

**Submission by the Amerindian Peoples Association, the Upper Mazaruni District Council, and  
Forest Peoples Programme on Guyana  
To the Human Rights Committee  
140<sup>th</sup> Session (4 March 2024 – 28 March 2024)  
5 February 2024**

This report is submitted by the Amerindian Peoples Association (APA), a national indigenous peoples’ organization in Guyana; the Upper Mazaruni District Council, a regional indigenous governance body representing eight Akawaio and Arecuna villages in the Upper Mazaruni region of Guyana; and Forest Peoples Programme (FPP), an international NGO based in the United Kingdom that supports the rights of indigenous peoples (together, the “submitting organizations”), to aid the Human Rights Committee’s review of Guyana scheduled for 13-14 March 2024. The submitting organizations authorize the posting of this report on the OHCHR website for public information purposes.

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**I. Introduction**

1. Indigenous peoples in Guyana face significant challenges to the realization of the rights protected under the International Covenant on Civil and Political Rights (ICCPR). Indigenous peoples comprise less than 15% of the population of Guyana, and they occupy, use, and manage the significant portions of the lands and resources in what Guyanese call “the hinterland”. The vast majority of the Guyanese population, by contrast, live on the coast. Indigenous peoples’ customary territories host a wealth of natural resources and are the target of, historically, commercial extractive activities, and more recently, climate change and biodiversity-related activities, which pose threats to indigenous peoples’ rights.

2. The threats to and violations of the rights of indigenous peoples take various forms. Extractive industries, particularly mining, take place both legally and illegally on customary indigenous lands, and even on lands already legally recognized as belonging to indigenous

communities. Violations of land rights are frequently connected to other violations, such as threats to community members' right to life perpetrated by miners and increased risk of trafficking in persons. In addition, the significant gap in availability and provision of health, educational, and other social services between the more populous coast and the rural hinterland regions (where most indigenous people reside in Guyana) affects the realization of Convention rights by indigenous peoples. The legal framework is deficient in key areas, and even where legislative protections exist, implementation is lacking.

## **II. Articles 1, 27: Self-determination and Rights of Indigenous Peoples**

3. Since its last periodic report in 2000, the State has taken few measures to promote and protect the rights of indigenous peoples. The State's failures with respect to protection of indigenous peoples' land and participation rights stem from its lack of recognition of indigenous peoples' right to self-determination, as protected under Article 1 of the Covenant.<sup>1</sup> As the Special Rapporteur on the Rights of Indigenous Peoples has explained: "The right of self-determination is a foundational right, without which indigenous peoples' human rights, both collective and individual, cannot be fully enjoyed."<sup>2</sup>

4. Although the State adopted a revised Amerindian Act in 2006, as the Committee has noted, that Act is in need of amendment to bring it in line with international human rights law. Numerous international human rights expert bodies have documented the shortcomings of the Act and recommended that the Act be revised to bring it into conformity with international standards for protection of the rights of indigenous peoples.<sup>3</sup> The 2006 Act did not resolve the issues identified by the Committee in its concluding observations on the State's last periodic report. In those observations, the Committee was "concerned that members of the indigenous Amerindian minority do not enjoy fully the right to equality before the law. It is particularly concerned that the right of Amerindians to enjoy their own culture is threatened by logging, mining and delays in the demarcation of their traditional lands, that in some cases insufficient land is demarcated to enable them to pursue their traditional economic activities and that there appears to be no effective means to enable members of Amerindian communities to enforce their rights under article 27."<sup>4</sup> Indigenous peoples' rights in Guyana remain under threat from extractive industries and delays and errors in recognition of their traditional lands.

5. The State's report does not address the Committee's request to provide an update on the amendment of the Amerindian Act of 2006. Despite the recommendations of treaty bodies and other expert bodies and the promises of successive government administrations, the revision of

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<sup>1</sup> EMRIP, A/HRC/39/62 (2018); A/HRC/48/75 (2021)

<sup>2</sup> A/HRC/12/34, para. 41

<sup>3</sup> CERD/C/GUY/CO/14, para. 15; CERD/EWUAP/106th session/2022/MJ/CS/ks; CEDAW/C/GUY/CO/9, para. 44; E/C.12/GUY/CO/2-4, para. 14-15.

<sup>4</sup> CCPR/C/79/Add.121, para. 21.

the Act has been delayed repeatedly. From 2018-2019, indigenous organizations and governance bodies collaborated to conduct internal consultations within communities to gather preliminary recommendations on the revision of the Amerindian Act. These internal consultations occurred in parallel with a State-led process for revision of the Act. The new administration restarted the revision process anew when it entered office in 2020 but did not announce any plan for the revision. In December 2022, a group of indigenous organizations and governance bodies convened to draft a Consultation Protocol to aid the State in designing and implementing a revision process that would respect the rights of Guyana's indigenous peoples to participate meaningfully in the process. The proposed Consultation Protocol was delivered to the State in February 2023, together with the aforementioned recommendations for revisions to the Act, but the State has made no formal acknowledgement of the Consultation Protocol and recommendations, let alone a commitment to follow the Consultation Protocol, as of this writing. The State announced in January 2024 that it had trained facilitators to assist with the consultations on the Act,<sup>5</sup> but has not otherwise provided any timeline or detailed information about its planned revision process. Some participants of that training report that the training was predominantly a discussion of the contents of the Act and did not prepare them sufficiently to conduct consultations.

