



Summary Report of the Indigenous Rights in the Commonwealth Project, 2001-2004

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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, 2003.

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 International Decade on the World's Indigenous People (1995-2004).

With the Indigenous Rights in the Commonwealth Project coming to an end in March 2004, it is timely to look back at some of the achievements of the project; to ask what impact it has had on the Commonwealth, at both the official and unofficial level; to reflect on the progress made by indigenous peoples at the Abuja CHOGM 2003; and to ask what the future holds for indigenous peoples in the Commonwealth?

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'.¹

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. It is expected, of course, that such policies would be consistent with the Commonwealth's fundamental political values.

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.² 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.

Only one more session of the Working Group now remains for states to reach a consensus on the Declaration enabling its adoption by the end of the Decade, 2004. 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 text of the Declaration, and obstructing the adoption process.

At the 9th Working Group, September 2003, these same states took an unprecedented move and tabled new, alternative, text on several articles of the Declaration for consideration by other states. This evoked a cry of sabotage from states supporting the current text.

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 once the Decade is over.

While the Declaration, if and when 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 should be urged to support the Declaration and to ensure its speedy adoption.

Indigenous Rights in the Commonwealth Project

For the past three years (2001-2004), the Commonwealth Policy Studies Unit, an independent think-tank, based at the University of London, which conducts research and advocacy on contemporary policy issues facing the Commonwealth, has been home to the Indigenous Rights in the Commonwealth Project.³ This research based advocacy programme was designed to encourage the Commonwealth to include in its human rights programme a commitment to the rights of indigenous peoples. The CPSU believes it is time the Commonwealth came into line with current international thinking on this issue and formulated an explicit position on the rights of indigenous peoples.

The project was funded by the European Commission and the Department for International Affairs (DfID), UK.

The project had a three member international advisory board, which met once a year to give project staff advice and guidance.

The project has tried to sensitise the Commonwealth association – at both the official (governmental) and unofficial (civil society) level - to the issues facing indigenous peoples and to place the issue of their rights firmly on the Commonwealth agenda. The project adopted a two-fold approach: research and advocacy.

Research

During the three year project, the CPSU organised four regional expert meetings around the Commonwealth: Fiji Islands (October 2001); India (March 2002); South Africa (October 2002); and Guyana (June 2003), bringing together indigenous peoples and experts from twenty Commonwealth countries to discuss issues such as; constitutional status and treaties, land rights and resource management, development and the environment, cultural issues, and socio-economic rights. These meetings provided an opportunity for indigenous peoples in the Commonwealth to share information and experiences and to build networks.

All the papers presented at the regional meetings are available to download on the CPSU website at: www.cpsu.org.uk. A selection of the papers will be published in an edited book at the end of the project (see later).⁴

The research undertaken by the project on the status of indigenous peoples in twenty Commonwealth countries highlights the markedly similar experiences of indigenous peoples living in Commonwealth member states. Wherever they may live, in an industrialised country or a developing one, in a rural or urban area, indigenous peoples routinely suffer from discrimination, social, economic and political marginalisation and poverty.

Advocacy

Over the past three years, the project has published several reports advocating the recognition of the rights of indigenous peoples in the Commonwealth.

2001

A case for Commonwealth attention to Indigenous rights based on the initial findings of the project by Helena Whall, CPSU (July 2001), was submitted to the High Level Review Group of the Future of the Commonwealth, Chaired by President Thabo Mbeki, 9th-10th July 2001, Singapore. *Combating Racism against Indigenous Peoples* by Helena Whall, CPSU (August 2001), examined racism against indigenous peoples in the Commonwealth for the UN 2001 World Conference on Racism (UNWCAR). In *Recognising and Protecting Indigenous Peoples' Rights in the Commonwealth*, the CPSU Memorandum to the Brisbane CHOGM 2001, by Helena Whall, CPSU (September 2001), the Unit called on leaders to acknowledge the rights of indigenous peoples in the Brisbane Commonwealth Declaration.

2002

The Miner's Canary, by Paul Havemann and Helena Whall, CPSU, (August 2002), surveyed indigenous issues and sustainable development in the Commonwealth for the UN 2002 World Summit on Sustainable Development (WSSD).

2003

Invisible lives: Undercounted, underrepresented and underneath: the socioeconomic plight of Indigenous peoples in the Commonwealth, by CPSU Head, Richard Bourne, CPSU (May 2003), measured the socio-economic status of indigenous peoples in the Commonwealth against the Millennium Development Goals (MDGs).

