



***Public Consultation
on the Perceived Needs of the
Amerindian Community***

8th July, 2008

In the ERC Boardroom

At Lot 66, Peter Rose & Anira Streets

Queenstown, Georgetown

CONSULTATION WITH AMERINDIAN RESIDENTS

The Ethnic Relations Commission held a Public Consultation in respect to the Perceived Needs of the Amerindian Community in Guyana on Tuesday 8th July, 2008 at 10:45 hours.

ATTENDEES - ERC

| | | |
|---------------------|---|-------------------------------------|
| Bishop Juan Edghill | - | Chairman |
| Mr. Carvil Duncan | - | Commissioner |
| Ms. Cheryl Sampson | - | Commissioner |
| Ms. Christine King | - | CEO/Secretary |
| Ms. Cameal Mentore | - | Senior Investigative Officer/Scribe |

PRESENTERS

| | | |
|-----------------|---|--|
| David James | - | Amerindian People's Association |
| Colin Klautky | - | Guyanese Organisation of Indigenous Peoples |
| Peter Persaud | - | The Amerindian Action Movement of Guyana |
| Debroy Thomas | - | Toshau, Arau Village |
| Majuna Edwards | - | Toshau, Micobie Village |
| Victor Lawlist | - | Batavia, Cuyuni River, Region 7 |
| Alphonso Crème | - | Village Councillor, Micobie Village, Region 8 |
| Pamela Mendonca | - | The Amerindian Action Movement of Guyana |
| Phyllis Ossorio | - | The Amerindian Action Movement of Guyana |
| Medlina Roberts | - | Village Councillor, Micobie Village, Region 8 |
| Ashton Simon | - | National Amerindian Environmental Educational Development Foundation |

The Chairman, ERC welcomed Representatives of the Amerindian Community to the Ethnic Relations Commission and in his remarks, he spoke about ERC's mandate to enquire into the perceived needs of various ethnic groups in Guyana as regards to barriers they experience politically, culturally and socially. He advised that a report of the consultation will be forwarded to the National Assembly after it is examined and consented to by all presenters. The Chairman further mentioned that since the ERC had already received some of their written presentations the process would be simple; he said that it is expected that there would be frank and open discussions on the perceived needs of the Amerindian Community. The panel was introduced and the Chairman informed the gathering that protocol would be observed by the Commissioners. Six persons indicated that they were making presentations:- Majuni Edwards, Debroy Thomas, Peter Persaud, Colin Klautky, Asthon Simon and David James.

MAJUNA EDWARDS - *Toshau of Micobie*

Toshau Edwards said that she was happy to attend the meeting and spoke of the problems affecting her village. She said that her community was concerned about a land problem in Micobie with Mr. Winston Rambarran, a miner who has a claim and is conducting gold mining activities in their village. Toshau Edwards mentioned that it was being done in full view of the Guyana Geology and Mines Commission (GGMC). She advised that her community had received Land Titles in March, 2006 and that it is important that miners seek the consent of the village before commencing mining. According to her the GGMC issues a mining permit for small and medium scale mining and that all other miners have complied except Mr. Rambarran. She added that the (GGMC) was accepting payment from miners for permits despite her intervention. She pointed out that this practice of Mr. Rambarran was illegal, that she would like him off their land and the GGMC must cancel all claims for mining.

Chairman ERC enquired if any meetings were held with Mr. Rambarran and she replied in the negative. He further asked her if she would be inclined to have a round table meeting to discuss the matter with Mr. Rambarran and to this she declined.

Mr. Peter Persaud intervened and said that Mr. Rambarran and Mr. Lalta Narine are miners who have no respect for the village, where they have mining properties. He stated that they should obtain consent from the village before commencing their work there.

Mr. David James added that the GGMC was written, and the matter is being addressed by Mr. Whittaker. It was noted that the other miners do acknowledge the village council but not Mr. Rambarran. It was also mentioned that the GGMC wrote him a letter to cease work, this was done but he is still in the area with his equipment. The matter was to be further pursued.

DEBROY THOMAS - *Toshau of Arau, Region # 7*

Mr. Thomas said that the main problems in his Community were illegal mining, robbery, prostitution, selling of alcohol in mining camps, drugs and danger to aquatic life. He reported that the GGMC was issuing licences/permits to miners without the consent of the Toshau; that Miners from Brazil, Venezuela were entering his village and despite his complaints to the GGMC, the Prime Minister and the Amerindian People's Association, the situation remains the same. He requested the intervention of ERC.

Mr. David James, advised that he is the lawyer representing Micobie and Arau and that Amerindians are known to do farming and fishing in a certain area. He said that there was a meeting with the Chief of Staff, Commander Gary Best and Colonel Bruce Lovell. Colonel Lovell had promised to check out the area but did not do so. Mr. James also mentioned that there was a meeting which he had attended with Mr. Stephen Fraser, the Prime Minister and the Toshau of Arau along with GGMC on the matter. He disclosed that the GGMC has no legal requirement but concessions were granted by them, and only when the miners are going into the villages to do Mining then the villagers would know that they have claims. At this point, Commissioner Cheryl Sampson enquired if anyone had checked before the Land Titles were issued.

Mr. James responded that he was not sure and promised to do so.

Commissioner Carvil Duncan said that his concern was that action should be taken with regard to prostitution in the village.

The Chairman ERC stated that Mining Officers had the power to ensure that discipline was carried out in the Camps, and systems enforced. He asked if there was any option of mediation. Mr. James responded in the affirmative and promised to send documents on concessions and titles to ERC.

PETER PERSAUD - TAAMOG

He presented his report which was already circulated.

The ERC Chairman thanked him for the issues raised and accompanying recommendations. Commissioner Sampson sought clarification on Page 6 Sub paragraph (d) of his report which seemed to indicate that the “ERC was not fully Constituted”.

COLIN KLAUTKY - GOIP

Mr. Colin Klautky read his report which was also circulated and emphasized on village names that were changed. The Chairman ERC on enquiring who had changed the names of the village, was told that it was done by the early Christian (Catholics and Anglicans) Missionary starting from the 1500’s and onward. In keeping with global Indigenous trends, the GOIP wants the process reversed.

The trend of returning to their original names has already started since 1989. That year, St. Francis in Region 5 became Moraikobai its present official name. This advocacy came from within Moraikobai itself due partly to the efforts of former headteacher and GOIP Committee Member, Mr. Leit Scamair.

The GOIP intends to continue advocating for other villages such as St. Ignatius in Region 9 to Zariwa, its original name.

Commissioner Sampson then spoke of her visit to Region 1 where it was made clear who the people wanted to serve in their community.

MR. DAVID JAMES - AMERINDIAN PEOPLE’S ASSOCIATION.

Mr. James said that he welcomed the opportunity to make a presentation to the ERC. He spoke on the following issues relative to the Amerindian Act:

RIGHT TO LAND TITLES

1. Generally arbitrary and unfair
2. The Act specified the right to land territories and resources.
3. The Act enables the Minister alone to determine what are these lands.

4. The Minister makes or determines what are the lands for Indigenous people and these results are unfair.
5. Protection of land rights, the future and everything in respect of the lives of the people.

OWNERS OF LAND RIGHTS

1. The Presenter highlighted Section 85 of the Amerindian Act.
2. The state holds the rights of the indigenous people.
3. Owners should be recognized and protected by law.
4. GGMC granting permits to miners thus denying the Amerindian people from the large portion of land that belongs to them.

Section 6 of 1991

1. This Section spoke to discrimination of the People.
2. Violation of the rights of the people to their village
3. At present only one village can apply for a title. All satellite villages have their own title.
4. In 1999 there was one matter before the Court, the trial lasted a year.
5. There should be improvement in the laws governing Indigenous people.
6. State should give legal recognition to the Amerindian Act which is urgently needed to be amended.

HEALTH

1. Mercury pollution affecting human beings.
2. In areas like Micobie and Mazaruni there is a high level of mercury pollution.
3. Gencab - Canadian personnel had addressed pollution in Micobie and authorities were to follow up.
4. Guns in the Wai Wai area - nothing is being done to address that problem.

EDUCATION

1. The education offered in Amerindian Communities was lower than those offered to coastlanders.
2. No Amerindian student was successful in the top level of the last Grade 6 examination.

3. Commissioner Sampson noted that a number of Amerindians graduated from CPCE recently. It was her hope that they would return to serve their communities.

The ERC Chairman asked about equal access and opportunity; He queried about the inadequacies in the Act if they were raised before or if they were ignored or if there were genuine concerns that were not attended to.

Mr. James in his response said, that equal access was given but quality education was not being delivered. With respect to the Act, he said that the consultative process lasted 2 years, the report was extremely good but the fundamental Rights that were proposed, were excluded. The Act went to a select committee but it remained the same.

Mr. Colin Klautky intervened and informed the meeting that teachers do not have resources. He said that Mr. Basil Rodriques tried to keep the Amerindian culture alive in Moruca and he had to do it alone. He suggested that the Education Ministry should change its programme.

It was pointed out also that Amerindian ideas are dismissed by the Ministry of Education.

Mr. Peter Persaud in his contribution said that while there are skilled teachers, there are no resources and accommodation for them.

Commissioner Sampson agreed that there is no accommodation provided for teachers to teach in the Interior. She felt that the Ministry of Education has to look into this aspect.

MR. ASHTON SIMON made the following points:-

1. He was concerned with the quality of Education in general
2. Summer programmes for Amerindians
3. Amerindians are isolated
4. Spoke of the Scouting Association - youths need to be motivated to join.
5. Unfair treatment to women - authorities are slow to take action.
6. Rape committed on Amerindian girls and women goes unnoticed.
7. A system to be put in place for Police to serve communities speedily.
8. Potable water for Amerindian communities.
9. Preservation of foods that are available.

10. Legal Services must be available to hinterland People.
11. The length of time people have to wait at hospitals before they can get attention.
12. Chinese exploiting Amerindian women and young girls by paying them low wages and using them as sex workers.
13. Exploitation in the mining and timber sectors in the form of low wages.
14. The Geology and Mines Commission also discriminated against Amerindians.

The Chairman asked if the “Buckman/woman stigma” still exists and he was told that it occurred on a daily basis.

The Chairman again asked about services of Health Workers and if the preference was for Coastlanders. Mr. Simon replied that Health Workers were accepted to a point. He added that Amerindians accept their own in their community.

There was the call for a Policing Group in Batavia.

The ERC Chairman thanked the group for their meaningful presentations and promised to examine the reports submitted.

The Public Consultation concluded at 13:50 hrs with the submission of written presentations which are appendices to this report.

APPENDICES

| | pages |
|---|--------------|
| 1. Submission by APA and GOIP | 1 - 15 |
| 2. Submission by GOIP | 1 - 3 |
| 3. Submission by TAAMOG | 1 - 9 |
| 4. Submission by NADF (with attachment) | 1 - 9 |

Presented to the Ethnic Relations Commission (ERC)

Re. ERC's Consultation with Amerindian Organisations

*Submission on the Situation of Human Rights of the
Indigenous Peoples of Guyana.*

Submitted By

Amerindian Peoples Association of Guyana (APA)

and

Guyanese Organisation for Indigenous Peoples (GOIP)

2nd July 2008

Executive Summary

This report is submitted by the Amerindian Peoples Association of Guyana and the Guyanese Organisation of Indigenous Peoples, both of which are national indigenous peoples' organizations. The report highlights the discrimination and violation of Human Rights that Indigenous Peoples in Guyana face which is most particularly evident in connection with Guyana's failure to adequately recognize, guarantee and protect indigenous peoples' rights to own and control their traditional lands and territories. Resource exploitation operations pose a major threat to many indigenous peoples and are often authorized and undertaken without little regard for their rights and well being. In some cases, indigenous peoples and their traditional lands have suffered irreparable harm.

