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Our Land, Our Future

Promoting Indigenous Participation and Rights in Mining, Climate Change and other Natural Resource Decision-making in Guyana

Final report of the APA/FPP/NSI project
'Indigenous Perspectives on Consultation and Decision-Making about Mining and Other Natural Resources: Toward Community Strengthening, Dialogue and Policy Change'

By Marcus Colchester and Jean La Rose
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The contents of this report represent the views and the findings of the authors alone and not necessarily those of The North-South Institute's directors, sponsors or supporters or those consulted during its preparation.

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None of these individuals are responsible for any errors of fact or interpretation found in this document. Any errors are the responsibility of the authors alone.

Acronyms used in the report:

ALC	Amerindian Lands Commission
APA	Amerindian Peoples Association
BIC	Bank Information Center
CAD	Canadian Dollar
CERD	UN Committee on the Elimination of Racial Discrimination
CDO	Community Development Officer
CI	Conservation International
CIDA	Canadian International Development Agency
COICA	Coordinadora Indigena de la Cuenca Amazonica
CSR	Corporate Social Responsibility
DfID	UK Department for International Development
FCPF	The World Bank's Forest Carbon Partnership Facility
FPP	Forest Peoples Programme
GENCAPD	Guyanese Environmental Capacity Development project
GFC	Guyana Forestry Commission
GGDMA	Guyanese Gold and Diamond Miners' Association
GGMC	Guyanese Geology and Mines Commission
GoG	Government of Guyana
GRIF	Guyana REDD Plus Investment Fund
EC	European Commission
EPA	Environmental Protection Agency
ESIA	Environmental and Social Impact Assessment
FOAG	Federation des Organisations Amerindiennes de Guyane
IBA	Impact Benefit Agreement
ICMM	International Council on Metals and Mining
IDRC	International Development Research Center
IIED	International Institute for Environment and Development
LCDS	Low Carbon Development Strategy
MoAA	Ministry of Amerindian Affairs
MoU	Memorandum of Understanding
NGO	Non-Governmental Organisation
NSI	The North-South Institute
NTC	National Toshaos Council
OIS	Organisation of the Indigenous Peoples of Suriname
PDAC	Prospectors and Developers Association of Canada
REDD	Reduced Emissions from Deforestation and Forest Degradation
RFN	Rainforest Foundation - Norway
R-PP	REDD Readiness Preparation Plan
SIMAP	Social Impact Mitigation of Adjustment Program
STD	Sexually Transmitted Disease
UNDP	United Nations Development Programme
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
VSO	Voluntary Service Overseas
WWF	World Wildlife Fund

1. Executive Summary:

This report summarises the efforts made by the Amerindian Peoples Association (APA) over the past decade (2000-2010) to improve indigenous peoples' participation in decisions about natural resources in Guyana. These efforts were promoted as part of a joint project between the Amerindian Peoples Association, The North-South Institute (NSI) and the Forest Peoples Programme (FPP), with funding from the International Development Research Centre of Canada (IDRC).

After briefly summarising the findings of the first phase of the project, which ran from 2000-2002, the report then introduces the rationale, methods, conclusions and recommendations of its second phase, which has been ongoing since 2005 and has evolved considerably during that time.

The second phase of the project was developed at a time of rapid legal and institutional reform in Guyana. Notably, a new Constitution was adopted in 2003 which guarantees respect for internationally recognised human rights and protection of Amerindian ways of life. Yet subsequent efforts to reform the Amerindian Act resulted in a discriminatory law, adopted in 2006, which not only seriously limits Amerindian rights, but is so contrary to Guyana's obligations under international human rights laws that the UN Committee on the Elimination of Racial Discrimination (CERD) called on the country to change the law within months of it being passed. The deficiencies in the law also led the World Bank to pull out of the Guyana Protected Areas Project, as the framework provided by the law contravenes the Bank's policy on indigenous peoples.

During the past seven years, the Ministry of Amerindian Affairs (MoAA) has, nonetheless, significantly increased its presence in the interior, through greater staffing and new community development projects. However, the net result has been to increase central Government control of community affairs, rather than to promote more autonomy and decision-making by Amerindians. Similarly, hopes that the Constitutionally-established National Toshaos Council (NTC) would provide a mechanism for communities to have an improved role in national decision-making have been frustrated, with growing concern that the NTC has been 'captured' by the Government.

Amidst these challenges, the single issue of greatest contention between Amerindians and the Government remains the issue of land. The Government continues to grant Amerindian villages rights to relatively small areas, at its discretion, rather than recognising Amerindian peoples' wider rights over their customary territories. Amerindian titled lands now cover 14% of the country, between a half and a third of the areas claimed.

These territories are increasingly under threat from mining. The last decade has witnessed a rapid expansion of mining activities in Guyana as mineral prices have soared on global markets. Small- and medium-scale gold mining has especially intensified and new technologies have allowed operations to expand into new areas — among them Amerindian ancestral territories. Large-scale exploration and reconnaissance permits for gold and other minerals, including uranium, now cover about two-thirds of the country, while new prospects to develop bauxite

resources, with associated hydropower projects and smelting plants, pose major threats both near the mouth of the Essequibo and in the heart of the Pakaraima Mountains.

Whereas evidence of the severe impacts of mining on Amerindians is growing, there is little evidence that that the Guyana Geology and Mines Commission (GGMC) is serious about curbing either the damage that results or related violations of Amerindian rights. Social and environmental impacts include forest loss, polluted waterways, mercury contamination, criminality, drug abuse, sexual exploitation, and abuse of very young Amerindian girls. For lack of viable alternatives, Amerindians themselves are also heavily engaged in small- and medium-scale mining, with serious consequences on their own health, nutrition and cultures. Cases from Regions I, VII and IX, focused on by the project, reveal that even where efforts are made to help communities raise their concerns with the Government and companies, their voices are ignored by these actors. In one case, the GGMC has even defied a court ruling calling for mining to be halted on a community's traditional land. More widely, permits are being granted to miners without due consultation with communities, and their right to free, prior and informed consent is ignored.

Beyond mining, intense pressure from internationally-supported climate change mitigation and carbon forestry schemes is also mounting on Guyana's Amerindian Peoples. The Government of Guyana (GoG) is now engaged in detailed negotiations with the World Bank and the Government of Norway to secure substantial grant aid for the country to stem forest loss and thus to mitigate global warming. The aim is to set up a system whereby Guyana would receive considerable payments – through a global 'carbon market' – for reducing deforestation and/or maintaining standing forests. Considerable uncertainties remain about how these programmes will be implemented.

The implications of these schemes for the Amerindians who make up the majority population in the forested interior are also unclear. To date the Government is restricting Amerindian involvement in the Low Carbon Development Strategy (LCDS) to titled Amerindian lands (whereas their traditional territories would be automatically included) and it is proposing a narrowly-conceived consent process whereby communities could vote whether or not to 'Opt in' to the scheme. If they 'Opt in' they would then need to show that they are reducing deforestation on their lands, to secure benefits. In this regard ongoing uncertainty especially surrounds the future of traditional farming methods. The government has undertaken greater than usual efforts to 'consult' communities about the scheme, but information has been limited, late and very technical, and meetings have been short. The independent monitor has agreed that improvements in 'consultations' are needed.

With the support of the APA, NSI and FPP, Amerindians have convened multiple meetings, both locally and nationally, to help communities understand the implications of the LCDS. However, instead of welcoming informed debate, the Government has denounced independent voices and even harassed those attending, despite the reality that these carbon forestry schemes are novel, everywhere unclear and require much further discussion before they can be sure of benefitting Amerindian communities.

The current standoff between concerned Amerindians and the Government of Guyana over its natural resource management plans is only likely to be resolved if legal and policy adjustments are adopted which recognise the rights of Amerindians in line with Guyana's obligations under international law. New initiatives are also needed to control mining, mitigate social and environmental impacts, support alternative livelihoods and ensure that Amerindians participate meaningfully in plans for reducing emissions from deforestation and forest degradation. All of these initiatives must be undertaken in fair, transparent and participatory ways that respect Amerindian rights to their territories, and in particular their right to give or to withhold their free, prior and informed consent to measures that will affect them.

2. Introduction:

This report brings together the main results of the last six years of a decade-long collaboration between the Amerindian Peoples Association of Guyana, The North-South Institute of Canada and the Forest Peoples Programme of England. This collaboration was achieved in the framework of two successive project phases, funded through NSI by the International Development Research Centre, Ottawa. The latest is entitled *'Indigenous Perspectives on Consultation and Decision-Making about Mining and Other Natural Resources: Toward Community Strengthening, Dialogue and Policy Change.'*

The first phase of the project concluded in 2002 with a detailed report[1] that identified serious problems confronting Amerindians in the face of the expansion of state-sponsored mining developments on their lands. It noted that mining, through small-scale permits, medium-scale enterprises and large-scale exploratory licences, extended over more than 25% of the country and was widely present on indigenous lands. Illegality, environmental damage and severe social problems resulted partly from the weak regulations and enforcement capacity of the Guyana Geology and Mines Commission. A lack of effective recognition of Amerindian land rights exacerbated these problems.

Despite a government policy to involve Amerindians in decisions about mining on their lands, they were in fact not being effectively included in either national or local planning in relation to mining. There was a lack of transparency in permitting, a lack of information about policy reviews, and deficient funding and mechanisms for consultation.

At the same time it was noted that Amerindian communities and their representative organisations were themselves ill-prepared to engage with the government, due to lack of awareness, lack of training and skills, and an absence of opportunities to have their voices heard.

This mismatch between government-promoted development and capacity for participation resulted in severe impacts on Amerindians. These impacts were documented through extensive field surveys, interviews and village-level workshops. The report from Phase I noted in particular serious problems faced by Amerindian women — both in terms of rapes and sexual exploitation in the mining areas, and back in their own communities due to the absenteeism of menfolk, who were often away working in the mining camps and therefore neglected customary roles in farming and providing for family. Declining subsistence, worsening nutrition and loss of cultural resilience were all also documented. In addition, sampling showed that mercury pollution from gold mines was causing potentially dangerous levels of mercury to accumulate in Amerindians' bodies and environmental damages to river systems, which affected fishing, bathing, transport and wider ecosystem resilience. The growing dependence of Amerindians on mining as a source of cash income argued for a pressing need for alternative income-generation opportunities or livelihood strategies.

[1] Colchester, La Rose and James 2002.

The report concluded by calling on the Government of Guyana and donor agencies to adjust their policies to ensure that Amerindian rights would be respected, their well-being secured, and adequate resources invested to ensure fairer participation in the future.

The second phase of the project was designed to follow up on the research and institutional strengthening needs identified in Phase I. Its main aim was to facilitate, document and analyze 'efforts to strengthen the capacities of Amerindians to engage with government, industry and other relevant actors, with a view to more equitable outcomes, policies and practices that respect the processes, aspirations and rights of indigenous peoples in natural resource-related decisions affecting their lands.'[2]

Specific activities envisaged under Phase II included:

- reviving the national indigenous advisory committee (which had overseen Phase I)
- convening dialogues with the government to explore policy and legal reforms
- convening dialogues with the mining industry to explore 'best practices'
- developing protocols for negotiation processes between industry and Amerindians
- carrying out a study of the extent of mercury contamination
- training community members in environmental monitoring
- carrying out a series of regional and village level workshops to generate greater awareness of rights, the impacts of mining and to explore options for negotiating improved relations with the mining industry
- carrying out a study of livelihood alternatives to Amerindian participation in small- and medium-scale mining
- research on the state of large-scale exploration and mining, with special emphasis on the activities of Canadian companies.