In *Recognising and Protecting Indigenous Peoples Rights in the Commonwealth*, the CPSU Memorandum to the Abuja CHOGM 2003, by Helena Whall, CPSU (November 2003), the CPSU made a final appeal to Heads of State to include a statement on indigenous rights in the Abuja Commonwealth Declaration.⁵

All of the above reports and others are available to download on the CPSU website at: www.cpsu.org.uk.⁶

The project organised four Dialogues on indigenous peoples' rights in the Commonwealth and held regular seminar series on the same theme at the Institute of Commonwealth Studies. It also hosted several press conferences for indigenous organisations in the Commonwealth. Helena Whall gave lectures and seminars on the issue of indigenous peoples in the Commonwealth at various UK Universities during 2001-2003.

Helena Whall attended the annual sessions of the UN Working Group on the Draft Declaration on the Rights of Indigenous Peoples, Geneva, 2001-2003. This provided material for an article by Helena Whall, 'Indigenous Self-Determination in the Commonwealth of Nations', *Rethinking Indigenous Self-Determination*, ed. Barbara A. Hocking, Aboriginal Studies Press, Canberra, Australia, (forthcoming 2004), and a conference presentation by Helena Whall, *Indigenous peoples' rights in the Commonwealth*, Minority Rights and Reconciliation in the Commonwealth, Cumberland Lodge, February 2004.⁷

Inter-governmental Commonwealth

Despite the continuing absence of an official Commonwealth policy promoting and protecting the rights of indigenous peoples, during 2001-2004, there were some important and welcome, albeit piecemeal, attempts at the inter-governmental Commonwealth level to address the rights of indigenous peoples.

Commonwealth Secretariat

Since 2001 the Commonwealth Secretariat has published two important reports highlighting the need for the Commonwealth to recognise the rights of indigenous peoples.

'National Human Rights Institutions (NHRI): Best Practice' 2001

In 'National Human Rights Institutions (NHRI): Best Practice', Commonwealth Secretariat (2001), representatives from 41 Commonwealth countries and NHRIs attending the 2000 Commonwealth Conference on NHRIs recommended that an NHRI should 'recognise the experiences of indigenous peoples and work to prevent their social, political and economic marginalisation'.⁸ Chapter 6 reads:

- *NHRIs should develop and execute special outreach programmes directed towards indigenous peoples.*
- *Where appropriate, NHRI staff should include indigenous persons.*
- *NHRI staff should be specially trained to respond to the specific issues faced by indigenous peoples.*
- *NHRIs should include specific questions related to the provision of services to indigenous peoples as part of their evaluation efforts.*

An NHRI should recognise the experiences of indigenous peoples and work to prevent their social, political and economic marginalisation. This can be accomplished by ensuring that indigenous persons feel comfortable filing complaints with NHRIs, that NHRI staff are adequately trained to address the needs of indigenous persons, and that a component of the NHRI's overall performance of these two tasks be the subject of the evaluation included in its annual report.

'Evaluation Study of the Commonwealth Secretariat's Role in the Promotion of Human Rights, 1997-2000', 2001

In his 'Evaluation Study of the Commonwealth Secretariat's Role in the Promotion of Human Rights, 1997-2000', Commonwealth Secretariat, (September 2001), Chaloka Beyani noted:

There seems to be an overall lack of awareness of the practical applicability of human rights of both a civil and political, economic, social and cultural profile to relevant aspects of the work of the Secretariat. For example, the important work done through the good offices of the Secretary General in conflict prevention could apply human rights crucially to specific problems which give rise to conflict, such as the internal application of self-determination, the protection of minorities and indigenous groups, and non-discrimination within specific constitutional frameworks.

In Annex 2 of his study, 'Summary of views received from member governments', in response to a question asking: 'Should the Commonwealth Secretariat expand its human rights programme so that it would not only cover civil and political rights, democracy, the rule of law, but also economic, social and cultural rights, including poverty and development?', the author noted:

There was an overall consensus towards the inclusion of economic, social and cultural rights, including poverty and development and in particular the social and cultural rights of indigenous and minority peoples should be included on the Human Rights agenda of the Commonwealth Secretariat.

Commonwealth News Information Service (CNIS)

Since 2002, the electronic Commonwealth News Information Service (CNIS) has regularly included articles on the rights of indigenous peoples submitted by the Indigenous Rights in the Commonwealth Project.⁹

Gender Programme

Perhaps the most welcome initiative has come from the Gender Programme, Social Transformation Programmes Division, at the Commonwealth Secretariat.