Discrimination against indigenous peoples is not a relic of the past. It remains firmly entrenched in current policy and practice and remains a feature of the Amerindian Act 2006, which was enacted by Guyana's National Assembly in that year. This law replaced the 1951 Amerindian Act, which was overtly discriminatory and which had been the main law regulating indigenous peoples and their affairs until 2006. The Amerindian Act 2006 does not contain some of the most egregious examples of discrimination found in the Amerindian Act 1951, but it is nonetheless discriminatory on multiple grounds.

The Amerindian Act 2006 was the subject of grave concern expressed by the UN Committee for the Elimination of Racial Discrimination (CERD) in its Concluding Observations when the state-party Guyana reported to this body in 2006. CERD in this regard observed among others, the following:

15. The Committee notes with deep concern that, under the Amerindian Act (2006), decisions taken by the Village Councils of indigenous communities concerning, *inter alia*, scientific research and large scale mining on their lands, as well as taxation, are subject to approval and/or gazetting by the competent Minister, and that indigenous communities without any land title ("untitled communities") are also not entitled to a Village Council. (Art. 5 (c))

The Committee urges the State party to remove the discriminatory distinction between titled and untitled communities from the 2006 Amerindian Act and from any other legislation. In particular, it urges the State party to recognize and support the establishment of Village Councils or other appropriate institutions in all indigenous communities, vested with the powers necessary for the self-administration and the control of the use, management and conservation of traditional lands and resources.¹

¹ **Guyana - Concluding Observations of the Committee on the Elimination of Racial Discrimination** – Committee on the Elimination of Racial Discrimination, Sixty-eight Session 20th February – 10th March 2006.

CERD also expressed its deep concern regarding Guyana's failure to adequately recognize, guarantee and protect indigenous peoples' rights to own and control their traditional lands, territories and resources. In this regard it observed:

16. The Committee is deeply concerned about the lack of legal recognition of the rights of ownership and possession of indigenous communities over the lands which they traditionally occupy and about the State party's practice of granting land titles excluding bodies of waters and subsoil resources to indigenous communities on the basis of numerical and other criteria not necessarily in accordance with the traditions of indigenous communities concerned, thereby depriving untitled and ineligible communities of rights to lands they traditionally occupy. (Art. 5 (d) (v))

The Committee urges the State party to recognize and protect the rights of all indigenous communities to own, develop and control the lands which they traditionally occupy, including water and subsoil resources, and to safeguard their right to use lands not exclusively occupied by them, to which they have traditionally had access for their subsistence, in accordance with the Committee's General Recommendation No. 23² and taking into account ILO Convention No. 169 on Indigenous and Tribal Peoples. It also urges the State party, in consultation with the indigenous communities concerned, (a) to demarcate or otherwise identify the lands which they traditionally occupy or use, (b) to establish adequate procedures, and to define clear and just criteria to resolve land claims by indigenous communities within the domestic judicial system while taking due account of relevant indigenous customary laws.³

CERD also noted the health and environmental problems caused by mining operations which mainly affects indigenous peoples and their communities and stated its deep concern as follows:

19. The Committee is deeply concerned that, despite the State party's efforts mentioned in paragraph 6 above, the average life expectancy among indigenous peoples is low, and that they are reportedly 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. (Art. 5 (e) (iv))

The Committee urges the State party to ensure the availability of adequate medical treatment in hinterland areas, in particular those inhabited by indigenous peoples, by increasing the number of skilled doctors and of adequate health facilities in these areas, by intensifying the training of health personnel from indigenous communities, and by allocating sufficient funds

² CERD, General Recommendation No. 23: Indigenous peoples, at para. 5.

³ **Guyana - Concluding Observations of the Committee on the Elimination of Racial Discrimination** – Committee on the Elimination of Racial Discrimination, Sixty-eight Session 20th February – 10th March 2006.

to that effect. Furthermore, it recommends that the State party undertake environmental impact assessments and seek the informed consent of concerned indigenous communities prior to authorizing any mining or similar operations which may threaten the environment in areas inhabited by these communities.⁴

I. Introduction

1. Indigenous peoples in Guyana are subject to multiple forms of discrimination, both *de jure* and *de facto*. This is evident in current legislation in particular the Amerindian Act 2006 and in state policy and practice regarding, *inter alia*, rights to lands, territories and resources; resource exploitation; and in the provision of health and education services that are quantitatively and qualitatively inferior to those provided to other ethnic groups in Guyana.

2. The impact of this discriminatory treatment is exacerbated and compounded by Guyana's acts and omissions that result in persistent threats to health and well-being caused by largely uncontrolled logging and mining operations on indigenous peoples' traditional lands and territories. These operations also cause substantial social problems and disproportionately affect indigenous women.⁵ Guyana's 2000 report on the Convention to Combat Desertification confirms that mining operations are largely uncontrolled:

The small-scale gold and diamond mining activities are also not subject to environmental controls. These gold and diamond mining operations concentrate on maximizing profits, without any concern for the amount of natural resources utilized in the process or the environmental effects caused by the activity. Data to quantify environmental impacts are lacking since there has been little or no monitoring.⁶

These operations, often authorized and conducted without any or only minimal consultation, have caused widespread pollution of water sources, including mercury contamination that has bio-accumulated in fish and humans, and greatly increased

⁴ **Guyana - Concluding Observations of the Committee on the Elimination of Racial Discrimination** – Committee on the Elimination of Racial Discrimination, Sixty-eight Session 20th February – 10th March 2006.

⁵ See, *inter alia*, annex A(1), A(3) and A(4).

⁶ *Guyana's National Report on the Implementation of the United Nations Convention to Combat Desertification*. Government of Guyana: Georgetown, April 2000, at 19. Available at: <http://www.unccd.int/cop/reports/lac/national/2000/guyana-eng.pdf>

malaria infection rates, a leading cause of infant mortality in indigenous areas. In some areas, mining has denied indigenous peoples access to and use of their traditional means of subsistence and large areas of their traditional lands and waters have suffered irreparable harm.

3. The International Human Rights Clinic of the Human Rights Programme of Harvard Law School in a 2007 Study on Gold Mining in Guyana reported on the extremely weak mining regulation and enforcement mechanisms which give rise to serious human rights abuse:

This report documents the failure of Guyanese mining regulations to prevent severe human rights abuses and the devastating damage to the natural environment and the communities in which Amerindians live. Analysis of mining laws and regulations, administrative structures established to oversee mining activities and the way small and medium mining operations are conducted in Guyana's interior demonstrate that the laws leave large gaps in regulation, deprive people of critical rights over the lands they occupy and misallocate resources and responsibilities. Weaknesses in Guyana political and judicial systems as well as resource constraints and geographical difficulties further the tilt the playing field against effective regulation of mining. Guyana's continued neglect of the serious human rights issues surrounding mining activities gives rise to violations of international law, including the special human rights protections owed to Amerindian communities as indigenous peoples⁷

3. Discrimination against indigenous peoples also contributes to and is exacerbated by widespread poverty at rates far above those for other sectors of society. A 2004 World Bank report states unequivocally that indigenous peoples are "disproportionately disadvantaged socially and economically."⁸ Moreover, the available socio-economic data illustrates that the actual situation and well being of indigenous peoples is deteriorating rather than improving and that poverty among indigenous peoples has substantially increased in past 10 years (see, *infra*, para. 18-9).

4. While certain improvements in law have been realized in recent years, particularly revisions to the Constitution in 2001 and 2003, discrimination against indigenous peoples remains entrenched and continues to hinder and impair the full and free exercise of their rights. The Amerindian Act 2006 further perpetuates discrimination against indigenous peoples and fails to adequately guarantee and protect their rights.

⁷ *All that Glitters: Gold mining in Guyana, The Failure of Government Oversight and the Human Rights of Amerindian Communities*: International Human Rights Clinic, Human Rights Program, Harvard Law School, Cambridge, Massachusetts, 2007.

⁸ *Guyana: Education for All, Fast Track Initiative Program. Amerindian Peoples' Strategy*. World Bank: Washington DC, 17 September 2004, at 9. Available at: http://www-wds.worldbank.org/servlet/WDS_IBank_Servlet?pcont=details&eid=000012009_20041006102054

II. General Background

5. There are nine indigenous peoples in Guyana (referred to as Amerindians in legislation since the 1950s).⁹ According to the 2002 census, there are 68,819 indigenous persons amounting to 9.2 percent of Guyana's population of approximately 750,000. They occupy the vast majority of the forests and savannahs of the interior - 90 percent of the country - while the majority of the rest of the population (Afro-Guyanese, Indo-Guyanese, Chinese, Europeans and others) live along the narrow coastal strip. There are approximately 130 indigenous communities in Guyana, 90 percent of which are located in administrative regions 1, 2, 7, 8 and 9.

6. Eighty-four of the 130 indigenous villages have a land title that covers a (often very small) portion of their traditional lands. More than one-third of communities therefore lack legal title. Collective title is vested in an elected Village Council, which has limited authority to administer village affairs. Within the central government, the majority of indigenous issues fall within the remit of the Ministry of Amerindian Affairs. Created in 1992, the Ministry has a small staff and budget which are insufficient to develop and implement adequate programmes and policies for indigenous peoples. Inadequate resources are stretched even further because the Ministry of Amerindian Affairs has "adopted the approach of dealing with ... hinterland communities as opposed to Amerindians per se."¹⁰

7. Guyana has previously conceded that indigenous peoples suffer from *de facto* and *de jure* discrimination. Before the Human Rights Committee in 2001, for instance, it stated that "The question of the rights of the indigenous peoples was a complicated issue. ... With regard to their enjoyment of equal protection under the law, more government intervention was needed."¹¹ Nonetheless, at the same time, the State "said that discrimination against Amerindians was a political, rather than a legal problem...."¹²

8. UN human rights bodies have all found that indigenous peoples in Guyana suffer from discrimination and are unable to effectively exercise their rights. The Human Rights Committee in 2000, for instance, expressed its concern "that members of the indigenous Amerindian minority do not enjoy fully the right to equality before the law."¹³ It added that

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,

⁹ The nine peoples are: Arecuna, Arawak, Akawaio, Carib, Macushi, Patamona, Warrau, Wapisiana and Wai Wai.

¹⁰ *Initial Reports of State Parties due in 1993: Guyana*. CRC/C/8/Add.47, 29 July 2003, at para. 424.

¹¹ *Summary record of the 1830th meeting: Guyana*. 01/05/2001. CCPR/C/SR.1830, at para. 36.

¹² *Summary record of the 1830th meeting: Guyana*. 01/05/2001. CCPR/C/SR.1830, at para. 80.

¹³ *Concluding observations of the Human Rights Committee: Guyana*. 25/04/2000. CCPR/C/79/Add.121, at para. 21.