6. The State's report in fact boasts, inaccurately, that the Amerindian Act 2006 adequately protects indigenous peoples' rights to land and to FPIC. This reflects the State's fundamental misunderstanding of indigenous peoples' rights, and thus the underlying disrespect for indigenous peoples' rights that prefaces other rights violations. The State asserts that it "provides for the recognition and protection of Amerindian lands by setting out the process through which Amerindian communities can apply for legally protected grants of lands."<sup>6</sup> The State's position is that these rights must be "applied for" and are "granted" to indigenous peoples by the State, rather than being inherent. This misunderstanding has practical consequences for indigenous communities.

7. Importantly, this misunderstanding of indigenous peoples' rights has meant that titles "granted" to villages exclude navigable waterways and subsurface rights, which the State considers to be vested in itself.<sup>7</sup> The State also interprets the titles that it "grants" to exclude previously granted extractive concessions. This has the perverse consequence that the State considers that, for example, a miner's rights to occupy land and extract resources therefrom may predate and take precedence over indigenous peoples' rights to their customary lands.<sup>8</sup> In

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<sup>5</sup> 54 facilitators trained to assist with consultations on the revision of the Amerindian Act, 12 Jan. 2024, <https://dpi.gov.gy/54-facilitators-trained-to-assist-with-consultations-on-the-revision-of-the-amerindian-act/>

<sup>6</sup> State's report, para. 338.

<sup>7</sup> Mining Act, sec. 6.

<sup>8</sup> The High Court of Guyana has held that mining licences convey property rights on the licence holder and that mining licences existing prior to a village's title are excluded from indigenous title by a "save and except" clause. Moreover, the Court has held that regardless of the existence of "save and except" clauses, mining permits granted

addition, even where a village title predates the grant of mining concessions, the State privileges the mining interest at the expense of the village's rights. This has been the case for more than twenty years in the Carib village of Chinese Landing in northwest Guyana. The village has held a title to a portion of its traditional lands since 1976, but the State granted four mining permits in the village's title between 1998 and 2001. The State consistently claims that it can do nothing to remedy the situation,<sup>9</sup> despite reports of violent behavior of miners toward village residents<sup>10</sup> and the issuance in July 2023 of precautionary measures by the Inter-American Commission on Human Rights.<sup>11</sup> Indeed, State officials have publicly accused the village of providing false information to the Inter-American Commission.<sup>12</sup> In addition, in arguing against the issuance of the precautionary measures, the State made the novel and inaccurate argument that the absolute grant of title received by the village under the State Lands Act in 1991 was not title at all because the village was not demarcated until years later.<sup>13</sup> Although Chinese Landing has received more media attention than most other villages in Guyana as a result of its advocacy efforts,<sup>14</sup> its situation is not unique in Guyana. For instance, in Jawalla Village in the Upper Mazaruni region, miners occupy and work on land close to a burial site, in violation of both the village's rights and the State's mining legislation.<sup>15</sup>

8. The State's misconstruction of indigenous peoples' land rights also means that indigenous land titles in Guyana rarely reflect an indigenous people's traditional lands. For example, the Amerindian Act 2006 grants the Minister of Amerindian Affairs wide discretion in determining

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prior to the entry into force of the Amerindian Act are not subject to the mining provisions of the Amerindian Act, which require miners operating in village lands to obtain permission from the village. *In the matter of an application by Joan Avahnelle Chang*, No. 136-M, High Court of the Supreme Court of Judicature, Decision of Diana Insanally (17 Jan. 2013), at pp 14-16. See also *In the matter of an application by Daniel Dazell*, No. 158-M, High Court of the Supreme Court of Judicature, Judgment of Ian Chang (3 March 2009), at p 17; *In the Matter of an Application by Wayne Vieira*, No. 2-M, High Court of the Supreme Court of Judicature, Decision of Chief Justice Ian Chang (17 May 2013), at pp 27-28.

<sup>9</sup> See, e.g., Lakhram Bhagirat, 'We have done all we can to assist Chinese Landing' – Sukhai, *Stabroek News*, 11 Aug. 2022, <https://www.stabroeknews.com/2022/08/11/news/guyana/we-have-done-all-we-can-to-assist-chinese-landing-sukhai/>.

<sup>10</sup> For a summary of such reports, see Inter-American Commission on Human Rights, Resolution 41/2023, para. 10.

<sup>11</sup> Inter-American Commission on Human Rights, Resolution 41/2023: Precautionary Measures No. 196-23, 21 July 2023.

<sup>12</sup> Govt. asked Int'l human rights body to withdraw precautionary measures over allegations of abuse of Amerindians at Chinese Landing – Teixeira, *Kaieteur News*, 11 Jan. 2024, <https://www.kaieteurnews.com/2024/01/11/govt-asked-intl-human-rights-body-to-withdraw-precautionary-measures-over-allegations-of-abuse-of-amerindians-at-chinese-landing-teixeira/>.

<sup>13</sup> Letter to Ms. Fernanda dos Anjos, Inter-American Commission on Human Rights, from Minister Gail Teixeira, 14 April 2023, p. 35.

<sup>14</sup> See, e.g., Dánica Coto, Tiny Amerindian village in Guyana fights gold mine in key court battle over indigenous land rights, *Associated Press*, 17 May 2023, <https://apnews.com/article/guyana-amerindians-miners-gold-land-59b2dc6d2cf52cf5257bd2541bdfa755>.

