Supplemental Information on the Initial Report of the Government of Suriname on the Convention on the Rights of the Child CRC/C/28/Add.11 (State Party Report)

Submitted by

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I. Description of Sanomaro Esa

1. Sanomaro Esa is an Indigenous NGO advocating on behalf of the rights and well-being of Indigenous women and children in Suriname. Its name means woman and child in Kalina and Lokono, two of the Indigenous languages spoken in Suriname. It is constituted under the laws of Suriname and registered as a Foundation. Sanomaro Esa is also the coordinator of the National Indigenous Women's Network in Suriname, which seeks to improve the lives of Indigenous women and children through the concerted action of local Indigenous women's organizations located in each of the 35 Indigenous villages.

2. Founded in 1989, Sanomaro Esa's objectives are to promote the rights of Indigenous women and children, and Indigenous peoples in general; to ensure that Indigenous women and children have equal access to health, education and other national services and to promote respect for Indigenous culture and identity.

II. Introduction

3. After reading Suriname's initial report to the Committee on the Rights of the Child (CRC/C/28/Add.11), Sanomaro Esa believes that it is necessary to provide additional information to the Committee. This is because the information provided in the state report is lacking in many important respects concerning the situation of Indigenous children. Consequently, this report provides supplemental information for the Committee's consideration with a particular emphasis on Indigenous children. We note that we have not has the opportunity to comment on or provide additional information on Suriname's report previously or any other report.[1]

4. Indigenous peoples comprise approximately 3-5 percent of the Surinamese population – approximately 25,000 persons - organized as four distinct peoples: Kalina (Caribs), Lokono (Arawaks), Trio and Wayana. In total there are around 35 Indigenous villages in Suriname, some of them on the coast and some deep in the interior of the country. Suriname's rainforests, savannahs and coastal forests have sustained us since time immemorial and for the most part remain our most important source of subsistence resources.

5. Indigenous peoples, especially Indigenous women and children, fall at the bottom of all economic indices and are the most disadvantaged and impoverished sectors of Surinamese society. Indigenous children receive fewer services than non-indigenous children, both quantitatively and qualitatively. Moreover, in recent years the state has authorized numerous resource exploitation operations in Indigenous territories, both small-scale and large, both foreign and domestic, that have had and continue to have a devastating impact upon the environment, health, resource base and quality of life of Indigenous peoples. These operations are generally not monitored or controlled in any

[1] In particular, we have not seen (and disagree with some of) the report presented by Drs. Lilian Ferrier, entitled, 'The Presentation for the Committee on the Rights of the Child at the Pre-Sessional Meeting, Geneva, Thursday 3 February 2000'.

way and permission is routinely granted without even informing, let alone consulting with or seeking the agreement of Indigenous peoples. Indigenous women and children disproportionately suffer the negative effects of these activities.

6. Suriname is also home to non-indigenous tribal peoples known as Maroons. According to International Labour Organisation Convention No. 169 Concerning Indigenous and tribal Peoples in Indiependent Countries (1989), Maroons basically enjoy the same rights as indigenous peoples in international law and constitute a minority for the purposes of the Convention on the Rights of the Child and other international human rights instruments.

7. Maroons are divided into six peoples: Saramaka, Aucaner, Matawai, Kwinti, Aluku, and Paramaka. There are approximately 60,000 Maroons living in Suriname, primarily along the major waterways of the rainforest interior of the country. Maroons are the descendants of escaped African slaves who fought for and won their freedom from the Dutch colonial administration in the 18th century. Their freedom from slavery and rights to territorial and political autonomy were recognized by treaties concluded with the Dutch in the 18th and 19th centuries and by two centuries of colonial administrative practice. They succeeded in establishing viable communities along the major rivers of the rainforest interior and have maintained a distinct culture based primarily upon an amalgamation of African and Amerindian traditions. Maroons consider themselves and are perceived to be culturally distinct from other sectors of Surinamese society and regulate themselves according to their own laws and customs.

8. This supplemental report begins with a general overview of our understanding of the provisions of the Convention as they apply to Indigenous children, including our understanding of the legal import of some of these provisions as they relate to the obligations undertaken by Suriname. It then provides a number of comments on the state party report. These comments contain important information on the status and rights of Indigenous children not found in the state party's report and attempt to clarify some of the issues raised therein. It concludes with a number of observations and offers draft questions for the Committee's consideration when meeting with the representatives of Suriname.

9. Along this report we have sent a copy of the book *The Rights of Indigenous Peoples and Maroons in Suriname* which is intended to provide more detailed information for the Committee's consideration.

