

**Background Note for the Indigenous Rights in the Commonwealth Project Meeting
“Indigenous Rights in Commonwealth Africa”
16th-18th October, IPACC, Cape Town, South Africa, 2002**

There are approximately 150 million Indigenous Peoples living in the Commonwealth, making up a third of the worlds’ Indigenous Peoples. Yet wherever they may live, in an industrialised country or a developing one, from the Aborigines and Torres Strait Islanders in Australia, to the Amerindians in Belize, from the Jummas in Bangladesh to the Inuit in Canada, from the Adivasis in India to the Orang Asli in Malaysia, and from the San (Bushmen) in Southern Africa to the Batwa in Uganda, Indigenous Peoples in the Commonwealth are frequently disempowered and subjected to discrimination with regard to jobs, education, welfare, culture, language and especially in relation to their land rights.

In 1979, the Commonwealth made a rare commitment to pay ‘special attention’ to ‘Indigenous minorities’ and to make ‘special provisions’ for ‘Indigenous populations’ in the Lusaka Declaration of the Commonwealth on Racism and Racial Prejudice, issued at the Commonwealth Heads of Government Meeting, in Lusaka, Zambia.¹

In the Cyprus CHOGM Communiqué, 1993, Commonwealth Heads of Government ‘expressed their appreciation for the proclamation of 1993 as the International Year of the World’s Indigenous People as a reaffirmation of the commitment of the international community to protect the human rights and fundamental freedoms of indigenous people and ensure respect for the diversity of their cultures and identities.’²

However, the Commonwealth has not followed up on these commitments. The Harare Commonwealth Declaration, 1991, which commits the fifty-four member states to protecting and promoting human rights, did not include any reference to the rights of Indigenous Peoples.³

Today, the Commonwealth is one of the last inter-governmental agencies to recognise and accept responsibility for the promotion and protection of Indigenous Peoples. While other inter-governmental agencies such as the United Nations, the European Union, the International Labour Organisation (ILO), the Caribbean Community (CARICOM), and the Organisation of American States (OAS) have been working hard to define and protect Indigenous Peoples’ rights, cultures and habitats, the Commonwealth has remained apparently oblivious to the situation of its most vulnerable citizens. This is the case despite the fact that many of the problems facing Indigenous Peoples today are the direct result of colonialism. It is time that the Commonwealth had an explicit position with regard to Indigenous peoples.

There is currently no Commonwealth consensus or policy as such on the rights of its Indigenous citizens. It is left up to each Commonwealth Government to respond to

¹ For the full text of the 1979 Commonwealth Lusaka Declaration see:
<http://www.thecommonwealth.org/howeare/declarations/lusaka.html>

² Cyprus CHOGM Communiqué, 21-25 October 1993, ‘Democracy and Human Rights’, Paragraph 10.

³ For the full text of the 1991 Commonwealth Harare Declaration see:
<http://www.thecommonwealth.org/howeare/declarations/harare.html>

Indigenous People's concerns in the context of their own national policies. While the Commonwealth expects, of course, that such policies would be consistent with the Commonwealth's fundamental political values, as laid down in the Harare Declaration, 1991, it is clear that this is not always the case. The reality is that many of the fifty-four member states in the Commonwealth do not promote and protect the rights of their Indigenous communities.

While a number of Commonwealth countries have developed individually specific policies to recognise and protect Indigenous Peoples, such as in New Zealand and Canada, there remains no Commonwealth-wide commitment to Indigenous Peoples. To date, the Commonwealth has no philosophical statement which could encourage and support member states in formulating appropriate Indigenous policy at the national level, nor is it utilising its goodwill and educational network to co-ordinate greater understanding of Indigenous issues and responsibilities among its member states.

Moreover, the Commonwealth is not actively cooperating with the efforts of other inter-governmental agencies, like the United Nations, in its efforts to promote and protect Indigenous Peoples. For example, some Commonwealth member states, such as Australia and the UK, are obstructing efforts by non-Commonwealth states to finalise the UN Draft Declaration on Indigenous Peoples.

