

## SURINAME

### CCPR A/35/40 (1980)

275. At its 223<sup>rd</sup>, 224<sup>th</sup> and 227<sup>th</sup> meetings, held on 16 and 18 July 1980 (CCPR/C/SR. 223, 224 and 227), the Committee considered the initial report (CCPR/C/4/Add.4) submitted by the Government of Suriname.

276. The report was introduced by the representative of the State party who, after giving a historical account of his country's struggle against colonial rule and under-development, stated that a change in the political sphere had taken place in his country on 25 February 1980 as a result of a coup d'état on that day and the establishment of the National Military Council, which had completely taken over the political, civil and military power. On 15 March 1980 the President of the Republic had reassigned executive power to a civilian government, thus creating greater confidence in a better future among the majority of the population. However, the National Military Council continued to function alongside the civilian Government. At present the country was ruled by the Government inaugurated on 15 March 1980 and was strongly supported by the National Military Council which participated in the administration through two cabinet ministers.

277. The representative of Suriname pointed out that his Government recognized that it had not been formed in accordance with the rules laid down in the Constitution, which stipulated that a Government should be formed by means of elections. But, because of the present situation and the fact that national security still required an increased measure of alertness, the country had to be ruled in close consultation with the National Military Council. One of the first acts of the new Government was to extend the term of Parliament for one year in order to prepare the holding of national elections probably in October 1982, a date by which the Government expected to have laid solid grounds for a new democratic government. He stressed, however, that elections would be held only if the Government was completely convinced that it was absolutely impossible for the country to return to the conditions existing before the coup of February 1980. He quoted the Government declaration of 1 May 1980 in which details of national objectives and a programme of work were given. In this declaration the Government has declared that renewal of the political, social, economic and educational systems was required to ensure that the nation would be ruled according to the best democratic traditions; that a Committee would be appointed to study the amendments to be made to the present Constitution; that the electoral system would be revised; that the composition of Parliament would be based on the principle of proportional representation; and that the entire population of Suriname would have the opportunity of participating in public affairs.

278. The representative also indicated that on 3 July 1980 the Prime Minister of Suriname informed the formal colonial power that it no longer valued her guardianship and that it wished to be recognized as an equal partner. Independence was finally achieving greater meaning for the country.

279. Members of the Committee expressed their appreciation for the additional information provided by the representative of the State party and expressed great interest in the resolution of Suriname, a country which had recently undergone major political changes, to plan an ambitious

development programme in all walks of life with a view to enhancing the situation of human rights for its population. Members of the Committee also commended the readiness of Suriname, so soon after the recent fundamental political change, to engage in a fruitful dialogue with the Committee as shown by the presence of its representative at this session.

280. Members of the Committee noted that the report had been transmitted by a Government that had been repudiated and overthrown and that the report might not, in many respects, reflect the present situation in Suriname. Since it was not possible to predict what form the Constitution would take, members of the Committee thought that perhaps the role which the Committee might best play was to highlight some matters which the Committee set up to draft amendments to the Constitution might usefully consider with regard to the implementation of the provisions of the Covenant. The Government of Suriname was advised to consider the appointment of a special committee to examine the provisions of the Covenant with a view to enabling it to fulfil to the best of its ability the commitments entered into by Suriname under the Covenant. Since Suriname was in the throes of evolution, the Committee should be kept informed of any difficulties encountered in the course of building a new society and of the way in which it may have proved possible to solve them. They expressed the wish in this regard that a new report be submitted at a future date containing information on the measures taken to implement the rights provided for in the Covenant in the new political context.

281. It was noted that Suriname was a very young country, having achieved independence only in 1975. By and large, colonial Powers left their colonies only reluctantly and tried to maintain their influence over their former colonies through various means. That fact had to be taken into consideration when examining the human rights situation in Suriname. However, members of the Committee expressed the hope that Suriname recognized that, though the enjoyment of a number of rights were bound to be affected by the degree of development or under-development of a country, nevertheless most basic human rights recognized in the Covenant were required to be protected and ensured in all circumstances, particularly as derogations under article 4 of the Covenant were subject to strict and specific limitations.