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 27.¹⁴

9. In 2004, the Committee on the Rights of the Child observed that discrimination against indigenous children was persistent and expressed its concern at “the living conditions of Amerindian children with regard to the full enjoyment of all rights enshrined in the Convention, especially the degradation of their natural environment and the fact that they are not taught in their own languages.”¹⁵ It recommended, among others, that Guyana “protect Amerindian children against discrimination” and that the current revision of the Amerindian Act reflect the provisions and principles of the Convention on the Rights of the Child.”¹⁶ In 2005, the Committee on the Elimination of Discrimination Against Women similarly found that indigenous women in Guyana are discriminated against on the basis of both race and gender and that inadequate attention is paid to their particular and special needs.¹⁷

10. The Committee has also observed that indigenous peoples in Guyana suffer from discrimination in law and practice. In 1997, it noted that

The Amerindians lived in the vast undeveloped tropical forest regions of the country. Their standard of living was much lower than that of other citizens and they could not readily participate in taking decisions affecting their lands, culture and traditions and the allocation of natural resources. Amerindian life was regulated by the Amerindian Act, legislation dating from colonial times and designed to protect the indigenous peoples from exploitation. The Act gave the Government the power to determine who was an Amerindian and what was an Amerindian community, to appoint Amerindian leaders and, where necessary, to annul decisions made by Amerindian councils. That legislation was too restrictive and needed to be revised.¹⁸

11. In 2006, in its Concluding Observations, the UN Committee on the Elimination of Racial Discrimination observed, inter alia, the following:

The Committee is deeply concerned about the lack of legal recognition of the rights of ownership and possession of indigenous communities over the lands which they traditionally occupy and about the State party’s practice of granting land titles excluding bodies of waters and subsoil resources to indigenous communities on the basis of numerical and other criteria not necessarily

¹⁴ *Id.*

¹⁵ *Concluding observation of the Committee on the Rights of the Child: Guyana. 30/01/2004. CRC/C/15/Add.224, at paras. 22 and 57.*

¹⁶ *Id.* at para. 58.

¹⁷ *Concluding observations of the Committee on the Elimination of Discrimination Against Women: Guyana. 22/07/2005. CEDAW/C/Guy/CO/3-6, paras. 36 and 39.*

¹⁸ *Summary Record of the 1242th Meeting of CERD, 21 August 1997. UN Doc. CERD/C/SR.1242.*

in accordance with the traditions of indigenous communities concerned, thereby depriving untitled and ineligible communities of rights to lands they traditionally occupy. (Art. 5 (d) (v))

The Committee urges the State party to recognize and protect the rights of all indigenous communities to own, develop and control the lands which they traditionally occupy, including water and subsoil resources, and to safeguard their right to use lands not exclusively occupied by them, to which they have traditionally had access for their subsistence, in accordance with the Committee's General Recommendation No. 23¹⁹ and taking into account ILO Convention No. 169 on Indigenous and Tribal Peoples. It also urges the State party, in consultation with the indigenous communities concerned, (a) to demarcate or otherwise identify the lands which they traditionally occupy or use, (b) to establish adequate procedures, and to define clear and just criteria to resolve land claims by indigenous communities within the domestic judicial system while taking due account of relevant indigenous customary laws.

12. It is widely acknowledged that Guyanese public life is beset by long-standing racial and ethnic tensions between Afro and Indo-Guyanese and that this also greatly affects indigenous peoples. This was highlighted by the CERD in March 2003 and 2004 in two decisions made pursuant to its Urgent procedure:

Many intergovernmental and non-governmental organizations and United Nations agencies agree that the vicious circle of political and ethnic tensions has brought Guyana to a state of political instability which adversely affects human rights and has weakened civil society, increasing racial violence, poverty and exclusion among indigenous population groups, and hampering both the administration of justice and the application of human rights standards.²⁰

The UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, who visited Guyana in July 2003, reached the same conclusion.²¹ Indigenous peoples are not directly part of these political and racial tensions and are largely excluded from attempts to reach a durable solution to these long-standing problems. On this point, the Special Rapporteur observed that:

Dialogue and consensus, if they are to be democratically meaningful, must embrace the leadership of the Amerindian community as a full participant. The fact that this sector of society was not involved in the initial drafting of the 6 May communiqué is a further sign of the discrimination and neglect from which it has traditionally suffered.²²

¹⁹ CERD, General Recommendation No. 23: Indigenous peoples, at para. 5.

²⁰ *Prevention of Racial Discrimination, including Early Warning Measures and Urgent Action Procedures, Decision 2(62), Guyana*. UN Doc. CERD/C/62/CO/Dec.2, 21 March 2003, at para. 5. See, also, *Prevention of Racial Discrimination, including Early Warning Measures and Urgent Action Procedures, Decision 1(64), Guyana*. 9 March 2004, para. 4.

²¹ *Report submitted by Mr. Doudou Diène, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Mission to Guyana and Trinidad and Tobago*. UN Doc. E/CN.4/2004/18/Add.1, 8 January 2004, at 2.

²² *Id.* at para. 41.

13. In our view, one of the primary constraints to effectively addressing indigenous peoples' concerns and issues is the absence of enumerated rights in Guyanese law. While the Constitution now (since 2003) contains some (limited and untested) guarantees, the underlying rationale for legal rights vested in indigenous peoples remains mainly the largesse of the State. This denies indigenous peoples the legal security and certainty that is taken for granted by most other citizens and greatly hampers their ability to focus on the development and well-being of their communities and peoples, as well as their ability to uphold their duties to future generations. This lack of enumerated rights is particularly evident in the treatment of indigenous peoples' lands, territories and resources in the Amerindian Act 2006, (Part 1V – sections 59 – 64)

14. Indigenous peoples' rights to lands and resources, for instance, are granted by or transferred from the State rather than recognized as inherent to their status as aboriginal peoples and then regularized. In particular, the State continues to rely on colonial era legal doctrine holding that all lands, except those held under private documentary title, were vested in the British Crown (now the State) upon acquisition of sovereignty. This doctrine – rejected by the courts of the vast majority of commonwealth states – continues to apply to indigenous peoples and their lands and territories under Guyanese law to this day. A lawsuit filed by six indigenous communities in 1998 challenging this position has only proceeded to trial in November 2007.

15. In the same vein, the Amerindian Act 2006 remains, like its predecessor of 1951, a largely administrative instrument that allows the exercise of some indigenous governance authority subject to the overriding and generally arbitrary power of the State, rather than one that recognizes and guarantees inherent rights of autonomy and self-government derived from indigenous peoples' right to self-determination.

The Amerindian Act 2006 discriminates against indigenous peoples

16. This section will summarize a few of the main areas in which the Amerindian Act 2006 discriminates against indigenous peoples.²³

A. The Act's Treatment of Lands and Resources contravenes international law and Undermines Indigenous Peoples' Integrity

17. The Act's treatment of indigenous peoples' rights to lands, territories and resources is substantially at odds with the recognition and protection of those rights in international human rights law. The Act does not adequately clarify and guarantee indigenous peoples or their communities' rights to own and control their traditional lands, territories and resources and does little to alleviate the legal insecurity they have experienced in this respect for generations. Moreover, there is no possibility for regularizing territorial rights as, contrary to indigenous peoples' cultures and traditional tenure systems, the Act only allows for individual villages to hold title.

²³ Act No. 6 of 2006

1. Rights to lands, territories and resources are not recognized and procedures for resolving land issues are arbitrary and unfair

18. The Act fails to recognize and specify any rights that could form the basis for delimitation, demarcation and titling of indigenous peoples' lands, territories and resources. In particular, there is no recognition and protection of indigenous peoples' communal property rights that arise from and are grounded in traditional ownership systems including indigenous peoples' customary laws. All that is provided for is a procedure for applying for title or extension of title that results in a decision determined solely and – in the absence of enumerated criteria in the form of rights – arbitrarily by the Minister of Amerindian Affairs (sections 59-64). In the case of indigenous peoples, land titling procedures should be designed to regularize pre-existing rights and this cannot be done if the underlying rights are not recognized and form the basis for delimitation, demarcation and titling. Should the Minister deem it appropriate to issue title or to extend an existing title, there is no guarantee that the title issued will bear any correspondence to indigenous peoples' customary land tenure and resource use systems or the attendant rights in international law.

19. The absence of enumerated rights also makes it difficult to see on what grounds indigenous peoples would be able to appeal the decision of the Minister as provided for in section 64 in the Act. On what basis will a judge evaluate the validity or propriety of the Minister's decision if the law itself provides no criteria or specifies any rights that would limit the Minister's discretion? No other law, with the hypothetical exception of the Constitutional provision requiring protection of indigenous peoples' ways of life – a term that is not specific enough in the context of regularizing land tenure rights – establishes limits to the Minister's discretion.

20. Under the Act therefore, the Minister has unfettered discretion to make decisions about land titling through a procedure that is arbitrary and lacks transparency and legal certainty for indigenous peoples due to the absence of enumerated rights or criteria. Also, the possibility for indigenous peoples to successfully appeal decisions that are inconsistent with their rights are minimal given that the law fails to set justiciable limits to the Minister's discretion.

2. Untitled Indigenous Communities cannot Hold and Exercise Rights

21. The failure to adequately recognize and guarantee indigenous peoples' rights to lands, territories and resources should also be viewed in light of the fact that the Act differentiates between titled and untitled communities for the purpose of holding and exercising rights, and the vast majority of its purported protections do not apply to untitled communities and untitled, but traditional, lands. The basis for this is found in section 2, which, contrary to international law, defines and limits indigenous peoples' ownership and other rights to lands and resources to only those lands which the State has decided to recognize by issuing title.²⁴

²⁴ Among others, Judgment of the Inter-American Court of Human Rights in the case of The Mayagna (Sumo) Indigenous Community of Awas Tingni v. the Republic of Nicaragua, 31 August 2001, *Inter-Am. Court on Human Rights, Series C, No. 79* (2001), at para. 149, 151; Inter-American Commission on Human Rights,

3. Rivers and other bodies of Water are Excluded from Indigenous Title

22. The Act excludes all subterranean waters, rivers and creeks and other bodies of water from indigenous peoples' title (*inter alia*, sec. 53). Much of Guyana is covered by tropical rainforests that contain tens of thousands of rivers and creeks. Excluding these from indigenous land titles is not only contrary to indigenous customary tenure rights, it also *a priori* excludes large areas from land titles. Additionally, the State has used this provision as grounds for issuing numerous river mining permits within titled areas, sometimes in close proximity to houses and village schools and with severe negative consequences for indigenous peoples' subsistence rights and health. As Robert Goodland, former head of the World Bank's Environment Department observes "Missile dredges [a form of river mining prevalent in the Upper Mazaruni and elsewhere) persist because GoG permits their environmental costs to be externalized onto the Indigenous peoples, and is unwilling to enforce its own laws and regulations."²⁵

4. The Act Discriminates with Regard to Ownership of Subsoil Resources

23. Section 6 of the 1989 Mining Act states that "[s]ubject to the other provisions of this Part, all minerals within the lands of Guyana shall vest in the State."²⁶ On this basis, subsoil minerals are also excluded from indigenous land titles. However, section 8 of the Mining Act provides that, as an exception to the general principle of State ownership of minerals, that persons holding title issued prior to 1903 have the right to own, mine and dispose of base minerals found in those lands (not including gold, silver, precious stones and petroleum). Indigenous peoples' title to lands, territories and resources traditionally occupied and used clearly predates 1903 – indeed it can be traced to pre-colonial times. Therefore, applying the principle of non-discrimination, indigenous peoples must also be recognized as owners of at least base minerals within their traditional lands and territories and this is not reflected in the Act.²⁷ This must also include ownership of these minerals within titled areas, otherwise the title instruments themselves, to the extent that they deny

Report No 75/02, Case No 11.140, Mary and Carrie Dann (United States), Dec. 27, 2002. OEA/Ser.L/V/II.116, Doc. 46, at para. 131; and Report No. 40/04, Case 12.053, Maya Indigenous Communities of the Toledo District (Belize), 12 October 2004, at para. 117 (footnotes omitted):

the organs of the inter-American human rights system have recognized that the property rights protected by the system are not limited to those property interests that are already recognized by states or that are defined by domestic law, but rather that the right to property has an autonomous meaning in international human rights law. In this sense, the jurisprudence of the system has acknowledged that the property rights of indigenous peoples are not defined exclusively by entitlements within a state's formal legal regime, but also include that indigenous communal property that arises from and is grounded in indigenous custom and tradition.

²⁵ R. Goodland, *Guyana: Social and Environmental Impact Reconnaissance of Gold Dredging on Indigenous Peoples in the Upper Mazaruni*. A Report for the Upper Mazaruni Amerindian District Council and the Amerindian Peoples Association, October 2005, at 14.

