
Advance Unedited VersionDistr.: General
28 August 2015

Original: English

Committee on the Elimination of Racial Discrimination**Concluding observations on the thirteenth to fifteenth periodic reports of Suriname^{*}**

1. The Committee considered the combined thirteenth to fifteenth periodic reports of Suriname (CERD/C/SUR/13-15), submitted in one document, at its 2363rd and 2364th meetings (CERD/C/SR.2363 and CERD/C/SR.2364), held on 10 and 11 August 2015. At its 2381st and 2882nd meetings, held on 21st and 24th August 2015, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the thirteenth to fifteenth periodic reports submitted by the State party. The Committee expresses its appreciation for the continuation of the dialogue with the delegation of the State party and appreciates answers the delegation gave in response to the Committee's questions. The Committee is also grateful for the information submitted by the delegation following the interactive dialogue.

B. Positive aspects

3. The Committee welcomes the recent amendment of the State party 1975 Law on Nationality and Residence, which ensures gender equality in the transmission of nationality.

4. The Committee welcomes the State party's active role in the commemoration process surrounding the 30th anniversary of the 1984 Cartagena Declaration on Refugees and in the Ministerial Meeting in Brasilia in December 2014, at which the Brazil Declaration and Plan of Action was adopted.

5. The Committee welcomes the adoption of the revised Penal Code in March 2015 which abolishes death penalty.

6. The Committee notes with satisfaction that the State party since October 2012 has waived the enrolment fees for basic education at primary and secondary level which will benefit children belonging to indigenous and minority groups.

^{*} Adopted by the Committee at its eighty-seventh session (3-28 August 2015).

C. Concern and recommendations

The Committee's previous recommendations

7. While taking note of the information provided in the State party report, the Committee regrets the lack of information on steps taken to follow up on a number of issues raised in its previous concluding observations (CERD/C/64/CO/9 and CERD/C/SUR/CO/12) and the Committee's decisions under the early-warning and urgent-action procedures in 2005 (A/60/18) and 2006 (A/61/18) (art 9).

8. The Committee recommends that the State party take all necessary measures to address the recommendations from its previous concluding observations as well as its decisions under the early-warning and urgent-action procedures which have not been fully or sufficiently implemented.

Definition and prohibition of racial discrimination

9. The Committee is concerned about the absence of a comprehensive legislative framework in the State party which effectively prohibits racial discrimination as well as the absence of prohibition of organizations which promote and incite racial discrimination in the current Criminal Code (arts. 1, 2 and 4).

10. The Committee recommends that the State party elaborate a general legislation which prohibits and defines racial discrimination and includes all the elements contained in article 1, paragraph 1, of the Convention and that covers acts of direct or indirect discrimination in all fields of law and public life to effectively respond to any instances and acts of racial discrimination against diverse groups and peoples. Bearing in mind its general recommendations No. 15 (1993) on article 4 of the Convention and No. 35 (2013) on combating racist hate speech, the Committee also recommends that the State party align its legislation with article 4 of the Convention by integrating the prohibition of organizations that promote and incite racial discrimination.

Constitutional Court

11. While taking note that the draft legislation to establish the Constitutional Court is in the last phase of adoption by the Parliament, the Committee reiterates its concerns (CERD/C/SUR/CO/12 para 11.) about delays in the establishment of such body, which is of particular importance for the protection of relevant groups such as indigenous and tribal peoples and vulnerable ethnic minorities (arts. 2 and 6).

12. The Committee reiterates its previous recommendations (CERD/C/64/CO/9 para. 9 and CERD/C/SUR/CO/12 para. 11) to establish the Constitutional Court as soon as possible.

National human rights institution

13. While taking note that the State party has issued a State Decree in 2014 aimed at the establishment of a national human rights institution, the Committee is concerned about the delay in its establishment (art. 2).

14. In light of its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention, the Committee recommends that the State party expedite efforts to establish an independent human rights institution with a broad mandate for the promotion and protection of human rights, including receiving and processing complaints from individuals, in line with the Principles relating to the status of national institutions (The Paris Principles)

(General Assembly in resolution 48/134, annex). The Committee encourages the State party to request technical assistance from the Office of the High Commissioner for Human Rights.

Discrimination based on descent

15. While taking note of information provided by the State party affirming that the caste system is not institutionalised in Suriname, the Committee is concerned about reports on the persistence of such a system in certain communities of Indian origin living in the State party (arts. 3 and 5).

16. The Committee, recalling its General Recommendation No. 29 (2002) on discrimination based on descent, recommends that the State party take steps to identify the specific communities and persons who may suffer from such practices and if applicable, to adopt specific measures to combat and eradicate such discriminatory practices.

Combating human trafficking

17. While the Committee notes that Suriname has implemented a National Strategy to combat human trafficking in April 2014, it however regrets the absence of national anti-trafficking legislation and of formal comprehensive assistance for victims of trafficking (arts. 5, 6 and 7).