282. With reference to the statements in the report to the effect that, under the legal system of Suriname, international agreements did not directly acquire force of law, that the Surinamese legislation in the field covered by a certain international agreement was brought into harmony with that agreement and that legal regulations would not be applicable if their application was incompatible with provisions of treaties adhered to by Suriname, members of the Committee asked what position the Covenant had in the present legal system, and whether any person who considered that his rights under the Covenant had been violated could invoke its provisions before the courts and, if that was not the case, what remedies were available for him in this respect. It was also asked whether the Constitutional Court referred to in the Constitution had ever existed and, if so, which cases it had been called upon to decide; whether there were any administrative tribunals still in existence and, if so, what powers they had; whether the judiciary had jurisdiction in disputes between individuals and the State in both civil and criminal matters; whether a judge trying a case would still have the right, stipulated in the Constitution, to declare illegal the application of a law which proved to be contrary to the provisions of article 1 of the Constitution; and what guarantees provided for in the Constitution were still available to citizens.

283. With reference to article 3 of the Covenant, members of the Committee expressed their appreciation for the new Government's commitment to the realization of full equality between men and women. The Constitution forbade discrimination on the basis of sex but that did not apparently reflect the true situation of women whose position in Suriname was still inferior to that of men. They expressed the hope that Suriname would find it possible to take measures to ensure that women achieve equality with men.

284. In connection with article 4 of the Covenant, members of the Committee asked whether the Surinamese parliament had pronounced on the continuation of the state of emergency recently declared in the country. Information was requested on the decree of 20 May 1980 which seemed to have conferred on the Government extraordinary legislative powers to derogate from the Constitution but according to which the Government was apparently not authorized to promulgate decrees or regulations that affected fundamental rights. The representative was requested specifically to confirm that that decree did not infringe any of the provisions of articles 6 to 27 of the Covenant with particular reference to the rights provided for in articles 18, 19, 21 and 22 of the Covenant. He was also requested to indicate which of the constitutional provisions had been suspended following the coup d'état.

285. As regards article 6, information was requested on the steps taken to put into effect the public health insurance scheme for civil servants and for the economically disadvantaged as promised in the Government declaration of 1 May 1980. Members of the Committee commended the fact that the death penalty had not been exercised for a very long time. However, it was asked whether Suriname had given any consideration to abolishing the death penalty. Clarification was requested concerning the "major crimes" which would warrant imposition of capital punishment. Since the law stated that a pregnant woman could not be executed, it was asked whether she could be executed once she had given birth.

286. As regards articles 7 and 10 of the Covenant, it was observed that the report made almost no reference to the machinery established to ensure respect for the provisions of the Covenant with regard to torture and other inhuman treatment as well as to the obligation to respect the inherent dignity of a person even when deprived of his liberty for any crime that he may have committed. It was asked what was the present position in that respect and whether action could be taken against members of the police or of prison administrations in the event that they abuse their authority.

287. Commenting on article 9 of the Covenant, members of the Committee expressed concern at the excessive length of the period of detention preceding an appearance before the courts as stated in the report and wondered what the present position was and whether there was any system of bail in Suriname.

288. In relation to article 14 in conjunction with article 2, paragraph 3, of the Covenant, members noted that, in its declaration of 1 May 1980, the Government was planning to set up special courts to try members of the previous administration charged with corruption and they enquired about the particular reasons which had prompted the Government to decide that the normal judicial process was not appropriate, whether the Government intended to entrust the same body with the task of investigation and trial and, if so, whether the guarantees of fair trial an accused person possesses in normal judicial proceedings would still be available to him. In this connection, it was asked whether

the measures envisaged for the special courts were in effect derogations under article 4 of the Covenant and, if so, whether the Government envisaged complying with the strict and specific requirements of article 4 of the Covenant. As regards the judiciary, it was asked who appointed the judges, on what conditions, what their qualifications were, what the duration of their term was and how the Government guaranteed their independence. Referring to an article in the Constitution stipulating that everyone was entitled to legal aid, one member asked whether there was any specific law on that matter.

289. Commenting on article 19 of the Covenant, members requested clarification on the statement in the Government declaration of 1 May 1980 to the effect that the press and mass media would have an important role to play in the country's renewal process and that the Government considered it essential that a certain measure of organization in accordance with national standards should be effected within the Surinamese press. Was the Government planning to give all the social classes the opportunity to express themselves through the communication media? It was also asked whether censorship had been established for the mass communication media and, if so, for how long it was meant to continue.

290. As regards article 22 of the Covenant, information was requested on any measures that may have been adopted under the new Government concerning freedom of association, particularly trade union rights and freedoms.

