
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 41/2023**

Precautionary Measures No. 196-23
Indigenous Carib Community of Chinese Landing regarding Guyana
July 21st, 2023
Original: English

I. INTRODUCTION

1. On March 8th, 2023, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”) received a request for precautionary measures filed by The Village Council of the indigenous Carib community of Chinese Landing, the Amerindian Peoples Association of Guyana and the Forest Peoples Programme (“the applicants”) on behalf of members of the Indigenous Carib Community of Chinese Landing (“the persons proposed as beneficiaries” or “the proposed beneficiaries”). The request urges the Commission to require that Guyana (“the State” or “Guyana”) adopt the necessary measures to protect the rights to health, personal integrity, and life of the persons proposed as beneficiaries, who are currently in a situation of risk. The alleged risks relate to threats, harassment and acts of violence perpetrated against the proposed beneficiaries in the context of their opposition to mining activities carried out in their lands, as well as the environmental impact of this activity on their health.

2. Pursuant to Article 25(5) of its Rules of Procedure, the IACHR requested information from the State on March 23rd, 2023. Following a time extension that was requested by the State and granted on April 10th, 2023, a response was received on April 17th, 2023. The applicants submitted additional information on May 22nd, 2023.

3. Having analyzed the submissions of fact and law presented in this matter, the Commission considers that the information provided shows *prima facie* that the identified members of the Indigenous Carib Community of Chinese Landing are in a serious and urgent situation, given that their rights to life and personal integrity are at serious risk. Consequently, the Commission requests that Guyana: a) take the necessary measures to protect the rights to life and personal integrity of the members of the Indigenous Carib Community of Chinese Landing, identified as beneficiaries, with a cultural, gender-based, and age-appropriate perspective to prevent threats, harassment, and other acts of violence against the beneficiaries; b) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and c) report on the actions taken to investigate the events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicants

4. The Chinese Landing is an indigenous Carib community located on the Barama River in northern Guyana and has a population of approximately 210 persons across 45 households. The information provided indicates that the indigenous community obtained title to these lands under the Amerindian Act of 1951 (amended in 1976). The title was reissued in 1991 under the State Lands Act and in 2018 the village received a certificate of title pursuant to the Land Registry Act. The applicants also highlight that the Chinese Landing Village has, since the late 19th or early 20th century, been mined for gold as part of their traditional economy. Gold mining supplemented their subsistence activities of hunting, fishing, and farming, and enabled the village to engage in a cash economy and improve the village’s infrastructure.

5. It was reported that the proposed beneficiaries are at risk in the context of alleged unconsented mining encroachment on the proposed beneficiaries' titled lands due to (i.) a recent increase in violence, threats, and harassment made by outside miners against the proposed beneficiary community; (ii). an expansion of environmental impacts associated with mining activities in the village and negative health implications stemming from it. The applicants consider that this situation is part of a pattern of long-standing discrimination against indigenous peoples and the prioritization of mining interests over indigenous peoples' rights in Guyana.

6. According to the information provided by the applicants, Guyanese authorities granted a medium-scale mining concession to Mr. W. V. in the titled lands of the Chinese Landing Carib indigenous community in 1995 (an area of land known as Tassawini), without consulting or seeking the consent of the community.¹ The information further indicated that the Amerindian Act of 2006 requires medium-scale miners to sign an agreement with a village council before they begin mining activities in their lands. According to the applicants,

[i]n 2010, following repeated complaints by the village, a Guyana Geology and Mines Commission ("GGMC") officer issued a cease work order on Mr. [W.V.] on the basis that Mr. [W.V.] had no agreement with Chinese Landing to mine and as such was in violation of the Amerindian Act of 2006. Mr. [W.V.] brought a claim against the GGMC to court, and the case made its way through the Guyanese judiciary. In December 2017, Guyana's apex court, the Caribbean Court of Justice ("CCJ"), ruled that GGMC officers had no authority to issue cease work orders to enforce the Amerindian Act 2006 because there was no established mechanism in the Act to allow GGMC officers to enforce that law.

7. In March 2021, the proposed beneficiaries brought their case to the judiciary. It is reported that, in September 2021, the Guyana High Court dismissed the claim filed by the Chinese Landing indigenous community against the Guyana Geology and Mines Commission (GGMC) and Mr. W. V. concerning the mining concession, without allowing the case to proceed to trial. The proposed beneficiaries appealed, and a decision is pending.

8. The applicants stated that the Tassawini mining site sits in the middle of the village's titled lands and that environmental degradation resulting from mining activities is negatively affecting the village and its members' lives, safety, livelihoods, well-being, health, and family life. It is alleged that mine workers threaten village members, which prevents them from engaging in their livelihood activities both in the Tassawini area and other parts of the village. According to the application, violations against the village began intensifying in 2018 and worsened after the 2021 decision from the High Court. It is alleged that this judicial decision led to an increase in unwanted mining activity in the lands lawfully held by the Chinese Landing indigenous community, which would irreparably damage its traditional way of life and its environment.

9. The applicants further alleged that the cited 2021 judicial decision has also resulted in an upsurge of a series of incidents of intimidation and assaults against the persons proposed as beneficiaries. These incidents are alleged to have been perpetrated by miners and members of the Guyanese police, acting in support of the miners. The application stated that some of these incidents were documented by the affected community in letters written to State authorities appealing for State intervention and assistance, coverage in the press and by an anthropologist's report on the situation in the village. According to the request, women and children are especially threatened.

¹ The applicants alleged that "Mr. W.V., with the support of the Guyana Geology and Mines Commission ("GGMC"), coerced the then-*toshao* (head of village) and a councilor into signing an agreement with him. The former *toshao* did not know how to read and did not understand what they were signing".

10. The request presented details of the threats and violent acts allegedly issued by outside miners against the proposed beneficiaries. The alleged events are the following:

