



CABINET of the PRESIDENT of the REPUBLIC of SURINAME
THE LAND RIGHTS BUREAU
SECRETARIAT OF PRESIDENTIAL COMMISSIONER
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Paramaribo, 2 March 2015

Pablo Saavedra Alessandri
Secretary
Inter-American Court of Human Rights

Subject: Additional information following the recently held public hearing in the case Kaliña and Lokono peoples vs. the State of Suriname

Honourable Court,

With reference to the Order of December 18, 2014 and the most recently held public hearing on 3 and 4 February 2015, the State hereby submits its response. The State of Suriname will present in the document below, additional information *cq.* clarification of issues as was requested. Also, the State will use this opportunity to refute misrepresentation of issues presented by representatives of petitioner.

Introduction

- Chapter 1 Demographic information of communities in the Lower Marowijne
- Chapter 2 Nature reserves in the Lower Marowijne
- Chapter 3 Land policy and granting land titles
- Chapter 4 Socioeconomic analysis in relation to the Indigenous claim
- Chapter 5 Position State with regard to establishing community fund
- Chapter 6 Draft Law on recognition of Traditional Authority

Conclusion and end statement

Introduction

The issue of internationally recognized rights claimed by Indigenous and tribal peoples has the undivided attention of the State of Suriname. Solution of this problem adorns the top priority of the State of Suriname. However, this issue needs to be considered against the background of the unique but rather complex social structure of Suriname, which is characterized by a diverse multiethnic and multicultural composition of the population. The State is dedicated to resolve the rights claims in a way that promotes unity and togetherness. The State is fully committed to finding an acceptable solution to this nationally important issue which entails a comprehensive approach. This comprehensive approach is the result of a dialogue between the State and the representatives of the Maroons and Indigenous communities. The parties agreed that the integrated approach is crucial because the issues of Indigenous and Maroon peoples are almost identical. The State of Suriname is aware of the notion or fact that Indigenous peoples have the right to recognition of their collective rights under international law and jurisprudence, specifically within the Inter-American system for the Protection of Human Rights.

The land rights issue, as part of the issue of internationally recognized rights claimed by Indigenous peoples and Maroons, is an important element of the National Development Plan 2012-2016, which was elevated to national legislation by its adoption in the National Assembly. The State has indicated in said document that in addressing this issue, two important factors must be taken into consideration. First, claims of Maroons and Indigenous peoples in areas they have traditionally inhabited, cultivated and used as their villages and areas to provide for subsistence and for religious and cultural objectives, etc. These claims solicit the recognition of the State of areas claimed by Indigenous peoples and Maroons. Second, the position of the State is that the entire territory of Suriname is part of the Surinamese State. The State also maintains the position that everyone in Suriname, including the Maroons and Indigenous peoples have the right to ask for title if land is part of the public domain. The State would like to comply with international obligations with respect to the rights of Indigenous peoples and Maroons in the most responsible way.



However, upon closer study, it became clear that there are challenges attached thereto, which can be derived from the following questions:

- How can the State amend its legislation to align with the strict international obligation, while taking into account (i) the national interests of the entire population within our territory, and (ii) the principles and regulations of our parliamentary democracy?
- Will complying with such obligations harm the foundations of democracy when complying with these obligations?
- Will complying with such obligations seriously affect the foundations of the polity in Suriname?

From a legal perspective, the Constitution and other regulations require that the constitutional procedure is followed when it comes to new laws or legislative changes. This procedure usually involves that the Ministries will initiate legislative products and the first draft is referred to the Council of Ministers. Then the draft is sent to the Council of State for comments. Only after the preliminary approval by the Council of State (i.e. the executive), the draft may be submitted by the President to the National Assembly. It is the prerogative of the National Assembly to approve the proposed draft or not. The various principles of our democratic system are represented in the structure of our political democracy, where the people's sovereignty and the separation of powers are the guiding principles.

Some aspects of these international obligations also imply that the State must change the current Constitution of the Republic of Suriname, which was adopted by referendum on 30 September 1987 by about 98% of the Surinamese population. The performance of any changes of a fundamental nature to the Constitution requires a referendum. This is especially true when it is a strict 'delineation, demarcation, and the provision of a collective title to Indigenous and Maroons'.

The State considers the political-administrative and sociocultural features as interrelated. This is mostly attributed to provisions in our Constitution with regard to public administration, local authorities, regional legislation and regional authorities (Chapter XX-XXIII of the Constitution), including the structure of the administrative bodies, decentralization of administration and

legislation that find their origin in the diversity of our ethnic population in general and the Indigenous and tribal communities in particular. This is evident from the fact that, historically, the State acknowledged traditional structures and customary laws of Indigenous and tribal communities.

Our Constitution and implementing laws are based on the specific character of our nation. The social and economic objectives of the Government of Suriname are focused on building a national economy for the benefit of the entire population, in which every citizen has equal shares in the socioeconomic development and successes. All operations of the State focus on national development rooted in the principles of equality and non-discrimination, as enshrined in the Constitution of Suriname. National legislation and related public policies are, therefore, focused on sustainable development and an equal society for all.

The Government's endeavors are also aimed at arriving at a cooperative attitude from all stakeholders in the entire Surinamese nation. The rationale behind such a determined stance of the State is that this issue has almost evolved into a form of conflict between Maroons and Indigenous peoples on one side and the State on the other side. The Government also believes that the public interest should be given priority under all circumstances. The State is obliged to exercise such care because to date no general agreement exists between the Indigenous and tribal communities. There are different positions on the applicability of land use maps for these communities. This makes it quite difficult for the State to take concrete actions for the delineation and demarcation of land.

The claim brought forward by the petitioners in the present case (Kaliña and Lokono peoples vs. the State of Suriname) evidently demonstrates these different positions. The area that the petitioners claim also includes the so-called "Moiwana Area", which the Court had already ruled in the case of Moiwana village vs. Suriname, namely that: "with respect to the collective title on traditional territories the State shall adopt such legislative, administrative and other measures as are necessary to ensure the property rights of the members of the Moiwana community in relation to the traditional territories from which they were expelled, and provide for their use and enjoyment of those territories. These measures shall include the creation of an effective mechanism for the delimitation, demarcation and titling of said traditional territories. The State shall take these

measures with the participation and informed consent of the victims as expressed through their representatives, the members of the other Cottica Ndyuka villages and the neighboring Indigenous communities, including the community of Alfonsdorp. Until the Moiwana community members' right to property with respect to their traditional territories is secured, Suriname shall refrain from actions – either of State agents or third parties acting with State acquiescence or tolerance – that would affect the existence, value, use or enjoyment of the property located in the geographical area where the Moiwana community members traditionally lived until the events of November 29, 1986”¹.

The State observes that any decision of the Court in favor of the petitioners, means that the Court assigns the Moiwana area in two separate cases, to both the Maroons and Indigenous peoples. The statement of the alleged victims describing that traditional boundaries between the Kaliña and Lokono peoples and the Ndyuka Maroon peoples are acknowledged by both parties and encoded in their respective histories, is unknown by the State.² The actual situation is that despite the contention of the representatives of Petitioner that there are historical verbal agreements, this claim of the Kaliña and Lokono peoples to the ‘Moiwana area’ is evidence of the contrary.

The carefulness of the State is also motivated by the fact that fulfillment of these international obligations implicitly or explicitly require new or revised legislation, and even changes in the constitution. Some of the aforementioned challenges are of a legal, political, administrative, as well as socioeconomic nature. The State considers all of these elements as mutually related to this matter.

¹ Case of the Moiwana community v. Suriname, Judgement of June 15 2005, par. 209-211

² Mail corteidh to Landrights Bureau on 16 February 2015

Chapter 1 Demographic Information of Communities in the Lower Marowijne

The Republic of Suriname has little over half a million peoples (pop. 521,294). The population is ethnically diverse, consisting of Hindustani (people from Indian descent), Creoles (people of mixed African heritage), Javanese (peoples from Indonesian descent), people of mixed descent, Indigenous peoples and Maroons (peoples from African descent who fought themselves free from slavery), and smaller groups of Chinese, Lebanese, Caucasian, and others (Figure 1). These groups are generally well educated with a literacy rate of 95%.

Peoples living in Suriname are spread over ten districts located in two distinct areas. The *coastal area* is the most populous area and is geopolitically divided in the districts of Nickerie, Coronie, Saramacca, Wanica, Paramaribo, Para (although the majority of the district is inland), Commewijne, and Marowijne. Together, these districts contain 89.8% percent of the total population of Suriname (468,325 people). The remaining 10.2 percent of the population (52,969 people) live *inland* in the Sipaliwini and Brokopondo districts. The districts are divided into several regions called *resort* (administrative jurisdiction) (Figure 2).

Indigenous and Maroon Peoples

Indigenous peoples make up 3.8% of Suriname's total population with an estimated 20,344 persons. Approximately five times larger is the group of Maroons, with an estimated 117,567 peoples (21.7% percent of total population). Each of these groups claims to be highly dependent on land and forest resources for their survival.

