1995a: 100).

At this point, one could legitimately ask why peoples' capacity to make meaningful choices depends on access to their own culture, as long as access to the majority culture is secured. No doubt, great numbers of immigrants were glad to integrate into other cultures and function well in their new societies. Kymlicka admits that indeed some people genuinely move between cultures. Yet he points out that even where integration is successful it is a difficult and costly process. People who did not voluntarily choose to move might not legitimately be required to bear the costs of integration. He sees the choice to leave one's culture as equivalent to entering a religious order and choosing a life of perpetual poverty (Kymlicka 1995a: 86). It is taken for granted that the desire for material resources is so normal that people cannot reasonably be expected to relinquish those resources, although some people might voluntarily choose to do so. Analogously, Kymlicka argues that the attachment to one's culture is usually too strong to be given up. If this is so, access to one's own culture should be treated as something that people can be expected to want and to which they are entitled (Kymlicka 1995a: 86).

Another line of reasoning supports this case. Kymlicka argues that a system of open borders would dramatically increase the territory in which people could be free and equal individuals. At the same time, such a system would render people's own national

community vulnerable to being overrun by settlers from other nations and would threaten their survival as a distinct society. Given this choice between increased mobility without borders on one hand and limited mobility but protected existence of the distinct culture on the other hand, most people have preferred the latter. For most people, it has been their nation in which they want to be free and equal individuals. In addition, few liberal theorists have advocated open borders. Rather, they have taken for granted that it is freedom and equality within one's own culture that matters most to people: "In short, liberal theorists have generally, if implicitly, accepted that cultures or nations are basic units of liberal political theory" (Kymlicka 1995a: 93).

### 5. Justifying Group-Differentiated Rights

Kymlicka offers four arguments in support of group-differentiated rights: the equality argument, historical agreements, the inherent value of cultural diversity, and the analogy between cultural minorities and the existence of states. As the discussion will show, the value of cultural diversity is not particularly well-suited to justifying self-government rights for national minorities. Moreover, there are no treaties or historical agreements between the majority society and indigenous peoples in Cambodia. Therefore, the discussion here and in the second part of this paper will focus on the equality argument, touch on the value of cultural diversity and explore the analogy with states.

According to the **equality argument**, group-specific rights are needed to compensate for pervasive and morally arbitrary disadvantages that are faced exclusively by members of minority cultures. It asserts that group-differentiated measures are needed to ensure that all citizens are treated with genuine equality (Kymlicka 1995a: 108; UNDP 2004a: 37). For example, self-government rights can provide members of national minorities with the opportunity to live and work in their own culture, something which is taken for granted by members of the majority. As was discussed earlier, while governments can be neutral with regard to religion, state neutrality is impossible with regard to ethnicity and culture. While states can abstain from having an official religion, they cannot but operate public institutions in certain languages and thereby support particular cultures. In the modern world, whether or not a language is the language of government determines in large part whether a culture will survive. Public schooling in the majority language, for example, provides crucial support to the majority culture and guarantees the perpetuation of its language and societal culture. In contrast, not to provide schooling in the language of national minorities is likely to condemn the associated societal cultures to marginalization and extinction. Since governments cannot avoid this sort of support to the majority culture, equality and fairness require providing the same support to the languages of national

minorities. Devolving competencies relevant to cultural survival to political subunits does not automatically solve the problem. It just pushes it to a lower political level. The critical question is not on which level of government decisions regarding language, education, and so on are being made. The crucial question is whether or not the national minority will form a local majority in the respective political subunit. It is the drawing of internal boundaries and the distribution of powers which determines whether or not a national minority can perpetuate its culture (Kymlicka 1995a: 112).

The equality argument suggests that national minorities should have the right to maintain themselves as distinct cultures, to ensure that the good of cultural membership is equally protected for members of different cultural groups. External protection in the form of self-government compensates for the systemic disadvantages national minorities face in the cultural market-place. In those cases, group-differentiated rights, rather than identical treatment, are required to accommodate differentiated needs and ensure genuine equality. In contrast to national minorities, protecting the good of cultural membership for ethnic groups primarily involves equal access to the institutions of the majority society. To a substantial degree, this is a matter of thoroughly enforcing the rights of common citizenship. According to Kymlicka, additional group-differentiated rights are required to ensure equality for members of ethnic groups. The Human Development Report takes a similar view (UNDP 2004a: pp. 6). Public holidays, the established work week, government uniforms, and state symbols such as flags, anthems, and mottoes reflect the needs of the cultural majority. Since these forms of support for particular identities are in most cases unavoidable, it is important to distribute the benefits fairly. Because public recognition tends to privilege the majority, equality requires providing similar support or exemptions from certain laws for members of ethnic groups. Taken together, minority groups face exclusive and unfair disadvantages in the institutions of the majority society for a number of reasons. Various minority rights eliminate inequalities, rather than creating them (Kymlicka 1995a: 108-15).

The second argument in support of group-differentiated rights involves the inherent **value of cultural diversity**. This argument is attractive because it appeals to the interests, not the obligations, of the majority. It suggests that the larger society can benefit from minority rights. There is increasing recognition of the value of cultural diversity, because it expands the cultural resources and the range of options available to all citizens. In addition, the protection of minority cultures provides alternative models of social organization which in turn can help the larger society to adapt to changing circumstances (Kymlicka 1995a: 121). For example, as traditional Western approaches towards the natural environment increasingly turn out to be destructive and

unsustainable, long established lifestyles of indigenous peoples can offer models for more sustainable attitudes towards nature. Kymlicka points out that the diversity argument is better suited to defend polyethnic rights for ethnic groups ('intercultural diversity') than to promote self-government rights for national minorities ('intracultural diversity') (1995a: 122). While diversity within a culture enlarges the range of choices available to all members, this is less plausible with regard to intercultural diversity. Members of the majority culture rarely choose to integrate into the societal culture of the national minority. Forcing the minority to integrate into the larger society would contribute additional options and choices to members of the mainstream culture. In contrast, measures to protect those cultures are more likely to reduce diversity within the majority culture. Other reasons make it implausible to justify minority rights exclusively based on the value of cultural diversity. While most members of the majority will benefit only in a diffuse way from cultural diversity, some of them will have to pay a significant price. For example, people who are not members of an indigenous group but live on reserved lands are likely to have restricted access to natural resources and might not be eligible to vote in local elections. From a liberal perspective, it is questionable whether those significant sacrifices on a few citizens are justified by the vague benefits of diversity to the majority. The stronger case for those sacrifices is the equality argument, that is, to show that they are needed to prevent even greater disadvantages to the members of national minorities (Kymlicka 1995a: 123). Since the value of cultural diversity appeals to the interests of the majority, it fails to explain the minority's interest in determining its course of development. Relying solely on appeals to the majority ignores that the majority frequently has strong incentives not to provide external protections to national minorities, such as gaining or maintaining access to natural resources for its members or increasing their mobility. Accordingly, arguments involving the value of cultural diversity complement, rather than substitute arguments based on equality. This view is also supported by the Human Development Report: "If what is ultimately important is cultural liberty, then the valuing of cultural diversity must take a contingent and conditional form. Much will depend on how that diversity is brought about and sustained" (UNDP 2004a: 16).

Another argument in favor of group-differentiated rights involves the **analogy with states**. Kymlicka suggests that self-government rights for national minorities are the logical extension of existing liberal practice. The existence of states poses a deep paradox for liberals. Liberal theorists justify their ideas based on the assumption that individuals have equal rights. This would suggest that everybody has an equal right to enter a state and participate in its institutions. However, in practice equal rights are



granted exclusively to citizens. Many people would like to become citizens and participate in the institutions of various liberal democracies. Yet those demands are mostly refused because those people happen to be born into the wrong group. Obviously, citizenship itself is an inherently group-differentiated conception. Most liberal theorists share the assumption that the world consists of separate states with the right to determine who can gain citizenship. This assumption can only be justified with reference to arguments that justify group-differentiated rights within states as well. “Unless one is willing to accept either a single world-government or completely open borders between states – and very few liberal theorists have endorsed either of these – then distributing rights and benefits on the basis of citizenship is to treat people differentially on the basis of their group membership” (Kymlicka 1995a: 124). If liberalism stands for treating people as individuals only, without recognition of their membership in particular groups, then a system of open borders would be the logical consequence. Joseph Carens argues the case for open borders from a liberal perspective (Carens 1995). “Free migration”, he notes, “may not be immediately achievable, but it is a goal toward which we should strive ... The current restrictions on immigration in Western democracies ... are not justifiable. Like feudal barriers to mobility, they protect unjust privilege” (Carens 1995: 346). Kymlicka argues that liberal theorists have implicitly assumed that peoples membership in societal cultures matters, and that separate states accommodate the fact that people are members of separate cultures. The most plausible justification for not granting citizenship to anybody who demands it justifies group-differentiated citizenship within states, too. Liberal states and limits on immigration not only protect citizen’s equal rights, but people’s cultural memberships. On the same grounds, Kymlicka argues that some limitations on immigration are justified. But so are group-differentiated citizenship rights to protect the cultural membership for national minorities in multinational states. If liberals support separate states and restricted access to citizenship, then the burden of proof lies with those opposed to group-differentiated rights as much as with those in favor of such rights (Kymlicka 1995a: 126).

## **6. Judging Group-Differentiated Rights**

The very idea of group-differentiated citizenship rights – granting rights to members of a certain group which members of other groups do not have – is seen by some as based on a philosophy entirely at odds with liberalism. Brian Barry’s book *Culture and Equality* is a case in point, and his critique of multiculturalism explicit aims directly at various aspects of Kymlicka’s theory. For that reason, some elements of his critique will be discussed in this section, before turning to Kymlicka’s account of group-differentiated rights. Both authors, Kymlicka and Barry, claim that their ideas are

consistent with liberal principles. For Barry, neither multiculturalism in general nor Kymlicka's theory in particular are liberal. He justifies his point of view with reference to the influential liberal theory of John Rawls. Therefore, the following paragraphs will briefly show that Barry's interpretation of liberal commitments can not rely on Rawls theory, before turning to Barry's more specific criticisms.

For Barry, liberal culturalism is a contradiction in terms. With regard to group-differentiated rights he writes: "It would not be a bad definition of a gut liberal to say that it is somebody who feels an inclination to throw up when confronted by this kind of stuff" (Barry 2001: 16). Unfortunately, Barry's arguments are not as strong as his language. Barry explicitly states that his concept of egalitarian liberalism is based on John Rawls' theory of justice. Yet his interpretation of Rawls is based on a very narrow reading of his theory. In particular, Barry interprets Rawls' commitment to equality purely in material terms: "income is the stuff whose distribution is the subject of attributions of fairness ... what is fair is that our equal claim translates into equal purchasing power" (Barry 2001: 35). However, Rawls' concern is not only with purchasing power. To the contrary, Rawls considers a number of primary goods, among them most importantly the good of self-respect. "The parties in the original position," writes Rawls "would wish to avoid at almost any cost the social conditions that undermine self-respect. The fact that justice as fairness gives more support to self-esteem than other principles is a strong reason for them to adopt it" (1971: 386). In most instances, conflicts between cultural majority and minority are a matter of recognition, rather than income, and closely related to the self-respect of members of the cultural minority. If Barry would take into account the importance of self-respect in general and in Rawls' theory in particular, he would have to admit that meaningful equality requires recognition in addition to purchasing power. Many authors, not all of them liberal, support the view that recognition supplements redistribution (Fraser 2000, Young 2000, and Tully 2000: 470).

Barry describes his position as follows: "From an egalitarian liberal standpoint, what matters are equal opportunities. If uniform rules create identical choice sets, then opportunities are equal ... people will make different choices ... depending on their preferences ... Some of these preferences ... will be derived from aspects of a culture shared with others ... But this has no significance: either way it is irrelevant to any claims based on justice, since justice is guaranteed by equal opportunities" (2001: 32). Barry ignores that identical choice sets brought about by uniform rules have very different value and significance for members of different cultures and tend to favor the cultural majority. Most importantly, equal opportunities are defined in terms of equal access to public institutions operating in the majority language. In effect, Barry treats

language as a matter of preference which 'has no significance' with regard to justice. In his view, the fact that members of a cultural minority speak a language different from the majority is an expensive taste which the majority should not be required to subsidize. However, people do not choose their culture and language and tend to have a deep attachment to both. Operating public institutions in the language of the majority provides a crucial subsidy to its members and their cultural survival while seriously disadvantaging members of national minorities.

Here again, Barry cannot rely on Rawls for his argument. Implicitly, Rawls agrees with cultural liberals about the importance of cultural membership for the individual when he argues that the right to emigrate does not make political authority voluntary: "leaving one's country is a grave step: it involves leaving the society and culture in which we have been raised, the society and culture whose language we use in speech and thought to express and understand ourselves, our aims, goals, and values; the society and culture whose history, customs, and conventions we depend on to find our place in the social world. In large part, we affirm our society and culture, and have an intimate and inexpressible knowledge of it ... The government's authority cannot, then, be freely accepted in the sense that the bonds of society and culture, of history and social place of origin, begin so early to shape our life and are normally so strong that the right of emigration does not suffice to make accepting its authority free" (1993: 222). Obviously, Rawls is aware of the link between the individual and culture when he writes about the strength of the 'bonds of society and culture' which 'begin so early to shape our life', and when he states that we use our language to 'express and understand ourselves, our aims, goals, and values' and that we 'depend on' the 'history, customs, and conventions' provided by our 'society and culture' to 'find our place in the social world'. These remarks are compatible with Kymlicka's concept of societal cultures. It is true that Rawls draws very different conclusions from these insights and that his theory does not have much to offer for cultural minorities. The point here is that while Rawls' ideas are compatible with Kymlicka's emphasis on the link between the individual and its culture, they are entirely at odds with Barry's view that preferences derived from culture are irrelevant to any claims based on justice. Therefore, Rawls theory does not lend much support to Barry's critique of multiculturalism.

One of Barry's major criticisms is that the politics of recognition undermine a politics of redistribution, and consequently contribute to growing economic inequalities (2001: pp. 292). By politicizing ethnic differences, multiculturalism has a divisive effect on the disadvantaged and renders ineffective their demands for redistribution. This argument does not focus on justice, but on concerns regarding the

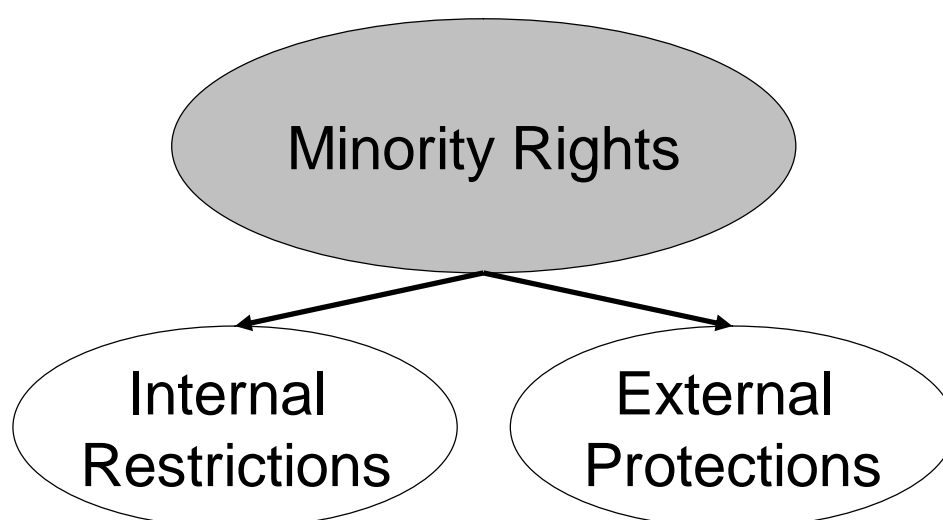
civic virtues, identities, and practices needed to sustain a liberal democracy. Thus, it represents a new front in the debate over minority rights, beyond the three stages presented earlier (Kymlicka 2002: 365-68). For Barry, the politics of redistribution should take precedence over matters of recognition. However, without empirical evidence, it is at least equally plausible to assume that the absence of multicultural policies undermines social unity and civic virtues, since minorities are excluded from biased mainstream institutions. In this view, minority rights strengthen civic solidarity and promote social unity and political stability, by eliminating mechanisms which prevent minorities from embracing public institutions. This view is taken by the Human Development Report: "Policies recognizing cultural identities and encouraging diversity to flourish do not result in fragmentation, conflict, weak development or authoritarian rule. Such policies are both viable, and necessary, for it is often the suppression of culturally identified groups that leads to tensions ... There is no trade-off between diversity and state unity. Multicultural policies are a way to build diverse and unified states" (UNDP 2004a: 2).

Although much of Barry's critique of multiculturalism aims directly at Kymlicka's theory, he chooses to consistently ignore its core ideas. For example, one of the central points of Kymlicka's argument is that the state can be neutral with regard to religion but not with regard to culture. Accordingly, state neutrality suffices in most instances to treat various religious groups equally and fairly. Because state neutrality does not work with regard to language, groups-differentiated rights are required to treat members of different groups equally. However, Barry consistently uses examples of religious minorities to 'prove' that justice demands culturally neutral states. Moreover, Barry has a strong tendency to avoid controversial examples. For example, while making the case that justice necessitates identical treatment, Barry does not use examples involving national minorities. In particular, he never uses examples involving indigenous peoples, and he rarely refers to cases outside the United States or Britain. For all these reasons, Barry's theory does not have much to contribute to the accommodation of indigenous peoples in Cambodia.

Many critics assume that any form of group-specific rights is incompatible with liberal freedom, because such rights place the group over the individual. However, the idea of group-differentiated citizenship has little in common with various concepts of 'collective rights'. The term 'collective rights' and the associated debates are misleading, insofar as they invoke a false dichotomy with individual rights. The assumption is that 'collective rights' are exercised by groups and inevitably conflict with individual rights. But many forms of group-differentiated rights are actually exercised by individuals (Hartney 1995). Language rights, for example, are granted to

and exercised by individuals. Group-differentiated rights are based on cultural membership and can be accorded to individuals as well as to the group or the associated territory. In Kymlicka's view, what matters is not whether those rights are attributed to individuals or groups, but why they are group specific, that is, why members of particular groups should have rights which the members of other groups do not have. This is not a debate between 'individualists' and 'collectivists' over the relative priority of the community versus the individual (Glazer 1995). Kymlicka argues that some minority rights are not only consistent with individual freedom, but strengthen it. He suggests distinguishing two kinds of demands that cultural groups might make.

**Internal restrictions** involve the demands of a group against its own members (intra-group relations) and are intended to protect the group from the effects of internal dissent. Those claims may restrict the liberty of group members in the name of cultural tradition and religious orthodoxy and thus bring about the danger of individual oppression. In contrast, **external protections** involve the demands of a group against the economic and political power of the larger society (intra-group relations) and are meant to protect the group from the effect of external decisions. Kymlicka argues that liberals should affirm various external protections but should reject internal restrictions for the same reason: to secure the freedom of the individual. Where external protections promote fairness between members of different groups they can and should be endorsed by liberals. Yet liberals should reject internal restrictions which limit the individual right to question and revise traditional ways of live (Kymlicka 1995a: 37)<sup>21</sup>.



**Illustration 5: Minority Rights, Kymlicka 1995a: 34-48**

<sup>21</sup> Levy argues that not all internal restrictions are illiberal, in Levy 2000: 321.

Each of the three types of group differentiated rights discussed in section 1.2.3. can serve as external protection by reducing the vulnerability of minorities to the larger society. Special representation rights ensure that a national minority will be heard when it comes to decisions at the country level. Self-government rights devolve power to lower political tiers, preventing the national minority from being outvoted or outbid by majority decisions of importance to their culture. And finally, polyethnic rights help protect cultural practices which the market does not support sufficiently or which are disadvantaged by a given legislation. Taken together, external protections need not conflict with group members' individual rights, because they involve the relationships between groups, not the relationship between groups and their members. Self-government rights and polyethnic rights can be used as internal restrictions as well<sup>22</sup>. However, leaders of national minorities in many instances embrace the principles of human rights and freedoms and only object to the particular institutions and procedures established by the larger society to enforce those principles. In most cases, they do not seek to impose internal restrictions. Kymlicka argues that demands for internal protections are rare and seldom successful. While most liberal democracies take measures to accommodate cultural differences, this has almost always been a matter of external protections only (Kymlicka 2002: 340).

## 7. Liberal Nationalism

Before the argumentation turns to the specific circumstances of indigenous peoples in Cambodia, it is worthwhile to put the specific discussion into the context of broader developments in recent political theory and to briefly discuss the associated innovations in Kymlicka's conception of multiculturalism. In particular, this discussion will feature some of the arguments offered by the emerging position of liberal nationalism and the associated account of the relationship between nation and democracy.

Most liberal political theorists have taken for granted that their ideas apply exclusively within nation-states. The following famous statement by John Stuart Mill offers a good illustration: „Among a people without fellow-feelings, especially if they

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<sup>22</sup> For example, the right of indigenous peoples in the United States to self-government involves the tribal councils' exemption from some of the requirements spelled out in the American constitution. This exemption raises the possibility that members of those groups could be oppressed in the name of group solidarity. In many cases those concerns involve the constitutional requirement for sexual equality. Yet many Indians fear that those concerns reflect misinformed and prejudiced stereotypes about their culture. And they fear their rights might be interpreted in a culturally biased way by the Supreme Court. For example, while certain traditional forms of consensual decision-making could be seen as disregarding democratic rights, they frequently do not violate the underlying democratic principle. Only they do not use the particular process proposed by the constitution. "Indian leaders worry that white judges will impose their own culturally specific form of democracy, without considering whether traditional Indian practices are an equally valid interpretation of democratic principles" (Kymlicka 1995: 39).

read and speak different languages, the united public opinion necessary to the workings of representative institutions cannot exist ... [it] is in general a necessary condition of free institutions that the boundaries of governments should coincide in the main with those of nationalities” (Mill 1972: pp. 230). At the same time, the role of nationhood in political theory was rarely subject to theoretical reflections, until recently. This situation has changed dramatically in the last few years, which have seen a dramatic increase in literature on the political theory of nationalism. Many of the associated authors came to be associated with the position of “liberal nationalism” (Walzer 1997; Margalit and Raz 1995; Tamir 1993). According to those theorists, it is only within national units that liberal-democratic principles can successfully be applied. Kymlicka subscribes to this position. He defines nationalism as “those political movements and public policies that attempt to ensure that states are indeed ‘nation-states’ in which the state and nation coincide” (Kymlicka 2001b: 222). Liberal nationalists consider the use of certain measures to achieve a greater correlation of nation and state to be legitimate. However, two sorts of nationalist movements have attempted to do so in different and incompatible ways. As was shown earlier, states have applied a variety of ‘nation-building’ policies in order to diffuse a shared national language, identity and culture. On the other hand, national minorities within larger states have attempted to achieve their own states. Increasingly, sizeable groups of indigenous peoples – particularly in the Americas – adopt the language of nationhood and mobilize their members behind national ideas. Where states contain national minorities, the conflict between state nationalism and minority nationalism has tended to create serious conflicts, and the confrontation between both has been a widespread feature of recent history. And it remains a pervasive element of domestic politics in many parts of the world today. The question facing liberal nationalists is whether to support state or minority nationalism. Before the discussion turns to this problem, the liberal nationalist perspective on the relationship between nation and democracy will be outlined. Liberal nationalists argue that a sense of nationhood shared by people within a political community brings about various benefits with regard to liberal democratic principles (Canovan 1996).

### **8. Liberal Democracy and Nationhood**

According to Kymlicka, liberal democracy entails three distinct but related principles, all of which can best be realized within national political units: individual freedom, deliberative democracy, and social justice. The relationship between national culture and **individual freedom** has been discussed already in the context of Kymlicka’s concept of societal cultures. Liberal nationalists argue that national cultures are what make meaningful options available to individuals, that is, what makes individual freedom and autonomy meaningful. People make choices about conceptions

of the good life based on social practices around them. Such choices are based on beliefs about the value of those practices. And to have beliefs about the value of practices necessitates understanding the meaning attached to them by culture, language, and history. Therefore, participation in a national culture makes individual freedom and autonomy meaningful. Liberalisms' profound commitment to individual freedom and autonomy helps to justify the importance of flourishing national cultures (Margalit and Raz 1995). Taylor argues a related case, stressing the role of respect for national membership in supporting dignity. "Misrecognition", he argues with regard to indigenous and colonized peoples, "shows not just a lack of due respect. It can inflict a grievous wound, saddling its victims with a crippling self-hatred. Due recognition is not just a courtesy we owe people. It is a vital human need" (Taylor 1994: 26).

For Kymlicka, the concept of **deliberative democracy** is intimately linked to national political units as well. Firstly, because deliberative democracy necessitates a high level of mutual trust among citizens. From a liberal perspective, the concept of democracy is not limited to the process of voting. Rather, democracy is a system of self-government, involving citizens using their reason in a system of collective deliberation. Decisions resulting from public deliberation are considered to be legitimate because they reflect not only the self-interest or passion of the majority but the common good of the people. Public deliberation requires people to trust that others will consider their views and interests. In addition, losers in elections will accept the outcome only when they have trust that others will abide by the results should they win a future election. Kymlicka argues that this sort of trust requires a sense of commonality which only a common national identity is likely to ensure (Kymlicka 2001b: 226).