- a. In September 2018, the proposed beneficiary Mr. Selwyn Miller was threatened by two officers of the Tactical Services Unit of the Guyana Police Force and by Mr. I.A., the mine's general manager, to remove his house from its location inside the mining concession. He was told that if he did not leave his house by the following morning, the miners would knock it over with an excavator while his wife and children were still inside. Mr. Miller relocated all of his belongings over the course of several trips in the middle of the night, and had to abandon his cassava farm, fruit trees, mining camp, and other property. Mr. I.A. stopped Mr. Miller's children while they were walking in the village to question them about their father, and even asked whether he owned any firearms.
- b. On April 1st, 2021, a group of Chinese Landing Village members tried to block the road into the mine site to protest the miners' disrespect for the village's authority over its titled lands. One of Mr. W.V.'s employees instructed another to ride his ATV over a village resident, who was holding her baby at the time, standing in the path.
- c. On August 10th, 2021, a 14-year-old girl was grabbed by a miner, who put his gun against her back and tried to rape her. The attempted rape was reported to the police.
- d. On August 13th, 2021, four Tactical Services Unit officers accompanied by the general manager of the mine searched the dredge camp of proposed beneficiary V. Millington, reportedly for drugs and guns. They found nothing at the resident's camp.
- e. On or around August 18th, 2021, the proposed beneficiary Mr. Ray Roberts's mining equipment was taken without his consent into Mr. W.V.'s mining concessions.
- f. On or around August 21st, 2021, an authority from GGMC, accompanied by Tactical Services Unit officers, searched the home of the proposed beneficiary Ulric Roberts and attempted to search the home of the proposed beneficiary Oral Fernandes.
- g. On August 23rd, 2021, proposed beneficiary Mr. Elwin Peters, then 19 years old, was passing through the mining area. A security officer employed by Mr. W. V. slapped him and took away his phone, demanding to see if he had taken any photos of the miners working. The three others who were with Mr. Peters at the time were chased by the security officer with an iron bar but managed to escape.
- h. In 2021, [XY], then aged 64 or 65, was returning from a fishing trip, and was stopped by miners who wanted to question her about her son. The miners threatened her with a long knife.
- i. Around August or September 2021, while passing through Mr. W.V.'s mining concessions to access hunting and fishing areas, the proposed beneficiary Mr. Ray Roberts was stopped by police officers, held at gunpoint, and searched. The officers told him they were searching for guns, ammunition, and drugs. They found nothing.
- j. On June 5th, 2022, Mr. I.A., the mine's general manager, proceeded to some villagers' mining work grounds and threatened to shoot up their equipment if they did not remove it voluntarily. Again, on June 14th, 2022, he entered the village without permission and proceed to the mining area, where he verbally abused villagers and threatened to shoot up their equipment at gunpoint.

11. In addition to these specific recorded incidents, residents reported that there are daily acts of intimidation and harassment that are creating pervasive fear in the village. Miners regularly discharge their firearms at night. One resident reported that one time she heard gunshots while still in her cassava farm at night and was too scared to leave, out of fear that a stray bullet might hit her. Many of the miners carry guns,

including high-powered rifles, both on and off the mining work grounds. Multiple residents have been searched at gunpoint by police and mining company personnel without reasonable justification. One woman was told by a drunk miner that he would “kill all of the Amerindians” in the village. Miners have also assaulted village members’ pets and damaged property through actions such as throwing bricks. When villagers attempt to photograph the mine site or equipment, they are told that “we will mash it [your phones] up”, and several villagers have had their phones taken and destroyed. Meanwhile, miners take photographs and videos of villagers and the village, and village members have also noticed drones flying over the village, and particularly over the community Toshao’s house (the community’s leader). These actions are causing fears of surveillance by the miners. The Toshao of the village is regularly verbally abused and threatened by the miners, who sometimes mime shooting him with a gun. Members of Chinese Landing who do their own mining have been threatened to stop their operations or have their equipment shot at and forcibly removed, even though they do not work inside the mining concessions.

12. In accordance with the precautionary measures request, the threats and harassment “appear to be a response to the village’s continued opposition to the mining activity, which, in the past year has been intensifying at a considerable pace”. In this context, the proposed beneficiaries indicated that they are “also afraid even to travel in and out of the village because of intimidating encounters with miners”. In this line, they added:

Miners yell at and accuse Village Council members of trespassing on private property when they approach the mining areas. Miners have warned the *toshao* that if the village wins back its lands, they would not leave easily and that people would die. These threats and harassment also appear to be an attempt to assert the miners’ authority over the area. Miners boast that “This is our place, Mr. [W.V.’s] place. We can do what we want” and threaten that Mr. [IA] “has 150 guns, he could come and kill all the Amerindians”. [...] One time, a village member who had been working inside the mining concession was threatened to leave by Mr. [IA], who fired six shots over his head.

13. The applicants expressed concern that, accompanying these incidents of violence and intimidation, over the past year, mining activities in the Tassawini area have intensified, with an increase in the amount of heavy-duty equipment entering the village,² growing deforestation and environmental destruction. The applicants reported that from 2017 to 2021 the mining area lost 264 hectares of forest, five times the amount lost from 2012 to 2016. It was stated that the Huri Creek, which runs alongside the Tassawini mining area and is one of the village’s main sources of fresh water, is no longer useable by villagers unless water levels are high enough that cleaner water flows back in from the Barama River. Residents also cannot use the Barama River for drinking water anymore and some are reportedly getting rashes after bathing in the river. The increased and visible pollution of the rivers and health impacts villagers are experiencing from use of the rivers testifies to that expansion of mining activity. For example, the proposed beneficiaries reported that the use of the Huri Creek water causes rashes, vomiting, and diarrhea.

14. According to the request, residents of Chinese Landing are most concerned about mercury pollution, as they are aware that miners in the area use mercury to recover gold in a process called amalgamation. The mining area allegedly currently lacks any specialized equipment to ensure the safe use of mercury. The proposed beneficiaries noted that “there are no adequate settling or tailings ponds in the mining area, with tailings ponds that do exist overflowing into the Huri Creek. Instead of building proper tailings

² In June 2022, a new set of mining workers brought three crushers (machines that break down large rocks into smaller rocks or gravel) into the village, and two sets of miners moved additional excavators and other mining equipment into the village. In September, two sets of mining equipment, including three excavators, entered the Tassawini mining area. In December, another six-inch land dredge 86 and accompanying excavator were brought into the village, as well as an additional crusher. In January 2023, a four-inch dredge and a crusher and more workers entered the area. Equipment was also brought in to build another road to the Tassawini mining area that will allow the miners to bring in equipment more quickly and to avoid the monitoring from the village council of the amount of equipment going into the mining area.

ponds or dams, miners have been seen creating temporary structures such as a mud wall to divert the water. Miners have also sometimes dumped tailings directly into the creeks”.

15. Thus far, residents reported that the conditions caused by use of the Huri Creek such as rashes or stomach illnesses were treatable by their village health center, but it lacks the expertise and the equipment to treat more severe illnesses nor mercury poisoning. In 2022, the Toshao of the village had conducted a mercury blood test on himself and had to be treated in Georgetown for above-normal levels of mercury in his body. Other residents have not been tested. The nearest hospitals are about 77 km and 125 km away, respectively, by river. However, neither facility has the equipment needed to treat mercury poisoning.