Together with the majority of Suriname's population, Indigenous peoples from the Kaliña and Lokono live on the 50-km wide coastal zone adjacent to the Atlantic Ocean. Most of these peoples either adhere to an urban life in the capital city of Paramaribo (pop. 3,785) or live in villages located in savannah and forest regions in the District of Para (pop. 5,134). Smaller numbers of Kaliña and Lokono reside in the Districts of Nickerie, Coronie, Saramacca, Commewijne and Marowijne (Figure 2 and 7).

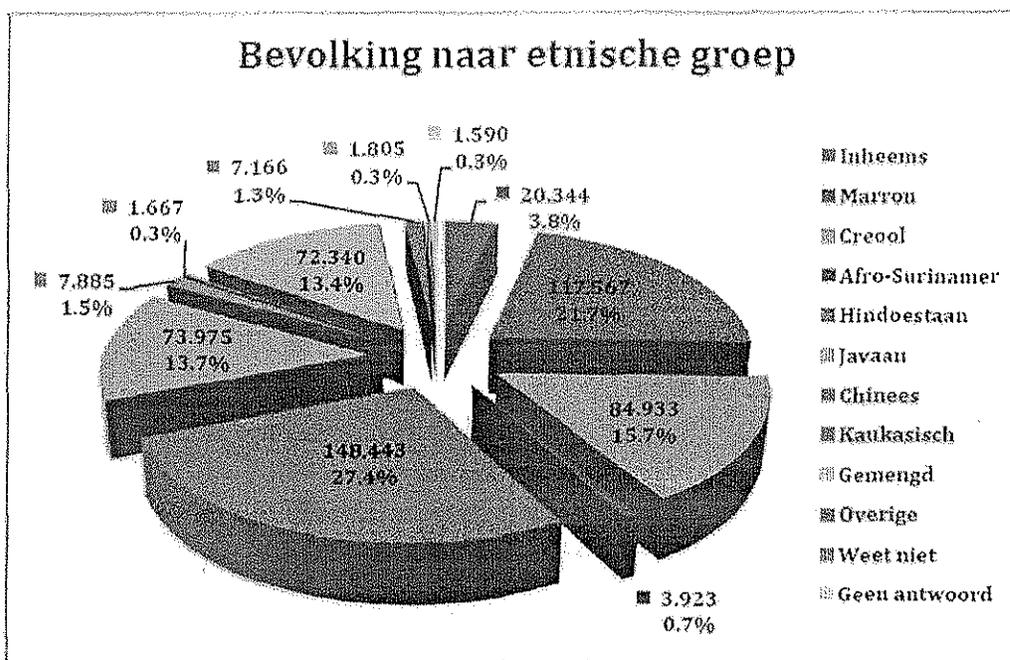


Figure 1: Ethnicity of Suriname's population (Source: General Bureau of Statistics, 2015).

| Legend | |
|----------------|-----------------------------|
| Dutch | English |
| Inheems | Indigenous |
| Marron | Maroon |
| Creool | Creole |
| Afro-Surinamer | African descent |
| Hindoestaan | Hindustani/ Indian descent |
| Javaan | Javanese/Indonesian descent |
| Chinees | Chinese |
| Kaukasisch | Caucasian |
| Gemengd | Mixed |
| Overige | Other |
| Weet niet | Do not know |
| Geen antwoord | No answer |

The remaining population of Suriname lives in an area called the interior, and includes the inland districts of Sipaliwini and Brokopondo (Figure 2 and 7). Consisting of vast and dense rainforest, the interior can only be reached by travelling on rivers with dugout canoes, or flying into villages with small airplanes. The two largest Indigenous groups living in this rainforest are the Trio and Wayana. In addition to Indigenous groups, the interior houses six different groups of Maroons: Ndyuka, Saramaka, Aluku, Paramaka, Matawai and Kwinti.

When looking closer at the distribution of Indigenous and Maroons peoples in Suriname, there are several important observations.

First, Indigenous peoples and Maroons living in the interior of Suriname are in general nature-dependent for their subsistence. The population numbers demonstrate that in each district in Suriname, Indigenous peoples share land and forest resources with Maroons. It is evident that Maroons outnumber Indigenous peoples in every district except in West Suriname (Districts of Nickerie and Saramacca) (Figure 3). The State is aware of this land-sharing principle, and chooses a path of dialogue with Indigenous peoples and Maroons to solve the issue of land rights.

Second, the State posits that Indigenous peoples and Maroons living in Suriname have sufficient amounts of land, with an average of 3 persons per square kilometer. This number is comparable to other countries located in the Guyana shield, such as neighboring Guyana (4 people per sq. km) and French Guyana (3 people per sq. km). Suriname's population density is low compared to other countries that have tribal peoples in South America, ranging from 60 in Ecuador to on the low end 9 in Bolivia.

Population of Indigenous and Maroon Peoples living in Suriname

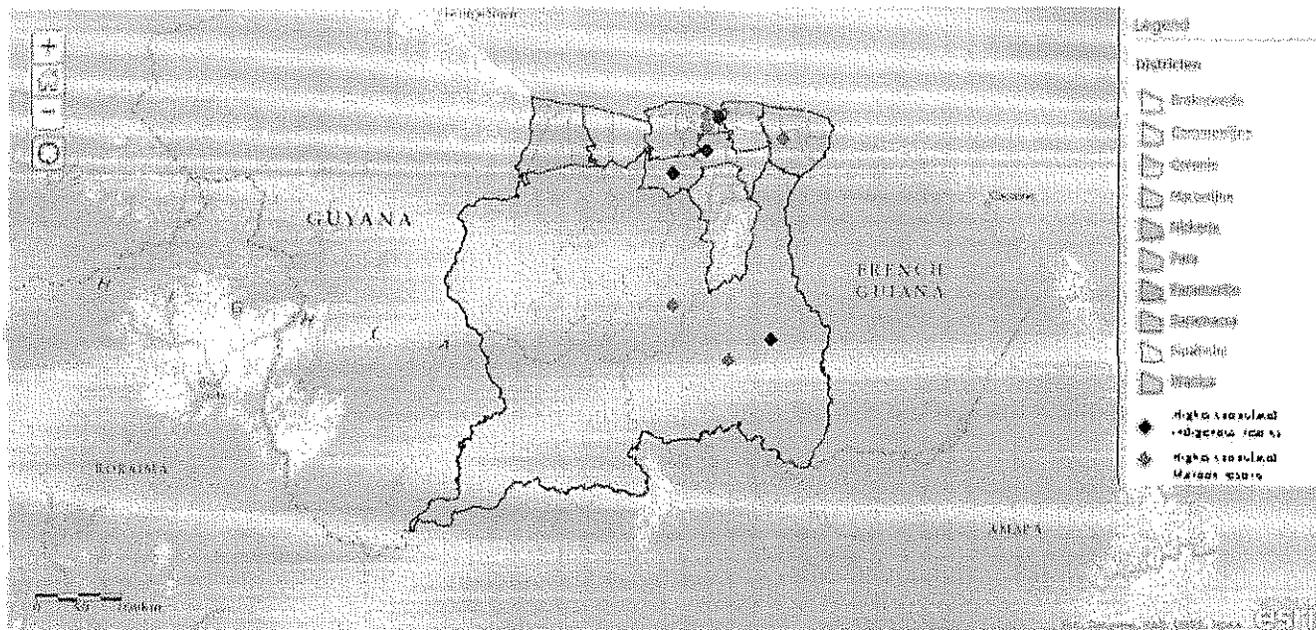


Figure 2: Population of Indigenous and Maroon peoples in Suriname by District (Source: General Bureau of Statistics, 2015)

Third, the highest concentrations of Maroon peoples live in the Districts of Middle and East Sipaliwini, Paramaribo, Wanica, and Mid-Marowijne (Figure 2, red dots). Indigenous peoples populations are the highest in four areas (administrative jurisdictions): Northeast part of the District of Sipaliwini, Northwest and Southwest part of the District of Para and in North Paramaribo (Figure 2, black dots). The State notices that the District of Marowijne, where the Lokono/Kaliña case is disputed, is not located in the highest populated areas of Indigenous peoples in Suriname.

