

**Mining in Suriname:  
Multinationals, the State and the Maroon Community  
of Nieuw Koffiekamp**

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## **A.. Introduction**

All over the world, states are liberalizing investment laws and redrafting mining legislation to encourage investment in the mining sector. As a result, once remote and ignored Indigenous lands and territories are increasingly on the front line of state- and corporate-directed resource exploitation operations. These operations are environmentally destructive and socially disruptive. The Guyana Shield - the region that includes Guyana, Suriname, French Guiana, Venezuela and parts of Colombia and Brazil - is no exception, and Suriname, the setting for this case study, is a microcosm. (Colchester 1995)

Suriname is a small former Dutch colony and is considered by historical and demographic factors to be Caribbean rather than Latin American. Until recently, its tropical rainforests were regarded as having good prospects for long term, sustainable use and preservation. (Colchester 1995, p7) These forests cover at least 80 percent of the surface area of the country and are biologically rich and high in endemic species.

These forests are also the ancestral home of five distinct Indigenous peoples comprising up to five percent of the population and six Tribal peoples (Maroons) totaling between ten and fifteen percent of the population. In real numbers, this translates as approximately 20,000 Indigenous people and 40-60,000 Tribal people. In the past few years, they have been joined by some 30,000 Brazilian *garimpeiros*, licensed by the state.

Less than 30 years ago, Suriname was one of the most prosperous states in South America. A brutal military dictatorship, civil war, endemic corruption, declining prices for bauxite and the suspension of Dutch aid money has left the country with serious economic problems. In recent years, the government has parceled out vast areas of the rainforest interior to multinational mining and logging companies, claiming that this is needed to finance foreign debt and stimulate economic recovery and growth.

For instance, in 1993, the government began negotiations with Asian logging companies for concessions totaling between three and five million hectares -- almost two-fifths of the country. Contracts for these concessions were rejected in early 1997 after enormous international condemnation and pressure. More recently, however, a large number of logging concessions have been granted despite government promises to the contrary.

Suriname has long depended on bauxite mining as its principal export earner, but until recently had done little to exploit the substantial gold deposits assumed to occur throughout the interior. This changed in 1992, when the government began inviting investment in the gold mining sector.

The first company to arrive was Golden Star Resources, a Canadian company. It has been followed by numerous others, large and small, all seeking to cash in on Suriname's gold fever. Analyses of contracts for both logging and mining operations have revealed,

however, that the Surinamese treasury will receive few if any benefits and that the environment and Indigenous and Tribal peoples will suffer irreparable harm. (World Resources Institute, 1995) Indigenous and Tribal peoples, whose rights to their territories and resources are not recognized in Surinamese law, have vigorously condemned this multinational invasion. They have demanded that all existing concessions be suspended and that no more be given until their rights are recognized in accordance with international human rights standards, and enforceable guarantees are in place in Surinamese law.

This case study examines the dynamics of a dispute between the Tribal community of Nieuw Koffiekamp and two Canadian mining companies authorized and supported by the government. It identifies and discusses the various actors and their respective roles and analyzes attempts at conflict resolution, which to date have proved unsuccessful. It concludes with an evaluation of the potential role in the conflict of an international NGO mediator or ombudsperson.

## **B. The Conflict**

Nieuw Koffiekamp is an Aucaner Maroon community of between 500-800 persons, located approximately 80 kilometers south of the capital of Suriname. Maroons are the descendants of escaped African slaves who fought for and won their freedom from the Dutch colonial administration in the 18th century. They succeeded in establishing viable communities along the major rivers of the rainforest interior and have maintained a distinct culture based primarily upon an amalgamation of African and Amerindian traditions.

Maroons consider themselves and are perceived to be culturally distinct from other sectors of Surinamese society and regulate themselves according to their own laws and customs. Consequently, they qualify as Tribal peoples according to international definitional criteria and enjoy largely the same rights as Indigenous peoples under international law.<sup>1</sup> Aucaners, also known as N'djuka, are one of the six Maroon peoples of Suriname. Their freedom from slavery and rights to territorial and political autonomy were recognized by treaty concluded with the Dutch (1760, renewed in 1837) and by two centuries of colonial administrative practice.

Aucaners and other Maroons have even been described as a “state within a state.” (Scholtens, 1994, p147) The recognition of their autonomy has eroded in the past 50 years and the government now asserts that Maroons have no rights to their territories and, for the most part, refuses to recognize tribal authorities and law (Kambel and MacKay, 1999, p55-80).

Nieuw Koffiekamp is one of the so-called “transmigration villages” (over 20 villages with a population of approximately 6000) that were forcibly relocated from their ancestral lands to make way for a hydroelectric dam and reservoir in 1963-4. The dam was constructed to provide power for a bauxite and alumina refinery. The community of

(old) Koffiekamp split into three parts during transmigration, one going to its present location, one forming another community called Marschalkreek and the remainder moving to the capital of Suriname on the coast.

Community members state that transmigration caused serious social, cultural and economic problems. In particular, they point to a breakdown in traditional authority and social cohesion; lack of compensation for their lands; economic hardship; a shift away from subsistence agriculture and; the loss of ancestral burial grounds and other sacred sites. Maroon culture and identity are a complex web of ongoing relationships with ancestral and other spirits, land and kinship structures.

Activities that interfere with the processes by which these relationships are constructed and reinforced have a profound impact upon their socio-cultural integrity; relocation is an extreme example. Community members frequently refer in very emotional terms to the pain and loss suffered due to transmigration. Elders, men, women and youth alike state that a second relocation will be tantamount to the cultural and social death of their community as relationships with ancestors, the land and kin will be further weakened, if not destroyed.

