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Seventy-fourth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1916th MEETING

Held at the Palais Wilson, Geneva,

on Tuesday, 24 February 2009, at 3 p.m.

Chairperson: Ms. DAH

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Eleventh and twelfth periodic reports of Suriname

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Eleventh and twelfth periodic reports of Suriname (CERD/C/SUR/12; HRI/CORE/1/Add.39/Rev.1)

At the invitation of the Chairperson, the members of the delegation of Suriname took places at the Committee table.

Mr. MacDONALD (Suriname) said that the population of his country included many ethnicities, cultures, languages and religions. All the ethnic groups and people of different cultural backgrounds and traditions coexisted and cooperated peacefully, and were represented at government level.

An inter-religious council created in 1989 provided a forum for consultation and dialogue between his country's main religions. Its members, the principal representatives of the main religions, met at least twice a month to discuss proposed ecumenical activities and their position on government policies when necessary. The council had on occasion been instrumental in finding solutions to major national political impasses.

Small but significant steps had been taken to give effect to the Government's acknowledgement of the right of indigenous and tribal communities to possess, develop, control and use their communal lands. Frank discussions had continued in close cooperation with the target groups in order to find a solution to the issue involved. His Government had signed a memorandum of understanding with an NGO to help to demarcate tribal peoples' territories. The NGO had conducted research on community relationships with land and

the legal framework for land rights, and had organized several capacity-building workshops with indigenous peoples, Maroons and government representatives. The workshops had given participants the opportunity to learn about land rights in Suriname and at the international level, and to make contact with similar groups in South America. Various groups had been formed to discuss the possible format of, and progress towards, recognition of land rights in Suriname.

His Government was aware that authorizing mining and associated infrastructure projects could endanger the land rights of indigenous and tribal communities. It weighed that risk against its responsibility to promote sustained economic and social development for all its citizens, including indigenous and tribal communities. As described in paragraph 95 of the periodic report, the affected indigenous and tribal communities were consulted before such concessions were approved.

Turning to judicial issues, he recalled that the Inter-American Court of Human Rights had ordered the Government to take several steps to remedy the violations that had taken place in the Moiwana community and against the Saramaka people. While the Government would have preferred to address those issues under domestic legislation, it did not intend to deny its citizens the right to seek recourse at the regional and international levels. It recognized that the pace of implementation of the decisions was not satisfactory to all parties, and was making every effort to implement the Court's decisions. Significant progress had been made in the implementation of the Moiwana judgement. At the domestic level, the process of bringing to justice those accused of committing serious violations during the military dictatorship (including the execution of 15 prominent persons on 8 December 1982) was well under way. The Government was confident that justice would prevail in that matter.

In the current global situation, like many others, his Government was making additional efforts to guarantee sustained economic and social development for its people, and respect for human rights and fundamental freedoms. The Government strongly condemned all forms of racial discrimination and would continue to implement its obligations under the International Convention.

Mr. MURILLO MARTÍNEZ, Country Rapporteur, gave a brief overview of the history, geography and population of the State party, as detailed in the periodic report. He outlined the political and judicial systems, noting that the State party had yet to implement the recommendation that it should establish a constitutional court as a mechanism for the protection of human rights. It was a party to most international human rights instruments, and had welcomed the United Nations Declaration on the Rights of Indigenous Peoples. However, despite the number of ethnic groups in the State party, it had not yet signed ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The International Convention on the Elimination of All Forms of Racial Discrimination was a key instrument in the State party's legislation, which included a definition of racial discrimination that was in conformity with the provisions of article 1 of the Convention. While the Criminal Code was in harmony with the essential elements of article 4 of the Convention, the prohibition of organizations that promoted racial discrimination was not in line with the provisions on article 4 (b). The State party had not endorsed the amendment to article 8 of the Convention, or made the declaration provided for in article 14.

He regretted the fact that the periodic report had not been prepared in accordance with the reporting guidelines and was, in parts, somewhat confusing. While the overall scope of education was to be commended, he expressed concern at the high rates of illiteracy among the Maroons and the indigenous peoples. The Committee would appreciate additional information on measures to ensure that those groups had access to education, including good quality higher education. Noting that the State party had been considering accession to ILO Convention No. 169 for some 15 years, he requested details of the current situation.