<sup>15</sup> The Mining Act, sec. 80, provides that mining permit holders may not exercise rights under such permits without written consent of the Minister of Natural Resources over certain areas, including burial sites.

whether to issue a title to an applicant village, and in determining the extent of such title.<sup>16</sup> The State has on numerous occasions arbitrarily issued titles to lands that do not correspond to a village's traditional lands and that protect only a small portion thereof.<sup>17</sup> In fact, most titled villages report that their land titles do not cover the full extent of their traditional lands.<sup>18</sup> It is for this reason that many villages are applying for "extensions" of title, which in effect are titles to areas of land outside their existing title. Villages bordering protected areas such as the Kanuku Mountains Protected Area are told they cannot apply for portions of their traditional lands that overlap with the protected areas, and some report they are prevented by State officials from gathering resources in these areas. The State has not responded effectively to these concerns. Moreover, the State's land titling system under the Amerindian Act does not allow title to be vested in groups of villages or in indigenous peoples – it only allows for land titling to individual villages.<sup>19</sup> Although common-law aboriginal title vested in the Akawaio and Arecuna peoples of the Upper Mazaruni region was recognized for the first time by a court in Guyana in December 2022,<sup>20</sup> the import of the decision remains unclear and the State is currently appealing this judgment.

9. The State boasts that "Amerindian/indigenous communities are the second largest landowner, legally owning more than 14% of Guyana's land mass by communal land titles."<sup>21</sup> While this statistic may be technically accurate, it is misleading to suggest that the hundreds of indigenous villages in Guyana constitute a single "landowner." Moreover, it reflects the State's lack of understanding that it is not the size of indigenous land titles that matters so much as whether those land titles in fact protect the extent of indigenous peoples' lands.

10. The indigenous land titling program (the Amerindian Land Titling project that the State reports it has re-established) also remains severely delayed.<sup>22</sup> Only six certificates of title were granted in 2023, and since these six were certificates of title rather than absolute grants, they only reflect demarcation of titles that had already been granted, rather than new titles.<sup>23</sup> Part of the delay may be attributed to arbitrary complications imposed by the State. Rather than issuing

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<sup>16</sup> Amerindian Act, sec. 62.

<sup>17</sup> Orlanson Agard et al., *Our Land, Our Life: A Participatory Assessment of the Land Tenure Situation of Indigenous Peoples in Guyana: Report for Regions 1, 2, 7, 8, & 9* (2021) (hereafter *Our Land, Our Life*), p. 6.

<sup>18</sup> *Ibid.*

<sup>19</sup> Amerindian Act, sec. 59 et seq.

<sup>20</sup> *Van Mendason et al. v. Attorney General of Guyana*, High Court of Guyana (2022).

<sup>21</sup> State's report, para. 339.

<sup>22</sup> For an evaluation of some of the delays affecting the ALT project, see Carlos Camacho-Nassar, *Mid-Term Evaluation of the Amerindian Land Titling Project in Guyana*, Dec. 2016, <https://www.undp.org/latin-america/publications/mid-term-evaluation-amerindian-land-titling-project-guyana>. In addition, the fact that dozens of villages are still waiting for recognition of their lands attests to the delays in the process. The delays are not, as the State's report implies, attributable solely to lack of action during the period between 2015 and 2020.

<sup>23</sup> Six Amerindian communities receive certificates of title at NTC Conference, 28 Aug. 2023, <https://dpi.gov.gy/six-amerindian-communities-receive-certificates-of-title-at-ntc-conference/>.

a single title document to a village covering the full extent of its traditional lands, the State first issues an absolute grant of State lands covering a portion of those lands.<sup>24</sup> After the absolute grant, the State does not permit applications for extension of title until the village has accepted demarcation of the truncated portion of their lands and has received a certificate of title, which does not convey any rights not already vested in the village by the absolute grant.<sup>25</sup> In addition to delaying the recognition of indigenous lands, the unnecessary steps in the process lead to demarcation and mapping errors and lack of clarity in titles.<sup>26</sup>

11. The State falsely claims that Guyana “is the only country where indigenous peoples hold legal title to their communal land and its usage, forever.”<sup>27</sup> It is unclear on what basis the State makes this claim. As the Committee is no doubt aware, Guyana is not the only country where indigenous communities hold title to traditional lands.<sup>28</sup> The State frequently repeats this erroneous claim in visits to villages and in other public settings, suggesting that indigenous peoples in Guyana should be grateful that the State’s “grants” have made them the “second largest landowner” in the country. This conception of the State’s role in recognizing indigenous land rights misrepresents its obligations to do so under international law: secure legal recognition of traditional lands is a right of indigenous peoples, not a gift bestowed by the State.

12. The State also asserts in its report that “The principle of Free, Prior, and Informed Consent (FPIC) is guaranteed to all Amerindian peoples, pursuant to the Amerindian Act of 2006.”<sup>29</sup> This claim is misleading; while it is true that the Act provides for many decisions affecting *titled* indigenous villages to be made in village general meetings, this does not constitute full protection of the right to FPIC as understood in international law. For example, although the Amerindian Act provides an incomplete measure of respect for FPIC with respect to small- and medium-scale mining on titled land, villages do not have the right under the Amerindian Act to refuse consent for large-scale mining on those same titled lands. Moreover, villages have virtually no control over traditional lands that are untitled, and the Amerindian Act does not recognize any indigenous representative institutions other than villages as having power of decision-making over lands.

13. In addition, the limited protection afforded by the Amerindian Act does not extend to decision-making on other matters that affect indigenous peoples. There is no provision, for example, for securing the consent of indigenous peoples to administrative or legislative measures that may affect them, such as the Amerindian Act. As discussed above, the State has thus far

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<sup>24</sup> As noted above, communities overwhelmingly report that titles “do not correspond to—and are often smaller in area than—their traditional lands.” *Our Land, Our Life*, p. 6.