In 1992, GRASSALCO, the Surinamese parastatal mining company, transferred its rights to the Gross Rosebel gold and diamond concession to Golden Star Resources. Nieuw Koffiekamp is located at the center of the southern block of this 17,000 hectare concession. The community and other surrounding communities affected by the concession were not consulted or even informed prior to its granting. In 1994, a Mineral Agreement was signed between Golden Star and the Suriname government granting exclusive exploration rights to Golden Star. In 1996, another Canadian company, Cambior Inc. of Montreal exercised its option to acquire a 50 percent interest in the project.

In September of the same year, Golden Star announced publicly for the first time that the village of Nieuw Koffiekamp would have to be relocated again to make way for an industrial gold mine. That relocation was planned had been widely known prior to the public announcement, even though the companies refused to discuss the subject, stating that it was not a pertinent issue.

After the Gross Rosebel concession was granted to Golden Star, the area was invaded by small scale miners, the majority of whom were from Saramacca Maroon communities near Nieuw Koffiekamp. Golden Star threatened to pull out of the project if the miners were not removed from the concession. In response, the Minister of Justice and Police threatened to attack the miners from the ground and air if they did not immediately vacate the area. A detachment of police and the paramilitary Police Support Group were permanently stationed at the mining camp and company security was increased.

Around this time, community members began to complain that they were surrounded by armed guards and were being denied access to hunting, fishing and agricultural areas as well as areas used for small scale mining, seriously impacting their economic well-being.

Small scale gold mining, directly and indirectly, provides an important source of income for many people in Nieuw Koffiekamp. This supplements subsistence hunting, fishing and agriculture as well as small scale gravel mining and limited logging in community timber concessions.

Tensions escalated as company security guards and the police working with them began using live ammunition to intimidate and frighten community members away from areas in which the company was conducting or planned to conduct exploration activities. Moiwana '86, a Surinamese human rights organization, stated at this time that in its opinion at least eight separate violations of the American Convention on Human Rights had occurred and were ongoing due to company action and government inaction. (Moiwana '86, 1995)

In response to continued harassment, the community blocked the access road to the mining camp. This lasted five weeks until *Granman* Songo Aboikoni (paramount tribal leader), intervened, installing a Commission using the good offices of the OAS Special Mission to Suriname.<sup>2</sup>

The primary objective of this Commission was to resolve the dispute between Golden Star, the government and community-based, small scale miners. The *Granman* appointed two of his personal advisors to sit on the Commission; Nieuw Koffiekamp appointed three persons; and representatives of the government (Ministry of Natural Resources, the Geology and Mines Service and GRASSALCO) and Golden Star also participated, the latter only briefly and informally. The Commission met fourteen times over approximately a year, disbanding after both the government and the companies failed to respond to a draft agreement. This was the first and only sincere attempt at conflict resolution in the Nieuw Koffiekamp conflict.

The Commission's draft agreement outlined the means by which the activities of the community-based miners and the exploration programme of the companies could coexist. It did this primarily by identifying areas set aside for community miners to use in exchange for promises not to enter or interfere with areas in which the company was working. It also attempted to address the more fundamental issue of land ownership, and implicitly, the subject of relocation, by providing that the companies (and the government) would *de facto* recognize and respect, subject to the other terms of the agreement, the rights of the community under article 10 of the 1992 Peace Accord.

The Peace Accord (officially called the Lelydorp Accord) concluded a devastating six year long civil war (1986-1992) that pitted Maroon and Indigenous insurgents against each other and the military dictatorship of the 1980s. The OAS Special Mission was very influential in drafting the Peace Accord and, in certain respects, is responsible for monitoring compliance with it. With the exception of the provisions relating to decommissioning of weapons and a few others, the Peace Accord has never been implemented by the government.

In short, article 10 stipulates that Indigenous and Tribal persons should be issued with (individual) title to their land and that economic zones be identified and demarcated around communities in which subsistence and other activities, including small scale mining and community-based forestry could occur. The inclusion of this article in the draft agreement is related to the issue of relocation for two reasons. First, it was decided that recognition of community rights would substantially increase the amount of potential compensation to be paid when negotiations on relocation commenced. (Personal communication with Special Mission staff).

Second, from the community's perspective, recognition of rights under the Peace Accord would strengthen their opposition to relocation as they would be able to cite rights recognized by agreement with the companies and the government, further legitimized by the involvement of the Special Mission. Although for different reasons, the community and the Special Mission concurred on this part of the agreement. This is instructive as to the different positions of the community and the Special Mission: the former sought to support its opposition to relocation, while the latter had decided that it was a forgone conclusion and sought to strengthen the community's position in negotiating the terms of compensation.

Both the companies and the government, however, failed to respond to the agreement as a whole, thereby mooting the maneuvers of the community and Special Mission. The reasons are unknown, although I can offer some educated speculation. The companies and the government were clearly concerned about the impact of this agreement on their contractual relationship as defined by the 1994 Mineral Agreement, which contains a derogation clause in which the government warrants that there are no preexisting rights to the concession area. From their perspective, recognition, even *de facto*, of community rights under the 1992 Peace Accord challenged a fundamental provision of the Mineral Agreement, raising a myriad of legal questions with uncertain results.

From the government's perspective, and perhaps also to a certain extent the companies' as well, recognizing the rights of one community under the Peace Accord would have opened a can of worms best left alone. If one community's rights were recognized, then they would have to address the rights of all other Indigenous and Maroon communities or at least justify why they would not. They were certainly aware that this was not lost on other communities throughout the country, who were waiting for this kind of opportunity to press their own claims. Nor was it lost on the companies who have interests in a number of other concessions in Suriname, most of which would be affected.

After the October 1996 general election, the new government, which was directly related to the military regime of the 1980s, installed a "Task Force on the Relocation of Nieuw Koffiekamp." It was staffed by persons associated with the military dictatorship and considered loyal to the government and its mandate was to conclude a relocation settlement agreement. In doing so, it attempted to bring the community, the companies and government representatives to the negotiating table. A number of meetings were held between October and December in both the village and in the capital, which were attended by senior company management, high government officials and community

leaders. Basically, these talks broke down as neither the government nor the companies were willing to consider options other than relocation of the community.