The conceptual framework for the research component of the project was to document the extent to which strengthening the capacities of indigenous peoples, and providing the resources and space for intra- and inter-community dialogue and strategizing, would help tip the balance of power to enable more equitable multi-party dialogues and outcomes. It was also designed to yield much-needed insights, from the perspectives of indigenous peoples themselves, into the implementation of procedures to ensure respect for the right to free, prior and informed consent. To this end, it is hoped that this and other outputs will contribute to the literature on participatory research, public participation and multi-party processes, as well as that on conflict resolution, co-management, corporate social responsibility and indigenous-to-indigenous partnerships.[3]

Not all of these activities have taken place owing to the changing needs of communities, the rapidly changing policy context in Guyana and the changing fortunes of the Amerindian Peoples Association. Yet the various evolutions of the project have contributed to strengthening the capacity of Amerindian communities and their main representative organisation, the APA. Critically, project activities have also enabled Amerindian voices to be raised and their concerns are increasingly being heard at national and international levels.

[2] Weitzner 2005.
[3] Op. cit.

3. Methods and practices:

As an 'action-research project,' the partners complemented the direct support offered under the project to the Amerindian Peoples Association and affected communities with research into a variety of evolving methods designed to ensure more participatory forms of development.[4]

Since the 1992 Earth Summit and the publication of Agenda 21, there has been increasing recognition that top-down decision-making regarding natural resources management does not deliver real benefits to local communities and the environment, and that instead there is a pressing need to democratize decision-making processes and to include the local people who live with the direct effects of decision-making. The importance of the role of indigenous peoples with regard to biodiversity conservation and stewardship of the land is also increasingly recognized.

However, there is still much to be learned with regard to *how to* effectively engage people at the grassroots in decision-making, especially in the context of the customary decision-making processes of indigenous peoples and their unique rights to self-determination and FPIC. Following Arnstein,[5] experts on public participation have devised multiple types of 'ladders of citizen participation' that show a spectrum of arrangements in which, at one end of the ladder, government agencies are in control, and at the other, citizens are in control.[6]

The key questions this project was designed to help answer were: how can indigenous peoples move up the ladder of participation, and what conditions are required to enable this movement away from the more 'manipulative' or 'therapeutic' types of consultation and participation found at the lower rungs of the ladder.

Participation in decision-making in the mining sector, including through an examination of issues such as balance of power, capacity-building, gender and access to resources, and the experiences with multi-stakeholder dialogues and conflict resolution and co-management, were the core concerns of these research questions; but the answers and insights offered by the project are equally applicable to other natural resource sectors.

In order to take advantage of evolving bodies of knowledge among partners and adjust to changing circumstances, the methods used in the project were developed through iterative exchanges with affected communities.

In the end the project chose to respond to questions around participation, consultation and consent in very practical terms, recognizing that strengthening the capacity and awareness of Amerindians had to be a first priority before they would be able to confidently and effectively engage with governments and companies higher up the ladder.

With that goal in mind, the research prioritized the creation of accessible community guides on free, prior and informed consent, indigenous participation in environmental and social impact

[4] NSI 2004.
[5] Arnstein 1969.
[6] See, for example, Borrini-Feyerabend 1996; Rocha 1997; Stewart Carter 1999, 2000; Ritter 2000.

assessments (ESIAs), and negotiating impact benefit agreements (IBAs). These lessons were shared with Amerindians through both community workshops that were led by the APA and a national 'training of trainers' workshop series in Georgetown, which brought community representatives and leaders together with national and international experts.

The design of the project also enabled mutual learning amongst Amerindians from different regions and communities, and between Amerindians and the research team, which likewise contributed to strengthening capacities through the sharing of their diverse knowledge bases, skills and strategy formulations for addressing development projects affecting ancestral lands .

Despite the focus on community needs, we are confident that the outputs from the research, capacity-strengthening and dialogue enabled under this project will provide useful material for: a) those companies who are seeking to either update or develop policies and practice concerning indigenous peoples or sustainability in the context of mining activities on or near ancestral lands; b) government agencies wanting guidance on how to engage in equitable processes with indigenous peoples that have a better chance of leading to sustainable development and respect for international obligations towards achieving free, prior and informed consent.[7]

Lessons learned from the participatory approach of this project will also be useful to those considering embarking on similar action-research projects. The approach adopted was similar to the methods of 'muddling through' now being advocated by some forest scientists and conservationists for participatory land use planning.[8]

As the following sections of this report make clear, the flexibility and learning built into this project were indeed crucial to its outcomes. Not only were there major changes in national laws and policies regarding Amerindians during the course of the project, but Amerindian institutions themselves went through a series of (at times testing) transitions. During the final two years of the project, despite unrelenting pressure on indigenous lands from mining, road building and the re-emergence of hydropower schemes, Amerindians found themselves and their territories simultaneously swept up in a national programme to secure substantial international financial support to conserve the country's forests and reduce emissions from deforestation and forest degradation. Guyana thus became a focus of attention in international debates about how to mitigate climate change. At times, the pressure on Amerindians to respond to these multiple challenges threatened to engulf the whole project and to overwhelm the slender capacity and resources of the APA's secretariat in Georgetown.

[7] Colchester and MacKay 2004.
[8] Wollenberg et al. 2007; Sayer, Bull and Elliott 2008.

4. Changing context:

At the time Phase II was being prepared, and indeed throughout the last six years, a number of events have led to the reconceptualisation of the project. On the one hand, constitutional and legal reforms were underway which promised to provide a firmer basis for indigenous peoples' participation in policy-making and decisions about resource use on their lands. On the other, intensifying pressure on the interior of Guyana was cause for growing concern. In particular, as prices for minerals began to climb, pressure to open up the interior to mining simultaneously increased. New prospecting ventures got underway, looking not only for the gold, diamond and bauxite, which had long been exploited by the mining sector in Guyana, but also for uranium, columbite, tantalite and other minerals. During the same period, the Government of Brazil stepped up plans to strengthen connections with Guyana. Upgrading the road from Boa Vista to Georgetown was again given priority, but the Brazilian government also explored ways of encouraging both Brazilian state and private sector companies to invest in Guyana, especially in agribusinesses and hydropower projects. Finally, triggered by the proposals of a British company called Canopy Capital to develop global markets for the environmental services provided by the forests of Iwokrama, the Government of Guyana conceived a national scheme to secure international finance for a 'Low Carbon Development Strategy.' All of these proposals would have major implications for the country's Amerindians and accordingly the project was reshaped to help them and their representative organizations address these manifold proposals to dictate how their lands should be utilized or conserved.

Legal changes

During the early part of the millennium, there was some optimism that the Government of Guyana was showing a new openness to Amerindian concerns and would adopt a Constitution and a revised law on indigenous peoples in line with international human rights law.

A constitutional reform process got underway in 1999 and the commission debating the reforms included an indigenous spokesperson. Between 2001 and 2003 three amendments were subsequently enacted, which committed Guyana to uphold international human rights laws and created a National Toshaos Council, to be comprised of all elected Amerindian Village Captains. The new Constitution also established an Indigenous Peoples Commission, which had as its core mandate overseeing human rights issues related to Amerindians.[9] This body was to be comprised of representatives appointed by the NTC, Amerindian NGOs and the National Assembly; however it has never been made operational.

Finally, in 2003, the National Assembly amended the fundamental rights chapter of the Constitution to recognize indigenous peoples' rights as follows: "Indigenous peoples shall have the right to the protection, preservation and promulgation of their languages, cultural heritage and way of life." The preamble to the amended Constitution further states that Guyana values "the special place in our nation of the Indigenous Peoples and recognizes their right as citizens to land and security and to their promulgation of policies for their communities." This is the first

[9] Colchester and Mackay 2004.

time that indigenous peoples' rights as such have been explicitly recognized in Guyana's Constitution. It should be noted, however, that the adopted article was the only one of more than 20 specific proposals by indigenous peoples that was accepted in the reform process.[10]

The thoroughly outdated 1951 Amerindian Act (which had been only slightly amended in 1976 and 1991) was widely recognised as anachronistic and contrary to Guyana's international legal obligations. During 2001-2003, and with technical assistance from the World Bank and the Inter-American Development Bank (IDB), a review process was undertaken to revise this Act. The review was considered by both agencies be indispensable if Guyana's policies for the development and conservation of the interior were to be made compatible with their own policies on indigenous peoples, which the Banks are obliged to observe as 'due diligence.' As part of the technical assistance project, a legal consultant from the Inter-American Court of Human Rights, Oswaldo Kramer, accordingly provided the Government of Guyana with an exhaustive draft for the recognition of Amerindian rights.

Yet the revised Amerindian Act, adopted by the National Assembly in 2006, paid almost no heed to these suggestions, and efforts by indigenous peoples' organisations to get the draft bill amended were likewise rebuffed. The Amerindian Peoples Association and the Forest Peoples Programme responded in January 2006 by submitting a complaint to the United Nations Committee on the Elimination of Racial Discrimination under its Urgent Action/Early Warning Procedure. The complainants alleged that the Act was contrary to the rights of indigenous peoples, which the Government of Guyana was constitutionally, and through treaty, obliged to uphold.

Specifically the complainants expressed concern that the Act *inter alia*:

- Does not provide for the recognition of the indigenous peoples' rights to own and control the lands, territories and resources that they have traditionally owned or otherwise occupied and used
- Discriminates against indigenous peoples with regard to their rights to lands
- Disqualifies some indigenous communities from holding title
- Denies the legal personality and rights of unrecognised indigenous communities
- Fails to recognise the wider rights of indigenous communities whose lands are untitled
- Disallows that land may be owned jointly by groups of communities and only vests titles in recognised villages
- Excludes waters and subsoil resources from indigenous control, contrary to the provisions for other citizens owning property
- Allows forcible relocation and the compulsory taking of indigenous peoples' lands
- Provides only weak rights for recognised indigenous communities to be consulted, participate or give consent to activities planned on their lands
- Allows the Minister to veto the decisions of elected Amerindian Village Councils.

[10] APA and FPP 2006.

The Committee gave careful consideration to these concerns and while lengthy, key recommendations in CERD's Concluding Observations of March 2006 deserve to be restated in full. Specifically:

> 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.*
>
> 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. 233 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.*
>
> 17. The Committee notes with concern the extensive exception to the protection of property in Article 142(2)(b)(i) of the Constitution of Guyana, authorizing the compulsory taking of the property of Amerindians without compensation "for the purpose of its care, protection and management or any right, title or interest held by any person in or over any lands situated in an Amerindian District, Area or Village established under the Amerindian Act for the purpose of effecting the termination or transfer thereof for the benefit of an Amerindian community." (Art. 5(d) (v) and 6)
>
> > *The Committee recommends that the State party afford non-discriminatory protection to indigenous property, in particular to the rights of ownership and possession of indigenous communities over the lands which they traditionally occupy. It also recommends that the State party confine the taking of indigenous property to cases where this is strictly necessary, following consultation with the communities concerned, with a view to securing*

> *their informed consent, and to provide these communities with adequate compensation where property is compulsorily acquired by the State, as well as with an effective remedy to challenge any decision relating to the compulsory taking of their property.*[11]

The deficiencies of the Amerindian Act, as recognised by the CERD and other parties, were to have serious consequences for Guyana. The World Bank and Global Environment Facility were obliged to suspend the Guyana Protected Area System Project, which was then under preparation, because the national legal basis for the project was contrary to the Bank's Operational Policy on Indigenous Peoples.[12]

Unfortunately, since that date, the Guyanese government has taken no steps to respond to the CERD's observations or bring its laws and policies into conformity with international human rights law.

This deficiency becomes all the more glaring in view of the fact that in September 2007, Guyana was one among some 147 countries that voted for the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The Declaration strongly affirms the rights of indigenous peoples and with respect to land rights, Article 26 notes:

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

The contradiction between the Government of Guyana's international and treaty obligations, and the laws and procedures that it has adopted within the country, could scarcely be more obvious.

