

PERSONHOOD

IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Suriname, CERD, A/59/18 (2004) 36 at para. 193.

193. The Committee notes that, under the draft Mining Act, indigenous and tribal peoples will be required to accept mining activities on their lands following agreement on compensation with the concession holders, and that if agreement cannot be reached, the matter will be settled by the executive, and not the judiciary. More generally, the Committee is concerned that indigenous and tribal peoples cannot as such seek recognition of their traditional rights before the courts because they are not recognized legally as juridical persons.

The Committee recommends that indigenous and tribal peoples should be granted the right of appeal to the courts, or any independent body specially created for that purpose, in order to uphold their traditional rights and their right to be consulted before concessions are granted and to be fairly compensated for any damage.

- Argentina, CERD, A/59/18 (2004) 45 at para. 246.

246. The Committee is concerned about the State party's failure to enact the necessary legislation to implement the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). The Committee further notes reported difficulties in recognizing the legal personality of indigenous peoples, the inadequate protection in practice of indigenous peoples' ownership and possession of ancestral lands and the consequential impairment of indigenous peoples' ability to practise their religious beliefs.

In the light of its general recommendation XXIII, the Committee urges the State party to: fully implement ILO Convention No. 169; adopt, in consultation with indigenous peoples, a general land tenure policy and effective legal procedures to recognize indigenous peoples' titles to land and to demarcate territorial boundaries; adopt measures to safeguard indigenous rights over ancestral lands, especially sacred sites, and compensate indigenous peoples for land deprivation; ensure access to justice, as well as recognize effectively the legal personality of indigenous peoples and their communities in their traditional way of life, and respect the special importance for the culture and spiritual values of indigenous peoples of their relationship with the land.

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ICCPR

- Mali, ICCPR, A/58/40 vol. I (2003) 47 at para. 81(10).

(10) While welcoming the establishment of a Ministry for the Advancement of Women, Children and the Family, the Committee expresses its grave concern at the continued existence in Mali of legislation which discriminates against women, in particular with regard to marriage, divorce, and inheritance and succession, and of discriminatory customary rules relating to property ownership. The Committee, while appreciating that adoption of a Family Code requires wide-ranging consultations, notes with concern that the proposed reform, ongoing since 1998, has not yet concluded. The Committee is also concerned about information that the practice of the levirate, a practice whereby a widow is inherited by the deceased husband's brother or cousin, is said to persist in Mali (articles 3, 16 and 23 of the Covenant).

(a) The State party should expedite the adoption of the Family Code; the Committee recommends that the Code comply with the provisions of articles 3, 23 and 26 of the Covenant, in particular with regard to the respective rights of spouses in the context of marriage and divorce. In this connection, the Committee draws the attention of Mali to its general comment No. 28 on equality of rights between men and women, in particular with regard to polygamy, a practice that violates the dignity of women and constitutes unacceptable discrimination against women. The State party should abolish polygamy once and for all.

...

(d) The State party should abolish the levirate once and for all and apply appropriate penalties against those engaging in the practice, and take appropriate measures to protect and support women, especially widows.