<sup>25</sup> The State’s requirement that demarcation be completed before a village may receive an extension of title is a creation of project guidelines; that is, there is no legal requirement that this step be taken.

<sup>26</sup> *Our Land, Our Life*, pp. 7-10.

<sup>27</sup> State’s report, para. 347.

<sup>28</sup> See <https://www.landmarkmap.org/>.

<sup>29</sup> State’s report, para. 338.

ignored the Consultation Protocol developed by indigenous leaders exercising this right. With respect to the right of indigenous peoples to participate in decisions that affect them, the State suggests that “Guyana has developed a unique model of participation, inclusion, and representation of its indigenous peoples.”<sup>30</sup> Indigenous peoples have the right to maintain and develop their own representative institutions;<sup>31</sup> the State’s claim in this respect reflects a misunderstanding of this right. In fact, the system of village council governance described in the Amerindian Act has long been imposed by the State.<sup>32</sup> While some villages may choose to be represented and governed by a village council, groups of villages in some regions have been trying for years to secure legal recognition for regional District Councils under the Amerindian Act. The State has failed to act on most of these requests.<sup>33</sup> In this vein, the State also claims that the National Tshaos Council (NTC) is “the legal authority to represent Amerindian people and communities”<sup>34</sup>; this is inaccurate. The National Tshaos Council is not a traditional indigenous representative institution, and indigenous peoples in Guyana have not imbued it with any authorities to represent them. Even under the Amerindian Act, under which it was established, the NTC only has advisory functions and does not have any authority to legally represent indigenous peoples.<sup>35</sup> The State’s claim that the NTC has “legal authority to represent” indigenous peoples has allowed the State to bypass indigenous peoples’ representative institutions, including in implementing its plan to sell forest carbon credits generated from forests on indigenous customary lands.<sup>36</sup>

14. The State’s forest carbon crediting plan is described in its Low Carbon Development Strategy (LCDS), which the State describes in its report in the context of its efforts to prevent and mitigate climate change.<sup>37</sup> Since the submission of the State’s report, the State has progressed in the implementation of the LCDS, but in doing so it has failed to protect the rights of indigenous peoples in the context of climate action. One part of the LCDS describes the State’s plan to finance the plan in part through revenues from forest carbon crediting.<sup>38</sup> In December 2022, the State

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<sup>30</sup> State’s report, para. 315.

<sup>31</sup> UNDRIP, Art. 18.

<sup>32</sup> The State in paragraphs 311 and 348 of its also report misstates the period of office for village councils. Under the Amerindian Act, sec. 65, elections are held every three years, not every two years. In addition, the constitutional Indigenous Peoples Commission described by the State in paragraph 312 of its report is largely ineffectual. It is unclear who sits on the Commission, how to contact the Commission, and what the Commission is empowered to do.

<sup>33</sup> The State did recognize one district council, the South Rupununi District Council, in 2017. However, while the Amerindian Act does provide for such district councils, the scope of their authority under the Act is vague, and they are unable to hold title to land.

<sup>34</sup> State’s report, para. 311.

<sup>35</sup> Amerindian Act, sec. 41.

<sup>36</sup> Upper Mazaruni council restates that carbon trading consultations defective, 28 June 2023, <https://www.stabroeknews.com/2023/06/28/news/guyana/upper-mazaruni-council-restates-that-carbon-trading-consultations-defective/>.

<sup>37</sup> State’s report, para. 175-180.

<sup>38</sup> See Low-Carbon Development Strategy, chapter 2 and appendix 2, available at <https://lcds.gov.gy/>.

received its first tranche of forest carbon credits certified by a US-based carbon credit certifier, the Architecture for REDD+ Transactions (ART).

15. As documented in a complaint and appeal by the APA to ART's internal grievance mechanism, the design and implementation of the State's REDD+ program failed to respect and fulfill indigenous peoples' rights to FPIC and to participation in public affairs, as well as their rights to their traditional territories and resources.<sup>39</sup> Indigenous peoples were not meaningfully consulted during the development of the jurisdictional REDD+ plan, despite the fact that vast portions of Guyana's forest are part of the traditional territories of indigenous peoples. After the plan was developed and the State had submitted its concept note to ART in December 2020, the State conducted a series of limited information-sharing sessions on the LCDS that it labeled as "consultations." The State's own record of these sessions indicate their insufficiency; for example, participants requested simplified materials translated into indigenous languages, but these materials were never provided.<sup>40</sup> At least one participant explicitly informed State representatives that short information-sharing sessions should not be considered consultations by the State.<sup>41</sup> Indigenous leaders in the Upper Mazaruni region asked that local facilitators be trained to conduct adequate consultation in each of their villages; this request was not honored.<sup>42</sup> ART misinterpreted the NTC's July 2022 endorsement of the program to represent FPIC of all indigenous communities in Guyana for their participation in the program and relied on this interpretation in its decision to certify the State's carbon credits in December 2022. As described above, the NTC does not have authority to exercise this right on behalf of indigenous peoples.