²⁶ See, also, Section 5 of the *State Lands Act*.

²⁷ *Inter alia*, see, S.J. Anaya, Indigenous Peoples' Participatory Rights in Relation to Decisions about Natural Resource Extraction. The More Fundamental Issue of What Rights Indigenous Peoples have in Lands and Resources. 22 *Arizona Journal of Int'l and Comp Law* 8, at 10, 2005 -- "Pursuant to the norm of non-discrimination, however, indigenous peoples must not be denied subsurface and mineral rights where such rights are otherwise accorded landowners." Available at: <http://www.law.arizona.edu/journals/ajicl/AJICL2005/vol221/vol221.htm>

subsoil rights, should be viewed as uncompensated and non-consensual takings of traditionally-owned indigenous property.

24. There is some evidence that indigenous peoples were mining gold, precious stones and other minerals at the time of European arrival in Guyana. They certainly have been since the mid-19th century and continue to do so today. However, the Act explicitly excludes traditional mining from the scope of 'traditional rights' and, instead, refers to a, presumably revocable, 'traditional mining privilege' (sec. 2).²⁸ Additionally, given that mining and minerals fall within the scope of lands and resources traditionally owned by indigenous peoples, there is no valid reason that such resource rights should not be included in indigenous peoples' title. The South African Constitutional Court, among others, reached this conclusion in 2003, holding that under indigenous law and by virtue of traditional occupation and use, ownership of subsoil minerals may also vest collectively in indigenous peoples.²⁹

25. In a statement that is highly relevant to the situation in Guyana with regard to section 8 of the Mining Act and the exclusion of mineral rights from indigenous peoples' title, the South African Constitutional Court further concluded that

In this case, the racial discrimination lay in the failure to recognise and accord protection to indigenous law ownership while, on the other hand, according protection to registered title. The inevitable impact of this differential treatment was racial discrimination against the Richtersveld Community which caused it to be dispossessed of its land rights. Although it is correct that the Precious Stones Act did not form part of the panoply of legislation giving effect to "spatial apartheid", its inevitable impact was to deprive the Richtersveld Community of its indigenous law rights in land while recognising, to a significant extent, the rights of registered owners.³⁰

5. Title may only be Held by Individual Villages Denying Territorial Rights and Rights of Freedom of Association

26. Another major defect in the Act is that under the Act only individual villages may hold title. The crucial function of holding title is purposefully excluded from the

²⁸ Section 2 reads: "traditional right "means any subsistence right or privilege, in existence at the date of the commencement of this Act, which is owned legally or by custom by an Amerindian Community or Amerindian group and which is exercised sustainably in accordance with the spiritual relationship which the Amerindian Community or Amerindian group has with the land, but it does not include a traditional mining privilege."

²⁹ *Alexkor Ltd and the Republic of South Africa v. The Richtersveld Community and Others* CCT 19/03, para. 64 (2003). See, also, decision of the Supreme Court of Canada in *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010, at 1086 (per Lamer CJ) -- "aboriginal title also encompass [sic] mineral rights, and lands held pursuant to aboriginal title should be capable of exploitation in the same way...."

³⁰ *Alexkor, id.* at para. 99.

functions of a District Council in the Act. The result to date has been, and continues to be under the Act, the (further) fragmentation of once contiguous indigenous lands and territories into small islands of titled lands, which are and will continue to be surrounded and intersected by areas of State Lands that are often issued to logging and mining interests.

27. The preceding not only undermines traditional indigenous land tenure systems, which vest paramount ownership (territorial) rights in indigenous peoples and subsidiary (land) rights in sub-entities, such as villages and clans, it also contributes to the destruction of traditional resource management systems and traditional knowledge, both of which are integral to maintaining subsistence resources and are inter-connected with fundamental spiritual practices; undermines socio-cultural integrity by disrupting traditional systems of exchange based reciprocal kinship ties and obligations; sometimes causes conflict between communities; at a minimum, hinders the free exercise of rights of freedom of association for political and cultural purposes; and, in general damages the foundations of indigenous peoples' integrity as distinct peoples with rights guaranteed by international law.

28. Denying indigenous peoples' communities the right to freely associate with each other for the purposes of holding and exercising property rights is also contrary to the stated wishes of a large number of communities in various regions of Guyana. One of the primary demands of the Upper Mazaruni communities in their law suit is that title be vested collectively and jointly in all six of the plaintiff communities through a District Council. The same request has been submitted to the State by the six indigenous communities of the Moruca sub-region, Region 1; a request that has been disregarded for almost four years.³¹ All of the Wapisiana communities of Region 9 have requested that title be vested collectively and jointly in a council on behalf of their respective villages rather than individually in village councils, as have the nine communities of Region 2. Among others, these communities point out that it would be impossible for them to divide common areas among the constituent villages and that some villages simply could not extend existing titled areas individually as they are surrounded on all sides by other titled villages.

6. Some Indigenous Communities are Ineligible to Hold Title

29. Pursuant to sec. 60, a number of indigenous communities may be ineligible to apply for title at all under the Act. This section requires that untitled indigenous communities must, as a prior condition to applying for title, have been in existence for 25 years and consisted of at least 150 persons for the five years prior to the application. This provision equates indigenous peoples' land and resource rights with occupation and use of specific sites rather than occupation and use of traditional lands and territories and ignores the fact that these communities, because of prevailing ecological conditions and cultural traditions, traditionally move around within their traditional territory. Moreover, for indigenous peoples, establishing valid rights and title to lands is not a function of

³¹ *Formal Application Seeking Recognition of the Land and Resource Rights of Six Amerindian Villages of Moruca Sub-Region, Region 1.* Prepared by the Moruca Amerindian Land Council with Support from the Amerindian Peoples Association of Guyana, May 2002.

population size, but rather a function of holding and exercising ownership rights pursuant to applicable customary laws.

7. The Act does not Prohibit Forcible Relocation or Compulsory Takings

30. There is no prohibition of forcible relocation of indigenous peoples in the Act and the Act also does not provide adequate protection for indigenous peoples in relation to compulsory acquisition of their titled lands. This is also the case in connection with the establishment of protected areas (*infra* para. 93-5). In principle, there would be no need in the Act for protection against compulsory acquisition of traditional, but untitled, lands as these by law are vested in the State. The Act fails to explicitly address forcible relocation and compulsory acquisition and, therefore, these matters are regulated by extant laws, none of which prohibit takings of indigenous lands or forcible resettlement.

31. In a statement released to the press in 2005 shortly before the enactment of the Act, the Ministry of Amerindian Affairs stated that “Amerindian lands would now be granted under the State Lands Act which is absolute and forever. This means lands cannot be taken away unless, as is the case for all Guyanese, it is done by the State for public purposes. When this is done a legal process must be followed and the State is required to pay compensation.”³² This statement, and the corresponding lack of protection accorded in the Act or other laws, fails to account for indigenous peoples’ profound relationships to their traditional lands and territories and stands in sharp contrast to international law, which requires that indigenous peoples’ free, prior and informed consent be obtained in relation to forcible relocation and takings of traditionally-owned indigenous lands, territories and resources.³³

³² Questions and Answers on the Amerindian Bill 2005
(Prepared by the Government Information Agency), Guyana Chronicle, 19 October 2005,

³³ Among others, International Labour Organization, Convention No. 169, Art. 16; and U.N. *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2. February 11, 1998, at para. 9, – “States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.” The UN Principles were considered illustrative of the obligations of States-Parties under Article 22 of the American Convention of Human Rights by the Inter-American Court of Human Rights in the Case of *Moiwana Village v. Suriname*, Judgment of 15 June 2005, *Inter-Am. Court on Human Rights, Series C, No. 124*, at para. 111. The Court further stated that the Guiding Principles “are based upon existing international humanitarian law and human rights standards.”

Submitting Organizations



Amerindian Peoples Association of Guyana (APA): The APA is a national indigenous peoples' organization constituted under the laws of Guyana in 1991. It is an association of community units located in Amerindian communities throughout Guyana with a central office in Georgetown. A community unit is a group of at least 10 persons within an Indigenous village. The APA is a member of the International Alliance of Indigenous and Tribal Peoples of the Tropical Forests and the Coordinating Body of Indigenous Organizations of the Amazon Basin (COICA).

Address: 334 'B' East Street, South Cummingsburg, Georgetown, Guyana.
Ph/Fax: 592-223-8150 e-mail: apacoica@networksguyana.com

Guyanese Organisation for Indigenous Peoples (GOIP): GOIP is a national indigenous peoples' organisation that was resuscitated in 1991 and registered under the laws of Guyana. GOIP is a member of the Caribbean Organisation of Indigenous Peoples (COIP).

Address: Lot 11 Camp Street, Newburg, Georgetown, Guyana.
E-mail: goip2000@hotmail.com

APPENDIX 2

A submission of the Guyanese Organization of Indigenous Peoples (GOIP) to the Ethnic Relations Commission (ERC) on Tuesday 8th July, 2008

The Guyanese Organization of Indigenous Peoples (GOIP) is grateful for this opportunity to present some of its concerns to the Ethnic Relations Commission (ERC). Most of the below-mentioned issues were raised by indigenous communities and individuals within the GOIP's membership in Regions 1, 2, 5, 7, 9 and 10 in particular. These concerns will be divided under the headings of:- **The role of the Amerindian Affairs Ministry, Mr. Stephen Campbell, The desire for a more enlightened terminology and vocabulary, and Trafficking in People (TIP).**

The role of the Amerindian Affairs Ministry

The announcement of the creation of an Amerindian Affairs Ministry in 1993 was warmly welcomed by the GOIP, since it was something the Organization had been lobbying for prior to 1992.

Unfortunately, it seems a formidable body of indigenous opinion in Guyana would be in dismay at, in particular, the highly politically partisan nature this institution has become over the past fifteen years. In the advent to the 2006 General Elections, the GOIP was particularly taken aback by the then Amerindian Affairs Minister being involved in political campaigning under the guise of "community outreach" with the use of tax-payers' funds. The GOIP requests that this practice be discontinued. The GOIP however sees the necessity for this Ministry, and feels it should be restructured into a more decentralized entity with a higher operating budget. The Ministry generally needs more competent and better –equipped field staff. The GOIP however lauds the work the Ministry has been doing so far in the areas of educating the Toshaos and Village Councils in responsibilities of Administrative work, HIV/AIDS education etc. and our Association is willing to work with the Ministry to help educate the communities in areas of stemming the scourges of drugs and alcohol abuse and other social ills affecting segments of Guyana's indigenous population.

Mr. Stephen Campbell

The GOIP wants to have veteran Indigenous Land Rights activist of the early 1960's, Mr. Stephen Campbell, officially recognised as Guyana's National Indigenous hero. One tangible way of doing this is to ensure Mr. Campbell's profile and his life and work become a major part of the annual indigenous heritage month activities every September. After all, one motive for the recognition of September as indigenous heritage month was the fact that Mr. Campbell's historic first entry in to Parliament was on 10th September, 1957. Today, heritage month activities are held with little or no references to the proactive and pioneering land rights struggle of this great man. Nearby Trinidad, whose indigenous population is facing extinction with a number of about three hundred (300) persons based mostly in the town of Arima, holds an annual festival each October in honour of that island's indigenous hero, Hyarima. Impressive traditional ceremonies take place around a prominent golden statue of Hyarima in Arima which was specially created in his honour. The GOIP would like to

have similar respect paid to Mr. Stephen Campbell in Guyana, particularly in light of the highly-touted boast by Guyana's authorities that this country's indigenous

population surpasses fifty thousand (50,000), the highest in the Commonwealth Caribbean.

