



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
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Excellency,

I write to inform you that in the course of its 82nd session, the Committee considered the situation of the the Kako and Isseneru indigenous communities in Guyana following information received by non-governmental organizations.

As a result of the information received, the Committee is concerned that the Government, through the Amerindian Act, 2006, has denied the Kako and Isseneru indigenous communities any decision-making rights concerning the mining of lands over which those communities have title.

In this context, the Committee has received information suggesting that the High Court of Guyana has, in several recent cases, applied this legislation, and in doing so, upheld the interests of miners while denying any right of the Isseneru and Kako indigenous peoples to prevent mining on its titled land.

The Committee has been made aware of three specific cases. First, in August 2008, the High Court of Guyana reportedly ruled in favour of a non-indigenous miner, named Lalta Narine, who requested an injunction against the Isseneru indigenous community so that he could mine the lands over which the community held title. The Court held that the community had no authority over mining under a concession that commenced prior to the community obtaining title pursuant to the 2006 Amerindian Act. The Court also enjoined the community from interfering with the miner's operations. The community reportedly appealed against this decision in October 2008, but to date, no ruling has been made on the matter by the Guyana Court of Appeals.

Second, on 17 January 2013 the High Court of Guyana reportedly ruled in favour of a non-indigenous miner named Joan Chang who had requested an injunction to mine on the titled lands of the Isseneru indigenous community. The Court held that the miners had obtained mining permits prior to the entry into force of the Amerindian Act 2006 and consequently did not have to obtain permission from the community before carrying out mining operations on titled lands.

Third, on 20 September 2012, the High Court of Guyana reportedly ruled in favour of a non-indigenous miner named Belina Charlie who had requested access to mine on Kako traditional lands. The Court issued an order restraining the Kako Village Council from preventing the passage of a water dredge and other mining equipment across the Kako River.

His Excellency  
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The Committee expresses its concern about the limits of the legislation which has allowed mining activities carried out by non-indigenous parties to take place on indigenous traditional territories including indigenous titled lands without the free and prior informed consent of the affected communities and in non-compliance with the Convention and international standards, including its General Recommendation No. 23 on the rights of indigenous peoples.

The Committee would like to recall paragraphs 17 and 19 of its concluding observations (CERD/C/GUY/CO/14) adopted on 4 April 2006, following the consideration of the periodic report of the State party. The Committee would also like to reiterate paragraph 15 of its concluding observations in which it recommended the amendment of the Amerindian Act to remove any discriminatory distinctions in the legislation.

The Committee requests the State party to provide information on steps taken to implement the above paragraphs. Further, the Committee requests the State party to provide updated information on the results of appeal of the Isseneru community in October 2008 referred to above.

The Committee requests the State party to provide information on how the right to free and prior informed consent of the Isseneru and Kako communities is implemented prior to the grant of new mining concessions related to land over which the communities holds title. The Committee also requests that the State party review, where relevant, the practice of granting mining permits and concessions without obtaining the prior and informed consent of the affected indigenous communities.

In accordance with article 9(1) of the Convention and article 65 of its Rules of Procedure, the Committee would be grateful to receive urgently information on all of the issues and concerns as outlined above, before 31 July 2013.

In accordance with article 9(1) of the Convention and article 63 of its Rules of Procedure, the Committee urges the State party to submit its fifteenth and sixteenth periodic reports overdue since 17 March 2008.

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

Yours sincerely,

Alexei Avtonomov  
Chair

Committee on the Elimination of Racial Discrimination