18. The Committee encourages the State party to continue its efforts to combat trafficking notably by increasing its efforts to identify victims of trafficking and adopting specific legislation and other effective measures to adequately prevent, combat and punish human trafficking especially with regard to members of disadvantaged ethnic groups, including non-citizens. The Committee further recommends ensuring that victims are provided with adequate protection, assistance and shelter.

Migrants and refugees

19. The Committee is concerned about reports of discrimination experienced by regular and irregular migrants, in particular Haitians, in the enjoyment of their rights including access to, inter-alia, education, public health, medical care, social security and social services. The Committee regrets the absence of a national refugee law ensuring the adequate and effective protection of the rights of refugees. The Committee is also concerned at reports of child refugees having no birth certificate, one of the main requirements for access to education, healthcare and other social services in Suriname (art. 5).

20. The Committee encourages the State party to take all measures required to ensure access to education, employment and health services without discrimination to all persons under its jurisdiction. The Committee recommends that the State party consider drafting and enacting a national refugee law. In line with Suriname's international obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and bearing in mind its general recommendations No. 30 (2004) on discrimination against non-citizens and No. 22 (1996) on refugees and displaced persons, the Committee recommends that the State party remove administrative barriers and discriminatory practices that currently prevent children born to foreign parents from acquiring nationality at birth and introduce safeguards to prevent statelessness and address discriminatory practices in the application of its 1975 Law on Nationality and Residence, as amended, particularly in the context of birth registration.

Situation of indigenous and tribal peoples

Structural discrimination

21. The Committee is concerned about the situation of indigenous and tribal peoples in the State party and persisting discrimination faced by indigenous and tribal peoples in the full enjoyment of their collective and individual rights (arts. 1 and 2).

22. In line with the general recommendation No. 32 (2009) on special measures, the Committee recommends that the State party take all necessary special measures to address the existing structural discrimination faced by indigenous and tribal peoples in the enjoyment of their rights.

Legislative framework

23. The Committee is deeply concerned about the pervasive and persistent discrimination that characterizes indigenous and tribal peoples' property rights and by the absence of any specific legislative framework guaranteeing the effective enjoyment of their collective rights. Taking note of the elaboration of a draft law acknowledging the traditional authorities of indigenous and tribal peoples, the Committee is concerned that the current draft does not adequately reflect indigenous and tribal customs (arts. 2 and 5).

24. The Committee reiterates its previous recommendation (CERD/C/SUR/CO/12, para.12) urging the State party to ensure legal acknowledgement of the collective 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 and to participate in the exploitation, management and conservation of the associated natural resources. In line with its general recommendation No. 23 (1997) on the rights of indigenous peoples and its previous decisions under its early warning and urgent action procedures in 2005 (A/60/18) and 2006 (A/61/18), the Committee reiterates its recommendation concerning the elaboration of a framework law on the rights of indigenous and tribal peoples. The Committee recommends that this framework law complies with the provisions of the United Nations Declaration on the Rights of Indigenous Peoples (UN General Assembly Resolution A/RES/61/295). The Committee further recommends that the contemplated law on traditional authorities reflect indigenous and tribal peoples' right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Exploitation of natural resources and right to free and prior informed consent

25. Taking note that the State party is developing a Protocol on free and prior informed consent, the Committee is concerned that authorisations for mining and logging concessions, activities that pose substantial threats of irreparable harm to indigenous and tribal peoples, continue being granted to private companies without the free and prior informed consent of the concerned peoples and without any prior impact assessment (arts. 2 and 5). The Committee is also concerned about reported discrimination faced by indigenous and tribal peoples in the full enjoyment of their cultural and economic rights in natural reserves established on their ancestral lands (arts 2 and 5).

26. The Committee urges the State party to obtain the free and prior informed consent of indigenous and tribal peoples prior to the approval of any project affecting their lands. In addition, the Committee recommends that the State party ensure that adequate cultural, environmental and social impact assessment be conducted in collaboration with concerned peoples, prior to the granting of concessions or the planning of activities and in this regard refers the State party to the Akwé: Kon

Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessment regarding Developments Proposed to Take Place on, or which are Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities (2004). Noting that indigenous and tribal peoples have the right to continue their traditional ways of living on natural reserves, the Committee recommends that the State party adopt all measures to guarantee that national reserves established on ancestral territories of indigenous and tribal peoples allow for sustainable economic and social development compatible with cultural characteristics and living conditions of those indigenous communities.

Health and Environmental contamination

27. While taking note of all the efforts made by the State party to reform and regulate the gold mining sector and the use of mercury, the Committee remains concerned about reports of high level of the use and dispersion of mercury and its negative impact on the environment and on the means of subsistence and health of indigenous and tribal peoples (art. 5.)

28. The Committee recommends that 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 affected indigenous and tribal peoples are provided access to clean drinkable water and health care and are entitled to effective remedies and adequate compensation for the territories contaminated by mercury.