III. Legal Issues

A. Article 30

10. Article 30 of the Convention reads: *In those states in which ethnic, linguistic or religious minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right in community with other*

members of the group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.

11. This language is consistent with article 27 of the International Covenant on Civil and Political Rights adopted by the United Nations in 1966. Article 30 and ICCPR article 27 embody one manifestation of the general norm of international law relating to the right to cultural integrity.

12. Article 30 should be interpreted in conformity with the views of the UN Human Rights Committee on article 27 ICCPR, particularly as those decisions relate to Indigenous peoples. This requires a recognition of the right to participate in the cultural life of the collective, especially as it relates to subsistence practices, relationship to land and territory and their educational and religious significance to the Indigenous child. States-parties have affirmative obligations to facilitate the enjoyment of these rights by, *inter alia*, recognizing, respecting and enforcing rights to land, territory and resources and all aspects of productive organization.

13. Article 27 of the ICCPR applies to minorities and recognizes, *inter alia*, an individual right to enjoy one's culture in community with other members of the cultural collective. The UN Human Rights Committee has interpreted this article to include the "rights of persons, in community with others, to engage in economic and social activities which are part of the culture of the community to which they belong."[2] In reaching this conclusion, the HRC recognized that Indigenous Peoples' subsistence and other traditional economic activities are an integral part of their culture, and interference with those activities can be detrimental to cultural integrity and survival.[3] By implication, the land, resource base and the environment also must be protected if subsistence activities are to be safeguarded.

14. In *Kitok vs. Sweden*, the HRC made reference to *Lovelace vs. Canada*,[4] in which it stated that "a restriction upon the right of an individual member of a minority must be shown to have a reasonable and objective justification and be necessary for the continued viability and welfare of the minority as a whole."[5] Therefore, any restriction upon a member of an Indigenous community to practice and enjoy their culture, especially as related to subsistence practices and their relationship to land and territory, must comply with the test above.

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[2] Bernard Ominayak, Chief of the Lubicon Lake Band vs. Canada, *Report of the Human Rights Committee*, 45 UN GAOR Supp. (No.43) at 1, UN Doc. A/45/40 , vol. 2. 1990

[3] Bernard Ominayak, Chief of the Lubicon Lake Band vs. Canada, *Report of the Human Rights Committee*, 45 UN GAOR Supp. (No.43) at 1, UN Doc. A/45/40 , vol. 2. 1990; Kitok vs. Sweden, *Report of the Human Rights Committee*, 43 UN GAOR Supp. (No.40) at 221, UN Doc. A/43/40 1988; *I. Lansman et al. vs. Finland (Communication No. 511/1992),* CCPR/C/52/D/511/1992; *Jouni Lansman et al. vs. Finland (Communication No. 671/1995),* CCPR/C/58/D/671/1995

[4] Lovelace vs. Canada (No. 24/1977),[4] *Report of the Human Rights Committee*, 36 UN GAOR Supp. (No. 40) at 166, UN Doc. A/36/40.1981

[5] Kitok 1988, 230

15. The HRC further elaborated upon its interpretation of article 27 by stating that

> one or other aspects of the rights of individuals protected [under Art. 27] - for example to enjoy a particular culture - may consist in a way of life which is closely associated with a territory and its use of resources. This may particularly be true of members of indigenous communities constituting a minority . . . . With regard to the exercise of the cultural rights protected under Article 27, the committee observes that culture manifests itself in many forms, including a particular way of life associated with the use of land resources, specifically in the case of indigenous peoples. That right may include such traditional activities as fishing or hunting and the right to live in reserves protected by law. The enjoyment of those rights may require positive legal measures of protection and measures to ensure the effective participation of members of minority communities in decisions which affect them . . . . The Committee concludes that article 27 relates to rights whose protection imposes specific obligations on States parties. The protection of these rights is directed to ensure the survival and continued development of the cultural, religious and social identity of the minorities concerned, thus enriching the fabric of society as a whole . . . .[6]

16. The decisions of the Human Rights Committee under article 27 are very relevant to the current situation and status of Indigenous peoples and children in Suriname. As will be explained in greater detail below, Surinamese law, policy and practice are substantially at odds with the standard set by article 27. Article 27 employs language that is consistent with article 30 of the Convention and we believe that it should be interpreted in a similar manner.