At the Preparatory Meeting of the Commonwealth Heads of National Women's Machineries 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 Plan of Action (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.

The Gender Section has made a commitment to organise a conference on indigenous women and to publish the results of this conference.

It is important that other divisions at 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.¹⁰

Human Rights Unit

The Human Rights Unit (HRU) at the Commonwealth Secretariat has taken an active interest in the work of the project. Staff at the HRU participated in several of the activities organised by the project, including Dialogues, seminars and consultations.

The most recent issue of *Human Rights Unit Update* (Spring 2004), includes an article by Helena Whall, *Indigenous Peoples and the Abuja CHOGM, 2003 – a lost opportunity?*¹¹

Commonwealth Ministers' Meeting

The issue of the rights of indigenous peoples is increasingly finding its way on to the agenda of different Commonwealth Ministers' Meetings.

Commonwealth Health Ministers' Meeting, 2001

In the 13th Commonwealth Health Ministers Meeting Final Communiqué, issued in New Zealand, 2001, the Commonwealth Working Group on Traditional and Complementary Health Systems invited the Commonwealth Secretariat to engage with the Government of Malaysia to prepare detailed proposals to address *inter alia*:

...*intellectual property rights of indigenous traditional healers.*¹²

Commonwealth Law Ministers' Meeting, 2002

At the Commonwealth Law Ministers Meeting, held in St Vincent & The Grenadines, 2002, a commitment was made to address the needs of 'communities and groups' which have been dispossessed of their lands. Moreover, Ministers recognised 'customary law' relating to land. In the Commonwealth Secretariat's paper, 'Strategies for Enhancing Democracy by Eliminating Legal Barriers to Development', prepared in advance of the Law Ministers meeting, it reads:

Most developing countries, however, find themselves in the midst of profound transitions in this arena. Some countries are still working with colonial era statutes, which are outdated and require review and reform. In the Caribbean, key land issues which have been identified for past and ongoing projects include:

The poor; indigenous peoples and women often lacking equitable and sufficient access to land.

Unfortunately, there was no reference to 'indigenous peoples' in the Commonwealth Law Ministers Meeting Final Communiqué. However, the Kingstown Declaration on Land and Development, Annex C to the Communiqué, did acknowledge the needs of 'communities and groups' which have been dispossessed of their lands and recognised 'customary law' relating to land. It reads:

They [Commonwealth Law Ministers] conclude that the law must ensure that lawful access to land is promoted and protected and at the same time recognised the very important role played in many Commonwealth countries by systems of customary and community land use and ownership laws. Law Ministers recognise the need in some countries to address appropriately, and within the framework of the law, the concerns of those communities and groups who have been and remain disposed of their land and they acknowledged the need in various member countries to reconcile common law concepts of land ownership with the customary law concepts of the sharing of the collective benefits of land.

Commonwealth Foundation

The Commonwealth Foundation is increasingly including indigenous representatives in relevant fora.

In March 2003, the Foundation funded the participation of representatives of CAIP and the Movement for the Survival of the Ogoni People (MOSOP) to attend the 'Diversity Matters Conference', organised by the Australian Multicultural Foundation and the CPSU, at the Institute of Commonwealth Studies.

The Coordinator of CAIP was also invited by the Commonwealth Foundation to attend the Civil Society Meeting on the Committee of the Whole,

Marlborough House, London, 10 November 2003 and the Civil Society-Senior Officials Dialogue on the Committee of the Whole, Marlborough House, London, 11 November 2003.

A representative of the Council of Indigenous NGOs of Aotearoa, New Zealand, was funded by the Foundation to attend the Civil Society Meeting on Development and Democracy, at the Abuja Commonwealth Peoples Forum, December 2003. Indigenous representatives from CAIP and MOSOP were also invited to the meeting.

Commonwealth Civil Society

Commonwealth civil society organisations have responded positively to the lobbying efforts of the CPSU and CAIP over the last three years, and the rights of indigenous peoples is now firmly on their agenda.

Commonwealth Human Rights Initiative

In 'Put Our World to Rights', the first report published by the Commonwealth Human Rights Initiative (CHRI) in 1991, CHRI made indigenous rights one of its eight human rights priorities for the Commonwealth.¹³ The CHRI recommended:

Commonwealth human rights policy must recognise the special situation of Indigenous and tribal peoples. It must recognise their marginalisation, their vulnerability and the legitimacy of their goals of distinct group survival.

