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COMMISSION ON HUMAN RIGHTS  
Sixty-first session  
Item 15 of the provisional agenda

**INDIGENOUS ISSUES**

**Written statement\* submitted by Survival International,  
a non-governmental organization on the Roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 2005]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

UK GOVERNMENT POLICY REGARDING  
INDIGENOUS PEOPLES' COLLECTIVE RIGHTS

**Summary: Survival International wishes to highlight the position currently being taken by the UK government in deliberations over the draft UN Declaration on indigenous peoples. By refusing to admit indigenous peoples' collective rights as human rights in the Declaration, the UK government is stalling the discussions and endangering the delivery of the Declaration, which should be a vital tool for indigenous peoples' rights and well-being.**

This submission addresses the draft United Nations declaration on the rights of indigenous peoples, which is included under Agenda Item 15. The progress of this declaration has been greatly hampered by governments such as the UK government, due to their refusal to accept indigenous peoples' collective human rights. Survival International would like to use this opportunity to draw the Commission's attention to the actions of the UK government in this regard.

The UK government's position on indigenous peoples' collective rights is both absurd and damaging. It is absurd because indigenous peoples' collective rights have been long recognised in international fora and by the British government itself, as evidenced by the Treaties it signed with numerous peoples of the Americas and the Waitangi Treaty signed with the Maori peoples. It is damaging because it undermines the processes of discussion over the declaration and works directly against the interests of the world's indigenous peoples.

Collective rights are vital to indigenous communities for three core reasons: for their rights over land and what can be done on their territories; for their right to self-determination – a meaningless concept without collective rights; and for their cultural, linguistic and social integrity. The UK claims, however, that these vital collective rights should be individual rights 'exercised collectively'. In the USA, the infamous Dawes Act of 1887 demonstrated the danger of this approach. The Act turned communally-held Indian lands into individual plots; 90 million acres of Indian land were removed at a stroke, and the reservations were broken up, with devastating impacts on the affected peoples.

In order to defend their right to their ancestral lands from incursions by mining or logging, for example, indigenous individuals need to act collectively and to have their collective rights to their land acknowledged nationally, internationally, substantively and legally. To quote from ILO Convention 169, Article 13: '*... governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.*'

The UK government has sought to side-line collective rights in the declaration, suggesting that they should only be included as lesser rights, not human rights. If we may quote from Mr Boutros Boutros-Ghali, from a statement he made to the UN General Assembly in 1993, '*... the situation of indigenous people must surely prompt us to ponder more deeply human rights as they are today. Henceforth, we must realize that human rights are not only the rights of individuals. They are also collective rights - historic rights.*' It is amply clear that in order to fully enjoy their individual rights, indigenous peoples' collective rights must be recognised and given the human rights status that they deserve.

Additionally, the UK government has formally objected to the use of the term indigenous peoples in the draft Declaration in order to suggest that they do not constitute 'peoples' as recognised in the Human Rights Covenants. It is acting thus in order to restrict or deny their right of self-determination or other collective human rights. Strangely, the UK government has explained its position by suggesting that human rights must apply equally to all people, but this reveals their misunderstanding of international human rights. Human rights instruments do not have to apply to everyone in exactly the same way. Rather, the principle of equality necessarily includes the 'right to be different'. In order to achieve equality, different individuals and peoples often have to be treated differently.

The UK government has suggested that it would welcome states 'granting' collective rights at national level. This is an absurd suggestion as these basic, inalienable rights have existed for centuries. The Supreme Court of Canada has clearly ruled that the collective rights of Indigenous peoples are pre-existing and are not dependent for their existence on any law or executive instrument. We urge the British government to do likewise and seek the Human Rights Commission's support in this matter.

**Survival International calls on the Human Rights Commission to:**

- Fully and openly endorse the concept of indigenous peoples' collective human rights
- Encourage member states to quickly agree the remaining articles of the draft declaration on indigenous peoples
- To press those states which are denying indigenous peoples' collective human rights (and thereby delaying the process of agreeing the draft declaration) to rapidly abandon this notion and to accept the human rights status and vital importance of indigenous peoples' collective rights.

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