**16. The submitting organizations urge the Committee to call on the GoG to:**

- **Revise the Amerindian Act to align with international standards, including as outlined in the UN Declaration on the Rights of Indigenous Peoples, by following the process in the Consultation Protocol and by addressing the deficiencies identified by CERD, CESCR, and other human rights treaty bodies.**
- **Prioritize issuing new village titles without delay in addition to completing demarcation of existing titles, and refrain from misleading communities as to the nature of their legal rights**
- **Ensure that communities whose traditional lands overlap protected areas are not restricted in the exercise of their rights to those lands and the resources therein**

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<sup>39</sup> Comment on latest approved ART documents for Guyana and complaint about issuance of credits for 2016-2020, available at <https://www.artredd.org/wp-content/uploads/2023/05/APA-Complaint-Letter-March-8-2023.pdf>; Appeal of ART Decision on Complaint about issuance of credits to Guyana for 2016-2020, available at <https://www.artredd.org/wp-content/uploads/2023/11/1-APA-Appeal-Letter-June16-2023.pdf>.

<sup>40</sup> LCDS Summary of Feedback, p. 136, available at <https://lcds.gov.gy/summary-of-feedback/>.

<sup>41</sup> See APA Complaint to ART on issuance of credits to Guyana for 2016-2020, p. 3, available at <https://www.artredd.org/wp-content/uploads/2023/05/APA-Complaint-Letter-March-8-2023.pdf>.

<sup>42</sup> LCDS Summary of Feedback, p. 143, available at <https://lcds.gov.gy/summary-of-feedback/>.



- **Engage in constructive dialogue with the Akawaio and Arecuna peoples of the Upper Mazaruni to respect and protect those peoples' rights under their communal aboriginal title to their traditional lands**
- **Legally recognize District Councils that have applied for such recognition**
- **Refrain from selling carbon credits until indigenous peoples have been consulted and given their free, prior, and informed consent to such sale or any other decision in relation to the design or implementation of the State's REDD+ program that may affect their rights.**

### III. Articles 2-3, 26: Nondiscrimination

17. The Committee asked the State to provide information on the realization of the right to be free from discrimination. The State describes constitutional and legislative protections against discrimination. However, the State's report fails to address the pattern of systematic and persistent discrimination against indigenous peoples in law, policy, and practice.

18. The State's consistent prioritization of economic interests over the rights of indigenous peoples, especially in the context of mining, has created a pattern of discrimination. As discussed above, the Amerindian Act does not effectively protect indigenous peoples' land rights. Indigenous peoples have no control over traditional lands that are untitled and only limited control over those that are titled. In practice, this means that the State is able to privilege private property interests ahead of indigenous peoples' land rights. For example, State agencies continue to grant extractive concessions over land that is the subject of pending titling applications; once a village receives its title, the State interprets the title to exclude such concessions. This situation of discrimination has been described by the Inter-American Commission on Human Rights in considering a petition brought by the Akawaio village of Isseneru.<sup>43</sup> The Commission concluded that the legal system violated the village's right to equality before the law by privileging private property and other economic interests of third parties above the rights of indigenous peoples to their traditional territory and recommended that the State provide reparations for the violations suffered by the village.<sup>44</sup>

19. The UN Committee on the Elimination of Racial Discrimination (UNCERD) has similarly considered and made recommendations to the State regarding representative instances of this pattern of racial discrimination.<sup>45</sup>

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<sup>43</sup> Article II of the American Declaration on the Rights and Duties of Man, applied by the IACHR in this case, contains a guarantee of equal protection of the law without discrimination on the basis of race, analogous to the Convention's guarantee of the same right in Article 26.

<sup>44</sup> IACHR recommends 'full reparations' by state to Isseneru villagers for human rights violations, Stabroek News, 28 April 2022, <https://www.stabroeknews.com/2022/04/28/news/guyana/iachr-recommends-full-reparations-by-state-to-isseneru-villagers-for-human-rights-violations/>

<sup>45</sup> CERD/EWUAP/106th session/2022/MJ/CS/ks; CERD/EWUAP/Guyana/2018/JP/ks; CERD/95th/EWUAP/SK/ks.

20. One such example is the State's inaction to protect the rights of residents of the village of Chinese Landing. As described above, the State granted medium-scale mineral concessions within Chinese Landing's customary and titled land without the community's consent. Similarly, the State continues to allow mining at Marudi Mountain, a sacred mountain in the cosmivision of the Wapichan people of southwestern Guyana.<sup>46</sup> Indeed, the State entered an agreement with miners in relation to Marudi without even informing the Wapichan people, who learned of the agreement's existence via social media.<sup>47</sup> UNCERD has recommended that the State:

- "Consider suspending or revoking the mining concessions that affect the lands, territories or resources of the Chinese Landing and the Wapichan indigenous peoples until free, prior and informed consent is granted by these indigenous peoples following the full and adequate discharge of the duty to consult;
- "Refrain from approving projects and granting mining permits or concessions within the lands of indigenous peoples, whether titled or not, without obtaining the free, prior and informed consent of the affected indigenous peoples;
- "Ensure that Indigenous Peoples have access to effective and prompt judicial and other remedies to seek protection for their rights;
- "Prevent and investigate incidents of threats and violence against residents of the Chinese Landing indigenous community by miners and by members of the Guyanese police force; [and]
- "Incorporate the principle of free, prior and informed consent in domestic legislation, including by amending the Amerindian Act of 2006, with indigenous peoples' participation, and to fully and adequately guarantee the right to consultation of indigenous peoples."<sup>48</sup>

**21. The submitting organizations urge the Committee to recommend that the State adopt the recommendations previously made by UNCERD.**

22. In addition, the consequences of longstanding educational inequity affecting indigenous peoples in Guyana was exemplified in last year's tragic fire at the Mahdia Secondary School girls' dormitory.<sup>49</sup> The fire ultimately caused the death of twenty schoolchildren and injured others. Although there is no single cause of the tragedy, it laid bare the deficiencies in educational facilities serving indigenous communities. These deficiencies, together with

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<sup>46</sup> South Rupununi District Council, Wapichan Environmental Monitoring Report, Sept. 2018, pp. 13-26, <http://wapichanao.communitylands.org/1548691773093-wapichan-environmental-monitoring-report-2018-v2.pdf>.