In CHRI's Millennium Report, 'Human Rights and Poverty Eradication – A Talisman for the Commonwealth', 2001, it reiterated its plea to the Commonwealth to recognise and protect indigenous rights. It reads:

Wherever they live...indigenous peoples encounter discrimination, intolerance and prejudice. They must struggle for both their survival and their identity.

The *Commonwealth Human Rights Initiative (CHRI) Newsletter*, Volume 10, No. 2, New Delhi, (Autumn 2003), included an article by Helena Whall, *Indigenous Rights in the Commonwealth Caribbean and Americas*.

Commonwealth Parliamentary Association

At the 49th Commonwealth Parliamentary Association (CPA) Conference, held in October 2003, Dhaka, Bangladesh, the issue of the rights of indigenous peoples found expression in the workshop on 'Reconciling Human Rights with Cultural Diversity'. In a paper titled 'The Value of Diversity', the authors reminded CPA Members of 'the special claims of the Commonwealth's Indigenous peoples, so often marginalised and a reproach to complacency about diversity issues.'

One of the leading articles in Issue Three/2003 of *The Parliamentarian*, the Journal of the Parliaments of the Commonwealth was an article by Helena Whall, *A Story of Exclusion: Indigenous Peoples in the Commonwealth*, by Helena Whall, which included two sections written by CPA members addressing the issue of indigenous rights in Papua New Guinea and Australia, respectively.¹⁴

It is hoped that as a result of concerted lobbying by the project, the CPA will include a panel on the rights of indigenous peoples in the Commonwealth at its forthcoming conference in Canada.¹⁵

Commonwealth Lawyers Association

The Commonwealth Lawyers Association (CLA) and the CPSU are currently formulating a joint project on Indigenous Land Rights and Resource Management in the Commonwealth, to commence in 2005 (see later).¹⁶

The CLA is also committed to including a panel on the rights of indigenous peoples in the Commonwealth at its conference in 2005.

Commonwealth People's Communiqué, CHOGM 2001

Paragraph 12 of the Commonwealth People's Communiqué, issued by NGOs at the Commonwealth Peoples' Festival, Brisbane CHOGM, October 2001, included an appeal to the Commonwealth to recognise and address the rights of indigenous peoples. It reads:

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.

'A New Vision for the Commonwealth – A report for the Coolum Commonwealth Heads of Government Meeting', 2002

Commonwealth NGOs made a further commitment to the protection of indigenous rights in 'A New Vision for the Commonwealth – A report for the Coolum Commonwealth Heads of Government Meeting', Royal Commonwealth Society, 2002.¹⁷ At the Coolum CHOGM, March 2002, Commonwealth leaders examined afresh the future direction of the official association. 'A New Vision for the Commonwealth' is a distillation of submissions to the review process by Commonwealth NGOs and other Commonwealth organisations. Under the section on 'Human Rights', paragraphs 31 and 32 read:

Another priority for the [Human Rights] Commissioner should be indigenous rights. Until now these have received less attention from the Commonwealth than from other major international organisations such as the ILO. About one-third of the world's indigenous peoples are in the

Commonwealth, which must have an explicit position. Indigenous and tribal peoples are the earliest inhabitants of many of our 54 states.

No support for indigenous rights was included in the Harare Declaration, yet there exist in the Commonwealth certain commonalities. A welcome step in 1999 was the formation of a Commonwealth Association of Indigenous Peoples, which was accredited to the Durban CHOGM.

Number 31 of the 43 Recommendations made by 'A New Vision for the Commonwealth' urges the Commonwealth to:

...pay greater attention to the rights of indigenous peoples.

Commonwealth Advocacy Workshop, Accra, Ghana, 23-24 June 2003

In the Statement from the Commonwealth Advocacy Workshop, 23-24 June 2003, Accra, Ghana, organised by the Commonwealth Civil Society Project, CPSU, in association with the CHRI, (Africa Office), it reads:

(v) the Commonwealth should encourage good corporate governance and social responsibility especially in the context of environmental concerns and the rights of Indigenous Peoples¹⁸

The Round Table

The Round Table, the Commonwealth Journal of International Affairs, which provides analysis and commentary on all aspects of international affairs and which is a major source for coverage of the policy issues concerning the contemporary Commonwealth and its role in international affairs, included in its October 2003 issue, an article by Helena Whall titled 'The Challenge of Indigenous Peoples: The Unfinished Business of Decolonisation'.¹⁹

Commonwealth Association of Indigenous Peoples

The project has worked closely with the Commonwealth Association of Indigenous Peoples, a pan-Commonwealth network of indigenous peoples, established in 1999, at the first Dialogue on the rights of indigenous peoples in the Commonwealth (July 1999).²⁰ Since then, CAIP has been actively lobbying the Commonwealth and its member states at both Commonwealth and UN fora.