16. The applicants indicated that they have reported the situation to different State authorities, both verbally and in written communications.³ In addition, the situation of the Chinese Landing Community was also reported to the Committee on the Elimination of Racial Discrimination (“CERD”), which issued recommendations to the State of Guyana.⁴ In accordance with the applicants, there have been no effective measures taken to date. After widespread media attention to the situation the State met with the Chinese Landing Toshao on July 14th, 2022, and promised to send a team to investigate. While the Guyana has sent teams in to inspect the mining activities, the applicants alleged that there have been no investigations into the incidents of violence and threats against village members, nor there has been any assessment of the environmental, health, and social impacts of the mining. It was alleged that miners “appear to have advance notice of government team inspections, allowing them time to conceal unregistered equipment”. Additionally, officials from the Environmental Protection Agency allegedly informed the proposed beneficiaries, in August 2022, that they did not take water samples from Huri Creek to test for mercury or other pollutants because they had not come prepared for any equipment for water testing.

B. Information provided by the State

17. Preliminarily, the State alleged a duplication of the complaint on the Chinese Landing community since it is currently before the United Nations Committee on Elimination of Racial Discrimination (UNCERD). The State considered that the procedures are “identical”, and that this situation is prejudicial and unduly exposes Guyana to multiple proceedings “where outcomes may even result in the adoption of conflicting recommendations by the UNCERD and IACHR to the Government of Guyana”. Furthermore, while the State acknowledged that the exhaustion of domestic remedies is not a requirement to grant precautionary measures under the IACHR’s Rules of Procedure, it argued that “[o]nly where it can be seen that State mechanisms are insufficient to address the threats or that these mechanisms are not being utilized to address these threats, can a determination be made that there exists a risk of irreparable harm”.

18. The State also questioned the applicants’ authority to present the request for precautionary measures. In accordance with the State, “Amerindian communities are represented by their Village Councils as their legitimate representatives and not by any other organization”. In this line, the State argued that the Chinese Village Council does not have legal power to give authorization, under the Amerindian Act, for the Amerindian Peoples Association (APA) and the Forest Peoples Programme (FPP) to represent the proposed beneficiaries.

19. Additionally, the State has highlighted that property rights are inadmissible under precautionary measures and presented concerns regarding the report presented by the applicants: “Recent

³ Chinese Landing Village Council, Letter to the MOAA, October 13, 2021, Chinese Landing Village Council, Letter to the MNR (minister of Natural Resources), July 14, 2022, Letter to the Minister of Amerindian Affairs (October 11, 2021).

⁴ CERD. CERD/EWUAP/106th session/2022/MJ/CS/ks. April 29th, 2022.

History and Current Circumstances of the Barama River Carib Indigenous Community of Chinese Landing”, which it alleged that is “false and misleading”.

20. The State also informed that Mr. W.V. and the Chinese Landing Village Council entered into a ten-year agreement on July 19th, 1998, which explicitly stated a portion of the prospecting license was to be relinquished to allow applications for mining permit medium scale. In 2004, the Ministry of Amerindian Affairs wrote to GGMC advising that the Chinese Landing Village Council did not want to continue any agreement with W.V. In 2007, the Minister of Amerindian Affairs raised concerns that the GGMC decision to renew W.V.’s permit was a breach of good faith as the 2006 Amerindian Act made provision for the village consent to be given before for medium scale mining. In 2010, MR. W.V. was issued with a Cease Work Order (CWO) by the Mines Officer.

21. As a result, in 2011, Mr. W.V. instituted legal proceedings against the GGMC challenging the decision of the Commissioner of the GGMC to issue a CWO against him. The High Court granted the order quashing the CWO on the basis that GGMC did not have the authority to issue a CWO under section 48 of the Amerindian Act 2006. The GGMC appealed to the Court of Appeal. In 2016, the Court of Appeal overturned the High Court decision. Mr. W.V. then took the matter to the Caribbean Court of Justice (CCJ), which, in 2017, “held that the issuance of the Cease Work Order by the mines officer for the purpose of enforcing a requirement under the Amerindian Act was unlawful, particularly given that the Amerindian Act had its own procedure for enforcement and was administered by a different authority”.

22. On March 2021, the Chinese Landing initiated proceedings against Mr. W.V. and the GGMC. In this case, the Court ruled that W.V. did not need the permission of Chinese Landing to enter and mine the lands covered by his mining permits. The decision highlights that “It is clear that all minerals within lands held or occupied by the [Chinese Landing community] are vested in the State”. The proposed beneficiaries have appealed, and a decision is pending. Considering these judicial decisions, the State affirmed that W.V. has “exclusive right to occupy and mine gold and precious stones”.

23. Regarding the substantive allegation on threats, harassment and acts of violence presented by the applicants, the State informed on actions to mitigate and investigate taken by the responsible authorities:

- a. A joint patrol comprising members of the Guyana Defense Force (GDF), the Guyana Police Force (GPF) and the Guyana Geology and Mines Commission (GGMC) was deployed into the Barama Riverain Communities including Chinese Landing between May 18th to 22nd 2022, primarily to conduct security threat assessments to mitigate emerging threats and disrupt any illegal activities detected. The team allegedly engaged residents and the Village Council members who raised several concerns which were noted and addressed. Several stop and search exercises as well as raid operations were conducted by the team for arms, ammunition, and narcotics. The outcome of these exercises was that no unlawful activities were uncovered.
- b. Between June 26th – 28th, 2022, authorities held several meetings with the various Village Councils and residents, including Chinese Landing, where the aforementioned allegations against the Miners and Ranks of the GPF, particularly those stationed at the Tactical Service Unit (TSU) providing escorting services, were raised.
- c. The Regional Commander was apprised of the security concerns and allegations against ranks of the GPF and assured that a team would be deployed to conduct investigations into the allegations. A request was also made for the Police to establish an Outpost in Kariako Landing to better serve the needs of the residents of the various communities since swift responses from other existing Police locations can be hindered due to geographical limitations, connectivity, and accessibility during inclement weather conditions. In addition, the Police in Santa Cruz was given directives

to conduct routine patrols within Chinese landing and other indigenous communities along the Barama river.

- d. Police records between 2017 and 2022 from the Santa Cruz Police Outpost and the Acquero Police station were reviewed in order to substantiate the alleged threats to the villagers of Chinese Landing. However, the records revealed evidence that there were no official complaints or reports of these allegations.

24. The State further argued that, in case the police records were made, and no action was taken by State authorities, the Toshao (Chief) of the Village Council: *i.* has powers to arrest and take persons to the nearest Police station; *ii.* can report these matters to the National Tashaos Council and its Secretariat. These reports are reportedly taken to the Ministries of Home Affairs and Amerindian Affairs. Additionally, the Toshao, Village Council or any member of an Amerindian Community can approach one of the constitutional rights' commissions, in particular the Indigenous People's Commission. According to the State, in August 2022, the Chairman of the National Tashaos Council (NTC) had publicly stated that the Chinese Landing Community should formally raise their concerns at the level of the National Tashaos Council so that the issues facing the villagers could be addressed. The State ascertains that, this has not been done to date.