New directions in the Ministry of Amerindian Affairs

The Ministry of Amerindian Affairs, first established in 1994 as part of the Ministry for Hinterland Development, had for many years little more than a token presence in government and operated with a minuscule budget. Its presence in the hinterland was consequently insignificant.

Indeed it was not until 2003 that the role of the Ministry was upgraded, and it was placed directly under the Office of the President. This increase in profile and capacity was a direct response to the increasingly vocal demands of the Amerindians for recognition of their rights and for an end

[11] CERD/C/GUY/CO/14.
[12] Sobrevila 2008. A previous National Protected Areas System Project had also been abandoned five years earlier owing to the incompatibility of GoG policy and the Amerindian Act and the prior World Bank policy OD 4.20: http://www.forestpeoples.org/documents/ifi_igo/wb_ips_guyana_may00_eng.pdf.

to their marginalization. It was also in line with the recommendations of the National Development Strategy, which noted that the Ministry, as it was in 1996, was incapable of fulfilling its obligations.[13] Under the leadership of a new Minister, Carolyn Rodrigues, an Amerindian from Region 1, and with the assistance of a number of international development agencies the Ministry of Amerindian Affairs then began a process of expanding its presence in indigenous areas, particularly by training and placing Community Development Officers (CDOs) in more prominent Amerindian villages throughout the interior.

Equipped with motorbikes and furnished with small budgets, the CDOs had a significant effect on the way the Government related to the Amerindians. Initially conceived as the means by which officials in Georgetown could be made aware of the views and needs of the Amerindians, the CDOs were actually most useful to the Government as agents through whom the policies and plans of the centre could be more readily imposed on the Amerindians in the hinterland.

The Ministry has further expanded its presence in the interior through a variety of hinterland development projects. These projects initially included the Social Impact Amelioration Programme (SIMAP), designed to cushion marginal communities from the impacts of structural adjustment in the early 2000s.[14] They were later expanded with the help of the Inter-American Development Bank and the UN Development Programme, and in 2009 the Ministry launched the National Secure Livelihoods Programme in partnership with the UK NGO, Voluntary Services Overseas (VSO). The aim was to place (mainly British) volunteers in Amerindian communities to identify opportunities for 'income generation, wealth creation, economic diversification and secure livelihoods.'[15]

Also commencing in 2009, the Ministry initiated a new Projects Unit to provide technical and financial support to community development projects. Combined with a new Credit Scheme to provide loans to such projects, the aim is to 'improve the socio-economic welfare of all amerindians and hinterland communities.' According to the Ministry website, there are now three established Credit Schemes in regions I, VI and IX — the Moruca Credit and Development Trust, the Orealla and Siparuta Credit and Development Trust, and the North Rupununi Credit and Development Trust.[16] At the time of writing, the Ministry of Agriculture was in discussions with the Rome-based International Fund for Agricultural Development to develop a more ambitious micro-credit and community assistance project for titled Amerindian villages.

Land titling and land rights

The single issue of greatest contention between the Government of Guyana and the Amerindians is the issue of land. Acceptance of indigenous peoples' rights to participation and to consent does not count for much *if it is not first agreed over what areas these rights are exercised.*

[13] http://www.guyana.org/NDS/chap22.htm.
[14] Rodrigues et al. 2004.
[15] http://www.amerindian.gov.gy/.
[16] http://www.amerindian.gov.gy/.

As the CERD has affirmed (see previous pages) and as made clear in the UN Declaration of the Rights of Indigenous Peoples, indigenous peoples' rights to land derive from their customary ownership, occupation and other use. They do not depend on any act of the State, the existence of which they may, in any case, predate. These rights endure until such a time as they are extinguished by a legitimate legal process or are voluntarily relinquished by the customary rights-holders.

At least since the 1966-1969 Amerindian Lands Commission's survey, Amerindians have been registering claims to their rights over their traditional territories, including the extensive areas where they hunt, gather, farm, fish and otherwise make their livelihoods. In some areas, using GPS and GIS technologies, Amerindians have prepared detailed maps which show the full extent both of their current and historical land occupation and use, and the boundaries of the areas that they claim rights to. Among the territories that have been mapped are those of the Akawaio and Arekuna peoples of the Upper Mazaruni in Region VII, the Arawak communities of Moruca in Region I and the Wapichan people of the South Rupununi in Region IX.[17] In the case of the Wapichan and Akawaio peoples, this mapping has been complemented by detailed community-driven processes to document the customary use of natural resources within these territories.[18] Moreover the Amerindian peoples making these territorial land claims have also asserted their rights to own and control their territories as peoples or as clusters of communities, and not just as single villages. This step is taken in recognition of the fact that their use of lands shifts and changes over the years and over the generations. As such, so they seek to not be confined to small areas around their current settlements where their immediate farmlands are.

An exhaustive study of the Akawaio and Arekuna peoples of the Upper Mazaruni, published in 2009 but based on over 40 years of research, shows in minute detail how these peoples have occupied and used the entire river basin (and also a much wider area) from before the time of first contact. Indeed, archaeological evidence suggests they resided in the same area for hundreds, maybe even thousands, of years prior to the arrival of Europeans. The study also explains how the Akawaio and Arekuna have organised themselves in occupying, using and managing their territory in ways that are not initially obvious to outsiders.[19]

As that case study makes clear, the strong association of people and land is unmistakable, and it clarifies why Amerindians claim rights to their territories — notably not just as the economic underpinning of their livelihoods, but also as the foundation of their very identities, their cultural heritage and their ways of life, which the Constitution of the Republic of Guyana explicitly protects. It is therefore argued that the Government has legal obligations under international law, under the Constitution and in line with the Common Law of Guyana to recognise Amerindian rights to their wider territories.[20] Indeed, the case of the Akawaio and Arekuna peoples of the Upper Mazaruni — who have sued the Government for recognition of their rights to the upper

[17] Colchester 2005.
[18] eg David et al. 2006. http://www.forestpeoples.org/documents/conservation/guyana_10c_apr_06_eng.pdf.
[19] Butt Colson 2009.
[20] Indigenous peoples' rights to their lands have been affirmed in the courts of several other countries with Common Law traditions including New Zealand, Australia, Nigeria, Canada, Malaysia, the Philippines and Botwana. They have also been upheld in countries with Dutch-Roman Civil Law traditions, as the case of the Richtersveld community in South Africa makes clear.

river basin — has been in the courts of Guyana since 1997, but more than a decade later has yet to be given a hearing.

Rather than recognising rights to land based on traditional use, the Government of Guyana has pursued an approach of 'granting' Amerindian villages titles to relatively small areas on a village-by-village basis. This follows the lead of the ex-colonial officials who comprised the main part of the Amerindian Lands Commission. Moreover, to date, the titling process only extends to a little over half of the Amerindian communities in the country, meaning that many communities are not legally 'Amerindian villages' and are thus considered to be squatters on State lands. As noted above, the deficient Amerindian Act does not provide clarification on how Amerindian rights to land should be determined based on their customary occupation and use. It instead gives the Minister unfettered discretion to unilaterally determine which lands should or should not be 'granted' to claimants.

Despite constant appeals for the adoption of a rights-based approach in conformity with Guyana's obligations under international law and the Constitution, the Ministry of Amerindian Affairs continues to insist on a restricted sequence of actions to recognise land rights. Communities must first agree to the demarcation of their existing titles (where they have them), after which they may request 'extensions' to their titles based on perceived need for additional farmland. The Minister may or may not agree to these extensions, at her discretion.

In the late 1990s, in an evident move to pressure all Amerindians to accept the Government's approach wholesale, the Ministry insisted that no new titles or extensions would be considered until *all* 64 Amerindian communities with existing titles had agreed to the demarcation. In 2002, when it was finally perceived that this policy was only creating enmity with the government, the policy was revised to allow communities to accede to the process — of first accepting existing titles through their demarcation and then applying for additional lands — on a region-by-region or even case-by-case basis.

Consequently, over the past 8 years, quite a number of communities have agreed to the demarcation of their titles and some have subsequently filed for extension. At the same time, with financial support from international development agencies, including the UK's Department for International Development, titles have also been granted to a number of the downriver communities that were previously altogether without title. According to the Ministry of Amerindian Affairs, currently '96 out of 169 Amerindian Communities' have been granted titles, 20 of these in the last 8 years. In addition, 6 communities have been granted 'extensions.' Overall, according to Government figures, this means that Amerindian titled lands now cover some 14% of Guyana's territory.[21]

[21] http://www.amerindian.gov.gy/.

5. Mining Boom:

> *Let me take this opportunity today to tell you what some of the provisions are so that you can have an idea. In terms of traditional mining the Village Council, with guidelines provided by the GGMC, will issue the permission. In terms of small and medium scale mining the Amerindian communities will have veto powers. Moreover, if the community and the GGMC agree for the mining to take place, the miner will be required to pay at least 7% tribute to the community. For large scale mining the State retains the right to over-ride non-consent by the community if the mining is determined to be in the national interest.*
>
> Carolyn Rodrigues, Minister for Amerindian Affairs, 2005[22]

Mining trends

Reflecting a buoyant market in mineral prices worldwide, the mining sector in Guyana has experienced a steady increase over the past ten years. Gold prices, in particular, commenced the decade at just under US$300 per ounce and peaked at over US$1,200 per ounce at the end of 2009.[23] This marks a 400% increase in the price of gold over the decade.[24] Diamond prices have also increased significantly over the same period, while manganese has fluctuated but shown overall gains. Only bauxite has been notably affected by the recent economic recession in the 'West,' with prices declining and then stagnating after hitting an all-time high in 2007.

These trends were directly reflected in production from Guyana's minerals sector. Gold mining has increased steadily in the country. As a result of the high world prices, small- and medium-scale operators have increased investment in mining equipment, including more sophisticated metal detectors, excavators, new types of dredges, crushers and heavy earth-moving equipment.[25] The expanded use of these more costly technologies has likewise increased access to gold bearing deposits, meaning both greater impacts on the environment and a wider footprint.

In fact, the very high prices of gold have caused quite a few miners to shift from the still lucrative business of diamond mining, to even more profitable gold-mining. By the end of 2008, the Guyana Geology and Mines Commission recorded 2,471 licensed dredges with a further 815 being registered in 2009 alone. During this period, gold production surged by 17.2% from the previous year's high, reaching the 'highest level of output by small and medium miners to date.'[26] Revenue from gold mining was the top earner for Guyana in 2009, and the 300,000 ounces that were legally sold netted the country some US$281.7 million.[27]

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[22] Rodrigues 2005.
[23] *Financial Times* 2nd Dec 2009. http://www.ft.com/cms/s/351cbf7c-df08-11de-be8e-00144feab49a,dwp_uuid=413b4c2e-b9f8-11dc-abcb-0000779fd2ac,Authorised=false.html?_i_location=http%3A%2F%2Fwww.ft.com%2Fcms%2Fs%2F0%2F351cbf7c-df08-11de-be8e-00144feab49a%2Cdwp_uuid%3D413b4c2e-b9f8-11dc-abcb-0000779fd2ac.html&_i_referer=http%3A%2F%2Fwww.ft.com%2Fcms%2F413b4c2e-b9f8-11dc-abcb-0000779fd2ac.html%3Fsegid%3D20001%26ftcamp%3Dtraffic%2Fsem%2Fuk%2Fgoogle_p4p%2Findepth_gold%2Fauddev.
[24] www.goldprice.org and www.kitco.com. Gold prices on spot markets were US$1,190 on 25th May 2010.
[25] http://www.ggmc.gov.gy/Documents/2009MineralIndustryReview.pdf.
[26] GGMC 2010.
[27] *Stabroek News* 25th May 2010.