Secondly, participation in common political deliberation requires mutual understanding among citizens, which is greatly facilitated by a common language. Most citizens prefer to discuss political issues in their own language, while it is mostly members of the elites who are fluent in a second or third language. In addition, understanding of political communication necessitates familiarity with its important ritualistic elements, which are language specific. For those reasons, democracy within linguistic groups is more genuinely participatory than at higher levels that involve more than one language. Kymlicka supports the case that language groups are the foremost forums for democratic participation in the modern world: "Democratic politics is politics in the vernacular ... the more political debate is conducted in the vernacular, the more participatory it will be" (2001b: pp. 213). A similar view is taken by the Human Development Report: "In multilingual societies a multiple language policy is the only way to ensure full democratic participation" (2004a: 63).



Furthermore, language is one of the fundamental markers of people's identity, and most persons have an expressive interest in, and deep emotional attachment to, their mother-tongue. If their language is unrecognized in the public realm it is viewed by many people as an attack on their identity. The recognition and use of people's language is seen as proof that the polity belongs to the people, not to the elite. Taken together, national political units with a single common language are the primary place for democratic participation in the view of liberal nationalists, and the promotion of a common national language should be seen as facilitating deliberative democracy.

For liberal nationalists, the principle of **social justice** is connected to national units as well. Social justice involves a system of social entitlements to meet basic needs as well as to make real the principle of equal opportunity. A system of social entitlements requires citizens to accept ongoing sacrifices for people whom they do not know and whose way of life, religion or ethnicity they may not share. In a democratic context, welfare programs will only be created and carried on if citizens continuously vote for them. The associated sacrifices are only accepted when there is a sense of shared identity, so that sacrifices for anonymous others are still made for 'one of us'. Liberal nationalists argue that only national identity can provide this shared commonality necessary to motivate ongoing sacrifices (Miller 1995). Moreover, the objective of equal opportunities requires equal access to education and positions. In contrast to an agricultural economy, jobs in an industrialized economy necessitate high levels of literacy, education and communicative skills. Therefore the spread of mass education in a common language came to be seen as a crucial instrument to promote greater equality in society. Standardized public education in a standardized language worked well to integrate undeveloped regions and members of the proletariat into a national society and allowed children of various backgrounds to acquire the skills necessary to compete in a modern economy. Consequently, a state's promotion of a common language and identity can be seen as facilitating social justice by promoting the solidarity necessary to legitimize redistribution and by facilitating equal access to educational and economic institutions (Kymlicka 2001b: 226). Taken together, liberal nationalists support the case that nation-states are the appropriate units of liberal political theory because nation-states provide the appropriate locus to achieve liberal ideals like individual autonomy, deliberative democracy, and social justice.

### **9. Nation-Building and Nation-Destroying**

The writings of most liberal theorists have implicitly supported the view that the world is composed of nation-states (Kymlicka 1989: 135-252). Yet nation-states did not come about by accident. Nation-states came into existence as the result of deliberate nation-building policies, adopted by governments to diffuse and promote a common language, culture, and sense of national membership. Governments have employed and continue to use various tools of nation-building – such as citizenship policy, language laws, education curriculums, public service employment, support for national media, the drawing of internal boundaries, and national symbols – in order to strengthen a sense of nationhood and bring about a greater coincidence of nation and state (Kymlicka 2002: pp. 345). Accordingly, Kymlicka suggests that those states not be described as nation-states but as ‘nation-building states’. Nation-building policies have been remarkably successful in some states. However they have been resisted in multination states by national minorities – including various indigenous groups – whose members do not consider themselves part of the majority nation. Precisely for this reason, nation-building policies are typically aimed at those minorities and applied in order to abolish their member’s distinct identities. The Human Development Report, too, points out the relationship between state nation-building and the need for minority rights (2004a: pp. 48). It follows that nation-states are indeed ‘nation-destroying’ as much as they are ‘nation-building’. This raises the question whether state nation-building is legitimate where it involves minority nation-destroying. Even where state nation-building respects the limits of civil and political rights, this dilemma does not disappear. The drawing of sub-state boundaries and the distribution of powers, settlement policies, language policies, and education policies can still be used to effectively disempower national minorities, undermine their institutions, and eliminate their distinct identities, languages and ways of life (Kymlicka 2001b: 231).

In multination states, liberal nationalists’ insistence on the desirability of a greater coincidence of nations and states seems to leave only two unattractive and unrealistic options: either they support allowing each national group to form its own nation-state, or they support the majority national groups’ attempt to eradicate all competing national identities. Given the profound interest people have in access to their own culture, the minimal requirement of justice for Kymlicka is to protect national minorities from unfair nation-destroying policies (2001b: 233). But the measures required to provide this sort of protection are precisely those measures that confirm and strengthen those groups’ sense of distinct membership and identity. For example, certain land claims and limits on in-migration can protect against unjust settlement

policies. Official language status for and public service provided in the local language can protect against unjust language policy (UNDP 2004a: 60-65). Self-government and special representation rights can protect against manipulation of internal boundaries and division of powers, and so on. However, those measures not only provide the minority with protection against nation-building, but allow the group to promote its own culture and language and to maintain itself as a distinct and self-governing society alongside the national majority. In Kymlicka's view, the solution to the above dilemma does not require abandoning the goals of liberal nationalism, but formulating them differently. Because national identities are important, it is legitimate to enable national groups to exercise self-government by creating suitable political units. However, those units cannot be states. Kymlicka suggests thinking of a world composed not of nation-states, but of multination states. For liberal nationalism, common nationhood within each state is not a legitimate objective. Instead, states should be thought of as federations of self-governing peoples. The drawing of internal boundaries and the distribution of powers should be done in a way that allows all national groups to exercise a meaningful measure of self-government (2001b: 234).

#### **10. Indigenous Rights and Decentralization**

Before turning to cultural diversity in Cambodia it is worth summarizing the above argumentation and to make the implications with regard to indigenous peoples more explicit. Kymlicka shows that all liberal states have historically been nation-building. That is, they attempted to diffuse a single national culture throughout their territory with the intention of promoting a particular national identity based on participation in institutions operating in the national language. Nation-building serves a number of legitimate purposes, such as facilitating the achievement of individual autonomy, deliberative democracy, and social justice. However, majority nation-building potentially creates serious injustices for minorities. In particular, state nation-building involves nation-destroying in the case of national minorities. To be legitimate, state nation-building needs to be balanced with minority rights, more specifically, with group-differentiated rights in addition to the common rights of citizenship. However, not all collective rights promote individual autonomy and freedom. A liberal conception cannot support internal restrictions, that is, rights of the group against its members designed to protect the group from internal dissent. However, a liberal approach should promote various external protections, more precisely, rights of the group towards the larger society designed to protect the group from external pressures.

Various cultural minorities relate differently to the majority nation and respond differently to state nation-building policies. National minorities are previously self-governing societies which have been involuntarily incorporated into larger states. They

can be subdivided into sub-state nations and indigenous peoples (Kymlicka 2002: 349). Sub-state nations were contenders but losers in the process of state formation, while indigenous peoples were isolated from this process until rather recently. Both sub-state nations and indigenous peoples typically resist nation-building and seek to maintain themselves as distinct societies alongside the majority nation, keeping their institutions of self-government and their distinct languages. In contrast to sub-state nations, indigenous peoples do not seek their own state. Rather, they demand recognition of their culture and the ability to maintain traditional ways of life while participating in the modern world on their own terms.

Because ethnic groups and national minorities relate differently to the majority national culture, the protection of the good of cultural membership for their members takes different forms. Ethnic groups have uprooted themselves from their societal cultures. While they maintain and cherish elements of their culture, they do not want to recreate their society, but adapt the institutions of the mainstream society to make a distinct ethnic identity a normal part of life in the majority society. Accordingly, the claims of ethnic groups are best met with polyethnic rights. In contrast, national minorities – including indigenous peoples – did not choose to migrate. Indigenous peoples formed distinct and previously self-governing cultures that occupied their homelands and governed their societies prior to being involuntarily incorporated into states that did not even exist at this time. What justifies specific rights for indigenous peoples is not just that they were the initial appropriators of their homeland. ‘First-come, first-serve’ is not a valid justification for indigenous rights. What does justify such rights is that indigenous peoples were self-governing and might have maintained their independence in a different constellation of power. The loss of this independence came about by a violation of their inherent right to self-government through coercion and colonization. In this regard, the situation of indigenous peoples is not generally different from overseas colonized peoples which were granted independence in the process of decolonization. What both classes of groups have in common is that they are peoples who form previously self-governing, territorially concentrated, culturally distinct societies (Kymlicka 2001b: 149). Because their involuntary incorporation was unjust, and because of the profound interest people have in access to their own national culture, indigenous peoples should not be required to integrate into the mainstream society but enabled to maintain themselves as distinct societies. Protecting these groups from unjust state nation-building involves giving them the same powers of nation-building which the national majority takes for granted. To ensure that the good of cultural membership is equally protected for members of indigenous peoples, self-government rights and special representation rights are necessary, allowing these

groups to maintain their distinct cultures and to lessen their vulnerability to decisions of the larger society. Self-government rights involve the devolution of powers to a political subunit in which members of the group form a majority. In the case of indigenous peoples, self-government is frequently achieved either through federalism or through systems of reserved lands. A general decentralization does not accommodate the needs and fair demands of indigenous peoples. Instead, a specifically 'multination' conception of federalism is required which involves the redrawing of political boundaries based on ethnic criteria to provide indigenous groups with self-governing enclaves (Kymlicka 2001b: 143).

## 2. CULTURAL DIVERSITY IN CAMBODIA

### 1. *Introduction*

The second part of this paper discusses the situation and rights of indigenous peoples in Cambodia in the light of Kymlicka's theory of group-differentiated citizenship. The terms 'indigenous peoples', 'indigenous nations', 'highland peoples', 'highlanders', 'hill tribes', and the like are used synonymously throughout the paper. This terminology is misleading insofar as it does not reflect the diversity of languages and cultures among the various groups making up Cambodia's indigenous population. However, a number of important characteristics are shared by all those groups. And despite the diversity of indigenous groups, the problems and challenges faced by its members vis-à-vis the majority population appear to be similar in many respects. To put the discussion of indigenous peoples into context, other groups will be considered as well.

Generally, applying Kymlicka's typology to Cambodia's cultural diversity leads to the conclusion that Cambodia is both polyethnic and multinational: there are both ethnic groups and national minorities. Among others, Vietnamese, Chinese, and Muslim Cham are ethnic groups, while only the hill tribes qualify as national minorities, more precisely, indigenous peoples, in Cambodia. There are no national minorities in Cambodia other than indigenous peoples. In other words: there are no substate-nations. A brief overview over Cambodia's cultural diversity will be followed by a short discussion of the incorporation of Vietnamese, Chams, and Chinese into the Cambodian state. This review will show that the incorporation of these groups generally came about voluntarily, more specifically: in the absence of coercion on the part of the Cambodian state. Moreover, the discussion will show that these groups form ethnic communities and maintain an identity different from the mainstream society, yet are linguistically and institutionally integrated into the institutions of the majority culture. The remaining parts of this paper will focus on Cambodia's highlanders. The discussion will show that these groups in Cambodia came into existence fundamentally different than the incorporation of other groups. While members of various ethnic groups essentially chose to come to Cambodia, indigenous peoples did not. Rather, Cambodia came to them. Members of various hill tribes or their ancestors did not ask to become citizens of Cambodia and their incorporation involved considerable measures of coercion. Moreover, the following sections will show that indigenous groups do not linguistically and institutionally integrate into Cambodia's mainstream society. Rather, they tend to maintain and perpetuate not only elements of their ethnic heritage, but institutionally complete cultures. Taken together, the discussion will show

that distinguishing national minorities and ethnic groups corresponds to relatively stable patterns of cultural diversity in Cambodia. Moreover, the concept of indigenous groups is not unfamiliar in Cambodia. For easier orientation, the following table provides an overview of Cambodia's cultural minorities and their classification along the lines of Kymlicka's typology. To facilitate a better understanding, this is contrasted with a classification of Vietnam's cultural minorities along the same lines.

	<b>Cultural Majority</b>	<b>Cultural Minority</b>		
		<b>Ethnic Groups (examples)</b>	<b>National Minority</b>	
			<b>Sub-State Nations</b>	<b>Indigenous Peoples (examples)</b>
<b>Cambodia</b>	Khmer	Vietnamese, Cham, Chinese	_____	Brou, Jorai, Kraveth, Kreung, Kuy, Phnong, Stieng, Tampuan, and so on
<b>Vietnam</b>	Kinh (Vietnamese)	Chinese, Thai, Lao	Cham, Khmer	Gia rai, Hmong, Hoa, Khome, Muong, Tay, Dao, Nung, and so on

**Illustration 6: Patterns of Cultural Diversity in Cambodia and Vietnam**

The following sections will discuss the role of the Cambodian state concerning the reproduction of cultural groups and assess the relevance and validity of the dialectic of state nation-building and minority rights with regard to Cambodian hill tribes. This discussion will show that the Cambodian state is engaged in nation-building and potentially disadvantages members of cultural minorities. The argumentation will support the case that various indigenous groups should be given a meaningful measure of self-government rights and possibly special representation rights. The paper will then analyze the situation of indigenous peoples in the framework of the current decentralization program in order to assess the extent to which the devolution of power provides various groups of highland peoples with protection against unjust majority nation-building. This analysis will include the results of empirical research carried out among indigenous communities and recently empowered Commune Councils in various provinces in Cambodia. The analysis will conclude that a general decentralization is not enough to improve the well-being of members of various indigenous groups. To ensure equality among members of different groups, decentralization must devolve power to communes with majorities of particular groups. Based on this analysis, possibilities to make the decentralization framework more responsive to the right and fair demands of indigenous peoples will be discussed. Finally, the paper will reflect on the limitations of Kymlicka's theory in the

Cambodian context. In short, the argument is that this theory provides a useful framework to analyze and understand the demands of cultural diversity with regard to indigenous peoples. However, the policy recommendations stemming from this theory need to be adapted to match the specific situation in Cambodia. Kymlicka's theory can provide guidance to the development of local solutions.

## **2. *The Cultural Composition of Cambodia's Population***

Cambodia is considered the culturally most homogenous country in Southeast Asia. Statistics on the country's ethnic demography are mostly incomplete or misleading for a number of reasons. The recent history of genocide, war, massive migration, and forced resettlement has led to a situation where reliable demographic and ethnographic information is not available. Little is known today about the numbers or situation of the country's various cultural minorities. Existing statistics are mostly estimates from various ministries operating with different systems of classification. There are considerable inconsistencies within and among various statistics. Moreover, given that numbers and rights of various groups are subject to much political controversy, it is not implausible to assume that the results of surveys are distorted by political interests<sup>23</sup>. The following paragraphs provide a short overview of the most recent numbers available concerning the ethnic composition of Cambodia's population.

The National Institute of Statistics of the People's Republic of Kampuchea (PRK) estimated in 1981 that 264.604 people – about four percent of the total population at that time – belong to various ethnic minorities (Pen 2002: 4). In terms of numbers, Chams were considered the largest minority group, followed by the Chinese and the Phnong hill tribe, while the ethnic Vietnamese were only number seven on this list. The Department of Ethnic Minorities at the Ministry of Religious Affairs estimated in 1992 that 309.000 people – or 3.5 percent of the total population – belonged to ethnic minority groups (Ministry of Religious Affairs 1992). However, unlike earlier statistics, those figures did not include ethnic Lao, Thai, Malay, Burmese, Chinese, and Vietnamese because they were regarded as 'foreign residents' from 1992 until today (Pen 1996: 12). The Administration Department of the Ministry of the Interior estimated in 1995 that about 443.000 – or 3.8 percent of the total population – belonged to 21 different groups. Those numbers include the members of the groups mentioned above, which however are still considered 'foreign residents' (Ministry of the Interior 1995). A survey conducted by the Ministry of the Interior in 1996 concluded that there are 502.369 members of ethnic minorities and 'foreign residents',

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<sup>23</sup> Consider, for example, the case of the ethnic Vietnamese. The Khmer Rouge insisted that there were more than 4 million Vietnamese in Cambodia (Hawk 1995: 27). The State of Cambodia estimated there were just 200.000. The current government estimated their number in 1995 at about 100.000 while independent observers suggest that there are about 300.000 ethnic Vietnamese (Pen 2002: 6).



or about 4.48 percent of the total population (Ministry of the Interior 1996). Current estimates conclude that about ten percent of the total population of about fourteen million people belongs to one of about forty different cultural minorities (Pen 2002: 3)<sup>24</sup>.

In many instances, there is only anecdotal information available about the number of various groups as well as their social, economic, and cultural situations. This is particularly true of the various highland peoples, which are considered indigenous peoples for the purpose of this paper. Based on provincial statistics and statistics of the Ministry of Interior, Bourdier estimated Cambodia's total indigenous population to number 142.700 in 1996 (Bourdier 1996: 8). A paper published by the Inter-Ministerial Committee for Highland Peoples Development (IMC) in 1997 estimates the number of indigenous persons in the three northeastern provinces Mondulhiri, Rattanakiri, and Stung Treng at 105.000, while provincial statistics estimate 102.000 indigenous persons for the four provinces Mondulhiri, Rattanakiri, Stung Treng, and Kratie. Smaller populations of indigenous peoples are present in other provinces, such as Preah Vihear, Pursat, Kampong Thom, and Sihanoukville (IMC 1997a: 4; ADB 2001b: 5). Indeed, there are indications that almost all of Cambodia's twenty-four provinces contain indigenous communities<sup>25</sup>. Based on their spoken language, the national population census of 1998 concluded that there are 17 different indigenous groups and estimated their members to number 101.000 or 0.9 per cent of the total population. This survey did not include various indigenous groups outside the northeastern provinces. Moreover, identification by language is likely to lead to relatively low numbers, because groups living close to the mainstream population may speak Khmer well and tend to hide their ethnic identity from outsiders. Cambodia's hill tribes are the major concern of this paper and most of the second part is devoted to these groups. However, in order to assess the different relationships of various groups to the majority nation, the following section will briefly discuss, in the context of Kymlicka's typology, the incorporation of the following ethnic groups: Chams, Chinese, and Vietnamese. These groups are not the only ethnic groups in Cambodia but the most significant in terms of their numbers.

### 1. Ethnic Groups: Immigration

The ancestral homeland of Cambodia's **Muslim Chams** is the medieval Kingdom of Champa, located along the coast of what is today central Vietnam. The state of

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<sup>24</sup> The statistics by the Ministry of Religious Affairs (1992) and the Ministry of Interior (1995, 1996) can be found in the Appendix.

<sup>25</sup> Leng Vy, Director of the Department of Local Governance in the Ministry of Interior, suggested in interviews and during the Consultative Meeting on November 27, 2003 that all of Cambodia's provinces other than Phnom Penh and Kandal contain communities of indigenous peoples.

Champa emerged from the connection of various Cham communities into a federation during the first centuries A.D. This federation had developed into a wealthy nation by the fifth century and flourished until the early nineteenth century (Collins 1996: pp. 17). Collins distinguishes four phases of migration from Champa to Cambodia, the first of which took place in 1471. Various migrations were triggered by the Vietnamese expansion into the Mekong Delta and – in Kymlicka’s terms – associated with a deeply illiberal policy of nation-building which involved the destruction of the Cham nation<sup>26</sup>. The final defeat of the Chams led to the fourth and final migration to Cambodia between 1830 and 1835 and to the demise of Champa.

Kymlicka’s distinction would classify the Cham as national minority or, more precisely, as sub-state nation. The kingdom of Champa formed an institutionally complete, territorially concentrated historical community, including a distinct culture and language. Moreover, there is no doubt about the involuntary nature of the Chams’ incorporation into a larger state. Chams are not indigenous peoples, because they participated and lost in the process of state formation. However, the territory occupied by the Cham nation is located within the borders of today’s Vietnam. And it was the Vietnamese state into which the Cham nation was forcefully incorporated, not unlike the Khmer national minority in the Mekong Delta mentioned below. The Chams never formed a self-governing society in the territory of today’s Cambodia<sup>27</sup> and their

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<sup>26</sup> The first migration occurred following the conquer of Vijaya in 1471. The second migration occurred in 1692 and is closely associated with the Vietnamese expansion into, and colonization of, the Mekong Delta mentioned above. At this time, the Vietnamese reinforced their control over the territories they had annexed during previous decades and proceeded to take possession of Panduranga. Preferring to move and live among Khmers rather than under Vietnamese rule, many Chams left Panduranga for Cambodia where they were welcomed by the king and allowed to settle in various places. The third Cham migration to Cambodia took place in 1795-96. At this time, the Chams were divided among themselves and split up into two groups. The smaller of those groups migrated to Cambodia, while the other group remained in Panduranga trying to achieve a *modus vivendi* with the new emperor in Vietnam, Nguyen Anh. The fourth – and final – Cham migration to Cambodia took place from 1830-1835. The end of a civil war allowed the second Nguyen emperor, Minh Menh, to focus on consolidating his control over the annexed territories: “... an intensive Vietnamization campaign was enforced on the Chams remaining in Phanrang. Cham religious observances, ceremonies, costume were suppressed ... Political jurisdiction and offices were renamed in Vietnamese, and Vietnamese codes and judicial procedures were introduced. Onerous new taxes and labor demands were levied in an attempt to treat the Chams like conquered rebels and then to transform them into Vietnamese” (Collins 1996: 39). This Vietnamization campaign met considerable resistance on the part of the Cham, involving various uprisings and the attempt to reconstitute a Cham state by means of a ‘war of national liberation’. Following some initial military successes, the Vietnamese emperor Minh Menh intervened personally to pursue “a ferocious repression ... aiming to eradicate any trace of an autonomous Cham identity” (Collins 1996: 41). Minh Menh succeeded in reestablishing imperial authority and his defeat of the Cham led to the fourth migration to Cambodia, the extinction of Panduranga and the demise of Champa.

<sup>27</sup> In this regard, Collins reports an interesting occurrence: a group of Europeans killed the Khmer king in 1596 and supported his successor who angered Cambodia’s Muslim population. Following the subsequent hostilities between Muslims and Europeans, the Muslims withdrew to Tbong Khmum in Kampong Cham, where Chams lived territorially concentrated, and proclaimed their leader the king of an independent territory in Eastern Cambodia. It did not take long for the Khmer authorities to regain control over the rebel province, although the new King was killed in the process (Collins 1996: pp. 33). Other than on this occasion, the Chams did not exercise sovereignty over any territory in today’s

incorporation did not involve force on the part of the Cambodian state. Consequently, Kymlicka's typology classifies Chams in Cambodia as an ethnic group.

Most **Chinese** in Cambodia have their origins in four regions in southeastern China and belong to five language groups: the Teochiu, the Cantonese, the Hainanese, the Hokkien, and the Hakka (Hawk 1995: 14)<sup>28</sup>. Refugees from China were granted asylum by successive Cambodian kings from the thirteenth to the nineteenth century. Due to this open immigration policy, a Chinese community had already emerged in Cambodia during the fourteenth century. During the following centuries, the Chinese community grew steadily due to struggles between various clans, famines, and droughts in the southern Chinese provinces. Migrating to Cambodia meant for the early émigrés abandoning China, because turning one's back to the ancestral homelands was considered a low crime punishable by death. This changed only with a convention adopted in 1860, which recognized the rights of Chinese citizens to emigrate. This convention led to a new wave of Chinese migrants to Cambodia (Edwards 1996a: 117). According to Willmott, a steady stream of Chinese migrants of about two thousand a year until the 1920s rose sharply to five thousand per year during the following years due partly to the economic boom in Cambodia (Willmott 1968: 112). Accordingly, the Chinese population rose from about one hundred seventy thousand in 1905 to three hundred thousand at the beginning of World War II (Chandler 1992: 160). Massive numbers of Teochiu migrated following economic crisis in China in the 1930s, while other Teochiu moved into the Battambang province after it was annexed by Thailand in 1941 and remained when the province was returned to Cambodia in 1945. Since the existence of ethnic Chinese in Cambodia is the result of migration, and because they never formed a self-governing society in the territory of today's state of Cambodia, Kymlicka's typology classifies the Chinese in Cambodia as an ethnic group.

The history of ethnic **Vietnamese** in Cambodia is long and complex and impossible to discuss at length here. During the last three centuries, this history has been characterized by Vietnamese invasion and colonization of parts of Cambodia (Chandler 1991; Derks 1996: 252-55). Vietnamese migration into Cambodia was encouraged by the French, because the colonial power preferred that Vietnamese staff their administration and provide the workforce for their plantations. Willmott

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Cambodia. And besides this occurrence the recreation of their societal culture does not seem to have been the Chams' aspiration.