The Task Force continued to meet after December but was boycotted by the community, which stated that they were opposed to relocation and therefore, were not interested in participating in a body whose sole function was to negotiate a relocation agreement. A few months later, the community appointed a negotiating body called the *Collectief* to represent its position with the government and the companies. The Task Force handed in its report, which has not been made public, in August 1997. The *Collectief*, which has since ceased to function, declared in a 1997 press release that talks were stalled and that no solution was emerging. (*De West* 1997, p1).

The companies submitted their Environmental Impact Assessment and Feasibility Study and the requisite forms for incorporating a Surinamese holding company in June 1997. The companies also submitted their preliminary applications for political risk insurance to the World Bank's Multilateral Investment Guarantee Agency (MIGA) and the Canadian government's Export Development Corporation (EDC). On September 30, 1997, a press release was issued stating that mine construction would begin in December 1997. It noted that the government had appointed yet another Commission to resolve the Nieuw Koffiekamp "problem," and that a relocation plan had been submitted by the companies to the Minister of Natural Resources. (*De Ware Tijd* 1997, p1)

Since that time the companies have updated their feasibility study to include additional identified reserves. This updated feasibility study was submitted to the government in December 1997. As of August 2000, the government has yet to issue a license to exploit the deposit, political risk insurance has not been secured and an agreement for the relocation of Nieuw Koffiekamp has not been reached (GSR 2000, p36). In 1998, the price of gold on world markets plummeted and still remains below the US\$350 an ounce level required to commercially operate the mine. (Cambior 2000). A combination of all these factors, although the last is probably the most important, has forestalled mine construction.

The nature of the dispute at Nieuw Koffiekamp on the surface appears quite straightforward - small scale miners versus a multinational mining company sanctioned and supported by the government. In other words, the dispute is over gold and access thereto. This is also how the companies and the government portray the dispute. However, the situation is a far more complex and involves a variety of interested parties.

In the words of the OAS Special Mission Report (UPD Report), Nieuw Koffiekamp is: a conflict fueled by contrasting ideologies rooted in two worlds very far apart from each other: Maroon and corporate culture. Land is of primary importance to the Maroons. The social, political and economic system of Maroon society is deeply rooted in clan ownership of territory, and the threat to what Maroons consider traditional tribal territory is regarded with great seriousness. From the perspective of the large scale mining companies, having full title and unlimited access to concessions under development is a condition *sine qua non* for developing a mine. (OAS\UPD 1997, Introduction)

In short, the dispute is based first and foremost on competing notions of land and its utility and significance, as well as competing notions of rights to and control over land and resources. In Suriname, the state claims ownership of all unencumbered land and all subsurface and surface resources. Based on this claim, it granted rights to Golden Star and Cambior, who now assert these rights against Nieuw Koffiekamp. Maroons state that their rights of ownership and, importantly, control of territory and resources are based upon the struggle for freedom concluded in sacred treaties, the 1992 Peace Accord and international human rights law. These agreements incorporate a full understanding of all aspects of their relationship to that territory and attendant resources and a recognition of their laws. International law, to a certain extent, has recognized the Maroon perspective and is moving towards a more complete recognition.

Furthermore, Maroons make no distinction between surface and subsurface resource rights. Their lands and resources are viewed holistically and are intertwined with the social, ancestral and spiritual relationships that govern their daily lives. Expropriation of their lands or the resources pertaining to those lands are indistinguishable and deeply offensive on a number of levels. In particular, Maroon identity is inextricably connected to their struggle to free themselves from slavery, which they refer to as “First-Time.” First-Time ideology pervades all aspects of Maroon consciousness and is so powerful that it cannot be discussed openly or directly for fear of serious spiritual and other repercussions. (Price, 1983)

First-Time ideology is also integral to Maroon understandings of political and territorial autonomy. Consequently, perceived threats to this autonomy are directly related to fears about a return to the First-Time and a new era of slavery. Generally, the government and multinationals are not perceived to be much different from the brutal colonial regime that figures so prominently in First-Time discourse. It makes no difference that the face is black or white. Indeed, Maroons perceive Surinamese creoles, also of African descent, to have been cowardly collaborators with the slave masters and therefore, inherently untrustworthy to this day.

What is important is that in addition to challenging fundamental tenets of Maroon political and social organization, government-sanctioned corporate mining invokes the struggle of First-Time ancestors, striking at the heart of Maroon’s deepest and most powerful belief and value systems.

The ideology of the government of Suriname is also a fundamental element of the dispute. Surinamese politics are dominated by the politics and interests of 85% (in reality much less) of the population who occupy a narrow coastal strip comprising 10% of the surface area of the country. Indigenous peoples and Maroons who occupy the other 90% are seen as backward, anachronistic and obstacles to national development. They occupy the lowest rung of Suriname's multiethnic society and are viewed with contempt by other ethnic groups. Government policy towards them is based upon assimilation and integration.



Illustrative of this contemptuous attitude is the statement of the Minister of Natural Resources, when asked about Indigenous and Maroon objections to logging concessions, that, “they have to decide whether they want development or whether they want to remain backward people living in the bush.” (Interview with RFO, French television in French Guiana) Development, as used here and generally in Suriname, refers to the interests of the ruling elite, prime economic indices and the balance books of the state treasury, with which the elite maintains an elaborate system of ethnically-based patronage through civil service appointments and government contracts. Development in Suriname is primarily about the interests of the few and appeasing the mostly middle class, voting population of the capital.

In 1997, the nature of the dispute between Nieuw Koffiekamp, the government and the companies radically shifted. Relocation of the community for the second time in 33 years versus the operation of a gold mine became the primary points of discussion and contention.<sup>3</sup> In a meeting with the Forest Peoples Programme, an international NGO actively supporting Nieuw Koffiekamp, Cambior stated that while it did not wish to see the community driven off their land, preferring to convince them of the need to move instead, it was not willing to accept the community’s right to give or withhold its consent to relocation as enumerated in international Indigenous rights standards. The government and Golden Star have taken a less tactful position, stating bluntly that the rights of the companies by Mineral Agreement supersede any rights claimed by the community. Golden Star's lawyer went so far as to describe the community as “squatters.”