Distribution of Indigenous and Maroon Peoples per District

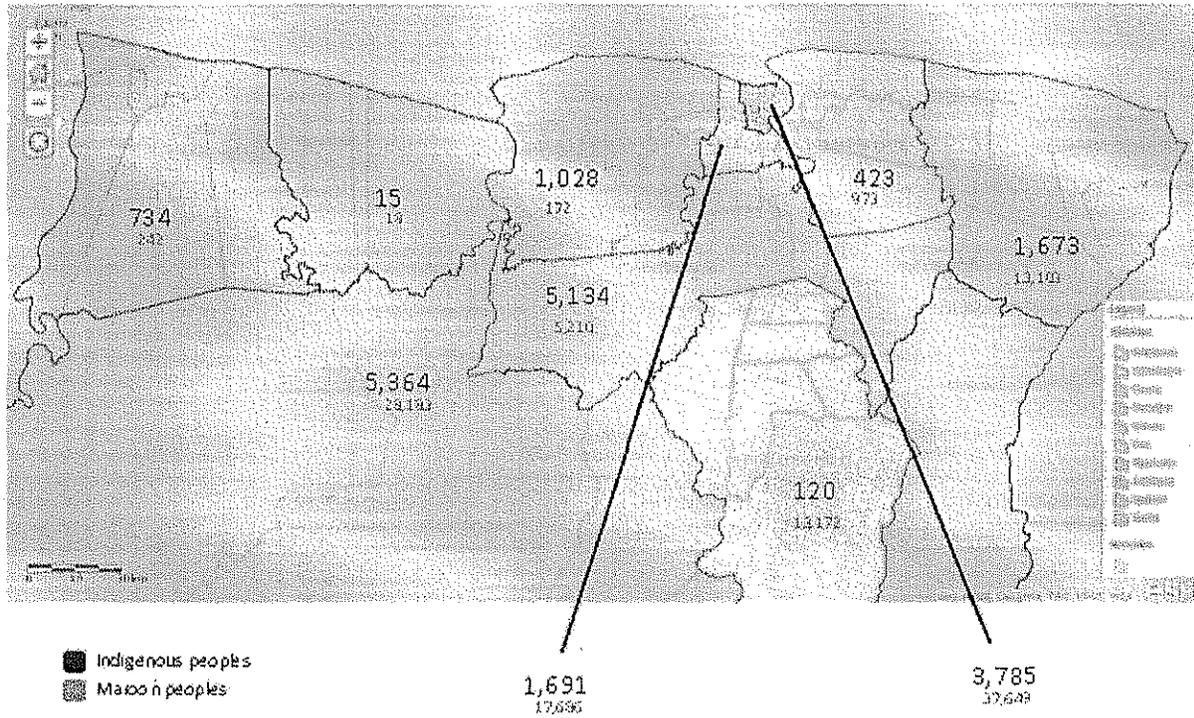


Figure 3: Distribution of Indigenous and Maroon peoples per district in Suriname (Source: General Bureau of Statistics, 2015)

Indigenous and Maroon Peoples in District Marowijne

The total population of the District of Marowijne is 18,294. There are nine different groups living in the 4,627 km² area, consisting of Hindustani (162), Creoles (448), Javanese (1,222), People of mixed descent (1,117), Indigenous peoples (1,673) and Maroons (13,103), and smaller groups of Chinese (384), Afro-Surinamese (15), Caucasian, and others (170). All ethnic groups living in Suriname are represented in the District of Marowijne. The Maroons are the largest group residing in Marowijne, almost eight times larger than the Indigenous peoples, the next largest group.

Distribution of Peoples in District Marowijne

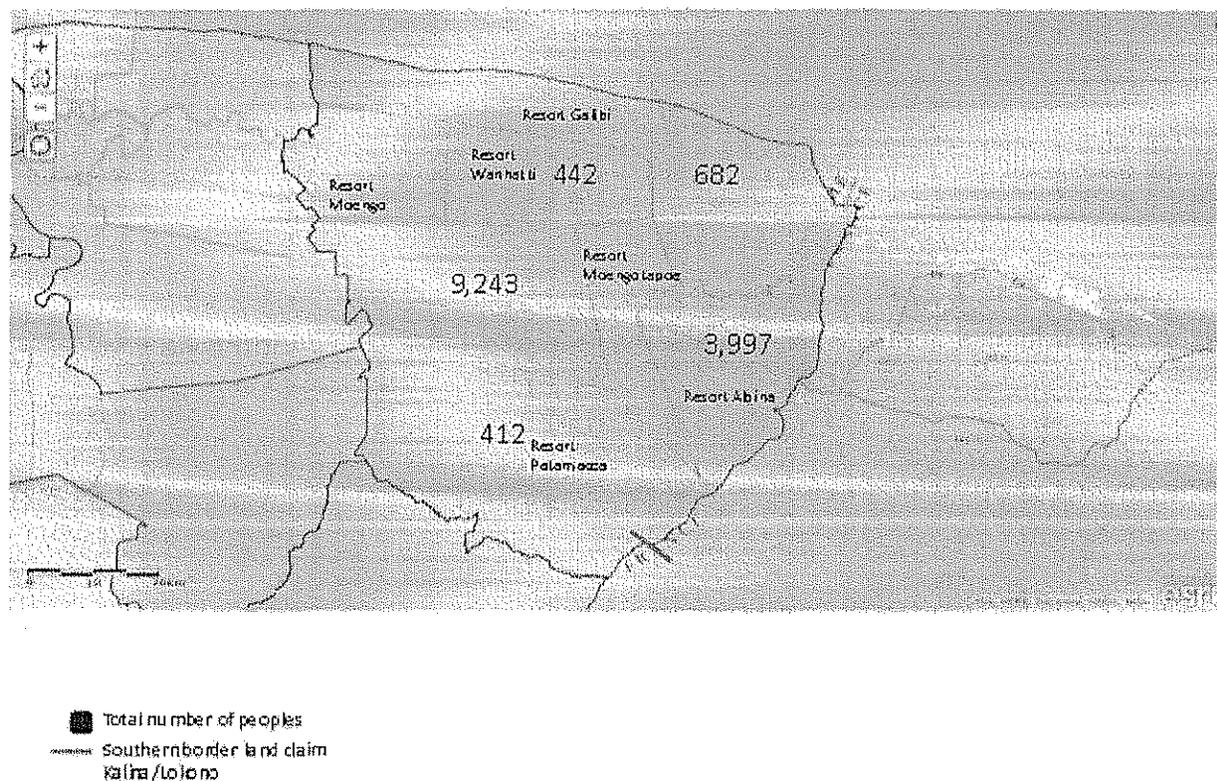


Figure 4: Distribution of peoples in the District of Marowijne (Source: General Bureau of Statistics, 2015)

The Indigenous and Maroon peoples of the District of Marowijne have a wide range of land available, and record just above Suriname's average population density (3 people per sq. km) of 4 inhabitants per sq.km. The land claimed by the Kalifña/Lokono peoples falls within three administrative jurisdictions: Galibi, Albina and Patamacca. *Resort* Galibi, situated along the coastline and partly inland, houses 677 Indigenous and 5 Maroon peoples. Southeasterly located is *resort* Albina, with 915 Indigenous and 3,082 Maroon peoples residing. *Resort* Patamacca, most southern in the Marowijne district, houses 412 Maroons but has no records of Indigenous peoples living in the area, while this area is also claimed by Kalifña/Lokono (Figure 5).

It is evident from these official statistics that both Indigenous peoples and Maroons are residing in the area claimed by Kalifña/Lokono. The State believes that in a multicultural and multiethnic society like Suriname, both groups should be considered when handling claims of land.

Distribution of Indigenous and Maroon Peoples in District Marowijne

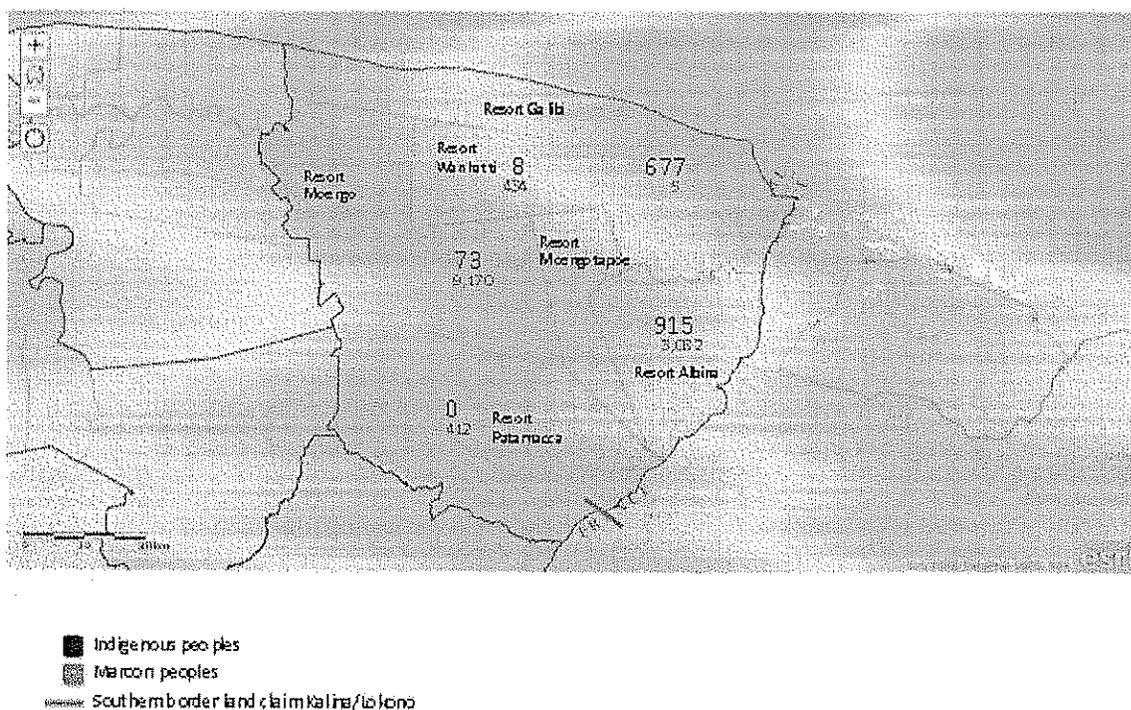


Figure 5: Distribution of Indigenous and Maroon Peoples in District Marowijne (Source: General Bureau of Statistics, 2015)

Chapter 2 Nature Reserves in the Lower Marowijne

Establishing nature reserves by the State Suriname does not conflict with the rights of the Indigenous people or the full exercise of their traditional way of life, because nature serves a legitimate public interest, namely preserving and protecting the environment for present and future generations. Nature conservation has always been an important strategy of Suriname, which is reflected in Suriname's current status of the greenest country on earth with more than 90 percent of its land area covered with forest.