<sup>28</sup> Already during the Angkor period, a small number of Chinese traders were present in Cambodia (Chandler 1991: 74). In addition, sailors were among the earliest Chinese migrants to Cambodia, arriving first in the 13th century with the aim to escape poverty in southern China. Those sailors and traders integrated and their migration did not yet lead to the emergence of ethnic Chinese communities. The earliest wave of political refugees from China arrived following the fall of the Song Dynasty in 1276 (Edwards 1996: 115). Similarly, the fall of the Ming Dynasty in 1644 led to another wave Chinese seeking refugee in Cambodia.

distinguishes four groups of Vietnamese with different histories of immigration: First, during the eighteenth and nineteenth centuries, Vietnamese rice farmers were encouraged by a policy of colonization to move into the Mekong Delta and up the Mekong River into what are today the Prey Veng and Svay Rieng provinces in Cambodia. The second group was made up of urban Vietnamese communities, which emerged when the French colonizers established their protectorate in Cambodia and assigned many Vietnamese to positions in their administration. In addition, this group includes various craftsmen who were encouraged to move to and settle in Cambodia. The third group consisted of ethnic Vietnamese fishing communities along the Mekong and Tonle Sap Lake. The fourth group of Vietnamese was made up of workers brought to the rubber plantations which were established in eastern Cambodia near the Vietnamese border (Willmott 1968: pp. 34). Another category needs to be added which includes Vietnamese who recently moved to Cambodia due to the prospect of peace and prosperity due to the arrival of 20,000 UN personnel (Hawk 1995: 23). How would Kymlicka's distinction between national minorities and ethnic groups categorize the Vietnamese? Clearly, the existence of this group in Cambodia came about by various waves of Vietnamese migration to Cambodia. Members of the Vietnamese minority never formed institutionally complete, self-governing societies with homelands within the territory of today's Cambodia. What supports seeing ethnic Vietnamese in Cambodia as ethnic groups is that their incorporation did not and does not come about involuntarily, by means of force on the part of the Cambodian state. To the contrary, force was employed by various regimes in recent history, in times on a genocidal scale, precisely to prevent Vietnamese from becoming legitimate citizens of Cambodia. Applying Kymlicka's distinction classifies Vietnamese in Cambodia as ethnic group.

## **2. Ethnic Groups: Integration**

The previous section has shown that the incorporation of the Chams, Chinese, and Vietnamese in Cambodia generally came about by immigration, characterizing the respective communities as ethnic groups. The following section will show that these groups show a significant degree of institutional and linguistic integration. The subsequent discussion will argue that this degree of integration is considerably higher than that of various hill tribes – in line with Kymlicka's theory. Chams, Chinese, Vietnamese, and other ethnic groups in Cambodia maintain ethnic communities, and by doing so, keep alive aspects of their cultural heritage. However, they do not try to recreate self-governing societal cultures. To varying degrees, members of these groups consider Khmer their first language and participate in the institutions of the majority culture.

The **Cham's** integration is particularly consistent with Kymlicka's distinction, insofar as Chams participate in Cambodia's institutions while those institutions accommodate Cham particularity. Each group of Cham migrants to Cambodia was welcomed by the Khmer king and allowed to settle in various places. Important government positions were given to Chams, including positions of royal rank and governorships. Chams served important functions in the state's institutions, not only as soldiers and loyal bodyguards of the king but even in facilitating diplomatic relations and court affairs (Collins 1996: 33). From the first migration, Kings of Cambodia surrounded themselves with loyal Chams who dutifully protected the throne from usurpers. While maintaining a distinct ethnic, cultural, and religious identity from the majority Khmers, Chams frequently acted more loyal to the Khmer king than the Khmers themselves. The Chams integration was not a one way affair. For example, one of the Khmer kings converted to Islam, subsequently requiring members of the royal court in Oudong to do the same and to wear Cham costumes during ceremonies. He took a Muslim name, married a Muslim woman and mosques were built all over the country. The Chams were allowed to place the shrine of their leaders alongside the shrines of the great kings of Cambodia at Oudong. Regarding the Chams institutional integration, Collins goes as far as stating: "In effect, with the loss of Champa, the Khmer king was acknowledged by Chams as the king of the Chams as well" (Collins 1996: 37). Chams display a high level of linguistic integration. In most Cham communities, Cham language is learned more like a second language. Cham communities are mostly located next to Khmer communities and Chams in many instances refer to their situation in Cambodia as "guests in someone's house" (Hawk 1995: 10)<sup>29</sup>. Many Chams are members of various mainstream political, economic, and social organizations.

Throughout the centuries, **Chinese** were seen as an integral part of the social fabric of the Kingdom of Cambodia (Edwards 1995a: 109). Chinese played an important economic role, frequently acting as middle men and economic intermediaries between the Khmer peasantry and aristocracy. Chinese were given important political positions in the Cambodian administration. Chinese culture continuously influenced many dimension of Cambodian civilization through a gradual process of mutual borrowing (Chandler 1992: 80). While Chinese immigrants maintained their own communities,

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<sup>29</sup> Collins distinguishes three categories of Muslims in Cambodia, which relate differently to the majority nation and show different levels of linguistic integration. "Chvea" is the Islamic group with the highest level of linguistic integration, insofar as its members do not speak Cham, but Khmer. Collins refers to the second group as "Cham". Its members speak both Cham and Khmer. The third category of Muslims in Cambodia, "Jahed", is a group centred in a few villages in Oudong, Pursat, and Battambang. Members of this group are regarded as preservers of the ancient Cham culture, texts, and language (Collins 1996: 62-82).

they adopted many Khmer customs and frequently became integrated into Cambodian society to a high extent (Hawk 1995: 14). At the same time, the Chinese retained elements of their culture through the practice of religion, language, and various customs<sup>30</sup>. The situation of ethnic Chinese deteriorated dramatically after the ousting of Sihanouk and Chinese identity was suppressed from 1970 until 1990. Sihanouk's successor Lon Nol ordered the closing – and even bombing – of Chinese schools and newspapers as well as Chinese cultural and community centers. The situation worsened under the Khmer Rouge. While all minorities suffered from discrimination and forced assimilation, ethnic Chinese were particularly targeted because of their economic status and the regimes' prejudice against urban dwellers. The ban on Chinese language, schools, and cultural associations was rigorously and violently enforced. As a result, the Chinese language had fallen out of common usage by the late 1980s (Edwards 1996a: 148). The suppression of Chinese cultural identity gradually faded with the establishment of the State of Cambodia (SOC) in 1989. Since then, a cultural revival has taken place, involving a renaissance of Chinese cultural institutions. Chinese temples, schools, cultural associations, and newspapers were reestablished. However, Khmer is being taught in Chinese schools and the curriculum focuses on Cambodia. There is a greater level of intermarriage and Chinese newspapers cover prominently events in Cambodia. Ethnic Chinese in Cambodia today display a considerable level of linguistic integration and – despite the existence of Chinese secondary associations – participate widely in the political and economic institutions of the larger society. The revival of Cambodia's Chinese community does not mean that this group is trying to recreate a Chinese societal culture. In turn, Cambodia's government provides significant space for the expression of Chinese cultural identity. As Edwards puts it, "... the Royal Government of Cambodia has given important recognition to the fact that ethnic Chinese in Cambodia today have a local (Cambodian) national identity while retaining a partially or specifically Chinese cultural and ethnic identity" (Edwards 1996a: 165).

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<sup>30</sup> A phase of cultural isolationism began only when Chinese identity was reinforced during the French colonization. The French adopted a system of separate Chinese congregations. Urban Chinese communities were accommodated in separate quarters and provided with Chinese schools, of which ninety-five were established between 1902 and 1938. Chinese newspapers were widely available. Because colonial policy allowed Chinese women to immigrate, Chinese males were more likely to bring their wife with them or marry a Chinese wife (Edwards 1996: 135). Under these circumstances, ethnic Chinese were less and less likely to communicate in Khmer. French was the preferred choice for a second language because of attractive positions in the colonial administration. This trend of linguistic isolationism continued in the post-colonial era under Sihanouk. By 1967, there were 170 Chinese schools in Cambodia, most of which did not teach Khmer or offer courses in Cambodian history, geography, or culture (Edwards 1996: 136). As a result, many ethnic Chinese knew little or no Khmer by the end of the Sihanouk era.

The case of the ethnic **Vietnamese** is more complicated and partly at odds with Kymlicka's theory. Unlike immigrants, those ethnic Vietnamese who came as colonizers or to serve in the French administration did not come with the expectation of integrating into institutions operating in Khmer. To the contrary, the very rationale of colonization is to recreate or extend the colonizers societal culture to the territory of the colonized and to impose their own language and institutions. During various occupations, Vietnamese emperors not only attempted to incorporate parts of the territory inhabited by Khmers, but tried to 'civilize' the population. In particular, during emperor Hue's occupation from 1835-40, efforts were made to impose Vietnamese political culture and social customs on Cambodia's population, including language and various institutions. "In sum, the Vietnamese treated Cambodia as a part of an expanding Vietnam and sought to impose Sino-Confucian customs on the Hindu-Buddhist Khmer" (Hawk 1995: 17). To be sure, many ethnic Vietnamese lived in Cambodia for generations and married with Khmer. They not only abandoned their homeland but also participate in mainstream institutions operating in Khmer and speak the language of their host society better than the tongue of their ancestors. However, compared to other ethnic groups, ethnic Vietnamese are integrated into Khmer society to a lesser degree and maintain much of their particularity (Hawk 1995: 20). For many, Vietnamese is the first language, taught in Vietnamese schools which exist in many communities. A basic level of Khmer language is learned only in daily interactions with Khmers (Derks 1996: pp. 256). This low degree of integration, together with the history of invasion and occupation, remains a major obstacle to Khmer acceptance of the Vietnamese as a legitimate part of the country's society. The essence of being Khmer for many Khmers is defined in their direct opposition to Vietnamese identity. One thing that contributes to the sentiments of Khmers is that the Vietnamese colonization of much of the Mekong Delta created a sizeable national minority of Khmers within the borders of Vietnam<sup>31</sup>. Chandler notes with regard to this process: „the Nguyen institutionalization of control, a process that took more than two hundred years, eventually removed large portions of territory and tens of thousands of ethnic Khmer from Cambodian jurisdiction. This process produced a legacy of resentment and anti-Vietnamese feeling that fueled the collapse of Democratic Kampuchea and

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<sup>31</sup> Successive Vietnamese expansion led to the incorporation of much of the Mekong Delta (Kampuchea Krom or 'lower Cambodia') into the Vietnamese empire. This territory remained in dispute during the French colonization until the French finally granted it to Vietnam after the Second World War. Substantial numbers of ethnic Khmers were forced to live permanently in Vietnam. Ethnic Khmer who lived in those territories did not choose to migrate to Vietnam. They were members of Cambodia's societal culture and occupied what used to be part of Cambodia's territory prior to being involuntarily incorporated into the Vietnamese nation-state. It is worth mentioning that Cambodia lost territory to Thailand in a somewhat similar process, most notably the Surin province, where Khmers form a sizeable national minority today.

persisted among many Cambodians into the 1980s and beyond” (Chandler 1992: 95). While the ethnic Vietnamese’s rather low level of integration is characteristic of national minorities, few people in Cambodia would consider legitimate granting self government rights to this group. After all, few would consider the colonization of Cambodia as legitimate to begin with. Moreover, nothing suggests that Vietnamese in today’s Cambodia aspire to establish their own societal culture. At any rate, this would not be an option since Vietnamese communities are territorially dispersed. No doubt, Vietnamese are the most hated cultural minority in Cambodia and significant political restrictions apply to its members. Massive political violence towards ethnic Vietnamese during the last decades – on a genocidal scale during the Khmer Rouge regime – indicates that securing the common rights of citizenship for members of this group remains a major challenge (Jordans 1996, Edwards 1996a). The ethnic Vietnamese in Cambodia do not fit well into Kymlicka’s distinction. Unlike national minorities, they never formed self-governing societies in Cambodia’s territory. Unlike ethnic groups, they did not come individually and with the expectation to integrate. Given their history and situation in Cambodia, the immigrant model of accommodation is the best ethnic Vietnamese in Cambodia can realistically hope for.

### **3. Cambodia: Polyethnic and Multinational**

The previous sections have shown that the existence of Chams, Chinese, and Vietnamese in Cambodia generally came about by immigration. While these groups maintain elements of their ethnic heritage, they are linguistically and institutionally integrated to a considerable degree. Thus, Kymlicka’s category of ethnic groups appears to correspond to the situation of these groups in Cambodia. Moreover, the difference between ethnic groups and national minorities is not dissimilar to official distinctions in Cambodia. However, the political practice associated with these distinctions has been and is very much at odds with suggestions stemming from Kymlicka’s theory. After Cambodia’s independence, Sihanouk classified the hill tribes as ‘Khmer Loeu’, the Chams as ‘Khmer Islam’, and members of the Khmer national minority in the Mekong Delta as ‘Khmer Krom’. The groups so classified were regarded as members of the ethnically defined Cambodian nation, while all other groups were excluded<sup>32</sup>. As of today, the Cambodian government has avoided the issue of citizenship. However, it appears that the post-independence, ethnicity-based model of citizenship is guiding government policy again. That is, Cambodian citizenship is understood to include the Khmer, the Chams, and various indigenous groups while citizenship is not extended to ethnic Vietnamese and ethnic Chinese. According to Pen,

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<sup>32</sup> Collins offers a very thoughtful interpretation of Sihanouk’s classification in Collins 1996: pp. 47.



Cambodia officially distinguishes three categories of cultural minorities: the indigenous minorities (Khmer-Loeu), the Chams (Khmer-Islam), and foreign residents. However, government officials consider only groups in the first and second category ‘appropriate ethnic minorities’ of the Kingdom (Pen 2002: 9). There does not seem to be any legal document or public policy that would justify considering this classification ‘official’. However, it does seem to reflect the current approach towards cultural minorities. Interestingly, the two groups that are regarded ‘proper’ ethnic minorities are those which Kymlicka’s distinction classifies as national minorities, namely the hill tribes and the Chams. However, the Chams are classified as an ethnic group in Cambodia according to Kymlicka’s typology. Besides the Chams, the difference between ethnic groups and foreign residents in Cambodia corresponds to the difference between national minorities and ethnic groups in Kymlicka’s framework. The strong contrast between the political implications of both models should be pointed out. In Cambodia, the dichotomy of ‘ethnic minority’ and ‘foreign residents’ marks the difference between persons who have the right to Cambodian citizenship and persons who do not qualify for membership in the Cambodian state<sup>33</sup>. In Kymlicka’s framework, both ethnic groups and national minorities are granted rights *in addition* to the common rights of citizenship, and the distinction separates groups that have the right to self-government from groups that do not<sup>34</sup>.

Besides the difference between ethnic groups and national minorities, the concept of indigenous peoples is not foreign in Cambodia either. According to the survey cited above, the Khmer majority defines indigenous minorities by two criteria: (1) all those people who are not immigrants; and (2) who are almost totally illiterate in Khmer (Pen 2002: 9). The first criterion corresponds directly to Kymlicka’s typology, because it defines indigenous groups as national minorities, that is – in contrast to ethnic groups – as those who did not come as immigrants. To some extent, the second criterion is consistent with Kymlicka’s ideas as well, because it implies that indigenous groups speak and maintain a language different from the majority. It is worth mentioning that many Cambodians use the terms ‘chun-cheat’, which means nationality, or ‘chun-cheat pheak-tech’, which means ‘national minority’, to refer to indigenous minorities. These notions appear to be highly consistent with the typology used in this paper<sup>35</sup>.

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<sup>33</sup> In this regard, the distinction between ‘ethnic minority’ and ‘foreign residents’ in Cambodia corresponds to the way Kymlicka differentiates ethnic groups, that is the distinction between ‘immigrant groups’ and ‘metics’.

<sup>34</sup> It seems plausible to be concerned that this post-independence approach will be adopted when the issue of citizenship is being addressed with legislative action. ‘Khmer-Loeu’ and ‘Khmer Islam’ would be considered ‘appropriate’ citizens of Cambodia while ethnic Vietnamese and Chinese would be excluded from citizenship (Hawk 1995: 28).

<sup>35</sup> Heder and Ledgerwood suggest that these terms have their origins in communist notions: “Cambodian Communists also promoted the use of the term chun-cheat to refer to the “nationalities” living within the

To sum up, Cambodia is a polyethnic and multination state, containing ethnic groups as well as national minorities. Chams, Chinese, and Vietnamese form ethnic groups in Cambodia. While these groups as well as Khmers were active contenders in the process by which modern nation-states came about, only the Chams did not succeed and do not have a state today. Accordingly, none of these groups qualifies as indigenous people. Among these groups, only Chams form a national minority. However, they do so in Vietnam, while Kymlicka's typology classifies Chams in Cambodia as ethnic group. Through the expansion of Vietnam and Thailand, ethnic Khmers in the Mekong Delta and the Surin province were incorporated involuntarily into these states, where they form national minorities today. In Cambodia, only the hill tribes form national minorities or, more precisely, indigenous peoples. As the following sections will show, highland peoples formed self governing societies in the territory of today's Cambodia and were involuntarily incorporated into the Cambodian nation-state. Put differently, while Chams, Chinese, and Vietnamese chose to come to Cambodia, members of the hill tribes did not. Hill tribes were isolated from the process of state formation until rather recently. Due to the scope of this paper, the remaining pages will deal mostly with these indigenous nations. To recall a central idea of Kymlicka's theory, national minorities – including indigenous peoples – face specific disadvantages, in particular the destruction of their societies through majority state nation-building. In order to equally secure the good of cultural membership, these groups should be allowed to maintain themselves as distinct societies. In order to do so, they should be granted self-government and special representation rights. This involves the devolution of powers to political subunits substantially controlled by members of the particular group. The following chapters will assess hill tribes in Cambodia in lights of these ideas.

### **3. *National Minorities: Hill Tribes***

#### **1. *Becoming Minorities: Involuntary Incorporation***

The previous section has shown that Vietnamese, Cham, and Chinese came as migrants and form ethnic groups in Cambodia. This section aims to show that the incorporation of highlanders into the Cambodian state came about very differently. In particular, the discussion will support the view that hill tribes exercised historical sovereignty over their traditional territories which were taken from them against their will. Various highland peoples are considered the original inhabitants of Cambodia,

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boundaries of the Cambodian state, regardless of their country of nationality or citizenship. This usage had its roots in Leninist and Stalinist notions about "nationalities" within Russia and the constituent republics of the Soviet Union. Thus, chun-cheat pheak-tech referred to "national minorities" within the boundaries of Cambodia" (Heder and Ledgerwood 1996: 22).

like the Khmer, or even the Khmers' ancestors. (Hawk 1995: 12). There is widespread agreement that highland groups and Khmers share a common ancestry. The separate history of Khmers and indigenous groups is believed to date back to the time between the third and the fifth century (White 1996: 340). At this time, the unification of some groups led to the emergence of Funan, which became the kingdom of Chen-La, the ancestral kingdom of today's Khmers (Chandler 1992: 13-28). Due to their isolation and distance of their territories, other groups kept their independence and are believed to be the ancestral societies of the highlanders. Most of Cambodia's indigenous peoples share this common ancestry with the Khmers as well as membership in the Mon-Khmer language family. In contrast, the Jorai and Rhade groups belong to the Austronesian-speaking groups and share a common ancestry and linguistic relationship with the Chams (Hickey 1982b: 302).

The history of the highland peoples during the following centuries is mostly unknown. Members of indigenous groups in what is today northeastern Cambodia had sporadic exchanges with traders from various powers during the centuries, and villages were raided on occasion by the Thai, Lao, and Khmer to make slaves. Yet hill tribes were not integrated into the administrative systems of neighboring countries and never subject to external authority and control (Hawk 1995: 12). The French colonizers began the establishment of a French state in Southeast Asia in the middle of the 19<sup>th</sup> century. From the beginning of the 20<sup>th</sup> century, this involved attempts to include the Highlands into French Indochina (Sugiarti 1997: 19). Those attempts met considerable resistance. Despite this reluctance on the part of highlanders, plantations and roads were built in their homelands and some villagers were forced to participate in those projects, while others continued to resist the French colonization and maintained their independent existence well into the twentieth century (White 1996: 343). Administrative boundaries were drawn without concern for the social, cultural, or historical circumstances of the population and without the affected groups' consent or knowledge. Yet, for the most part, these boundaries were merely lines on colonial maps and did not yet affect the lives of highlanders. During the 1940s, the highlands became an autonomous territory first under French and then under Vietnamese authority. This reflected the strategic relevance of the region and its populace in the war with the communist regime in South Vietnam. The former boundaries were restored and internationally recognized through the Geneva Agreements in 1954 (Chandler 1992: 180). It was only at this time that lines on paper became the boundaries of 'nation-states', into which formerly self-governing societies of highlanders were incorporated without their consent. Members of independent hill tribes became citizens of different states and their self-governing societies were

transformed into cultural minorities. This process of the hill tribes' incorporation into states happened without their consent or consultation. Highlanders never did cede their rights over their homelands to any of the states involved.

## **2. Nation-Destroying: Integrating Hill Tribes into the Khmer Nation**

Prior to 1954, the Cambodian and Vietnamese governments attempted to incorporate the highlander's homelands into the territories of their respective nation-states. However, they did not make much effort to integrate highlanders into the respective nations. The formal status of the area changed at various times, some development projects and small scale in-migration took place, and the beginning of an administration was established. However, this did not change much in the day-to-day life of many groups. Despite some conflicts, indigenous nations had considerable space to maintain their cultures, and in many instances not much in their life was altered. This changed dramatically after Cambodia's independence in 1954, when deliberate nation-building programs were initiated for the first time. Prince Sihanouk initiated a general policy of integration, aiming at establishing Khmer ownership of the northeastern territory as well as political control over its population (Plant 2002: 7). The state sponsored and organized settlement of Khmer people in the highlands. Hill tribes were encouraged to abandon their 'uncivilized' and 'inferior' lifestyles and practices and to follow the 'superior' way of life demonstrated by Khmer settlers. This assimilationist policy involved the expropriation of indigenous homelands and villagers were forced to work on plantations (Sugiarti 1997: 20). Education in Khmer as well as Khmer clothes were made available and economic development projects were carried out. Communities were relocated along rivers and encouraged to abandon their traditional methods of agriculture and to adapt to lowland rice farming techniques. This policy aimed at alleviating highlanders poor living conditions. But more importantly, it aimed explicitly at their Khmerization, the eradication of the distinct identity and way of life of indigenous groups. In sum, this was a nation-building campaign with the stated aim of replacing the distinct identity of highlanders with "national consciousness" (White 1996: 344). This policy met considerable resistance and occasionally led to clashes, revolts, and armed confrontations (Hawk 1995: 12).

During the late 1960s, Cambodian and Vietnamese communist movements started operations in the highlands and occasionally supported the hill tribes' resistance. It seems that initially the hill tribes' premodern and collective ways of life appealed to the Khmer Rouge and vice versa. The movement managed to recruit villagers for their purposes, building on their resentment against Sihanouk's assimilation policies. "In Marxian terms", notes Chandler, "the tribespeople had ideological significance.

Without access to money, markets, or the state, they enjoyed what appeared to be deeply rooted traditions of autonomy, solidarity, and mutual aid. To Communist cadre, the Jarai, Tapuon, and Brao peoples ... participated in 'primitive communism' ... The relationship between Communists and tribespeople was mutually beneficial. Many tribespeople became trusted bodyguards, messengers, and party members" (Chandler 1999: 76). Meanwhile in Phnom Penh, Sihanouk was overthrown by Lon Nol, who subscribed to an ultra-nationalist ideology and established the Khmer Republic in 1970. The communist movement strengthened its presence in the northeast, while Lon Nol's forces tried to regain the territory, destroying highlander villages and killing their inhabitants in the process, before finally evacuating the region (Sugiarti 1997: 21). By this time, the Khmer Rouge had firmly established their control over northeastern Cambodia. US warplanes started to bomb Cambodia's northeastern region in 1969, in an attempt to disrupt the North Vietnamese supply network, most notably the Ho Chi Minh Trail (Shawcross 1986: 280-99). Indigenous groups, which were forcefully resettled and displaced during the previous decade fled to the more remote areas and dispersed further to escape bombings. Some years later, after the bombing ended, the Khmer Rouge started to implement their aggressive communist policies in the northeast, which meant in effect an intensification of the assimilation programs carried out under previous regimes. Villages were displaced and their inhabitants resettled, husbands and wives were separated and villagers were forced to live and work collectively. They were forbidden to speak indigenous languages and forced to learn Khmer. Traditional dress, hair style, and rituals were forbidden and ceremonial jars and gongs were confiscated (Hawk 1995: 13). Thousands lost their life due to executions as well as famines. Many villagers left their homelands and fled to neighboring Vietnam and Laos.

Despite continued attempts to assimilate highlanders, most groups recreated their societies wherever this was possible immediately after the Pol Pot period ended. Following the defeat of the Khmer Rouge by the Vietnamese in 1979, villagers returned to their original locations and reestablished their communities, including the indigenous system of agriculture and the relationship to the spirits and environment through ceremonies (White 1996: 348). After the Khmer Rouge lost control of the area, the Vietnamese invasion brought a halt to the in-migration from the lowlands, and the highlands were again at the margins of Cambodian history. The regime in Phnom Penh was occupied with the reconstruction of the heartland provinces while struggling with the remains of the Khmer Rouge. Its activities in the northeast were limited to the establishment and maintenance of some administrative presence, which involved a few hundred civil servants, some soldiers and Vietnamese officials. It did not involve new

settlements or integration programs. In the absence of any coordinated policy towards highlanders under the Vietnamese occupation, people were left to their own systems of communal self-government and again enjoyed some degree of autonomy (Hawk 1995: 13).