A relocation plan was drafted by the companies setting out compensation for the community. It was submitted to the government but has never been made available to the public. Judging by discussions between company representatives and myself, this plan probably includes: title to land at a new location (whether individual or collective is unknown); royalty payments at a set percentage (around one-quarter of a percent); mining permits issued to the community; equipment and training in mining techniques; agricultural equipment and training; and provision of community infrastructure, such as houses, electricity, potable water, a health clinic and a school. It is unclear exactly how this plan would be implemented and by whom.

The companies cannot do it alone as land titles and mining permits require government approval. The government, however, faces a dilemma related to recognizing rights under the Peace Accord, raising questions about how land titles would be issued: according to the Peace Accord or under a separate procedure authorized by the Decree on Issuing State Land.

Under the latter only individual titles can be granted unless the government was to recognize the legal personality of Indigenous and Maroon communities, something they have not been prepared to do in the past, or the communities were to organize themselves as corporate bodies, usually a foundation, which is something that Indigenous leaders have rejected as it fails to recognize their traditional forms of social and political organization. Furthermore, the highest form of land title that can presently be issued on so-called state land in Suriname is a short term lease of 15-40 years that provides little to

no protection for Maroon subsistence and other economic activities insofar as the land is still subject to logging and mining concessions or other activities that may be inconsistent with its full use and enjoyment. These problems are also, although to a lesser extent, associated with the Peace Accord.

The community is justifiably skeptical that the terms of any agreement with the government and the companies will be honored. The government of Suriname is notorious for not keeping promises, especially as they relate to the interior, and the community still has a bitter taste in its mouth from the many broken promises of the transmigration and Peace Accord eras. While it may be expected that the companies may be more responsible, their decisions are substantially affected by economic considerations that could affect the extent and quality of compliance. From the community's perspective, there is little difference between the companies and the government. Both are viewed as untrustworthy.

## **C. Actors**

### **1. Nieuw Koffiekamp**

A wide variety of actors have played a role in the Nieuw Koffiekamp situation. The community is the group most clearly affected. Within the community a number of groups can be identified. First, a group of younger people active in small scale mining has been one of the most outspoken opponents of the mining project. This is in part due to the fact that one of their members was appointed community representative by the Captain (traditional village authority), and in part due to their interests in mining activities.

They were also the group that experienced police and company repression on a day to day basis. Another group, the Captain and village council, were subjected to a great deal of pressure and manipulation from the companies and the government. Consequently, they were reluctant to take firm positions, preferring to let the younger people take the lead, supporting them and providing direction in the background. They nonetheless lost credibility and were distrusted by many in the village.

Most of the elders are opposed to relocation and the presence of the companies. One said that the companies are visitors in their house. If one must leave, it should be the visitor and not the owner of the house. Another group in the community, mainly those who had found employment with Golden Star, approved of Golden Star's presence as an income generator.

Most of these people and others in the community are not opposed to relocation, citing the benefits of new facilities - school, hospital, houses, electricity, clean water - and additional employment and training possibilities when the mine begins production. Finally, the women of Nieuw Koffiekamp were among the most outspoken against the companies. Women are the primary caretakers of the agricultural plots around the village. In fulfilling this task they were subject to harassment by company security and police and

often stated that they were afraid to go to their plots with children because of the shooting. Some of the women were injured fleeing from shooting incidents.

## **2. The companies**

Golden Star is a Canadian company headquartered in the United States. It has been described as one of the most aggressive Canadian juniors operating in the Guyana Shield. (Minewatch 1995, p12) Juniors are companies that focus exclusively on exploration. When a commercially viable deposit has been documented, they enter into an agreement with a major, a company that builds and operates mines, to exploit the deposit. Golden Star's primary focus is the "acquisition, discovery and development of gold and diamond projects."(GSR 1997).

Once commercially viable reserves have been sold or properties abandoned, "the company must continually acquire new mineral properties to explore for and develop new mineral reserves."(GSR 1997, p8) This constant acquisition of mining concessions, and the manner in which it conducts its operations, has led Golden Star into numerous conflicts with Indigenous peoples and environmentalists throughout Suriname, the Guyanas and elsewhere. This is not surprising given that David Fagin, President of GSR, bluntly stated in 1994, that Golden Star had looked specifically at the Guyana Shield because of "increased pressure from environmentalists and the government in the USA."(Minewatch 1995, p10)

Conflicts between junior companies, like Golden Star, and local communities occur more frequently than conflicts with majors given the disproportionate number of juniors operating in most areas. Furthermore, the nature of junior operations is generally not conducive to respect for Indigenous rights and community relations. These operations tend to be transitory; they do not consider communities to be stakeholders other than as laborers; they are driven by the need to produce results in order to survive, develop partnerships and finance further exploration and, therefore, focus on the technical aspects of the project rather than its wider impact and implications; and, finally, they are strongly oriented to fluid venture capital markets which play a major role in determining their policy and behavior.

These characteristics also make juniors less susceptible to political pressure, especially as many are fly-by-night operations that are extremely vulnerable to fluctuations in international gold prices. Majors, with some notable exceptions, are more likely to be shamed into at least adopting responsible policies, although many of the larger companies are able to exert substantial pressure on governments, both at home and abroad, so that enforcement of national laws and company policies is often lacking.

Cambior is one of North America's top ten gold producers. It is sensitive to criticism and has adopted internal policies on the environment and on human rights to mitigate criticism of its operations. A large percentage of its revenue, up to 50 percent by some estimates, is derived from the OMAI mine in Guyana, which it operates in partnership with Golden Star (30%) and the government of Guyana (5%).