Suriname belongs to the 11 nations in the world with a high coverage of forest that can be categorized either as High Forest, Low Deforestation (HFLD). High Forest signifies that more than 50 percent of the land area is covered with forest, while deforestation rates below 0.22 percent per year signify Low Deforestation. Suriname has thus dedicated its natural resources to the world by making nature conservation a priority since the 1950s, despite the country's abundance of natural resources.

From an international and national perspective, Suriname's nature conservation efforts harbor a range of important environmental values: protecting a wealth of biodiversity and rich cultural diversity and providing a breeding ground for migratory species. Following the same logic, three



nature reserves were established on the basis of existing national legislation and strictly necessary to preserve unique and endangered species, habitats and / or ecosystems in the public interest.

Nature Reserves in the Lower Marowijne

The three nature reserves in the Lower Marowijne region are 1) the Wia Wia Nature Reserve, 2) the Galibi Nature Reserve and 3) the Wanekreek Nature Reserve (Figure 6).

1) Wia Wia Nature Reserve

This reserve is approx. 36,000 hectare and was established in 1961, exp. 1966. The Wia Wia reserve belongs to the IUCN³ category IV, which aims to protect particular species or habitat, and management of the reserve reflects this priority. The Wia Wia reserve was established to protect sea turtle nesting beaches. No nesting of sea turtles takes place at this time because the sand beaches have naturally moved westward, out of the reserve. The reserve encompasses also mudflats and mangrove forests and offers feeding, nesting and roosting sites for numerous species of local as well as migratory birds.

2) Galibi Nature Reserve

The Galibi Nature Reserve is approximately 4,000 ha and was established in 1969 (GB 1969 no.47) to protect sea turtle nesting beaches. The reserve also belongs to IUCN category IV and includes important nesting beaches for the leatherback (*Dermochelys coriacea*), the green turtle (*Chelonia mydas*), and the olive ridley (*Lepidochelys olivacea*).

3) Wanekreek Nature Reserve

The Wanekreek Nature Reserve, established in 1986 (SB 1986 no.52), is approximately 45,000 ha and falls under IUCN category IV. The reserve houses savannahs with various types of soils, as well as marsh and ridge forests, and swamps. Remnants of pre-Columbian settlements and agriculture on ridged fields are found in this reserve. In addition, traces of settlements of the first runaway slaves have been recorded.

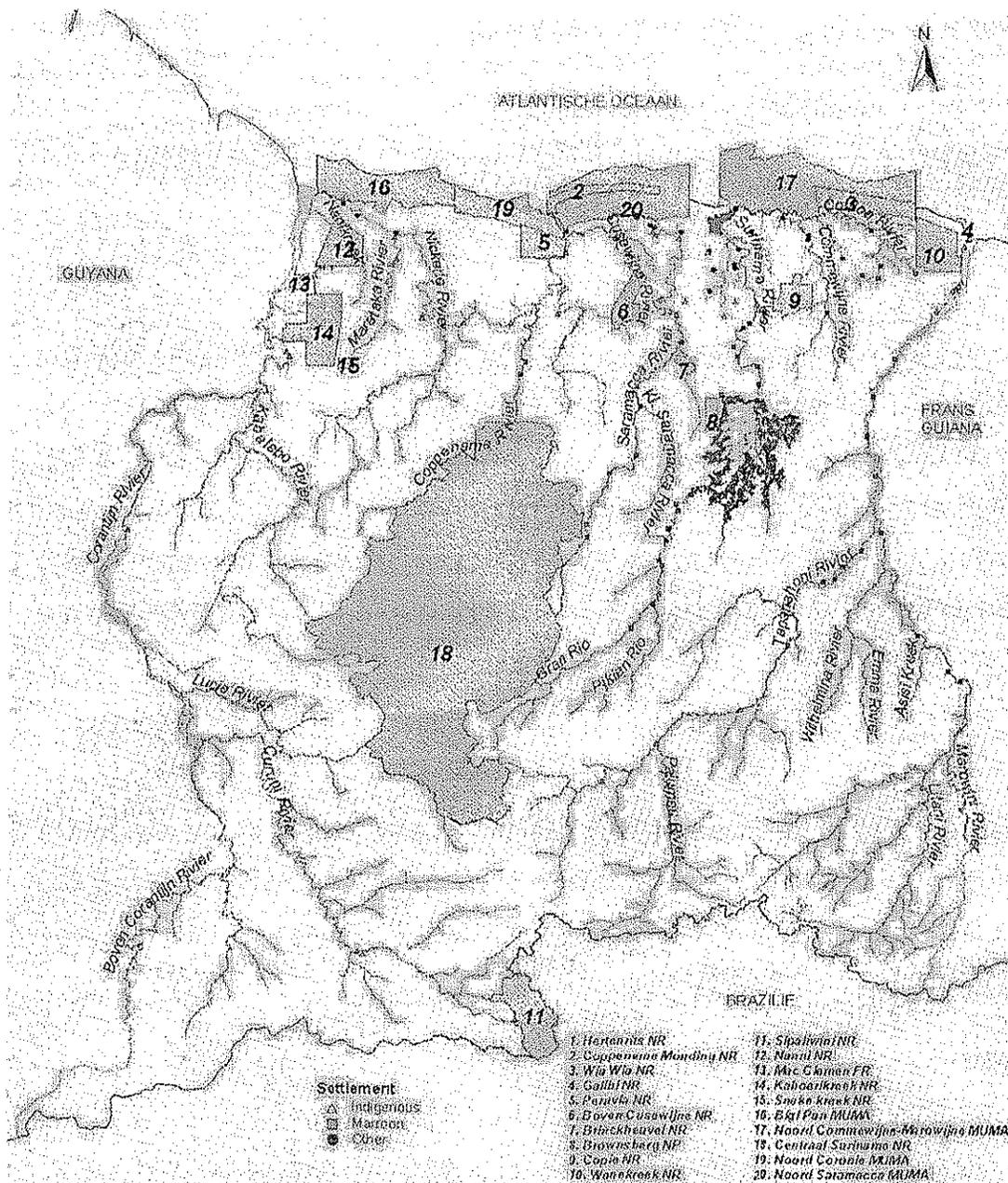


Figure 6: Overview of the Nature Reserves in Suriname (Source: NARENA, 2006)

Note: number 12-15 are proposed nature or forest reserves

Indigenous Peoples Rights of Use under Suriname Law

The nature protection order of 1986 recognizes the traditional rights of Indigenous and Maroon peoples. It states that “tribal peoples living in and near reserves keep their traditional rights and interests”. Indigenous peoples can thus freely use the resources in the three nature reserves in the Lower Marowijne area. Restrictions that apply to using resources in nature reserves in general, such as fishing and hunting, are not applied to Kalifña and Lokono peoples. This fundamental right is different from other Suriname inhabitants, who need official licenses for hunting and fishing. Kalifña and Lokono peoples are not required to obtain a hunting license or a fishing license, and therefore, only one person from the area possesses an official inland fishing license. This person has the right to fish outside the traditional usufruct area.

The State’s responsible office for the management of nature reserves, the Nature Conservation Division, has never restricted Indigenous peoples of Lower Marowijne in the enjoyment of their rights in the three nature reserves. They can freely access and use resources in accordance with their Indigenous rights. Indigenous peoples from Christiaankondre and Langamankondre therefore use the Wia Wai and Galibi nature reserves. The Wanekreek Nature Reserve is the usufruct area of the inhabitants of Alfonsdorp and Marijkedorp.

Since the beginning, the State has prioritized Indigenous peoples’ engagement in reserve management, complying with the requirements of the CBD (Preamble): “Recognizing the close and traditional dependence of many Indigenous and local communities embodying traditional lifestyles on biological resources, and the desirability of sharing equitably benefits arising from the use of traditional knowledge, innovations and practices relevant to the conservation of biological diversity and the sustainable use of its components”.

As part of its responsibility, the State has initiated and maintained a healthy dialogue with Kalifña and Lokono over the years. Official engagement of Indigenous peoples in the management of the Galibi nature reserve occurred since before these nature reserves were established. Furthermore, on 30 April 1998, two years after Suriname signed the United Nations Convention on Biological Diversity (CBD), the head of the Forest Protection Service installed an official State Commission

to initiate a dialogue with key stakeholders about a new direction for management of the Galibi Nature Reserve. The Indigenous peoples of Christiaankondre and Langamankondre were installed in this commission, amongst the State's representatives: District Commissioner of Marowijne, the Fisheries Department, Foundation for Nature Conservation in Suriname (STINASU) and the Nature Conservation Division (NCD).