25. The State informed that, on March 26th, 2023, the Regional Commander, along with the regional crime inspector and other members of the regional police force, conducted follow up investigations at Chinese Landing to address the allegations of threats. Several of the alleged victims were interviewed and provided written statements relative to the allegations. Contact was made with several other alleged victims, but they declined to provide statements. In this opportunity, according to the State, the Toshao of Chinese Landing indicated that as of March 26th, 2023, no reported allegations of threats against members of the Guyana Police Force were communicated to him directly by members within the Chinese Landing community.

26. Regarding the allegations from April 1st, 2021, of a mine employee instructing another to ride his ATV over a village resident who was holding her baby, the State refuted the facts by stating that they are inconsistent, distorted and lacks evidence. The State indicated that the village resident informed that "at no time did she feel threatened by the police". The State further alleged that other allegations of threats and violence reported by the beneficiaries to the IACHR are "misleading", such as the allegation that a 66-year-old woman was attacked by two men while returning from a fishing trip. In addition, the State affirmed that:

The Guyana Police Force have noted that relative to allegations suggesting that residents of Chinese Landing were subjected to death threats, forcible eviction from their homes, armed intimidation and aggression, and attempted sexual assault, the residents interviewed indicated that at no time were any reports made to any of the police stations within the Region.

27. Regarding allegations made of the events that occurred on August 10th, 2021, in which a fourteen-year-old was allegedly ordered to remove her clothing at gun point, Guyana wishes to note that this allegation is currently under investigation. In addition, investigations regarding the allegation that the proposed beneficiary Mr. Selwyn Miller was forcefully evicted from his home in September 2018 are ongoing. However, it noted obstacles to contact him since he no longer resides within the Chinese Landing community. Furthermore, the State alleged that the Guyana Police Force is taking the allegations of police misconduct within the Chinese Landing community very seriously; these investigations have commenced and are ongoing. The Police denied ever escorting Mr. I.A., the mines general manager, to the Tassawini mine site. Training sessions are currently under consideration for police ranks who are deployed to support the GGMC officers.

28. In regard of the reported presence of mercury, unsafe mining practices, and damage to the environment by miners in the community, the State informed that it undertook immediate measures to deploy a team from the GGMC and Environmental Protection Agency (EPA) on August 10th, 2022, after concerns were raised at the annual National Tashaos Conference, mid-July 2022. On August 11th, 2022 the team visited the

Tassawini Mine. It was observed that there were no breaches of the safety gears and procedures. However, the authorities observed that the pit slope heights were unacceptable and did not have benching, in addition to the fact that the tree clearance at two pits were inadequate. The team took immediate steps to remedy breaches identified by advising the operators to install culverts into the tailings pond dam before resumption of mining. It was observed that apart from these breaches, all other aspects of the operations were in compliance with the Mining Act, Mining Regulations, and Environmental Regulations of 2005.

29. Regarding mercury contamination, the findings of the investigation revealed that no amalgam sheets were discovered, nor was there any evidence to support their usage during the process of the mining operation. The State further noted:

Concerns about the open discharge of tailings were investigated. However, the team found no instances of open discharge of tailings practices being conducted, thus eliminating potential pollution risks. The investigation indicated that proper waste management protocols were being followed, leading to minimal environmental impact.

30. However, as a safety precaution it was recommended that the GGMC conduct further detailed analysis to confirm these findings to ensure the safety of both the environment and the local community. In this line, the State informed on its action to implement the Minamata Convention on Mercury.

31. The State further informed that the GGMC been conducting regular water turbidity measurements along the water shed influenced by Chinese Landing and other communities. On August 13th, 2022, the results of turbidity levels of Barama River above Huri creek, Barama River below Huri Creek, Barama River below Chinese creek were above the acceptable limit of 30 Nephelometric Turbidity Units (NTU) and were in the lower half of the fifties, being 50 the critical limit. A team that included environmental officers from the GGMC conducted a follow up visit from November 30th to December 15th, 2022. On the 6th of December 2022, the Tassawini Barama river reading (location of Chinese Landing village) measured 26.5. The State observed that “there was therefore, a noticeable decrease in the turbidity levels between August 2022 and December 2022”. In addition,

[to] accommodate the increasing scale of operations, the Tassawini Mine faced the challenge of adopting more advanced and efficient techniques; this gradual shift from artisanal to semi-mechanized and ultimately fully mechanized mining methods significantly improved the overall productivity and safety at the Tassawini mine. In response to these changes, the Commission urged mine operators to submit a comprehensive mine plan in accordance with the provisions stated in Section 64 (2)(b) and (c) of the Mining Act. As a result, the mine management at Tassawini must ensure that their operations remain compliant with the legal requirements, further emphasizing the need for meticulous planning and continued operational improvements.

32. Specifically on access to health, the State informed that the Ministry of Health; the Regional Health Department in Administrative Region 1 and the GGMC were not notified by residents within the community about these health concerns raised in the precautionary measures request. In addition to that, syndromic surveillance reports between the months of September and December 2022 revealed that illness cases identified were within the normal range of cases that would be diagnosed and treated.⁵

33. Finally, the State reassured the Inter-American Commission on Human Rights of its commitment to uphold the human rights of all indigenous peoples in Guyana and all of its citizens and migrants residing in our country.

C. Additional information presented by applicants

⁵ In patients over 15 years old: Gastroenteritis: 6 persons; Fever and Acute Respiratory Infection (ARI): 10 persons; Rash and Fever: 4 persons; Undifferentiated Fever: 4.

34. On May 22nd, 2023, the applicants submitted their observations on the information provided by the State. In this opportunity, they alleged that the UNCERD procedure does not constitute a duplication of processes, arguing that it:

has a different object, purpose, and nature to the request that was before the UNCERD. The early warning and urgent action procedure of the UNCERD concerns situations of racial discrimination rather than specifically urgent and serious risks of irreparable harm to rights protected under the American Declaration, and the nature of the recommendations issued by the UNCERD differs from the precautionary measures that may be adopted by this Commission.

35. The applicants added, with regard to IACHR's Rule of Procedure that consider whether the alleged situation of risk has been brought to the attention of the pertinent authorities, that "the village has reported on the rights violations against them to the National Toshias Council, as well as sent letters and raised complaints with the Ministry of Amerindian Affairs which were copied to the Indigenous Peoples Commission". Accordingly, the only venue suggested by the State and not explored by the proposed beneficiaries was the exercise of the *toshao's* power to personally arrest alleged perpetrators "in part because he had received no training on his powers and authorities as a rural constable, and in part out of fear due to the threats made against his life by miners and the lack of action by the police or other authorities in the past". In this line, the applicants alleged that the mechanisms available to denounce the risk situation were not "sufficient".