The OMAI mine is best known for the collapse of a tailings facility on August 19, 1995, which dumped 3-4 million cubic meters of cyanide- and heavy metal-laced waste into the Omai and Essequibo rivers prompting the government to declare the area an environmental disaster zone. This event, described as one of South America's worst mining disasters, was characterized by David Fagin as nothing more than "one of the many risks of doing business."(Montreal Gazette 1995, A1-A2)

### **3. Indigenous peoples, Maroons and the government**

The government views the Gross Rosebel mine as its flagship and proof to international investors that Suriname is a safe place to do business. It sees gold as a major revenue earner and as a replacement for export earnings from bauxite mining. Gold and diamond mining concessions have been granted to vast areas of the rainforest interior, many to multinationals with dubious records on environmental and human rights grounds. Multinational investment has also spurred rampant speculation by private citizens who obtain mining concessions - it costs about US\$3 to obtain a large mining concession in Suriname - and then sign deals with companies to explore their concessions for a fee and percentage of potential royalties. Friends and allies of government officials in particular have benefited from this practice.

Surinamese law offers little protection for the rights of Indigenous peoples and Maroons. Their rights to their ancestral lands and resources are not recognized nor are their rights to participate in decisions concerning the use of those lands and resources. The official position is that Maroons and Indigenous peoples are permissive occupiers of state land, with no rights or title thereto (Kambel & MacKay, 1999, p178). The treaties with the Maroons are also dismissed by the government as non-binding, "domestic political contracts," as is the 1992 Peace Accord.

While Cambior has stated its intent to negotiate with the community to convince it to move, the community is being subjected to a great deal of pressure from other parties. Golden Star and Cambior are aware that this is taking place.<sup>4</sup> For instance, a paid consultant of Golden Star has been accused of bribing key leaders of the opposition to the mine and members of the village council and, in 1996, the former military dictator and present leader of the National Democratic Party, Desi Bouterse, publicly threatened to kill the community's representative after he returned from meetings in Washington D.C.. Villagers also report that Bouterse's bodyguard threatened that the community would be driven off its land by the army and the police if they did not agree to move. Bouterse was made an official Advisor of State in 1996.

The role of Bouterse, described by the Inter Press Service as "the government's special Advisor on th[e mining project]," is most troubling. (IPS, 1997) Military rule was characterized by gross and systematic violations of human rights, and Maroons were targeted and suffered greatly during the civil war.<sup>5</sup> Consequently, Bouterse's involvement has played a substantial role in intimidating the community and stifling opposition. Golden Star's consultant mentioned above is a close associate of Bouterse and, according

to a company employee, is used as an intermediary between it and Bouterse and as a negotiator with local communities.

Many other Indigenous and Maroon communities are closely watching the situation. Nieuw Koffiekamp is the first of many conflicts that may arise in Suriname over rights and access to land and resources as multinational miners and loggers further expand their operations into Indigenous and Maroon territories. Presently at least 75 of the estimated 150 Indigenous and Maroon villages are located either in or very near mining concessions and this number rises substantially when logging concessions are accounted for.

As with Nieuw Koffiekamp, all interior communities are routinely ignored when decisions are taken that affect their land and other rights. For these reasons, Nieuw Koffiekamp is perceived as a test case that must be resolved positively if other communities are to fare well in the future. A positive solution in this context means the legal recognition of collective ownership rights to lands and resources and the right to give or withhold consent to activities relating to those lands and resources.

That Indigenous peoples and Maroons fought against each other in the civil war was in large part due, in addition to historical factors too complicated to discuss here, to manipulation by the government, particularly Bouterse who claims to be of Indigenous descent when seeking Indigenous support, and to abuses perpetrated by Maroon insurgents against Indigenous communities. In light of the common threat to their ancestral homelands posed by multinational resource exploitation and the refusal of the government to recognize their rights, Maroon and Indigenous leaders began a process of attempting to minimize and resolve their differences and to speak with a unified voice.

In 1995 and 1996, two *Gran Krutus* (Great Gatherings) were held to develop a common position and strategy. Although the leaders expressed a multitude of concerns ranging from the lack of adequate health and educational facilities in their communities to the need for increases in government payments to village leaders, their paramount concern was land and resource rights, particularly in connection with multinational operations.

In the final resolutions adopted by the *Gran Krutus*, they called for a freeze on additional concessions and a suspension of existing activities affecting communities, at least until their rights were fully recognized in the Constitution and laws of Suriname.<sup>6</sup> They specifically referred to the Nieuw Koffiekamp situation and condemned the activities of Golden Star, both there and elsewhere.

#### **4. Intergovernmental and Non-Governmental Organizations**

The OAS Special Mission to Suriname has played an important role in the Nieuw Koffiekamp dispute, both directly and indirectly. In the first instance, the Special Mission was closely involved in the 1992 peace process that concluded with the adoption of the Peace Accord. Second, the Special Mission acted as an umbrella for the Commission of the *Granman* and took part in the government's Task Force on Relocation Nieuw

Koffiekamp. Its most important contribution was writing the only detailed report of the dispute available, some of which is quoted above. Although couched in diplomatic language and deficient in certain important respects, the UPD Report has provided a measure of transparency to the dispute.

The Special Mission's mandate for involvement with Nieuw Koffiekamp arose originally as part of an examination of the means for implementing the Peace Accord. The staff of the Special Mission decided that in order to adequately evaluate means of implementation, baseline data was required concerning community land and resource use. The Nieuw Koffiekamp dispute came to national attention around the same time, so the Special Mission decided that it would be a good place to start. It was asked to participate in the *Granman's* Commission by the *Granman* himself and was mandated by the UPD in Washington to facilitate dialogue, provide support services and to write a report on the meetings.