B. Article 2 - Non-discrimination

17. Article 2(1) of the Convention stipulates that "*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status*."

18. Freedom from discrimination is a fundamental right firmly entrenched in the corpus of international human rights law and customary international law. As will be discussed in greater detail below, Indigenous children suffer from pervasive discrimination in Suriname, both by law and by effect. This is particularly evident in connection with the quantity and quality of education and health services, linguistic rights and with the right to own and enjoy their ancestral lands and resources.

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[6] *General Comment No. 23 (50) (art. 27)*, adopted by the Human Rights Committee at its 1314th meeting (fiftieth session), 6 April 1994. UN Doc. CCPR/C/21/Rev.1/Add.5. 1994, 3

19. In a 1997 General Recommendation, the Committee on the Elimination of Racial Discrimination elaborated on state obligations and Indigenous peoples' rights under the Convention on the Elimination of All Forms of Racial Discrimination.[7] The Committee called upon states-parties to "ensure that members of indigenous peoples have equal rights in respect of effective participation in public life, and that no decisions directly relating to their rights and interests are taken without their informed consent."[8] Additionally, to "recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return these lands and territories"[9]

C. Other Provisions of the Convention

20. Other provisions of the Convention also explicitly protect the rights of Indigenous children, for instance:

- article 17 (d), which calls on States to "encourage the mass media to have particular regard to the linguistic needs of the child who ... is indigenous"
- article 29 (d) which, *inter alia*, promotes, among the aims of education, the preparation of the child for responsible life in a spirit of understanding and friendship among all people, including persons of indigenous origin;
- article 20(3), stresses the need to pay due regard to the child's ethnic, religious, cultural and linguistic background when deciding on measures of alternative care for children deprived of family environment, as a means of ensuring continuity in the child's upbringing;
- article 8 addresses the question of the identity of the child, emphasizing the importance of preserving the elements of such identity, which are clearly not to be limited to the child's nationality, name and family relations;
- finally, the Committee on the Rights of the Child has consistently taken into account the best interests of the child (art. 3), right to life, survival and development (art. 6) and participatory rights (art. 12) when dealing with issues relevant to indigenous children in the framework of its monitoring activities.

D. Emerging Indigenous Rights in International Law

21. This section briefly looks at international instruments concerning the rights of Indigenous peoples that are presently being approved by inter-governmental organisations. These instruments are highly instructive as to current thought about the rights of Indigenous peoples and are helpful in determining the scope and effect of those provisions of the Convention on the Rights of the Child that apply to Indigenous children.

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[7] General Recommendation XXIII (51) concerning Indigenous Peoples Adopted at the Committee's 1235th meeting, on 18 August 1997. UN Doc. CERD/C/51/Misc.13/Rev.4.
[8] Ibid., 1
[9] Ibid.

22. Within the United Nations, discussion about Indigenous rights arose in the context of an expert study on racial discrimination. This study, submitted in 1969, concluded that the issue of discrimination against Indigenous peoples had not been adequately dealt with and required further attention. Consequently, a study on the *Problem of Discrimination Against Indigenous Populations* was authorized. Also known as the Cobo Report, this multi-volume report, completed in 1983, recommended that a declaration on the rights of Indigenous peoples be elaborated, with a view to ultimately developing a binding international convention.

23. Against this background, the Commission on Human Rights recommended the establishment of a Working Group on Indigenous Populations within the United Nations system. Established in 1982, the UN Working Group on Indigenous Populations' most notable achievement to date has been the completion of a draft Declaration on the Rights of Indigenous peoples. This instrument, drafted with substantial Indigenous participation, is by far the most comprehensive and responsive attempt to recognize Indigenous rights drafted to-date.

24. The OAS Proposed Declaration on the Rights of Indigenous Peoples was in part inspired by developments within the United Nations and the adoption of ILO 169 in 1989. It was approved by the Inter-American Commission on Human Rights in 1997.

25. Both the UN Draft and OAS Proposed Declarations, although to varying degrees, build upon existing standards, including ILO 169, and attempt to redefine prevailing political, economic and cultural relations between Indigenous peoples and states. They do so by recognizing rights in three main areas: 1) self-determination, autonomy and self-government; 2) lands, territories and resources; and; 3) political participation rights. These rights are all in some way related to fundamental guarantees of non-discrimination and cultural integrity, which are also elaborated upon by the instruments in question.