The boom in small- and medium-scale mining has been mirrored by the increase in large-scale prospecting. Large-scale exploration and reconnaissance permits now extend to cover almost the entire northern two-thirds of the country, and it is probably only the high transport costs and inaccessibility of the southern third of the country that has discouraged equivalent exploration there. Even so, selected areas of the south have now been licensed as prospects and new medium-scale mines have opened in the Marudi mountains in the territory of the Wapichan people, with large-scale operations envisioned for the near future.

Under this project, a concerted effort was made to identify the main international companies exploring for mining prospects in Guyana, to highlight communities likely to be affected and to ascertain what, if any, policies the companies had in place with respect to local communities or indigenous peoples. The findings, although not exhaustive, are briefly summarised in Table 1.

The linked threats of bauxite and hydropower development

One of the most significant threats to Amerindians from the mining sector comes from the proposals of the Russian Aluminium corporation, RUSAL, to develop a major large-scale prospect on the lands of the Patamona peoples in Region VIII. This long-term project seeks to develop a huge open-cast bauxite mine near the Patamona Amerindian community of Kopinang and to link it to a smelter to convert the metallurgical bauxite into aluminium.

RUSAL's proposals to develop this prospect have been known for almost a decade, but the company has not been in a position to go ahead for both financial and technical reasons. Although RUSAL advertises itself as the 'world's largest aluminium producer,' the company went through a period of substantial losses during the recent global economic downturn, and only returned to profitability in the first quarter of 2010. During the same period, its subsidiary in Guyana, the Bauxite Company of Guyana Ltd., reduced production by 24%.[28]

However, the main factor thought to be limiting the mine's development is the lack of cheap power with which to run the smelter. Recent press reports suggest that RUSAL may now have found a viable financial and technical pathway around this obstacle; and in partnership with Brazil's State-owned hydro company, Eletrobras, the company is in negotiation with the Government of Guyana to develop a massive 3000 MW hydropower scheme just above Kurupung on a tributary of the middle Mazaruni River. The dam would serve the long term needs of RUSAL for power for its smelter, while also guaranteeing a reliable supply of electricity to Brazil's northern State of Roraima, which currently relies, somewhat nervously, on the politically and hydro-logically unpredictable supply from Venezuela's Guri dam.[29] The proposed deal would allocate the first third of the power produced to Brazil, the second third to RUSAL (if the company is ready for it, or to Brazil if not), and the final third to RUSAL (if it could commit by then).[30]

[28] http://rusal.ru/docs/1Q_Results_eng.pdf.
[29] Roraima currently secures most of its electricity through a long high tension cable connecting Boa Vista with the Guri Dam on the Caroni River. The dam suffers from high rates of siltation, due to illegal mining in the headwaters of the Caroni and Paragua, and in the past year nearly had to shut down completely owing to unprecedented drought.
[30] *Stabroek News* 20th May 2010.

Table 1: Large-scale mining prospects and operations

(Note: The following information is not an exhaustive list of all mining or exploration companies active in Guyana. It was variously collected and updated between June 2009 and March 2010, and as such may not be fully up to date.)

Company	**Area(s)** *and nearby Amerindian communities*[31]	**Social policies**
Takara Resources Ltd. (Canada)	Tassawini - *Chinese Landing* Joint prospects with Newmont under "BRL Venture" at Monosse and White Creek (see below)	No policies obtained or mentioned. Company is a member of the Prospectors and Developers Association of Canada (PDAC). For the BRL properties, if Newmont is the operator, Takara as junior would be obliged to respect the ICMM position statement on indigenous peoples.
Newmont Overseas Exploration Ltd. (in joint venture with Takara; local subsidiary is Newmont Guyana Incorporated)	Has major exploratory licence in Region 1. Prospects under investigation include Arakaka, Monosse and White Creek. *Barama River Caribs.*	Yes. ICMM member (see text).
Sacre Coeur Minerals Ltd. (Canada)	Mineral property holdings *1.* Kurupung - *Isseneru* 2. Issano - *homesteads* 3. Oko 4. Lower Puruni (Million Mountain) - *homesteads* 5. Potaro-Kuribrong - *homesteads and Mahdia* 6. Northwest - *Baramita* 7. Kartuni - *Kurutuku* Million Mountain in the main target and alluvial production of gold is now underway at that site.	No official policies, but claims to be committed to socially responsible business practices.
Argus Metals Corp. (Canada)	Holds licenses to prospect for uranium at Kaituma East and Kaituma West properties. These properties are located just 5km from the town of Port Kaituma.	No mention. Member of PDAC.
IAMGold Corp. (Canada)	Exploring Eagle Mountain - *homesteads, Mahdia, Cambelltown* Took over OMAI Mine from Cambior in 2006, rehabilitated the Omai site by 2008, and handed it back to the GGMC in 2009.	Has committed to respect the Universal Declaration on Human Rights and has social stewardship, health and safety, and sustainability policies. Member of the Global Reporting Initiative.

[31] *Homesteads* in the table refers to the presence of untitled Amerindian hamlets.

Gold Port Resources Ltd. (Canada)	1. Akaiwong (middle Cuyuni) - *homesteads* 2. Groete Creek	No mention.
Mahdia Gold Corp. (Canada) (Incorporating Aztek Resource Development Inc. and Wintercrest)	Tiger River property is near the town of Mahdia and not far from the now closed Omai Mine.	No mention.
Guyana Goldfields Inc. (Canada) (Local subsidiaries Aranka Guyana Inc., Guy Gold Guyana Inc.)	1. Aurora (Middle Cuyuni) - *homesteads* 2. Aranka (between Cuyuni and upper Waini) - *Kokerite* 3. Peter's Mine (Puruni) - *homesteads* Notably, Aurora is a major resource and in the wake of the discovery the GGMC opened up what had been a reserve area around the Kurutuku Homesteads under a special auction. A hydro dam may also be constructed to power the Aurora mine, with unknown impacts for upriver and downriver communities.	No specific policy but committed to 'best practice' and IFC Performance Standards, as it is financed by the International Finance Corporation. Member of PDAC.
Goldstone Resources Ltd. (South Africa) (Current role in Guyana is unknown, but may have taken over Migrate Mining permits (South Africa))	Exploration for gold, diamonds and bauxite: Kopinang - *Kopinang* South Pakaraimas - *Patamona and Karasabai*	No mention.
First Bauxite Corp. (Canada) (Locally active as Guyana Industrial Minerals Inc.,)	1. Bonasika 2. Waratilla - *Santa* 3. Essequibo West - *Rivers View/ Falmouth* (Essequibo-Demerara reconnaissance permission is a joint venture with Rio Tinto)	No mention. If mining is developed under joint venture with Rio Tinto as operator, obligations under ICMM would also apply to First Bauxite.
U308 Corp. (Canada) (Local operator Prometheus Resources Guyana Inc.)	Large-scale reconnaissance permissions and prospecting licenses to look for uranium in Rupununi, Potaro, Mazaruni, Cuyuni and Barama River basins. - *Wapishana, Makushi, Patamona, Akawaio, Arekuna and Carib peoples.* Main interest in Kurupung - *Isseneru and homesteads* Prospecting also in *Kato, Monkey Mountain* and *Paramakatoi.*	No mention of any official policies, but claims to be responsible to local communities and to conduct exploration in ways that are acceptable to the owners of the land. Member of PDAC.
Shoreham Resources (Canada) (Various agreements with Infinito Gold Ltd. (Canada) and its local subsidiary Romanex Guyana Inc., Mugravian Ventures, Mariwa Mining Company, Guyana Shield Resources Inc., and REMEX Participations (France))	1. Marudi Mountains - *Aishalton, Parabara, Karaudanawa* 2. Black Banana, Five Star, Guiana Shield Resources - *Baramita, Five Star, Eclipse Falls, Whana Creek, homesteads* 3. Potaro-Maple Creek - *Chenapau* 4. Otomung (Sardine Hill)	No mention. Both Infinito and Shoreham are members of PDAC.

Other bauxite developments that have likewise advanced in Guyana in recent years include those of First Bauxite Corporation of Vancouver, Canada and its local subsidiary, Guyana Industrial Minerals Inc. The company has begun studies of the potential of exploiting the 5.2 million metric tonne deposit of metallurgical grade bauxite at Bonasika on the lower Essequibo, and is continuing exploration at the neighbouring Waratilla-Cartwright prospect. If a mine at either site goes ahead they are likely to seriously affect the Amerindian community at Santa, which is situated on a creek just downstream of the Waratilla-Cartwright prospect. Any pollution from mining at Waratilla could prejudice the fishing and tourism ventures of the community at Santa, while the Bonasika site drains westward into the Essequibo itself near the Amerindian communities of Rivers View and Falmouth.

Further exploration of the Essequibo-Demerara reconnaissance area (which when granted stretched 150 km along the coast and extended over 2 million acres) is being funded under an agreement between First Bauxite and the international mining giant Rio Tinto. Notably, Rio Tinto is a member of the International Council of Metals and Mining, which has a position statement on indigenous peoples.[32]

Government policy on mining, the environment and Amerindians

The substantial increase in mining activity over the past 10 years has not been matched by a commensurate increase in State controls to limit the social and environmental impacts of the sector. Until recently, regulations adopted in 2005 that were designed to promote responsible mining — such as through the use of retorts to recover mercury during the flaming of amalgam and the impoundment of mine waste to allow sedimentation before waters are released back into rivers — have been largely disregarded by miners. These regulations are also unenforced by GGMC officials, who struggle to keep up with even their main responsibilities, which are to register properties, extract fees and control sales, and in doing so to stop smuggling and ensure the country gets a proper revenue stream from the sector.[33] Past efforts to clean up mining, such as those undertaken by Minister Samuel Hinds in 2001, when the Upper Mazaruni Mining Reserve was closed, have proven to be short-lived. In the case of the Upper Mazaruni, the area was re-opened to mining shortly afterwards.

However, the capacity of the GGMC to mitigate the environmental impacts of mining is being supported through three projects funded by the UNDP, the Canadian International Development Agency[34] and the World Wildlife Fund. These projects have mainly been oriented to building the capacity and numbers of GGMC staff able to enforce regulations and monitor the environment. The GGMC has also been exploring new means of re-vegetating eroded areas and claims it is preparing to introduce new technologies that will allow small- and medium-scale miners to recover up to 80% (up from 25%) of the gold in deposits.[35] The latter, nonetheless, could be

[32] ICMM 2009.
[33] There are also allegations that Guyana acts as a favoured export route for illegal diamonds smuggled out of neighbouring Venezuela, where controls are more lax. http://propagandapress.wordpress.com/2009/10/28/guyana-the-destination-of-choice-for-venezuelan-diamond-smugglers/.
[34] Phase 2 of its Guyana Environmental Capacity Development Project (GENCAPD) project.
[35] *Stabroek News* 17th April 2010.

problematic if these new technologies involve the use of cyanide. The European Union has called for the ban of cyanide[36] and while it has been credited with improving gold recovery, the combined use of mercury and cyanide increases the uptake of toxic by-products in aquatic systems. Indeed, even proponents of replacing mercury use in gold mining with cyanide have warned that 'change in labor procedures used by the artisanal miners will not be possible if governments do not engage mining communities in dialogue in a transparent way, considering their needs and expectations,' and caution that 'implemented measures are rarely sustainable if a permanent technical assistance is not established.'[37]

In April and May 2010, the GGMC did make an intensive effort to impose the new mining regulations. This led to a sharp reaction from miners suspicious that the crackdown was being driven by the Government's Low Carbon Development Strategy, which seeks to slow or reverse the rate of deforestation in Guyana (see following chapter).[38] But according to the GGMC, the Commission has taken legal action in cases where violations have come to its attention. Although most cases have been settled 'out of court,' the GGMC reports that seven companies have had their licences suspended for three to five years.[39]

Nonetheless, whereas the Government has adopted an express policy to allow Amerindians to veto small- and medium-scale operations proposed for their titled lands, there is little sign that the GGMC has been able to build up its capacity to ensure that communities are consulted before exploration and mining permissions are issued. Moreover, while the Mining Act should require that Amerindians are consulted about mining in areas of *customary use*, in fact, Amerindians are sometimes not even consulted when mining properties are issued on their *titled lands*. The details of several cases investigated under this APA/FPP/NSI project are given in the pages that follow, but our overall observation is that while GGMC has begun to make some progress in monitoring the environmental impacts of mining, there is less evidence of any real change in dealing with the social impacts.

