



International Human Rights Clinic
University of Oklahoma College of Law

Report on the Republic of France to the 29th Session of the Universal of Periodic Review,
Human Rights Council, (Jan - Feb 2018)

Prepared by

Students

Brandi Keese, J.D. Candidate, 2018

Jessica Ladd, J.D./M.A.I.S. Candidate, 2019

Professors

Lindsay Robertson

Alvaro Baca

June 14, 2017

EXECUTIVE SUMMARY

The International Human Rights Clinic of the University of Oklahoma College of Law (IHRC-OU) submits the following report on the Republic of France to the 29th Session of the Universal Periodic Review, Human Rights Council. Specifically, this report concerns the Amerindians of French Guiana, an overseas Department of the Republic of France and surveys the Republic's compliance with certain human rights obligations. This report focuses on the selected areas of Land and Resource Rights and Health. The purpose of this report is to provide a comprehensive view of Amerindians concerns in French Guiana and offer recommendations with the hope that they will guide the Republic in the areas of Land and Resource Rights and Health.

The IHRC-OU notes the expressions of commitment made by the Republic of France to continue to develop and improve the protection of Amerindians in French Guiana.

I. LAND AND RESOURCE RIGHTS

Normative and Institutional Frameworks

International Obligations: The Republic of France voted in favor of the adoption of the United Nations Declaration on the Rights of Indigenous Peoples in 2007, and strives to take into account the aspirations of indigenous populations with due regard for the constitutional principle of equality among citizens.

The Committee on the Elimination of Racial Discrimination (CERD/C/FRA/CO/20-21) at its eighty-sixth session (27 April – 15 May 2015) para. 18 encouraged the State party to consider ratifying the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169). It recommended that the Republic of France recognize these collective rights of the indigenous Amerindians, especially in regard to ancestral lands that “these communities have possessed and used since time immemorial.” The Republic of France has not yet legally recognized collective rights, but stated at the seventy-seventh session of the CERD Committee (CERD/C/SR.2027) that it accepted the possibility of shifting its stance in that regard.

Domestic Undertakings: The Committee on the Elimination of Racial Discrimination (CERD/C/FRA/CO/20-21) at its eighty-sixth session (27 April – 15 May 2015) para. 12, expressed its concern by the fact that indigenous peoples' collective land rights are not recognized and that the existing legal regime governing the use of these communities' ancestral lands - lands that they have possessed and used since time immemorial - does not permit them to follow their traditional lifestyle. The Committee, also recommended that the State Party consider recognizing indigenous peoples' collective rights, in particular, to the ancestral lands that these communities have possessed and used since time immemorial and to the resources of which they have traditionally made use.

Recommendations

- Consider ratifying the ILO Convention 169, of 189, concerning Indigenous and Tribal Peoples.
- Consider the recognition of collective rights, as set out by the UNDRIP.
- Make efforts to comply with Articles 8(b) and 26 of the UNDRIP.
- Include Amerindian representatives in national decision making and benefit sharing processes under the CBD and IST.
- Consider stricter regulations and stronger enforcement of mining activities that pollute water sources.
- Make efforts to comply with Article 4 of the UNDRIP and the preamble of the Republic's 1958 Constitution, which provide the rights to self-determination and self-governance.
- Consider reinstating a Council or forum of government to be implemented with the territory of French Guiana

II. HEALTH

International Obligations: France has not taken the appropriate steps necessary to ratify the Minamata Convention on Mercury.

France signed the Convention in October 2013, yet there has not been any further action taken to ratify.

Domestic Undertakings: The Committee on Economic, Social, and Cultural Rights (E/C.12/FRA/CO/4) at its fifty-eighth session (6- 24 June 2016) para 47 (a), (b), (c), (d), (e), urges the State party invest more resources in the more disadvantaged areas to help equalize the level of health expenditure per capita, assign more health personnel to these areas, continue to maintain the health watch so as to monitor the situation with mercury poisoning concerning the Amerindian population, and further development of the public water supply and sanitation systems and provide access to these resources to the populations who are most at risk to the prevalence of parasitic and infectious diseases.

Recommendations.

- Consider further programs to make healthcare accessible to those indigenous groups most affected by the illegal mining operations, possibly with assistance from WHO since there exists a connection between the illegal mining practices and malaria.
- Invest more resources in the most disadvantaged departments to equalize the level of health expenditure per capita;
- Deploy more qualified health-care personnel to overseas territories; E/C.12/FRA/CO/410 GE.16-12027.
- Continue to maintain the health watch in French Guiana to monitor the situation with respect to mercury contamination in Amerindian communities;
- Further the development of public water supply and sanitation systems and provide access to those systems at an affordable price to reduce the prevalence of parasitic and infectious diseases.