26. The UN Draft Declaration states in article 3 that, "*Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely determine their economic, social and cultural development*." This language is consistent with common article 1 of the ICCPR and ICESCR, which includes the right to be secure in the means of subsistence, rights to the requisite resource base and the right to development in accordance with Indigenous priorities, cultural characteristics and needs.[10] It also includes the recognition of and respect for Indigenous governing institutions and legal systems, which is also explicitly provided for in both the UN and OAS instruments.[11]

27. The OAS Proposed Declaration recognizes rights that amount to a possible expression of the right to self-determination - autonomy and self-government within the state. For example, article XV(1) provides that

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[10] Both the UN and OAS instruments provide explicitly for subsistence rights and the right to development. See, UN Draft Declaration articles 21 and 23 and OAS Proposed Declaration articles VII(3) and XXI.

[11] OAS Proposed art. XVII; UN draft, arts. 4, 33 and 34)

> States acknowledge that indigenous peoples have the right to freely determine their political status and freely pursue their economic, social and cultural development, and that accordingly they have the right to autonomy and self-government with regard to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, the environment and entry by non-members; and to the ways and means for financing these autonomous functions.

28. Article 31 of the UN Draft Declaration contains similar language to that quoted in article XV(1), but is framed by the explicit recognition of the right to self-determination in article 3. The right to self-determination has been the most prominent demand of the Indigenous rights movement. It is viewed as the mechanism by which Indigenous peoples can enjoy all other human rights and ensure their cultural integrity and survival, and can broadly be defined as the right to freely determine the nature and extent of their relationship with the state and other peoples. Territorial rights are integral to Indigenous peoples right to self-determination.

29. Recent normative developments relating to Indigenous lands, territories and resources are expansive, requiring legal recognition, restitution and compensation, protection of the total environment thereof, and various measures of participation in extra-territorial activities that may affect subsistence rights and environmental and cultural integrity. Article 26 of the UN Draft Declaration, for instance, provides that

> Indigenous peoples have the right to own, develop, control and use the lands and territories, including the total environment of the lands, air, waters, coastal sea, sea-ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used. This includes the right to the full recognition of their laws and customs, land-tenure systems and institutions for the development and management of resources, and the right to effective measures by states to prevent any interference with, alienation or encroachment upon these rights.

30. The OAS Proposed Declaration also provides a substantial measure of protection (see, article XVIII). Both recognize and require protection of Indigenous peoples' unique relationship with their lands and resources. Article 25 of the UN Draft Declaration, for instance, states that

> Indigenous peoples have the right to maintain and strengthen their distinctive spiritual and material relationship with the lands, territories, waters and coastal seas and other resources which they have traditionally owned or otherwise occupied or used, and to uphold their responsibilities to future generations in this regard.

31. In conformity with rights to self-determination, autonomy and self-government, standards relating to Indigenous participation are expansive and strong. (UN draft arts. 4, 19 and 20; OAS proposed, art. XV(2)) This is due to the recognition that Indigenous peoples will undoubtedly be affected by the larger policies and actions of the state despite their status as autonomous, self-governing entities. Free and informed consent is required by the UN Draft Declaration before states may enact or implement legislative, administrative or other measures that may affect Indigenous rights or interests. (UN draft, art. 20) In connection with this, Indigenous peoples have the right to determine their representatives in accordance with their own procedures.

32. Informed participation in decision-making processes concerning resource exploitation, especially sub-surface resources, is required. Article XVIII(5) of the Proposed OAS Declaration, which is modeled and improves on ILO 169, article 15(2), requires that states "must establish or maintain procedures for the participation of the peoples concerned in determining whether the interests of these peoples would be adversely affected and to what extent, before undertaking or authorizing" operations on Indigenous lands. It also requires that the affected peoples or communities share in any benefits and that compensation be rendered for damages sustained.

33. The UN Draft Declaration requires that states obtain Indigenous peoples' "free and informed consent" prior to authorizing exploitation of Indigenous lands and territories. It states that

> Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that states obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

34. The principle contained in this article, especially the consent standard, is fundamental to ensuring the right of Indigenous peoples to cultural integrity. This is also the position adopted by the Committee on the Elimination of Racial Discrimination in its 1997 General Recommendation on Indigenous Peoples.

35. As illustrated by the preceding discussion, Indigenous peoples' rights are receiving detailed and progressive treatment by intergovernmental human rights bodies. We believe that these standards, both established and emerging, are important points of reference for the Committee on the Rights of the Child in connection with Indigenous children's rights guaranteed under the Convention.

36. While all of the rights set out in the two declarations apply to Indigenous children, some are particularly relevant and noteworthy. The UN draft Declaration, for example, contains the following:

Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and to full guarantees against genocide or any other act of violence, including the removal of indigenous children from their families and communities under any pretext. In addition, they have the individual rights to life, physical and mental integrity, liberty and security of person (art. 6).

Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies. writing systems and literatures, and to designate and retain their own names for communities, places and persons. States shall take effective measures, whenever any right of Indigenous peoples may be threatened, to ensure this right is protected and also to ensure that they can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means (art. 14).

Indigenous children have the right to all levels and forms of education of the State. All Indigenous peoples also have this right and the right to establish and control their education systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. Indigenous children living outside their communities have the right to be provided access to education in their own culture and language. States shall take effective measures to provide appropriate resources for these purposes (art. 15).

Indigenous peoples have the right to have the dignity and diversity of their cultures, traditions, histories and aspirations appropriately reflected in all forms of education and public information. States shall take effective measures, in consultation with the Indigenous peoples concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among Indigenous peoples and all segments and society (art. 16).

Indigenous peoples have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing sanitation, health and social security. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and disabled persons (art. 22).

IV. Comments on Suriname's Report

A. Article 30

37.. Suriname's State party report contains a very brief section on article 30, which notes that Indigenous peoples do not have official land titles and that resource extraction is causing a certain amount of difficultly, notably in terms of competing with education for young boys. While this is accurate, it hugely understates the problems faced by Indigenous children in Suriname and does not address the issue of what legal rights Indigenous peoples have under Surinamese law, in particular as those rights relate to lands, territories and resources and the ability to maintain, practice and enjoy Indigenous culture.

38. Indigenous peoples' rights are not recognized in anyway under Surinamese law. This is especially the case for land and resource rights, which are directly and inextricably linked to the right to enjoy culture.

39. Article 41 of Suriname's 1987 Constitution declares that the state owns all natural resources and has the inalienable to right to exploit or authorize others to exploit those resources. Article 1 of the 1982 Decree Principles of Land Policy, Suriname's primary land legislation, provides that, "all land to which others have not proven ownership rights, belongs to the domain of the State." In Suriname, 'ownership rights' belong only to those who can show a title issued by the state. Article 4 adds that

1. In allocating *domainland*, the rights of the tribal Bushnegroes and Indians to their villages, settlements and forest plots will be respected, provided that this is not contrary to the general interest;
2. General interests includes the execution of any project within the framework of an approved development plan.

40. According to the Explanatory Note issued with the 1982 Decree, "Of course, this principle [respecting the rights of hinterland dwellers] will have to be applied during a - possibly long - transitional period in which the forest population will be gradually incorporated into the total socio-economic life . . . ."

41. In sum:

- Surinamese law provides that the state is the owner of all land and all resources on and under the land. The only exception applies to those who can show valid title issued by the state;
- In Suriname, state ownership is interpreted to mean that the state is private, rather than public owner, which is why the only form of title presently available is a lease of land (*grondhuur*), with the state as landlord;
- Indigenous peoples and maroons have certain rights to their villages and agricultural plots, provided there is no conflict with the general interest;
- 'General interest' means any plan or project that the government includes in a development plan and certainly includes all of the resource extraction operations presently taking place;
- Also, Indigenous peoples' rights are only valid during a 'transitional period' in which they are assimilated in "the total socio-economic life . . . ."

42. Not only does Surinamese law not provide any meaningful guarantees for Indigenous land, resource or subsistence rights, it also manifestly discriminates against Indigenous peoples' in so far as the property rights of other Surinamese are not subject to such conditions, nor is there an objective or justifiable reason for this distinction. Indigenous rights are always overridden by the general interest, which is anything the government of the day says it is and these determinations are not subject to judicial review.

43. Surinamese law also does not provide any mechanism nor recognise any right of Indigenous peoples to be consulted about decisions that may affect us. Concessions for mining and logging are routinely issued without informing communities even if they are in the middle of concessions. Suriname has no environmental laws that regulate or control the environmental impact of mining, logging or other resource exploitation activities. Logging concessions presently encompass around 40 percent of the country and include some 60 percent of Indigenous and Maroon communities; mining concessions encompass approximately 30 percent of the country and affect anywhere up to 40 percent of the communities. This also only accounts for legal activities.

44. There are an estimated 15-40,000 Brazilian small-scale miners operating in Suriname under license from the Government and many thousands of local small-scale miners. It was estimated that for the years 1998 and 1999 some 40 tonnes of mercury were released into the environment, much of it inhabited by Indigenous peoples and Maroons. Many communities report that their rivers and other water sources are unfit for human consumption – some communities even have to import water from the capital city – and that they catch fish with tumors and soapy white eyes. Fish is a prime source of protein for the communities. Use of water causes vomiting, diarrhea and skin rashes. According to the World Health Organisation, poor water quality has lead to an increase in mortality rates due to diarrhoeal diseases.

