

COLLECTIVE RIGHTS

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UK: Government rejects collective rights for tribal peoples

March 2004



'Individual land ownership is completely alien to our culture and tradition... The land belongs to all of us.'

Joseph Ole Simel, Maasai, Kenya

Reversing a century of progress in the recognition of human rights, the UK government has now decided that *collective* human rights do not exist. If allowed to become official policy, this threatens to harm tribal peoples around the world.

Ten years ago the United Nations (UN) announced 'a decade of indigenous peoples' and began work on a declaration of their rights that was supposed by now to have stood beside the famous Universal Declaration of Human Rights. Hundreds of consultations were carried out with indigenous representatives, and a draft was finally completed with their agreement. Now the UK and some of its former colonies (eg. Australia and Canada) are blocking the new declaration.

Collective rights are vital for tribal peoples, as is confirmed not just by the draft declaration but by numerous laws and agreements which are already accepted by many countries and internationally. The most important is the convention on tribal peoples: this is the cornerstone of international law on the subject and was adopted nearly 50 years ago (ILO Convention 107 of 1957, updated to Convention 169 of 1989).

Paradoxically, the UK has accepted two exceptions to its refusal to recognise collective rights. The first is that it *does* accept that all peoples have the right to self-determination. It cannot avoid this because that right is enshrined in international law (in the UN's Civil & Political Rights Covenant) agreed to by virtually all countries decades ago.

The second exception is that it *does* accept the concept of collective title to land, but declares that this is really an *individual* right that may be 'exercised collectively'. This makes no sense, and indeed threatens to turn the clock back to the infamous Dawes Act of 1887, which broke up Indian reservations in the USA by transforming collective lands into individual plots which could then be sold off.

In fact, there are many cases where the UK has recognised collective rights, going back centuries. The British Crown signed hundreds of treaties with North American Indians, many African peoples and the New Zealand Maori. Although these were broken by the colonists, they nevertheless clearly acknowledged collective rights.

'I REMEMBER MY FIRST MEETING AT THE UN. WE WERE DEFENDING OUR COLLECTIVE RIGHTS. A UK DIPLOMAT SURPRISED ME WITH THE COLDNESS WITH WHICH HE REFERRED TO INDIGENOUS PEOPLES. HE LOOKED AT ME AND SAID, "I CAN'T RECOGNISE THE COLLECTIVE RIGHTS OF YOU PEOPLE. I DON'T SEE ANY DIFFERENCE IN YOU - WE ARE ALL THE SAME." SO I SPOKE TO HIM IN KAINGANG, THE LANGUAGE OF MY PEOPLE. THERE WAS NO TRANSLATION, AND I ASKED HIM IF HE'D UNDERSTOOD WHAT I'D SAID AND HE REPLIED, "NO." THEN I LOOKED AT HIM AGAIN AND SAID, "THAT'S WHY I'M DIFFERENT; BECAUSE ONLY MY PEOPLE SPEAK THIS LANGUAGE.'"

Azelene, Kaingang Indian woman, Brazil

Also, since the beginning of the 20th century successive UK governments have ratified a number of international instruments based on collective rights. One is the 1948 Genocide Convention which deals with a crime directed at a whole people, not just an individual.

The UK's position now threatens to undermine tribal peoples' rights and goes against many positive recent developments.

For example, Survival has worked hard for 35 years to press mining and other companies to recognise the collective rights of tribes to decide what happens on their land, and this is now starting to happen. Rio Tinto, one of the world's largest mining companies, has

said it will not mine the lands of the Mirrar Aborigines in Australia unless the people agree. Such consent, which must be freely given and based on fair and honest information, only makes sense as a collective right, underpinned by the tribe's communal land ownership rights.

Governments have often used the denial of collective rights as a device to break up and destroy tribal peoples. If the UK government rejects these rights, others will follow suit. Survival International is pressing the government to change its mind and acknowledge that the recognition of tribal peoples' collective rights is crucial to their survival.

ACTION

IN BRIEF

Survival's action bulletins are issued when a tribe is under threat – and when you can help. Many times since 1969, Survival has shown how focused public support can help to save vulnerable peoples from destruction. By spending a few minutes writing to the addresses below you really can help the world's tribal peoples. Every letter makes a difference.

Survival accepts no national government funds and depends on individual supporters to fund its work. You can, however, receive these bulletins free of charge by post or email. Just tick the box on the form.

This action bulletin is also available in French, Italian, Portuguese and Spanish – please write for details or extra copies.

Please write a brief and polite letter. Use the following letter as a guide or write your own:

I wish to express my grave concern at the refusal of the UK government to recognise the existence of collective human rights, and in particular how this will affect the world's tribal peoples. The government's position goes against a century of progress in the recognition of human rights, and threatens the ability of tribal peoples to retain ownership of their land, and control what happens on it. It is a retrograde step which must be reversed.

Please send your letters to:

Rt Hon Tony Blair MP
10 Downing St
London SW1A 2AA
Fax: 020 7925 0918

Begin: 'Dear Prime Minister'

and, if possible, copy to your local MP.

You can locate your MP's address through this website:

<http://www.locata.co.uk/commons/>

or you can fax your MP directly through this website:

<http://www.faxyourmp.com>.

KENYA: Ogiek at risk of eviction

The Ogiek people have occupied the mountain ridges of Kenya's Mau forest since time immemorial as hunter-gatherers and collectors of honey. Past governments have repeatedly tried to drive them out, and the forest has been invaded by logging companies, tea plantations and farmers. Most recently, the government of President Moi planned to open up 60,000 hectares of the Mau forest to yet more such developments, dispossessing the Ogiek of their land.

Although the new National Rainbow Coalition (NARC) government is a year old, this plan has not been cancelled. At the same time the government is formulating a new forest policy which aims to protect and restore the nation's forests by evicting illegal farmers and squatters. However the Ogiek fear that vested interests will try to use the new policy to evict them too. They are calling on the government to recognise their right to their forest territory.

Please write, asking that the plan to open up the Mau forest be cancelled, and that the right of the Ogiek to their ancestral land, as enshrined in international law, be recognised.

The Hon. Dr. Newton W. Kulundu, M.P.
Minister for Environment, Natural Resources and Wildlife.
P.O. Box 49720
Nairobi
Kenya

fax: +25 402 2727 622

Survival is a worldwide organisation supporting tribal peoples. It stands for their right to decide their own future and helps them protect their lives, lands and human rights.

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How did you hear of Survival?

Please detach this form and return it to:

Survival, Freepost PAM 5410, London, EC1B 1EE, United Kingdom
No postage required if posted in UK. Do not return to your bank/building society

*You must pay an amount of income or capital gains tax at least equal to the tax we claim on your donation (currently 28p for every £1 you give).

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