The GOIP reiterates its call that "Indigenous Heritage Day, or "Stephen Campbell Day", 10th September, should be a holiday for Indigenous Guyanese, not a national holiday, since an argument was made that Guyana already has too many holidays at the time that 5th May was added to Guyana's annual holiday list as Indian Arrival Day. The GOIP notes that neighbouring Surinam has granted 9th August as a national holiday just two years ago in recognition of that country's Indigenous heritage, with a minimum of fuss.

Desire for more enlightened terminology and vocabulary

Consistent with modern trends adopted by indigenous peoples worldwide, the GOIP is highly desirous that Guyana's first peoples not lag behind the rest of the world in terminology changes etc. We propose that these changes be evolutionary, rather than revolutionary. For example, our North American relatives now proudly label themselves as "Native Americans" as opposed to the less dignified, more antiquated brand "American Indian" etc. Likewise, in Guyana the GOIP is pressing for the media, educational institutions and others responsible for socialisation processes to apply a more enlightened vocabulary. For example, "Toshao" should officially replace "Village Captain", "Indigenous Nation" or "Indigenous People" should replace "Amerindian Tribe", and so on. Even the Arawak Nation is beginning to show a preference for the more educated term "Lokono Nation", as they knew themselves for thousands of years before the 12th October, 1492, Columbus invasion.

The GOIP also proposes more awareness of the original names of those Indigenous communities that were given names of churches etc. by missionary and neo-colonial forces over the past 500 years. Examples of these include Zariwa, the original name for St. Ignatius in Region 9 Marriaba now known as Santa Rosa in Region 1, and Kairimap, the original name for St. Monica in Region 2. We however have no objection to the St. Ignatius Church retaining its identity within the Zariwa reserve, for example. The GOIP congratulates Moraikobai, formerly St. Francis in Region 5 for its laudible and proactive community effort to return to its pre-colonial name since 1990. This is very much in keeping with global trends today. We anticipate other communities will follow Moraikobai's lead in the future in this regard.

Trafficking in People(TIP)

The GOIP is abhorred at the "Ostrich's head buried in the sand" position taken by Guyana's authorities vis-à-vis the trafficking of indigenous females for prostitution purposes in different parts of Guyana. Nobody will get anywhere with the continual denial that this serious concern exists, or the excuse that "women of all races are involved in the world's oldest profession in Guyana." We should be anxious instead to ascertain the true magnitude of the TIP menace throughout the country.

The GOIP firmly objects to the practice of targeting indigenous girls, some as young as 12 years old, for prostitution purposes in locations ranging from mining camps in the hinterland to hotels, brothels and beer gardens in urban areas.. Tourism interests need to be part of this anti-prostitution campaign, and not be promoting it. We find

the concept that “an indigenous or ‘bok woman’ makes an ideal prostitute” as most obnoxious, and this negative ethnic profiling and stereotyping needs to be aggressively confronted. For this and other reasons, the GOIP objects to the speed at which Gambling Casino legislation is being promoted by Guyana’s authorities, as we feel indigenous women will again be prime targets to serve in strip-joints etc. that are usually part of financially-extravagant but morally devoid tourism-propelled packages that will benefit from such legislation.

The GOIP feels a more aggressive educational campaign benefiting the indigenous population generally is necessary before large scale tourism and extractive economic entities are allowed to be set up base in areas that will directly affect the welfare and future of indigenous communities.

SUBMISSION TO THE ETHNIC RELATIONS COMMISSION (ERC) ON THE PERCEIVED NEEDS OF THE AMERINDIAN COMMUNITY IN GUYANA TO "FOSTER THE PROMOTION OF HARMONIOUS ETHNIC RELATIONS IN GUYANA" BY THE AMERINDIAN ACTION MOVEMENT OF GUYANA (TAAMOG) ON TUESDAY 8TH JULY, 2008 AT THE ERC SECRETARIAT

INTRODUCTION

The Amerindian Action Movement of Guyana (TAAMOG) wishes to inform the Ethnic Relations Commission (ERC) that it is pleased to be associated with this historic consultation exercise to promote harmonious ethnic relations in Guyana. TAAMOG recognizes the hard work the ERC is doing to carry out its mandate to achieve its goal of harmonious ethnic relations in our country and more particularly to facilitate a conducive climate to attain the wider goal of national development objectives in our multi-ethnic society. TAAMOG is therefore of the view that each ethnic group in Guyana has a fundamental role to play in shaping our development process and not to be diverted from this course by petty differences which frustrate our focus and in the final analysis deprive our future generations from the benefits of our vision.

The Amerindian sector in our country stands ready to participate in the development process, but our pace is often times affected by the lack of resources to bring about the social and economic development of our communities. Mr. Chairman, the Amerindian population is on the increase which now consists of 68,819 persons out of the National population of 751,223 (Bureau of statistics 2005: Table 10). But while the numerical strength of Amerindians has increased over the years they continue to live below the poverty line at 78.6% since the 1993 household income and expenditure survey (HIES). The 1997 Guyana Survey of Living Conditions (GBLC) conducted by the Bureau of Statistics shows that in terms of per capita expenditure, the Indigenous population is much poorer than any other ethnic group in Guyana. The Executive summary of Renshaw 2006 report for the Inter-American Development Bank (IADB) on "Guyana: Policy note on Guyana's indigenous people" revealed "there are presently very few economic opportunities available in the hinterland; an alternative would be to develop a specific project for the hinterland, possibly a hinterland development fund, which would be demand driven and would support training, capacity building, community infrastructure and economic development or income generation projects" (page 4). The said report also revealed "the cost of living is very high in the hinterland, especially in the most remote regions, and there are very few opportunities for employment or to

earn an income.” The report further stated “because of the lack of opportunities many young people that have finished school leave their village to look for employment” (page 30).

Mr. Chairman, it is within the poverty-status context of Guyana’s Indigenous People this submission is made and TAAMOG wishes to highlight some of the perceived needs of the Amerindian sector in Guyana to your esteemed Commission.

ECONOMIC DEVELOPMENT

- a) ***Establishment of a Hinterland And Development Fund.*** The Government should take urgent steps to establish a Hinterland Development Fund (HDF) to provide finance for economic projects or income generation projects, capacity building, community infrastructure and training in the hinterland Amerindian communities of Guyana. Donations to this fund can come from the government, the UNDP, IADB, European Union, agencies, individuals, companies and other countries. A Board comprising persons committed to the development of the hinterland Amerindian communities should manage this fund.
- b) ***Promotion of hinterland agriculture:*** A proactive and well equipped hinterland unit needs to be created in the Ministry of Agriculture to promote the development of Agriculture in hinterland Amerindian communities by providing technical support and other related inputs to hinterland farmers.
- c) ***Marketing agency:*** A marketing agency needs to be established to specifically market Amerindian products both locally and externally. This agency can be housed in a building of adequate size in Georgetown where Amerindian products would be on display and sale. This agency will aggressively pursue a marketing strategy for Amerindian products in all the ten regions of Guyana. Funds for the setting up of this Marketing Agency can come from the UNDP, IADB, World Bank, European Union and other countries, local agencies, individuals and companies. This Marketing Agency is needed because Amerindians are finding it difficult to locate reliable Markets for their products.

RELIABLE MARKETS

Generally Markets for Amerindian Products are oftentimes unreliable. Coast Landers purchase their products at very low prices taking advantage of their poverty status; while they negotiate the prices for their products with the coast landers, the coast landers refuse to pay the prices Amerindian call for their products.

SHIPPING PORT FACILITIES

To enable Amerindians of Region 1 to take advantage of the Caribbean, European and North American Markets for their products, a shipping port with its attendant facilities should be established at Morawhanna in the Mabaruma sub region. Morawhanna is strategically positioned since it is near to the Atlantic Ocean.

TRANSPORTATION

Amerindian communities in the ten regions in Guyana are generally affected by the lack of adequate transportation facilities to take their agricultural produce from farm to market. This includes river and land transportation. The North West steamer for example which goes to Mabaruma on a fortnightly basis from Georgetown, has limited space for hinterland products for the Georgetown Market.

BETTER ROADS

Roads in the hinterland Amerindian communities need to be built for farm to market access. Many of the roads in the hinterland are in deplorable conditions and they need fixing; for example the access road to the Mainstay/Whyaka Village and the Kumaka to Kwebanna Road in the Moruca sub region in Region 1.

COMMUNICATION

Remote Amerindian communities continue to suffer from the lack of adequate communication systems. The radio system continues to be used but at times they become dysfunctional which frustrates residents. A better way of communicating with Georgetown, within the administrative regions and further a field needs to be studied and implemented. The communication system at Bina Hill in the North Rupununi should be emulated where information technology systems have been established. Foreign and other donors should be approached for assistance in this regard.

INDUSTRIAL DEVELOPMENT

The Industrial development of hinterland Amerindian communities can play a great role in the provision of employment and community development so that residents do not have to seek jobs on the coastland or to migrate to Georgetown and live. In this regard TAAMOG recommends that feasibility studies be conducted in the hinterlands communities to determine the establishment of small scale Industries.

MICRO PROJECTS FUNDING

A micro projects programme needs to be established, similar to the EU funded projects to provide funding for hinterland development projects and their implementation.

TRANSFER OF ROYALTIES FROM MINING ACTIVITIES

Section 51 (3) of the Amerindian Act 2006 states that “The Guyana Geology and Mines Commission (GG&MC) shall transfer 20% of the royalties from the mining activities to a fund” TAAMOG would like to know which fund the royalties have been transferred to, and what is its present status? The royalties transferred should be used for the implementation of community development projects or should be transferred into the Proposed Hinterland Development Fund (HDF)

AMENDMENTS TO THE AMERINDIAN ACT 2006

Section 53 of the Amerindians Act should be amended to provide for impact studies to be carried out first before the Guyana Geology and Mines Commission (GGMC) intends to issue a permit, concession, license or other permission to a miner to conduct mining activities on or nearby Amerindian village lands. This is to ensure that the impact of mining on the village will not be harmful. But all that Section 53 of the Act is saying is that if the GGMC intends to give a miner permission to conduct mining activities on or nearby Amerindian village lands all it has to do is to “Notify the village and satisfy itself that the impact of mining on the village will not be harmful”. TAAMOG considers this a gross disrespect and lack of recognition to an Amerindian village which can give rise to serious conflict. Section 53 of the Act should also make it pellucidly clear to the miner that his permission for mining activities received from the GGMC is invalid without the consent of a village General Meeting. This is for small and medium scale mining.

MINING ON OR NEARBY AMERINDIAN COMMUNITIES SHOULD BE PROHIBITED

The GGMC should cease the issuing of mining permission for mining activities to take place in or nearby Amerindians communities. Communities such as Micobie and Isseneru are experiencing severe discomforts as a result of mining activities on or nearby their communities which is a violation of their constitutional rights to the peaceful enjoyment of their homes. The Isseneru community which recently received title for its lands is now before the courts for resisting coastland miners who are conducting mining activities within the boundaries of their village. In the Amerindian Act there is a difference between an Amerindian village and an Amerindian community. An Amerindian village has title to its lands, while an Amerindian community does not have title to its lands and is more vulnerable. (Sections 13 (1) (d) and section 86 & 87).

GOVERNMENT OFFICIALS ENTERING VILLAGE LANDS

Government officials entering Amerindian village lands do not have to get permission from the village council, but they are required to inform the village council about the nature of their business; their length of stay, as well as complying with the village rules (Section 8 (1) of the Amerindian Act). Many government officials are not complying with this Section of the Act and are not respectful therefore to the village council. Government officials should be made aware that they have to provide vital information to the village council once they enter Amerindian village lands.