Impacts on Amerindians

The report from Phase I of this project provided a detailed review of the impact of mining on Amerindians lands, livelihoods, health, nutrition and culture. Yet, it also recognised that many Amerindians are themselves involved in mining in various ways both as casual and as contracted workers — as guides, river pilots, labourers, cooks and as prostitutes — and by undertaking their own small-scale mining ventures.[40]

The findings from Phase II of this project show that the overall situation of Amerindians in relation to mining has not markedly changed, and may even have worsened. Examples of all the

[36] International Mining 29th May 2010.
[37] Veiga et al. 2009.
[38] The Guyana Gold and Diamond Miners' Association (GGDMA) has also alleged that GGMC staff discriminate in favour of Amerindians, being more lenient with Amerindians than with other miners. *Stabroek News* 30th December 2009.
[39] *Stabroek News* 25th May 2010. There are approximately 600 active mine sites in the country according to GGMC.
[40] Colchester, La Rose and James 2002.

problems identified in the first report are again found in the new areas investigated in the last 6 years.

The main complaints raised in interviews and testimony from Amerindian community spokespersons from Regions I, VII, VIII and IX include the following (where problems are reported from only one region, this is indicated):

- Mining continues to be permitted by the GGMC on (untitled) Amerindian lands without any prior consultation
- Mining is also being permitted within titles, without the proper involvement of Amerindian Village Councils, just based on the verbal assent of Toshaos
- Exploration is being permitted over both titled and untitled areas without any consultation or prior notification
- Communities are especially concerned when mining operations are upstream of their communities
- There has been a lack of response from both the GGMC and the Ministry of Amerindian Affairs to community complaints
- Mines are leading to forest clearance, river bank erosion, siltation and increased river turbidity
- Environmental destruction and noise from machinery, which scares away game
- Miners are not following environmental regulations, which require that they impound tailings and restore mine sites
- The resulting river and stream pollution is affecting communities
- River pollution is blamed for skin rashes, diarrhoea and vomiting
- There is widespread concern about mercury contamination (but little detailed information is available)
- There is an evident rise in malaria, dengue and typhoid consequent to mining
- There is a lack of medical facilities to treat affected persons
- Abusive labour conditions; no provision of compensation for injury
- Increased use of alcohol and recreational drugs resulting from the presence of miners and their alleged involvement in the sale of alcohol and drugs
- Abusive relations with Amerindian women in mining camps
- Prostitution of Amerindian women
- Trafficking of young girls (Region 1)
- Increased levels of violence in mining camps and nearby towns, lack of control of unlicensed weapons
- Miners ‘marrying’ Amerindian women demand residence in Amerindian villages
- Police harassment of community members when they complain (Region 1)

Many of these findings were backed by an independent study of the situation of Amerindians in relation to the mining sector, undertaken by the Human Rights Program of the Harvard Law School in 2007. Those specially highlighted by the Harvard team included:

- Drastic pollution of rivers with sediments
- Increased levels of mercury

- Deforestation and land degradation
- Increased malaria levels
- Prostitution, STDs and violence against women
- International and domestic trafficking in persons.

Underlying these problems, the Harvard study concluded, is an inappropriate legal and policy framework, institutional corruption and weak enforcement capacity.[41]

Nonetheless, field reports from community visits under the APA/FPP/NSI project did note some benefits, among them:

- Some larger mines and major prospects have supported local schools
- In some areas, roads have been upgraded
- Employment has been offered to villagers
- Stores have opened to supply foods and goods
- Cash income has increased in mining areas.

'If you can't beat 'em, join 'em'

During the period of the project, the involvement of Amerindians in mining also increased. Reports from communities in Regions I, VII and VIII noted that growing numbers of Amerindians own their own dredges and are operating on the titled lands of their own or neighbouring communities. Although field counts were not undertaken, reports suggest that there are as many as 63 dredges now operating within the Jawalla title in the Upper Mazaruni, 8 dredges in Warawatta/Kamarang,12 in Arau and an undetermined number in Micobie.

Mining within titled lands is not always a matter of choice by the communities. Some operations that have got underway have powerful outside backers, while in other cases communities are deeply divided over the issue, but choose not to make the existence of mines a matter of open dispute within their villages. It is reported that there is a widespread feeling in many Amerindian villages that, since mining appears to be unstoppable, Amerindians might as well take what they can now instead of leaving the minerals for others to take later. In at least two cases, Micobie and Isseneru, Amerindian communities have recently received titles only to find their newly titled lands already encumbered with mining permits issued by the GGMC to outsiders.

There is also widespread resentment among Amerindians in the south that the companies carrying out reconnaissance operations on their lands — usually without consultation, let alone consent — offer few jobs to local people. It is suspected by Amerindians that this is a way of keeping secret the areas of most interest to the companies, where they dig assay pits, as they fear that the communities will invade these areas to carry out small-scale operations while the companies negotiate for permits in Georgetown.

[41] IHRC 2007.

6. Climate Change and Forests:

Guyana has historically had one of the lowest rates of deforestation in South America, and since the early 1990s, the Government of Guyana has had an explicit policy of increasing national revenues by expanding commercial forestry while at the same time maintaining the current forest cover.[42] Although the majority of the northern two-thirds of the country's forests has been leased to logging companies, the main causes of actual forest loss are charcoaling of coastal forests by poor people unable to afford other cooking fuels and localised clearance for mines and roads. Forest degradation is, however, more widespread, due to centralised forestry laws, poorly managed logging, lack of recognition of local communities' and indigenous peoples' tenure, corruption and weak governance.[43] The role of mining in degrading forests is also increasingly being questioned.

Guyana has long experimented with means of getting international financial assistance to secure its forests. During the 1990s, the Government unilaterally offered a large chunk of the Makushi people's historic land claim to the Commonwealth for conservation and experiments in sustainable forest management. An international secretariat was set up to look after this area, the so-called 'Iwokrama Rainforest,' but it struggled to secure sustainable funding for its staff and had a tenuous management regime. For the most part, the 360,000 hectare project has relied on grant aid from the Commonwealth, the British, German and Dutch Governments, the European Commission, the Inter-American Development Bank, the UNDP, the Global Environment Facility and various private and charitable trusts and foundations. 'Sustainability' was nowhere in sight, but assertive advocacy did result in the programme being adjusted to take into account the rights and livelihoods of the local communities.[44]

In the mid-2000s, suggestions began to be made by the UK-based NGO Global Canopy Program[45] that it might be possible to finance these forests by internationally marketing the environmental services that they provide as 'new asset classes.' In 2008, a profit-sharing agreement was agreed between a private sector venture called Canopy Capital and the Iwokrama International Centre for Rainforest Conservation and Development.[46] The agreement gives Canopy Capital exclusive rights to market the environmental services of the Iwokrama forests in exchange for profit-sharing with the centre and with local communities. The agreement, which was hammered out without real consultations with the Makushi, had the enthusiastic blessing of the President of Guyana, Bharat Jagdeo.[47]

President Jagdeo has since been an energetic proponent of the idea that all the forests of Guyana could be marketed in a similar way. Under the plans developed by his office, future financing for reducing emissions from deforestation and forest degradation (REDD) would flow from the

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[42] Colchester and Lohmann 1990; GFC 2001.
[43] Colchester 1997, 1998; GFC 1997.
[44] See http://www.iwokrama.org/wp/wp-content/uploads/2010/05/Annual-Report-2009.pdf and previous annual reports.
[45] http://www.globalcanopy.org/
[46] *New Scientist* March 2008: http://www.newscientist.com/article/dn13549-investor-puts-his-money-into-the-rainforest.html.
[47] http://www.canopycapital.co.uk/page.asp?p=5501, http://news.mongabay.com/2008/0327-iwokrama.html.

carbon market, while interim funding from bilateral and multilateral donors agencies will be used to kick start REDD.

The central idea of Guyana's REDD proposal is that unless the country is paid to protect forests it will have no choice but to convert forest land to develop transport, mining, energy, timber and agricultural resources. A controversial study by the consulting firm, McKinsey, predicts that 'rational' economic choices would result in the destruction of all forests (outside protected lands) in Guyana within 25 years.[48] McKinsey proposes that between US$430 million and US$2.3 billion annually would be needed to pay Guyana not to destroy its forests.[49] Critics have challenged the figures, saying that they are based on seriously flawed land use and economic assumptions, and have further accused Guyana of blackmailing the international community by essentially threatening to deforest unless REDD payments are forthcoming.[50]

Nonetheless, interest from donors has been considerable. To conform to the various funding streams on offer, Guyana has developed two parallel policies. The first, which has been shaped to secure funding from the Government of Norway, proposes a Low Carbon Development Strategy for the country. A second project to conform to the procedures of the World Bank's Forest Carbon Partnership Facility (FCPF) proposes a plan to make the country ready for REDD, at a cost of US$3.6 million. The so-called REDD Readiness Preparation Plan (R-PP) is being consulted on at the moment.

Uncertain Implications for Amerindians

The LCDS and parallel R-PP obviously have major implications for the Amerindians. Their titled lands currently cover some 14% of the country, and land claims for the wider areas that they customarily occupy or otherwise use extend over between a third and a half of the interior. The LCDS and R-PP propose that Guyana will adopt measures to reduce emissions or at least slow down the rate of deforestation and forest degradation. Just how this will affect Amerindians is, however, unclear.

During 2008 and 2009, the Government promoted a series of "consultations" nationally and in the hinterland to promote understanding and gain public approval of the LCDS. In addition three "consultations" were undertaken by the World Bank in the hinterland to share information about the R-PP.

Neither project has yet been decided on definitively. In the case of the proposed R-PP, to be funded under the FCPF, the World Bank has made clear to the Office of the President that the project would have to be developed in line with the World Bank's safeguard policies, including its policy on Indigenous Peoples (OP 4.10). This is problematic for the Government of Guyana as it knows that its previous efforts to secure World Bank funding for projects in the interior

[48] GoG 2008:14.
[49] Ibid:10.
[50] Lang 2009.

could not be approved because Guyana's policies and laws regarding indigenous peoples do not conform to World Bank standards.[51]

As for the LCDS, the Norwegian Government has now signed a Memorandum of Understanding with the Government of Guyana agreeing to support the scheme with US$230 million over three years, conditional on due process being agreed. The agreement stipulates that Norway's funds would be handed over to a Guyana REDD-Plus Investment Fund (GRIF), which would be managed by a mutually-agreed but independent financial institution. The Government of Norway has proposed that the World Bank should take on this role, which would mean that this fund too would be subject to the World Bank's due diligence procedures and safeguard policies.

The Guyana LCDS and R-PP have received an unprecedented degree of coverage in the Guyanese and international press. This project, with the assistance of many other activists and NGOs, has logged literally hundreds of press articles, letters and blogs commenting on and criticising various elements of the scheme. What is most obvious in this material is that the exact direction that the LCDS will take is far from clear and that much remains to be decided.