45. Malaria has reached epidemic proportions in many parts of the interior. Some 25 percent of the 10,000 diagnosed cases of malaria identified in the interior in 1999, were in children under the age of 5. Malaria has a debilitating effect on the agricultural cycle, leaving many, especially the young, without adequate food. This is also makes them more susceptible to further infections and lengthens recovery periods.

46. The effects of this activity and the failure of the Government to recognise and respect Indigenous and Maroon land rights are substantially negative. Indigenous subsistence activities are substantially threatened in some areas, in others they are no longer possible. Agricultural areas are damaged and destroyed by small-scale and multinational operators alike with impunity. Malnutrition among once self-sufficient communities is common. The children, especially the very young, suffer the most and it is highly probable that in some areas their normal physical, intellectual and emotional development is affected. Mercury contamination, which has never been assessed and is not controlled in anyway, is a major health hazard. The preceding raises serious concerns about, among others, Suriname's compliance with Article 24(c) of the Convention

47. Indigenous culture is based in large part on a detailed and extensive relationship with the total environment of our lands. In many areas of Suriname we can no longer enjoy this relationship. An integral part of our children's education and socialization is based upon experiencing the natural world and learning agriculture and other subsistence practices from their parents. If the parents are unable to hunt, fish, gather and farm, the children cannot learn how to sustain themselves, lose an integral part of their cultural heritage and eventually become dependent on outside foodstuffs.

48. In 1992, at the conclusion of the Interior War, the Government and the leaders of Indigenous and Maroon insurgents concluded an agreement known as the Peace Accord of Lelydorp. Article 10 of the Accord reads:

> 1. The government shall endeavor that legal mechanisms be created, under which citizens who live and reside in a tribal setting will be able to secure a real title to land requested by them in their areas of residence [*woongebieden*].
> 2. The demarcation and size of the respective residential areas, referred to in the first paragraph, shall be determined on the basis of a study carried out with respect thereto by the Council for the Development of the Interior.
> 3. The traditional authorities of the citizens living in tribes or a body appointed thereto by them, will indicate a procedure on the basis of which individual members of a community can be considered for real title to a plot of land in the area referred to in paragraph 2.
> 4. Around the area mentioned in paragraph 2, the Government will establish an economic zone where the communities and citizens living in tribes can perform economic activities, including forestry, small-scale mining, hunting and fishing.

49. Article 11 of the Accord states that the Government will commence a national discussion on ILO 169 and the desirability of ratification.

50. Since 1992 neither article has been implemented. Moreover, the underlying principles contained in article 10 are contrary to international human rights standards, which recoginse, at a minimum, that Indigenous peoples have the right to own the lands that they occupy and to guaranteed and unhindered use of other lands used for subsistence and other purposes. Article 10 merely proposes that Indigenous peoples will receive leases of state lands with areas demarcated around them for subsistence purposes. Additionally, the leased and use lands remain subject to the overriding power of the national or general interest and state ownership of all natural resources as set out in article 41 of the Constitution.

51. On April 1, 2000, the Government and some Indigenous peoples and Maroons concluded a protocol on land rights, which contains three primary principles: 1) the collective rights of Indigenous peoples and Maroons are recognized – the scope and nature of these rights is not elaborated upon; 2) These rights are subject to national development initiatives and the general interest and will always be subsumed thereunder, and; 3) a fund shall be created in which certain funds derived from resource exploitation will be lodged to finance development activities in the interior.

52. The two largest Maroon peoples rejected this protocol as have many Indigenous leaders. Indeed, there was no consultation with the majority of Indigenous and Tribal people on the content of the protocol, only certain leaders were invited to attend the discussions.

53. As with the Lelydorp Accord, this protocol does not comply with international human rights standards, particularly given the extreme and arbitrary power of the state to override Indigenous and Maroon rights at will in the name of the national interest. There is also no provision made for the participation of Indigenous peoples in decision making, in general, as related to determining what is in the national interest or more specifically as related to granting concessions for resource exploitation.

54. The legal status, if any, of this protocol is presently unknown.

55. On other issues, continuing education after primary school is completely absent from Indigenous and Maroon areas. In order to obtain secondary and higher education, Indigenous children at the age of eleven years must leave their families and communities, the only places in Suriname where they can practice and enjoy their cultures to stay in boarding houses in Paramaribo. Many are unable to adjust and drop out. Another reason is that their parent cannot cope with the financial burden which is Sf30.000 (US$30) per child per month excluding personal needs and school materials. Many of these youngsters are unable to re-adjust to village life once they leave these boarding houses and remain in the city. There are secondary schools throughout the non-Indigenous areas of Suriname, yet there is only one in the interior. Indigenous children are therefore forced to choose between receiving an education and leaving their families and cultures to stay in an alien environment.