AMERINDIAN REPRESENTATION

- a) *GGMC and the GFC*. To strengthen efforts at ensuring that the rights and interests of indigenous people are respected and recognized in resource utilization and management. TAAMOG would like to see Amerindian NGO representation on the Guyana Geology and Mines Commission (GGMC) and the Guyana Forestry Commission (GFC)
- b) *The Indigenous People Commission (IPC)*. TAAMOG would like to see the earliest establishment of the IPC as a body to enhance the status of indigenous people in our multi-ethnic society.
- c) *The National Tshao Council (NTC)*. To strengthen efforts of ensuring good village governance and to coordinate the development of Amerindian villages and communities, TAAMOG would like to see the government allocating funds and establishing a secretariat for the NTC so that it can get down to the task of carrying out its functions as enshrined in the Amerindian Act 2006 (Section 41).
- d) *The Ethnic Relations Commission (ERC)*. TAAMOG notes that while the ERC does not require the representation of any particular ethnic group, the composition of the Commission reflects the dominant ethnicities and this being so now suggests that the ERC has Amerindian representation. This is also in keeping with the United Nations Committee on the elimination of all forms of racial discrimination recommendation that the “state party ensures that the ethnic composition of the ERC be as inclusive as possible.” This recommendation was made at CERD’s sixty eight session held in March 2006 in Geneva.

SOCIAL ISSUES

a) The Name of Guyana's National Airport

After the name change from "Timehri International Airport" to the "Cheddi Jagan International Airport, Timehri", our national newspapers should write the abbreviation "CJIAT" and not 'CJIA'. But while "Timehri" is mentioned when referring to the Airport name e.g "(CJIA), Timehri," it is reflected as a location and not as part of the name change. Our national newspapers should be alerted on this matter. "Timehri" is an Arawak (Lokoho) word which means "Rock full of painted pictures".

b) Legal Aid

Hinterland-based Amerindians oftentimes do not have access to legal aid services as a result of the high cost of retaining a lawyer. Many of them appear in the courts without legal representation where the consequences can be severe, while others are deprived of legal advice on many of their problems. TAAMOG therefore recommends that legal aid services be extended to the hinterland Amerindian communities.

c) Sports Involvement and Development

Hinterland Amerindian communities are excluded from the sports sector of this country. The communities have good cricketers, footballers and sports persons in the other sport disciplines but we hardly hear them rise to the competitive and national levels. TAAMOG therefore recommends that both the National Sports Commission and the Ministry of Culture, Youth and Sports formulate a hinterland sports programme so that hinterland communities can be involved in sports activities reaching the competitive and national levels.

d) Cultural Development

The cultures of Amerindians needs to be developed. Their songs, music, dances and craft need to move to a higher level, but while some of the tribes are practising their culture, others do not, which calls for a cultural revival programme. Amerindian languages need to be taught in hinterland schools, starting with the Wapishiana, Macushi, Potamona, Akawaio and Arecuna on the basis that these languages are spoken perfectly in their communities. The

Arawaks, Warraus and Caribs need a languages project because these tribes are in the process of losing their language and moreso their cultural heritage. TAAMOG recommends that a cultural section should be created in the Ministry of Amerindians affairs to implement action for the revival and development of Amerindian culture.

e) Housing

Many Amerindians living in the hinterland regions live under deplorable housing conditions which require that a hinterland housing programme needs to be formulated and implemented by central government. A consultation process should firstly be carried out with the communities to determine the design of the houses.

f) Health and Nutrition

It is said that hinterland communities suffer from chronic malnutrition as a result of the lack of diversity in their diet. Communities nearby mining areas suffer the brunt of this type of malnutrition since mining activities pollute the rivers and with the noise emanating from engines, game and other wildlife, escape deeper into the forest making it difficult for Amerindians to get their supply of protein. Apart from this scenario Amerindians in the hinterland hardly eat greens and vegetables. The health education department of the Ministry of Health should therefore come up with programmes designed to inculcate in Amerindians the nutritional importance of using greens and vegetables in their diets.

The Primary Health Care System is still efficient where Community Health Workers (CHWS) and Medexes are doing a good job. However there is still the need for qualified resident doctors. Malaria, HIV/AIDS, TB, water borne diseases and mother to child health care are major health concerns which need to be tackled strategically and with consultation with the local Medexes and Community Health Workers. TB is a significant problem in some hinterland communities where patients are sent to Georgetown and treated under the DOTS (Directly Observed Treatment Short Course) programme in Georgetown. TB patients are housed at the Amerindian hostel and this is a concern which must be addressed by the Ministry of Amerindian Affairs since these patients live among other residents at the hostel.

g) Education

The Government has made significant efforts at ensuring that hinterland teachers are equipped with teaching skills and the construction of more schools. Notwithstanding these efforts, the government should also strive to ensure that hinterland teachers are given the necessary and basic teaching materials, electricity to push computers and improved facilities for the boarding of students. While computers are now given to some hinterland schools, teachers need to be trained to operate the computers.

h) Literacy Programme

TAAMOG compliments the Government for promoting literacy in our country. While information is lacking in relation to the areas targeted for literacy programmes, TAAMOG would like to see these programmes reach the more remote areas of the ten administrative regions.

i) Rights to Sub-surface mineral resources

Amerindian villages are given legal ownership for the lands they occupy through titleship, yet the mineral resources found under the land do not belong to them, but to the State. In the interest of Amerindian development in Guyana and in view of the financial constraints that generally affect their development process, TAAMOG recommends that Government positively consider the granting of sub-surface mineral rights to those Amerindian villages that have mineral resources under their lands.

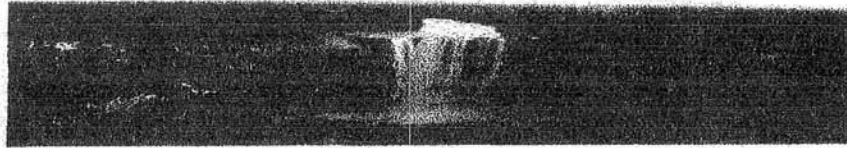
j) Assessment of Working conditions of hinterland workers.

TAAMOG wishes to recommend that an independent assessment be carried out to determine the working conditions of hinterland workers employed by hinterland resource extractive industries and to recommend that corrective action/s be taken if there are any infractions of our national labour laws.

Conclusion

TAAMOG wishes the ERC all success in this historic consultation exercise.

**NATIONAL AMERINDIAN ENVIRONMENTAL EDUCATIONAL
DEVELOPMENT FOUNDATION (NADF)**



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July 8, 2008

AMERINDIAN GROUPS CONSULTATIONS (ERC)

Presentation

National Amerindian Development Foundation

Acknowledgement

The National Amerindian Development Foundation takes the opportunity to thank the ERC and its officials for inviting its organization to the Amerindian Groups Consultation. We expect a successful "Consultation Forum" and also look forward to "perceived needs" of Amerindians being addressed in time to come.

We also wish to extend best wishes to sister organizations, who will sit with us. It is our belief that efforts to use this forum to its fullest will be viewed as a combined collaboration and not necessarily defined as an organizational effort.

We acknowledge that difficulties exist in every sphere of our existence and in search of adequate solutions for them; sometimes realize that core issues are more an imbedded problem due to cultural and ethnic backgrounds.

We do hope that with the explorative energies generated into this consultation by the ERC, positive results will be forthcoming. "Perceived Needs" of Amerindians are numerous; it will be over ambitious for Amerindians to ever assume that those needs can be met over a short period of time. However, because we wish to create an ethically integrated cultural society our "Perceived Needs" need to be examined and prioritized.

We wish all participants to this consultation, success and a fruitful future.

Preamble:

The best estimate of the Amerindian population indicates it to be approximately 50,000 or close to 7% of the total population of Guyana.

They comprise most of the population in the remote areas of Guyana. The bulk of the Amerindians live in Regions 1, 2, 7, 8 and 9.

The Amerindian peoples are traditionally separated from each other by the natural environments, distinct languages and migratory patterns. There are nine Amerindian Groups in Guyana, namely: Arawaks, Mukushi, Wapishana, Warau, Akawaio, Patamona, Arekuna, Caribs and Wai-Wai. Some Atorad people can be found living among the Wapishana people and still speak their own language.

External influences have contributed to living patterns of Amerindians changing over the years. i.e. mining has played a negative impact on the water ways used by the Amerindians and have seen the Amerindians organizing and lobbying to have matters implemented or corrected to make life better for them.

Amerindians are self employed and concentrate more in the subsistence areas of agriculture, fishing, hunting and forestry. Amerindians operate outside of a cash economy and are dependant on a subsistence way of life.

The staple for Amerindian diet is cassava, and is supplemented by fish and meat which they hunt or buy from shops owned by non Amerindians. The cost of these commodities is normally very high and cannot be afforded by the Amerindians. However, the availability of fish and meat are in depression as waterways are polluted and logging playing a part of displacing some of the game that was once available.

In light of these and other changes "perceived needs" of Amerindians have increased and must be addressed to enhance their survival. Added to that failure by the business and wider society to accept, recognize and respect the social fabric of the Amerindians has made significant contributions to this dilemma, thus becoming issues.

However we hope that with efforts to address them through forums such as this consultation facilitated by the ERC will bear fruit and make our society a better one. NADF's presentation is as follows.

Water and Sanitation

Although Guyana is termed Land of Many Waters, mining has destroyed many of the existing water ways used by Amerindians. For Amerindians to survive there is need to amend the constitution regarding water ways. Presently Amerindians do not own or control the water systems existing in their demarcated areas; this has been a contributing factor to miners taking the liberty to do as they please. This practice of miners polluting water ways must cease or alternate non polluting operating systems put in place.

Where water ways are not used, wells and distribution systems need to be established Amerindian women and children can be properly sanitized and potable water made easy for domestic and other purposes.

Pit latrines need to be introduced where they do not exist and Amerindians need to be made aware of serious medical consequences when defecation and other human waste wash down to water ways. In general, water and sanitation are important resources and need to be exploited and protected in the best way possible.

Legal services

It is important to make legal services available to the Amerindian population. The NADF operates primarily in Regions seven and eight as these are the most isolated areas. Calls have been forwarded to this organization and other interested agencies for such services to be made available to Amerindians.

At Paramakatoi, there is a couple that needs to pursue a divorce so they can be honorably married. Because legal services are not available it seems impossible to pursue their fundamental right to be married. Legal services must be provided to Amerindians on a regular basis so they are within the legal framework of our society.

Educational Programmes

A close look at the education accessible by Amerindian students will show the need for better qualified teachers and more subjects to be added to the curriculum. Presently Schools in the hinterland offer less subject areas than their counterparts in Georgetown, and this needs to be addressed. Mature Amerindian students from all the regions need to have access to distant education programmes offered by University of Guyana. This will make education available to children and adults.

There is need for "Summer Programmes" for selected or qualified students who excelled during their last semester. Government must support initiatives by NGO's or Groups that aim to undertake such ambitious programmes for the betterment of education delivery in the regions.

Youths, because they are the future leaders and workforce of Guyana need to have access to programmes that enhance their capability and ability to lead. Introducing programmes in the likeness of Youth Summits, Cubs, Scouts and similar bodies for girls will enhance their thinking, decision making and managerial capacities. Summer and Youth Summit programmes can be done on a selective scale. Programmes can be done on a rotated schedule so each village will have the opportunity to host a programme. Such programmes will make Amerindian youths develop skills and ability to make better contributions to the development of Guyana.

NADF is willing to sit with Government, Agency or interested groups to deal with the logistics and ramifications for developing, launching and facilitating such an initiative.

Trafficking In Persons

A random check on TIP will reveal that this practice is rampant. Although it is difficult to pursue information for this evil, it can be identified if one interacts in the right environment. Many Amerindian girls are brought out from their communities with promises of a better life in Georgetown or other areas and put to be under paid workers and sex slaves. A close check in the rum shops and Chinese restaurants, particularly on the West Coast of Demerara and Essequibo Coast will reveal the extent of this topic.