The State has been collaborating with Kaliña and Lokono peoples in the management of nature reserves in the Lower Marowijne region, specifically respecting and including the traditional knowledge with regard to management and use of the area. Through the years, the State has created a balance between interests from the perspective of nature reserves and interests of the Indigenous peoples. This balance is maintained with several other activities positively affecting Kaliña and Lokono peoples of the Lower Marowijne region. One such activity is protection of the cultural and biological diversity by promoting tourism in the Galibi Nature Reserve. The State's NCD worked closely with Kaliña and Lokono peoples to develop tourism and promote bringing visitors to the area to spot sea turtles. Kaliña and Lokono men and women are full-time hired by NCD and STINASU to help in these activities. Besides full time employment, NCD provides opportunities for seasonal jobs for these Indigenous peoples to support in monitoring sea turtles. This is organized through the Kaliña and Lokono based organization STIDUNAL, who nominates potential candidates from the communities of Kaliña and Lokono. The State also rents boats and lodges from the local community in case needed.

The State continues to create mechanisms to support Indigenous peoples and is currently in dialogue with different actors for the ratification of the Nagoya Protocol on Access and Benefit Sharing under the CDB. This protocol provides a transparent legal framework for the access to genetic resources and the equitable sharing of benefits arising from the use of these resources. The Organization of Indigenous Peoples in Suriname (OIS) plays an active role in this multi-stakeholder participation process. In addition, the State is currently engaged in a year-long dialogue with Indigenous peoples on protecting South Suriname.

Evidence that Kaliña and Lokono cannot fully manage the Nature Reserves



The State of Suriname is against Indigenous peoples managing the nature reserves on their own, for several reasons.

First, the management of nature reserves is the responsibility of the State, through the State Forest Management Service of the Ministry of Physical Planning, Land and Forest Management (Article 3 Nature Conservation Law). Its subsidiary office, the Nature Conservation Division, executes the daily operations and management of the reserves. NCD has a specific management unit for this task, consisting of scientists, reserve managers, game wardens and other field agents. Many of these experts have also obtained conflict resolution skills to mediate and facilitate between groups with different needs and interests. Vigilance activities operate from field posts (monitoring of visitors, flora and fauna) and aerial surveys (monitoring of coastal changes). NCD experts also engage in scientific research with the Anton de Kom University of Suriname and other international Universities. Education and extension services are provided to Kaliña and Lokono living in and near nature reserves in Suriname. Thus, the State has a system consisting of expert knowledge and infrastructure needed to manage the IUCN category IV nature reserves. These types of nature reserves require managing particular species populations as a priority. Compared to this comprehensive system, 677⁴ Kaliña and Lokono living in or near the three reserves are few, and have limited expert capacity to perform (scientific) management tasks in relation to the three IUCN category IV reserves.

Second, the State observes that Kaliña and Lokono peoples are in a process of acculturation, similar to all other Indigenous and Maroon tribes in Suriname. Younger generations are decreasingly interested in traditional knowledge and more interested in modern goods and activities. Strong traditional knowledge systems include cultural practices and capacity to observe changes in the environment. It is evident from recent disasters that Kaliña and Lokono were unable to effectively adapt to changes in nature, such as floods and winds, in the Galibi region.

Third, the State posits that Kaliña and Lokono do not possess the capacity to coordinate nature conservation efforts beyond the local level. Within the three nature reserves Kaliña and Lokono

4 General Bureau of Statistics, 2015

are used to perform certain management tasks, which are only specified to the local level. These Indigenous peoples have insufficient knowledge about coordinating efforts for evaluating biological systems within the country as a whole. The State has a profound task to coordinate all nature reserves, as stated by the Law. In addition, the State also needs to position Suriname in the wider global system of nature protection and discuss with a wide range of stakeholders, the global agreements in the CBD, Ramsar and other conventions.

The supervision of the three nature reserves can under no circumstances be left to the Kaliña and Lokono peoples. Given the number of villagers and the intensity of activities as well as the necessary expertise, the State can claim that managing nature reserves by Kaliña and Lokono peoples as their traditional territory is impossible. The State respects their rights to secure livelihood and survival and this group already is seen as a major actor in nature protection in Lower Marowijne.

Consequences of Restitution of Nature Reserves

Natures reserves can be restituted by State law. The Nature Protection Law of 1954, Article 1 states that the decision of the President of the Republic for establishing a reserve can be restituted: "To protect and further the conservation of Suriname's natural resources, and after hearing the Council of State, the President may by order designate State land and State waters as a nature reserve". The consequences of such a decision are posing a direct threat to obligations made by the State of Suriname to its citizens.

First, Suriname is a multicultural society with more than 10 groups from various descents. The different groups have been living in Suriname peacefully together for more than 150 years. Peace is primarily promoted by respect shown towards each other, such as respect for each group having their own place they inhabit on the land. Jeopardizing this balance will ultimately lead to disruption in Suriname's social system. The State is responsible to maintain peace, and will not allow disruptions in a system that has proven to sustain peace.

Second, the State has the responsibility to provide for a healthy environment for its citizens. It is therefore the State's responsibility to maintain an ecological balance for all inhabitants of Suriname, those living in the West, South, North, the capital Paramaribo and the local peoples of Kalifña and Lokono in the East. It is noticeable that the State had not obtained land in Lower Marowijne from the Indigenous but intervened in the 1970s to protect nature to maintain an ecological balance for all Suriname citizens, also the Indigenous and Maroon peoples⁵.

Third, the State of Suriname will create a precedent for other groups of Indigenous and Maroon peoples living in nature reserves in Suriname. Suriname has 20 areas under some kind of nature protection, consisting of approximately 14% of the countries land mass (Figure 6). In most of these nature zones Indigenous peoples live (Figure 7). In case all of these Indigenous peoples want to manage nature reserves, than the State would end up in a situation it cannot guarantee safety and security of its citizens, which is a fundamental right stated in the Constitution.

Fourth, the Republic of Suriname will act in contravention of multilateral environmental agreements of which it is a party, including the United Nations Convention of Biological Diversity, the Ramsar Convention on Wetlands Protection. In addition, restitution of the nature reserves will also have a negative effect on Suriname's efforts to support the globally important Western Hemisphere Shorebird Reserve Network.

5 Galibi Nature Reserve Management Plan 1992- 1996



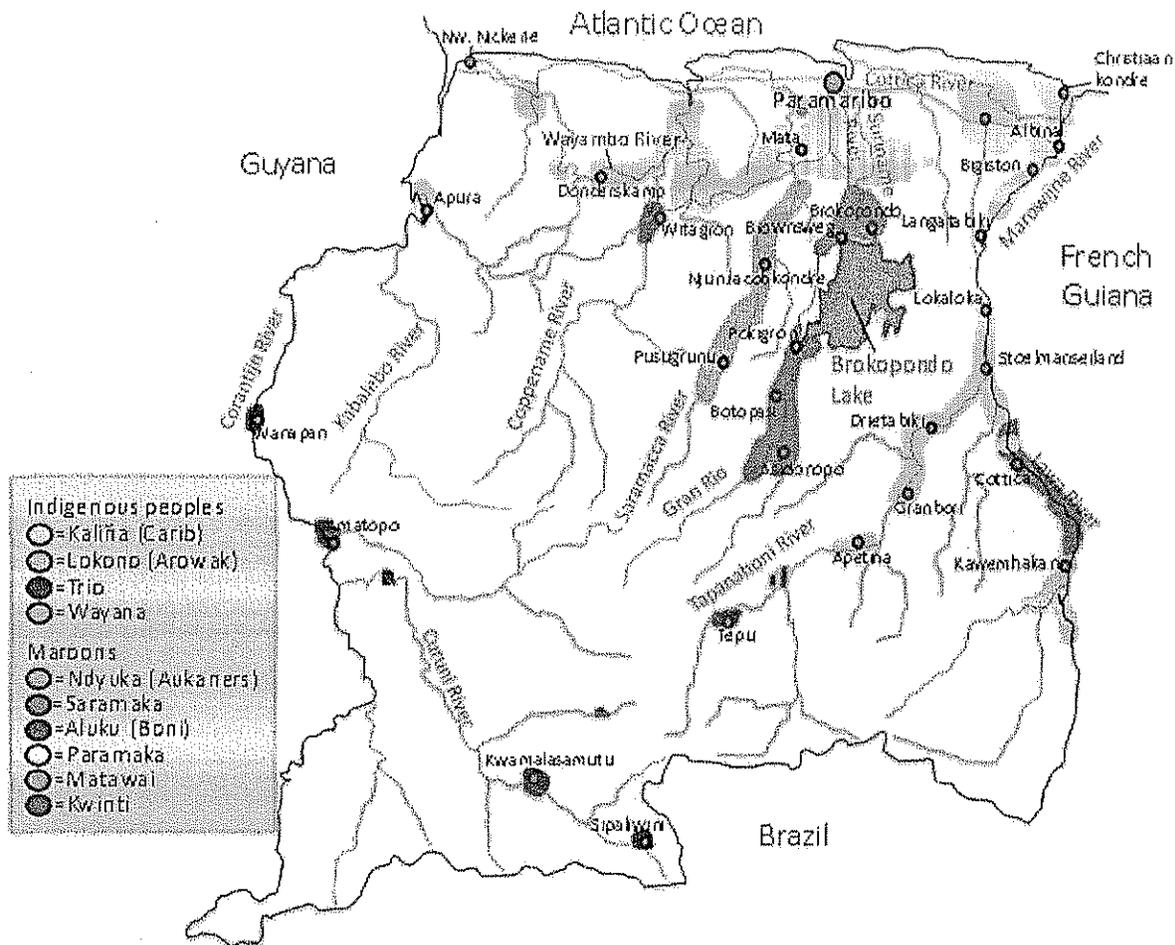


Figure 7: Overview of the Usufuct Areas of Indigenous Peoples and Maroons in Suriname (Source: Cultural Anthropologist Dr. M. Heemskerck).