There is currently no official Commonwealth publication descriptive of the current economic, social, cultural and political status of Indigenous peoples in member states and there is no administrative mechanism within the Commonwealth Secretariat (UK), to channel specific enquiry, advocacy or support.

In July 1999, the Commonwealth Policy Studies Unit (CPSU) – an independent think-tank, based at the University of London, UK, which conducts research and advocacy on human rights issues relating to the Commonwealth - organised a Dialogue on Indigenous Rights in the Commonwealth at the Institute of Commonwealth Studies. The Dialogue was initiated with the intention of discussing ways and means in which the Commonwealth could do more for its Indigenous Peoples.

There was a consensus at the Dialogue in July 1999 that the time had come for the issue of Indigenous Peoples' rights to be put firmly on the Commonwealth agenda. The Dialogue marked the beginning of an important process ensuring that the Commonwealth accepts its responsibility to Indigenous Peoples.

Following the Dialogue, the Commonwealth Association of Indigenous Peoples (CAIP) was established; a pan-Commonwealth network of Indigenous Peoples. CAIP was given accreditation at the Commonwealth Heads of Government Meeting (CHOGM) in Durban, 1999, and at the CHOGM in Colum in March 2002. CAIP has been actively lobbying the Commonwealth at various fora since its formation.

In February 2001, the CPSU was awarded funding from the European Commission (EC) and the Department for International Development (DfID) – the UK overseas development agency - for the Indigenous Rights in the Commonwealth Project, a three year research and advocacy programme, designed to encourage the Commonwealth to include in its human rights programme a commitment to Indigenous rights. The Project is

mandated to carry out research on Indigenous rights issues in twenty Commonwealth countries and, in association with Indigenous Peoples and organisations in the Commonwealth, to lobby the Commonwealth to address the needs of its Indigenous Peoples.⁴ The Project is now in its second year.

As part of its commitment to conducting research on Indigenous rights issues in the Commonwealth, and in order to support and strengthening the pan-Commonwealth network of Indigenous Peoples, the Project is holding a series of four regional expert meetings. The first was held in Nadi, in the Fiji Islands in October 2001 and the second was held in New Delhi, India in March 2002. These meetings brought together Indigenous Peoples and specialists from the South Pacific and from South and South East Asia respectively, to share their experiences and to network.

The third regional expert meeting is being held in Cape Town, South Africa in October 2002. The fourth and final meeting is being held in Guyana in June 2003. These meetings will bring together Indigenous Peoples and specialists from Africa and the Caribbean and the Americas respectively.

The end of the Project will be marked by the publication of an edited volume of the papers presented at the four regional expert meetings, entitled 'Indigenous Rights in the Commonwealth'. This publication, describing the contemporary socio-economic, political, legal and cultural status of Indigenous Peoples in twenty Commonwealth countries, will provide a much needed resource for the Commonwealth and a crucial advocacy tool to be used by defenders of Indigenous rights in the Commonwealth in the future.

As part of its bid to urge the Commonwealth of fifty-four states to accept its responsibility to protect and promote the rights of its Indigenous Peoples, the Project submitted a Memorandum to the Commonwealth Heads of Government Meeting (CHOGM) in Coolumburra, Australia, March 2002.

This Memorandum included a set of Recommendations, drafted in consultation with Indigenous Peoples and organisations represented at the meetings in the Fiji Islands and in India, and at the second 'Dialogue on Indigenous Rights in the Commonwealth', organised by CAIP and the CPSU in Brisbane, Australia, October 2001.

The Project will also submit a Memorandum to the Commonwealth Heads of Government Meeting (CHOGM) in Abuja, Nigeria, December 2003. The Recommendations that are drafted at the meetings in Cape Town, South Africa and in Guyana, will be incorporated into this Memorandum.