It would be useful to have further details on mining legislation, particularly whether ethnic groups living on ancestral lands had pre-emptive rights to mining activities on those lands, and information on the relevant property regimes. He asked how many indigenous people and Maroons owned a title to land. He enquired whether the principles of informed consent and consultations in good faith and in a form appropriate to circumstances were respected in the development of natural resources, building work or other activities on the ancestral lands of indigenous groups and Maroons.

He requested updated information on the degree to which the terms of the Agreement for National Reconciliation and Development had been met, particularly on issues relating to indigenous peoples and Maroons.

He asked for detailed data, disaggregated by ethnic group, on measures taken to resolve the situation regarding the high rates of malaria and HIV/AIDS.

It would be useful to have further details on the level of representation of indigenous groups and Maroons in decision-making bodies in the legislative, executive and judicial sectors, and in the senior ranks of the law enforcement authorities.

He enquired about the impact of the general plan of action to combat poverty, particularly among the indigenous groups and Maroons. It would be useful to learn whether the policies adopted by the State party had taken a differentiated approach based on indicators of the effective enjoyment of rights by different ethnic groups, particularly those that had traditionally been victims of racism and racial discrimination.

He requested detailed information on follow-up by the State party to previous recommendations of the Committee and also decisions of the Inter-American Court of Human Rights. In that regard, he recalled the Committee's decision 3 (62) (CERD/C/62/Dec/3) and decision 1 (69) (CERD/C/DEC/SUR/5) concerning early-warning measures and urgent procedures, decision 3 (66) (CERD/C/66/SUR/Dec.3) concerning its follow-up procedure, and the relevant judgements of the Inter-American Court of Human Rights in the Saramaka People v. Suriname and in the Moiwana Community v. Suriname.

The Court cases mentioned above involved violations of the basic rights of indigenous peoples occasioned by the economic development of the forests, mining activities and the granting of development concessions. With regard to the Saramaka People v. Suriname, he would welcome information on steps taken by the State party to implement the Court's recommendations regarding recognition of the ancestral land rights of the Saramaka and their right to share in the management and benefits of development projects in their communal territory.

With regard to the *Moiwana Community v. Suriname* case, arising out of a massacre of indigenous people in the town of Moiwana, he likewise requested information on implementation of the Court's decision, in particular on the current status of the investigation into the massacre, including prosecution of those responsible, recognition of the community's collective rights, guarantees of security for the community, the establishment of a State-financed development fund for community members, a public apology for the massacre and the erection of a monument to commemorate the massacre. Noting that a further case, the *Kaliña and Lokono Peoples v. Suriname*, was currently being considered for admissibility by the Inter-American Court, he asked the delegation to comment.

He stressed the need to recognize the rights of indigenous peoples, ensure their viability, and allow them to participate in the management and development of their ancestral lands. Other countries (e.g. Brazil, Colombia, Ecuador and Honduras) had promoted consultation and intercultural dialogue, which had helped avoid conflict. The State party should study the situation in those countries. In addition, it should follow the recommendations of international bodies, guarantee the rights of its indigenous peoples, and ensure that development of their territory was based on cooperation and informed consent. It should also ratify and comply with ILO Convention No. 169.

Mr. AVTONOMOV agreed that it was difficult for small States to allocate sufficient resources to the promotion of human rights but suggested that the State party might be able to obtain technical assistance from OHCHR, for example for the preparation of its reports. He also encouraged the State party to follow the Committee's guidelines for the preparation of reports.

He welcomed progress made towards ensuring equality for all ethnic groups, inter alia with regard to registration of marriages, but stressed the need to enact legislation guaranteeing equality for all in accordance with relevant international instruments, including the Convention. He requested more information on marriage: while marriages performed by representatives of recognized religious groups could be officially registered, he wondered whether marriages under unrecognized religions, for example the Orthodox Church, and marriages under tribal or customary law, which were often informal, could be registered. Furthermore, given that indigenous groups had no written language, he wondered how their marriages could be documented.

He requested information on the current status of the proposed Mining Act, which was apparently still only in draft form, in particular whether it contained adequate guarantees for protection of the rights of indigenous communities and compensation for disruption caused by mining activities. It was important to protect the rights of all groups affected and consult indigenous and tribal peoples affected by mining activities. In that regard he referred the delegation to the Committee's general recommendation XXIII on the rights of indigenous peoples and the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly in September 2007. Lastly, he requested information on the current situation with regard to ratification of ILO Convention No. 169.