### **3. Nation Building and its Liberal Limits in Cambodia**

To recall a central idea of the first part of this paper, Kymlicka suggests that all liberal states have engaged in nation-building, that is, in diffusing a societal culture throughout the territory in order to integrate citizens into common public institutions operating in one national language. State nation-building inevitably privileges members of the majority society and disadvantages members of cultural minorities. In particular, unconstrained state nation-building involves the destruction of minority nations in multination states. So what does the dialectic between state-nation building and minority rights suggest in the Cambodian context? In contrast to Western liberal states, Cambodia is not, and does not pretend to be, culturally neutral. Rather, the Cambodian state is actively engaged in projects of nation-building, and of diffusing a common societal culture throughout the territory of the state. The above discussion has shown already that Cambodia after independence has been nation-building, in the sense that members of indigenous nations were encouraged, pressured, and forced under various regimes to integrate into common public institutions operating in the Khmer language. Lon Nol, for example, declared in 1974 that there were no other nationalities in Cambodia, only the Khmer. Similarly, Pol Pot proclaimed “In Kampuchea there is one nation and one language – the Khmer language. From now on the various nationalities do not exist any longer in Kampuchea” (quoted in: Edwards 1996b: 55). It is important to point out that nation -building policies towards various ethnic groups at times took horrific forms and threatened the very existence of these groups. However, discussing these policies is beyond the scope of this paper.

A short discussion of the Cambodian Constitution is helpful to establish that the Cambodian state today actively promotes the cultural identity of the Khmer majority. According to Article 5 of the Constitution, Cambodia’s official language and script are Khmer. Article 69 charges the state with the protection and promotion of the Khmer language, reinforcing this language provision. The creation of a uniform system of national education further contributes to the reproduction of a particular Khmer ethnonational culture and identity. The Constitution charges the state with the establishment of a “standardized education system throughout the country” and with taking the necessary steps for education “to reach all citizens”. At any rate, education in Cambodia is provided generally in Khmer and based on a standardized curriculum which is uniformly used throughout the country.

There are other indications in the Constitution that the Cambodian state takes the reproduction of a particular Khmer ethnonational culture and identity as an important goal. Although the preamble starts with “We, the people of Cambodia“, it refers immediately to these people’s membership in the “glorious nation” and their determination “to unite for the consolidation of national unity”. It would appear that the ‘consolidation of national unity’ and nation-building are very similar things. The formulation ‘people of Cambodia’ is open to the inclusion of members of cultural minorities, but other than in the preamble it is not used during the entire text of the Constitution. Instead, the rest of the text refers primarily to ‘Khmer citizens’, indicating that it is a Khmer nation which is being consolidated. Those provisions define membership in the Cambodian state – Cambodian citizenship – exclusively in ethnic terms. This is particularly evident when it comes to the details of Cambodia’s citizen’s rights and duties. The third chapter of the Constitution is entitled “The Rights and Obligations of Khmer Citizens”. This chapter details all the political, social, and cultural rights associated with citizenship in Cambodia as well as provisions for human rights. In most instances, those rights – including the most fundamental human rights and freedoms – are exclusively granted to ‘Khmer Citizens’. The first Article of this chapter stipulates that the Kingdom of Cambodia is committed to universal human rights. Yet the very same Article immediately calls into question this commitment. The next paragraph reads as follows: “Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, colour, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status”. The wording of this paragraph is in large part similar to Article 2 of the Universal Declaration of Human Rights yet instead of “everyone”, only “Khmer citizens” are entitled to the associated rights. The provision implies that there are Khmer citizens of different race, language, beliefs, or religions and thus is compatible with a notion of “Khmer citizen” that grants citizenship to “Khmer Loeu” (hill tribes) and “Khmer Islam” (Muslim Cham). However, it does so only by linguistically imposing the majority ethnic identity on members of cultural groups who do not share it. More seriously, this formulation indicates that segments of the population which do not qualify as Khmer citizens are not entitled to any right. Even the fundamental human rights to life, personal freedom and security are granted exclusively to Khmer citizens (Article 32). Clearly, this Constitution demonstrates that the Cambodian state is nation-building and in doing so uses – among others – many of the tools used in Western democracies, such as citizenship policy, language policy, and a uniform system of education. The following sections will show that other tools are being used for nation-building as well, among them settlement policies, public service

employment, and centralizing power. Before turning to the public policies towards highlanders, the liberal limits of nation-building as suggested by Kymlicka will be discussed in the Cambodian context.

As was explored in the first part of this paper, Kymlicka shows that state nation-building is not necessarily incompatible with principles of liberal democracy. Rather, nation-building can promote liberal principles and can serve a number of legitimate purposes, associated with individual freedom, deliberative democracy, and social justice<sup>36</sup>. What distinguishes liberal from illiberal states, then, is not the cultural neutrality of the former. Rather, what characterizes liberal states is that certain limitations and conditions apply to majority nation-building. As was mentioned in section 1.1.3, Kymlicka suggests three such conditions which together can legitimize nation-building in a liberal democracy: (1) No groups of long-term residents are permanently excluded from citizenship; (2) the integration required of ethnic groups is understood in a ‘thin’ sense which does not involve the adoption of particular customs, religious beliefs, or lifestyles; and (3) national minorities are allowed to engage in their own nation-building, to maintain themselves as distinct societal cultures (2001a: 48). All three conditions are deeply problematic in the Cambodian context. Yet it is the third condition which directly concerns the indigenous peoples. Therefore, the following paragraphs will briefly reflect on the first two conditions, while the remainder of this paper will concentrate on hill tribes’ ability to perpetuate their culture.

Clearly, nation-building in Cambodia does not meet Kymlicka’s first condition. One of the effects of the constitutional notion of ‘Khmer citizen’ is precisely to exclude long-term residents which do not qualify for membership on ethnic grounds, in particular members of the Vietnamese and Chinese ethnic groups. “Cambodian nationalism”, notes Edwards, “has from its earliest beginnings been strongly ethnic in

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<sup>36</sup> It is incompatible with the scope of this paper to discuss the application of these ideas to Cambodia. Given the major concern of this paper on one hand, and the strong nationalism which marks Cambodia’s politics on the other hand, it seems plausible to focus not on the virtues of nationalism but on its liberal limits in Cambodia. However, it is believed that the relevance of nation-building – in particular: the importance of a sense of commonality and national identity among Cambodia’s citizens – could be shown easily. For example, after a civil war that came to be associated with the term ‘auto genocide’ (Chandler 1999: 3), Cambodia’s population continues to be deeply divided along the lines of political parties. Opposing points of view are frequently not only not considered but regarded as illegitimate (Roberts 2001: 205). Moreover, it is quite common that losers in elections do not abide by the result. A national election conducted in July 2003 remained inconclusive and no government was being formed until almost one year after citizens went to the polls. A good case could be made that this political deadlock is due to mistrust fuelled by the experience that leaders and groups do not abide by the results of elections, and that a common national identity would promote this sort of trust. An equally good case could be made regarding the importance of social justice. A recent UNDP report about Cambodia concludes that “there are signs that economic growth during the past decade has not produced any significant poverty reduction. Indeed, there are some signs that the situation is worsening” (UNDP 2004b: 14).



content and strictly exclusive in its definition of who, or what, is Cambodian” (Edwards 1996b: 68). As Heder and Ledgerwood note, “the Khmer discuss themselves as a single line of descendants, with a corresponding centrality assigned to notions of ‘flesh and blood’” (Heder and Ledgerwood 1996: 20). Members of the Muslim Cham and various highlanders are included through their classification as Khmer Islam and Khmer Loeu. Although this terminology does not correspond to the ethnic identity of those groups’ members, they are considered Khmer citizen and their citizenship rights are not generally in question. In contrast, Vietnamese and Chinese long-term residents are not considered citizen, but regarded as ‘foreign residents’. The concern seems plausible that the wording of the Constitution can be used not only to exclude various ethnic groups from citizenship but actually from the enjoyment of fundamental human rights as well.

The second condition also raises problems. The common culture promoted in Cambodia is ‘thick’ in that it involves not only institutional and linguistic integration but particular sets of values and lifestyles. Kymlicka’s theory suggests that it is legitimate to require members of immigrant groups to learn Khmer and to participate in institutions which operate in Khmer language. However, the wording ‘Khmer citizens’ seems to require members of immigrant groups – and of national minorities as well – not only to learn Khmer, but to become Khmer. Because ‘Khmer’ refers to ethnicity, this seems to be not only illiberal but unrealistic. This is not the only indication that the common culture promoted by the Cambodian state involves more than language and institutions. For example, Cambodia has an official, constitutionally recognized religion, which is Buddhism. In addition, the Constitution refers to particular life styles when it promotes the “good national traditions” or “Khmer traditions”. Another example is provided by the existence of the Ministry of Culture and Fine Arts, which is part of the Royal Government of Cambodia. Its mission is to “implement policies for protection, preservation, and heightening the values of the national cultural heritage” as well as to “re-gather and promote the values of national culture and traditional customs” (MoCFA 2004). Taken together, the national culture which is being built by the Cambodian state is ‘thick’, in that it involves particular values and ways of life<sup>37</sup>.

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<sup>37</sup> It is interesting to note that Walzer, in contrast to Kymlicka, considers it legitimate when states promote ‘thick’ cultures. However, he suggests very different policy recommendations depending on whether a state promotes a ‘thick’ or ‘thin’ culture. More precisely, he argues that the thicker a ‘national’ culture, the more likely it is that large groups of immigrants will have to be accommodated as national minorities rather than as ethnic groups. When the national culture is thinner, it is plausible to say that immigrant groups are less in need of subsidy and autonomy. In contrast, “ancient, territorially-based national cultures” will increasingly have to “make room for other sorts of thickness, and this will have to be room of a sort appropriate to the nation-state formation – with the same furnishings ... as are provided for the national majority ... In countries more like France, groups that are in fact immigrants may have to be dealt with as if they were national minorities” (Walzer 2001: pp. 150). Obviously, these policy recommendations with regard to ethnic groups are in even stronger opposition to practice in

It is the third condition which is at the heart of this paper. Kymlicka suggests that for majority nation-building to be just, national minorities – including indigenous peoples – must be allowed to engage in their own nation-building and to maintain their existence as distinct societies. Because state nation-building involves minority nation-destroying, national minorities should be granted self-government rights and special representation rights to provide protection against unjust nation-building. As was shown earlier, only indigenous hill tribes are national minorities in Cambodia. Accordingly, Kymlicka's theory suggests that the Cambodian government should support in the states' territory the perpetuation not only of the Khmer nation but of various indigenous societal cultures as well. This would involve the promotion of indigenous educational, political, social, and legal institutions and their operation in local language. To achieve this, some form of autonomy and self-government would be required. Before turning to the discussion of the Royal Government's current decentralization program in the light of these ideas, the following section will discuss various policies towards indigenous peoples and their effect on these groups.

#### **4. Current Policies towards Hill Tribes: Confined Nation-Destroying**

The previous section has established that the Cambodian state is engaged in nation-building. This and following sections will discuss more specifically current policies towards indigenous peoples in Cambodia. The discussion will show that various policies target national minorities and that their effect is – in the absence of protective measures – to systematically undermine the integrity of highlander's homelands, cultures, and identities. As was pointed out earlier, the issue of citizenship has not been addressed by the Cambodian government yet. It appears that the post-independence, ethnicity-based model of citizenship is guiding government policy. While members of highland peoples are likely to be recognized as citizens of Cambodia through their classification as 'Khmer Loeu', this has not yet happened. Accordingly, the legal status of indigenous groups and their members remains uncertain, which renders both particularly vulnerable. In general, the Cambodian government does not appear to have an active and deliberate policy towards the country's indigenous populations. However, a number of active programs and deliberate positions in some instances as well as the absence thereof in other instances can be described as policy. Taken together, the current approach constitutes a more benign form of the national integration program initiated under Sihanouk in the 50s and 60s. "Ever since its formation in 1993" notes Pen, "the Royal Government of Cambodia has pursued a policy aimed at the integration of the ethnic minorities" (Pen 2002: 12). It is important

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Cambodia than the ones suggested by Kymlicka, another reason to rely on the theoretical framework of the latter to analyze the claims of cultural diversity in Cambodia.

to note that in Cambodia, the integration of indigenous groups into the mainstream society is generally not seen as unjust. Rather, integrating indigenous peoples is considered a noble project, since those groups are considered ‘uncivilized’ and ‘backward’ and are seen as benefiting from integration. Consequently, the government directly and indirectly promotes the integration of highlanders into the mainstream society through a variety of measures: the migration of lowland Khmers to the highlands, large scale economic development projects in the ancient homelands of indigenous groups, the introduction of lowland systems of agriculture, and the encouragement of indigenous groups to settle close to roads and rivers (Sugiarti 1997: 23). It is impossible to discuss these developments in detail here. However, some general remarks will show that the cultural survival of hill tribes is being threatened by current policies and developments.

The northeastern provinces of Rattanakiri and Mondulkiri are sparsely populated and the only provinces with majorities of indigenous peoples. A dramatic increase in the immigration of Khmers to the highlands is taking place, which started in Rattanakiri province some years ago and now continues in Mondulkiri province. White mentions that large numbers of Khmers from various provinces are being resettled to the northeast (White 1996: 369). The increasing migration of lowlanders to the highlands is confirmed by other sources. Between the UNTAC population census in 1992 and the National Census in 1998, the population of Rattanakiri grew about 41 percent, while the population in the provincial capital Banlung increased 82 percent. During the same period, the national average population growth was only 29 percent (ADB 2001b: 30). Migration is not being limited, but encouraged by the government. Only recently, Prime Minister Hun Sen visited Mondulkiri and reportedly said that this province is the “best, most beautiful place in Cambodia ... it is a place where people come and don’t want to leave” (Coren 2003: 7). This statement has become a self-fulfilling prophecy. Migration has been greatly facilitated by a newly built road, which makes it possible to reach the provincial capital Sen Monorom in just ten hours from Phnom Penh. According to a newspaper article, deputy governor Chann expects “many, many people” to arrive next year when infrastructure improvements are completed. “In the future, the government wants more people to live in this province for building and for farming ... We want more people to develop this province and we must prepare for them” (Coren 2003: 7).

The dramatic increase of migration to and settlement in Cambodia’s northeast leads to a multitude of problems for the areas’ original inhabitants. Immigrants from the lowlands use the vulnerable situation of indigenous nations and the absence of regulations to claim lands traditionally occupied by hill tribes and to register for legal

title<sup>38</sup>. The land surrounding villages and along roads is frequently monopolized by newcomers. In addition, powerful government officials and military officers have been and continue to be involved in large scale land grabbing.<sup>39</sup> There are increasing numbers of conflicts over land between indigenous villagers and outsiders and between rival land grabbers. Highlanders are in a particularly vulnerable situation due to reasons that stem from their cultural identity. These problems are reinforced by their uncertain legal status, which makes officially receiving legal land rights to their ancestral lands very difficult. Moreover, they rarely have the money necessary to register for such a title. In addition, highlander's views and expectations reflect their culture and customary law, according to which they have a title in the form of their historical claim to the land of their ancestors. Yet even if individual title would be granted, this still puts highlanders' cultures at risk, because it does not correspond to traditional patterns of land use and the communal understanding of property. Other problems stem directly from highlanders' cultural membership. For example, the system of swidden agriculture practiced by most hill tribes is perfectly sustainable yet turns unsustainable if the available land base is too small. Migration contributes to population pressure, which in turn puts the livelihood of local groups at risk.

An equally severe and related problem for highlanders is the commercial expropriation and exploitation of their traditional lands by corporations as well as individual business people<sup>40</sup>. Newly built roads, land pressure in the lowlands, and the rapidly growing population has increased the interest of domestic and international investors in the resources of the highlands. In this regard, the most troubling development is the granting of logging concession by the central government to mostly transnational corporations<sup>41</sup>. It is an open secret that the destruction of Cambodia's forests has been going on at a catastrophic rate over many years. Anarchic illegal logging operations in Cambodia's northeast have continued for more than a decade with the involvement of the armed forces and provincial authorities (Global Witness

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<sup>38</sup> For a somewhat similar case, see Sullivan 1998. Sullivan examines the rights of the Orang Asli indigenous group in Malaysia, who are being squeezed off their traditional lands with the increasing population pressures. The Orang Asli are neither accorded special rights to their traditional lands, nor are they being accorded rights of equal treatment with other citizens.

<sup>39</sup> The most notorious case was that of General Nuon Phea who claimed 1.200 hectares of indigenous ancestral land in exchange for some bags of salt. Villagers complained with the assistance of local NGOs to Rattanakiri provincial court which ruled against them. After Prime Minister Hun Sen and King Norodom Sihanouk intervened (Hun Sen approved a \$35.000 compensation for Nuon Phea) the case came before the Appeals Court which invalidated the pre-existing 245 land titles sold by the hill tribe members. However, the court did not yet decide the ownership of the land (Kihara 2003: 12).

<sup>40</sup> For a related case, see Taylor 1998, who discusses the loss of tribal lands due to deforestation in Thailand. Taylor promotes the adoption of an alternative development model which is based on the principles of social justices, empowerment and sustainability and which incorporates indigenous technical knowledge. Generally, his view is consistent with the argument of this paper.

<sup>41</sup> For a case study of the involvement of transnational corporations in the exploitation of tribal lands, see Hyndman and Duhaylungsod 1998, who detail the effect of mining operations in Mindanao, Philippines.

1997). Reports state that the government has granted concessions covering the major part of the forested areas in Rattanakiri and Mondulkiri to an Indonesian company. About 50.000 to 60.000 highlanders live in the respective zone and have never been consulted, and even today have not been informed about this development (Pen 2002: 19). As of 1999, more than half of the 4.7 million hectares included in the concession list of Cambodia's 21 concessions are located in the four northeastern provinces where most indigenous peoples reside (ADB 2001b: 36). Recent reports indicate a strong intensification of logging operations in the area (Cambodia Daily 2004a: 1; Davis 2004: 5; Roeun and Pyne 2004: 3)<sup>42</sup>.

Logging has had immediate impacts on people's livelihoods and well-being. Most importantly, the forest on which the survival of the population depends is being destroyed. Wildlife crucial to their livelihood has disappeared. Villagers have been mistreated and disrespected, and crops have been destroyed by logging activities. Concessionaires continue to desecrate the spiritual base of highlanders by cutting the spirit forest (Global Witness 2000: 9). Legal and illegal logging is not the only form of commercial exploitation of indigenous lands threatening the local population. For example, forests are being turned into plantations of various cash crops by outsiders, and dams are being planned and built along the rivers (Sugiarti 1997: 118). Government policies encourage tourism in the area. Rattanakiri, for example is number four on the government's list of tourism development priorities. These developments are being planned and carried out in the complete absence of consultation or informing of the local population. But they have immediate – and frequently negative – impacts on their lives (Lindberg 2004: 3). Roads are being built for better access to the previously remote provinces, opening up indigenous homelands to new migration and commercial exploitation. The Yali Fall Dam is causing rapid rises and falls of water levels and has drowned villagers, continuously destroys fishing gear and fields, and decreases the water quality, thereby causing a decline of fish stocks and sickness in domestic animals (ADB 2001b: 35). Hotels and guest houses pop up in the provincial capitals and the prospect of increasing numbers of tourists adds to land grabbing and speculation. Increasing numbers of visitors disrespect highlanders' sacred sites while provincial authorities are reluctant to offer protection, because they do not want to discourage tourists or investors<sup>43</sup>.

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<sup>42</sup> It is worth mentioning that the World Bank has a history of backing controversial logging plans and operations in Cambodia, see Pyne 2004: 2.

<sup>43</sup> An ancient burial ground in Rattanakiri is a case in point. It is taboo for members of the local community to visit the site after the funeral is over. However, the site has become a highly coveted tourist attraction which draws visitors from around the world. Even the Lonely Planet guide book advises travelers to visit the cemetery. Yet unwelcome visitors disrespecting the site do not make the community richer, but poorer. In order to calm down the disturbed spirits, even the poorest family must sacrifice animals, something they cannot afford. Members of the group wrote a letter to the provincial

Settlement and commercial exploitation directly and indirectly put highlanders under pressure to integrate into the majority culture. Other policies have a similar effect. For example, the government encourages members of indigenous groups to practice lowland rice farming, to move closer to roads, and to stop their semi-nomadic lifestyle, which is associated with traditional methods of agriculture (Hasselskog and Chanthou 2000: pp. 13). The design of public space can be seen as another dimension of the attempt to integrate highlanders into the Khmer culture. Observations indicate that most public buildings in northeastern Cambodia have a design strongly informed by Khmer architecture, which is radically different from the way various indigenous groups construct their buildings. In the same spirit, the government currently plans to implement a project to construct a considerable number of Commune Council buildings in various provinces, including provinces with indigenous populations. The design of these buildings is uniform and strongly informed by Khmer architecture. Reportedly, the major intention of the uniform Khmer design is easy identification. The way these buildings are designed can be seen as nation-building, as promoting a sense of national identity and common membership in the institutions of a particular Khmer national culture<sup>44</sup>.

In this context, it should be noted that the Cambodian state functions in important ways differently from states upon which Kymlicka's theory is based. Kymlicka's theory assumes states in which there is a political will to approach problems stemming from cultural diversity through the design and implementation of deliberate policies. In Cambodia, ruling elites have little interest in aspects of political life beyond their individual or party-political gain. The government does little to regulate social life and rarely collects taxes or fights crime. Sectors like education, health care, or minority issues do not receive attention as long as they are not perceived as a security threat. For example, when assessing the situation of minority education, it is interesting to see how the educational needs of the majority are being met. In Cambodia, the funding available for education has been decreasing over the past few years and teacher wages

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government, which is unwilling to take action. "The villagers will have to handle it themselves," says Rattanakiri Governor Kham Khoeun. "Their thinking is not so clear or modern. There's no way that visitors walking through that cemetery are affecting their culture" (quoted in Woodsome and Komsong 2003a: pp. 6).

<sup>44</sup>Unfortunately this project does not use the chance to recognize and accommodate cultural differences. Moreover, these buildings have a concrete structure and are supposed to provide space for the Commune Councils for many decades. It is part of the very rationale of decentralization to accommodate local differences and preferences and to give citizens a voice in affairs that affect them (NPRS 2002: 108). This is highly relevant when it comes to decisions of the design of the building that houses the genuine institution of local governance. However, no participation or consultation was conducted to inform the process of designing those buildings. The spirit of the entire project appears to be at odds with meaningful decentralization. And it appears to be even more at odds with the accommodation of cultural diversity. It is worth mentioning that significant funding for this project is provided by the Asian Development Bank.

have progressively eroded (UNDP 2003: 96). Today, only 1.9 percent of the Gross Domestic Product (GDP) are spend on education and adult illiteracy rates increased between 1990 and 2001 from 60 percent to 63 percent (UNDP 2003: 279). Similarly, in the field of public health, under-five mortality rates rose from 115 to 138 and infant mortality from 80 to 97 during the same period of time (UNDP 2003: 37, 57). In fact, according to the Human Development Report, Cambodia might be the only country in the world where both mortality rates and illiteracy rates have increased over the last ten years, in spite of massive and continuous international assistance. A recent UNDP report concludes that Cambodia has gotten poorer during the last decade (UNDP 2004b: 14). If the government fails to address the basic educational needs of the cultural majority, it seems unreasonable to expect it to operate a system of minority education. This holds true for other sectors as well. As was pointed out before, the Cambodian Constitution and various policies and institutions demonstrate that the Cambodian state is nation-building, engaged in diffusing the language and culture of the majority throughout the territory. However, in practice, the state does not reach its citizens. This is particularly true of indigenous peoples due to various reasons, among them their geographical isolation. As a result, nation-building in Cambodia is very ineffective. Consequently, a very benign approach is applied to indigenous peoples which leaves these groups to a considerable degree to their own systems of self-government. A number of ministries, committees, and task forces are involved in different aspects of indigenous issues. However, there is no single power centre in charge of implementing the existing fragments of minority policy. To the contrary, various power centres occasionally promote diametrically opposed policies. Frequently, no policy decisions are made, or they are made and not implemented. The subsequent benign approach towards indigenous minorities is for the most part not the result of consciously planned minority policy. It is the result of weakness on the part of the state, which is incapable of meeting the basic needs of the members of both the majority and the minority.

##### **5. Current Policies towards Hill Tribes: Accommodation**

While a number of policies put pressure on Cambodia's indigenous peoples to adapt to the majority culture, not all relevant policies in Cambodia aim at highlanders' integration. Rather, the explicit objective of various public policies and initiatives is the accommodation and perpetuation of indigenous cultures, most notably the following: in 1994, the Royal Government created the Inter-Ministerial Committee for Highland Peoples' Development (IMC). With considerable support of various organizations – including ADB, UNDP, and ILO – the IMC drafted a 'General Policy for Highland Peoples Development' (IMC 1997b). This document is strongly informed

by ILO Convention No. 169 – in strong contrast to the current approach of the Royal Government – and details a considerable number of objectives, intentions, and even specific measures aiming at the accommodation – as opposed to integration – of hill tribes. The objectives spelled out in this policy are in most instances in line with the argumentation of this paper and, in fact, the aim of this paper is in large part to justify such a policy. To a considerable extent, this policy would provide indigenous groups with protection against majority nation-building. It calls for the preservation of indigenous cultures, languages, and belief systems and for the provision of culturally appropriate services. It charges the government with the protection of traditional land and forest use rights, the promotion of traditional farming systems, the remedy of unlawful intrusion upon indigenous lands, and forbids further deforestation in areas inhabited or used by highland peoples. According to this policy, indigenous knowledge, cultures, languages, and belief systems shall be strengthened and incorporated into education curricula. A comprehensive educational system shall be implemented to provide adequate opportunities to Highlanders, and a Centre for Highland Peoples' cultures shall be established<sup>45</sup>. This policy was submitted to the Council of Ministers (COM) in 1997 and discussed in two sessions. Due to objections by various ministries it was not approved. Currently, the IMC is still in the process of incorporating comments and objections, adapting the policy, and resubmitting it to the COM.