36. Regarding the representation exercised by the Amerindian Peoples Association (APA) of Guyana and the Forest Peoples Programme (FPP), the applicants recalled that the Chinese Village Council is *per se* an applicant as well, and it has "asked that the APA and FPP join it in presenting their request to the Commission" (a copy of the Chinese Village Council decision to request precautionary measures has been submitted). The applicants argued that the State allegation on their lack of legal basis to represent the proposed beneficiaries is not in line with the IACHR's Rules of Procedure and claimed that "Chinese Landing Village is under no obligation either by its customary or national law to inform the [National Toshias Council] (NTC) nor seek the NTC permission prior to taking any actions, including prior to filing a request for precautionary measures".

37. The applicants also provided observation on the actions alleged by the State to address the risk that the proposed beneficiaries are facing. In accordance with their request, the investigations informed by the State have not resulted in legal responsibility for the perpetrators for acts of violence and threats against the community, nor have mitigated "the climate of fear that persists in the village as a result of the open carry of high-powered weapons and ongoing threats made by miners and their security guards". The victims of the ongoing investigations reported by the State have also not been informed about it.

38. Considering the March 26th, 2023, visit made by the police to Chinese Landing, the applicants noted that the proposed beneficiaries were not informed of it beforehand, which implicated that several beneficiaries were not in the village center and could not be interviewed. The police has since not made any visits to the community to conduct further investigation, and the community members have not been informed on the progress of their investigation. The applicants also provided clarifications to their March 26th, 2023, statements to the police, affirming that "the *toshao's* statement to the police does not state that he never received any reports of threats, but rather, that he did not receive any direct reports of threats made by the police specifically".

39. The applicants confirmed that the GGMC and Environmental Protection Agency visited the village in August 2022, however, they claimed that this action did not result in mercury testing and/or measures to protect the environment. Furthermore, they questioned the State's allegation that no amalgam sheets (contains mercury) were discovered during that visit, since reporters have documented evidence of

their use at Tassawini mining area in August 2022. Specific on the health reports carried by a community health worker done between the months of September and December 2022, the applicants stated that “Chinese Landing Village Council was unaware that any survey of symptoms related to the use of polluted water was being conducted in the village, and the applicants are unaware if this survey was a systematic survey of those symptoms”. In this line, they reiterated that persons proposed as beneficiaries have reported symptoms of diarrhea, vomiting, and rash that they have associated with use of the rivers and creeks in the village.

40. The applicants questioned the State reports on water turbidity, indicating that it does not clarify what measures were taken in between August and December 2022 to reach the improvement reported, nor it is clear where the sites used to collect the samples for testing at Tassawini, Barama River are.

41. Furthermore, the applicants reiterated the situation of risk due to threats, harassment and acts of violence that the proposed beneficiaries are allegedly subjected to. They indicated that the proposed beneficiaries are deliberately avoiding confrontation with miners. “Villagers who used to live near the mining area have moved, and villagers no longer even attempt to access the parts of their lands blocked by the mining concession. As [a proposed beneficiary] puts it in the statement taken by the police, she has not encountered any violent incidents since she was threatened by a miner carrying a knife ‘because I do not get myself into any problem’”. Nevertheless, on April 19th, 2023, *toshao* Orin Fernandes was asked to give a GGMC officer who had come to inspect the mines from Georgetown a ride to the mining area. The security guard at the entrance to the mining area cursed at the pair, and a miner joined him to yell at the *toshao* to “beat off” the land. In this context, the applicants highlighted that several members of the community have left in search of means of subsistence.

42. Finally, the applicants argued that the appeal on the case brought by the proposed beneficiaries against W.V. and GGMC has been delayed twice, adding that “[t]he State cannot, however, use the ongoing judicial process regarding Chinese Landing’s land rights as an excuse not to address effectively reports of threats and assaults, including sexual assault on a minor, against village members or the massive and escalating environmental destruction of the village’s lands”.

III. ANALYSIS OF THE REQUIREMENTS OF URGENCY, SERIOUSNESS, AND IRREPARABLE HARM

43. The precautionary measures mechanism is part of the Commission’s function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 18(b) of the Statute of the IACHR, and the precautionary measures mechanism is described in Article 25 of the Commission’s Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm.

44. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary.⁶ Regarding the protective nature, these

⁶ See in this regard: I/A Court H.R. Matter of the Yare I and Yare II Capital Region Penitentiary Center. Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. Case of Carpio Nicolle et al. v. Guatemala. Provisional Measures. Order of July 6, 2009, considerandum 16

measures seek to avoid irreparable harm and protect the exercise of human rights.⁷ To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.⁸ Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. They aim to safeguard the rights at risk until the petition pending before the Inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.⁹ In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

- a) “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b) “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c) “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

45. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.¹⁰ Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual

⁷ See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. Bámaca Velásquez Case. Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. Case of Fernández Ortega et al. Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]. IACHR, Matter of Six migrant children regarding Trinidad and Tobago (PM-1100-20), Resolution No. 93/2020 of December 9, 2021; IACHR, Matter of Community of Cuninico and another regarding Peru (PM-120-16), Resolution No. 52/2017 of December 2, 2017; IACHR, Matter of Native Community “Tres Islas” of Madre de Dios regarding Peru. Resolution No. 38/2017 of September 8, 2017.

⁸ See in this regard: I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]; I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. Matter of the Criminal Institute of Plácido de Sá Carvalho. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish]. IACHR, Matter of Erica Sheppard regarding the United States (PM-551-21), Resolution No. 57/2021 of July 29, 2021; IACHR, Matter of Julius Jones regarding the United States (PM-1041-21), Resolution No. 90/2021 of November 17, 2021; IACHR, Matter of Christa Pike regarding the United States (PM-1080-20), Resolution No. 95/2020 of December 11, 2020.

⁹ See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 7; I/A Court H.R. Matter of “El Nacional” and “Así es la Noticia” newspapers. Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23; I/A Court H.R. Matter of Luis Uzcátegui. Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19. 26 See in this regard: I/A Court H.R. Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, considerandums 13 and 14 [only in Spanish]; I/A Court H.R. Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006, considerandum 23.

¹⁰ See in this regard: I/A Court H.R. Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, considerandums 13 and 14 [only in Spanish]; I/A Court H.R. Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006, considerandum 23

liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments.¹¹ This is better suited to be addressed by the Petition and Case system. The following analysis relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.¹²

46. In a preliminary manner, the Commission observed the State's argument regarding the alleged duplication of the present proceedings due to an ongoing process in the United Nations Committee on Elimination of Racial Discrimination (UNCERD). As the applicants have highlighted, the UNCERD has a different object and purpose than the IACHR's Precautionary Measures. While the first is focused on the International Convention on the Elimination of All Forms of Racial Discrimination, the precautionary measures procedure at hand aims to protect individuals or identified groups from serious and urgent risks of irreparable harm to their rights as enshrined in the American Declaration. It is important to recall that the precautionary measures mechanism does not establish States' responsibility for violations of International Human Rights Law. In this manner, and in contrast with the petitions and cases presented under Article 51 of the IACHR's Rules of Procedure, the admissibility criteria concerning duplication of procedures (Article 33¹³ of the Rules of Procedure) does not apply.

