

REFERENCE: CERD/95th/EWUAP/SK/ks

17 May 2018

Excellency,

I would like to inform you that during its 95th session, the Committee on the Elimination of Racial Discrimination considered the situation of the Akawaio indigenous villages of Tassarene and Kangaruma and of the Wapichan people of the South Rupununi in Guyana, following information received from non-governmental organizations.

The information received alleges that since 2012, Tassarene and Kangaruma villages have been unsuccessfully attempting to verify the status of their titles and to obtain legal title documents, in accordance with the 2006 Amerindian Act. In addition, it is reported that over the last six years, the State party has been privileging the interests of miners over those of the Akawaio indigenous people of Tassarene and Kangaruma villages.

In particular, it is argued that the number of prospecting and mining licenses in Tassarene rose from 146 medium-scale permits in 2012 to 380 medium-scale and 5 large-scale prospecting and mining permits in 2015. Similarly, in Kangaruma, the number of permits granted rose from 84 medium-scale in 2012 to 121 medium-scale and two large-scale in 2015 and to 168 medium-scale and two large-scale prospecting and mining permits in 2018, while the total permits granted in Kangaruma covers more than 75 per cent of its proposed title. According to the information received, in all these cases, the State party failed to consult the concerned Indigenous Peoples in order to obtain their free, prior and informed consent before projects affecting their lands, territories or resources were approved.

Regarding the Wapichan people, the submitting organization is alleging that the concerned people have formally requested recognition of their ownership rights over Marudi Mountain since 1967, and that since 2016, the Ministry of Indigenous Peoples' Affairs and the Wapichan people have been engaged in a formal dialogue process aimed at resolving outstanding land rights concerns. At the same time, the Government has continued to grant mining permits on the same lands. It is alleged, that since 1990, Marudi Mountain has been subject to various mining concessions, and furthermore, at the end of January 2018, the Ministry of Natural Resources and the Environment announced its plan to make new concessions available on Marudi Mountain, without however consulting and seeking the consent of the Wapichan people.

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Moreover, the submitting organization alleges that the mining activities carried out at the villages of Tassarene and Kangaruma and on Marudi Mountain are leading to water pollution, evictions of the concerned Indigenous Peoples from their traditional lands, and to the decrease of lands available for farming and hunting, along other environmental, social, cultural and security concerns faced by Indigenous Peoples.

Finally, it is argued that the new mining concessions in the villages of Tassarene and Kangaruma and on Marudi Mountain is part and parcel of the Government's reluctance to recognize the inherent land rights of Indigenous Peoples and is the result of the discriminatory distinction between titled and untitled land/communities under the 2006 Amerindian Act.

The Committee would like to recall paragraphs 15, 16 and 19 of its 2006 concluding observations (CERD/C/GUY/CO/14), where it urged the State party to repeal the discriminatory distinction between titled and untitled communities from the 2006 Amerindian Act and from any other legislation. The Committee also urged the State party to recognise and protect the rights of all indigenous communities to own, develop and control the lands which they traditionally occupy, in accordance with the its general recommendation No. 23 (1997) on the rights of indigenous peoples, and taking into account ILO Convention No. 169 on Indigenous and Tribal Peoples. Moreover, the Committee requested the State party, in consultation with the concerned Indigenous Peoples, to demarcate or otherwise identify the lands which they traditionally occupy or use, and furthermore asked the State party to undertake environmental impact assessments and seek the informed consent of concerned Indigenous Peoples prior to authorising any mining or similar operations which may threaten the environment in areas inhabited by these communities.

In accordance with Article 9 (1) of the Convention and article 65 of its Rules of Procedure, the Committee would be grateful to receive a response to the above allegations before 16 July 2018.

In particular, and taking into account the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, the Committee requests the State party to provide information on steps taken to:

1. Refrain from approving projects and granting mining concessions that affect the lands, territories or resources of Indigenous Peoples without obtaining their free, prior and informed consent, and revoke such projects in Tassarene and Kangaruma villages and on Marudi Mountain to which the Indigenous Peoples did not consent.
2. Grant Tassarene and Kangaruma legal title and give them valid title documents, and promptly demarcate the lands of Tassarene and Kangaruma.
3. Ensure that environmental and social impact assessments of the proposed mining project on Marudi Mountain are conducted with the participation of the Wapichan people.
4. Amend the Amerindian Act to with a view to repealing the discriminatory distinction between titled and untitled lands, as also recommended in the Committee's concluding observations of 2006 (CERD/C/GUY/CO/14, para 15).



5. Ensure that Indigenous Peoples have access to effective and prompt judicial and other remedies to seek protection for their rights.

Finally, in accordance with article 9 (1) of the Convention and article 63 of its Rules of Procedure, the Committee urges the State party to submit its periodic report, that is overdue since 17 March 2008. The Committee also takes the opportunity to remind the State party of the Note Verbale, dated 30 June 2017, communicated to the State party through the Secretariat of the United Nations (Office of the High Commissioner for Human Rights), suggesting the State party to avail itself of the simplified reporting procedure.

Allow me, Excellency, to reiterate the wish of the Committee to continue to engage in a constructive dialogue with the State of Guyana, with a view to assisting it to implement the Convention effectively.

Yours sincerely,

Nouredine Amir
Chair

Committee on the Elimination of Racial Discrimination