<sup>47</sup> Laurel Sutherland, Secrecy shrouds new gold mining deal in Guyana's Marudi mountains, Mongabay, 22 Dec. 2021, <https://news.mongabay.com/2021/12/secrecy-shrouds-new-gold-mining-deal-in-guyanas-marudi-mountains/>.

<sup>48</sup> CERD/EWUAP/106th session/2022/MJ/CS/ks.

<sup>49</sup> David Papannah, Nineteen perished in Mahdia secondary school blaze – Gov't, Stabroek News, 22 May 2023, <https://www.stabroeknews.com/2023/05/22/news/guyana/mahdia-secondary-school-dorm-gutted-by-fire-several-students-reported-killed/>. The death toll rose to twenty after the publication of this news report.

inadequate staffing and curricula that do not properly take account of the unique needs of indigenous youth, have led to disproportionately poor educational outcomes among indigenous peoples in Guyana.<sup>50</sup> Education must be provided “in a manner appropriate to [indigenous peoples’] cultural methods of teaching and learning.”<sup>51</sup> **The submitting organizations therefore ask the Committee to recommend that the State take action, with the full participation of indigenous peoples, to ensure full safety and protection of indigenous children and equal access to quality education that is suited to the needs and cultures of indigenous peoples.**

#### **IV. Articles 2, 3, 6, 7, and 26: Violence against Women and Domestic Violence**

23. The Committee asked the State to provide information on “measures adopted to prevent and combat violence against women, including domestic and sexual violence, and on the impact of those measures.” In particular, the Committee requested information on steps “to encourage reporting by victims of violence against women, including by combating social stigmatization and increasing victims’ access to justice, particularly in the rural and hinterland areas.”<sup>52</sup>

24. The State’s report does not describe any measures specifically targeting hinterland areas. Violence against women and domestic violence remain serious and prevalent issues in indigenous communities.<sup>53</sup> Many villages lack the personnel and training to respond to reports of violence against women and domestic violence and to support victims of violence.<sup>54</sup> In addition, villages generally lack adequate healthcare resources, including healthcare infrastructure, human resources, and medication and other supplies.<sup>55</sup> Survivors of violence therefore struggle to receive adequate care and treatment for both the physical and psychological effects of violence.

25. Access to justice for survivors of violence is also limited. As discussed below, legal aid services are largely unavailable away from the more populous coastland. For example, in Chinese Landing, a resident reported that a miner from outside the village attempted to rape her teenaged daughter.<sup>56</sup> The resident reported the crime to the police (despite attempts by the miners to pay her not to do so), but as far as the village is aware, no arrest has been made. This case is emblematic of the manner in which loss of control over traditional lands exposes indigenous peoples to social harms from outsiders, in addition to domestic violence within the community. **The submitting organizations ask the Committee to recommend that the State adopt measures**

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<sup>50</sup> UNICEF, Study on Indigenous Women and Children in Guyana, Sep. 2017, pp. xv-xvi, 59-94.

<sup>51</sup> UNDRIP, Art. 14.

<sup>52</sup> LOIPR, para. 10.

<sup>53</sup> UNICEF, Study on Indigenous Women and Children in Guyana, Sep. 2017, p. 108, <https://www.unicef.org/lac/media/4691/file/PDF%20Study%20on%20indigenous%20women%20and%20children%20in%20Guyana.pdf> (hereafter UNICEF Study).

<sup>54</sup> UNICEF Study, pp. 133-136.

<sup>55</sup> UNICEF Study, pp. 45-49.

<sup>56</sup> Inter-American Commission on Human Rights, Resolution 41/2023, para. 10.

**to ensure access to support, treatment, and justice for survivors of violence against women and domestic violence in indigenous communities.**

#### **V. Articles 2, 7, 8, 24, and 26: Elimination of Trafficking in Persons**

26. The Committee asked the State to provide information on the measures taken to combat trafficking in persons and child labour, particularly in rural and hinterland areas; to comment on reports of hazardous child labour, including among indigenous communities; and to indicate steps taken to ensure birth registration of children and access to identity documents.<sup>57</sup>

27. As the Committee notes in the List of Issues, child labour is often linked to mining. Inadequately regulated mining also creates conditions that allow trafficking in persons to occur. Because of the proximity of many indigenous villages to mining areas, indigenous people tend to suffer disproportionately from these conditions. One report estimates that one in four victims of trafficking in Guyana is indigenous, mostly women.<sup>58</sup> These conditions were highlighted in the recent report of the Commission of Inquiry on the Mahdia dormitory fire, which opined that “the events and circumstances leading up to, and the causes of the Mahdia dormitory fire were an unfortunate outcome of several factors: the influence of the mining culture on social relationships within communities; the vulnerability of youth — in particular, teenaged female students; the influence of adults in the mining sector who groom young females — in some cases with the tacit support of family members who benefit financially from such arrangements; the negligence of particular officials in fire readiness, and in the education sector and psycho-social services to deal condignly with deviant behaviour.”<sup>59</sup> The State has not taken sufficient action to address the links between mining and child labour and trafficking in persons. Although the State’s mining agency is underresourced, the State has to date not recognized any indigenous communities’ monitoring programs nor imbued them with any authorities to enforce laws in their territory. While village toshaos are considered rural constables in Guyana, their authority is limited to their titled lands, and they receive no training from the State on their authorities, rights, or duties as rural constables. **The submitting organizations therefore urge the Committee to recommend that the State enforce provisions of law and regulation that afford greater control to indigenous communities over mining taking place on or near their lands, and otherwise empower indigenous communities to manage these activities within their traditional lands.**

28. The State acknowledges that the COVID-19 pandemic made it difficult to issue birth certificates to children in hinterland areas.<sup>60</sup> However, communities report that accessing identity

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<sup>57</sup> LOIPR, para. 20.