Mr. CALI TZAY expressed concern that the report did not really address the issues raised in the Committee's previous concluding observations (CERD/C/64/CO/9) or its observations under its early warning and urgent action procedures (CERD/C/DEC/SUR/4). Indeed, many of the reasons given for lack of action with regard to indigenous rights noted in the report had already been rejected by the Inter-American Court of Human Rights in relation to various cases. He asked the delegation why the report referred to the issue of tribal land rights as "so complex".

The Committee had stressed in its previous concluding observations that the State party should consult the indigenous peoples on any development projects that affected their communities. The Inter-American Court of Human Rights had underscored the need for informed consent of the indigenous community concerned. He enquired whether the local indigenous community had been consulted on, for example, the major hydroelectric project in the west of the country.

The Committee had received reports that education costs were three times higher in indigenous areas than elsewhere. While the report contained no information on the quality of education in Suriname, the Inter-American Development Bank had, for example, undertaken an analysis of that situation and found that there were serious shortcomings in both the quantity and quality of services in indigenous areas as compared with non-indigenous areas. The report indicated that spending on health care was approximately US\$ 180 per capita, but he had information from medical sources that spending was actually less than a third of that figure; he wondered how the State party had arrived at that figure. He emphasized the fact that indigenous peoples, even if they had permanent housing, were connected to the electricity grid, shopped in supermarkets, etc., had the right to identify themselves as indigenous. He invited the delegation to comment on those matters.

He noted that the Inter-American Court of Human Rights, in the *Saramaka people v. Suriname*, had recommended that the State party amend its legislation to protect the collective property rights of the Saramaka so as to promote their enjoyment of the land and natural resources necessary for their survival. Information would be welcome on how the State party was implementing the Court's decision and on how it was safeguarding the rights of the indigenous peoples.

Mr. de GOUTTES requested information on measures envisaged by the State party to promote the teaching of the native languages of the indigenous and tribal peoples, and on when the constitutional court would be instituted. He wondered whether the amendments to article 175 of the Criminal Code criminalizing discrimination and the addition of new paragraphs 176 b and 176 c criminalizing support for discriminatory activities and discrimination by a person in the execution of his office, profession or business, had in fact been adopted.

Turning to economic, social and cultural rights, he asked what progress had been made towards reducing unemployment among the Maroons and indigenous peoples, for example through the efforts of the Vocational Training Centre. He would also welcome information on the practical results of the work of the Council for the Development of the Interior.

He would be grateful if the delegation could provide an explanation of the complex issue of recognition of the land rights of people living in tribal communities. He took note of the current process for the granting of a mining permit, described in paragraphs 79-98 of the report, and the fact that the draft Mining Act was currently before parliament; he asked for more information on the status of the draft and on the current situation with regard to mining. Lastly, referring to question 15 of the list of issues, he asked for information

on complaints of sexual exploitation of children and rape of girls belonging to indigenous and tribal communities in regions where there were mining and forestry operations.

Mr. HUANG Yong'an welcomed the positive steps taken by the State party in the area of protection of the rights of indigenous and tribal peoples, but drew attention to the need to reconcile economic development with protection of their interests. In that connection, he expressed concern at reports of the Government supporting companies that violated the rights and interests of indigenous and tribal peoples, whose forests and farmland were being destroyed as a result of mining operations or dam construction projects. While economic development was, of course, vital for developing countries such as Suriname, the Government must take heed of the interests, complaints, demands and opinions of indigenous peoples, and not simply ignore them.

Mr. PROSPER said that the information received on the persistent number of complaints brought before international courts called into question the substantive competence of Suriname's national courts to deal with complaints of violations of the rights of indigenous peoples. He would be interested to hear the State party's views on that matter. If national courts were not able to respond adequately to such complaints, he would like to know what the State party was doing to strengthen those courts, and what assistance was being received, or was required, from the international community in that area.

Mr. PETER commended the State party for including data on the ethnic composition of the population in its report. He had been pleased to see from paragraph 41 of the report that contracts with multinationals stipulated that they should employ local labour and that, if it was necessary to hire personnel from abroad, they should train local personnel to become skilled workers. In his view, ratification of ILO Convention No. 169 would further improve the protection of indigenous and tribal peoples. With regard to the question raised by Mr. Cali Tzay concerning the authorization of mining concessions, he asked how the Government ensured that the district commissioners responsible for consulting indigenous and tribal peoples actually carried out those consultations in practice.