56. Education in Suriname is entirely conducted in Dutch and based upon a standardized curriculum. This places Indigenous children at a substantial disadvantage to non-Indigenous children as they are forced to attend school conducted in a language they do not know and to use materials that are far removed from everyday life and bear little resemblance to their cultural traditions and cosmologies. This bias towards Dutch and coastal culture is substantially contributing to cultural alienation and the loss of Indigenous languages in Suriname. There are also schools in some Indigenous villages run by missionaries, who denigrate Indigenous cultures and ways of life and force children to reject their cultural heritage.

57. The preceding is not only contrary to article 30 but also raises issues under article 8 of the Convention, as does the emphasis that Surinamese law and policy places on assimilating Indigenous peoples and Maroons.

58. The failure of the Government of Suriname to enact and implement legislation and other measures to recognise and give effect to the right of Indigenous children to maintain, practice and enjoy their culture, especially as culture relates to land and resource rights, contravenes article 4 of the Convention. This article obliges states parties to give effect to the rights recognized in the Convention through legislative, administrative and other measures. The absence of such legislation denies Indigenous children and peoples access to domestic remedies required to enforce their rights. This is itself a serious human rights issue as the rule of law and access to judicial and other remedies are keystones of human rights.

B. Article 2

59. Some of the forms of discrimination faced by Indigenous children have been noted above. In particular, discrimination based on the failure to recognise Indigenous forms of land tenure as property rights and the failure to establish bi-cultural education in Indigenous and Maroon areas, when bi-cultural education is a reality for most other Surinamese.

60. There are a number of Indigenous villages without schools – the Wayana community of Kawemhakan, for instance, sends its children to school in French Guiana as they have no school in the village and have not had one for a number of years. Despite repeated requests to the government, they still do not have a school. Almost every school in the interior receives less materials than schools on the coast. Salaries, training and qualifications for teachers to work in the interior are substantially lower for interior schools in comparison to coastal schools.

61. These differences are clearly reflected in drop out, graduation and attendance rates for interior versus coastal schools. For instance, passage of entrance exams for secondary school is 18.5 percent less for interior students and the average number of students repeating a year in the interior (1996/7) was 44% and 61 percent for first year students compared to 23% for coastal students.[12]

62. Most of the schools in the Interior are run by the Roman Catholic and Moravian churches. The State pays the teachers' salaries and an allowance of Sf 26.50 (or US$ 0.05) per student per year for maintenance of the buildings and school materials. The poor financial situation of the churches has slowed reconstruction of the schools destroyed during the Interior war and the level of education provided is of an extremely poor quality that would be unacceptable on the coast and in violation of national standards for coastal schools.

63. The interior schools not only lack adequate materials, but are mostly understaffed with under qualified teachers. To teach in the Interior, only a special 'Bushland Diploma' is required; candidates do not need a secondary school diploma and only a few months of training is required. These lower requirements are partly aimed to attract more teachers to the Interior. Because of the lack of facilities (including adequate schooling for their own children) and low salaries, few teachers in Paramaribo are willing to move to the Interior.

64. There are no entrance or school fees, but Catholic and Moravian schools require parents to pay an annual contribution per child. Since 1997, this contribution has been raised from Sf125 to Sf3500 (from approximately US$0.30 - 8.75) per child and in 1998, to Sf5000 (US$ 12.50) per child. By contrast, in 1996, State-run schools require only a registration fee of Sf 500 (US$ 1). For people in the Interior who do not have regular

[12] Krisnadath, I., & Verwey-Deley, H., *The Language Problem in Education. A study in the use of the mother tongue in education among Saramaka and Aucaner children in the Interior of Suriname*. UNICEF, Paramaribo, 1999.

incomes, these fees present a substantial obstacle, especially as families in the interior are in general larger than in the city. This stands in stark contrast to the State's duty to guarantee free primary education in conformity with article 39 of the 1987 Constitution and clearly discriminates against Indigenous and Maroon children.

65. Indigenous and Maroon children also suffer discrimination with regard to the provision of health services. Many communities do not have functioning health care facilities. Those that do exist have few, or in some cases no, supplies and are rarely visited by a qualified doctor. While the situation on the coast is far from ideal, the level of health services enjoyed there is far higher than in the interior. Moreover, little has been done to ameliorate the substantial impact on health caused by mining and logging activities in the interior.