<sup>58</sup> UNICEF Study, pp. xix, 125.

<sup>59</sup> Presidential Commission of Inquiry into Mahdia Secondary School Female Dormitory Fire, Jan. 2024, <https://newsroom.gy/wp-content/uploads/2024/01/MAHDIA-COI-REPORT.pdf>.

<sup>60</sup> State’s report, para. 289.

documents was difficult even before the pandemic.<sup>61</sup> For example, births that take place outside of health facilities are often not registered, as parents may not know how to navigate the birth registration bureaucracy. However, even when births are registered, this does not guarantee access to an accurate birth certificate due to the inefficiency of (and confusion about) the process. Lacking a birth certificate renders a child more vulnerable to trafficking and labour abuse and makes it more difficult to access educational and other services.<sup>62</sup> **The submitting organizations urge the Committee to recommend that the State take measures to ensure that children born in indigenous communities receive accurate birth certificates efficiently.**

## VI. Article 6: Right to Life

29. The Committee requested that the State provide information on climate change mitigation and environmental degradation, especially in relation to extractive activities. As the Committee notes, indigenous communities tend to experience the negative effects of these activities most acutely.<sup>63</sup> Indigenous communities in Guyana are experiencing food insecurity and other threats to their right to life as a direct result of the effects of changing weather patterns and extreme weather events. For example, both drought and flooding have affected yields of staple crops such as cassava and have jeopardized communities' access to clean water for drinking and washing.<sup>64</sup> Communities report that the scarcity of water is exacerbated by environmental impacts of mining; increases in turbidity are common in previously clean water sources as a consequence of mining, and some communities are concerned about mercury contamination.<sup>65</sup> These conditions are accompanied by increases in vector-borne illnesses such as dengue fever and malaria in communities. Medical supplies are frequently inaccessible, and some communities report that traditional medicines are increasingly difficult to find.<sup>66</sup> These illnesses tend to be more prevalent in areas affected by mining because of poor hygiene and other factors.<sup>67</sup> **The submitting organizations request that the Committee recommend that the State take effective and culturally appropriate actions, with the full participation of indigenous peoples, to combat and mitigate the effects of climate change. The submitting organizations further request that the Committee recommend that the State refrain from granting extractive concessions, which**

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<sup>61</sup> UNICEF Study, pp. 102-104.

<sup>62</sup> UNICEF Study, p. 104.

<sup>63</sup> LOIPR, para. 14.

<sup>64</sup> David Papannah, The Food and Water Challenges of Guyana's Indigenous Communities, Caribbean Investigative Journalism Network, 23 Oct. 2023, <https://www.cijn.org/food-and-water-challenges-of-guyanas-indigenous-communities/>; Dillon De Shong, Food Security Crisis Looming in Guyana's Indigenous Communities, 7 June 2021, <https://caribbean.loopnews.com/content/food-security-crisis-looming-guyanas-indigenous-communities>.

<sup>65</sup> UNICEF Study, p. 53.

<sup>66</sup> Papannah, Food and Water Challenges of Guyana's Indigenous Communities, Caribbean Investigative Journalism Network, 23 Oct. 2023.

<sup>67</sup> See, e.g., CERD/C/GUY/CO/14, 4 April 2006, para. 19 (expressing concern that indigenous peoples are "disproportionately affected by malaria and environmental pollution, in particular mercury and bacterial contamination of rivers caused by mining activities in areas inhabited by indigenous peoples").

**make indigenous peoples more vulnerable to the effects of climate change, on or near indigenous peoples' traditional lands.**

30. As described above, Chinese Landing Village demonstrates the consequences for a community of failure to respect indigenous peoples' land rights. The residents of Chinese Landing Village have suffered threats, verbal abuse, and harassment from miners and private security officials in response to their efforts to secure their rights to a portion of their traditional lands to which they also hold title. In its resolution granting precautionary measures in favor of the village, the Inter-American Commission on Human Rights found that the residents of Chinese Landing "are in a serious and urgent situation, given that their rights to life and personal integrity are at serious risk."<sup>68</sup> In the months following the grant of precautionary measures, the village repeatedly asked that the State remove the source of the threats and harassment from the village's lands.<sup>69</sup> The State has not made an effort to do so, nor has the State taken any other effective action to alleviate the risks identified by the Inter-American Commission.