Decisions of the Inter-American Court of Human Rights

29. While taking note that the State party has already implemented some of the elements of the judgements of the Inter-American Court of Human Rights in the *Moiwana Village case* (2005) and *Saramaka People case* (2007), the Committee expresses serious concerns about the delay and the lack of any concrete information indicating some real progress made in relation to the implementation of these decisions. The Committee is especially concerned about the granting of a mining concession in 2013, in contravention of the decision made by the Court in the *Saramaka case* (art. 6).

30. The Committee urges the State party to comply with legally binding Court rulings, and in particular take steps to expedite the demarcation and titling of territories, the granting of legal recognition of collective juridical capacity and the punishment of the perpetrators of the Moiwana Village massacre in 1986. The Committee also recommends that the State party suspend the granting of any new concessions until the State party has put in place the measures ordered by the Inter-American Court for Human Rights.

Participation in public life and decision making processes

31. While taking note that a small number of Maroons and members of the indigenous peoples hold positions in Ministries, Councils and in the National Assembly, the Committee remains concerned about the limited participation of members of tribal and indigenous peoples in public life, governmental bodies and in the development and approval of public standards and policies including those directly affecting their rights. The Committee is particularly concerned by the absence of consultation of indigenous and tribal peoples in the drafting process of the draft law on traditional authorities and in the negotiation of the Reducing Emissions from Deforestation and Forest Degradation (arts. 2 and 5).

32. The Committee recommends that the State party take special measures to increase the number of indigenous and tribal peoples' members, in particular women, in political bodies and to adopt mechanisms aimed at ensuring that members of indigenous and tribal peoples participate in the design and approval of public standards and policies. Recalling general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee recommends that State party ensure that no decision or legislation directly affecting the rights and interests of indigenous and tribal peoples is adopted or taken without their free, prior and informed consent.

Access to Education

33. While taking note of the efforts made by the State party to improve access to education in the interior, the Committee reiterates its concern (CERD/C/SUR/CO/12, para.16) that no special measures are taken to preserve the languages of the country's indigenous and tribal peoples, and that this is reflected in the area of education (arts. 5).

34. The Committee reiterates its previous recommendation (CERD/C/SUR/CO/12 para. 16) and recommends that the State party take effective measures to ensure that children of indigenous and tribal peoples have access to an education which takes into account the need to preserve their languages and cultures and to consider introducing, as appropriate, the study of native languages.

35. The Committee recommends that the State party take special measures to increase attendance rates and reduce the dropout rates of children belonging to indigenous and tribal peoples notably by:

- (a) Promoting the recruitment of teachers belonging to indigenous and tribal peoples, in particular in primary education,
- (b) Intensifying training of, and providing incentives for teachers in the interior,
- (c) Ensuring the availability of culturally appropriate textbooks, including in native languages, in schools with indigenous and tribal pupils,
- (d) Increasing outreach of scholarship programmes for indigenous pupils and students.

Access to justice and right to remedies

36. While noting that every person in Suriname has the right to appeal to the competent authorities, the Committee is concerned about the persistent discriminatory nature of the judicial system in the State party which does not allow indigenous and tribal peoples to have access to justice and effective remedies through their institutional structures. In particular, the Committee is concerned that the collective legal personality of indigenous and tribal peoples is not recognised by the legal and judiciary system or by the draft law on traditional authorities (arts. 5 and 6).

37. In light of its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, and in line with Article 40 of the United Nations Declaration on the Rights of Indigenous Peoples, the Committee urges the State party to ensure that indigenous peoples are being provided with effective remedies for all infringements of their individual and collective rights, in particular in relation to the enjoyment of property rights, by facilitating them access to domestic courts through their institutional structures. The Committee urges the State party to recognise the collective legal personality of indigenous and tribal peoples.

D. Other recommendations

Ratification of other treaties

38. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying the international human rights treaties which it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries and the International Labour Organization Domestic Workers Convention, No. 189. The Committee also encourages the States Party to accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Finally the Committee recommends to the State party consider ratifying the Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance.

Follow-up to the Durban Declaration and Programme of Action

39. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

40. In the light of General Assembly resolution 68/237 proclaiming 2015–2024 the International Decade for People of African Descent and resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies in collaboration with organisations and peoples of African Descent. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in this framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

41. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report and follow-up to the present concluding observations.

Dissemination

42. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages.

Amendment to article 8 of the Convention

43. The Committee recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the 14th Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992.

Declaration under article 14

44. The Committee encourages the State party to make the optional declaration provided for under article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

Follow-up to concluding observations

45. In accordance with article 9(1) of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 12, 14 and 28 above.

Paragraphs of particular importance

46. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 22, 24, 26 and 37 above and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement those recommendations.

Preparation of the next periodic report

47. The Committee recommends that the State party submit its sixteenth – to eighteenth periodic reports, in a single document, by 14 April 2019, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In this regard, the Committee takes note of the commitment made by the State party to comply with the guidelines of the Committee for the submission of its next periodic report. The Committee reminds the State party that information dealing with all ethnic groups living in the State party should be submitted in the report. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.