KANO as Representative Organization of the Indigenous peoples and their engagement in the establishment of the three Nature Reserves

The State had several meetings and engagement with community representatives at the time the three nature reserves were established. The State disputes the position of witness Captain R. Pane and the representative of the plaintiffs, Mr. Fergus McKay, that KANO had no competence to act as the legitimate representative. The above-mentioned position will be underpinned with a historical overview of Indigenous organizations and the engagement of KANO during the establishment of the Wanekreek Nature Reserve.

Short historical overview of organizations by Indigenous peoples

The history of Suriname shows that Indigenous peoples possessed a marginal position during colonial times. Even after the colonial times were Indigenous peoples not considered part of Surinamese society. As a result, Indigenous peoples were not connected to the rest of society. Only after World War II, Indigenous peoples became visible, which was explained in history as follows: "Native groups got involved in national politics, perhaps spurred by the political association with its promotion of attention to one's own, but mainly because of their marginalization and the limited attention to Indigenous interests in the national context." ⁶.

Due to increasing global consciousness of Indigenous people and the marginalization and ethnic politics, the Indigenous peoples of Suriname sprouted the idea to establish their own political party⁷. Because other political parties had an ethnically-based support group, it was for the Indigenous peoples also important to establish their own political party⁸. Before the establishment of such a political party, Indigenous peoples had already gathered together such as, founding of

6 Boven, K.M. 2006 *Overleven in een grensgebied: Veranderingsprocessen bij de Wayana in Suriname en Frans Guyana*. Amsterdam: Rozenberg Publishers.

7 Wekker, J. & M. Molendijk. & J.Vernooij 1992 *De eerste volken van Suriname*. Paramaribo: De Stichting (KITLV), pag. 76-80.

8 Kloos, P. 1974 *Het Indianenprobleem in Zuid-Amerika*. Assen: Van Gorcum & Comp.

the South American Redskins Corporation in 1948 and the first Surinamese Indians Federation in 1949. In 1953 the Protestant Indians Foundation was established.

In 1962, the United Indigenous Party (VIP) was founded to advocate for Indigenous peoples⁹. The Indigenous peoples decided to cluster and establish VIP to serve their interests. Other Indigenous organizations founded during that time were the Indians Progressive Organization (PIO) and KANO. KANO was founded in 1969 and was a joint venture between Caribbean and Arawak. In 1972, the POI, through its Arawak representative, Mr. Noldus Jubithana, was included in the commission that was responsible for researching the political independence of Suriname from the Netherlands. Mr. Jubithana had then visited a number of Indigenous villages to make an inventory of Indigenous issues¹⁰. However, anthropologist Karin Boven notices, that this inventory was only made for the coastal zone¹¹. The inventory resulted in a report "Position Indigenous Population with Regard to the Independence of Suriname". Land rights were central in this report, as well as the position of the Indigenous people in Surinamese society. Some of the demands in this report were: a draft law on land rights, legal recognition of the traditional authority structure, a different appointment policy for traditional leaders - Captain and Basya. The conclusion of this report was that Indigenous peoples were against "sudden and complete independence from the Netherlands because they were afraid of confusion, uncertainty and unfairness¹²."

In 1973, a Creole-Javanese coalition came into power, and however, did not worry about this outspoken protest of Indigenous peoples¹³. Suriname became independent in 1975 despite Indigenous protests and findings of the report of Mr. Jubithana. The following Government promised to make plans and execute these plans to improve the situation of Indigenous peoples, but in practice, nothing happened¹⁴. At that time, Indigenous peoples became conscious about their status and KANO organized street marches, according to Mr. Wijngaarde, current chairman of the Organization of Indigenous Peoples in Suriname (OIS). In 1976, KANO together with Indigenous

9 Idem note 4

10 Idem note 4

11 Idem note 4

12 Idem note 5

13 Idem note 4

14 Idem note 5

peoples from the Lower Marowijne region organized a protest march from Albina to the capital city Paramaribo to submit a petition to the Government¹⁵. The Government promised to find a solution and installed an "Advisory Commission on Land in the Interior" on 20 April 1977¹⁶. Also in 1978, KANO organized a nationwide action, but again, this had little effect on the Government. Unfortunately, none of the protests delivered the anticipated result. According to Wekker and colleagues¹⁷, the lack of results were caused by the internal divisions among the Indigenous peoples. Communication between the different Indigenous villages was difficult and uncommon, and the Indigenous peoples living in villages were more concerned about their own specific interests than that of Indigenous peoples as a collective. Moreover, an overarching authority was difficult to establish, also because of a wide variety of Indigenous peoples living in Suriname.

Engagement of KANO in the Establishment of the Wanekreek Nature Reserve

The Explanatory Notes of the Nature Conservation Act 1986 state "that tribal peoples living around and in the established nature reserves maintain their traditional rights." This Memorandum further states that discussions between the State Forest Management Service and KANO have resulted in a summary of the social considerations (see Section IV of the above-mentioned note "Recommendations to extend the system of national parks and forest reserves"). Specific practical examples of these considerations are: 1) Peoples living in Galibi Nature Reserve may consume sea turtle eggs for their basic livelihood, and 2) Peoples living in the Galibi Nature Reserve may establish and maintain agricultural plots and are allowed to hunt for subsistence.

During the study of Wanekreek Nature Reserve, it is evident that Kano (the Association of Indigenous People) was heard through its Chairman, Mr. R. Artist. This is found in the document compiled by expert Mr. Pieter Teunissen, Section IV: "Social Aspects" of recommendation to extend the system of national parks and forest reserves in the Surinamese Lowland in 1979. It is

15 VIDS "West Suriname: Wat betekent een geïntegreerde aluminium industrie voor de inheemse gemeenschappen?", April 2007

16 The advisory commission included Prof. Quintus Bosz (Chairman), Mr. de Miranda, Mr. Ashruf, Mr. Artist, Mr. Arichero, Mr. Vreede, Mr. Vreedzaam and Mr. van Doorn.

17 Idem note 5



evident that agreement was reached between national and local interests in the establishment of nature reserves. The agreement was reached between the State Forest Management Service (LBB) and KANO, of which afterwards a press release was published on 26 August 1978 signed by the head of State Forest Management Service, Ir. F.C. Bubberman, and the Chairman of KANO, Mr. A.C. Cirino. This press release refers to a conversation between representatives of KANO and officials of the State Forest Management Service on the various aspects of policy in nature reserves on 21 August 1978, in which the following was agreed upon:

1. The rights and claims of the traditional peoples remain respected.
2. KANO will visit various nature reserves together with officials from the Forest Management Service. KANO will provide local residents with detailed information about the periodically held meetings with LBB and will exchange opinions with them.
3. KANO will actively contribute to the formulation of social aspects in the future nature conservation policy.



Chapter 3 Land Policy and Granting Land Titles

The land policy of Suriname aims at an equitable allocation of land to each Surinamer, who may need this land to live, to develop economic activities, or to exploit cultural and educational activities, sports and recreation etc. It is important here to note that this general policy applies to all Surinamers, and thus Indigenous and Maroon peoples can qualify for land outside their traditional communities. Second, traditional communities are also protected in the sense that any granting of land within their area needs to occur in consultation with the communities.

The main legal basis for granting business titles to land in Suriname is the L-Decree (Decree Issuance of State-Owned Land, Bulletin of Acts, Orders and Regulations SB 1982 no. 11). With respect to granting timber and mining concessions, respectively, the Forest Management Act (SB 1992 no. 80) and Mining Decree apply. Included in these laws are provisions aimed at protecting the rights of Indigenous and Maroons, at least to consider the interests of these peoples when the State decides to grant land titles and concessions to third parties. Reference can be made to Article 4 Decree concerning Principles on Land Policy; Article 41 Forest Management Act¹⁸; Article 25 paragraph 1 Mining Decree S. B. 1986 no.28.

18 Article 41. a. The customary rights of tribal peoples living in their villages and settlements and their plots remain as much as possible respected. b. In case of violations of customary rights, a written appeal with indication of reason can be submitted to the President by traditional authority of the tribal peoples. The President shall appoint in respect thereof a commission to serve in this matter.

2. After consultation with the Minister responsible for regional development, the Minister responsible for forest designates certain forest areas as a community forest for tribal peoples living in villages and settlements. The utilization and management of the community forest will further be determined by decree.