CAIP members lobbied hard in the run up to and at the Heads of Government summit in Abuja, 2003.

On September 17th 2003, CAIP in association with the project, held a lunch time meeting in the wings of the UN Working Group on the Draft Declaration, for CAIP members and other indigenous organisations in the Commonwealth, to discuss strategies for lobbying Heads of Government prior to CHOGM.

In its Abuja Press Release, 'Invisible Peoples in the Commonwealth', December 1st, CAIP called for Heads of Government in Abuja to make a strong statement in support of indigenous peoples. It stated: "CAIP believes that most governments support the view that CHOGM can, and should, acknowledge the needs of Indigenous Peoples. Unfortunately, the 'whole-of-government' approach to human rights issues over-simplifies the problem and renders Indigenous Peoples invisible." It went on: "It is this 'invisibility' which needs to be addressed, because it allows a history of inattention to continue, at the regional, national and local levels of government."²¹

Commonwealth Heads of Government Meeting, Abuja, December 2003

CPSU Memorandum, CHOGM Abuja 2003

In the Executive Summary of the CPSU Memorandum, CHOGM Abuja 2003, the Unit urged leaders to:

- recognise that special attention be paid to the needs and rights of Indigenous Peoples;
- acknowledge that many Indigenous Peoples in the Commonwealth continue to be significantly disadvantaged in comparison to other groups in society and that special measures should be encouraged to overcome the continuing effects of colonialism or racism, with the full participation and consent of the Indigenous Peoples concerned;
- foster and develop national, regional and local programmes of action with Indigenous Peoples, in accordance with international human rights standards and Commonwealth values on democracy and good governance; and
- review its processes and programmes to address the issues of Indigenous Peoples and provide recognition and strengthening of Indigenous structures.

This four-point Commonwealth Indigenous Statement was endorsed by CAIP and was the outcome of the four regional CPSU consultations held with indigenous peoples' organisations around the Commonwealth during 2001-2004. A set of Recommendations arising out of the consultative meetings were also included in the Memorandum.

The CPSU Memorandum was circulated at a briefing session on indigenous rights issues in the Commonwealth organised by the CPSU on November 17th, 2003, for High Commissioners and their representatives at the Zambia High Commission, London. The High Commissioner of Zambia hosted the briefing, and representatives from Tanzania, Canada, Sri Lanka, Fiji, South Africa and Cameroon attended. The Memorandum and the four-point Commonwealth Indigenous Statement received considerable support.

Aso Rock Declaration, Abuja, 2003

Unfortunately, Heads of Government made no reference to the rights of indigenous peoples in the Aso Rock Declaration, Abuja, 2003.

In the CPSU/CAIP Press Release, 'Communiqué Fails the Challenge of the Decade', issued in Abuja, December 8th, the CPSU and CAIP stated: "The Commonwealth has not lived up to its claims of human rights and equality for all citizens. The Aso Rock Declaration 2003 does not encourage governments to strengthen efforts to overcome the disadvantages faced by 150 million Indigenous Peoples in the Commonwealth." It went on: "Indigenous Peoples remain the most disadvantaged and oppressed peoples throughout the Commonwealth, and are suffering from ongoing colonialism and racism." The Press Release concluded: "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."²²

Report of the Commonwealth Expert Group on Development and Democracy, 2003

However, the Report of the Commonwealth Expert Group on Development and Democracy, entitled 'Making Democracy Work for Pro-Poor Development', prepared for Commonwealth Heads of Government in Abuja, recognises the serious economic, social, and political marginalisation faced by indigenous peoples in the Commonwealth. The Expert Group noted:

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.