Surely, the fact that this policy is not in force indicates that the accommodation of indigenous cultures is not among the governments' priorities. Yet the objections are voiced towards various elements of this policy, not against the policy as such<sup>46</sup>. The establishment of the IMC as well as the drafting of this policy can be seen as a demonstration that the accommodation and preservation of indigenous peoples is not out of context with multicultural practice in Cambodia. In addition, developments in the fields of education and land rights attest that the government's special considerations apply to indigenous groups, aiming at what could be described as group-specific citizenship rights for indigenous peoples. For example, the government's Education For All program (EFA) – currently at its planning stage – will

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<sup>45</sup> It is interesting to note the tensions between individual and group-differentiated rights in this policy. In its Article 2, the policy states that "all persons belonging to Highland Peoples communities ... shall be considered and treated as Cambodian citizens, with the *same rights* and duties" (*emphasis added*). This formulation seems to follow an individualistic approach. However, the entire policy calls for group-specific rights, that is, rights given to citizens based on their membership in particular groups. It does not appear to be possible to justify the group-specific measures spelled out in this policy from the individualist perspective it takes in its Article 2. Other than that, the policy is generally in line with Kymlicka's theory, insofar as it promotes group specific rights for minorities in addition to the common citizenship rights.

<sup>46</sup> According to the IMC's Permanent Secretary Seng Narong, stated during interviews on June 3 and July 14, 2003 at the IMC office in the Ministry of Rural Development.



feature culturally-tailored curricula for ethnic minorities, which aim at the preservation of their knowledge, according to the programs secretary-general Dr. Hath Bunroeun (quoted in Font 2003: 6). A number of schools in Rattanakiri form pilot projects and are run by NGOs in cooperation with the Ministry of Education. This project is based on ideas of 'Community Schools', in which the community is largely responsible for the governance and the day to day operations of the school (Watt 2003). School Boards are elected by the community and in turn select teachers from the local population to provide bilingual education to highland children (Thomas 2002). This arrangement can be seen as promotion of indigenous cultures and as granting group-differentiated rights to indigenous groups in the form of some level of self-government<sup>47</sup>.

Another initiative aiming at specific indigenous rights has to do with land rights. Led by the Ministry of Planning, a national task force was established in 2004 which is working towards the registration of indigenous land rights. This was made possible by the Land Law of 2001 which allows indigenous groups to gain communal titles to their land. Various ministries are represented on this task force which works towards communal land titles for hill tribes and a consultation forum has been set up to allow for the involvement of indigenous peoples and civil society. The interpretation of the Land Laws' chapter on indigenous communal land is still unclear and requires a new Sub-Decree for its implementation. Accordingly, no communal title has yet been granted. However, this development not only shows that special considerations are given to indigenous peoples. If established, a communal land title for indigenous groups – in contrast to individual titles for members of the mainstream society – would constitute a group-specific right which is granted exclusively to members of indigenous groups based on cultural membership. These developments in Cambodia are highly consistent with Kymlicka's theory.

To sum up, the Cambodian state is nation-building and uses various tools to promote the majority Khmer culture and language, such as language policy, education policy, and citizenship policy. Other policies directly and indirectly promote indigenous peoples' integration into the majority nation, such as the encouragement of settlement of indigenous homelands, the implementation of economic development projects in the northeast, the promotion of tourism to the area, the introduction of

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<sup>47</sup> However, this is not the only plausible way of looking at this initiative. One feature of this system is particularly worth mentioning: Bilingual education is provided for highland peoples' children over three years with increasing proportions of Khmer language: 20% in the first year, 40 % in the second year, 70% in the third year, and 100% in the fourth year. Children are expected to move into mainstream schools in year four (Watt 2003: 91). During interviews, officials in the provincial department of education pointed out that this system is designed to respect and promote indigenous languages. However, the increasing proportion of Khmer language over only three years suggests that this arrangement serves linguistic integration rather than the promotion or perpetuation of indigenous culture. In Kymlicka's terms, such an arrangement constitutes polyethnic rights rather than self-government rights and in effect promotes majority nation-building rather than minority nation-building.

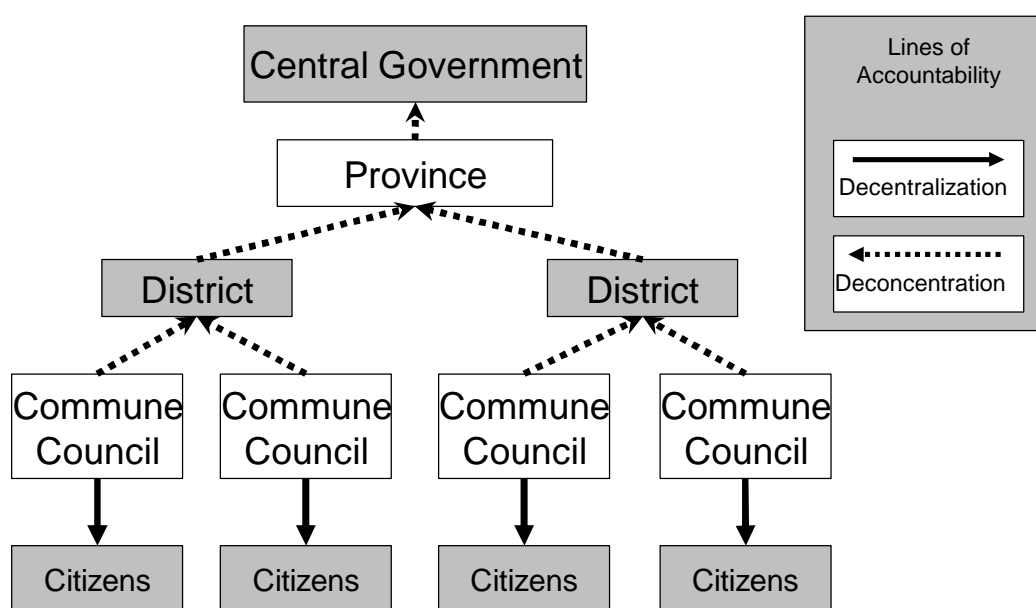
lowland systems of farming and the aversion to sharing public space with indigenous cultures. In the absence of measures designed to protect highlanders against unjust nation-building, the effect of these policies is nation-destroying, by undermining the perpetuation of indigenous peoples' distinct cultures, languages, and ways of life. This case will be strengthened during the following chapters.

However, due to the weakness and low capacity of the Cambodian nation-state, nation-building is not very effective. The government does not reach its citizens and in many instances fails to meet the basic needs of both members of the majority and various minority cultures (UNDP 2004b). There is no consistent policy towards indigenous peoples and no coordination among various organizations in charge of indigenous issues. In effect, this situation leads to a rather benign approach towards indigenous peoples and provides these groups with considerable cultural space. But the approach towards these groups is more than just benign. In line with Kymlicka's theory, various group-specific measures were initiated, arguably precisely to provide protection against unjust nation-building. These initiatives include the establishment of the IMC and drafting of the 'General Policy for Highland Peoples Development', the inclusion of culturally tailored curricula in the framework of the EFA program, the establishment of bilingual education in selected schools, a provision for communal indigenous title in the 2001 Land Law and the creation of a national task force to establish communal indigenous land titles.

As was discussed in the previous sections, Kymlicka's theory suggests stronger provisions to protect indigenous peoples against unjust nation-building and to enable them to maintain their existence as distinct societies. Most notably, these rights include self-government and special representation. The following chapters will assess the extent to which this is plausible in the case of Cambodia. Since Cambodia is a unitary state, federalism is not an option for the accommodation of such provisions. Therefore, the following analysis focuses on the decentralization program that is currently being implemented by the Royal Government of Cambodia and assesses its relationship to indigenous rights in the light of Kymlicka's theory. The analysis will include the results of empirical research carried out in three northeastern provinces in Cambodia. The objective of this discussion is threefold: First, it assesses the situation of various indigenous peoples within the framework of decentralization. Second, it explores how the decentralization process can help to accommodate the needs and fair demands of indigenous groups. Third, it reflects on the validity of Kymlicka's theory with regard to indigenous peoples and decentralization and explores ways to adapt this theory to the specific situation in Cambodia.

## 6. Decentralization: Taking Nation-Building to the Local Level

Decentralization in Cambodia is a key area of administrative reform and a fairly recent project. It creates an additional level of democratically elected government through the transfer of power to popularly elected Commune Councils. The Royal Government's decentralization program is accompanied by a deconcentration of powers and functions to the provincial and district levels of government. Decentralization is associated with downward accountability of the Commune Councils to the citizens who elect them. In contrast, deconcentration implies upward accountability of the Commune Councils to the central government. Accordingly, the roles of the Council are twofold: the first set of roles is associated with local affairs, while the second set of the Council's roles involves the performance of agency functions for the central government. The following illustration shows the position and accountability of Commune Councils relative to citizens and higher levels of government.



**Illustration 7: Decentralization in Cambodia, cp. Ayres 2001: 5**

Decentralization represents a sharp break with the political practices of Cambodia's past. Communes were established by Royal Decree in 1908 and since then served various regimes to achieve central control of the local level of administration. After 1943, commune leaders and their deputies were elected by the provincial governor with the approval of the French resident. Communal administration was interrupted during the Lon Nol period and abolished under the Khmer Rouge (Ayres 2001: 52). The system of commune administration was reestablished under the successor regime, Peoples Republic of Kampuchea (PRK), with Commune Chiefs appointed by provincial governors again. This system remained in place until recently. Commune

authorities were used in large part as an instrument for political control and to mobilize forced labor and soldiers. Accordingly, people in Cambodia tended to associate communes with state control and coercion (Roome 1998: 15).

The Royal Government's decentralization program – “Seila” – was established in 1996 with the aim to reduce poverty through improved local governance. Seila started experimenting with decentralized and deconcentrated planning in a few pilot communes and expanded gradually over the years. By 2001, the adoption of the Law on Commune Councils and the Law on Election of Commune Councils created 1.621 decentralized Commune Councils and provided for their election. Local governance was established through Cambodia's first democratic Commune Council election in February 2002. Decentralization in Cambodia changes the governmental environment dramatically and involves a number of major challenges<sup>48</sup>. The following section will highlight those aspects of decentralization which bear directly on the question at hand, that is, the accommodation of indigenous peoples. It should be kept in mind that, since Cambodia is a unitary state, decentralization is the only way to provide indigenous peoples' with self-government rights and for those groups to democratically determine the course of their own development.

Generally, the legal and policy framework governing decentralization is silent on questions related to the accommodation of cultural diversity. However, that does not mean it is culturally neutral. The absence of provisions regarding indigenous languages and the fact that Khmer is the only official language in Cambodia imply that Commune Councils everywhere in the country operate in the majority language. Explicitly, the Law on Administration of Communes determines in its Article 14 that the only persons who qualify to be elected into the Commune Council are those who are “able to read and write Khmer script”. Moreover, the laws making up the legal and policy framework of decentralization extend the ethnically exclusive concept of Cambodian citizenship to the local level of government. The Article in the Law on Administration of Communes quoted above determines that only “Khmer citizens” who have “Khmer nationality by birth” can be elected into the Commune Council. The Law on Elections of the Commune Councils contains a similar provision in its Article 94. The same law determines that “Khmer nationality” is among the requirements citizens have to meet in order to register as voters for the Commune Council election (Article 19). At the same time, there are no provisions which would give recognition to indigenous peoples and their different languages.

Quite clearly, the decentralization framework as laid out in those laws can be said to promote a national culture and language and a sense of membership in common

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<sup>48</sup> For a critical overview, see Van Acker 2002.

institutions operating in that language. The promotion of citizen's participation in local government is among the official objectives of decentralization<sup>49</sup>. And the laws governing decentralization determine clearly that these institutions are to operate in Khmer language and that participation in those institutions is limited to Khmer citizens. Although decentralization involves communal institutions, those institutions are part of a national system, tailored toward the needs of the national majority, and operating in a national language. Particularly problematic with regard to the accommodation of indigenous peoples is that Councilors are required to read and write Khmer. Given the low level of literacy in Cambodia, this is challenging for many of Cambodia's citizens. However, this provision creates a considerable disadvantage specifically for members of indigenous peoples, because Khmer is not their first language and writing as well as reading is alien to their traditionally oral cultures.

Another aspect of decentralization relevant to the perpetuation of indigenous cultures is whether or not the drawing of commune boundaries creates units with majorities of highlanders. At this point, it is not possible to give a comprehensive answer because no statistics about the ethnic composition of communes are available. Accordingly, it is not possible to determine how these boundaries relate to the homelands of various indigenous groups. However, what is known is that the areas of jurisdiction of the current Commune Councils were fixed by previous regimes primarily with the intention of policing and controlling the population. It appears that, at best, boundaries were drawn without recognition of the population's cultural identity. Based on the empirical research it seems plausible to assume the following for the time being: Most communes in the northeastern provinces of Monduliri and Rattanakiri provinces appear to contain majorities of highlanders, although not necessarily members of the same group. In contrast, many communes with minorities of highlanders were found in provinces with minorities of indigenous peoples such as Kratie and Stung Treng. As was mentioned earlier, many of Cambodia's twenty-four provinces contain indigenous populations and it is plausible to expect that in many instances these populations form minorities in the constituencies of the respective Commune Councils. Accordingly, the drawing of commune boundaries appears to have divided previously self-governing indigenous societies into minorities in separate Commune Councils. And it seems reasonable to expect that the separation of indigenous peoples into different administrative units undermines these group's institutions and cultures. The current decentralization program subsequently empowers

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<sup>49</sup> According to the Royal Government's Poverty Reduction Strategy, decentralization in Cambodia has three principal objectives:

- Promotion of a pluralist participatory democracy at the local level
- Promotion of a culture and practice of participatory development
- Contribution to poverty reduction (NPRS 2002: 108).

these administrative units and thus is likely to directly contribute to the destruction of indigenous nations and to the marginalization of hill tribe's culture. Moreover, decentralization contributes to the trend of increasing in-migration in two important respects: First, it establishes institutions in the highlands which operate in Khmer language and are tailored towards the needs of the majority society, allowing settlers to easily participate and advance their interests. Second, infrastructure projects carried out by and funded through Commune Councils make it easier and less costly and risky for settlers to move to areas which were regarded 'wilderness' before and to take advantage of significant economic opportunities.

Taken together, a good case can be made that decentralization *is* nation-building, in that it promotes a particular national identity based on participation in common institutions of the Khmer societal culture operating in Khmer language. In the absence of provisions that recognize and protect indigenous cultures, decentralization is nation-*destroying* as well. Integrating members of indigenous peoples into institutions of the mainstream society operating in Khmer will lead to the marginalization of highlanders' distinct languages, institutions, and ways of life. The division of indigenous societies into minority populations of separate communes is likely to reinforce this development. The following chapter presents the results of empirical research carried out to assess the situation of indigenous peoples within the framework of decentralization.

#### **4. *Empirical Research: Indigenous Peoples and Decentralization***

##### **1. Research Design and Methodology**

This research utilized primarily semi-structured interviews with members of various indigenous communities as well as members of Commune Councils. Additional interviews were conducted with staff of provincial and district authorities. Interviews were based on a number of guiding questions designed to explore the situations and aspirations of indigenous groups and the relationships between indigenous peoples and decentralization<sup>50</sup>. Those questions aimed at assessing the role of cultural membership, the meaning of self-government, pattern of representation, language use, changes in indigenous cultures, and the judgment thereof. Other sets of questions addressed dimensions of the relationship between hill tribes and decentralization, such as participation in decentralized institutions, dissemination of information, ability to participate meaningfully in Khmer, attitudes towards, and understanding of, the functions of the Commune Council, interethnic relationships, relationships between

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<sup>50</sup> The guiding questions can be found in the Appendix. Where not indicated otherwise, the reported information was gained through the author's interviews and observations.

traditional indigenous institutions and newly empowered decentralized institutions, access to and costs of services and participation and the like<sup>51</sup>.

Interviews were conducted in the provinces of Kratie, Rattanakiri, and Stung Treng from July to September 2003. Most interviewees were members of the Jorai, Kraveth, Kreung, Kuy, Lun, Phnong, and Stieng groups. The selection of interviewees was done using criteria associated with the ethnic composition of the constituency. Particular attention was paid to assess differences between communes with majorities of highlanders and communes with minorities of highlanders. Since reliable data about the ethnic identity of citizens was not available, the selection of communes and villages was done in consultation with provincial government staff. In most cases the interviewees were either all members of the same indigenous village or of the same Commune Council. Interviews in indigenous communities were conducted in different settings and usually involved groups of 10 up to even about 80 participants. It should be mentioned that indigenous villagers were careful not to state anything that could be perceived as criticism of the government. This reluctance was reinforced by the unavoidable presence of government officials in some interviews. In order to gain meaningful contributions, interviewees were ensured anonymity and interviews were conducted without voice recording. For the same reasons, the particular communes and villages in which interviews took place will not be identified<sup>52</sup>.

## 2. Hill Tribes: Meaningful Choices through Societal Cultures

To recall ideas introduced in the first part, Kymlicka's theory classifies indigenous peoples as national minorities. As such, they form ongoing societal cultures characterized by a common language and shared institutions. Those territorially concentrated cultures "provide its members with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life" (Kymlicka 1995a: 76). This definition is difficult to make operational. However, it appears to be particularly applicable with regard to indigenous peoples, because what constitutes meaningful ways of life for their members appears to be considerably different from the ways of life of the majority culture. The following section aims to show that highlanders do form ongoing and genuinely distinct societal cultures in this sense, embodied in complete sets of institutions as well as distinct

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<sup>51</sup> Particularly interesting information was gained by asking interviewees to rank different cultural groups in terms of its member's level of access to health, education and participation, level of poverty, cost and level participation, level of understanding of commune affairs and the like. It lies in the nature of the project that the linguistic circumstances pose a special challenge to the conduct of meaningful interviews. Discussions relied on double translation and usually took place in Khmer, running the risk of failing the linguistic problems which are the very subject of this research project. However, interviews were conducted in a way that allowed for translation and clarification. The extent and intensity of participation suggests that interviews yielded meaningful and largely valid results.

<sup>52</sup> Extensive transcripts of all interviews are with the author and will be made available on request.

languages and social practices which make meaningful options available to members. Obviously, indigenous cultures are not static and it is difficult to generalize about them, even more so because a number of different cultures make up Cambodia's indigenous population and because those cultures have undergone dramatic changes in recent decades. Yet the following paragraphs will show that the practices and institutions that make up indigenous cultures cover the full range of human activities and make ways of life meaningful to their members which are quite different from the ways of life of Cambodia's majority nation. Moreover, this section gives an idea of the wealth of indigenous cultures and indicates the significance the associated languages, practices, institutions, and histories have for individual members. In Cambodia, hill tribes' social organization is characterized by a high level of decentralization with the village as its basic unit. Traditionally, there is no formal organization of communities beyond the village level. Indeed it might be this aspect of indigenous cultures that contributes most to the perception of highland peoples as ethnic groups rather than nations or national minorities. After all, various immigrant groups also live concentrated in communities, where their members maintain aspects of their cultural particularity. The following section will demonstrate that indigenous groups, in contrast, make up entirely distinct societies.

Previous sections have already supported the case that the history of various indigenous groups is quite different from the history of Cambodia's cultural majority. Moreover, various hill tribes speak languages which differ greatly from Cambodia's official and majority language, Khmer. Members of indigenous nations continue to teach their native tongue as the first language to their children and community affairs are almost always discussed in the vernacular. Most of these groups' members do not speak Khmer. Since there is no written form of indigenous languages, the group's history is not manifested in written texts but in myths, legends, songs, and stories, which are preserved and handed down primarily by group elders. Despite assumptions to the contrary, indigenous languages are neither simple nor primitive. They hold a wealth of expressions, mirroring a rich indigenous knowledge which is bound to their own environment (White 1996: 364). Thus, indigenous languages reflect those groups' ways of life, which are significantly different from the Cambodian mainstream society and in fact, from any modern culture. Highlanders not only speak different languages but also share comprehensive sets of social and political institutions which cannot be found in the majority society. Those institutions vary significantly from group to group. Most importantly, village elders represent the center of traditional authority to which group members are expected to conform. There is a great variety of processes by which elders are selected. Generally, procedures emphasize the consent of group



members and the wisdom and virtue of the candidate. In many interviews, these procedures were defended in terms of democracy and fairness. Elders are instrumental in decision-making and conflict resolution, not so much as decision makers but as moderators of the deliberation and negotiation processes by which decisions emerge. Those processes seem to ensure high levels of accountability. Other functions of elders include the conduct of religious affairs and the preservation and perpetuation of the group's oral history and collective identity, which manifests itself in stories and myths. Hill tribe societies are regulated by complex systems of customary law which governs political, economic, and religious affairs and ensures a high level of social cohesion and communal unity. Sets of traditional rules govern land use, the relationship with the natural environment, and various aspects of social behavior such as sexual conduct. Generally, various rules are associated with the spirits of the forest and the spirits of ancestors. Economic and agricultural systems are also fundamentally different from those of the mainstream society. Most highland groups practice rotational agriculture, which involves moving the village to another place every few years. In contrast to lowland Khmer cultivation of paddy rice, hill tribe's subsistence systems are dominated by the production of upland dry rice. In addition, villagers live on fruits and vegetables, fish, small animals and other forest products. Various communal systems of mutual assistance serve to provide social security, frequently involving the exchange of labor or resources or the maintenance of collective stores or fields (Sugiarti 1997: 117).

In contrast to Cambodia's cultural majority, most highland groups follow animist religions which involve the spirits of ancestors and of the particular natural surroundings. Indeed, much of what makes up indigenous culture is closely tied to those religious beliefs, including the relationship to the environment, social behavior and economic activity. "This spiritual sphere," notes Pen, "which acts as a reference and a cocoon around the living place, must not be perceived as mere superstitious beliefs, like the ones found in a Khmer village, but as a pattern of sensitivity providing a deep meaning to the life of the people" (Pen 2002: 18). The highlander's sense of membership is closely associated with the relationship shared with others to the spirits of the home village (White 1996: 350). Various indigenous nations maintain special relationships with their natural environment which can be described as citizenship with their land. When highlanders refer to their identity in Khmer language they do not use the term Khmer Loeu. They refer to the collectivity of indigenous groups mostly by using the Khmer term 'chun-cheat', which means nation or nationality, or 'chun-cheat pheak-tech', which – consistent with the typology used in this paper – means 'national minority'. Interestingly, many Khmers are also familiar with these terms. Khmers are

considered a separate ethnic group. While highlanders are well aware of their Cambodian citizenship, this is defined through their membership in their particular ethnic group<sup>53</sup>.

Taken together, the common cultures shared by the various hill tribes encompass a wide range of important aspects of life with great significance to individual members and their well-being. In turn, persons growing up in one of those groups acquire its particular culture, and their identity is determined to a considerable degree by this membership. Membership in various highland nations is of high social relevance and serves as the primary focus of identification, in turn shaping the expectations and perceptions of others. Consequently, it is reasonable to assume a strong connection between the prosperity of those groups and the well-being of individual members. This argument is further supported by the fact that various hill tribes resisted enormous pressures towards their integration and rebuilt their societies after decades of assimilationist policies of various regimes. This demonstrates that highlanders' cultures are pervasive, and members are determined and capable of sustaining their cultures as distinct societies. Highland peoples do not simply form sub-groups of Cambodia's Khmer society, but constitute largely autonomous societies, including distinct histories and languages, political, social, and economic systems, religious practices, and customary law. Accordingly, these societal cultures make ways of life meaningful to their members which are different – on occasion radically – from those of the majority culture. Surely, indigenous cultures have changed and developed over time and particularly dramatic changes have taken place over the last decades. However, these changes should not be misunderstood as integration into the mainstream society. Rather, they reflect the incorporation of elements of the outside world into various indigenous cultures. Even where indigenous groups incorporate practices of Khmer society, it is still their own culture and language which attaches meaning to those practices.

### **3. The Value of Cultural Membership: Citizenship with the Land**

The importance of preserving indigenous culture was stressed by members of virtually every indigenous community visited. Maintaining indigenous culture, religion, and language and their perpetuation in the next generation is seen as a matter

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<sup>53</sup> As White quotes a member of the Brou indigenous group as saying “Khmer-Loeu was the name given to us in the past, this is not our real name. We are all people of Kampuchea ... but I am Brou” (White 1996: 359). This group-differentiated understanding of citizenship is further exemplified in the cases of groups with members living on both sides of state-borders, such as the Jorai and the Phnong. Those groups refer to members on the Cambodian side of the border as “Jorai-Kampuchea” and “Phnong-Kampuchea” and to members on the other side of the border as “Jorai-Vietnam” and “Phnong-Vietnam” (White 1996: 359).

of great concern<sup>54</sup>. Yet there is uncertainty about how culture can be preserved. And it is a subject of regret that substantial elements of what previously constituted indigenous culture are felt to be lost. The most obvious dimensions of change concern aspects of material culture. Modern dress is worn rather than traditional clothing, young people dance to pop music rather than traditional dances, and wooden 'Khmer' houses are being built rather than bamboo houses in traditional styles. Those changes on the surface reflect less obvious dimensions of recent and radical change, most prominently the erosion of the 'spirit of togetherness' and 'sharing happiness'. Indigenous cultures are particularly vulnerable to being lost because of the absence of a written language. In some communities, the cultural memory manifested in songs, myths, and stories is very close to being lost. In one Stieng community, for instance, there was said to be only one old and confused person left in the village who still knew the old songs and stories.

