

**Presentation to the Twenty Third session of the United Nations Working Group
on Indigenous Populations – 18th – 22nd July 2005**

6 - UN DECLARATION
Presentation on Agenda Item 7a. ~~"Other Matters"~~

Joint Statement on behalf of Forest Peoples Programme and Indigenous Peoples Links (presented by Andy Whitmore)

Thank you Mr Chairman. I would like to make a statement with reference to the ongoing difficulties with regard to finalising the text of the draft Declaration on the Rights of Indigenous Peoples. As UK-based organisations we would like to make specific reference to the position of the United Kingdom on collective human rights. We join with those Indigenous Peoples Organisations who condemn the position stated by the UK government that collective human rights for indigenous peoples do not exist.

The position of the UK is basically that, with the exception of the right to self-determination (in article 1 of the Covenants), collective human rights are not recognized in international law, at least in the six core human rights instruments. The government states that for this reason, it cannot accept the use of the term *rights of indigenous peoples in a human rights context*. *Interventions by the UK Government* upholding this position threaten to undermine many of the carefully and long argued points within the declaration.

However it is widely recognized that indigenous rights are predominantly collective in nature. This is profoundly reflected in the cultures, identities, worldviews, and legal systems of indigenous peoples. The protection of, and respect for, collective rights is therefore a vital factor for the enjoyment of basic rights by indigenous individuals.

In view of the ongoing rampant violations of the rights of indigenous peoples, and the fact that existing international human rights instruments largely have an individual-rights orientation, it is urgent that a strong and uplifting Declaration be adopted to explicitly elaborate the collective rights of these peoples worldwide. In this way, respect for the dignity of Indigenous peoples may also be significantly strengthened.

19-2

In response to the UK's position on indigenous peoples' collective human rights, indigenous organizations and nations from different parts of the world jointly submitted to Prime Minister Blair a 166-page analysis in 2004. We can provide copies to the Working Group should they not have any. This in-depth, submission challenged the soundness of the presumptions and conclusions of the UK positions. The overall conclusion is that the UK positions are in many ways discriminatory and cannot be sustained.

To select just a few points, in direct contradiction to the UK position, the collective human rights of Indigenous peoples are recognized as part of international law. For example, in the *Indigenous and Tribal Peoples Convention, 1989*, reference is made to the human rights of the "[Indigenous and tribal] peoples concerned". This Convention explicitly addresses various collective human rights of indigenous peoples, including land and resource rights.

In addition, in such general instruments as the *International Convention on the Elimination of All Forms of Racial Discrimination*, the rights of "groups" are explicitly contemplated. In the 1948 Genocide Convention, groups have the collective human right not to be subjected to genocide. In UNESCO's 1982 *Declaration on Race and Racial Prejudice*, it is underlined: "The State has prime responsibility for ensuring human rights and fundamental freedoms on an entirely equal footing in dignity and rights for all individuals and *all groups*."

We therefore respectfully recommend that the UK Government:-

- review its position on collective human rights. In order to correctly review and inform on the position we are willing to meet and further inform the government. However we are mindful that when a delegation of indigenous representatives visited London in December 2004, and offered to meet with the UK Foreign and Commonwealth Office to explore this issue, the FCO refused to meet them, as they believed it would not be productive;
- refrain from intervening in international fora where indigenous issues and collective rights are discussed, especially the upcoming meetings on the Draft Declaration, until it has fully reviewed its position on this issue.