Referring to the point raised by Mr. Prosper concerning the competence of national courts to deal with complaints of violations of the rights of indigenous peoples, he urged the State party to step up work to establish a constitutional court. It was not easy for ordinary citizens to apply to the Inter-American Court of Human Rights; they needed reliable local institutions.

Mr. LINDGREN ALVES drew attention to the need to follow the Committee's current guidelines for the submission of periodic reports. Referring to paragraph 12 of the report under consideration, he asked the delegation to confirm that the list of names of the ethnic groups had been drawn up on the basis of self-identification. He requested clarification of the terms "Kaukasisch" and "Creole". He welcomed the inclusion of the category "mixed" and asked whether the ethnic group in question referred to itself in that way.

He requested confirmation that solemnization of religious marriages required civil registration for the marriages to be lawful. Did the requirement of free consent of future spouses, as mentioned in the report, also apply to religious marriages, and was that requirement enforced? He welcomed the establishment of a presidential committee to improve the current codification of the land rights regime of tribal and indigenous peoples, and commended the State party for the seriousness with which it was treating that issue, as demonstrated by its recognition that any decision taken to ratify ILO Convention No. 169 needed to be unanimously agreed between the Government and the indigenous and Maroon communities.

Mr. THORNBERRY said that, in the context of the *Saramaka People v. Suriname* case examined by the Inter-American Court of Human Rights, the State party had referred to the complexity of the codification of indigenous rights. He would welcome information on any cooperation on codification between the State party and the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people.

Recalling the work being carried out by various United Nations bodies in the area of the education rights of minority groups, from which he hoped the State party would draw inspiration, he encouraged the State party to develop strategies to improve access to education by minority groups disadvantaged by a lack of knowledge of the national language. Aside from the responsibility of States to promote heritage languages, research had shown that school systems combining mother-tongue instruction with gradual introduction of the national language achieved greater results with regard to acquisition of the national language than total immersion in the national language from the start.

He had been given to understand that educational services for indigenous peoples and Maroons were often devolved to religious missions. If that were the case, he would like to know which religious missions were involved, and what framework governed the mutual rights and responsibilities of the religious mission and the State. He asked whether the term "Maroon" was accepted by the populations concerned.

Mr. AMIR, referring to the numbers of Maroons and Creoles listed in paragraphs 13 and 116 (a) of the report, said that there appeared to be a problem of disparity between ethnic groups when it came to employment; he would be interested to know why that was. He wondered why there was no mention of gross national product; it would have been useful to have information on income per capita, especially given the considerable wealth-generation potential of mines, which were almost exclusively foreign-owned. He asked what follow-up had been given to Committee decision 1 (67) of November 2005 concerning the matter of compliance of the revised draft Mining Act with the Convention.

He would welcome information from the State party on follow-up to the Committee's concluding observations of 2004. With regard to the environmental impact of mining operations, he expressed concern at the potential implications for the health of local indigenous peoples; he would appreciate any information the State party could provide on that matter.

Mr. MacDONALD (Suriname), replying to comments made, acknowledged that the report submitted by Suriname did not conform to the guidelines, although he believed that was in large part due to the country's lack of financial and human resources. His own career after graduation from the university of Suriname in 1994, through a one-year research scholarship from the Organization of American States to Washington D.C., and his subsequent appointment as a lecturer at the university of Suriname upon his return in

1996 illustrated the severe human resource constraints experienced in Suriname. The country frequently relied on partnerships with the non-governmental community in order to obtain sufficient funding, as he himself had done when setting up a moot club competition for his university students; one of the prizewinners, Ms. Margo Waterval, who had won a scholarship to the American University of Washington D.C., was currently a respected human rights lawyer and a member of the Suriname delegation. More recently, he had only been able to obtain funding for human rights training in Suriname by setting it within the framework of a Caribbean Community project; both of his colleagues in the delegation had benefited from that training.

Despite its small size, his delegation would study the Committee's observations and provide as full a response as possible at the following meeting.

The public part of the meeting rose at 5.35 p.m.