47. In the same line, and as noted by the State (*vid supra* para. 17), the precautionary measures procedure does not require the applicants to exhaust domestic remedies, rather it considers if "the situation has been brought to the attention of the pertinent authorities or the reasons why it would not have been possible to do so".¹⁴ In this manner, the Commission will proceed to analyze if, after the authorities learned about the alleged risk situation, the State adopted sufficient and adequate measures to mitigate or cease the identified serious and urgent risk of irreparable harm, while evaluating how vulnerable the persons proposed as beneficiaries would be left in case these precautionary measures are not adopted. The Commission recalls that:

The assessment of whether or not a person requires protection measures and what those measures should be, is the State's obligation, and should not be limited to requiring the victim to apply to "the competent authorities", without knowing exactly which authority is best able to address his situation, since it is the State's responsibility to establish measures of coordination between its institutions and officials for that purpose.¹⁵

48. The Commission also takes note of the State allegation regarding the representation exercised by the Amerindian Peoples Association (APA) of Guyana and the Forest Peoples Programme (FPP). On this issue, the IACHR's Rules of Procedure states that it should take into account "the consent of the potential

¹¹ IACHR. Resolution 2/2015. Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico. January 28, 2015, para. 14; IACHR. Resolution 37/2021. Precautionary Measure No. 96-21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021, para. 33.

¹² In this regard, the Court has indicated that "[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons." See in this regard: I/A Court H.R. Matter of James et al. regarding Trinidad and Tobago. Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. Case of Barrios Family v. Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

¹³ The Article 33 reads: [t]he Commission shall not consider a petition if its subject matter:
a. is pending settlement pursuant to another procedure before an international governmental organization of which the State concerned is a member; or
b. essentially duplicates a petition pending or already examined and settled by the Commission or by another international governmental organization of which the State concerned is a member.

¹⁴ IACHR. Rules of Procedure. Article 25.6.a.

¹⁵ I/A Court H.R. [Case Human Rights Defender and others Vs. Guatemala](#). Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Serie C No. 283, para. 155.

beneficiaries when the request is presented by a third party unless the absence of consent is justified”.¹⁶ In the matter at hand, the Commission observes that the proposed beneficiaries, the Indigenous Carib Community of Chinese Landing, have consented to the request of precautionary measures through its Village Council, which is also a part of the applicants and has submitted a written document confirming their will to take part in the present procedures (*vid supra* para. 36). In presenting the request jointly, the Commission understands that the Village Council is extending this consent to APA and FPP to exercise the proposed beneficiaries’ representation before the IACHR and specifically for the precautionary measures’ procedures. In addition, the Commission recalls that the proposed beneficiaries may withdraw their consent to be represented by any third party at any time.

49. Still in a preliminary manner, the Commission observes that both applicants and State have presented arguments regarding the recognition of land ownership in favor of the proposed beneficiaries and the extension of rights derived from it, as well as the legality of the mine exploitation by third parties, in particular by Mr. W.V. Regarding these questions, the IACHR adverts that they require an analysis of merits to determine possible violations of the American Declaration of the Rights and Duties of Man and therefore, fall outside the scope of the present precautionary measures procedure. As indicated above, this is better suited to be addressed by the Petition and Case system. The analysis that follows relates exclusively to the alleged serious and urgent situations presenting a risk of irreparable harm, which can be resolved without making any determinations on the merits.

50. In analyzing the requirements set forth in the Rules of Procedure, the Commission observed that the applicants alleged two sources of serious and urgent risk to their rights to life and personal integrity. One related to threats, harassment and acts of violence supposedly perpetrated by mine workers and police officers against the proposed beneficiaries in the context of their opposition to mining exploited by third parties; and a second connected to the consequences of environmental contamination of their means of subsistence, such as water supply,¹⁷ particularly derived from mercury, which allegedly negatively affects their health, life, and personal integrity.

51. With regards to the first source, the Commission observes that, in accordance with the applicants, since 2018, and later intensified in 2021, the proposed beneficiaries have received death threats and are allegedly intimidated and harassed “daily”. The proposed beneficiaries have registered the following:

- In 2018, the expulsion of the proposed beneficiary Mr. Selwyn Miller and his family of their house under threats by two officers of the Tactical Services Unit of the Guyana Police Force and by Mr. I.A., the mines general manager;
- In August 2021, an attempt to rape a 14-year-old girl who was grabbed by an armed miner who put his gun against her back;
- In August 2021, a physical aggression against a 19-year-old who was allegedly slapped and later chased with three other proposed beneficiaries by the security officer of the mines with an iron;
- In 2021, an elder proposed beneficiary was threatened with a knife and questioned about her son when returning from a fishing trip;
- In June 2022, at least in two occasions, proposed beneficiaries were threatened with the use of firearms to remove their equipment by the mines’ general manager.

¹⁶ Ibid, Article 25.6.c.

¹⁷ The right to water is closely linked to the right to food, and both are related to their traditional ways of obtaining water and food and, therefore, connected to their cultural and identity rights. In this sense, in addition to affecting health, life and integrity, contamination potentially jeopardizes the very existence of this culture and its ways of transmitting knowledge. See more: I/A Court H. Indigenous Communities Members of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, Reparations and Costs. Judgment of February 6, 2020. Serie C No. 400, para. 254.

52. Furthermore, the Commission takes note that the proposed beneficiaries alleged that miners carry guns and “regularly discharge their firearms at night”. It was indicated that in one instance, a proposed beneficiary who had been working inside the mining concession was threatened to leave by the mines manager who fired six shots over his head. Several members of the Chinese Landing Community have been searched at gunpoint by police and mining company personnel “without reasonable justification” (*vid supra* para. 11). They further informed that they have observed miners taking photographs and videos of villagers as well as drones at Toshao’s house. The Toshao would be “regularly verbally abused and threatened by the miners, who sometimes mime shooting him with a gun” (*vid supra* para. 11). By its turn, when the proposed beneficiaries attempt to photograph the mine site or equipment, they are told that “we will mash it [your phones] up”, and several villagers have had their phones taken and destroyed.