3. For community forest there exists no payable concession right. For outside communal transport as well as to possible commercial use of wood, timber and non timber forest products are relevant provisions of this Act applicable. The "acquirer" shall then compensate the in the article 32 paragraph 1 band 40 listed fees and due compensation mentioned in Article 13.

For the purposes of this article, the "acquirer" means one who acquired this wood, wood or non timber forest products from community forest – with or without consideration – from a tribal person, if he himself transport these things out of the communal forest or engages in commercial operations. Further regulations can be included in state decree.

Project Tuinstad Albina (Garden City Albina)

The town of Albina, the capital of the district Marowijne, has been the nucleus of the social, economic and cultural activities in the Lower Marowijne area for centuries. Around 1975, the Government launched a project called "Tuinstad Albina", in which land was parceled out near the villages Erowarte, Tapuku, Pierrekondre and Wan Shi Sha. land titles, leasehold and long-term leases were granted to a number of Indigenous and non-Indigenous individuals. Tuinstad Albina was part of the town of Albina from which it derives its name. Allocation of property rights to third parties in the suburbs of Albina has not infringed rights of tribally living peoples, because the subdivision took place outside the areas inhabited by Indigenous peoples. The purpose of this allotment was to stimulate development and make the area livable. All groups were given the opportunity to qualify for a piece of land where they could build on.

At that time and during previous years, the affected area was not inhabited by the Indigenous peoples of the Lower Marowijne and neither was there evidence of some unique traditional relationship with the land. The town of Albina, the capital of the District of Marowijne, has been the nucleus of the social, economic and cultural activities in the Lower Marowijne area for centuries. The peoples of the Lower Marowijne have been engaged in these activities, but they rightfully believe that Albina is not part of the land in which they can claim traditional ownership rights. By the time the project Garden City Albina was initiated and implemented, these areas were suburbs of Greater Albina and as such part of the geographical and social, economic and cultural identity of Albina instead of Indigenous identity that prevailed in areas more remote and less influenced by the growth of Albina. In accordance with Surinamese law, each Surinamer, who meets the requirements set by law, is eligible for title on the land.

In 2015 Albina is a thriving town with a significant population consisting of different ethnic groups.



Possible consequences that may arise from potential allocation of the claimed area to Indigenous peoples are:¹⁹

- *Ethnic and racial turmoil:* As previously indicated, the population in the area is composed of different populations whose Indigenous peoples are certainly not the largest group. The other groups have also settled in the region and built a better life for themselves by finding employment and sending their children to school. According to the Constitution, everyone in Suriname deserves to be treated equally and anyone can refer to and act upon this provision. In case the Indigenous peoples will be assigned the claimed area, other groups may start to oppose this decision, which may ultimately lead to social unrest between Indigenous peoples and non-Indigenous peoples. The Government of Suriname is not prepared to manage this kind of turmoil at the moment.
- *Legal implications:* Legally it implies that the State will have to commence a comprehensive process to expropriate peoples who have settled and built on land in Albina. The legislation on expropriation permits to expropriate land for public interest for which title holders should be compensated. Expropriating land in Albina would mean a significant amount of expenses for Suriname with its small economy.
- *Unforeseeable social consequences:* As a result of previous arguments, there could be social consequences which are not foreseeable. In case other groups need to depart from the Albina, it will mean a social disruption of the local society in that area. People will have to give up their job and take their children out of school. Resettlement of non-Indigenous groups also includes finding a new and acceptable home for these groups.
- *Consequences for the local economy:* Albina is located at the border with French Guiana, which is an Overseas Department and Region of France, and thus serves as a gateway to the European Union. A significant amount of people in the District of Marowijne are economically dependent on providing services (boat transport, construction), trade (several goods) and cross-border tourism between the border town of Galibí and St. Laurent. There will be a negative impact on these activities if certain facilities, for example anchoring boats near the shore, loading and unloading and personal transport are restricted. Moreover, the road from

¹⁹ Annex 1

Paramaribo to Albina is part of the IIRSA (initiative to integrate infrastructure between countries within South America).

A handwritten signature in black ink, consisting of several overlapping, stylized lines.

Chapter 4 Socio-economic analysis in relation to Indigenous peoples and Claim

Suriname's economy is highly dependent on natural resources. These natural resources are mainly located in the Districts of Sipaliwini, Brokopondo and Marowijne. These areas cover approximately 85% of the Surinamese territory. The State Suriname firmly posits that it cannot afford to share any control over its resources. If all Indigenous and Maroon peoples living in Suriname would submit a claim to these lands and this would be granted, it will have a disastrous effect on Suriname's economy. Notwithstanding that other districts – Para, Saramacca, Nickerie - also record Indigenous and maroon inhabitants. There are natural resources located in all these areas.

Suriname has a wealth of natural resources, such as various minerals, oil, forest, and freshwater. The World Bank ranked Suriname as the 51st richest country in the world in terms of natural resources, and bauxite, gold, oil and other minerals fuel Suriname's economy.²⁰ Most of these natural resources are located in the interior, thus the place where most forests are and approximately 10.2% of the population lives, consisting of Indigenous peoples and Maroons. The State has the responsibility to develop its natural resources to provide for the growing need for development of its citizens. The country has recorded a growth rate of 4%.

This analysis emphasizes the importance of mining of gold, bauxite and the forestry sector because these sectors are active in the interior and the major contributors to the economy.

Gold and alumina contribute to 85% of the total export value. Prices in gold and bauxite have decreased in the last year, which led to decreasing earning for the State. The number of workers in the gold and bauxite sector, excluding contractors, was 2,306 people in 2013. Of this number 1527 peoples worked in the large scale gold mining sector and 729 peoples were in the bauxite sector. It is estimated that another 30,000 local Maroons, Indigenous peoples and Brazilians find

²⁰ Where is the wealth of nations, World Bank. 2006.

employment in the (illegal) small scale gold mining sector²¹. In the last five years, the Government has engaged in regulating small-scale gold mining by supporting Indigenous and Maroon communities working in the interior in registration, obtaining licenses, assigning mining locations, and instruction in more environmentally friendly methods that do not use mercury. The State frequently mediates in conflicts between Indigenous, Maroons and other groups in the small-scale mining sector. Such a mediating role is crucial in maintaining order in the interior, and the State is aware that Indigenous peoples and Maroons are not ready to take on the role of stewards when granted land rights.

Table 1: Export Earnings and Contribution to Total State Revenue

| EXPORT EARNINGS (Million SRD ²²) | | | | | |
|--|--------|--------|--------|--------|--------|
| | 2009 | 2010 | 2011 | 2012 | 2013 |
| BAUXITE | 919 | 1,311 | 1,570 | 1,223 | 1,157 |
| GOLD | 2,593 | 3,538 | 4,919 | 5,771 | 4,703 |
| TIMBER | 11 | 19 | 46 | 61 | 95 |
| SUBTOTAL | 3,523 | 4,869 | 6,534 | 7,055 | 5,955 |
| OTHER | 708 | 1,069 | 1,553 | 1,425 | 1,549 |
| TOTAL | 4,231 | 5,937 | 8,087 | 8,480 | 7,504 |
| BBPmp | 10,638 | 11,993 | 14,455 | 16,543 | 17,486 |
| CONTRIBUTION SECTORS TO TOTAL STATE EARNINGS (%) | | | | | |
| | 2009 | 2010 | 2011 | 2012 | 2013 |
| BAUXITE | 22 | 22 | 19 | 14 | 15 |
| GOLD | 61 | 60 | 61 | 68 | 63 |
| TIMBER | 0 | 0 | 1 | 1 | 1 |
| OTHER | 17 | 18 | 19 | 17 | 21 |
| TOTAL | 100 | 100 | 100 | 100 | 100 |

Volumes of bauxite exports have slightly decreased in the last years. Bauxite volumes were 1,536 (1000 ton) in 2009 and decreased to 1,146 in 2013. Gold export volumes showed a more stable

21 Minimata Convention Roadmap for Suriname, National Institute for Environmenta and Development, 2014

22 1 United States Dollar (USD) equals 3.35 Suriname Dollar (SRD)

figure with a slight increase: 919 (1000 troy ounce) in 2009 to 1.040 in 2013. The forestry sector has showed a strong increase in production volume and export value in the last years: from 30 (1000 m³) in 2009 to 95 in 2013.