66. Concerning article 4's provision for the progressive implementation of economic, social and cultural rights subject to the availability of resources, it is noted that Suriname has limited resources and that this is a major constraint on the services that can be provided. However, lack of resources does not nor cannot justify widespread disparity between the services provided to one sector of the population (the coast) and another (the interior). There is no objective or reasonable justification for the level of services enjoyed on the coast when compared with the level of the interior and as such constitutes discrimination.

C. Other Articles

67. Article 19 provides that children shall be protected by legislative and other means from all forms of physical and mental violence, injury and abuse. Recently, Sanomaro Esa has received complaints that Indigenous children staying in boarding houses in Paramaribo are subject to physical and mental abuse. Complaints to the authorities have not yielded any action and the situation remains the same.

68. Article 34 protects children from sexual exploitation. In 1999, Sanomaro Esa received reports that the former Minister of Defense and others were sexually exploiting young Indigenous girls in the village of Apura. A complaint was filed with the authorities and the issue was covered in the press. While the Minister resigned for other reasons, no attempt was made to investigate and substantiate the allegations or to prosecute the case.

V. Concluding Remarks and Suggested Questions

69. The rights of Indigenous and Maroon children in Suriname to practice, enjoy and maintain the cultures, as provided for in articles 8 and 30, is neither recognized nor respected at present in Suriname. This is especially true when it comes to land and resource rights. Indigenous culture and identity are fundamentally tied to our relationship with our ancestral lands, territories and resources. Without strong, effective and enforceable rights to these lands, territories and resources, our cultural integrity is seriously undermined.

Suggested Question 1: *What has the government of Suriname done to give effect to the rights of Indigenous and Maroon children as defined by articles 8 and 30?*

Suggested Question 2: *Given that land and resource rights are fundamentally related to the right of Indigenous and Maroon children to enjoy their culture, can you explain what measures exist or are planned to address this issue?*

70. The enormous expansion of resource exploitation operations in the interior has seriously threatened and undermined our resource base, on which Indigenous peoples and children depend for our basic subsistence needs. Our right to a healthy environment is routinely violated.

Suggested Question 3: *Given the increase in logging and mining activities in the interior of Suriname in recent years, can you explain what the Government has done to ensure that these activities do not compromise the rights of Indigenous and Maroon children to exercise and enjoy their rights under articles 24(c) and 30?*

Suggested Question 4: *How does the Government propose to address the rights of Indigenous and Maroon children to a healthy environment?*

71. There is no mechanism in Surinamese law to provide for the informed participation and consent of Indigenous peoples in decisions that may affect us. This is especially the case concerning decisions about our lands and resources and whether concessions are issued thereon or nearby.

Suggested Question 5: *What mechanisms, legal or otherwise, exist to incorporate Indigenous and Maroon participation in decision making, and if there are none, what measures does the Government intend to take to ensure that indigenous peoples and Maroons can participate in and consent to measures that may affect them? Will the Government ensure that measures are taken to ensure that Indigenous peoples and Maroons participate in decision making concerning the granting of concessions on or near their lands and territories?*

72. Neither bi-lingual or bi-cultural education are available for Indigenous children in Suriname. This places these children at a substantial disadvantage to their non-Indigenous peers and has the effect of substantially undermining Indigenous cultural identity and continuity.

Suggested Question 6: *What measures has the Government taken or intends to take to ensure that Indigenous children can receive bi-lingual and bi-cultural education? Is there any provision at the legal or policy level to account for these issues?*

73. Indigenous and Maroon children suffer from discrimination that is particularly pervasive in connection with land rights, education and health. Disparities between the quantity and quality of health and education services in the interior vis-à-vis the coast cannot be justified nor can this disparity be explained by incremental implementation

considerations. Simply stated Indigenous and Maroon children receive less and worse services than their coastal counterparts without valid reason. In some cases, Indigenous and Maroon children receive no services at all.

Suggested Question 7: *How does Suriname justify the disparity between the level of health and education services on the coast and in the interior? What measures are in effect or planned to remedy this disparity?*

Suggested Question 8: *What mechanism, legal or otherwise, exists to protect Indigenous children who stay in boarding houses in Paramaribo from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment . . . as defined by article 19 ?*

74. As illustrated by the information provided in paragraph 68, there appears to be a situation where those who sexually exploit Indigenous and other girl children are immune from investigation and prosecution.

Suggested Question 9: *What measures has the Government taken to prevent and punish the inducement or coercion of a child to engage in any unlawful sexual activity?*