The assessment of recent changes is complex. In general, people accept and frequently embrace changes associated with modernization. There appears to be a different perception depending on the age of the person in question. Typically, the older members of the community are more concerned about tradition and the preservation and perpetuation of culture. Young people tend to care less for tradition, embrace changes associated with modernization, and, in some instances, are not averse to adapting to specifically Khmer ways of live. On many occasions the difference between the modernization on one hand and the loss of culture on the other hand was stressed. Many interviewees assumed that it is not necessary to lose the cultural identity in the process of modernization. In a number of cases, members of indigenous groups stated that they are the agents of their culture's change. In other instances, mostly in areas with minorities of indigenous peoples, villagers stated that they were changing their lifestyles following government policies. On occasion, what was felt to be current government policy was directly linked to the assimilation programs of earlier regimes. On occasion, interviewees stated they were told to change their primitive ways.

Members of various indigenous groups expressed their appreciation for their particular culture. When asked, members of all indigenous groups stated that they were proud to be members of their particular group and valued their membership in it. This sense of pride has various sources, most prominent among them the practice of

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<sup>54</sup> The remarkable exception (not only) in this regard was a community of Kuy people in a commune in Kratie province. Members seem to have integrated almost entirely into Khmer culture and no longer exhibit most of the characteristics that distinguish other groups of highlanders from the Khmer majority. Interviewees in this community did not recall the history of their group. Khmer is the first language learned by children. Most youngsters do not speak Kuy language. Although many people know some Kuy, most villagers prefer to use Khmer. Kuy is said to be used for 'chit chat' only.

solidarity, unity, and honesty. In addition, membership appears to be grounded in a sense of shared history and great achievements and deeds in ancient times<sup>55</sup>. Highlanders were well aware of their Cambodian citizenship. In addition, highlanders appear to maintain a holistic understanding of citizenship, which includes their land and natural environment<sup>56</sup>.

There was no case where members of indigenous peoples considered themselves Khmer. Khmer are considered a very different ethnic group. When asked, interviews frequently stated “Khmer are Khmer and Stieng are Stieng” or “Phnong is Phnong”. Intermarriages between Khmers and members of indigenous groups, as well as between members of different indigenous groups, are very rare. Indigenous communities are familiar with the term ‘Khmer Loeu’, but members use the term ‘chun-cheat’ to refer to themselves. While villagers conceded that they must ‘follow Khmer’, they considered themselves traditional inhabitants of ‘Kampuchea’ along with the Khmers. It is interesting to note that the importance of language as a marker of cultural identity is increasing. While members of different groups could distinguish each other by their traditional costumes and hair styles, those physical markers do not function any more due to the proliferation of modern dress in recent years. At this point, language seems to be the primary means by which members of groups recognize each other and distinguish insiders and outsiders.

Observation and interviews indicate that members of various indigenous groups try to hide their ethnic identity<sup>57</sup>. This was the case particularly in areas where indigenous peoples form a minority of the population. But even in areas with a majority of highlanders, there were many indications that members of indigenous groups felt ashamed of their cultural membership when confronted with outsiders. For outsiders, it is frequently impossible to recognize individuals as members of one or the other ethnic group. Yet this identity appears to be persistent and of high social relevance. Given the importance of cultural membership, it seems to indicate serious obstacles to the individual’s self respect and well-being that highlanders feel induced to hide their identity.

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<sup>55</sup>Interestingly, on various occasions it was stressed by the villagers that members of the respective group had contributed to the creation of the famous Angkor Wat temple complex.

<sup>56</sup>The concept of ‘landed citizenship’ is borrowed from Borrows 2000.

<sup>57</sup>Various studies note the same, such as White 1996: “Kuy men working together as soldiers in the local army base described how they were mocked by Khmer soldiers for using their own language and mothers described how their children were embarrassed to speak Kuy at home as they were afraid their Khmer friends would laugh at them. In such situations there is an intense pressure to suppress cultural identity to avoid conflict and shame, which is what in many senses these Kuy communities were found to do” (365).

#### 4. Traditional and Formal Institutions

As was pointed out earlier, many indigenous groups possess various strong institutions. The most obvious examples are elders. Where they exist as an institution, elders are the center of traditional authority within the group and serve many important social, political and spiritual functions. Elders are said to have lost some authority in many communities over the last decades. However, they still represent an effective institution, particularly regarding conflict resolution. When conflicts between individuals arise, people turn to elders first. Strong leadership and respect for decisions is characteristic of the way elders govern the group. Despite this leadership style, decision making and conflict resolution emphasize consensus and involve mediation and negotiation. Traditional selection procedures and leadership style were justified and defended explicitly in terms of democracy and fairness. In Kymlicka's words, there were only rare indications that groups would demand internal restrictions. In line with his theory, nothing suggested that group leaders would consider restricting the liberties of group members in order to maintain some sort of cultural purity. An important exception in this regard could be gender equality<sup>58</sup>.

There are a variety of levels at which elders are involved in Council affairs. It is a common attitude among many Councilors that elders do not have a role to play in interacting with the Council. However, there were a number of examples where elders were explicitly invited and encouraged to be involved in Council concerns. There does not generally appear to be the perception of conflict between traditional institutions and state institutions. Commune affairs were said to be of formal and legal nature while traditional institutions and leadership were associated with virtue, tradition and wisdom.

In most communes, indigenous and non-indigenous interviews indicated that customary law is still effective in regulating the group's affairs. While Khmers tend to refer to state law, highlanders tend to turn to customary law and practice. Accordingly, wrong-doers in indigenous communities are held accountable according to traditional requirements. Interviewees could not remember a situation in which Cambodian law and customary law were in conflict. Councilors stated that in the case of criminal acts, the authorities would intervene and hold anyone accountable according to formal law. But nobody could recall a case in which a serious crime was committed by a member of a hill tribe. Conflicts were said to be rare and mostly solved by elders.

Respect for the Commune Council was said to be as high as respect for traditional institutions. The Council's authority appears to be widely accepted and it is well

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<sup>58</sup> Women rarely serve as elders and tend to have fewer rights. Unfortunately, matters of gender equality were not subject to the initial guiding questions. For more information see Berg and Phalith 2000, IMC 1996: 19, Sugiarti 1997: 26.

understood that this institution is backed by law. In most cases, interviewees stated that there are no conflicts between elders, Village Chiefs<sup>59</sup> and the Council. The mode of interaction was said to be cooperative and characterized by a functioning division of labor. It is very difficult to verify such statements, since villagers are generally reluctant to challenge government decisions or institutions. This reluctance was reinforced through the presence of government officials in some interviews.

Generally, it seems plausible that new structures of participation and decision-making weaken existing participatory structures and institutions. In contrast to statements during this research project, case studies offer a more complex picture. In the observed communities, the authority of elders had given way to the emergence of younger Khmer-literate leaders. In one case, formal and traditional leaders collaborated and village elders were included in decision making, which led to high levels of accountability. In another case, elders were excluded from deliberations and as a result, leaders did not consult widely with the people. The study concludes that cooperation between various institutions allows for capable local governance structures necessary to resist land sales and to adapt to the rapidly changing environment (McAndrew et al. 2000). This and other studies suggest that formal institutions undermine indigenous cultures where they do not take into account, and adapt to, local institutions (Hasselskog and Chanthou 2000).

##### **5. Disadvantages in Service Provision and Public Institutions**

In virtually every commune visited, members of indigenous groups were considered the poorest constituents. Regardless of the ethnic composition of the constituency, the ranking of groups in terms of poverty in every case indicated that members of indigenous groups were the neediest constituents. This perception was shared by members of indigenous and non-indigenous groups. At the same time, indigenous communities exhibit lower levels of intra-communal inequality compared to other communities.

The level of and access to education was ranked lowest for members of indigenous groups in virtually all communes visited. Here again, this judgment was shared by all constituents regardless of their ethnic identity. In most instances, this is simply because there is no school in areas inhabited by highlanders. In those cases, the community was typically trying to establish a school but frequently did not reach the numbers of students or the financial contributions necessary to mobilize funding. In rarer cases, the

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<sup>59</sup> The Commune Councils are required to select Village Chiefs for each village in the commune. Previously, Village Chiefs were appointed by central authorities. The current laws do not specify the process by which Village Chiefs are determined but charges the Ministry of the Interior to issue procedures for the election of Village Chiefs. This has not happened yet and current Village Chiefs are still appointees of central authorities.

physical infrastructure was in place but teachers were not available. Generally, teachers are sent within the framework of the countrywide educational system. It is very difficult to find teachers willing to serve in the remote areas of the country. Where teachers are available, they frequently come from other provinces and do not know the local language, culture, or circumstances. Those teachers' effectiveness as well as their motivation tends to be low. Interestingly, there were a small number of communes where members of the local indigenous group were trained during the times of Sihanouk and Pol Pot and now work in the government education system. As a result, the availability of education is significantly better in those areas. In addition, it appears that these teachers represent an important link between the state system and local communities.

The gap in education is closely linked to poverty: poor parents cannot afford not to have their children working in the field. After all, work in the field provides short term tangible benefits, while the advantages of education are long term and involve more uncertainty. Poverty makes it a rational choice for parents not to send children to school. As long as members of indigenous groups are poorer than members of other groups, this mechanism will affect their opportunities and choices more severely. On the other hand, opportunities increasingly depend on the level of formal education, particularly on literacy in Khmer. Education is also linked to political representation, and this relationship was stressed during several interviews. Villagers pointed out that members of indigenous groups have difficulties interacting with the government due to their low level of education and knowledge of the Khmer language. They stressed that the provision of better schooling would allow the election of better qualified leaders who represent more successfully the group's interests and manage local development more effectively. Education is linked to participation as well. In particular, villagers who are illiterate in Khmer tend to have difficulties understanding Council affairs and tend to feel incapable of participating in discussions.

Where education is available, it is conducted entirely in Khmer, even in those rare cases where members of indigenous groups are teachers in local schools. The curriculum is designed nationally without the involvement of indigenous communities<sup>60</sup>. Accordingly, it does not give recognition to indigenous languages, cultures or knowledge and does not consider the different cultural, economic, and social circumstances of indigenous groups. Not surprisingly, there are strong indications that formal education does not respond satisfactorily to the specific educational needs of highlanders. Moreover, interviews suggest that children of

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<sup>60</sup> The only exception in this research was a number of schools in Rattanakiri that form the pilot projects for the governments' EFA program mentioned earlier.

indigenous groups are afraid to go to school, particularly in areas where they form a minority in class.

The priority of having education available was stressed more often by members of indigenous groups than by members of other ethnic groups. Discussions frequently revolved around the following dilemma: members of various indigenous groups pointed out that they want their children to understand the local language and history. At the same time, they are well aware that children's opportunities increasingly depend on literacy in Khmer. In many instances, indigenous interviewees stressed the benefits associated with a better command of Khmer language. Facing this dilemma, many parents ask for education in Khmer, while regretting the progressive loss of culture<sup>61</sup>.

The emerging pattern with respect to access to health services parallels that in the field of education. The provision of health services was among the top priorities in most indigenous communities. At the same time, access for those groups' members is most limited due to various and interdependent causes, which will be discussed later in this section. To varying degrees, indigenous villagers expressed confidence in modern medicine, while traditional medicine continues to be practiced. It was pointed out that the worst and most pervasive suffering in the community stems from the absence of health services. Such statements were occasionally accompanied by the expression of feelings of neglect. In many cases, members of indigenous communities do not qualify in terms of the required numbers of users to get support for the establishment of health centers. The provision of health services takes place in Khmer, is tailored towards the needs of the Khmer population, and frequently is at odds with traditional medicine and belief systems. Accordingly, where those services are available they might be of lower value for highland peoples.

In general, the following turns out to be the obstacle to equal access to public services: Whereas the non-indigenous population tends to live territorially concentrated in or close to district or provincial towns, members of indigenous groups tend to live dispersed in areas where public services or transportation are not available. Accessing those services is associated with unrealistic distances and costs. Regulations for building schools, health centers and the like require certain numbers of users which frequently cannot be reached in thinly populated areas inhabited by highlanders. Accordingly, various public services and facilities are much more easily accessible for the predominantly Khmer inhabitants of district towns, while similar services are not available to members of indigenous groups. As one Jorai elder noted: "Khmer stay close to town and the government thinks everybody does". Even in areas which are

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<sup>61</sup> For a general discussion of challenges involved in indigenous education, see Larsen 2003.



considered traditional homelands of indigenous peoples, services tend to be more easily available to recent in-migrants than to the traditional inhabitants.

In a number of instances, indigenous groups live in unstable settlements, moving after a few years to another place. The fact that indigenous groups live widely dispersed and occasionally move their villages is mostly culturally determined and associated with traditional agricultural practice and religious beliefs. Yet unstable settlement patterns pose a special challenge to the provision of services. For example, constructing a modern school building in remote areas in order to make education available causes significant costs. Yet when the community moves to a different place the benefit of this investment might diminish. Therefore, providing services the way they are provided in other parts of the country is associated with uncertainty and risk. This uncertainty was stressed by various government officials as among the most significant obstacles to development projects in indigenous communities. A group might even leave the jurisdiction of one Commune Council and settle in another commune. Interviews suggest that there is a tendency on the part of the government to neglect development projects in areas inhabited by highlanders due to this uncertainty, and that this tendency is mirrored in the behavior of NGOs<sup>62</sup>. Avoiding commitments to indigenous communities seems to be particularly a problem at the District Integration Workshop. This workshop is an important event within the framework of decentralization, on the occasion of which communities present their development priorities and negotiate contributions from government agencies and NGOs. In effect, this mechanism disadvantages indigenous communities and puts them under considerable pressure to change their ways of life.

Taken together, members of indigenous groups have very limited access to public services and institutions compared to Khmer constituents of the same communes<sup>63</sup>. To a large extent, this is directly related to their cultural membership. However, an important point of this paper's argumentation is that members of indigenous groups are disadvantaged even if they do have equal access to services provided in Khmer, and to institutions operating in this language. Consider the case of education. Education is not

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<sup>62</sup> For example, if a potential donor considers financing a vaccination program, it is not clear whether members of indigenous groups will be available for the second shot. Without culturally sensitive ways of implementing such programs, it is not clear whether they will be available for even the first one. Similarly, if an NGO wants to contribute to a road they will be careful about doing so for indigenous groups. If the community decides to move the benefit of the road will diminish.

<sup>63</sup> In line with these findings, a recent report by the UNICEF's Innocenti Research Center notes that the infant mortality rate in Rattanakiri is more than twice as high in the rest of the country (UNICEF 2003: pp. 9). According to the same report, only 24 percent of the children in north-eastern Cambodia were immunized against polio compared to 65 percent in the rest of the country. Regarding education, the report notes that "in Cambodia, indigenous children in the highlands and northern plains miss out on education due to a lack of schools, a shortage of qualified teachers and because the children are required to help with work on farms or around the home" (16).

a culturally neutral undertaking. What matters is not only the level of its availability but its content and the language in which it is provided. In Cambodia, education is conducted entirely in Khmer. It is designed nationally without the involvement of indigenous communities and does not give recognition to indigenous languages, cultures or knowledge. The more trivial consequence is that the content of education is not as relevant for members of indigenous groups and therefore of lower value. In addition, the playing field on which students with different languages compete is not even. More seriously still, by relying on a culturally exclusive knowledge base, formal education conveys to indigenous children a sense of cultural or intellectual inferiority and is likely to undermine the self-respect of individual members of indigenous groups (Battiste 2002: 33-44). Most seriously, through the provision of education in Khmer, the government gives crucial support to the survival of the Khmer culture, by guaranteeing that the associated language, history, and ways of life are passed on to the next generation. In contrast, no such support is being given to indigenous cultures. Not providing education in local language contributes to the marginalization of indigenous cultures.

#### **6. Linguistic Exclusion**

In virtually all communes visited, the local, indigenous language is the first language children learn at home and is, in most cases, the only language used for interaction in the village and between members of the same linguistic groups. In contrast, Khmer is commonly used in Commune Councils and exclusively so where there is only a minority of indigenous peoples in the constituency. Even in communes with a strong majority of highlanders, the Council is likely to operate entirely in Khmer. During this research, there were only two Councils where the local language was used in deliberations rather than Khmer. The constituencies of both Councils consisted almost exclusively of members of the same indigenous group. Yet in another commune with a constituency almost entirely consisting of highlanders, the Council was operating in Khmer. Where there is a relatively small minority of one or more indigenous groups in the constituency, Khmer is likely to be used not only for discussions in the Council but also for the interaction between the Council and the indigenous constituency and for the dissemination of information on the village level.

In many communities it was stressed that the local language should be used for interaction between the Commune Council and the indigenous constituency. In some cases, interviewees suggested that the understanding of Council affairs depends on whether or not matters are discussed in local language. Yet in other cases, interviewees indicated that a number of constituents understood enough Khmer to participate in commune affairs and to translate for those who do not understand. In a number of

communities, the importance of translation was pointed out, and it was complained that the government does not provide for translation. While members of various indigenous groups make considerable efforts to learn Khmer, only very few Khmer constituents or government officials learn the local language<sup>64</sup>. The requirement for counselors to speak and write Khmer was perceived as a disadvantage to indigenous constituencies in a number of cases<sup>65</sup>. There is a tendency among indigenous villagers not to admit language problems in order not to be considered stupid. Communication with government official above the Council takes place exclusively in Khmer and is regarded as very difficult by most indigenous interviewees.

### **7. Patterns of Participation: Well Equipped for Local Democracy**

Highlander's participation in the Commune Council is generally constrained by the same obstacles that limit their access to public services and facilities: The Council office is located in town and difficult to reach due to great distances, the absence of infrastructure, and the geographical features of indigenous homelands. Yet in contrast to schools and health centers, highlanders appear to be the most active participants in Commune Councils in many areas. Only in some communities, overwhelming obstacles systematically prevent communities from attending meetings. Councilors in many communes emphasized that members of indigenous groups are not only the most regular and patient participants, but most sincere and honest in their commitment to local development projects. The contrast in terms of participation was frequently striking in Councils with a constituency of different cultural groups. According to a number of Councilors, Khmers tend to participate only for individual gains and without much respect for the Council and its members. In contrast, members of various hill tribes have great respect for the Council, are more communally-minded, and very willing to commit. Those commitments are valid over generations. Members of one Council were particularly explicit about this difference and went to great length to explain it. These Councilors – a majority of them Khmer – pointed out that indigenous communities have a high level of respect for the Council, while “Khmers do not care”. The indigenous constituency had a lower understanding of Council affairs and had to travel a great distance to reach the office. Yet members attended regularly and participated in a very serious way. When leaders of these groups agree to commit to a

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<sup>64</sup> ADB's Participatory Poverty Assessment among indigenous groups notes: “The Phnong along with other ethnic minorities would like to learn Khmer but they would only encourage it if attempts were made by officials to learn their language” (ADB 2001b: 52).

<sup>65</sup> In this regard, the same report quotes a Phnong villager as saying: “Even to communicate with you people we have to use someone who can speak both our languages. It is really difficult to understand one another ... You were probably told that it would be easy to work with us because we listen to everything our leaders tell us, but these leaders have to be really good and understand us as well. Poor leaders cannot last in our community” (ADB 2001b: 52).

project, the entire group will make sure that it is carried out. In contrast, Councilors claimed that the Khmer population understands much better about commune affairs and can easily access the office. Yet they do not care about meetings and “look down on the Council”. Khmers attend meetings only when they expect profit from participation. Although they are not as poor, they are not willing to contribute to development projects. Consequently, the Council has to “beg the poor people”. In this commune, a road was being built to which Khmers were reluctant to contribute. However, once the road was constructed with significant input of indigenous communities, Khmers used it for logging, overloaded their cars and spoiled the road. When Councilors objected, they were ridiculed by Khmer constituents asking “you built the road for driving, didn’t you?” Surely, such examples should not be generalized. However, in many communes, Councilors noted the different mode of participation of indigenous and non-indigenous communities. Interestingly, members of indigenous groups were said to have a higher level of appreciation for different opinions.

#### **8. Attitudes among Government Officials: Integration**

Generally, various government officials on the provincial and district level acknowledge that the situation of indigenous communities is inadequate and that actions should be taken to elevate their living conditions. At the same time, there is uncertainty about how this can be achieved. While attitudes towards indigenous communities do not seem ill-intentioned, they frequently reflect a low level of knowledge of indigenous cultures and a considerable measure of paternalism. For many officials, the adaptation of indigenous peoples to the way of life of the majority is the precondition for alleviating their living conditions. In many instances, the assumption is that providing education will automatically lead indigenous peoples to appreciate and follow the Khmer way of life. The underlying understanding is that the major difference between Khmers and indigenous peoples is that the former are ‘developed’ while the latter are not.

Positions created through the decentralization framework – other than in the elected Council – are rarely occupied by members of hill tribes. There was no case where members of the District/Provincial Facilitation Teams (PFT/DFT) or the Council Clerk were members of a local indigenous group<sup>66</sup>. The procedures for the recruitment of PFT/DFTs vary from province to province. Positions are filled mostly with members of

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<sup>66</sup> In order to facilitate the implementation of decentralization, Provincial and District Facilitation Teams (PFT/DFT) were established recently. The task of these team’s members is mostly to assist Councils with technical advice. In addition, Commune Clerks are assigned to each commune. They are appointed by, and work for, the Ministry of the Interior. The role of the Clerk is to assist the Council. Explicitly, his role is not to give orders to or monitor the activities of the Council.

provincial government departments and it appears to be impossible for highlanders to reach the technical expertise required for this job. At the same time, current members of PFT/DFT and Commune Clerks do not speak and do not appear to learn the local language. Frequently, these officials stressed the difficulties of having to facilitate decentralization without knowledge of the local language. In many instances, they were surprised by the fact that highlanders persist to have a language quite different from Khmer that is impossible for them to understand. A common attitude was that highlander's lacking command of Khmer language is a serious obstacle to the implementation of decentralization policy. None of these officials seemed to feel that it was he or she who needed translation. Generally, they suggested that indigenous peoples should learn Khmer to overcome language related implementation problems.

Commonplace among various government officials, including some Councilors and Council Clerks, were statements like "they must keep what is reasonable and change what is undeveloped". In a number of instances, the Council seems to understand its responsibility precisely as bringing about the changes needed for indigenous communities to 'develop'. Obviously, this is not a culturally neutral affair. Khmer society provides the standard towards which the reasonability of indigenous culture is being judged<sup>67</sup>. For many government officials, traditional dress and houses, playing the gongs, and singing songs are regarded to be the essence of indigenous culture. In contrast, not much consideration is given to indigenous languages and institutions. Many elements of indigenous cultures, such as swidden agriculture and sacrificing, are widely considered uncivilized behavior, superstition or just bad habits. Directly and indirectly, development projects in the framework of decentralization seem to be used as incentives to adapt indigenous communities to the mainstream way of live. Given the high level of poverty among indigenous groups, this puts communities under considerable pressure. A number of indigenous communities expressed their belief that government policy requires them to stop moving, settle along roads and rivers and adapt to majority methods of agriculture.

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<sup>67</sup>In one commune, the constituency as well as the Council is composed entirely of members of the same indigenous group (Kraveth). Yet deliberations among the Councilors take place in Khmer. This is due to the fact that the Council Clerk does not understand Kraveth language. Members of this Council stressed that language does not pose a major problem since the constituency is slowly learning Khmer. The Council stressed that communities in this commune had changed their way of life almost entirely. The constituency has settled and maintains plantations. Members of the Council and the clerk claimed that most people – except for the elderly – are happy to change, almost to the extent that they want to be better Khmers. Members of the Council see their role as assisting to determine what elements of tradition are reasonable to keep and which ones are not.

### 9. Gaps in Representation

Cambodia's political system is ill-suited to allow for the representation of indigenous groups. The election formula favors big parties and an indigenous political party – even with the undivided support of the diverse indigenous population – would have no chance to win a seat in parliament. Political representation of indigenous interests in the formal institutions of local governance is problematic as well, because Councilors are elected from party lists. Accordingly, Councils are mostly composed among party lines, which creates conflict and deadlock between members of different political parties. Through the dominance of political parties, political power can be said to remain effectively on the central level (Sokheng 2004: 3). Consequently, Councils in many instances are neither responsible nor accountable to local needs and interests. While this situation is unfavorable for the constituency of any commune, it is particularly disadvantageous for indigenous peoples, who rely on the local level of governance for democratic representation and self-government. Countrywide parties have no incentive to respond to their needs<sup>68</sup>. At the same time, there is virtually no indigenous self-representation. In the absence of indigenous civil society organizations, no alternative ways of political participation and representation are available.