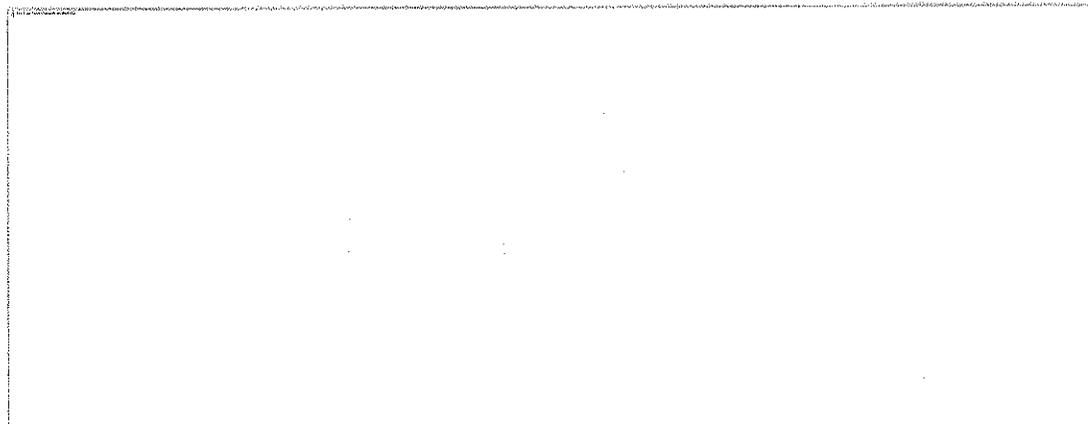


Figure 8: Production of round timber (m²) in Suriname 2009-2013 (Source: Foundation for Forest Management and Production Control)

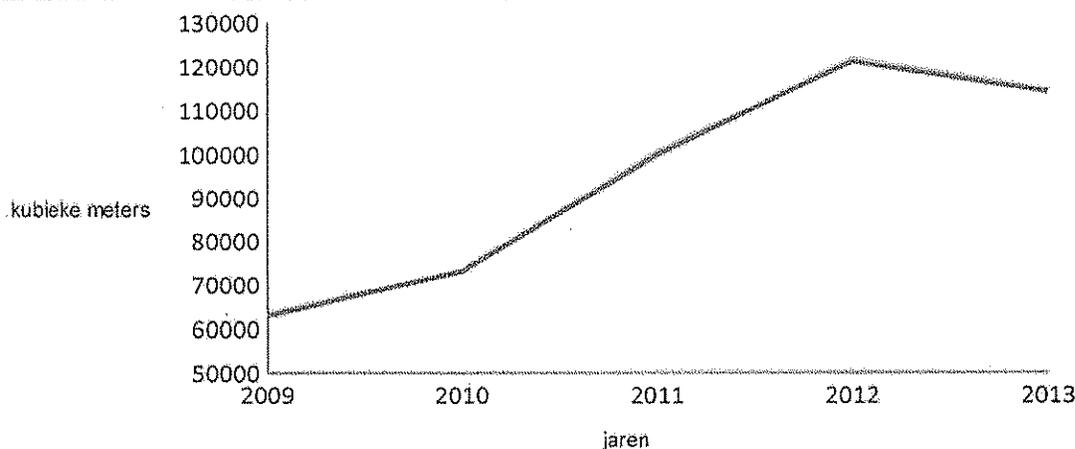


Figure 9: Production of sawn timber (m²) in Suriname 2009-2013 (Source: Foundation for Forest Management and Production Control)

Another important effort of the Government is the initiation of a national REDD+ program (Reducing Emissions from Deforestation and Forest Degradation). In close collaboration with Indigenous and Maroon peoples, the Government has developed a plan for receiving compensation

for reducing deforestation and forest degradation as part of a global strategy to reduce greenhouse gas emissions. The program was approved by the World Bank. The Indigenous peoples and Maroons, through their self-selected organizations, have a leading role in steering and implementing the program. The program envisages sustainable development projects for the communities that live in forests they protect, mainly in the interior. The Indigenous and Maroon communities, and their organizations, have agreed to this approach.

The position of the State that the entire territory of Suriname is part of the State. The State needs to provide for all its citizens as stated in the Constitution and therefore shall have control over resources to sustain the economy as the main driver for developing the nation. This control is also a matter of national security, because Suriname's economy is for 85 percent dependent on natural resources. In doing so, the State will comply with international obligations with respect to the rights of Indigenous peoples and Maroons in the most responsible way.



Chapter 5 **Position of the State with regard to Establishing a
Community Fund**

The State disputes the necessity and importance of establishing any fund for Indigenous peoples. The policy of the government is to ensure that all Surinamese peoples, including Indigenous and Maroon groups, have a decent life. The Multi-annual Development Plan 2012-2016 states: "Development spread equally across the whole country to increase the living standard and quality of life of every person" (page 20). The result is that the residential areas of the Kaliña and Lokono peoples also receive the full attention of the central government, including in the areas of housing, health matters, education, infrastructure, etc.

The State further states that if the Court decides to establish a fund, its participation is vitally important and necessary. Participation of the State in such a fund ensures that funds are not used inappropriately, but actually in accordance with what will be determined by the Court. Finally, it is not evident that participation of the State in the Moiwana Fund and the Saamaka Fund has been an obstacle for the allocation of funds. Participation of the State has indeed prevented any unintended use of moneys from these funds.



Chapter 6 Draft Law on Recognition of Traditional Authority

At a meeting on 27 September 2013, an initiative was taken to document regulations related to traditional authority. At this meeting all representative organizations and officials of both Indigenous and Maroon peoples were present. The purpose of the meeting was to consult various tribes in an acceptable manner on how to progress on the land rights issue. At the meeting, the State explained the whole process to obtain recognition of Indigenous and Maroon rights. The parties at this meeting have agreed that committees should be established to achieve this. They also agreed upon the actions to be undertaken, and discussed the method and strategy. It was unanimously decided that the proposed committees would have the responsibility for implementing activities. Three committees were established: 1) Commission law on traditional authority, 2) Commission awareness campaign, 3) Communication Protocol Free Prior Informed Consent (FPIC).

The state has hired a team of consultants that has developed a bill on traditional authority. This draft legislation is presented to the various representatives of the Indigenous peoples and Maroons as an outcome of the consulting assignment. This was done so Indigenous and Maroon communities could discuss the bill with their communities in accordance with traditions. The dialogue with the government would continue after these internal consultations. The plan was to reach agreement, and then submit a final bill to the Government to advance it further through different legal channels of Government.

With the formulation of this bill, the State wants to recognize the traditional authority as the legitimate representative of the Indigenous and tribal population in Suriname in the relationship with the central government. Particularly as it relates to situations in which Indigenous and tribal populations need to be consulted. The State is convinced that the new law will bring forward an acceptable solution to the issue of juridical status, as put by the petitioners.

With emphasis, the State wishes to point out that the draft legislation should only be considered as the work of the consultant and not as a final draft to be offered to Indigenous peoples and Maroon. This draft has not even been discussed internally by the State. The implementation of the agreed actions delayed because of factors attributed by both the State and communities. On the side of the State factors were of administrative nature, while on the side of the communities it was the (in) ability of communities to timely organize meetings in which miscommunication had a negative effect. Despite these negative factors, the committee to prepare for legislation on the recognition of the traditional management system (Commission traditional authority) was instated.

1. Awareness campaign

The purpose of the awareness campaign is to familiarize the Suriname peoples with the land rights issue, so that they can get more insight in developing a sustainable solution model.

2. Commission Protocol Free Prior and Informed Consent

The Principle of Free Prior and Informed consent, abbreviated FPIC is an international requirement that States should adhere to when consulting Indigenous and tribal people. It means that States must meet the minimum requirements: adhere to the meeting culture of the communities; giving them the opportunity to be represented by persons or organizations of their own choice; inform them in advance on the topic in an understandable language. In principle it means that there must be a clear and prior agreed consultation structure with the communities. The State Suriname declared already applying this principle (the usual *krutu* meetings with communities). Developing regulations on FPIC would mean improving and formalizing what already occurs in practice.



Conclusion and End Statement

The State is of the opinion that considering the merits of the case but especially the living circumstances of the Kaliña and Lokono Indigenous Peoples in the Lower Marowijne area it can not be stated that the rights of the parties involved are being violated by it. We can conclude that the State Suriname is diligently working on a permanent solution to the problem of internationally recognized rights which Indigenous peoples and Maroons claim, in particular the land rights and land-related rights. Taking into consideration the above the State of Suriname implores you to take such a decision as will allow it to successfully complete the path of dialogue embarked upon.



The Agent of the State of Suriname with
the Inter-American Court of
Human Rights
Mr. M. P. Misiedjan

ANNEX

Annex 1- Overview state forestry areas of the Ministry of Spatial Planning, Land and Forest Management, November 2012. Presentation of the original map by the state Suriname as apposed to the map presented by the petitioners.

Translation of relevant parts of the map

| Dutch | English |
|--|---|
| Dorpen/nederzettigen | Villages/ settlement |
| Kanalen | Canals |
| Kreken | Creeks |
| Wegen | Roads |
| Primaire wegen | Primary roads |
| Verhard Primaire wegen | Paved primary roads |
| Onverhard Secundaire wegen | Unpaved secondary roads |
| Polders | Polders |
| LBB-reserves | State forest management service |
| Natuurreservaten | Nature reserves |
| Voorstel uitbreiding natuurreservaten MUMA | Proposed expansion nature reserves MUMA |
| Suralco exploratie/mijnbouwrechten | Suralco exploration mining rights |
| Eigendomsterreinen | Property fields |
| Bosbouwterreinen | Forestry areas |
| Concessie | Concession |
| Domein | Domain |
| Erfpacht | Leasehold |
| Exploratie Gemeenschapsbos | Exploration community forest |
| Houtkapvergunning (HKV) | Wood cutting license |
| Incidentele houtkapvergunning (ICL) | Incidental wood cutting license |
| Toestemming houtkap op MCP-gebied | Permission logging permit on MCP area |
| Ter beschikking gesteld | Made available |