Maybe if the Ministry of Human Services or relevant institutions, institute a monitoring system for Amerindians being offered Jobs out of their communities could act as a control buffer for TIP. This of course will have to be done with community officials

being fully supportive of this initiative. Seminars or workshops to educate and encourage job seekers to register and understand they have to be monitored while working will help.

Cultural Preservation and Practices, Drugs trafficking, Exposing and expediting sexual related incidences:

These and other needs are areas of concern, we hope that the representation made by the other Amerindian groups will be considered and an action plan developed.

National Holiday for Amerindians:

On February 11, 2004 the National Amerindian Environmental Educational Development Foundation (NADF) in collaboration with the Amerindian Action Movement of Guyana (TAAMOG) made a presentation to the "Special Select Committee on the review of Public holidays". In this presentation NADF advocated for September 10, to be a holiday in recognition of Amerindians as first peoples in Guyana and the contributions they have made over the time frame of their arrival.

The committee comprised of Mr. Ronald Gajraj (Chairman) Mrs. Indranie Chandarpal, Mrs. Shirley Edwards, Mr. Zulfikar Mustapha and Mr. Ravindra Dev.

Relevant extracts from the report presented to the National Assembly by the chairman of the committee on Thursday, 29th April, 2004 have been submitted to your Commission for perusal. A copy of this report can be had from Parliament Office, Brickdam, Georgetown.

It is the Report of the "Special Select Committee on The Review of Public Holidays" resolution no. 12/2003.

The status of holidays awarded to ethnic groups in Caricom and the Caribbean reflects:

CARICOM/ CARIBBEAN COMPARISONS

Guyana cannot take examples of holidays from other Caribbean countries as each state has different holiday structures and historic backgrounds.

The historical background of countries in the Caribbean will show that Amerindians inhabited most of these territories before any other people.

For the perusal of the Ethnic Relations Commission, NADF has submitted this comparison chart. It reflects ethnic holidays in CARICOM and the Caribbean.

| Country | Original Inhabitants | EAST INDIAN HOLIDAYS | Amerindian Holidays | AFRICANS | COMMENTS |
|-----------------|--|--|-------------------------|------------------|--|
| Antigua Barbuda | ----- | NIL | NIL | | More info to be had |
| Bahamas | ----- | NIL | NIL | | Was colonised by the British in the 16 th century. |
| Barbados | ----- | NIL | NIL | | First sighted by the Portuguese but settled by the British in 1627. |
| Belize | | NIL | Garifuna Settlement Day | | No historical background but it is believed that Amerindians were the first inhabitants of this Country. |
| Dominica: | Dominica was occupied first by the Amerindians. | NIL | NIL | | |
| Grenada | ----- | NIL | NIL | | Columbus landed on the island in 1498 but the French first settled there in 1650. |
| Guyana | The original inhabitants were the Amerindians. | 1. Phagwah 2. Eid-ul-Azah 3. You-mam-Nabi 4. Diwali 5. Arrival Day | NIL | Emancipation day | |
| Haiti | Columbus encountered the island of Hispaniola, populated by Arawaks in 1492. | NIL | NIL | | |
| Jamaica | Jamaica was first settled by Amerindians. | NIL | NIL | | |
| Montserrat | ----- | NIL | NIL | | Sighted in 1493 and |

| | | | | | settled by Anglo-Irish 1632 |
|---|--|---|-----|---|---------------------------------|
| St.Kitts Nevis | Originally settled by Amerindians (Caribs) | NIL | NIL | | |
| Saint Lucia | Amerindians were the first settlers, then came the French colonisation in 1650. | NIL | NIL | | |
| St. Vincent And Grenadines | St. Vincent was originally settled by Amerindians. | NIL | NIL | | |
| Surinam | Originally Amerindians inhabited the country up to the 15 th century, then after came settlers from England, The Netherlands and Germany. | 1. Phagwah 2. Id-Ul-Fitr 3. Diwali | NIL | | |
| Trinidad and Tobago | Both islands were first settled by Amerindians | 1. Id-Ul-Fitr 2. Diwali 3. Indian Arrival Day | NIL | | |
| Combined holidays for the region | | 11 | 1 | 1 | Guyana enjoys the most holidays |

This table shows that Amerindians have been first peoples of 9 out of 15 Caribbean countries. More research too may reflect that Amerindians may have inhabited more countries.

One country has a holiday in recognition of its first peoples (Belize – Garifuna Settlement Day).

This table does not reflect well for Caricom and the Region as it is evident that one ethnic group seems to dominate when all other ethnic groups have made inputs into their country's development one way or the other.

Though, acknowledging that Amerindians were the first inhabitants of their countries due recognition has not been bestowed.

WHAT CARICOM "CHARTER OF CIVIL SOCIETY" SAYS:

At a special meeting of the Standing Committee of Ministers responsible for Legal Affairs (SCMLA) held in Trinidad and Tobago on 28-29 January 1997 a draft Charter was commended to Heads of Government for signature.

Because of the common cultural, historical and social bonds of the people of the Caribbean Community the leaders addressed a broad spectrum of human endeavors and behavior, including-

- Respect for Fundamental Human Rights and Freedoms
- Human dignity
- Religious and cultural diversity
- Rights of the indigenous peoples

Article XXVI – Implementation – is a declaration by Member States of their resolve to pay due regard to the provisions of the charter.

(ARTICLE XXVI)

IMPLEMENTATION – The States declare their resolve to pay due regard to the provisions of this charter.

ARTICLE - XI

RIGHTS OF THE INDIGENOUS PEOPLES

The States recognise the contribution of the indigenous peoples to the development process and undertake to continue to protect their historical rights and respect the culture and way of life of these peoples.

MIGRATION/ HOW AMERINDIANS REACHED GUIANA

Learned men tell us that the Amerindians were the first discoverers of America. They say that they belonged to the Mongoloid group of peoples and that they crossed into North America from Asia about 35,000 years ago during the ice age.

In those days North America was joined to Asia by a bridge of ice known as the Bering Strait. This bridge has since broken down and North America and Asia are now separate. There is a Carib legend that say, the Caribs once lived on the bright land of the moon. Looking down, they saw that the earth was dirty, and thought that it would be a good thing to go down and clean it up. So they came down from their home and began to clean it up. When they were finished and were ready to return home the clouds which had borne them down had disappeared.

In every legend there is some form of truth. It may be that the bright land of the moon was the Caribs home is Asia, and that the clouds which disappeared was snow that made the bridge of ice which has since broken down.

After the ice bridge broke down the Amerindians spread south until they reached Mexico and Florida.

It is believed that at this point one group continued its Southward march through the Isthmus of Panama and into South America, while some others took to the sea and began to colonise the West Indian Islands.

Some of those who came into South America reached the coast of Guiana about 1,500 years ago. By the time they had reached their new homes, they had divided into four main tribes: Caribs, Akawaios, Arawaks and the Warraus.

The Caribs occupied the Upper Essequibo, Mazaruni, upper Cuyuni, Pomeroon and the Barima.

The Akawaios occupied the Essequibo at its junction with the Siparuni and were also found in the upper Cuyuni, Demerara and Pomeroon.

The Arawaks inhabited the regions of Corentyne and the Waini.

The Warraus inhabited the swamplands of the Orinoco River and the Barama

So the Amerindians as first peoples here explored and opened up the country for development at the same time developed the skills of preserving their environment to ensure a sustainable way of life, which we are now beginning to understand.

Justification

From this presentation all arguments to award September 10th as a national holiday in recognition of the Amerindians has been established. We cannot follow historical and cultural patterns of other states.

A check on other states holiday schedules will show the celebration and recognition of events irrelevant to Guyana. Amerindians must be recognized as first peoples and for their work towards development and preservation of this country.

Why September 10th.

In honor Mr. Stephen Campbell entering Parliament as a legislator in 1957, he subsequently made representation to the British Parliament as time went on.

We have a unique history and peoples and we must endeavor to recognise those that pioneered the development of Guyana.

We have include highlighted extracts from the "Special Select Committee on The Review of Public Holidays" captioned "PROPOSALS" # 6.3 and 6.3.3 bullet 3.

Pl find attached, highlighted sections of documentation regarding the lobby for a holiday. A copy of the Marriage Certificate from the couple seeking legal services is also included.

Land, Mining, Sub Surface Rights

NADF is of the opinion that adequate representation by other Amerindian Organisations have been made re. Land, land use, mining and sub-surface rights in Amerindian Communities. We do hope for positive results when the time for addressing these issues would have matured.

Health Programmes

Because Amerindian communities are mostly located in the Hinterland areas, some being more isolated than others, it is difficult to monitor and evaluate medical situations. Malaria, TB, STD's, acute respiratory infections, cancer and HIV/AIDS are primary causes of concern for the Amerindian population.

For other diseases additional resources in manpower, equipment and supplies will help control these diseases where prevalence is high. Medical outposts need freezers to make immunization and vaccination of hinterland residents, particularly children more manageable. Freezers are used for storing serums for DPT, MMR and other infectious diseases which need cold storage.

Health posts need too to be upgraded to facilitate X-rays, laboratory and screening equipment to provide health services inclusive of immunization, vaccination, blood and urine tests and chest x-rays. Amerindians seeking medical services have to travel to Georgetown, a very expensive undertaking.

Training of resource persons such as nurses, nursing aids, medex, Dental technicians, CHW's, medical technicians and doctors will be important for improving these services.

Mining

Mining causes disturbances to the environment, where Amerindians live it causes noise nuisances, pollution of domestic water sources, land degradation, affects river navigation, flooding because the natural water would have been blocked and death to aquatic life, which the Amerindians depend on for cheap protein. This needs to be addressed and remedied.

Banking Services:

NADF indicated at the consultation, that one of the Banks operating in Guyana, limited withdrawals for Amerindians to 1,000,000 GD (one million, Guyana dollars) after investigating, found this to be untrue and baseless; we therefore withdraw this presentation and offer an apology.

DIVORCE

No. 1

GUYANA

CERTIFIED COPY OF ORIGINAL MARRIAGE REGISTER

| 1967... MARRIAGES Solemnized or Performed at <i>Paramakatai Pilgrim Holiness Church</i> | | | | | | | in the Marriage District of | |
|---|------------------|-----------------------|-----------|-----------------|---------------------|-------------------------------|--|--|
| <i>Repununi</i> | | | | | | | 19.67... | |
| in the County of <i>Essequibo</i> | | | | | | | | |
| No. | When Married. | Names and Surnames. | Ages. | Condition. | Rank or Profession. | Residence at time of Marriage | After Banns or Licence or Superintendent Registrar's Certificate | Consent by whom given or Judge's Order |
| 1 | December 6, 1967 | <i>Adriana Mertie</i> | <i>17</i> | <i>Spinster</i> | <i>Homemaker</i> | <i>Paramakatai, Guyana</i> | <i>Banns</i> | <i>Mother Christina Mertie</i> |
| | | <i>Roger Aaron</i> | <i>20</i> | <i>Bachelor</i> | <i>Farmer</i> | <i>Paramakatai, Guyana</i> | <i>Banns</i> | <i>Father</i> |

Married at *Pilgrim Holiness Church* in the Marriage District aforesaid, after *Banns* by me.

Daniel M. Hople
Marriage Officer (or Superintendent Registrar)

This Marriage was solemnized or performed between us | *Roger Aaron*
Adriana Aaron (Mertie) in the presence of us | *Lyn-ton Peters*
Aleta Sandwell

Examined with the Original Register by me and found to be correct.