Cambior has filed a preliminary application with MIGA to obtain political risk guarantees for its investment in the mine. Coverage will be sought jointly with the Canadian government's EDC. The MIGA application process requires a review of the EIA to determine compatibility with International Finance Corporation environmental review standards. Both MIGA and IFC are part of the World Bank's private sector arm. IFC standards are weaker than standard World Bank policy guidelines, such as OD 4.20 on Indigenous Peoples (1991) and OD 4.30 on Involuntary Resettlement, which has subjected MIGA's role in providing guarantees for environmentally and socially sensitive projects to a great deal of scrutiny by NGOs.

That MIGA provides guarantees for the OMAI mine in Guyana and disclaimed any responsibility for the 1995 disaster has only increased this scrutiny. In response to NGO inquiries concerning Nieuw Koffiekamp, MIGA stated that it will employ ODs 4.20 and 4.30 in its environmental review process and has requested that Cambior provide information on these issues. How MIGA will apply these standards remains to be seen.

A number of NGOs have been involved in providing support to Nieuw Koffiekamp. This began with Moiwana '86, the main Surinamese human rights organization. Working closely with the community, Moiwana put Nieuw Koffiekamp on the national agenda and did much to end the shootings through press releases and letters to the Attorney General's office requesting investigations into human rights violations.

The Forest Peoples Programme, an affiliate of the World Rainforest Movement, has been most active on the international level. The FPP has a staff member permanently based in the Guyanas, who has been able to provide support directly to the community as well as information to international support networks. As noted above, it also met with Cambior to discuss the situation. In doing so every effort was made to ensure that FPP was not construed as a representative of Nieuw Koffiekamp and that discussions were not a substitute for direct negotiations with the community. Cambior requested that FPP act as an intermediary in an attempt to reach an agreement with the community. No decision has been taken on this to date and it is unlikely that it will given Cambior's refusal to

consider alternatives to relocation. Cambior may seek another organization to act as a third party.

FPP and other NGOs attended a meeting with MIGA representatives in November, 1997 to discuss MIGA involvement with the mine project.<sup>7</sup> At this meeting it was discovered that Cambior had yet to respond to MIGA's request for additional information and had not upgraded its preliminary application to a definitive application for insurance guarantees. Also, MIGA stated that Suriname had yet to officially become a member of MIGA and therefore, the project is presently ineligible for guarantees - the Surinamese legislature ratified the MIGA treaty in September 1997, indicating that it was in the process of becoming a member.

MIGA concurred with the concerns raised by the NGOs, stating that, if verified, they would be compelling reasons for MIGA not to get involved. They added, however, that it would be possible for Cambior to obtain insurance guarantees solely from EDC or in conjunction with a private insurer. EDC has been subjected to enormous criticism from Canadian NGOs for insuring "bad" projects and for the complete lack of public accountability in its operations and administration. For example, EDC does not have a public disclosure policy and inquiries are treated at best as annoyances that do not require a response. Consequently, while some pressure may be applied on MIGA, EDC offers few opportunities for even raising issues of concern.

This component of the case study has attempted to analyze the Nieuw Koffiekamp situation by examining the nature of the dispute, underlying and associated factors and the actors involved. It has shown that the dispute is complex - in reality, the dispute is far more complicated than can be shown here - and based primarily on conflicting understandings of land and territory and rights thereto. Maroon territorial rights are fundamental to their identity and integrity as distinct cultures.

The Surinamese political and legal systems have failed to account for the rights and interests of Nieuw Koffiekamp, and of Indigenous peoples and Maroons throughout the country, while at the same time promoting and enforcing their own vision of land and resource ownership, use and management. Assimilation and integration and the corresponding disrespect for Maroon culture and identity are also dominant themes in state policy.

That disputes have arisen with multinational corporations is in large part symptomatic of this failure to recognize Maroon rights. The multinationals, however, are by no means blameless and often use domestic laws as a convenient excuse for ignoring and violating Indigenous rights. Corporate ideology is more akin to the position of the Surinamese government and the two are allied by common interests against Nieuw Koffiekamp.

Attempts at dispute resolution have failed because the ultimate objectives of the parties are irreconcilable - the community, for the most part, is opposed to relocation, whereas the companies and the government, for their own reasons, are only interested in talking about the terms for relocation. Domestic remedies offer little hope of providing relief and

the community is being intimidated by the former military dictator, who is extremely influential in the government and has a deserved reputation for brutality. This case also has enormous significance for other Indigenous and Maroon communities confronted with resource exploitation operations. It is a test case that may well determine how these communities will be treated in the years to come. The only positive outcome of the dispute from the perspective of Nieuw Koffiekamp and the other communities is a full recognition of their collective land and other rights especially the right to freely consent to the use of their lands and resources.

Environmental considerations, both in general and in relation to community well-being, are also high on the agenda. The companies involved at Nieuw Koffiekamp and others working elsewhere in Suriname have been responsible for some of the worst mining disasters in recent years. This case clearly requires additional international attention and could well serve as a test case for a mediation effort led by an international NGO Ombudsperson.

#### **D. Test Case for an International NGO Ombudsperson?**

This section will examine the potential role of an ombudsperson in the case of Nieuw Koffiekamp and, briefly, in cases involving Indigenous peoples in general. Two key elements will be discussed: potential functions for an ombudsperson, such as analyzing technical information and acting as a mediator or broker in negotiations; and, problems that an ombudsperson will encounter in carrying out these functions.

In assessing the utility of an ombudsperson in the case of Nieuw Koffiekamp, and for cases involving Indigenous peoples in general, a number of criteria must be examined. A paramount consideration is: what will the role of the ombudsperson be in relationship to existing Indigenous structures and how will it relate to supporting NGOs already involved in the situation?

An ombudsperson should not supersede or supplant existing Indigenous structures and capacity, but rather should determine in collaboration with the affected people(s) how it can best support and address their priorities and concerns. Related to this, some communities may defer to what they perceive to be the superior knowledge and experience of outside intervenors. The ombudsperson must be especially sensitive to this and ensure that its views are not imposed. It should also draw upon the expertise and knowledge of NGOs and others trusted by and working with the community or communities in question.