For instance, what follows is just one example of how Amerindians could be affected. In recent weeks the President has announced that a proposed 840MW hydro-electric project at the Amaila Falls on the Kuribrong Creek, a tributary of the middle Potaro, is to be funded from some of the first monies to be secured by Guyana under the LCDS. Notably, apart from the impacts of the dam itself, the project will require the upgrading (to a major load- bearing road) of what is currently a rough track into the lower hills of the Pakaraima Mountains, inevitably also opening up this area to other interests (including potentially mining). Obviously, the Patamona Indians in whose lands this project will go ahead are concerned. The press, too, has been full of further questions, claims and counterclaims: How was the contract for the road awarded? Does the company that won the contract have a track record building roads? Similarly, what is the track record of the dam construction company? Has there been an ESIA? How will wider environmental impacts be controlled? Will there be net climate gains? Will the electricity generated really be cheaper than current power?

The uncertainty in the LCDS process must be noted. Just as the wider nation is unclear of its implications, these implications are especially unclear for Amerindians, whose territories comprise much of the forested land in Guyana's interior.

[51] Sobrevilla 2008:41.

7. Amerindian Response:

Amerindian organisations have been under concerted pressure to respond to the multiple demands on their lands from mining, logging, hydropower projects, road-building programmes, proposed agribusiness schemes, conservation initiatives and now from REDD+. Whereas international norms (nominally upheld by the Guyanese Government) affirm that Amerindian rights over their traditional lands and rights to give or withhold their 'free, prior and informed consent' to developments that may affect them should be recognised, in practice their claims to their wider lands are being ignored. In addition, even those measures that have been taken to provide information have been inadequate, as have those designed to allow consultation or community-based decision-making.

In these circumstances the main independent indigenous peoples' organisation, the Amerindian Peoples Association, has two main responsibilities. The first is to continue to insist to national and international agencies that they must respect indigenous peoples' rights. The second is to provide as much detailed information as possible to the communities it represents so they can make up their own minds about how to deal with these impositions.

However, the situation of the Amerindians has been complicated by the fact that the Government has managed to gain effective control of the National Toshaos Council, the constitutionally-established body that brings together all the elected Captains of the officially recognised Amerindian Villages of Guyana. The NTC is meant to be an independent mechanism that allows self-governing Amerindian villages access to articulate their communities' concerns and to engage in national decision-making processes. Unfortunately, power within the NTC has been unduly concentrated in the position of the Chairperson, who has become prone to making statements in the name of all the Amerindian peoples of Guyana without even conferring with the 20 Toshaos who make up the Executive Committee, let alone the full membership of the Council. Recently, the NTC Chairperson was also appointed to co-lead the Government delegation to the UN Framework Convention on Climate Change alongside the President;[52] while moves are underway to set up a secretariat for the Council within the Ministry of Amerindian Affairs. Some members of the NTC and Executive Committee are increasingly concerned by this loss of independence.

Addressing the Mining Sector:

As noted in the preceding pages, there is no sign that the GGMC or Ministry of Amerindian Affairs have heeded the detailed recommendations directed at them in the report from Phase I of this project. Although the Amerindian Peoples Association has held meetings with the Prime Minister (who is also the Minister for Mining) to raise concerns and make suggestions, this has not led to any perceptible change in laws or policies designed to protect Amerindian rights.

During Phase II, the project thus focused its efforts on strengthening community capacity through, *inter alia*, undertaking community workshops and developing training materials that

[52] Press Release by MoAA 26th March 2010.

were accessible to Amerindians. These included a series of brochures, which summarise the findings of Phase I by region,[53] as well as soon to be finalized reference guides on free, prior and informed consent,'[54] environmental and social impact assessments and on benefit sharing agreements. Exchanges with representatives of Indigenous organizations and communities in Suriname were also facilitated, as was a series of 'training of trainers' workshops which brought representatives and leaders from Amerindian communities together with national and international experts for training on such topics as FPIC, ESIAs and IBAs.

Rather than promoting national-level multi-party dialogues about mining in terms of general policies (as had been originally proposed), it was decided that it was more important for Phase II to focus on specific cases where communities were concerned about their situations with respect to mining and were seeking specific changes. This was in line with the APA's commitment to finding workable solutions that build on community realities and capacities. Three cases thus became the focus of attention in Regions I, VII and IX.

Chinese Landing (Region I)

Chinese Landing is a Carib community of about 85 people, within whose title lies the Tassawini mine, a large open-pit gold mine which was originally opened during the colonial era. A local miner, Wayne Vieira, subsequently operated a small open-pit operation to rework the tailings from the original mine during the 1990.[55] Commencing in 2004, the Canadian company StrataGold, started more intensive exploration on the site with a view to developing it as a major large-scale gold mining project. By 2005, the company had rehabilitated the airfield, installed a large camp (including kitchen, mess, medical post, workshops and dormitory), upgraded its roads and was engaged in intensive assays, at a total reported cost of about CAD$6 million per year.

During 2005, community members, with the assistance of the APA, raised their concerns with the Government and the site was visited by the Prime Minister, as Minister for Mines, and the Minister for Amerindian Affairs. However, they informed the community that the mine was going ahead in the national interest and they advised Chinese Landing leaders to negotiate an agreement with the company to secure benefits.

Although StrataGold had bought out Wayne Vieira's interest in the site, he was being permitted to continue a medium-scale open pit operation within the StrataGold permit area. In June 2006, Wayne Vieira negotiated a signed agreement with the Toshao and four other council members in which the miner agreed to pay the community 1% of the gold sales (which in 2006 amounted to

[53] APA 2005a Mining and Amerindians in Guyana: study highlights from Region 1; APA 2005b Mining and Amerindians in Guyana: study highlights from Region VII; APA 2005c Mining and Amerindians in Guyana: study highlights from Region VIII; APA 2005d Mining and Amerindians in Guyana: study highlights from Region IX. A documentary film by Canadian Film-maker Emily Wilson about mining in Region IX also complemented this project: http://www.canada.com/ottawacitizen/news/stry.html?id=3337d1e9-4a91-4c11-a4ea-bd553eb7efa1&p=2.
[54] Forest Peoples Programme, May 2006, *Free, Prior and Informed Consent: a field guide for activists*, Ms. Working draft.
[55] And see Phase 1 report for details: Colchester, La Rose and James 2002.

G$110,050 from recorded sales of G$1,104,968).[56] Notably, the Amerindian Act sets 'tributes' from small- and medium-scale mining at 7%.

According to available records and community recall, StrataGold did not follow due process for obtaining the community's 'free, prior and informed consent' before it commenced its operations. The company did make an agreement with the elected village Captain to mitigate some of the social impacts of its operations and to provide assistance in terms of schools and health facilities. For example, huts were fogged to reduce malaria and the community was given a small outboard engine. The company also adopted policies to prevent access to the mining camp by prostitutes and was drug testing personnel, who were discouraged from leaving the mine site and were rotated back to Georgetown for leave on a 6 weeks in and two weeks out basis.

Yet interviews with the villagers revealed problems. Despite the establishment of tailings ponds, river pollution in the area is still concerning, and fish are reported to be increasingly hard to catch. Malaria, typhoid and sexually transmitted diseases were also mentioned as problems. Personnel were reportedly making their way from the mine site down to the village, a distance of about 3 miles, where they had encouraged villagers to consume alcohol and marijuana. We recorded allegations that this had led to miners having sexual relations with village girls as young as 10 years old.

With the assistance of David James, an Amerindian lawyer accompanying the APA project, a revised memorandum of understanding (MoU) between the community and StrataGold was elaborated and was presented to the StrataGold site manager, Leandro Pires, in 2008, as the basis for negotiations. However most of these recommendations were not followed up on by StrataGold, and meetings scheduled to be held under the MoU did not take place, despite several requests from the community. In 2009, it transpired that StrataGold had sold up its interest to a new company Victoria Gold, also of Canada, which in turn sold the property to a third Canadian company, Takara Resources Inc. (although Victoria Gold reportedly retained 56% ownership). Takara's immediate intentions towards the Tassawini site remain unclear, although company documents reflect a belief that the MoU with the community is still in place. Nonetheless, interviews with the community in October 2009 revealed that they had not been informed about these changes in ownership by StrataGold, but had learned of them from others in the area.

Meanwhile, controversial medium-scale mining by Wayne Vieira continues on site. Members of the community travelled again to Georgetown in October 2009 to meet once more with the GGMC and MoAA to clarify the status of Wayne Vieira's operations. The 'meeting with the Minister for Amerindian Affairs was not fruitful.' The GGMC informed the community representatives that Wayne Vieira had secured 4 medium-scale permits on their titled lands. 'GGMC assured the Council that if they do not wish to permit Wayne Vieira on their lands then they would have to write to GGMC and their decision would be respected.'[57] As of March 2010 he remained on site.

[56] At the time the US$1 was worth approximately G$200.
[57] The quotes are verbatim texts from an APA workshop report.

Arau (Region VII)

Gold and diamond mining has been active on the Cuyuni since the 1890s and sporadically reached up into the headwaters by the 1930s. However, the upper river has become much more accessible in recent years due to the establishment of airstrips and road connections on the Venezuelan side of the border. The Akawaio settlement of Arau received a small title to its lands in 1991 and many members have been actively involved in mining for many years. Most dredges are financed and operated by non-Amerindians, including Brazilians, Colombians and Venezuelans, but some are also Amerindian-owned.

For several years community members have been concerned that mining was encroaching on areas and waters essential to their livelihoods for farming, fishing, drinking, cooking, bathing and other uses. Appeals to the Government to suspend the licences in areas immediately adjacent to their titles were not heeded. In 2007, therefore, the community applied in writing to the Ministry of Amerindian Affairs (with copies to the President of Guyana and the GGMC) for an extension of their title so that they could regain control over the disputed area. Apart from acknowledging receipt of the application, no action was taken by the Ministry, and the mining continued. In 2008, therefore, the community took legal advice and filed a case in the courts citing violations of Article 1.12 of the Mining Act, which prohibits mining in areas that would affect Amerindians' livelihoods. Yet even after the suit was filed in the court, the GGMC issued two further permits to miners to operate on the community's traditional lands.

The case was heard in 2009, with the court ruling in favour of the community. This was followed by further meetings between the, the GGMC and the MoAA, in which the Minister agreed to look into the matter. Although some mining was temporarily suspended, according to the community's leader, since the judgement 'things have only got worse.' The GGMC has not acted definitively to halt the illegal mining operations. Moreover, on 26th April 2010, almost three years after their application for an extension, the community received a letter from the Ministry asking the community to permit the demarcation of its title. The community fears that this step will just serve to confirm that their rights only extend over the small area which was titled to them by the Hoyte Government in 1991, whereas their main dispute is with the mining on their untitled lands, adjacent to and upstream of their village, where the court has agreed that mining should not be permitted.

Marudi Mountains (Region IX)

During 2008-2009 a project to develop a large-scale gold mine on the lands of the Wapichan just south of the titled lands of Aishalton and Karaudanawa went ahead even though free, prior and informed consent was not respected, the ESIA document and information on potential adverse impacts had not been subject to culturally-appropriate prior consultation, and no benefit-sharing agreement was negotiated with the communities. The mine development has bitterly divided the community between those seeking to secure the communities' control over customary lands and those seeking to extract what benefits they can from the mine's presence. However, although the Village Council decided not to try to stop the mine from going ahead, it was able to insist on an increase in the width of the buffer zone; and, as of March 2010, final approval of the draft ESIA was still pending, owing in large part to concerted advocacy by some community members.

