

Indigenous Peoples and the Abuja CHOGM, 2003 – a lost opportunity?

The Commonwealth remains a quarter of a century behind the United Nations in regards to recognition and protection of the human rights of Indigenous Peoples, and has lost an opportunity to modernise its values.

This statement was made by the Commonwealth Policy Studies Unit (CPSU) and the Commonwealth Association of Indigenous Peoples (CAIP) in their Abuja Press Release, 'Communiqué Fails the Challenge of the Decade', following the failure of Heads of Government to make reference to the rights of indigenous peoples in the Aso Rock Declaration.

The Abuja Commonwealth Heads of Government Meeting (CHOGM) was the last occasion for Commonwealth leaders to review their commitment made in Lusaka, 1979, to the rights of the approximately 150 million indigenous peoples living in the Commonwealth, before the end of the United Nations (UN) International Decade on the World's Indigenous People (1995-2004).

Indigenous Peoples and the Commonwealth

In 1979 the Commonwealth made a rare commitment in the Lusaka Commonwealth Declaration, Zambia, to pay 'special attention' to 'Indigenous minorities' and to make 'special provisions' for 'Indigenous populations'.

However, Commonwealth Heads of Government have not followed up on this commitment. Since 1979, Commonwealth Heads have not looked at the issue of indigenous rights at any of their biennial summits. The Harare Commonwealth Declaration, 1991, which saw a commitment by member states to protecting and promoting human rights, made no reference to the rights of indigenous peoples.

To date, the Commonwealth, unlike most other inter-governmental and regional associations, such as the UN, the European Union, the Caribbean Community (CARICOM), the African Union, and the Organisation of American States, has no official policy on the rights of indigenous peoples – it is left up to each member state to decide upon its own policy for indigenous peoples.

Indigenous Rights in the Commonwealth Project - CPSU

Research conducted by the CPSU's Indigenous Rights in the Commonwealth Project, during 2001-2004, reveals that many Commonwealth member states do not promote and protect the rights of their indigenous peoples and continue to turn a blind eye to international norms concerning the rights of indigenous peoples (see CPSU website: www.cpsu.org.uk)

UN International Decade on the World's Indigenous People

In 1993, the UN General Assembly called for governments to “strengthen their efforts for international co-operation for the solution of problems faced by Indigenous People in such areas as human rights, the environment, development and health.” This was the objective of the UN Decade, due to end this year.

While in the Cyprus CHOGM Communiqué, 1993, Commonwealth Heads “expressed their appreciation for the proclamation of 1993 as the International Year of the World’s Indigenous People...” there was no follow up on this issue. Furthermore, Commonwealth Heads gave no declaratory support to the International Decade at the Millbrook CHOGM 1995, and have since remained silent on the issue.

UN Draft Declaration on the Rights of Indigenous Peoples

In 1982, the UN set up a Working Group on Indigenous Populations (WGIP), whose main task was to set standards, by drawing up a Draft Declaration on the Rights of Indigenous Peoples. The UN Working Group on the Draft Declaration was entrusted with the task of achieving a consensus on the Declaration before the end of the International Decade.

There is now only one more session of the Working Group remaining for states to reach a consensus on the Declaration enabling its adoption by the end of the Decade. However, there remain many arguments over the wording of the Declaration (to date only 2 of the 45 articles have been accepted).

A number of Commonwealth member states, namely, Australia, Canada and the UK, are at the forefront of a small group of countries opposing the recognition of collective rights of indigenous peoples, such as self-determination, in the Draft Declaration, thus preventing a consensus from being reached on the Declaration, thereby obstructing the adoption process.

The failure of states to agree on the wording of the Declaration is threatening to unravel the entire process. It is clear that if significant progress is not made this year, the Working Group will not be given a mandate to continue discussing the Declaration after 2004.

While the Declaration, if and when it is adopted, will not be legally binding on states, it will nevertheless have great moral force and will provide minimum standards to guide states in their dealings with indigenous peoples.

Commonwealth Heads of States are therefore urged to support the Declaration and to ensure its speedy adoption.

Commonwealth Heads of Government Meeting, Abuja, December 2003

Report of the Commonwealth Expert Group on Development and Democracy

While Heads of Government made no reference to the rights of indigenous peoples in the Aso Rock Declaration, the Report of the Commonwealth Expert

Group on Development and Democracy, 'Making Democracy Work for Pro-Poor Development', endorsed by Commonwealth Heads of Government in Abuja, clearly recognised the serious economic, social, and political marginalisation faced by indigenous peoples in the Commonwealth. The Expert Group notes:

Around half of the world's 300 million indigenous peoples live in the Commonwealth, and frequently suffer discrimination, intolerance and prejudice, and violation of their land rights.

Commonwealth Peoples' Forum, Abuja, December 2003

Commonwealth Civil Society Meeting on Development and Democracy

Indigenous peoples' rights were placed firmly on the agenda of the Commonwealth Civil Society Organisations at Abuja. The Abuja Civil Society Statement, arising out of the Civil Society Meeting on Development and Democracy, organised by the Commonwealth Foundation, included a paragraph on 'The rights of Indigenous Peoples and the right to Self-determination':

In this, the penultimate year of the UN Decade for Indigenous Peoples, we ask the Commonwealth to acknowledge that many Indigenous Peoples in the Commonwealth continue to be significantly disadvantaged and that special measures should be encouraged to overcome the continuing effects of racism, colonialism, or globalisation, with their full participation and consent. Further, we urge the establishment of mechanisms to guarantee the rights to self-determination of people in the overseas territories of member countries.

Looking Ahead

Malta CHOGM, 2005

Despite the failure of Heads of Government to recognise the rights of indigenous peoples in the Abuja Declaration, as their Press Release states, 'The CPSU and CAIP will continue the campaign for reform in the Commonwealth'.

While the Indigenous Rights in the Commonwealth Project will conclude its work in March 2004, CAIP will continue to lobby the Commonwealth and its member states to ensure that the rights of indigenous peoples are recognised in the Malta Commonwealth Declaration, 2005.

Recent Commonwealth Secretariat Initiatives

Despite the continuing absence of an official Commonwealth policy promoting and protecting the rights of indigenous peoples, there have recently been

some welcome, albeit piecemeal, attempts by the Commonwealth Secretariat to begin to address the issue of indigenous peoples.

For example, at the Preparatory Meeting of the Commonwealth Heads of National Women's Machinery for the seventh Women's Affairs Ministers Meeting (7WAMM), New York, March 2003, it was agreed that among the several cross-cutting issues that should feed into planning for 7WAMM and the development of the new Commonwealth PoA for 2005-2015, were indigenous peoples.

Accordingly, on February 17-19, 2004, an Expert Working Group on Gender and Human Rights was convened at the Commonwealth Secretariat to discuss, *inter alia*, the rights of indigenous peoples, in particular the rights of indigenous women and children. The reports and the recommendations from the meeting will be presented to the Women's Affairs Ministers at their meeting in Fiji in May/June 2004 and incorporated into the new PoA.

It is important that the Gender Section and the Human Right Unit of the Commonwealth Secretariat build on this initiative and begin to work with member governments and partners to mainstream indigenous peoples' issues into all government policies, programmes and activities in order to achieve full equality and respect for indigenous peoples in the Commonwealth.

Dr Helena Whall
Project Officer, Indigenous Rights in the Commonwealth
Commonwealth Policy Studies Unit
February 2004

For further information on CAIP contact Les Malezer, CAIP Coordinator:
les.malezer@faira.org.au

For further information on CPSU contact Richard Bourne, Head CPSU:
rbourne@sas.ac.uk