In the case of Nieuw Koffiekamp, an ombudsperson could be very useful. The OAS Special Mission attempted to take on this role, at least with regard to a dispute resolution function, however, it operates under a number of constraints that ultimately render it of limited utility. An international NGO ombudsperson could be far enough removed from local politics to avoid these constraints.



Some understanding of the interpersonal nature of politics in Suriname would, nevertheless, be indispensable to approaching the Nieuw Koffiekamp situation. Also, both the government and the companies involved are susceptible to international attention and pressure. Consequently, high profile involvement and internationalization of the dispute may play an important role in at least holding them to certain standards of conduct, although lasting solutions will involve resolution of underlying issues of ownership of land and resources.

In its meeting with Cambior, the Forest Peoples Programme raised the following issues: 1) that Nieuw Koffiekamp must be considered as the legitimate owner of its land and resources; 2) that relocation should not take place without free and informed consent, and; 3) that the companies must respect the community's decision-making process - consensus of the village meeting (krutu) - in particular, the lengthy nature of consensus-based decision-making. In connection with this, it was stressed that free and informed consent, by definition, entails turning over detailed information concerning the mining plans, alternatives and options, and time to consult with experts so that the information can be fully understood by the community. These issues are still highly relevant to determining an appropriate approach to the situation.

Cambior has shown that it is willing to share information. An ombudsperson could be especially useful in identifying technical expertise required to analyze and then communicate complex documents such as an EIA, Mineral Agreements and mining plans to the community in an understandable form. Providing information, if necessary, on larger issues related to industry and company performance, and analyzing national legal regimes would also be useful.

This “translation” of technical documentation is essential if the community is to play a meaningful role in discussions about its future and, also, the foundation upon which any agreements must be laid. Consent is not valid unless both parties fully understand what they are consenting to. Nieuw Koffiekamp, in common with many other Indigenous and Tribal peoples, is primarily a non-literate community whose main mode of communication is verbal. Consequently, the manner in which information is presented to the community is extremely important. Information must be presented in a combination of written and verbal materials, which requires that resources be invested to spend adequate amounts of time in the community. The community has specifically requested this type of support in the past.

If requested, the ombudsperson can also provide information to intergovernmental human rights bodies concerning the human rights issues raised by a particular situation. Also, and again if requested, the ombudsperson can assist in identifying legal expertise to file complaints with these bodies and compile supporting documentation of an anthropological, scientific or other nature.

The latter is particularly important as, while the technical staff and members of intergovernmental organizations may be well versed in human rights, they may need additional information concerning the nature and extent of environmental degradation, its

impact upon health standards, culture and socio-economic well-being. I have stressed that use of these measures should be requested by the communities in question because they will have to suffer the possible consequences that such action may entail.

In the case of MIGA or other World Bank involvement, analysis of EIAs and other documentation may be essential to ensuring that World Bank standards are complied with or that projects are evaluated in the proper context. The ombudsperson can also play a role in lobbying and informing MIGA and other multilateral institutions about the details of particular projects and how these projects could be improved, or whether multilateral involvement would be appropriate at all.

The same can also be said for governmental guarantee agencies like EDC in Canada or the Overseas Private Investment Corporation in the United States, which may require access to high placed government officials that have the authority to intervene in their operations, or to enact policy guidelines that require attention to human rights, social and environmental issues presently accorded little or no attention by these agencies.

Cambior has requested that a third party act as an intermediary in negotiations with the community. This role, provided it is also requested or agreed to by the community, would permit the NGO ombudsperson to act as a mediator or facilitator of discussions. If this approach is adopted, particular attention should be paid to avoid legitimizing the company's plans or operations. This can be addressed in part by an agreed upon terms of reference for the ombudsperson's involvement, which should also make explicit reference to Indigenous rights standards.

The community has not specifically requested an intermediary, although I believe that it may be interested in this approach. However, a number of problems will be associated with this approach that may limit its chances of success. In particular, the community is, for good reasons based upon experience, very suspicious of outside intervention. It is more than likely that they will not appreciate the level of neutrality that may be required for mediation. They will expect that intervention, particularly from an NGO, is either for them or against them, and if it is not for them, it will rapidly be considered to be against them. This will substantially limit the extent of the community's participation in any discussions and will result in another dead-end. This perception and the result were part of the process involving the Special Mission. The community will also reject intervention that is in any way funded, even in appearance, by the government or the companies.

While the community will be looking for an advocate for its position, the companies will be looking for intervention that can break the impasse with the community. They will be very nervous of an organization that they perceive as radical or opposed to mining. They will be most comfortable with high profile, mainstream organizations or academics that are seen to be rational, scientific and understanding of the problems of the business community.

These same considerations will also be relevant to the government, who will prefer multilateral or intergovernmental organizations, provided involvement is on an informal

level, as they will feel that they have more control over the situation. They will be more comfortable with organizations, or friendly government personnel, that are used to diplomatic interactions, are perceived to be sympathetic to the position of governments and will be unlikely to challenge government policy and fundamental assumptions, such as state sovereignty over natural resources. They will be most receptive to Caribbean- and South and North American-based organizations and will categorically reject any Dutch involvement, financial, technical or otherwise.

As noted above, Cambior refuses to accept that the community has the right to consent to relocation. This is problematic, as Cambior is ostensibly only interested in an intermediary that will further the negotiation of a relocation agreement, rather than address alternatives to relocation. Alternatives do exist that would permit the community to remain at its present relocation and, with a number of design modifications, also permit mining to go ahead.

However, this would require that the company not mine one of the larger deposits that is closest to the community and modify its infrastructure and other plans so as to allow the community access to and enjoyment of its larger territory. It is unlikely that the company would agree to this. Also, the government cannot be ignored as a factor. It is doubtful that it would be supportive of outside intervention, as it would reduce its ability to manipulate and control the situation as well as expose its role in intimidating the community. Furthermore, it may result in a solution that is unacceptable from its position as self-proclaimed sole owner of natural resources.