* * * *

There are various common features in all these cases that show how difficult it is for Amerindians to deal with miners in ways that uphold their rights and interests. They include:

- The wider rights of the Amerindians to their customary lands are not recognised by the government, meaning that the communities are not considered when permits are issued over their customary lands
- Even when issues are brought to the attention of the Government, no actions are taken to address community concerns
- The Government has ignored court injunctions and has continued to hand out mining permits in contravention of the Mining Act
- The Government has invoked 'the national interest,' which has further weakened the bargaining position of communities with respect to mining
- Communities are provided little or no information by the companies and the government about proposed operations
- Apart from training and awareness-raising undertaken through this project, no efforts have been made to build the capacity of the community members through knowledge of their rights or the implications of mining in terms of social and environmental impacts, costs and benefits.

Promoting alternative livelihoods:

One of the main reasons that Amerindians identify for their own involvement in small- and medium-scale mining is that they lack viable alternative means of securing cash incomes. It was therefore agreed that a key research activity of this APA/FPP/NSI project would be to provide an assessment of Amerindian livelihoods to ascertain viable options. The result was a very detailed study, available in the form of a brochure.

It found that many Amerindian communities have found ways of diversifying their economies and engaging in the cash economy and noted that many business initiatives are led by women. However a number of important limitations were identified, especially the lack of land security, the short-term nature of most income-generating interventions, institutional weaknesses within communities and undeveloped marketing options. The key to success lies in long-term follow through, flexibility in choosing income-generating options and an avoidance of prescriptive interventions. The study also showed that in terms of short term cash returns, it was unlikely that such initiatives could generate as much money as mining.[58]

[58] APA, NSI and FPP 2010.

Securing rights through the LCDS and FCPF:

Amerindian communities have faced a major challenge in getting information about, understanding and then making informed choices in response to the Government's new proposals to curb deforestation in exchange for global payments. Among the core questions to which they have sought answers are the following:

- Will their rights to lands and territories, with their associated vegetation and carbon stores, be recognised?
- Will this be done in accordance with international law, or within the restrictive framework of the Amerindian Act and the current procedures of the MoAA ?
- Will their right to decide whether or not their areas are included in the Government's plans be respected?
- If they are to be involved, what changes in land use and livelihood would be required?
- How would they benefit from any revenues that would flow to Guyana under these projects?
- How would it be assured that benefits were distributed equitably and fairly?
- How long would these benefit streams continue?

There have also been wider questions about the overall scheme:

- How will it address the direct and underlying causes of forest loss in Guyana, including from mining and forestry?
- How will forest loss, deforestation and forest degradation be defined?
- How will the effectiveness of actions taken to curb forest loss be measured and against what baselines?
- What is a fair market value for carbon?

During the course of this project and with the assistance of other indigenous peoples organisations and NGOs — among them NSI, FPP and Rainforest Foundation – Norway — the APA organised a number of community-level meetings to help communities think through these proposed projects and how they should deal with them. The most evident, if unsurprising, conclusion from these meetings was that communities feel ill-equipped to come up with ready responses to the proposals. Most of the documents provided by the Government and the World Bank are highly technical and difficult to comprehend. This has left many asking questions like: 'What is REDD+? What is carbon? What are carbon markets? What is global warming?' Project partners thus developed a series of briefings aimed at helping communities grapple with these concepts.[59]

Despite such questions, communities could readily appreciate that these new policies would have major implications for them, implications which needed to be clarified. Among the most telling comments made during the community meetings were those that queried the implications of this new approach to financing forest conservation for Amerindian ways of life. Does this mean,

[59] Guides developed included materials on what is REDD?, what is FPIC?, Indigenous rights and the LCDS, the World Bank's policy on Indigenous Peoples etc. See also APA and FPP 2009.

asked one elderly woman, that there will be 'sardines for breakfast?' — a question which could be unpacked to mean: Will these benefits reach all of us? Will these benefits be practical? Will we become dependent on store-bought foods in place of our traditional ways of making a living?

An assessment of official 'consultations' on the LCDS, carried out for the Guyanese and Norwegian Governments by the International Institute for Environment and Development (IIED), noted that the process had made a serious effort to reach out into the hinterland and was, on the whole, inclusive, flexible and ongoing. However, it also accepted that the meetings had been too brief, that documents had not been provided early enough in advance, and that both the documents and the discussions included concepts that were hard for participants to grasp. IIED recommended that these deficiencies would have to be corrected in future phases through the more timely provision of information in more appropriate formats.[60] It is, however, evident that the IIED team has not comprehended (or has chosen to ignore) the discrepancies between the process of granting rights to Amerindians according to the Amerindian Act and the obligations of Guyana under international law.[61]

Towards Free, Prior and Informed Consent and Territorial Rights?

The LCDS is still evolving. As it stands the process only recognises Amerindian rights over titled lands,[62] and not their rights to their wider territories. This is a limitation that Amerindians find hard to accept. In March 2010, in the face of demands to respect their right to free, prior and informed consent, the Office of the President issued a draft concept paper – yet to be reviewed by the NTC or discussed in wider forums – which sets out a process by which titled Amerindian villages can decide to 'opt in' to the LCDS. If they decide to 'opt in,' they can then expect to choose what new services they will have:

> …such as expansion of social services including health and education, provision of low-carbon energy sources… and provision of clean water… When communities decide to opt in they will need to determine what, if any, action they wish to take on traditional rotational farming methods…. The Government of Guyana supports the view that these practices should be allowed to continue: however, it will be necessary to integrate this policy position with guidance that is given by the wider UNFCCC process.[63]

Obviously there are many uncertainties still to be ironed out and as the Office of the President makes clear, 'the technical details of the design of an Opting in Mechanism are to be developed and may change over time.'[64] As currently conceived, 'opting in would be a choice made by a [two thirds] majority decision of a duly constituted meeting of the village, not just the Village

[60] Dow, Radzik and MacQueen 2009:7-8.
[61] Ibid: 11, 57-58. The team appears to confuse the need to address the rights of 'untitled communities,' which it admits, with the need to recognise the rights of Amerindians to traditional lands that have not been included within titles, which it ignores (and see Ibid. Annex 1.).
[62] GoG 2010c:34-35.
[63] GoG 2010c:35.
[64] GoG 2010b:3.

Council.'[65] The community would then be entitled to payments 'through a performance based model of avoided deforestation' which would be verified through processes of monitoring, reporting and verification to be stipulated in an agreement signed between the Government and the village. How the village would show its plans to reduce deforestation is also unclear although it 'could be a Community Forest Management Plan setting out how the village would need to maintain or reduce its deforestation rate.'

Although the Government insists that its proposed 'opting in' process is in line with international norms and FPIC, the current formulation has the character of a 'take it or leave it' offer which leaves little room for indigenous initiative and negotiated settlements. Perhaps the draft proposal will be adjusted in upcoming consultations, in response to the increasingly public concerns of Amerindians.

Towards consensus?

During the closing stages of the project, a number of national and international meetings were hosted by the Amerindian Peoples Association with the substantial participation of indigenous peoples from the region. Together, they reaffirmed their key demands with respect to the mining, infrastructure and climate-related policies.

The first, held in Georgetown between 13-17 April 2009, was a regional assembly of the national indigenous peoples' organisations, APA, OIS and FOAG, from Guyana, Suriname and French Guyana. Box 1 presents excerpts from the resulting resolution, which addressed climate change and REDD**.**

Box 1: **Resolution on Climate Change and REDD**[66]

1. The global community, and in particular the Governments of Guyana, Suriname and France, must explicitly recognize indigenous peoples as rights-holders in all climate change discussions, not merely stakeholders.
2. United Nations Declaration on the Rights of Indigenous Peoples must be fully respected by governments, private sector, NGOs, international donor organizations, financial institutions and other actors.
3. Particularly, all actors must respect the land rights of indigenous peoples, the necessary integrity of our territories and the unbreakable relation between our land rights and our existence; furthermore our right to self-determination and to decide over our own course and means of development; and our right to fully and effectively participate in all matters affecting us through processes that respect the principles of free, prior and informed consent (FPIC).

[65] GoG 2010b:4. The bracketed text comes from later on the same page where it says 'the decision to opt in must be made by two thirds of the village…'
[66] APA, OIS, FOAG 2009.

Box 1 *(continued)*

4. All actors must recognize and act accordingly, that forests are not merely tradable commodities in climate change and/or carbon schemes but represent other, higher values to indigenous peoples who have cared for and maintained such forests over many centuries. We will simply not allow any REDD or other scheme that violates our rights and interests.
5. Much more information-sharing and capacity strengthening on the complex issues of climate change, REDD, financial facilities and funds, and the governance mechanisms around such mechanisms must be provided to our organizations as a matter of priority, in order to educate and strengthen the capacity of our peoples and communities, to be able to participate effectively and take informed decisions.
6. Legal regulatory frameworks on forest management must be reviewed and/or reinforced as necessary, more strongly recognizing the rights of indigenous peoples and our role in managing, monitoring and enforcing regulations related to forests.
7. Further legislation and common norms must be developed for the protection of forests and for compensation schemes, with full and effective participation of indigenous peoples and following FPIC principles.[67]

In March 2010, after a series of APA/FPP/NSI sponsored workshops in Georgetown to examine the proposals made to date, Toshaos, village, regional, district and community leaders, and APA Executive members from the 8 regions demanded action from the Government of Guyana and the international community to advance the land rights of indigenous peoples and ensure that the right to free, prior and informed consent is respected in line with international law. Toshao Devroy Thomas, from Arau, in Region 7, stated:

> Our top-most priority is to secure our traditional lands and territories. Outstanding land claims must be resolved and our rights secured before mining, logging, or any other project that may have direct or indirect impacts on our traditional lands, territories and resources proceeds.

Over the week-long learning event, leaders shared experiences with both public-sector and private development projects and proposals within their territories, and concluded that current practices in Guyana do not adequately respect the rights of Indigenous Peoples. David James, the Amerindian lawyer who has been accompanying the LCDS 'consultation' process over the past 10 months, insisted that:

> The principle of free, prior and informed consent, which is enshrined in the National Constitution, the UN Declaration on the Rights of Indigenous Peoples endorsed by Guyana, and international treaties to which Guyana is a signatory demands more of the Government, of developers, and of international donors than is currently practiced.

Participants were particularly critical of mining and exploration practices. They noted that neither the GGMC nor private developers appeared to be following the law, which requires prior notices for concessions and permits, or even prior consent for small- and medium-scale mining

[67] Guiana Shield Resolution: http://www.forestpeoples.org/documents/forest_issues/guiana_shield_climate_chng_resolution_apr09_eng.pdf.

activities affecting titled Amerindian Lands under the Amerindian Act of 2006. They likewise expressed serious concerns over the failure of the responsible authorities to fully implement FPIC in accordance with the international obligations of Guyana, including in relation to untitled traditional lands. Amrita Thomas, community leader from Kamarang, in Region 7, noted:

> We heard many stories from each region, where large-scale projects being undertaken by foreign companies are proceeding, but where relevant authorities such as the GGMC are failing to provide us with the necessary and timely information required to inform our communities and uphold our right to consent. This must change.

What follows in Box 2 is an excerpt from the public statement issued by workshop participants, which summarizes their experiences around mining and FPIC.

Box 2: Public Statement by Participants in a training of trainer workshop on *Indigenous Peoples Rights, Extractive Industries and National Development Policies in Guyana*, held at Cara Lodge, Georgetown, Guyana (March 2-8, 2010)[68]

After reviewing recent maps of mining concessions and exploration permits issued by the GGMC, we are alarmed that many of these concessions directly impact on our traditional lands (titled and untitled). Toshaos and leaders from Region 8, for example, complain that large-scale uranium and gold permissions linked to U308 Corp and Mahdia Gold Corp directly affect the traditional lands and territory of the Patamona people. Moreover, they point out that affected Amerindian communities do not have access to adequate information on these mining interests nor on their specific mining and exploration plans in Region 8. In Region 9, the extensive mining expansion proposals of Shoreham Resources Ltd and Infinito Gold Ltd around Marit-tao (Marudi Mountain - *sic*) will directly impact on the traditional lands of Wapichan communities, yet the ESIA document and information on potential adverse impacts has not been subject to culturally appropriate prior consultation, and in no place respects the collective right to free, prior and informed consent of affected communities.