There is a strong tendency for indigenous communities to be underrepresented in the Commune Council. This tendency becomes stronger the smaller the proportion of highlanders in the constituency is. Where the constituency consists almost entirely of highlanders, the Council is likely to be entirely indigenous, too. In contrast, where indigenous groups form a minority in the commune they are frequently not represented in the Council at all. In most cases, the share of indigenous Councilors is smaller than highlander's share of the constituency. In many communes, it was found that the needs, interests, and consequently the development priorities of indigenous and non-indigenous communities deviate considerably. This is due to different ways of life as well as diverging living conditions. In many instances, non-indigenous constituents emphasize the need for 'hardware' development projects such as roads and bridges. In contrast, members of indigenous communities tend to stress the need for health services and education. Many Councilors confirmed that the development priorities of

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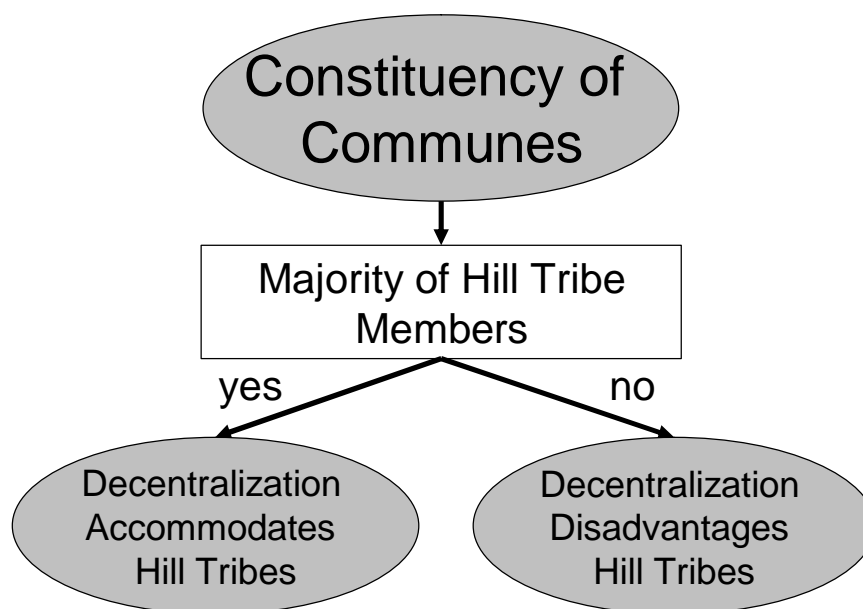
<sup>68</sup> Interestingly, many political parties in Cambodia use the term 'Khmer' in their name (e.g. 'Khmer Front Party', 'Khmer Angkor Party', 'Khmer Soul Party', 'Democratic Khmer Party' and so on), rather than 'Cambodia'. Among the platforms of various political parties in the 2003 election, only the one of the ruling Cambodian People's Party contained a reference to indigenous peoples, promising – in a very general and somewhat paternalistic way – that the party would "take care of the hill tribe peoples and increase services to vulnerable groups" (Cambodia Daily 2003: 17). Since the liberation from the Khmer Rouge regime, the Cambodian People's Party is firmly entrenched in the north-eastern provinces (Mc Donald-Gibson and Soleil: 2003, Woodsome and Kimsong 2003b: 13).

indigenous groups are frequently different from the rest of the constituency. Consequently, priorities of indigenous and non-indigenous communities tend to conflict. In such a situation, Counselors stated they would go ahead with projects for which funding is available. As was pointed out earlier, various mechanisms make it unlikely that funding is available when it comes to priorities of indigenous communities: Firstly, to mobilize support for projects, decentralization procedures require a certain number of users, which indigenous groups frequently do not reach due to culturally determined settlement pattern. Secondly, decentralization procedures require local communities to contribute a certain proportion of the costs. Indigenous groups are unlikely to have sufficient financial resources available, due to their poverty and low level of participation in the market. And thirdly, because of uncertain development benefits due to moving communities, government agencies as well as NGOs are less likely to support projects for indigenous peoples. Taken together, those mechanisms make it likely that indigenous priorities go unmet. And indeed a number of Councilors indicated that this might well be the case.

In interviews, some members of indigenous groups suggested that they should be represented on higher levels of government, to have a voice in the design of national policies that affect them as well as to create awareness of indigenous cultures in the larger society. Some interviewees stated that they wanted their cultures to be known and recognized. Occasionally, this was combined with the request to the government to provide information and education in a way that promotes the local indigenous culture within and outside the group. In rare instances, equal right to public positions and offices was claimed. Most of the time, the demand for recognition and representation took the form of requesting the government to permit and provide for it. Generally, members of any indigenous group appear to be disempowered to a high extent. They appear to feel that they have neither the right nor the capability to create and maintain their own representation in the political system of the larger society.

A strong contrast was found between communes with a majority of highlanders and communes with a minority of highlanders. In communes with strong majorities of highlanders, decentralization provides groups with a voice in the political process, allowing for distinctive needs and interest to be represented and addressed, while there was virtually no such representation in the larger political system before. In contrast, the specific needs of indigenous communities are not likely to be addressed where these groups form minorities in the commune. This is partly due to the mechanisms mentioned above. More importantly, it is due to the fact that local development priorities are determined by majority decisions. This situation is not transitional, but permanent. A minority of supporters of a particular political program or party can

become a majority, but a minority of highlanders in the constituency won't become a majority at any point. Consequently, majority decisions are likely to become a mechanism which reinforces the poverty and disadvantaged situation of highlanders, further widening the existing gaps between indigenous and non-indigenous groups<sup>69</sup>.



**Illustration 8: Cultural Composition of Constituencies and the Effect of Decentralization**

<sup>69</sup> The following is a rather mild example of the problems associated with indigenous minorities in communes. Out of seven villages in one Council, only one village is inhabited by members of the Lun group, while the rest of the constituency is Khmer. Members of the indigenous village live about 12 km away from the Council, in a place which is very difficult to reach. They are considerably poorer than the rest of the commune, facing severe food insecurities and have virtually no access to the health center, school, or Commune Council. Representatives of this group indicated that they would need draft animals to work fields and improve their situation. In contrast, inhabitants of the other villages stressed the priority of building roads and bridges. None of those projects would have improved the situation of the indigenous village, while there would never be a majority for the Lun group's priorities. Because of this situation, members voiced concern that decentralization might fail their group. They had asked the Commune Councilors for permission to cut some trees, in order to make boats and sell them in the market. The Council had agreed to grant the permission, because cutting the trees did not conflict with the majority's development priorities. Given the ethnic composition of the constituency, it is unlikely that the Council would agree to indigenous development projects on the expense of the priorities of the large Khmer majority.



### 3. CONCLUSIONS

As the second part of this thesis has shown, applying Kymlicka's typology to cultural diversity in Cambodia classifies the country as both polyethnic and multinational. Chams, Chinese, and Vietnamese ethnic groups, among others, are the result of immigration to Cambodia. To varying degrees, these groups show a considerable degree of linguistic and institutional integration. At any rate, they do not attempt to recreate their societal cultures with separate institutions operating in their language. Thus, Kymlicka's concept of ethnic groups appears to correspond to the situation and aspirations of various ethnic groups in Cambodia. In contrast to these groups, various highland peoples in Cambodia formed ongoing and largely self-governing societies for many centuries and maintain a way of life considerably different from the mainstream society, including different languages and institutions. It was only in the beginning of the 20<sup>th</sup> century that the French colonial administration started the involuntary incorporation of indigenous nations into various protectorates of Indochina. Administrative boundaries became borders of 'nation-states' when these protectorates gained independence after World War II. With independence came nation-building and various programs were initiated to integrate and assimilate hill tribes into the Khmer nation and to eradicate their sense of distinct identity. These programs were met with considerable resistance on the part of various indigenous groups. After the defeat of the Khmer Rouge, various hill tribes reestablished their societies and cultures wherever this was possible. Kymlicka's concept of national minorities appears to correspond to the nature of various hill tribes. These groups were involuntarily incorporated into the Cambodian nation-state after they formed ongoing societies since before the establishment of today's state. Moreover, highlanders resisted attempts aiming at their integration and recreated their societal cultures after decades of aggressive assimilation, including separate institutions operating in minority languages. Various hill tribes maintain a holistic notion of citizenship with the land and struggle to sustain it.

The difference between national minorities and ethnic groups characterizes two markedly different pattern of cultural diversity in Cambodia. Ethnic groups show higher levels of integration, while national minorities tend to perpetuate their existence as distinct societies. Thus, Kymlicka's distinction between ethnic groups and national minorities corresponds to the structure of cultural diversity in Cambodia. Applying Kymlicka's subdivision of national minorities classifies hill tribes as indigenous peoples – as opposed to sub-state nations – because they did not try to establish their

own states and did not participate as contenders in the process of state formation<sup>70</sup>. There are no sub-state nations in Cambodia, that is, there are no national minorities other than indigenous peoples. The concept of indigenous peoples is not foreign to Cambodia and corresponds to what are considered 'Khmer Loeu', 'chun-cheat', or 'indigenous minorities'. Taken together, Kymlicka's typology provides a framework which meaningfully differentiates between various cultural minorities in Cambodia. The argument in the following sections is that other elements of Kymlicka's theory are also largely valid with regard to indigenous peoples in Cambodia. This concerns in particular the dialectic of nation-building and minority rights and various arguments in favor of group-differentiated rights. Based on the earlier discussion and the findings of the empirical study, this paper supports the view that policy recommendations stemming from Kymlicka's theory can help to guide the accommodation of indigenous nations in Cambodia<sup>71</sup>. Kymlicka's preferred model for the accommodation of national minorities is a 'multination federation'. However, given the situation of indigenous peoples in Cambodia and the nature of the Cambodian state, it is the local level of governance which is best suited to provide the framework for the accommodation of indigenous groups. More research is needed with the active involvement of indigenous groups to develop a multinational conception of decentralization which corresponds to the specific situations, needs, and interests of Cambodia's hill tribes.

### 1. Decentralization and Indigenous Rights

The empirical study supports the view that various hill tribes form not just sub-groups of Cambodia's mainstream Khmer society, but constitute largely autonomous societies, with complete sets of political, social, economic, and religious institutions operating in distinct languages. These institutions cover a wide range of human activity and are of great significance to individual group members and their well-being. The effectiveness of indigenous institutions and participation in them extends to formal institutions of local governance, where they adapt to the operations of the existing institutional environment. This is particularly interesting with regard to the very objective of decentralization in Cambodia, which is to promote participatory democracy and development on the local level (NPRS 2002: 108). Participation in local institutions appears to be something indigenous peoples are very familiar with. This is confirmed by other studies. ADB's Participatory Poverty Assessment notes:

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<sup>70</sup> As was mentioned earlier, other concepts would single out also hill tribes as indigenous peoples in Cambodia and grant specific rights exclusively to them. Among those concepts are Benhabib's theory, international instruments such as ILO Convention No. 169, and the draft Indigenous Declaration as well as policies of international organizations, such as World Bank's Operational Directive 4.20.

<sup>71</sup> For a sceptical answer to the question of whether Kymlicka's theory can be applied to Asian states see He 1998.

“ethnic minority groups are better placed to adopt a participatory approach to operation and maintenance activities than many lowland Khmer communities” (ADB 2001a: 56). Moreover, in contrast to the mainstream society, indigenous peoples can be characterized as groups which did not attempt to centralize political power but developed and maintained a decentralized mode of social organization. Indigenous peoples have created and maintained strong and effective institutions of local governance and members have a strong sense of shared values. Those institutions can be seen as valuable social capital, with critical importance in the process of development. While decentralization represents an attempt to build social capital by creating effective institutions of local governance, cultures and traditions of highlanders are distinguished not least by the existence of such institutions. While Cambodia’s indigenous peoples are commonly seen as ‘undeveloped’ and ‘uncivilized’ segments of society, it is particularly with regard to decentralization that these groups’ social organization holds important lessons and insights for the rest of Cambodia’s society. The challenge for decentralization here is not to overcome, but to understand, accommodate, and formalize existing institutions, and to ‘tap’ their potential contribution to local development. In contrast, inconsiderately imposing the decentralization framework is likely to undermine traditional institutions, to destroy social capital, to further marginalize indigenous cultures, and to disadvantage their members.

Hill tribes are underrepresented in Commune Councils. At the same time, highlanders interests and needs are frequently considerably different from those of the Khmer constituency and indigenous and non-indigenous development priorities tend to conflict. In these instances, various mechanisms make it likely that indigenous interests and needs loose out. There is a strong contrast between communes with a majority of highlanders and communes with a minority of highlanders. Councils in communes with strong majorities of highlanders allow for distinct indigenous needs and interests to be represented and addressed. However, where indigenous communities form minorities in the constituency, the specific needs of hill tribes are very difficult to address. In these communes, majority decisions are likely to become a mechanism which reinforces the poverty and disadvantaged situation of highlanders.

The trend of increasing migration to indigenous homelands will change the ethnic composition of many communes and members of indigenous groups will increasingly be outnumbered and outvoted, even in their traditional homelands. The number of communes with a minority of highlanders will grow, and with it the problems of addressing their specific needs. This trend will undermine indigenous languages and institutions of self-government, leading to the marginalization of indigenous cultures

and further disadvantages for their members. As a result, indigenous citizenship with the land is being slowly diminished<sup>72</sup>. These findings are in line with Kymlicka's assertion that a general decentralization does not always facilitate the accommodation of indigenous groups' fair interests and needs. In fact, indigenous cultures are being undermined by a decentralization that divides their territorially concentrated and self-governing societies into different units in which they form minorities and then empowers these units. The following section aims to justify granting some measure of self-government rights and special representation rights to various indigenous groups, by applying the arguments introduced in the first part of this paper to hill tribes in Cambodia. The discussion will concentrate on the equality argument, the value of cultural diversity, and the analogy with states.

## 2. The Case for Indigenous Rights

The **equality argument** states that minority rights are needed to create genuine equality, because minorities face specific disadvantages which are not faced by members of the majority. Such disadvantages with regard to indigenous peoples in Cambodia were discussed throughout the second part of this thesis. However, because of the major importance of this argument, the most severe of these disadvantages will be summarized in the following paragraphs. The most important sphere in which indigenous peoples are disadvantaged is language. In Cambodia, all public institutions operate in Khmer language, which is exclusively used in public education, legislation, courts, for the provision of services, in local government and so on. Moreover, the state is actively engaged in a project of diffusing a Khmer societal culture throughout its territory, attempting to integrate all citizens into common institutions operating in Khmer language. While nation-building serves important purposes, it inevitably disadvantages members of minority cultures. In particular, Khmer nation-building involves the undermining of indigenous cultures and identities. By deciding the official language, the government provides the most important support needed for the sustaining of a societal culture. In particular, schooling provided in Khmer language guarantees that Khmer language, history, and customs are being passed on to the next generation. In contrast, not to provide schooling in Phnong, Jorai, Kuy, and other indigenous tongues almost inevitably condemns those languages and the associated cultures to marginalization and eventually to extinction. Because membership in

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<sup>72</sup> The following statement by a Phnong man quoted in ADB's Participatory Poverty Assessment gives an idea of how this is taking place: "Before, no one apart from us was living here, but now other poor people from areas a long way from here are coming to live. We are not opposed to them coming here, but they do not have the same ideas in relation to the area we live in. They do not take any notice of forest spirits, laughing them off; and their actions annoy the spirits and we all suffer. This means that fires get out of control and streams flood very quickly" (ADB 2001b: 53).

various indigenous groups is of great importance for the individual, providing support exclusively to members of the Khmer majority represents a serious inequality, potentially leading to grave injustices for members of indigenous groups<sup>73</sup>. A good case can be made that the 'development industry' compounds these injustices. Khmer language plays a very significant role in the operations of local and international development organizations in Cambodia which contribute significantly to the preservation and modernization of the majority culture<sup>74</sup>. Many employees learn Khmer language and English documents and speeches are regularly translated into Khmer and vice versa. In the process, concepts and ideas are introduced that used to be alien to Khmer culture, transforming and in some ways updating and modernizing language and culture. Moreover, considerable opportunities are being created for persons who speak and write Khmer well. However, only the cultural majority is provided this privilege, while no such support is being given to various indigenous nations.

Other disadvantages stem from the decision not to publicly recognize indigenous languages. Some of these disadvantages are closely related to decentralization: Khmers can participate in Commune Councils anywhere in the country in their native language. In contrast, members of various highland peoples are not even provided with the opportunity to do so in their ancient homelands. Khmers are free to choose local leaders among themselves, while the choice for hill tribes is limited to members capable of functioning in Khmer language and institutions. Due to the Khmer requirement, few public positions are occupied by members of indigenous nations even

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<sup>73</sup> This disadvantage is mirrored in the following observation: Young people in Phnom Penh as well as in most parts of the country appear to be enthusiastically engaged in learning English, most likely because they feel that important opportunities are bound to organizations and institutions that operate in the English language. In contrast, interviews and observation during the field work suggest that young people among indigenous groups are equally enthusiastic about learning Khmer, likely because they feel that important opportunities are tight to organizations and institutions that operate in Khmer. Both phenomena represent important decisions of individuals to spend considerable time on learning a language other than their native tongue. And both represent rational choices, given the way the current linguistic provisions are set up. However, the difference indicates that the linguistic playing field is not even. An indigenous person will learn the local language first. After all, the command of local language is what is of relevance to participate in village affairs. However, in order to participate in society beyond the particular group this person will have to be able to function in Khmer. And there is no doubt that individual members of indigenous groups desire to participate in the larger Cambodian society, not least because they happen to be citizens of this country and there is something at stake in participating in its institutions. If indigenous persons want to capitalize on the same opportunities that so many young Cambodians are aiming at they will have to learn a third language, which is English. If important opportunities are associated with the command of the English language, then the indigenous person will have to learn three languages. And there is nothing that suggests that members of indigenous groups do not desire to learn English and capitalize on associated opportunities. It is likely that those opportunities are becoming more important due to increased tourism, the operations of international organizations and exposure to markets. Using those opportunities, everything else being equal, will be significantly more difficult for indigenous persons since education is less likely to be accessible to them compared to member of the Cambodian society whose native language is Khmer.

<sup>74</sup> Another indication is that many local development organizations use the term 'Khmer' in their name, rather than 'Cambodia'.

where they form a majority in the commune. Since elders frequently do not speak Khmer, their authority tends to be undermined and traditional institutions are being weakened by the requirement of Khmer literacy for public office.

Language provisions are not the only disadvantage faced by highlanders in the framework of decentralization. As was noted before, various mechanisms work against them: the requirement of certain numbers of users for local development projects, the requirement of financial contributions and the neglect of such projects for indigenous peoples because they might move from one place to another. Furthermore, dividing indigenous societies into communes with minorities of highlanders and subsequently empowering these communes undermines these groups' institutions of self-government. As of today, hill tribes do not have any legal title to land due to their uncertain citizenship status. Yet even if highlanders were given individual land title this would result in great disadvantages, because it does not recognize the particular form of communal land use traditionally practiced by highlanders. Generally, indigenous groups' more communal understanding of property and ownership and their delicate relationship to the environment puts members at a serious disadvantage in the market place. Indigenous peoples face serious disadvantages in the sphere of religion, too. In contrast to most Western democracies – on which Kymlicka's theory is based – the state of Cambodia has an official religion and promotes actively the values, practices, and ways of life of Buddhism. Not only is no such promotion given to indigenous religions. In many instances, indigenous religious practices are discouraged and treated as obstacles to development that need to be overcome.

In contrast to the cultural majority, highlanders face the real threat of cultural extinction due to political and economic decisions by the larger society. Highlanders have only a small area where they have a realistic chance to form local majorities, maintain their institutions in their language, and perpetuate their cultures. Yet the government is encouraging migration to and settlement in the traditional homelands of indigenous groups. Increasingly, hill tribes are being overrun by settlers and outnumbered and outvoted in growing numbers of communes, even in their traditional homelands. If this trend continues, it is unlikely that indigenous cultures will survive. Moreover, major logging concessions are granted by the government without the involvement of indigenous groups yet covering vast parts of their traditional lands. Indigenous cultures are particularly vulnerable to the ongoing devastation of their homelands, because of their holistic relationship to their natural environment and because the well-being of members depends on the ecological and spiritual integrity of their traditional homelands. For them, it can be in a real sense the end of the world if those homelands are being transformed and economically exploited (White 1996: 334).

It is worth pursuing the issue of settlement and economic exploitation a bit longer. In many countries, governments have settled indigenous lands in a similar manner. In most cases, governments justified the settlement policy by insisting that the land inhabited by indigenous peoples belonged to the whole country and should be used for the benefit of all people. Frequently, the promotion of settlement was used by elites precisely to deflect efforts at reforming dramatically unequal systems of land ownership. However, the likelihood that settling indigenous lands would promote a more equitable distribution of property is small. Even where elites justify settlement policies on the grounds that these policies benefit the urban poor, this is often a dishonest rationalization for their own enrichment. In most instances, such settlement policies have made the poor poorer and the rich richer<sup>75</sup>. So far, Cambodia has been everything but an exception in this regard. Yet even where well-intentioned, those developments – such as turning rainforest into farms and plantations – are unsustainable most of the time. Perhaps the only sustainable forms of land use are those already practiced by the indigenous peoples. This is not surprising, since they have inhabited the lands for centuries and know about the possibilities and limits of their environment<sup>76</sup>. Indigenous groups in Cambodia are among the poorest segments of the population and in many instances struggle to maintain the bare minimum of land necessary to sustain their communities. Given the extremely unequal distribution of land, the ongoing devastation of forest, and the weak rule of law, it is unlikely that equality will be promoted by settling traditional indigenous homelands.

Yet even if such settlement policies would contribute to a more equitable distribution of land and resources, there is still a strong case to protect indigenous groups with special rights, because of the unique disadvantages faced by its members. The Khmer majority always has the power to support its language and institutions and to ensure the continued existence of its societal culture. In contrast, highlanders are increasingly deprived of the opportunity to maintain their distinct languages and institutions, and ultimately threatened with cultural extinction. In order to avoid serious injustice, similar rights should be given to various indigenous groups, suitable to provide protection against relevant political and economic decisions of the larger society. Those rights should not be considered special privileges, because they compensate for unequal circumstances which put members of indigenous groups at a

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<sup>75</sup> It is well known that such processes have taken place all over the Americas. Similar processes of settlement and exploitation occurred in Asian countries, too, but are not as well known. For a number of case studies involving Southeast Asia, see Magallanes and Hollick 1998. For case studies of Bangladesh and Indonesia, see Penz 1993. For a case study involving the state of Bihar in India, see Devalle 1993.

<sup>76</sup> A report recently launched by the group Forest Trends in Geneva shows that the vast potential for indigenous peoples to help curb the destruction of forests is being overlooked by the international community, see Forest Trends 2004.

systematic disadvantage. In other words, members of the majority are afforded important privileges and fairness requires that the same benefits are given to indigenous peoples. Self-government rights and special representation rights for hill tribes ensure that the good of cultural membership is equally protected for all citizens.

The case for group-differentiated rights for indigenous peoples is further advanced by arguments associated with the inherent **value of cultural diversity**. In Cambodia, supporting the survival of indigenous cultures can make additional options and cultural resources available to all citizens. Moreover, protecting indigenous groups' alternative models of social organization can be of great value to the larger society. For example, highlanders have proven their capability to sustainably manage their natural environment, in particular the forest. This provides a strong contrast to the way Cambodia's larger society manages its natural resources. Highlanders' abundant knowledge regarding their natural environment can aid the development of more effective and sustainable models for natural resource management throughout Cambodia. A similar case can be made with regard to decentralization. Decentralization aims at promoting the creation of participatory and effective institutions of local governance. As was pointed out earlier, the social organization of various hill tribes is characterized by the existence of strong and effective local institutions and high levels of both decentralization and participation. It is not unreasonable to expect that those models hold important lessons for the design and implementation of decentralization policy for Cambodia's wider society.

Stressing the **analogy with states** provides more argumentative support for granting additional rights to indigenous peoples. As was discussed earlier, this argument refers initially to traditional liberal theory, which has taken for granted the existence of nation-states while being silent on the rights of national minorities. Interestingly, this argument has particular weight with regard to political practice in Cambodia: From French colonization as well as various Vietnamese occupations and invasions by Thailand, Khmers have the historical experience of being overrun, dominated, and colonized by other peoples, and of having institutions and language imposed on them<sup>77</sup>. And since the decline of the Khmer empire, Khmers have experienced the loss of land, too. Throughout history, Khmers have strongly resisted attempts at their colonization and integration and struggled for independence. Even today, many Khmers subscribe to the idea – even obsession – that their societal culture is threatened with extinction and doomed to share the fate of Champa. “Many Cambodians think,” notes Hawk “as they have thought for centuries, of Cambodia as ‘srok Khmer’, the

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<sup>77</sup> Chandler has called this fate of three centuries of violence and external control the tragedy of Cambodian history, see Chandler 1991.



land of the Khmer: a people, culture and distinct way of life that once was the jewel of South East Asia, but now, in the minds of many Khmer, is threatened with extinction” (Hawk 1995: 28). As Edwards notes, “Cambodian nationalists have terrorized the public imagination with prophecies that Cambodia is about to disappear ... Fears that Cambodia will disappear ... have reverberated at the core of political statements by successive leaders across the ideological spectrum” (Edwards 1996b: 56). It seems that members of the Khmer majority tend to think of their societal culture as a national minority<sup>78</sup>. Matters of immigration and of territorial integrity are at the heart of contemporary political debate in Cambodia<sup>79</sup>. The point of this argument is not to justify associated political claims or the way the underlying concerns are being instrumentalized. The point here is that most Khmers and most of their political representatives very much support the idea of having a separate state and restricted access to citizenship, explicitly in order to ensure the survival of the Khmer societal culture. External protections for indigenous peoples in the form of self-government rights can be justified on the same grounds. The cultural survival of various indigenous nations is being threatened by in-migration and the loss and fragmentation of traditional homelands. The devolution of powers to Commune Councils with majorities of particular groups helps to protect indigenous cultures and promotes equality and fairness between members of the Khmer majority and members of various hill tribes.