291. In connection with articles 23 and 24 of the Covenant, it was noted, according to the Government declaration of 1 May 1980, that previously a married woman did not enjoy the same rights as her husband who could easily repudiate her. Clarification was asked on the measures which the Government planned to take to remedy the situation. It was also asked who was considered to be the head of the family, the husband, the wife or the two parents equally. Could a woman, after bearing a certain number of children, terminate a subsequent pregnancy without committing a crime? Information was requested concerning the legal position of "natural" children as compared with that of children born in wedlock. Was it possible for a natural child to have his paternity recognized? Did he have inheritance rights and, if so, how did those rights differ from those of legitimate children? As the Constitution stated that children "acquired the nationality of their parents at birth", what happened in the case of a mixed marriage? Did the child acquire the nationality of the father alone, which would imply discrimination against the rights of the mother?

292. With reference to article 25 of the Covenant, clarification was requested on the statement of the representative in his introduction to the report regarding the Government's intention to hold elections only if it was "completely convinced" that it was absolutely impossible to return to the conditions that existed before 25 February 1980. It was pointed out that, since there could be no absolute guarantee of the fulfilment of such requirement, the only conclusion that could be drawn was the postponement of elections indefinitely. It was also observed that the Government intended to promulgate a new law on political parties and it was asked in what respects the new law was intended to restrict freedom to establish political parties in the country.

293. Commenting on article 27 of the Covenant, members of the Committee asked what the ethnic minorities were; whether they were protected pursuant to any particular law; what provisions the new Government intended to enact to enable minorities to preserve their own culture while

participating on an equal footing with the rest of the population in the country's political life; and how land claims were being dealt with. As Suriname was made up of various entities drawn from different cultural backgrounds, it was hoped that the present Government would decide not to allow itself to be swayed, when carrying out its policy, by any considerations of a racial kind, in keeping with the provisions of articles 26 and 27 of the Covenant.

294. Replying to questions raised by the members of the Committee, the representative gave further details on the legal situation in Suriname since the coup d'état of 25 February 1980. He indicated that, on 14 June 1980, the military council transferred to civilian jurisdiction all persons in its custody, including persons allegedly involved in a counter-coup. The civilian authorities had dealt leniently with those people who had been mistreated and in some cases even tortured by the military during their detention. Most of those persons had now been released. In the case of those persons who had been brought to trial, lighter sentences had been imposed on them in view of the punishment which they had already undergone. Under the Amnesty Act introduced by Parliament, it was not possible to bring military personnel to trial for acts committed during the period 25 February to 15 March 1980 when the military had held absolute power. It had been determined that the persons taken into custody by the military because of alleged corrupt practices had not been mistreated during their captivity and that the only injustice inflicted on them had been the arbitrary deprivation of freedom.

295. The representative stated that the constitutional court was not yet functioning and indicated that this was so because Parliament had failed to designate its representatives to sit on the court, although the other members had already been nominated some time previously. He stressed that there was still a procedure for verifying that legislation was consistent with section I of the Constitution. Before a law could be enforced, it had to be sent to the Attorney General for comments and in case the President did not approve of a law he could withhold assent without which the law could not be implemented. With regard to the right of an individual to invoke a conflict between a provision of the law and one or more provisions of section I of the Constitution, the judge could rule that the law concerned was inapplicable to the special case.

296. Replying to questions raised under article 3 of the Covenant, he stated that women in Suriname were entitled to hold any job and that there was already a female university rector in Suriname. There were of course low-paid jobs which were mostly held by women, but if a man wanted to do them he would be paid the same wages as a woman.

297. In connection with article 4 of the Covenant, he pointed out that neither a state of emergency nor a state of siege had been proclaimed in Suriname, even though a de facto state of emergency had existed for one or two months after the coup. As to the statute of 20 May 1980, he stressed that it was a law in the formal sense as it had been approved and even amended by Parliament. The law enabled the Government to take extraordinary legislative measures with a view to carrying out the programme set forth in the Government Declaration of 1 May 1980. By that statute, the powers delegated to the Government were subject to certain restrictions under which the Government could not take any measures affecting the fundamental rights set forth in section I of the Constitution. The special powers would end on the day on which the new Parliament convened. He also stated that the powers conferred by the statute, which authorized the Government temporarily to amend or suspend existing laws by decree had not yet been used and Parliament could at any time revoke the

powers thus delegated to the Government. He stressed that the sole purpose of the statute had been to enable the Government to fulfil an enormous task under very difficult circumstances and that the statute had been approved unanimously by Parliament.