53. The Commission adverts the seriousness of these allegation in which includes *i.* repetitive incidents of threats and harassment, which are sustained over time and some reportedly occur “daily” or “regularly”; *ii.* acts against persons in particular vulnerability such as aggression to a young man, attempted rape of a minor, and threat with a knife against an elder person; *iii.* the extensive use of firearms, with firing incidents. In addition, the IACHR highlights the gravity of the information which indicated the involvement of State police force in the events of risk, which is reportedly carried out in conjunction with mine workers. As State authorities, the police force plays a role related to the guarantee and protection of rights¹⁸ and in these circumstances, the proposed beneficiaries’ relation with the State is undermined, hindering the adequate and effective implementation of protection measures.¹⁹

54. Moreover, the proposed beneficiaries have received death threats of a group nature, reportedly perpetrated by mine workers, which the Commission observes that is connected to their collective opposition to the mining activities in their lands. As examples, the applicants informed of a proposed beneficiary who was told by a drunk miner that he would “kill all of the Amerindians” in the village; another proposed beneficiary was reportedly told, while working inside the mining concession, that Mr. [I.A], the mines manager, “has 150 guns, he could come and kill all the Amerindians”; additionally, the *toshao* was allegedly warned that if the village wins back its lands, they would not leave easily and that people would die (*vid supra* para. 12). The Commission notes that threats of this nature place the proposed beneficiaries in particular risk considering that they still advocate against the mining concession and that a related judicial process is pending on this matter. This aspect has an impact on the seriousness of the situation when considering that the alleged events of risk continue and seem to aggravate after legal decisions in favor of the mining concession (*vid supra* paras. 8-9). Regarding the reiteration of events of risk, it is pertinent for the analysis of the requirement of seriousness that the Commission has affirmed:

Where repeated incidents of aggression are involved, the sequence of events over time has to be examined, taking into account all the acts of intimidation, threats, physical assaults and verbal attacks that the individual human rights defender concerned and the group to which he or she belongs may have experienced.²⁰

55. In this context, and due to the alleged threats and acts of violence, the proposed beneficiaries indicated that they are “deliberately avoiding confrontation with miners”, no longer even attempt to access or pass through the parts of their lands blocked by the mining concession or have left the Community. Nevertheless, on April 19th, 2023, the *toshao* Orin Fernandes was insulted when accompanying a GGMC officer to the mining area and told to “beat off” the land. Regarding the displacement of proposed beneficiaries, the Commission adverts its negative impact on social cohesion and cultural identity of the group, generating the

¹⁸ IACHR. [Resolution No. 25/23](#) - PM 61-23 - Members of the Pataxó Indigenous People located in the Barra Velha and Comexatibá Indigenous Lands in the state of Bahia, Brazil, para. 51.

¹⁹ IACHR. [Second Report on the Situation of Human Rights Defenders in the Americas](#). 2011, para. 516.

²⁰ IACHR. [Second Report on the Situation of Human Rights Defenders in the Americas](#). 2011, para. 515.

rupture of the social fabric, the weakening and fragmentation of the community and, in the most serious cases, the total loss or serious deterioration of its ethnic and cultural identity.²¹

56. Considering the aforementioned situation, as outlined above, the Commission considers that they are in a serious situation of risk to their rights of life and personal integrity. In this scenario, the IACHR will analyze if the actions adopted by the State have been effective and adequate to mitigate the identified risk.

57. Firstly, the Commission takes note that in May 2022, the State deployed members of the Guyana Defence Force (GDF), the Guyana Police Force (GPF) and the Guyana Geology and Mines Commission (GGMC) into the proposed beneficiaries' area to "conduct security threat assessments to mitigate emerging threats and disrupt any illegal activities detected". In this opportunity, State authorities received information from the proposed beneficiaries regarding their concerns and carried "several stop and search exercises as well as raid operations", indicating that "no unlawful activities were uncovered". In June 2022, State authorities held meetings that included the Chinese Landing Village Council, in which "allegations against the Miners and Ranks of the GPF, particularly those stationed at the Tactical Service Unit (TSU) providing escorting services, were raised". In addition, on March 26th, 2023, the pertinent authorities conducted follow up investigations at Chinese Landing to address the allegations of threats.

58. While the Commission values the investigative actions initiated by the State, it notes that these have not resulted in identifying suspects, the start of criminal trials, and/or holding perpetrators responsible. In this sense, the IACHR notes that despite the time passage from the expulsion of the proposed beneficiary Mr. Selwyn Miller and his family from his house and the attempted rape of a 14-year-old, respectively in 2018 and 2021, no information on the progress of these investigations was provided, despite the State confirming that they are ongoing (*vid supra* para. 27). The Commission recalls, while evaluating the effectiveness of the measures adopted by the State that "[i]f the authorities are aware of the attacks, but the attacks continue because no progress is made in the investigation and apprehension of the responsible parties, the human rights defender is at even greater peril".²²

59. Secondly, the IACHR observes that several claims brought forward by the proposed beneficiaries on risk events were dismissed by the State as misleading or for lacking evidence, without indicating that investigations have taken place. For instance, the State alleged that it reviewed police records between 2017 and 2022 from the Santa Cruz Police Outpost and the Acquero Police station, not finding official complains or reports to substantiate the allegations. However, it did not indicate that, after receiving complaints in the meetings held in June 2022, it started the respective investigations and if so, how are they progressing. In the same line, the States limits itself in affirming that allegations against the police are being allegedly investigated but does not present further information (*vid supra* para. 27). This issue coincides the

²¹ IACHR. [Resolution No. 3/18](#) - PM 860-17 - Indigenous families of the Chaab'il Ch'och' community, Guatemala, para. 27. The Inter-American Court considers that the right to cultural identity is a fundamental and collective right of the indigenous communities, which must be respected in a multicultural, pluralistic and democratic society. See: IACHR Court. Kichwa Indigenous People of Sarayaku v. Ecuador. Merits and Reparations. Judgment of June 27, 2012, para. 217. Likewise, the IACHR Court, citing the report Guatemala, Memoria del Silencio, noted that the displacement of the civilian population stands out for its massive nature and its destructive effect, and implies the dismemberment of families and communities, at the same time that the cultural ties that make up their cohesion were disrupted. See: I/A Court H.R., Case of Chitay Nech et al. v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 25, 2010, para. 123. Likewise, the Inter-American Court has held that displacement may affect community, traditional, cultural and ancestral ties of the group as such. See: I/A Court H.R. Case of members of the Chichupac and Neighboring Communities of the Municipality of Rabinal v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 30, 2016, para. 191. See also: IACHR, Indigenous peoples, Afro-descendant communities and natural resources: protection of human rights in the context of extractive, exploitative and development activities, December 31, 2015, paras. 264 and 265.

²² IACHR. [Second Report on the Situation of Human Rights Defenders in the Americas](#). 2011, para. 517.

applicants' allegations that after presenting reports to the authorities or providing statements to the police, no information on the investigations is delivered to them (*vid supra* para. 38).