The Report also recognises that indigenous peoples in the Commonwealth frequently suffer "violation of their land rights" (paragraph 99), "comparatively low life expectancy" (paragraph 89), and "limits on [their right] to own, develop, control and use their lands and territories" (paragraph 114). The Report goes on to recognise the right of indigenous peoples "to establish and control their education systems and institutions in a manner appropriate to their cultural methods of teaching and learning" (paragraph 188). It stresses that parliaments "should take account of the interests" of indigenous peoples (paragraph 64) and recommends that member states adopt social and economic policies "directed at challenging discrimination against...indigenous peoples even in developed Commonwealth countries" (paragraph 115). Significantly, the Report acknowledges the importance of group rights (paragraph 25 and paragraph 64).

This Report was endorsed by Commonwealth Heads at the recent summit. However, it remains to be seen how the Commonwealth Secretariat rises to the challenges set in the report concerning the rights of indigenous peoples.

Commonwealth Peoples' Forum, Abuja December 2003

Fourth Dialogue on Indigenous Rights in the Commonwealth

As part of the Commonwealth Peoples' Forum, December 1-7th – the civil society summit held parallel to the CHOGM - the CPSU, in association with CAIP, organised its Fourth 'Dialogue on Indigenous Rights in the Commonwealth' (this was the fourth and last Dialogue organised by the CPSU and CAIP since 1999).²³ The Dialogue, which was the only forum-related activity that focused on the issue of indigenous peoples in the Commonwealth, included indigenous speakers from Australia, New Zealand and Nigeria. There was a consensus at the Dialogue, which was well attended and which received considerable press coverage, that it is time the Commonwealth adopt a policy on indigenous peoples and that Commonwealth Heads should recognise the situation of indigenous peoples in the Abuja Declaration.²⁴

It was noted at the Dialogue that the indigenous peoples living in Abuja and the Federal Capital Territory had experienced displacement and loss of lifestyle due to the development of the national capital and the Statement of the Dialogue called on the government of Nigeria to renew its efforts to provide them with compensation.

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 three day Civil Society Meeting on Development and Democracy, organised by the Commonwealth Foundation, and attended by a number of indigenous peoples, 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.

The Press Release from the Civil Society Meeting, December 6th, reiterated the importance of including indigenous peoples in the development process:

Development means far more than growth in GDP; there is much more to democracy than electoral processes. Both require the full participation of citizens -- including women, the young, the poor, and indigenous peoples, people with disabilities and other frequently disadvantaged and marginalised people -- in the processes that govern their lives.²⁵

Commonwealth Youth Forum

There was a discussion at the Commonwealth Youth Forum (CYF) on the need to remove impediments to youth indigenous enterprises. The CYF Abuja Communiqué reads:

Bureaucratic constraints on the establishment of small and medium enterprises (in particular youth indigenous enterprises) need to be reduced in addition to the provision of social support (Section 3, 'Resource Management Frameworks', p. 17).

Commonwealth Human Rights Forum

It was unfortunate that the Communiqué of the Human Rights Forum, 3th - 4th December, organised by the Commonwealth Human Rights Initiative (CHRI), made no reference to the rights of indigenous peoples, despite the fact that the issue was raised during the forum.²⁶

Looking Ahead – what next for indigenous peoples in the Commonwealth?

While the Indigenous Rights in the Commonwealth Project will end in March 2004, the CPSU and CAIP will continue to put pressure on the Commonwealth to adopt a policy on indigenous rights, in line with contemporary international thinking.

Despite the failure of Heads of Government to make a commitment to the rights of indigenous peoples in their Aso Rock Declaration, as their CHOGM Press Release states, 'The CPSU and CAIP will continue the campaign for reform in the Commonwealth'.

Malta CHOGM, 2005

CAIP will continue to lobby the Commonwealth and its member states, at both Commonwealth and UN fora, to ensure that the rights of indigenous peoples are included in the forthcoming Malta Commonwealth Declaration, 2005.²⁷

'Indigenous Voices: A Commonwealth Perspective'

One of the most important off shoots from the project will be the publication of 'Indigenous Voices: A Commonwealth Perspective', an edited collection of the papers presented at the four regional expert meetings organised by the CPSU during 2001-2003. The book is due to be published by I B Tauris in 2005. The CPSU is currently trying to raise a small subsidy to assist with the publishing costs.²⁸

Proposed Sequel Project

The CPSU is also planning a sequel project, 'Indigenous Land Rights and Resource Management in the Commonwealth', in collaboration with the

Commonwealth Lawyers Association (CLA), to commence in 2005. It is currently seeking funding for this two/three year project.²⁹

Indigenous Peoples and Mining in the Commonwealth Workshop

The CPSU is also hosting and co-convening a workshop on 'Indigenous Peoples and Mining in the Commonwealth', funded by the North West Territories Government, Canada, to be held at the Institute of Commonwealth Studies, September 2004.³⁰ This workshop, which will look at cases of best practice in the Commonwealth, will be attended by representatives of indigenous peoples, mining companies and governments from Australia, Canada, South Africa and India.