Given the fundamental nature of the right to give or withhold consent to relocation in the larger scheme of Indigenous rights, extreme caution must be exercised in deciding whether to engage as a mediator. Under these circumstances, an ombudsperson should attempt to facilitate dialogue aimed at securing acceptable terms of reference - if this is possible - for negotiations between the parties, that would explore the feasibility of alternatives to relocation.

Once acceptable terms of reference have been agreed upon, the ombudsperson could then explore the possibility of playing a formal role in negotiations that would, as its prime objective, seek to minimize the power imbalances between the parties. This may mean acting as an advisor to the community in negotiations or locating other persons to act in this capacity. However, given the limited prospects for securing an acceptable basis for negotiations, it would be advisable to consider other approaches.

One of these could be an "eminent person" visit and report aimed at shaming the companies and government into seriously addressing the concerns of the community. This approach has been discussed previously and was agreed upon by the community. Publicizing the abuses of the government and the companies has had an effect on their behavior previously and can be expected to do so in the future. For best results, this approach should be used in conjunction with other forms of pressure, perhaps including resort to intergovernmental human rights procedures, which will complement the underlying objectives.

Another problem that may confront an ombudsperson is identifying legitimate community representatives. International Indigenous rights standards provide for the recognition of Indigenous authorities and representatives, chosen according to their own procedures. The ombudsperson should also observe these principles when interacting with Indigenous communities.

However, there may be more than one group or NGO claiming to represent a community and each may be supported by factions therein. Traditional authorities and groups within the community or larger society may be manipulated by the government or companies involved and/or may have contradictory positions. At one point with Nieuw Koffiekamp even those who had been working with the community for years were confused as to who was acting as representative.

Both the Captain and the *Granman* were not trusted by the majority of the community and were accused of selling out. Others with dubious ties to the village were claiming to speak for it in the media. Local NGOs and others with a history of working with the community will be invaluable in identifying legitimate representatives or at least in separating out the various groups and their motivations. The best policy may be to involve all groups, other than those that are clearly extraneous or creatures of the government or companies.

Having noted the main issues concerning the suitability and potential role of an ombudsperson in the case study at hand, this section will conclude by noting a few points concerning an ombudsperson's function and organizational structure, applicable to both Nieuw Koffiekamp and situations involving Indigenous peoples in general.

First, the ombudsperson will need to employ or have access to persons knowledgeable about Indigenous rights and issues. It is often assumed, erroneously, that Indigenous peoples share the same characteristics as rural populations in general, and therefore, should be treated in the same way. Knowledge of and sensitivity to Indigenous issues and rights are essential if the situation is to be analyzed correctly and mistakes are to be minimized. Consequently, an advisory board on Indigenous issues should be established to guide the ombudsperson's activities, and specialized, experienced staff should be employed. Indigenous persons should be included in both categories.

Second, the ombudsperson will need to have the financial and temporal resources and personnel to gain a full understanding and appreciation of the situation. Indigenous peoples are not monolithic. Concerns, needs and rights awareness will vary from country to country, region to region and even community to community. There are commonalities, but the need to precisely determine the operative issues is essential. The issue of land rights, for instance, is a common concern and the underlying cause of many disputes. However, the term "land rights" can mean different things to different people and involves a whole range of other related factors relevant to control of land and territories. International, national and especially Indigenous law must all be evaluated and accounted for. Resource use patterns must also be documented.

The reference to Indigenous norms is particularly important as Indigenous peoples consider even the strongest international standards to be minimum standards that do not fully account for their rights. National laws in almost all cases do not fully conform to these standards. Even if they come close on paper, most likely there are problems associated with implementation and/or enforcement.

In short, the community's understanding of its territory and attendant social and political relationships must be given equal if not greater weight than competing expressions of rights to land. A complicating factor is that some communities may be reluctant to share information of this kind and various persons, both within the community and larger Indigenous society, may have differing understandings of this. Nonetheless, failure to include Indigenous understandings risks ignoring what may be one of the primary causes of the dispute.

Finally, the approach to be used by an ombudsperson in a given case will be dependent on the nature of the case at hand. Broadly-defined, blanket prescriptions about the role of an ombudsperson will ultimately be counter-productive. The mandate must be flexible to account for various contingencies. In certain cases, it may be more appropriate to function as a publicist or to facilitate international support; in others, analysis and provision of information may be desired.

It may also be the case that mediation is requested by the parties involved. In other cases, an ombudsperson may find it necessary to participate in or facilitate filing cases with intergovernmental organizations or support domestic litigation. However, irrespective of the approach used, in all cases, it must be ultimately decided upon with the full participation and consent of the affected Indigenous communities or people(s).

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## **Endnotes**

<sup>1</sup> Proposed OAS Declaration on the Rights of Indigenous Peoples, art. 1 and; International Labour Organization Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries 1989, art. 1. See, also, World Bank Operational Directive 4.20 on Indigenous Peoples (1991).

<sup>2</sup> For a more detailed account of OAS Special Mission involvement and the Nieuw Koffiekamp situation in general, see, OAS/UPD 1997

<sup>3</sup> Golden Star and Cambior intend to exploit at least five open pit mines in the Gross Rosebel concession, one of which will be less than 500 meters from Nieuw Koffiekamp. Cyanide leaching and a tailings facility will be employed, as will regular discharges of “treated” wastes into the Saramacca river. There are at least five large Maroon communities downstream of the entry point for the wastes.

<sup>4</sup> Letter dated 23 May 1997 to Louis Gignac, CEO of Cambior from Forest Peoples Programme summarizing points discussed at meeting held in Montreal.

<sup>5</sup> A number of houses were burned down in Nieuw Koffiekamp during the civil war and the neighbouring village of Gros was destroyed entirely. For more information on human rights during the military regime, see: IACHR 1985b; IACHR 1983; Price, 1995; Wako 1988.

<sup>6</sup> The resolutions of the First Gran Krutu can be found in, IWGIA 1996.