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<sup>78</sup> In this regard, it is worth mentioning a more general point. Unlike the states on which Kymlicka’s theory is based, security concerns make the adoption of minority rights less likely in many Asian states. “In Asia,” notes Kymlicka “this fear [that minorities will collaborate with neighbouring enemies or hostile external powers] remains pervasive, due to the presence of potentially hostile neighbours and the history of collaboration ... Countries that feel threatened by neighbours are unlikely to have the sense of security needed to share power with their own minorities” (Kymlicka 2003: 36). Obviously, this observation has immediate relevance with regard to ethnic Vietnamese in Cambodia. To some extent, it is valid with regard to national minorities as well, because members of various indigenous groups in Cambodia live along or even on both sides of contested state-borders. Moreover, the north-eastern territory was an autonomous region under the Khmer Rouge and various hill tribes came to be seen as potentially disloyal to the Cambodian government. However, Kymlicka’s distinction between sub-state nations and indigenous peoples can help to paint a more differentiated picture. Indigenous peoples threaten states far less than sub-state nations, because the latter demand their own states while the former do not. In contrast to other Asian countries, there are no sub-state nations in Cambodia. Consequently, security concerns are less likely to prevent the adoption of a multination concept of decentralization in Cambodia.

<sup>79</sup> A number of ‘sticking points’ have been discussed among the political parties to solve the one year long political stalemate following the inconclusive election on 27 July 2003. The most problematic disagreements have proven to be the creation of a Ministry of Immigration and Naturalization and the border treaties signed with Vietnam during the Vietnamese occupation (Fawthrop and Sokheng 2004: 1; Cambodia Daily 2004b: 1).

### 3. Cultural Identity and Democratic Citizenship in Cambodia

A central idea of Kymlicka's theory is the dialectic of state nation-building and minority rights. Liberal states use various tools to diffuse a single societal culture throughout the territory. Without protective measures, nation-building inevitably privileges members of the majority society and disadvantages members of cultural minorities. In particular, state nation-building involves the destruction of minority nations in multination states where it is not restrained by external protection for these groups. In contrast to Western liberal states, the Cambodian state does not pretend to operate culturally neutral, but is actively engaged in diffusing a Khmer societal culture throughout the territory and in integrating all people in the territory into common public institutions operating in Khmer language. This is particularly evident in Cambodia's Constitution, which limits membership in the political community to 'Khmer citizens' and by doing so defines citizenship exclusively in ethnic terms. This definition imposes an alien identity on members of national minorities and excludes various ethnic groups from citizenship. The Cambodian state uses various tools of nation-building, such as language policy, citizenship policy, education policy, settlement policy, infrastructure policy, economic development projects, and public service employment to diffuse a single national Khmer culture throughout the territory. This national culture is 'thick' in that it involves not only institutions and language but particular values, lifestyles and the religion of the Khmer majority. Decentralization policy, too, contributes to nation-building, in that it promotes a particular national identity based on participation in common institutions operating in Khmer language. Commune Councils anywhere in Cambodia are supposed to operate in Khmer and candidates are by law required to be literate in the majority language. Moreover, this framework takes the Constitutions' ethnically exclusive concept of citizenship to the local level. Only 'Khmer citizens' can be elected into the Council and 'Khmer nationality' is required to vote in local elections. Decentralization involves a national system of local institutions, tailored towards the needs of the national majority and operating in the national language. The shape of communes divides indigenous societies and together with the subsequent empowerment of Commune Councils through the decentralization program contributes to the undermining of highlanders' institutions and cultures.

Obviously, and in line with Kymlicka's theory, the effect of using various nation-building tools on indigenous groups can be described as nation-destroying. In the absence of measures to protect indigenous cultures, these policies and developments systematically undermine the integrity of indigenous societies, homelands, and

identities<sup>80</sup>. However, the capacity of the Cambodian state and its institutions to reach and integrate its citizens is very limited. And so is its ability to engage effectively in nation-building (Gottesman 2003). The state is largely incapable of meeting the most basic needs of its citizens with public services due to its low capacity and lack of implementation. Accordingly, the effect of nation-destroying is rather moderate. Where the state fails to provide education even in Khmer and to the majority, the absence of a system of minority education is not felt as a strong disadvantage<sup>81</sup>. In contrast to states on which Kymlicka's theory is based, there is little political will to approach minority issues, there is no deliberate and consistent policy towards indigenous peoples, and there is no single power center in charge and capable of designing and implementing such a policy. In effect, a benign approach is applied to indigenous peoples in practice – partly as a result of the weakness of the state – which provides considerable cultural space to indigenous groups. Furthermore, group-differentiated measures aiming at the accommodation of indigenous peoples are not alien to Cambodia. Various initiatives have been developed to promote indigenous cultures and facilitate their perpetuation<sup>82</sup>. Here again, the situation in Cambodia is not inconsistent with Kymlicka's theory, insofar as such measures can be said to provide protection for national minorities against unjust state nation-building. The dialectic between state nation-building and minority rights seems to offer a valid description of ethnic relations in Cambodia. The fact that various indigenous groups do not claim minority rights more emphatically can be explained by the low capacity of the state to actually implement existing nation-building policies as well as by the emergence of various external protections. Inversely, the strong resurgence and resistance of indigenous groups in neighboring Vietnam and Thailand can be explained with those states' higher levels of state capacity and absence of external protections. The contrast is particularly strong with regard to Vietnam, where the government has initiated various campaigns of deliberate nation-destroying against the country's indigenous peoples<sup>83</sup>.

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<sup>80</sup> It does not matter much whether or not the intention of each of these measures actually is to promote a Khmer national identity. For example, it is likely that settlement policies and commercial exploitation are driven to a significant extent by the prospect of personal gain for ruling elites.

<sup>81</sup> Moreover, Cambodia is a very rural country and literacy does not yet play a central role for citizens and their opportunities. Accordingly, disadvantages based on the neglect of minority languages are not felt as strongly as in more advanced and modern societies.

<sup>82</sup> Among others, these initiatives include the establishment of the IMC and the draft 'General Policy for Highland Peoples Development', the inclusion of culturally tailored curricula within the EFA program, the arrangement of bilingual education in selected schools, a provision for communal indigenous title in the 2001 Land Law, and the creation of a national task force to implement such titles.

<sup>83</sup> For the history of these campaigns see Hickey 1982a and Hickey 1982b. For documentations of its more recent manifestations see Human Rights Watch 2002 and Amnesty International 2004.

It is beyond the scope of this paper to give detailed recommendations. More research is needed with the active involvement of the groups in question to develop models of minority accommodation which effectively correspond to the specific situations, needs, and interests of Cambodia's various cultural minorities. Although ethnic groups are not the major subject of this thesis, it should be stressed here that there must be a way to become members of the political community for those who live inside the borders of Cambodia and yet find themselves outside Cambodia's concept of citizenship and nation. Concerning indigenous peoples, the following appears plausible in the light of the discussion. Generally, Kymlicka's theory, as well as the above findings, suggest that existing provisions do not suffice to protect indigenous peoples against unjust nation-building and to enable them to maintain their existence as distinct societies. Equality and fairness require that special representation rights and self-government rights are given to various hill tribes in the form of external protections. Regarding the former, Cambodia's political system does not allow for the representation of indigenous interests, and various hill tribes are systematically underrepresented in Commune Councils. These patterns and levels of representation have to change if Cambodia is ever to enjoy an inclusive citizenship and democracy. Generally, the redrawing of commune boundaries based on ethnic criteria would contribute to ensuring indigenous representation on the local level. In addition, it is worth considering separate lists for indigenous peoples in local elections. Special representation on relevant government bodies is needed on the state level. This includes guaranteed seats and veto rights for decisions with direct impact on indigenous groups.

Self-government can take several different forms, of which a sovereign state or an autonomous region are the most extreme. Obviously, self-government for hill tribes in Cambodia would take a form much closer to the other end of the spectrum<sup>84</sup>. 'Multination federation' is Kymlicka's preferred model to accommodate national minorities. However, federalism is not an option for highlanders, since Cambodia is a

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<sup>84</sup> Levy distinguishes between three modes of incorporating indigenous law: common law, customary law, and self-government (the term 'self-government' does not match its usage here. In the terminology of this thesis, all three of Levy's modes of incorporation would be described as self-government). In the case of common law incorporation, indigenous law is not recognized quite as law, but as a social situation which can trigger the law of the wider society (Levy 2000: 299-301). Customary law incorporation gives more status to indigenous law, since it is incorporated as a separate system of customary law parallel to the system of common law. Self-government accords the greatest status, because it respects indigenous law analogous to the respect associated with the laws of foreign states and in effect grants territorial sovereignty. That one model accords greater status to indigenous law than another does not mean that it is preferable from the point of view of indigenous peoples (Levy 2000: 308). It is consistent with the above findings to assume that not self-government, but common law and customary law incorporation or a mixture of both would best match the situation of hill tribes in Cambodia. However, the answer to this question requires further research with the active involvement of indigenous groups.

unitary state. Moreover, there is only one group which forms a provincial majority. Therefore, the current decentralization program is the only chance for the realization of self-government rights. For the time being, only the establishment of local governance can enable indigenous groups to democratically determine the course of their own development. Moreover, in contrast to countries on which Kymlicka's theory is based, Cambodia's indigenous groups form only a very small proportion of the country's population and consist of many, very small groups, which display low levels of political organization and mobilization. Providing self-government rights to Cambodia's indigenous peoples, the largest of which has hardly 40.000 members, is a matter of local governance. Given this situation, the devolution of powers to Commune Councils in the framework of decentralization appears to be generally well-suited to accommodate Cambodia's indigenous groups. In some communes with strong majorities of highlanders, local models of minority accommodation are already emerging. However, additional measures are needed to better capitalize on decentralizations' potential to protect indigenous peoples against unjust nation-building. Where possible, commune boundaries should be redrawn along ethnic lines to ensure that particular groups form a majority in the respective constituency<sup>85</sup>. The local tongue should be recognized as official language in these communes. Enabling indigenous peoples to maintain their distinct cultures is likely to require the devolution of additional powers to indigenous Councils, such as competencies regarding language, education, the provision of health services, natural resource management, and vocational training<sup>86</sup>. Customary law as well as various indigenous institutions should be incorporated and formalized, as long as they do not violate fundamental human rights. Resources need to be made available to make self-government meaningful and to prevent ghettoization in indigenous communes which are already among the poorest in Cambodia<sup>87</sup>. Granting self-government should not be an excuse to leave highland

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<sup>85</sup> This is not out of context with the situation in Cambodia, and the Law on Administration of Communes provides for the re-determination of these boundaries. Article 89 states that the Minister of Interior may request to modify the boundaries to proceed with the election of Commune Councils for the second mandate.

<sup>86</sup> ILO Convention No. 169 explicitly specifies three instances where indigenous peoples should have full management and control: special vocational training programs (Article 22.3), community-based health services (Article 25.1), and education programs (Article 27.2) (cp. ILO 2000a).

<sup>87</sup> This can mean many things: Given that indigenous groups make up the poorest segments of society, operationally relevant strategies to address the poverty of indigenous groups should be included in Cambodia's NPRS. Development projects in areas inhabited by indigenous peoples should be built on the positive qualities of indigenous cultures, such as a sophisticated knowledge of the natural resources, close attachment to the natural environment, capacity to collectively mobilize labor and resources, and a strong sense of ethnic identity. Greater technical assistance and training is needed, where possible conducted in the native language and incorporating indigenous knowledge and technology. Support is needed to create and promote indigenous organizations and enhance their ability to successfully design and manage development agendas for local communities. More emphasis must be placed on the informed participation of indigenous people in the development process – including the design,

peoples and their problems to themselves. Moreover, indigenous groups should be enabled to put restrictions on migration to their communes in order to maintain the social and political integrity of their cultures. Legally recognized land claims should reserve certain lands for their exclusive use. Indigenous land titles should allow holding land in common which cannot be alienated without the consent of the community as a whole. Outsiders who enjoy indigenous land should be expected to meet standards that allow for the reproduction of indigenous cultures, such as respecting the autonomy of highlanders' communities and learning the local language. Meaningful solutions need to be found for groups whose numbers are too small to form the constituency of a Commune Council. These solutions are likely to involve their native language and reserved lands.

Many countries in various regions of the world have confronted difficult challenges, including ethnic violence and even civil war as indigenous peoples struggle for greater recognition and accommodation of their rights. In contrast, indigenous peoples in Cambodia during the last decade have enjoyed significant 'cultural space' and interethnic relations generally reflect a considerable level of tolerance and mutual understanding. Yet, despite the governments' benign approach and substantial efforts, Cambodia's indigenous peoples continue to face systemic disadvantages that must be addressed on all levels of the state. It is only with the active and informed involvement of members of these groups that Cambodia can successfully cope with the associated challenges. A decentralized framework offers many opportunities for improved protection of indigenous rights, as well as for more inclusive democracy and highland peoples' active participation. To realize those opportunities, differentiated measures to promote indigenous peoples are called for. Those measures should not be seen as 'privileges' or 'special advantages', but as balancing disadvantages exclusively faced by members of indigenous groups. A multination conception of decentralization helps to compensate for those disadvantages and to ensure that the value of cultural membership is equally protected for all citizens of Cambodia.

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implementation and monitoring of local development programs. Where they reside, indigenous peoples should be seen as key players in rural development programs and management of fragile ecosystems.

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## APPENDIX

### *Guiding Questions*

#### **General information about the interviewee, such as:**

- What is your official status?
- What is your ethnic identity?
- What is your gender?
- What is your age?
- What is your family status?
- What is your party membership/ affiliation?

#### **Commune Council**

- How many members of the Council are members of an indigenous group?
- How many constituents' first language is Khmer? How many constituents' first language is not Khmer? What is their first language?
- How many indigenous villages are in the constituency of the commune?
- How are they represented in the meetings?
- How do you ensure that interests of minorities are considered in the Council?
- Are members of cultural minorities approaching the Commune Councils?
- How many and for what reasons?
- Are members of those groups' members of the Commune Council, district or provincial authority, DFT/PFT?
- Do members of those groups participate in Council affairs?
- How? How often? Differently compared to Khmer constituents?
- Are languages other than Khmer used in Council meetings? Which?
- How does the Council respond to needs articulated by members/organizations of indigenous groups?
- Suggestions or recommendations?
- To what extent did the master training include training on the specific needs and rights of indigenous peoples?
- How are Village Chiefs determined?
- Do Chiefs of indigenous villages participate in Council meetings?
- Does the Commune Council invite elders of indigenous groups? What is their role in Council affairs?

#### **Do decentralized institutions work for members of cultural minority groups?**

- Do constituents attend Commune Council meetings? Do members of minority groups attend Council meetings?
- Why or why not?
- What is done to ensure their participation/ voice in the process (invitations, dissemination of knowledge and information ...)?
- What are the costs of participation in terms of time and money?
- Do members of indigenous groups face additional cost/specific disadvantages due to them being member of a cultural group distinct from the Khmer mainstream society?
- Do citizens know what is being discussed in the Commune Council?
- Do citizens approach members of the Commune Council to voice their concerns and get information? Do they have a voice in the process?
- Suggestions or recommendations?



**Community**

- What are the most pressing needs in the commune?
- What are the development priorities in the commune?
- What is the Commune Council doing since election?
- Do elected officials discuss with you about development and services provision?
- Do you have participated in any meeting organized by the Commune Council? What was discussed and resolved?
- What is the Commune Council doing?
- What should the Commune Council be doing?
- How can you contribute to any development activity and services through the communes?
- Do you know members of the Commune Council personally?
- Are you interested in what is being discussed in the Commune Council?
- What benefits has it brought to you?
- What do you think your friends and relatives think about the Commune Council?
- Suggestions or recommendations?

**Additional questions**

- What is the ethnic composition of the commune?
- What is the ethnic composition of the Council?
- What are settlement patterns?

**Participation and Dissemination**

- What is on the agenda?
- How does dissemination of information work?
- Who gets information/invitations? Are elders addressed?
- Where do get citizens their information from?
- How does participation work? Which channels are used and how often?
- How do you approach the Commune Council?
- Ranking of level of participation?
- What about interest and understanding? Ranking?
- What are the most urgent needs for the group?
- District Integration Workshop: language problems?
- Who speaks Khmer? Women? Children? Old? Young?
- Ranking?
- Do Commune Councilors come down, explain and discuss? How often do they come down? What languages do they speak?
- Who attends meetings?
- Do you feel you have enough information to participate?
- Do you feel confident enough to participate?
- Do you feel you have a voice in the Commune Council? Who speaks for you?
- Do you feel the Commune Council is a chance for improvement of your groups' situation?

**Access**

- What about access to the Commune Council?
- How about the access to participation? How far is it from the village to the Council office? Ranking? Any specific difficulties?
- How about access to education? How far is the school? Ranking? Specific difficulties? School attendance? Ranking?
- Do teachers speak local language? Are teachers members of local communities?
- How about access to health service? Ranking? Specific difficulties?
- Do the Clerk and PFT/DFT speak for you? Do you know them? Do they assist you? Do they understand? How often do they show up?
- Do you feel your needs and concerns are being addressed?
- Suggestions?

**Culture and Changes**

- What characterizes the traditional way of life?
- What changes have been taking place?
- What has not changed?
- Way of life? Music? Dress? Dance? Religion? Language?
- How do you judge those changes?
- Do people judge changes differently? Young? Old? Men? Women?
- What about religion?
- How are conflicts resolved?
- Are you proud to be members of your group?
- If so because of what?
- Proud to be Cambodia citizen? Why?
- Are you Khmer?
- Do you want to be Khmer?
- Are you first member of your group and than Khmer or the other way around?
- Do you feel your culture is respected?
- What are the major occupations?
- Do you use money? Do you interact/ participate in the market?
- What about the level of authority and respect for the Village Chief, Elders, Commune Council? Ranking?

**Interaction and Relationship**

- How is the relationship to Khmer?
- How is the relationship with other groups?
- What languages are used in interaction?
- Are there interethnic issues?
- Do you have friends from other ethnic groups?
- Are there intermarriages? What combinations? Ranking? What ceremony? What music?
- Would you mind marrying your son/daughter to members of other group?
- Would you mind having members of other groups as your neighbors?
- Do you feel members of other group understand your culture? Do you feel they respect your culture?

**What are the indigenous power structures?**

- How are conflicts solved locally?
- Where do people go if conflicts arise?
- How does the community make decisions?

- How does participation works?
- Do women participate? Do they have a voice?
- Do youngsters participate? Do they have a voice?
- What support is being given to the neediest members and how?

**District Structures**

- What is done to give members of cultural minorities a voice in the deliberations at the district integration workshop?
- What language(s) are used in the district integration workshop?
- Have there been linguistic problems during the previous integration workshop?
- Suggestions or recommendations?

**Provincial Structures (Seila, DoLA)**

- Does the system of communal, provincial and district governance and the associated legal framework entails any provision for members of cultural minorities? Is there any mechanism to incorporate specific demands and needs of members of cultural minorities?
- Percentage of indigenous Commune Council Chiefs?
- Percentage of indigenous Commune Council members?
- Percentage of indigenous Village Chiefs?
- Are there any human, material and financial resources to acknowledge the specific needs of indigenous groups?
- What language(s) are used in the provincial integration workshop?
- Have there been linguistic problems during the previous integration workshop?
- Suggestions or recommendations?

**Provincial and District Facilitation Teams (DFT/PFT)**

- What is being done to ensure that members of the DFT/PFT understand indigenous constituents in their area?
- Is there any encouragement/incentive for them to learn the local language?
- Are there any endeavors to recruit DFT/PFT from local constituencies?
- Suggestions or recommendations?

*Statistics*

<b>Ethnic Group</b>	<b>Population</b>	<b>Percentage of Total</b>
<b>Chams</b>	195.215	65.01
<b>Lao</b>	21.649	7.21
<b>Phnong</b>	19.000	6.33
<b>Kui</b>	15.771	5.25
<b>Tampuan</b>	13.556	4.51
<b>Kreung</b>	9.368	3.12
<b>Prov</b>	5.286	1.76
<b>Thai</b>	3.976	1.32
<b>Stieng</b>	3.571	1.19
<b>Kraveth</b>	3.012	1.00
<b>Kraai</b>	2.677	0.89
<b>Mil</b>	2.076	0.69
<b>Pear</b>	1.294	0.43
<b>Kachac</b>	1.282	0.43
<b>Jorai</b>	977	0.33
<b>Lun</b>	464	0.15
<b>Loemoun</b>	355	0.12
<b>Poang</b>	260	0.09
<b>Kaning</b>	150	0.05
<b>Arach</b>	100	0.03
<b>Kachrouk</b>	100	0.03
<b>Saoch</b>	71	0.02
<b>Kola</b>	31	0.01
<b>Khmer Khe</b>	10	0.00
<b>Anang</b>	na	na
<b>Arab</b>	na	na
<b>Chong</b>	na	na
<b>Kachaing</b>	na	na
<b>Kayong</b>	na	na
<b>Mon</b>	na	na
<b>Nong</b>	na	na
<b>Rhade</b>	na	na
<b>Samre</b>	na	na
<b>Sispre</b>	na	na
<b>Thnal</b>	na	na
<b>Total</b>	300.271	100.00*
*Total Percentage by calculation less than 100.00% because of rounding na = not available		

**Illustration 9: Ethnic Groups in Cambodia according to the Department of Ethnic Minorities of the Ministry for Religious Affairs (MoRA 1992)**

<b>Ethnic Group</b>	<b>Population</b>	<b>Percentage of Total</b>
<b>Chams</b>	203.881	46.05
<b>Vietnamese</b>	95.597	21.59
<b>Chinese</b>	47.180	10.66
<b>Lao</b>	19.819	4.48
<b>Tampoun</b>	15.861	3.58
<b>Kuy</b>	14.186	3.20
<b>Jorai</b>	11.549	2.61
<b>Kreung</b>	7.854	1.77
<b>Phnong (Mnong)</b>	5.323	1.20
<b>Kraveth</b>	3.585	0.81
<b>Stieng</b>	3.234	0.73
<b>Prov</b>	2.585	0.58
<b>Thai</b>	2.454	0.55
<b>Kraol</b>	1.962	0.44
<b>Robel</b>	1.640	0.37
<b>Pear</b>	1.440	0.33
<b>Thmaum</b>	453	0.10
<b>Loemoun</b>	280	0.06
<b>Saoch</b>	72	0.02
<b>Kachac</b>	6	0.00
<b>Other</b>	3.708	0.84
<b>Total</b>	442.669	100.00*
<b>*Total Percentage by calculation less than 100.00% because of rounding</b>		

**Illustration 10: Ethnic Groups according to the Administration Department of the Ministry of the Interior (MoI 1995)**

<b>Ethnic Group</b>	<b>Population</b>	<b>Percentage of Total</b>
<b>Chams</b>	203.881	40.58
<b>Vietnamese</b>	109.512	21.79
<b>Chinese</b>	47.180	9.39
<b>Lao</b>	21.649	4.21
<b>Tampoun</b>	21.189	3.78
<b>Phnong (Mnong)</b>	19.000	3.13
<b>Kuy</b>	15.771	2.78
<b>Jorai</b>	13.969	2.53
<b>Kreung</b>	12.711	1.07
<b>Prov</b>	5.379	1.05
<b>Kraveth</b>	5.318	1.04
<b>Stieng</b>	5.234	0.79
<b>Thai</b>	3.976	0.79
<b>Kraol</b>	2.677	0.53
<b>Mil</b>	2.178	0.43
<b>Kachak</b>	2.172	0.43
<b>Robel</b>	1.640	0.32
<b>Pear</b>	1.440	0.28
<b>Souy</b>	1.158	0.23
<b>Thmon</b>	532	0.10
<b>Kayong</b>	515	0.10
<b>Lun</b>	464	0.09
<b>Loemoun</b>	355	0.07
<b>Poang</b>	260	0.05
<b>Kaning</b>	150	0.02
<b>Arach</b>	100	0.01
<b>Kachrouk</b>	100	0.01
<b>Saoch</b>	72	0.01
<b>Kola</b>	31	0.00
<b>Javanese</b>	27	0.00
<b>Arab</b>	11	0.00
<b>Khmer Khe</b>	10	0.00
<b>Other</b>	3.708	0.73
<b>Total</b>	502.369	100.00*
<b>*Total Percentage by calculation less than 100.00% because of rounding</b>		

**Illustration 11: Ethnic Groups in Cambodia according to the Administration Department of the Ministry of the Interior (MoI 1996)**

