

**Letters...Letters...Letters...Letters...**

## Amerindian rights are circumscribed and subject to the rights of others

Dear Editor,

Following Justice Insanally's recent decision that a mines officer of GGMC had not shown cause why an order nisi to quash a cease work order should not be made absolute and that the Isseneru Village Council had not shown cause why the order nisi prohibiting them from exercising any form of control over the mining operations of a miner should not be made absolute, the Amerindians, the GHRA and others have sought to use the media to defame the Honourable Judge and bring the administration of justice into disrepute, thereby themselves committing unjustifiable conduct and indefensible contempt of court, which the Attorney General should pursue in defence of the judiciary.

The GHRA showed a preference to defame the Honourable Judge based on "the reported versions of the court judgment ..." and as reported in the media, stated that the judge's decision was "shocking" and "One can only wonder whether the Judge in question has any idea of the Pandora's box of mischief she has opened. Unscrupulous miners and mining companies have been handed yet another weapon to undermine Amerindians' control of their own communities. This judgement flies in the face of justice and decency, to say nothing of common sense." They concluded, "Nothing in the Amerindian Act supports the basis for the Judge's decision."

Ms Bulkan started her letter to the editor with the words "From the limited press reporting on this case," but was able to conclude that it seems the Judge is "unaware of the laws safeguarding Amerindian rights"; and "The court appears to have been at fault in admitting the civil suit"; and referring to the Amerindian Act 2006, wrote that the Judge gave "a novel interpretation of that Act" ("This ruling marks the latest erosion of Amerindian legal and customary rights over their lands," *SN* Jan 21).

The above comments are also premature in light of the fact that it was also reported that the Senior Counsel for the mines officer of GGMC indicated to the media that the judge's

written decision was not available. Further, no mention was made to the fact that a previous court had made a similar ruling.

In his celebrated judgment in *Ambard v The Attorney General of Trinidad and Tobago*, Lord Atkin said "Justice is not a cloistered virtue: she must be allowed to suffer the scrutiny and respectful even though outspoken comments of ordinary men," but he warned that "...provided members of the public abstain from imputing improper motives to those taking part in the administration of justice, ... and not acting in malice or attempting to impair the administration of justice ..."

One wonders whether the above persons are aware of their own duty to comply with the laws, the limits to their right to freedom of expression and their duty to be objective and inform themselves properly. The Amerindians do have rights but these rights are circumscribed and subject to the rights of others. Have these writers addressed their minds to the rights not only of the Amerindians, but also the rights of miners who have had mining claims as in the present case since 1989? Do the miners have any property rights under the Constitution? Do the miners have any rights where they have expended billions of dollars over the years on their mining claims? Have these persons addressed the law that Amerindians' right to communal lands do not extend to mineral rights? Or are these writers advocating that the Amerindians have unlimited rights to the exclusion of other citizens of Guyana, the Constitution and other laws of Guyana?

The constitutional and other rights of the indigenous peoples of Guyana do not permit them to contravene the rights of others and there are cases where they are blatantly doing so. I look forward to hearing from the same critics when they inform themselves of the defaults of the Amerindians and their contraventions of the Amerindian Act 2006 and other laws of Guyana.

Yours faithfully,  
**Jamela A Ali**  
 Attorney-at-law