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Report on the Republic of Suriname for the Eleventh Session of the
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EXECUTIVE SUMMARY

The International Human Rights Clinic of the University of Oklahoma College of Law, U.S.A., submits the following five-page report to the Eleventh Periodic Review of the United Nations Human Rights Council. The report surveys Suriname's compliance with certain human rights obligations in regards to its indigenous and tribal peoples. The report focuses on three selected areas: (I) Land Rights, (II) Education Rights, and (III) Health Rights. Each section concludes with a series of recommendations for improving Suriname's domestic compliance with its international commitments and obligations. The report is followed by an annex which provides background information on Suriname and its indigenous and tribal peoples as well as a more detailed analysis of human rights in the areas of land, education, and health. The authors note that Suriname has expressed its commitment and taken various measures to increase compliance with international obligations in each of the identified areas.

I. Land Rights

Normative and Institutional Frameworks

International Provisions: The American Convention on Human Rights (ACHR), to which Suriname acceded in 1987, recognizes rights that are of significance to indigenous people. Article 2 requires domestic legal effect for provisions in the Convention that are not already part of domestic law, Article 21 recognizes the right to property, and Article 25 recognizes the right to judicial protection. As a state party to the ACHR, Suriname recognizes the jurisdiction of the Inter-American Court of Human Rights, which in the *Case of the Saramaka People v. Suriname* found, *inter alia*, that the Saramaka, a tribal people of Suriname, had the right to collective title and collective juridical capacity. Suriname acceded to the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic Social and Cultural Rights (ICESCR) in 1977. Common Article 1(2) of the ICCPR and the ICESCR states, "all peoples may, for their own ends, freely dispose of their natural wealth and resources;" this provision may apply to indigenous and tribal peoples if they are recognized as 'peoples.'

The United Nations Declaration on the Rights of Indigenous Peoples (DRIP) Article 26 recognizes the right of indigenous peoples to "own, use, develop and control" their land and requires states to give legal recognition and protection to these lands within their land tenure system. Article 27 requires the creation of a fair and transparent process to recognize and adjudicate land rights. Article 28 recognizes the right to redress and compensation for property taken without free, prior and informed consent. Article 32 recognizes the right to develop strategies for the development and use of land and resources. These provisions will be binding on Suriname if any or all are recognized as evidence of customary international law.

Domestic Undertakings: The Constitution of Suriname, Article 34 addresses the right to property: "property, of the community as well as of the private person, shall fulfill a social function. Everyone has the right to undisturbed use of his property subject to the limitations which stem from the law." Article 41 addresses resource rights: "Natural riches and resources are property of the nation and shall be used to promote economic, social and cultural development. The nation shall have the inalienable right to take

complete possession of the natural resources in order to apply them to the needs of the economic, social and cultural development of Suriname.”

The Mining Decree of 1986 also addresses resource rights. Article 2(1) states: “all minerals in and on the ground are considered as separate from the property of the land.” Article 2(2) states: “all minerals within the territory of the state of Suriname...are the property of the state.”

Human Rights on the Ground

Legal Title: Land rights remain an issue of primary importance for the indigenous and tribal peoples of Suriname. As stated by the Inter-American Court in *Case of the Saramaka People*, the domestic legal framework of the state does not recognize the right of the indigenous people to own the land, either individually or collectively, “but rather a privilege to use land.” Thus, few communities are secure in their land ownership, and where title has been recognized by the state of Suriname, it has been in the form of individual rather than collective title.

Communal Ownership: To date, the right of indigenous peoples to hold legal title to their land in a collective or communal manner has not been recognized or given legislative force. With the exception of a few communities, the indigenous peoples of Suriname prefer collective title and see it as a critical component of preserving their way of life and identity as a tribal people. The state has been urged by the Committee on the Elimination of Racial Discrimination (CERD Committee) to legally acknowledge the rights of indigenous and tribal peoples “to own, develop, control and use their lands, resources and communal territories according to customary laws and traditional land-tenure system.” The State has sought the technical assistance of the Special Rapporteur on the rights and fundamental freedoms of indigenous peoples for a draft framework law on the rights of indigenous peoples. It remains to be seen whether the new government will enact legislation acknowledging these rights.

Demarcation: Effective titling of indigenous and tribal lands depends on successful demarcation of indigenous and tribal territories. The Council for the Development of the Interior is charged with promoting institutionalized dialogue between the government of Suriname and traditional communities of the interior, but is still in the process of gathering information. Many of the indigenous and tribal peoples of Suriname are also in the process of demarcating their territories. Successful demarcation is a crucial step to securing land rights and will require communication with the government and among the indigenous and tribal communities.

Resource Rights: Members of the CERD Committee have indicated concern that there are still significant problems with indigenous peoples’ access to natural resources and that “most natural-resources management companies [are] run exclusively by State representatives, without consultation of the indigenous and Maroon peoples.”

Sub-surface Resource Rights: As stated in a CERD Committee report, Suriname claims that “rights to subsurface resources are not and have never been part of the Maroons and Indigenous Peoples’ sui generis land rights.” Thus, indigenous peoples are denied the legal right to own, use, or develop natural sub-surface resources that are under their tribal

lands. This right is especially pertinent to the Maroon or tribal peoples of Suriname who engage in small scale gold mining but do so at the sufferance of the State.

The government has established a system to consult indigenous and tribal peoples prior to granting mining concessions to outside companies. This process is not always effective, however, due to communication failures and lack of knowledge.

Recommendations

- Recognize through legislation the right of indigenous peoples to own land collectively.
- Properly demarcate the territory of the indigenous peoples with their participation.
- Institute a system of legal title documentation for practical representation of indigenous peoples' collective land rights, accounting for their unique land tenure systems.
- Acknowledge the right of indigenous peoples to develop resources on their lands.
- Grant no concessions to develop and exploit natural resources without consultation and prior, informed consent of the indigenous peoples.
- Grant no concessions to develop and exploit resources without prior independent research on potential social, economic, and environmental impacts.

II. Education

Normative and Institutional Frameworks

International Provisions: The ICESCR details educational rights in Articles 13 and 14. The ACHR mentions education in the Preamble and Article 12. Suriname also is a party to the following treaties addressing education: Convention on the Rights of the Child (CRC) (Articles 28 and 29); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (Article 10); Convention on the Elimination of All Forms of Racial Discrimination (CERD) (Articles 5 and 7).

The Universal Declaration of Human Rights (UDHR), which can be indicative of customary international law, addresses education primarily in Article 26, declaring, *inter alia*, that “[e]veryone has the right to an education,” that elementary education shall be free and compulsory, and that parents have the right to choose their children’s type of education. Suriname voted for the DRIP, which could also be indicative of customary international law. DRIP Article 14 states that indigenous peoples have the right to “all levels and forms of education of the State without discrimination.”

Domestic Undertakings: Article 24 of the Suriname Constitution requires the state to “take care of the creation of conditions in which an optimal satisfaction of the basic needs for ... education ... is obtained.” Article 37 mandates that young people receive “special protection for the enjoyment of ... [a]ccess to education.” Article 38 recognizes that education rights should be free for all people. Finally, Article 39 guarantees all citizens an equal opportunity for education, including free primary education.

Suriname recently elevated its maximum age for compulsory education to 14 years in order to match the minimum working age for children. A new law on special education has reportedly been drafted. Suriname is undertaking several projects addressing educational issues in the interior of the country: (1) skills training for teachers; (2)

broadcast of educational radio programs for different cultural groups; (3) construction of school facilities that would host children from several remote villages; and (4) financial incentives, including rent-free accommodation, to attract teachers to schools. In 2007, Suriname stated plans to reform the national education system, although a recent administration change could affect that reform.

Human Rights on the Ground

Access to/Quality of Education: A significant disparity exists in the quality of and access to education between the general population and Suriname's indigenous and tribal peoples, due primarily to the lack of education infrastructure. Teachers in the interior are often under-qualified, and school curriculum and facilities are often outdated. The lack of access is evinced by the fact that indigenous, tribal, and minority children in the interior of Suriname have significantly lower school attendance rates than the general and coastal populations.

Problems in Paramaribo: Many interior and indigenous students have to travel to Paramaribo for high school and higher education. Reports indicate that such students experience significant problems adjusting. Difficulties faced include a lack of money and pregnancy, which often lead to dropping out.

Language: Much debate exists over the desirability and practicality of balancing Dutch, the official language, and native tribal languages in the education of indigenous and interior children. While virtually all agree that Dutch should be taught, considerable division exists about whether other languages should be taught at all, and if so, to what extent. The CERD Committee has recommended bilingual education for younger children, whereas others desire Dutch as a primary focus to help facilitate future educational efforts in Suriname society. These discussions are complicated by the lack of teachers trained in multiple languages and the fact that most indigenous languages are not written.

Recommendations

- Effectively implement and maintain the education projects enumerated above.
- Increase the quality of education in the interior of the country so that it approaches the level of education in the coastal regions.
- Take measures, such as eliminating and/or subsidizing of school fees, to improve attendance rates for indigenous and Maroon children, especially those in the interior.
- Encourage and assist private efforts to provide and improve the educational environment among the indigenous and Maroons, especially in the interior of the country.
- Improve and publish education statistics about interior Maroon and indigenous groups.
- Assist indigenous children in their pursuit of higher education in the coastal regions.
- Investigate the effectiveness and practicality of bilingual education for young children, with an eye to implementation if it proves to be possible and desirable.

III. Health

Normative and Institutional Frameworks

International Provisions: CERD Article 5(e)(4) guarantees all citizens the rights to “public health, medical care, social security and social services.” CRC Article 24 provides that all children have the right to “the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.” Section 2(c) of that Article requires states to take measures to “combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious food and clean drinking water, taking into consideration the dangers and risks of environmental pollution.”

Domestic Undertakings: The national Constitution contains an extensive bill of rights. Specifically, Article 36 recognizes rights to health for all citizens and declares “the State shall promote the general health care by systematic improvement of living and working conditions and shall give information on the protection of health.” To this end, Suriname has created the Ministry of Health, which established Regional Health Service Clinics to serve the people of the interior villages. The government financially supports Medical Mission, a non-profit NGO providing the majority of health care to the interior.

Human Rights on the Ground

Health Care: Suriname has stated that over 57,000 indigenous and Maroon people are living in the interior. They are largely serviced by Medical Mission, which has fifty-four clinics in the interior. Medical Mission employs only 233 people: a small number of doctors, a single dentist, nurses and medical aides, in addition to auxiliary workers. Over 300 people per year must be air-lifted from interior villages to hospitals in cities for medical treatment. The government has stated that it is building more clinics in the interior to serve the people who live in these villages. Suriname spends roughly one-third as much per capita for health care in the interior as it spends for individuals living in cities. Children in the interior are more than twice as likely to be malnourished as children in cities.

Malaria: Suriname has successfully decreased malarial deaths within the last decade, which have been near zero for the last two years. With help from other governments and outside NGOs, Suriname offers vaccinations, medication, and information to combat the rate of malaria-attributed deaths.

Mercury Poisoning: Unregulated gold mining in the interior causes mercury pollution and poisoning. Mercury levels in hair samples from affected populations put them at ‘high risk’ of mercury poisoning. Tests show mercury levels that were more than double the World Health Organization recommended “safe” levels.

Recommendations

- Commence or continue building clinics in the interior and hiring more trained health care personnel conversant in local languages.
- Continue the anti-malaria programs, and implement measures to fund the program internally should outside support cease.
- Effectively regulate gold mining so as to prohibit mercury pollution.
- Enact measures to clean up the waterways that have been affected by mercury runoff; provide food and drinking water to minimize future impact including malnutrition; enlist aid from foreign governments and NGOs where available.