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¹ For a copy of the Commonwealth Lusaka Declaration see:

<http://www.thecommonwealth.org/>

² For a copy of the Cyprus CHOGM Communiqué see:

<http://www.thecommonwealth.org/>

³ Further details of the Indigenous Rights in the Commonwealth Project can be found on the CPSU website: <http://www.cpsu.org.uk/projects/indigenous/indigenous.htm>

⁴ For a copy of the papers presented at the regional meetings see the CPSU website at:

http://www.cpsu.org.uk/projects/indigenous/indig_resea.htm

⁵ For a copy of the CPSU Memorandum, Abuja CHOGM 2003, see:

http://www.cpsu.org.uk/projects/indigenous/indig_advoc.htm

⁶ For all publications see the CPSU website at:

http://www.cpsu.org.uk/projects/indigenous/indig_advoc.htm

⁷ For a copy of the report of the Conference at Cumberland Lodge see:

<http://www.cumberlandlodge.ac.uk/> For more information on the Project's advocacy see:

http://www.cpsu.org.uk/projects/indigenous/indig_advoc.htm

⁸ For a copy of 'National Human Rights Institutions (NHRI): Best Practice' see:

<http://www.thecommonwealth.org/>

⁹ See: Issue 111, (6 November 2002), Issue 100, (21 August 2002), and Issue 141, (25 June 2003) on the Commonwealth Secretariat website: <http://www.thecommonwealth.org/>

¹⁰ For more information on the Gender Programme see the Commonwealth Secretariat website: <http://www.thecommonwealth.org/>

¹¹ For more information on the Human Rights Unit see the Commonwealth Secretariat website: <http://www.thecommonwealth.org/>

¹² For a copy of the Commonwealth Health Minister's Meeting Final Communiqué see:

<http://www.thecommonwealth.org/>

¹³ For a more information on CHRI see: <http://www.humanrightsinitiative.org/>

¹⁴ For a more information on CHRI see: <http://www.humanrightsinitiative.org/>

¹⁴ For a copy of the article see: http://www.cpsu.org.uk/projects/indigenous/indig_advoc.htm

¹⁵ For more information on the CPA see: <http://www.cpahq.org/>

¹⁶ For more information on the CLA see their website: <http://www.commonwealthlawyers.com>

¹⁷ For more information on the RCS see: <http://www.rcsint.org/>

¹⁸ See 'Report of the Commonwealth Advocacy Workshop', by Amanda Shah, Commonwealth Civil Society Project, CPSU, p. 51, at:

http://www.cpsu.org.uk/projects/civil/civil_proj_out.htm

¹⁹ For a copy of the *Round Table* article see the CPSU website at:

http://www.cpsu.org.uk/projects/indigenous/indig_advoc.htm

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- ²⁰ Further details about CAIP can be found on the CPSU website at:
<http://www.cpsu.org.uk/projects/CAIP.HTM>
- ²¹ For a copy of the CAIP Press Release see:
<http://www.commonwealthpeople.com/main.htm>
- ²² For a copy of the CPSU/CAIP Press Release see:
<http://www.commonwealthpeople.com/main.htm>
- ²³ For a copy of the Report of the Dialogue see:
http://www.cpsu.org.uk/projects/indigenous/indig_advoc.htm
- ²⁴ For a copy of the Statement issued at the Dialogue see:
<http://www.commonwealthpeople.com/main.htm>
- ²⁵ For a copy of the Civil Society Meeting Press Release and Statement see:
<http://www.commonwealthpeople.com/main.htm>
- ²⁶ For a copy of the Human Rights Forum Communiqué see:
<http://www.humanrightsinitiative.org/>
- ²⁷ For further information on CAIP and the Malta CHOGM 2005, contact Les Malezer, CAIP Coordinator. See the CPSU website for contact details: www.cpsu.org.uk
- ²⁸ For more information on the book see the CPSU website.
- ²⁹ For more information on the sequel project see the CPSU website.
- ³⁰ For more information on the workshop see the CPSU website.