31. Instead, the State has further restricted the village's rights by halting all mining in and around the village title, even though some village residents rely on mining as a livelihood activity. The village views this action by the State as punitive. Moreover, as the Inter-American Commission recognized, protection of the right to life for an indigenous people "entails much more than physical survival," and instead includes "measures to ensure the continuance of the relationship of the [indigenous people] with their land."<sup>70</sup> This requires that the indigenous people must be able to continue living according to their chosen social structure and economic system.<sup>71</sup> At present, the unconsented-to mining in the village's lands disrupts the social and economic structure of the village by destroying farmlands and rendering hunting and fishing grounds inaccessible or otherwise unusable. The further restriction on Chinese Landing's livelihood activities imposed by the State likewise impairs the village's ability to maintain its economic system. In turn, the restriction has forced residents to seek work outside the village, harming the social fabric of the village. **The submitting organizations urge the Committee to recommend that the State party ensure the protection of Chinese Landing residents against harassment, threats, and attacks by removing the source of these violent behaviors—miners from outside the village—from the village's lands. The submitting organizations further ask the Committee to recommend that the State take all appropriate measures to ensure the continuance of the relationship of Chinese Landing and similarly situated villages with their traditional lands.**

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<sup>68</sup> Inter-American Commission on Human Rights, Resolution 41/2023, para. 3.

<sup>69</sup> See, e.g., Chinese Landing says never sought cessation of all mining on its lands, Stabroek News, 4 Aug. 2023, <https://www.stabroeknews.com/2023/08/04/news/guyana/chinese-landing-says-never-sought-cessation-of-all-mining-on-its-lands/>.

<sup>70</sup> Inter-American Commission on Human Rights, Resolution 41/2023, para. 67.

<sup>71</sup> Ibid.

## VII. Articles 2 and 14: Access to Justice

32. The Committee asked the State to “indicate the progress made in improving access to the free legal aid system throughout the State, particularly in rural and hinterland areas.”<sup>72</sup>

33. The State reported that the Guyana Legal Aid Clinic, which is subsidized by the State, has extended services to Administrative Regions 2, 5, 6, and 10.<sup>73</sup> While this extension is commendable, it is insufficient to provide access to legal aid to residents of indigenous communities. For example, in Region 2, accessing legal aid still requires costly travel to the administrative township. In the regions where most of Guyana’s indigenous peoples live, in Regions 1, 7, 8, and 9, legal aid is still inaccessible. Because of the unavailability of these services, indigenous communities lack access to methods of seeking redress for problems such as domestic violence and police misconduct. **The Committee should request that the State provide sufficient support for the Guyana Legal Aid Clinic or other such legal aid organizations to extend legal aid services to Regions 1, 7, 8, and 9.**

34. With respect to access to justice for indigenous communities, several communities pursuing legal action have faced undue delays in the resolution of cases. In one particularly egregious example, a group of Akawaio and Arecuna villages in the Upper Mazaruni region of Guyana waited more than 20 years for a judgment from the High Court (the court of first instance) pertaining to their rights over their traditional lands. The judgment ultimately handed down by the court in December 2022 was largely (though not entirely) in favor of the villages. The matter is now pending at the Court of Appeal, where the State is arguing that the High Court erred in recognizing the Akawaio and Arecuna peoples’ aboriginal title. In the meantime, the State is not engaging with the villages in discussion about how to implement the Court’s decision and how to effectively recognize the aboriginal title. For example, shortly after the judgment was issued, the villages informed relevant agencies of the State’s obligation to seek consent before granting any extractive concessions in the communal title and to respect the village’s decisions regarding the same. None of the agencies concerned have responded, let alone used the method for consultation proposed by the villages. In the meantime, government maps show that more mining concessions were granted on these lands in 2023.

35. The village of Chinese Landing has also been pursuing legal action since March 2021. After the village’s case was summarily dismissed in September 2021, the village appealed the case. Since that time, the case has been repeatedly delayed. In December 2023, the village filed a motion with the Court of Appeal to expedite the case given the serious implications of the case for the village and the risk of irreparable harm to the village caused by the ongoing incursion of

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<sup>72</sup> LOIPR, para. 21.

<sup>73</sup> State’s report, para. 296.

unconsented-to mining.<sup>74</sup> **The submitting organizations urge the Committee to recommend that the State ask the Court of Appeal of Guyana to expedite the resolution of Chinese Landing Village's case.**

#### **VIII. Articles 19-20: Freedom of Expression**

36. The Committee asked the State to provide information on the realization of the right to freedom of expression.<sup>75</sup>

37. The freedom of expression of indigenous peoples in Guyana is limited by the low availability of media in indigenous languages. As the Committee has recognized: "As a means to protect the rights of media users, including members of ethnic and linguistic minorities, to receive a wide range of information and ideas, States parties should take particular care to encourage an independent and diverse media."<sup>76</sup> **The submitting organizations urge the Committee to recommend that the State support the development of independent media in indigenous languages, particularly radio stations, which are more accessible in hinterland areas than are print or digital media.**

38. In addition, there is a climate of shrinking civic space in Guyana. The State regularly attacks civil society organizations in public statements, excludes civil society representatives from policy-making forums, and often sidelines such representatives when they are invited to participate in these forums. In the case of indigenous peoples' organizations, the State actively discourages community members from becoming involved with such organizations by spreading misinformation.<sup>77</sup> **The submitting organizations ask the Committee to recommend that the State cease its attacks on civil society organizations and seek instead to collaborate with such organizations to encourage the growth of civic space.**

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<sup>74</sup> Inter-American Commission on Human Rights, Resolution 41/2023, para. 3 (finding *prima facie* "that the identified members of the Indigenous Carib Community of Chinese Landing are in a serious and urgent situation, given that their rights to life and personal integrity are at serious risk").

<sup>75</sup> LOIPR, para. 22.

<sup>76</sup> CCPR/C/GC/34, para. 14.

<sup>77</sup> See Call for Preservation of Civic Space in Guyana, Policy Forum Guyana, <https://policyforumgy.org/call-for-preservation-of-civic-space-in-guyana/>.