60. Thirdly, the Commission observes that the State indicated that a request was made for the Police to establish an Outpost in the Kariako Landing to better serve the needs of the residents of the various communities, as well as that the Police in Santa Cruz was given directives to conduct routine patrols within Chinese Landing and other indigenous communities along the Barama river (*vid supra* para. 23). Regarding these informed actions, the Commission adverts that the State has not indicated if they were realized and how it is suitable to protect the proposed beneficiaries. In this manner, the Commission notices that the State has not informed on risk evaluations carried out in favor of the proposed beneficiaries and their leaders, particularly considering the collective nature of the risk alleged.

61. The Commission recalls that, for the measures adopted by the State to be adequate and effective, they must be, respectively, suitable to protect the persons at risk, and they must produce the expected results so that the risk ceases.²³ For the measures to be suitable, they must, by their very nature, make it possible to confront the risk at hand, protecting the life and integrity of the person threatened, as well as guaranteeing, for example, that work is carried out to promote and defend human rights.²⁴ In light of the information provided by both parties, including the measures indicated by the State, the Commission understands that the proposed beneficiaries continue to face a serious situation presenting a risk. In reaching this conclusion, the Commission highlights that the proposed beneficiaries do not have protection measures that allow them to carry on their subsistence activities, explicitly indicating that they refrain from activities that might lead to confrontation with miners, including crossing areas in their land, or they have left the community (*vid supra* paras. 41; 55).

62. With regard to the second alleged risk source, connected to the consequences of environmental contamination to health, life, and personal integrity of the proposed beneficiaries, mainly derived from exposure to mercury, the Commission does not currently have enough information to substantiate the existence of a risk that meets the requirements set forth in Article 25 of the Rules of Procedure. While the applicants have provided examples of persons with relevant health symptoms and raised concern due to alleged lack of an environmental impact study and the unsuitability of their traditional water sources, the State has provided information indicating that it carried environmental contamination assessments without findings of pollution by mercury (*vid supra* para. 29). In this line, the Commission takes note of the information provided by the State that "it was recommended that the GGMC conduct further detailed analysis to confirm these findings to ensure the safety of both the environment and the local community" and remains attentive to information that the State might provide on the results of such study. In this opportunity, the Commission recalls that the serious health impacts of mercury contamination and the risk it poses to peoples' health, life, and personal integrity.²⁵

63. Considering the information provided by the parties, the Commission recalls States specific obligations to protect indigenous and tribal people:

The IACHR has recognized that States must adopt special and specific measures aimed at protecting, favoring and improving the exercise of human rights by indigenous and tribal peoples and their members. The need for special protection arises from the greater vulnerability of these populations, their historical conditions of marginalization and discrimination, and the deeper impact on them of human rights violations. This

²³ Ibid, para. 521.

²⁴ Ibid, para. 522.

²⁵ I/A Court H.R., [Matter of Members of the Yanomami, Ye'kwana and Munduruku Indigenous Peoples regarding Brazil](#). Adoption of Provisional Measures. Order of the Inter-American Court of Human Rights of July 1, 2022 [in Spanish].

positive State duty of adopting special measures is enhanced when it comes to indigenous children and women, given that their level of vulnerability is even greater²⁶.

64. In this manner, in light of the ongoing situation of unprotected rights to life and personal integrity of the persons proposed as beneficiaries due to threats, harassment, and acts of violence as evaluated above, the Commission considers that, according to the applicable *prima facie* standard, they are at serious risk.

65. Regarding the requirement of urgency, the Commission considers that it has been met in view of the continuity and repetition of events of threat and violence against the proposed beneficiaries, which indicates, in view of the situation of lack of protection, the possibility that new high-risk incidents may occur again at any time. This also takes into consideration that the proposed beneficiaries remain opposing the mining concession on their lands and have an ongoing judicial process, which potentially indicates that it may raise new conflicts. All of this implies that violations of their rights to life and personal integrity may materialize at any time.

66. Regarding the requirement of irreparable harm, the Commission considers that this requirement is met, since the possible impairment of the rights to life and personal integrity constitutes, by its very nature, the maximum degree of irreparability.

67. Lastly, due to the context of the present precautionary measure, the Commission reaffirms the following:

One of the main concerns of the Commission is compliance with the standards requiring that the granting of a concession does not affect the survival of the indigenous or tribal people in accordance with their traditional ways of life. It is important to emphasize, as stated by the Court in its interpretation judgment in the Saramaka case, that ‘survival’ entails much more than physical survival, rather it “must be understood as the ability of the Saramaka to ‘preserve, protect and guarantee the special relationship that [they] have with their territory’, so that ‘they may continue living their traditional way of life, and that their distinct cultural identity, social structure, economic system, customs, beliefs and traditions are respected, guaranteed and protected [...]’. That is, the term ‘survival’ in this context signifies much more than physical survival.” In a similar sense, for the IACHR, “the term ‘survival’ [...] does not refer only to the obligation of the State to ensure the right to life of the victims, but rather to take all the appropriate measures to ensure the continuance of the relationship of the Saramaka People with their land or their culture.”²⁷

IV. BENEFICIARIES

68. The Commission declares the members of the Indigenous Carib Community of Chinese Landing as beneficiaries. The beneficiaries are identifiable in accordance with Article 25.6.b of the IACHR Rules of Procedure.

V. DECISION

69. The Inter-American Commission on Human Rights considers that this matter meets *prima facie* the requirements of seriousness, urgency, and irreparability contained in Article 25 of its Rules of Procedure in the terms indicated in this resolution. Accordingly, the IACHR requests that Guyana:

- a. take the necessary measures to protect the rights to life and personal integrity of the members of the Indigenous Carib Community of Chinese Landing identified as beneficiaries, with a

²⁶ IACHR. [Indigenous and Tribal Peoples’ Rights Over their Ancestral Lands and Natural Resources](#). 2010, para. 49.

²⁷ IACHR. [Indigenous Peoples, Afro-Descendent Communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities](#) 2015, para. 165.

cultural, gender-based, and age-appropriate perspective to prevent threats, harassment, and other acts of violence against the beneficiaries;

- b. consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and
- c. report on the actions taken to investigate the events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

70. The Commission requests the Government of Guyana to inform the Commission, within 20 days from the date of this communication, on the adoption of the precautionary measures agreed upon and to update this information on a regular basis.

71. The Commission emphasizes that, pursuant to Article 25.8 of the Rules of Procedure of the Commission, the granting of precautionary measures and their adoption by the State shall not constitute a prejudgment on the possible violation of any right protected by the American Declaration or other applicable instruments.

72. The Commission instructs its Executive Secretariat to notify this Resolution to the State of Guyana and to the representation.

73. Approved on July 21st, 2023, by Margarette May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Joel Hernández García; Julissa Mantilla Falcón; Edgar Stuardo Ralón Orellana; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary