



University of Oklahoma College of Law
International Human Rights Clinic
United States of America

Report on the Republic of Suriname to the 39th Session of the Universal Periodic
Review, Human Rights Council, Oct -Nov 2021

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February 5, 2021

This report does not represent the official position of the University of Oklahoma or the College of Law, and the views presented here reflect only the opinions of the individual authors and of the International Human Rights Clinic.

Executive Summary. The International Human Rights Clinic of the University of Oklahoma College of Law (IHRC-OU) (United States of America) submits the following report on the Republic of Suriname to the 39th Session of the Universal Periodic Review, Human Rights Council. This report concerns Indigenous and Tribal People of Suriname and how Suriname has implemented the recommendations received during its second review. Specifically, the report focuses on the selected areas of **(I) Health/Environment/Gold Mining;** and **(II) Land Rights/Recognition.** The purpose of this report is to provide a balanced view of indigenous and tribal people’s concerns in Suriname and recommend measures to address these concerns. The IHRC-OU would like to thank the non-profit organizations committed to indigenous and tribal rights for the support and cooperation for the realization of this report.

I. Health/Environment/Gold Mining Since 2007, the Inter-american Commission on Human Rights (IACHR) and the Special Rapporteur on the Rights of Indigenous people have submitted letters (AL Indigenous (2001-8) SUR 1/2012) and reports to bring attention to the Surinamese government about the health and environmental crisis due to mercury poisoning that is produced by gold mining. Although it has been highly recommended that action be taken, the Summary prepared by the Office of the United Nations high Commissioner for human Rights in 2016 (A/HRC/WG.6/25/SUR/3) noted that Suriname has not issued any answer to the allegation letter sent by the Special Rapporteur in 2012 seeking a response from Suriname on the purported small-scale mining operations on the traditional lands of the Wayana indigenous communities of Apetina and Anapike in south-eastern Suriname.

In September 2015, the Committee on the Elimination of Racial Discrimination (CERD/C/SUR/CO/13-15) at its concluding observations on the combined thirteenth to fifteenth periodic report of Suriname, recommended in paragraph 28 that the State party “take specific measures to ensure that no mercury is used or dispersed on territories occupied by indigenous and tribal peoples, that contaminated areas are cleaned and that the indigenous and tribal peoples affected are given access to clean, drinkable water and health care and are entitled to effective remedies and adequate compensation for the territories contaminated by mercury.” Although it has been highly recommended that action be taken, in reality, there has been limited progress. Despite Suriname becoming a party to the Minamata Convention on Mercury since 2018, the Government has not yet adopted any legislation to effectively implement the Convention.

In addition, At the thirty-third session of the Human Rights Council on July 1, 2016, the Report of the Working Group on the UPR (A/HRC/33/4) indicates the recommendations **133.86** made by Honduras “Adopt legislative and political measures, including allocation of financial resources to improve coverage of health services in rural areas”, and **133.98** made by Colombia “Strengthen measures to ensure equality of rights for indigenous peoples, including the right to health, education and adequate housing.”, have yet to be implemented.

In September 2012, the Special Rapporteur on the right of indigenous peoples sent a communication to Suriname, and asked, among other issues, about the measures taken by Suriname to address the health and environmental situation affecting the Wayana communities of Peluowine (Apetina) and Kawemhakan (Anapike) by mercury contamination resulting from gold-mining activities on or near their traditional lands. Suriname regrettably after 9 years still not reply the communication to the Special Rapporteur in the records of the Office of the High Commissioner for Human Rights. Suriname, becoming a party to the ‘Minamata Convention on Mercury’ on 31 October 2018, can be translated as an intention from the Suriname government to eliminate the use of mercury. As part of the accession of Suriname to the Minamata Convention, the Ministry of Natural Resources and the NIMOS started with the implementation of the National Action Plan (NAP) for Artisanal and Small- Scale Gold Mining (ASGM) in Suriname (CERD/C/SUR/16-18, ¶ 66). While not specifically addressing the Special Rapporteur, or adopting legislation to implement the Convention, the Suriname government has expressed their intention, and has started the limited progress and implementation of planning a national action.

Recommendations

- Implement the recommendations from Honduras and Colombia from the thirty-third session of the Human Rights Council on July 1, 2016, by adopting legislative and political measures to improve health services in rural areas and ensure equality rights.
- Adopt legislation that takes specific measures to ensure that no mercury is used or dispersed on territories occupied by indigenous and tribal peoples.
- Adopt legislation to prevent and punish illegal traffic in mercury in compliance with Article 9(5) of the Basel convention.
- Adopt legislation that will effectively implement the Minamata Convention on Mercury.
- Respond to the Rapporteur and recognize the use of mercury on indigenous land and research the sources of all significant environmental pollutants, particularly mercury to become compliant with the Minamata Convention.
- NAP to come up with a solution to eliminate the use of Mercury and have NIMOS effectively implement that plan.
- Suriname should report concrete measures taken and results obtained relating to ASGM and mercury contamination of Apetina and Anapaike lands;
- Suriname should pass legislation, such as the previously recommended 2004 draft Mining Act, providing that where there are FPIC or health and environmental violations, indigenous peoples have recourse to courts for appropriate remedies and adequate compensation;
- The IHRC-OU encourage the State party to avail itself of UN technical assistance teams to assess the health and environmental situation affecting Apetina and Anapaike

communities affected by ASGM mercury contamination.

LAND RIGHTS/RECOGNITION

The Laws of Suriname (Suriname Constitution 1987) do not recognize the right to communal property. Therefore, the indigenous people of the interior of Suriname have no means to own, occupy, or enjoy their ancestral lands collectively nor individually. However, the judgment rendered in the 2007 “ I/A Court H.R., Case of the Saramaka People. v. Suriname. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 28, 2007 Series C No. 172 ” and relevant provisions of the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the general assembly on September 13, 2007, work in favor of the Suriname indigenous people to allow occupation and rights to their ancestral lands.

In November 2019, Suriname in its report to CERD covering the sixteenth to the eighteenth periodic report (CERD/C/SUR/16-18) explained their reservations on being able to fully comply with the provisions of the United Nations on the Rights of Indigenous Peoples and the verdict held in the “Saramka People Case,” in paragraph 53, stating: “ Pursuant to the Constitution, all citizens of Suriname, including the Indigenous and Maroon Peoples, have equal rights, while all of Suriname’s natural resources belong to the State. The collective land rights of Indigenous and Maroon Peoples in Suriname have yet to be regulated, taking into consideration all constitutional mandates. There are, however, some clauses in Suriname’s legislation that protect Indigenous and Maroon Peoples’ rights. In practice, the Government of Suriname acts accordingly.” Suriname has taken steps to recognize the need for protecting Indigenous land but has made no progress in implementing those protections. In paragraph 100 of the same report Suriname stated the following: “Suriname has still a long way to go in the protection of the collective land rights of the Indigenous Peoples and Maroons, but steps are being taken to guarantee these rights. Everyone on Surinamese territory enjoys their individual rights. Some of the measures taken to better protect the collective land rights of the Indigenous People and the Maroons is the drafting of laws to acknowledge these rights...” However, the implementation of the judgment of the Inter-American Court of Human Rights in the case *I/A Court H.R., Case of the Kaliña and Lokono Peoples v. Suriname. Merits, Reparations and Costs. Judgment of November 25, 2015. Series C No. 309* has not been implemented yet. Is unconditional obligation assumed by Suriname since 1987 when accepted the Court’s contentious jurisdiction the implementation of its judgments.

Recommendations

- Fully comply with the judgments of the Court and fulfill its international obligations.
- Suriname should acknowledge, protect, and property demarcate the ancestral land of indigenous peoples.

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- Adopt and implement legislation that allows for indigenous people to own land collectively.
- Suriname should guarantee the right of indigenous and tribal people to effectively participate in decisions that affect them directly; including the mandatory free, prior and informed consent before any decisions of projects are commissioned on their land or on resources that will directly affect them.
- Create a consultative body for indigenous and maroon groups to settle boundary disputes. A final report from this body must be completed and submitted to the Commission by Suriname's next periodic report.
- That the State party consider extending an invitation to the President of the Inter-American Court on Human Rights to make a visit to Suriname within the next two years, in order to obtain relevant information directly from the parties and monitor compliance with the judgments.