In Region 1, GGMC has granted four medium-scale mining permits to a Guyanese miner in the titled traditional lands belonging to Chinese Landing. These permissions have been issued against community wishes and without the knowledge or prior consent of the affected Amerindian village. Despite community complaints to GGMC and MoAA, the miner continues to operate in the area. At the same time, Brazilian and Guyanese mining interests continue to degrade and pollute waters and riverine habitats within community lands without adequate controls and regulation by GGMC.

We are dismayed that prior information on mining industry projects and investments has not been made available in our communities and that mining permissions continue to be granted by GGMC without our knowledge and without the free, prior and informed consent of affected Amerindian communities. Relevant authorities such as the GGMC are still failing to provide us with the necessary and timely information required to inform our communities and uphold our right to FPIC.

[68] Full statement available at: http://www.forestpeoples.org/documents/s_c_america/guyana_apa_wshop_statement%20_mar10.pdf.

The lack of access to information about the LCDS as it evolves was also of concern to Amerindians. Roger Alfred, a Patamona leader from Paramakatoi village, in Region 8, emphasised:

> It is not acceptable that communities should be referred to government web sites to obtain the second draft of the LCDS document or other official information when we do not even have telephones.[69]

Participants at the same meeting likewise elaborated on their concerns with the LCDS / REDD process in more detail in the public statement (see Box 3).

Box 3: **Statement regarding the LCDS and REDD+**

We as workshop participants and community leaders affirm that our peoples have historically contributed to the maintenance of the environment and forests in Guyana and we continue to contribute to reducing international climate risks. We are concerned that current national and international policies do not adequately recognise our positive role and fail to protect our rights, including our right to FPIC.

In relation to the LCDS outreach activities carried out in 2009, for example, participants reported that meetings lacked prior information, were often rushed and only lasted a few hours and also suffered from weak or non-existent translation support. Participants also expressed concern that numerous recommendations made in the LCDS meetings in 2009 have not been taken on board in the latest draft (December 2009) of the LCDS document, most notably our communities' recommendations relating to land rights and the 2006 Amerindian Act, among other critical issues.

With regard to the REDD-plus proposals of the Guyana Forestry Commission and World Bank, we wish to communicate strongly that virtually nobody in our villages has any notion of what REDD-plus and carbon trading are about, nor how these proposals might affect their rights, interests and way of life. We are especially concerned that information on how REDD-plus might affect our traditional activities like farming is now confused, with previous commitments to protect these practices now being withdrawn by government (draft LCDS document). The confused information and changing government positions on core issues calls into question the credibility of LCDS outreach efforts and whether information is being provided in good faith.

We are deeply concerned that the LCDS and REDD-plus proposals still do not contain adequate measures to ensure full respect for our collective rights over our traditional lands, protection of our livelihoods, and do not meet international standards prescribed in the UNDRIP, and other conventions ratified by the government of Guyana.[70]

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[69] See APA Press release 9th March 2010: http://www.forestpeoples.org/documents/s_c_america/guyana_apa_press_release_mar10.pdf.

[70] Statement from the meeting: http://www.forestpeoples.org/documents/s_c_america/guyana_apa_wshop_statement%20_mar10.pdf.

Sadly, Amerindians attending the March workshops later reported being harassed and even threatened just for participating. The APA was obliged to issue a press release condemning the Government for lack of respect for their right to information and to seek to assert their rights, while clarifying that such criticism should not been seen as outright rejection of the LCDS as a whole.[71]

What seems to have angered the Government was the fact that during the same meeting, Amerindians had the temerity to write directly to the Norwegian Government seeking clarification of the terms of the agreements between the Government of Guyana and the Government of Norway. The letter highlighted the deficient ways Amerindian rights are protected under Guyanese law, contrary to international norms as noted by both CERD and the World Bank. It also pointed to deficiencies in the 'consultations' have been carried out to date, and asked for assurances that the Norwegian Government would ensure that implementation of the LCDS would be fully in accordance with international laws to which Guyana is a party.[72]

In April, the APA and Rainforest Foundation-Norway subsequently convened another workshop, with the participation of numerous community members from the interior, which further explored the significance of Guyana's Low Carbon Development Strategy. This meeting provoked an extraordinary reaction from the Ministry of Amerindian Affairs. Along with a number of Amerindians bused in from the Amerindian hostel, the Minister herself picketed outside the APA's information-sharing workshop. When delegates from the meeting came out to speak to the Minister, and offered her a set of the workshop papers, the Minister refused to accept the package, saying that it should be submitted to her through her office.[73]

* * * *

Taken together these meetings convened many of the most experienced indigenous leaders from the region and despite their very different backgrounds, experiences and institutional affiliations, they were unanimous in affirming the vital need for governments, companies and development agencies to respect their rights. This point has to be made because of the continuing misinformation being purveyed by government sources, who assert that only a handful of protestors are speaking out against the government's policies. The reality is rather the contrary; Only a handpicked group of indigenous spokespeople are uncritically speaking out in favour of government-imposed policies.

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[71] APA Press release 12th March 2010 : Indigenous leaders harassed for expressing their views: http://www.forestpeoples.org/documents/s_c_america/guyana_apa_press_rel2_mar10_eng.pdf.
[72] Letter from APA to Norwegian Government 10th March 2010: http://www.forestpeoples.org/documents/s_c_america/guyana_lcds_redd-plus_let_to_norad_mar10_eng.pdf.
[73] *Kaieteur News* 10th April 2010: http://www.kaieteurnewsonline.com/2010/04/10/amerindians-divided-over-lcds-minister-joins-protest/.

8. Pathways to the future:

The future of indigenous peoples is tied up with their lands, which is underscored by the title chosen for this report: 'Our land, Our future.' A constructive way forwards, one that will heal the growing rift between Amerindians and the Government of Guyana, will only come about when Amerindian peoples' rights to own and control their lands and territories are respected in national laws, policy and practice, in line with Guyana's obligations under international law.

Reiterating the recommendations made by Amerindian leaders in the public statement from the final training workshops of this project, our concluding recommendations are as follows:

- We again call for urgent measures to establish effective, fair and transparent mechanisms to clarify Amerindian land and territorial rights in Guyana, including measures for a land rights settlement procedure that must involve indigenous representatives and experts freely chosen by our communities. Delineation, demarcation and titling must be based on customary occupation, land use and traditional tenure in full conformity with relevant international norms.

- We demand that the GGMC and other relevant national authorities take urgent measures to fully respect our right to free, prior and informed consent and take necessary actions to ensure the full respect of FPIC principles in the zoning of mining areas, issuing of permits and licenses and in the implementation of all mining activities that may affect our traditional lands and territories, in accordance with national laws and relevant international standards.

- We demand that the GGMC adhere to their legal obligation to give prior notice and information to our communities and to respect FPIC before the granting of permits and concessions that may impact directly or indirectly on our lands and ways of life.

- We urge the Environmental Protection Agency (EPA) to update their ESIA regulations, and to keep them up to date, to respect international environmental standards under the various international instruments that Guyana has acceded to and international best practice, including the *Akwe:kon voluntary guidelines for the conduct of cultural, environmental and social impact assessments.*

- We urge the EPA and other relevant government authorities to ensure that all national and foreign companies and investors (mining, agricultural, aquaculture, timber, carbon etc) fully conform to ESIA regulations and uphold the right of FPIC for indigenous peoples.

- We call on the government and donor agencies to provide funds and support for the installation of telephone and internet connections in all Amerindian communities in Guyana — powered through local small-scale sustainable energy sources and including through the use of satellite connections — as a matter of priority to enable timely access to public policy information, especially in relation to the government's current LCDS and REDD-plus proposals and new mining developments.

- We demand that all relevant government agencies such as the GGMC, EPA and Guyana Forestry Commission (GFC) provide communities with all required information about proposed projects that may affect our traditional lands, and seek FPIC from the affected indigenous peoples and communities.

- We call on the government and donor agencies to take effective action to ensure that our recommendations on rights, FPIC and land issues are fully incorporated into the LCDS and REDD-plus policies and that our collective consent is sought prior to the adoption of these policies in accordance with Article 19 of the UNDRIP.

- We demand that any official procedures for "opting in" to (and opting out of) LCDS or REDD+, or any other government programmes, be based on established principles of FPIC, including our right to develop and adopt our own FPIC and good faith negotiation guidelines and rules at the village, local, territorial and national levels.

- Measures to ensure FPIC and ensure adherence to standards in UNDRIP must be mainstreamed into the Guyana REDD-plus Governance Development Plan (RGDP) under the Norway-Guyana MoU on *Issues related to the Fight against Climate Change, the Protection of Biodiversity and the Enhancement of Sustainable Development* (November 2009)

- We hereby call on Norway and the GoG to ensure that the draft RGDP is fully consulted upon with indigenous peoples prior to its finalisation and consideration for adoption

- We call on the GoG and international funding agencies, including Norad, DFID, EC, World Bank and IDB, to take all necessary measures to ensure that LCDS and REDD+ policies and actions fully meet standards and protections set out in the UNDRIP and in relevant safeguard policies of said agencies and financial institutions. To this end, we recommend that a working group on the implementation of UNDRIP be established that is fully inclusive of our leaders and appointed experts, the government, and donor agencies.

- We additionally specifically request that international donors, including Norway, ensure that serious shortcomings in Guyana's legal framework in connection with indigenous peoples' rights, as identified, *inter alia*, in 2006 and 2008 by CERD be fully addressed in all climate, development and environmental initiatives in order to ensure that international funds do not undermine Guyana's capacity to fulfil its obligations to respect the rights of indigenous peoples.

- We request that donor governments and agencies, such as the Norwegian Government, provide funds, technical and legal assistance to help the NTC to carry out its functions in an independent and autonomous manner.

Finally, on the community side, Amerindians are in the process of developing our own proposals and guidelines for FPIC in our communities and at different levels as appropriate (village and minor settlements, territory, sub-district, district, as peoples etc.). Until such times as we have these community policies on FPIC in place, we call on the government and international agencies to refrain from any proposed implementation of extractive industry, infrastructure, LCDS, REDD+ or other projects and programmes that may affect our lands, territories and resources.[74]

[74] Taken directly from *Public Statement by Participants in a training of trainer workshop on Indigenous Peoples Rights, Extractive Industries and National Development Policies in Guyana, held at Cara Lodge, Georgetown, Guyana (March 2-8, 2010):* http://www.forestpeoples.org/documents/s_c_america/guyana_apa_wshop_statement%20_mar10.pdf.

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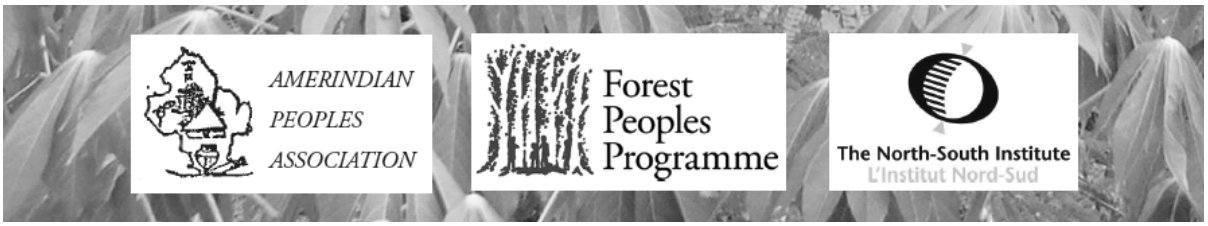
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