Marriage Officer (or Superintendent Registrar)

Daniel M. Hople

**NATIONAL ASSEMBLY OF THE SECOND SESSION
OF THE EIGHTH PARLIAMENT OF GUYANA
2002 – 2004**

REPORT

OF THE

SPECIAL SELECT COMMITTEE

ON

THE REVIEW OF PUBLIC HOLIDAYS

RESOLUTION NO. 12/2003

**PRESENTED TO THE NATIONAL ASSEMBLY
BY THE CHAIRMAN OF THE COMMITTEE**

ON

THURSDAY, 29TH APRIL, 2004

2.2 **Constitution of the Special Select Committee:**

2.2.1 The Committee of Selection met on 5th June, 2003, and nominated nine (9) Members to constitute the Special Select Committee as follows:

Members from the People's Progressive Party/Civic (5) -

The Hon. Ronald Gajraj, M.P. - Chairman
Minister of Home Affairs

The Hon. Dr. Ramnauth Bisnauth, M.P.
Minister of Labour, Human Services and Social Security

Mrs. Indranie Chandarpal, M.P.

Mrs. Shirley Edwards, M.P., and

Mr. Zulfikar Mustapha, M.P.

Members from the People's National Congress/Reform (3) -

Mr. Deryck Bernard, M.P.

Ms. Anna Ally, M.P., and

Dr. George Norton, M.P.

Member from the Rise Organise and Rebuild Party (1) -

Mr. Ravindra Dev, M.P.

2.3 **Commencement of Committee's work:**

2.3.1 The Special Select Committee on the Review of Public Holidays held its first meeting on 2nd December, 2003 and met on 14 occasions during the months January, 2004 to April, 2004 as follows:

4.10 National Amerindian Environmental Educational Development Foundation (NADF)

Negative on 5th May

Supported 26th May

Proposed 10th September as a public holiday

4.10.1 NADF advocated that 26th May must remain and be classified a National Holiday instead of a public holiday as "National" transcends "Public".

4.10.2 The NADF did not propose 5th May being declared a national or public holiday in recognition of the East Indians arrival here. Regardless of their numerical strength, each group has contributed to the development of Guyana.

4.10.3 It proposed that 10th September be recognized as a public holiday in recognition of the Indigenous Peoples and their contribution towards the development and preservation of Guyana. This proposal was being justified on the grounds that -

- (a) Indians as a whole already have four holidays;
- (b) Amerindians as a group did not have any identifiable holiday;
- (c) Amerindians had occupied Guyana from time immemorial.

4.11 Guyanese Indian Foundation Trust (GIFT)

Supported 5th May

Supported 26th May

4.11.1 In advocating 5th May to be declared a public holiday in commemoration of Indian arrival in Guyana, GIFT saw the day as one of the most significant moments in the history of Guyana.

4.11.2 The arrival of Indians irrevocably altered the landscape - both human and physical. Providing the day as a holiday together with the month of May as Indian Heritage Month would be an opportunity for the Guyanese Indian community to reflect on its history and to continue unabashedly and unapologetically to stake its claim for equality and respect in the national life, and for all Guyanese to recognise the centrality of their presence in the Guyanese reality.

4.12 Guyanese Organisation of Indigenous Peoples (GOIP)

Negative on 5th May

Negative on 26th May

Proposed 10th September to be a public holiday

4.12.1 Guyanese Organisation of Indigenous Peoples requested that 10th September be declared a public holiday which it had been advocating for over a decade. It was not in favour of 5th May, Indian Arrival Day, as a holiday. It further suggested that to overcome Guyana having too many holidays, 26th May, which it saw as a holiday, be deleted from the calendar of holidays.

4.12.2 No further additions of holidays must be made once the decision on those of 10th September and 5th May was made.

4.13 National Front Alliance (NFA)

Negative on 5th May

Did not comment on 26th May

5.0

HIGHLIGHTS OF ORAL PRESENTATION:

5.1 The Committee found these presentations to be useful in that, they allowed for a better perspective and understanding of each organisation's proposal that was not brought out in the written submission. The following were the more compelling views expressed -

5.2 **National Amerindian Environmental Education Development Foundation (NADF)**

5.2.1 The representatives of the National Amerindian Environmental Education Development Foundation in their opening remarks stated that "When the NADF made the proposal to the Holiday Review Committee, it did all in its power to make contact with all the Amerindian organisations in the country, because the NADF, although it is operating under that name, the document entails the representative organisations and those people that we work with. Amerindians are Amerindians whether they belong to TAAMOG or the Guyana Organisation of Indigenous Peoples or the Amerindian Peoples Association regardless of political parties or whatever. Amerindians are Amerindians and this document covers all the Amerindians in this country."

5.2.2 The representatives referred to the CARICOM Charter of Civil Society, Articles 11 and 26 regarding the Rights of Indigenous Peoples to the development process that undertook to continue to protect their historical rights and respect the cultures and way of life of these peoples. The representative opined that the Charter paved the way for the recognition of Amerindians in the Commonwealth, and in Guyana since there was a Constitutional Commission - it can pave the way for Guyana to be the first country in CARICOM to have a holiday for Amerindians.

5.2.3 When questioned about the significance of 10th September, the representatives responded, "that September 10th was when Mr. Stephen Campbell, an Amerindian, first entered Parliament as a Legislator in 1957."

5.2.4 The representatives entreated the Committee to look closely at the CARICOM Charter of Civil Society and consider Articles 11 and 26.

5.2.5 In response to an observation that there was already a month that had been identified as **Amerindian Heritage Month**, the representatives observed that there was no law which gave Amerindians, a month to celebrate and reflect. They stated that the Amerindians were never torn away from their lands against their will and brought here nor did they come here on agreements to stay and a certain time to leave. They were here. They did not need a month to reflect.

5.2.6 The representatives referred to the four holidays that already existed which are considered Indian holidays.

5.2.7 Members of the Committee clarified the statement by pointing out that in the case of Islam there were people of different ethnicities that were members of the Muslim community.

5.2.8 The point was made that only Guyana, Suriname and Trinidad and Tobago designated holiday to East Indians since those were the only countries with a sizeable amount of East Indians.

5.2.9 The issues that have emerged are:

- (a) **The representatives who are claiming to speak on behalf of all Amerindians are of the view that they do not need a month to reflect since they were always here;**
- (b) **They would like to have 10th September be a public holiday.**

NADF advocated that 26th May must remain and be classified a National Holiday instead of a public holiday as "National" transcends "Public".

NADF is not in favour of 5th May being declared a National or Public Holiday.

The positions of the NADF as stated in (a) and (b) are clearly not within our mandate, however, considering the reasons and rationale for 10th September the Committee may wish to include this as a proposal for the National Assembly to consider.

5.3 African Cultural And Development Association (ACDA)

5.3.1 This Association claimed that it had submitted in the past, several letters to the Chairman of the National Holiday Committee calling for 12th October, Holocaust Day, be declared a public holiday.

5.3.2 He said that no response was received and he saw it discriminatory for the call for a holiday for an Indian Arrival Day to be treated with such alacrity. The Chairman indicated that he was unaware of such letters and requested a copy.

5.3.3 The representative reported that Holocaust Day was already being observed at a ceremony held annually at the sea wall. He pointed out that they were in the process of erecting a monument to the African Holocaust and that that day should be on the calendar of events.

5.3.4 A check of the CARICOM member states revealed that no other states observed 12th October as a national or public holiday.

6.2 Observations

6.2.1 Some of the proposals which came from the respondents fell outside of the mandate. The Committee, nonetheless, believes that they are important for the healing and unification of all our peoples. It is important that we demonstrate that equity is seen to be dispensed equally within the principle of unity in diversity.

6.2.2 The Committee noted the zero sum premise of many of the presentations that evince a belief that the acknowledgement of the claims of one group would somehow take away from the claims of other groups. The Committee is of the view that this ought not to be so.

6.3 Proposals

6.3.1 It became evident to the Committee that, after several submissions and presentations, there was some confusion in the citizenry's mind as to the usage of the word "public" versus "national" in reference to our official holidays.

6.3.2 The Committee is requesting Parliament to give consideration to the renaming of the Public Holidays Act as the National Holidays Act.

6.3.3 The Committee further requests Parliament to consider:

- the removal of Boxing Day as a National Holiday;
- the inclusion of 12th October as a National Holiday designated "African Holocaust Day";
- 10th September as a National Holiday for Amerindians;
- after consultation with the Muslim community whether to replace Yaou-mun Nabi with Eid-ul-Fitr as a National Holiday;

- the principle that whenever a holiday falls on a Sunday it should be observed or celebrated on that day, with the exception of Easter Monday, and not on the following day.

6.4

RECOMMENDATIONS

(i) Re: 26th May

Rationale

- All countries of CARICOM observe their Independence Day.
- Independence was not handed on a platter it was fought for by the people of Guyana.
- Apart from political, economic and other considerations 26th May signifies the day when the Union Jack was replaced by the Golden Arrowhead, and "British Guiana" became "Guyana" thereby signifying the attainment of sovereignty by the Guyanese nation.

Recommendation

The Committee, therefore, recommends that: -

- *Independence Day, that is to say, the 26th May, or, if that day is a Sunday, the following day, be included in the Public Holidays Act, Chapter 19:07 as a public holiday.*

Caveat

- The Committee is cognisant of the fact that the recommendation, herein made in accordance with our mandate, appears to run counter to its proposal with respect to holidays falling on Sundays.

(ii) Re: 5th May

Rationale

The proposals and counter proposals supporting 5th May must be seen in the context of Guyana's realities. Having regards, therefore, that:-

- the call to designate 5th May as a National Holiday was made over 40 years ago with increased support over time;
- Indians constitute the majority of the population of Guyana;
- they have made significant contribution towards the development of Guyana;
- while there were different assessments as to the nature of or meaning of Indian Arrival all respondents accepted its landmark status as a seminal event that had permanent consequences for all Guyana.

Recommendation

The Committee, therefore, recommends that -

- *Arrival Day, that is to say, the 5th May, or, if that day is a Sunday, the following day, be included in the Public Holidays Act, Chapter 19:07 as a public holiday.*

Caveat

While the aforesaid recommendation is in keeping with our mandate the Committee wishes to note that all the submissions favouring 5th May as a Public Holiday recommended that it be designated "Indian Arrival Day" as is the case in Trinidad and Tobago.

7.0 CONCLUSION

7.1 The Committee is of the view that the recommended changes will not necessarily increase the number of holidays being celebrated annually in Guyana.

7.2 There is a distinct possibility that the number of working days being celebrated as National Holidays may very well be reduced.

7.3 The feeling of Members is that they have been honoured by the opportunity to serve on this Committee.

7.4 The Committee's work could not have been effectively and efficiently concluded without the participation of the public - both organizations and individuals - by way of written submissions and oral presentations. The Committee wishes to express thanks to them.

7.5 The staff of Parliament Office contributed immeasurably to the work of the Committee. The Committee would like to thank them too.

7.6 It is hoped that the recommendations of the Committee find favour with Members of the National Assembly.

8.0 Report of the Select Committee

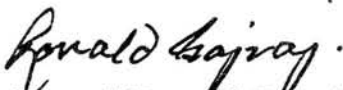
8.1 At its meeting on 15th April, 2004 the Special Select Committee on the Review of Public Holidays agreed that its Report should be presented to the National Assembly.

8.1.1 The Report is accordingly hereby submitted to the National Assembly for adoption.

9.0 Minutes, Submissions and Verbatim Records

9.1 The Minutes, Submissions and Verbatim Records of the proceedings of the meetings of the Committee have been prepared and can be seen at the Parliament Office.

Confirmed this 21st day of April, 2004.


The Hon. J. Ronald Gajraj, M.P.
Chairman

Committees Division
Parliament Office
Public Buildings
Georgetown.

21st April, 2004.