⁴ For reasons of time and manageability the Project is focusing on twenty of the fifty-four Commonwealth states, covering the four regions of the Commonwealth, where it considers there are serious issues of concern to Indigenous Peoples, these are: Australia, Fiji, New Zealand, and Papua New Guinea (South Pacific), Pakistan, Bangladesh, Sri Lanka, India, and Malaysia (South and South East Asia), Botswana, South Africa, Namibia, Cameroon, Kenya, Nigeria, Tanzania, and Uganda (Africa), and Canada, Guyana, and Belize (North Americas and the Caribbean).

The Project, in consultation with CAIP, and Indigenous Peoples and organisations around the Commonwealth, including Nigeria, are currently discussing ways to effectively lobby the Commonwealth in the run up to the Abuja summit.

Since 1979, Commonwealth Heads have avoided the issue of Indigenous rights in their biennial Declarations. Today, there is a great reluctance on the part of the Commonwealth to accept its historical and moral responsibility towards Indigenous Peoples. At the most recent Commonwealth Heads of Government Meeting (CHOGM) in Coolum, Australia, in March 2002, the fifty-four member states renewed their commitment to human rights. However, despite the fact that the CHOGM was held in Australia, where Indigenous rights issues have a high profile, indeed Aborigines and Torres Strait Islanders were actively encouraged to participate in the ceremonial aspect of the CHOGM, no reference was made to Indigenous Peoples and their rights in the 2002 Coolum Declaration.⁵

While the official Commonwealth remains reluctant to adopt a Commonwealth-wide commitment to Indigenous rights, Commonwealth Non-Governmental bodies, by contrast, are increasingly calling on the Commonwealth to assist Indigenous Peoples to realise their rights.

At the (postponed) CHOGM, in Brisbane, Australia, in October 2001, there was an unprecedented attempt by the Commonwealth to involve civil society in their biennial summit by organising a week long Commonwealth People's Festival, with the theme 'Connecting Communities'. Paragraph 12 of the Commonwealth People's Communiqué, issued at the Festival, refers directly to the need for Commonwealth member states to recognise and address the rights of Indigenous Peoples:

*The Commonwealth must recognise and address the rights of its indigenous peoples. It is no longer acceptable to dismiss indigenous issues as the domain of nation states. The Commonwealth is lagging behind other international fora and needs to bring itself up to date on this issue.*⁶

Indigenous Peoples in the Commonwealth must ensure that the Abuja Declaration 2003 contains a firm commitment by member states to promote and protect its Indigenous Peoples' rights.

At the United Nations World Summit on Sustainable Development (WSSD), in August 26 - September 4th, Johannesburg, South Africa, 2002, Indigenous Peoples lobbied hard to get Paragraph 22 accepted into the Johannesburg Political Declaration and Implementation Plan of Action. The strategy was to formulate and agree upon one sentence and to push for that to be adopted. It was felt that if they limited themselves to one sentence the chances of having it adopted would be greater. Paragraph 22 reads: 'We reaffirm the vital role of indigenous peoples in sustainable development'. The use of the term "indigenous peoples" was seen as crucial in this sentence. The Johannesburg

⁵ For the full text of the 2002 Commonwealth Coolum Declaration see:
<http://www.thecommonwealth.org/howeare/declarations/>

⁶ For the full text of the Commonwealth People's Communiqué, Brisbane, 2001, see:
<http://www.commonwealthfoundation.com/news/news.cfm?id=248>

Political Declaration and Implementation Plan of Action was adopted by more than 100 heads of states.

A similar strategy could be pursued by Indigenous Peoples in the run up to CHOGM, Nigeria, 2003. One sentence could be formulated and agreed upon by Indigenous Peoples in the Commonwealth to be presented at the CHOGM summit for inclusion in the Abuja Declaration. The rationale for the meetings in Cape Town, South Africa, in October 2002, and in Guyana in June 2003, is to give an opportunity for Indigenous Peoples to consider the kind of commitment they would like Commonwealth member states to make at the Abuja summit. The meetings also provide an opportunity for Indigenous Peoples in the Commonwealth to discuss ways to effectively lobby Commonwealth Governments, and to sensitive Commonwealth Government Ministers, especially those concerned with Indigenous affairs, in the run up to the Abuja summit.

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