298. As regards article 6 of the Covenant, he stated that health care in Suriname was excellent, that the infant mortality rate was only 5 to 10 per thousand and that major diseases were under control. He reiterated the fact mentioned in the report that the death penalty had not been enforced in his country for more than 50 years and he doubted whether it would ever again be applied. The reason why a procedure for execution still existed in the Code of Criminal Procedure was that some members of Parliament had been unwilling to abolish the death penalty which was considered a deterrent. The death sentence could, according to the law, be imposed only for murder, first degree manslaughter and piracy.

299. Replying to questions raised under articles 7 and 10 he informed the Committee that the Attorney General and the Supreme Court took great care to ensure the humane treatment of the individual and that there had been cases in which police and prison officers had been dismissed and prosecuted for abuses inflicted upon persons under detention.

300. As regards article 9 of the Covenant, he pointed out that the basic purpose of the article covering detention in the Code of Criminal Procedure was to limit the time during which an individual could be held in custody. However, there were a number of built-in safeguards to prevent an individual from being held in custody for longer than was absolutely necessary for the investigation of his case. Detention for more than seven days could be ordered only by a judge and only if the Public Prosecutor adduced evidence pointing to the commission of an offence. All such detention decisions were subject to appeal. The guarantee of habeas corpus had been strengthened by article 21 of the Code of Criminal Procedure which prohibited use of any methods intended to force a suspect to confess.

301. In connection with questions raised under article 14 of the Covenant, he stated that there had been no interference with the existing judiciary, that judges had begun to hold sessions three days after the coup had taken place, that the courts were competent to deal with administrative cases and that they frequently did so. The members of the Supreme Court, the ordinary judges and the Attorney General were appointed for life. Before a person could become a judge, five years of training were required. Moreover, candidates had to take a psychiatric test, to be of good behaviour, to be masters or doctors of law and to be at least thirty years of age. Judges were appointed by the President of the Republic on the advice of the Supreme Court.

302. Replying to questions concerning article 19 of the Covenant, he pointed out that some form of regulation seemed necessary since the press had a responsibility to individuals and to the community but that the reform was likely to be purely technical, that, except for the period extending approximately from 25 February to 15 May 1980, the press and mass media had not been censored and that the relevant provisions of the Constitution prohibiting restrictions of human rights and freedoms to a greater extent than was provided for therein remained valid and respected, since the tradition in Suriname was built on the assumption that human rights could be restricted only for reasons of public order and public morality.

303. As regards article 22 of the Covenant, the representative informed the Committee that the trade unions were now better organized, that they had their own regulations, that they held meetings and that they enjoyed all other trade union rights.

304. As to the questions put under articles 23 and 24, he stated that a provision of the Civil Code still in force denied married women the right to conduct their own business affairs but that, under the same code, a woman could apply to a judge for authorization to take over, partly or completely, the management of family affairs if her husband was profligate. The new Government had already prepared a bill with a view to ensuring uniformity of treatment for spouses. However, Hindu or Moslem children at the age of 12 in the case of girls and 14 in the case of boys were still able to marry, and that Moslem law enabling men to repudiate their wives was still in force in Suriname. Abortion was prohibited except when recommended on medical grounds. He also stated that since 1963 it had not been necessary for a child in Suriname to be recognized by his mother in order to inherit from her, but that a child would inherit from his father only if recognized by him. However, the Government planned to introduce a law eliminating unequal treatment of legitimate and illegitimate children in the law of inheritance.

305. In relation to article 25 of the Covenant, the representative referred to the concern expressed by some members concerning future elections for Parliament, following an earlier statement that he made while introducing the report of his country, and pointed out that the conditions that he mentioned in that respect were not impossible to meet, particularly considering the efforts his Government was undertaking to prepare the ground for a new society. Although the outcome would largely depend on the Government's assessment of the situation at the time, the next elections could not be considered to have been postponed indefinitely. The new Government's legislation had only one aim and that was to secure the implementation of the social-economic system and to adapt the former laws to that system and to ensure protection and respect for human rights. As regards political parties the legislation envisaged for their organization had, as one of its aims, the abolition of the practice followed whereby political parties borrowed money before an election but refused to pay it back, or the practice whereby leaders of political parties could not be removed because of the lack of internal democracy within the party system.

306. Finally, the representative of Suriname pointed out that it would be useful for Committee members to visit the reporting State in order to obtain a broader view of the situation there, that he had noted the suggestions made by members of the Committee concerning his country's report, that he would convey them to his Government and that an additional report would be transmitted to the Committee when a measure of stability had been achieved in Suriname.