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SURINAME

Submission by:

ADF International
Rue du Pré-de-la-Bichette 1
1202 Geneva, Switzerland

Web: www.ADFinternational.org

Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the Organization of American States, the European Commission and Parliament, and is a participant in the FRA Fundamental Rights Platform.
2. This report highlights Suriname’s failure to fully guarantee the rights to freedom of religion or belief and freedom of expression. It also explains why the liberalisation of abortion access is not the solution to the issue of high levels of maternal mortality and morbidity in the country.

(a) Freedom of Religion or Belief and Freedom of Expression

3. The 1987 Constitution of Suriname guarantees ‘the right to freedom of religion and philosophy of life’ in Article 18. Article 8 also prohibits discrimination, including on the basis of ‘religious origin.’¹
4. Additionally, Article 19 of Suriname’s Constitution affirms everyone’s right to ‘make public his thoughts or feelings and to express his opinion through the printed press or other means of communication, notwithstanding everyone’s responsibility according to the law.’²
5. Although rarely enforced, Suriname’s Penal Code Article 196 criminalizes, among other things, the expression of ‘scornful blasphemies intended to offend religious feelings.’ Violations can be punished with a fine of up to 120 guilders and imprisonment of up to three months.³
6. Additionally, Art. 175 of the Penal Code makes it a crime to express oneself publicly in an ‘offensive or derogatory manner’ against a group because of their race, religion or philosophy of life. Art. 175bis further punishes anyone who publicly ‘incites hatred or discrimination’ against persons because of their race, religion or beliefs.⁴

Freedom of Religion or Belief and Freedom of Expression in International Law

7. Article 18 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of religion or belief, including the right to manifest one’s religion or belief on private as well as public settings. Inseparably linked to Article 18 is Article 19, which enshrines the right to freedom of opinion and expression.⁵ The freedom to express one’s beliefs and opinions is fundamental to the operation and maintenance of an open and free society – even when what is expressed may be unpopular or offensive to some people.

¹ Constitution of Suriname, art. 8 and 18.

² Ibid., art. 19.

³ Penal Code of Suriname, G.B. 1911 no. 1, art. 196.

⁴ Ibid., art. 175 and 175bis.

⁵ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 18-19.

8. While there are limitations placed on free expression within the ICCPR (Articles 19(3) and 20)⁶ and Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)⁷, the threshold for restrictions is high.⁸
9. Legal provisions such as Article 196 of the Penal Code, which criminalizes blasphemy, do not constitute an acceptable derogation from the right to freedom of expression, as Article 19(3) ICCPR only allows restrictions on expression where they are necessary 'for the respect of the rights and reputations of others' or 'for the protection of national security, public order or public health or morals.'⁹ Clearly, restrictions must serve as a necessary protection of persons, not of religions as such.
10. General Comment No. 34 of the Human Rights Committee (CCPR) makes it clear that restrictions on the right to freedom of expression 'should not go beyond what is permitted in paragraph 3 [of Article 19] or required under article 20,' and that relevant laws 'must provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expression are properly restricted and what sorts are not.'¹⁰
11. There is certainly a need to regulate forms of communication that can credibly and reasonably be said to constitute incitement to violence, whether against an individual or a group. However, laws that criminalize offense, or incitement to hatred, such as Penal Code Articles 175 and 175bis, are largely subjective, do not necessarily require falsehood, rarely require a victim, often only protect certain people, and are arbitrarily enforced. It is on these grounds that legitimate speech involving no actual incitement to violence could be silenced, in violation of the right protected under Article 19 of both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
12. While speech that incites violence can be easily defined and identified, the determination as to what qualifies as inciting hatred or even discrimination can be subjective and abstract. It is patently disproportionate to take away someone's liberty in reprisal for words that may merely offend, however insensitive they might be. Moreover, central to both freedom of expression and freedom of religion or belief is the liberty to openly and candidly debate ideas and belief systems of all varieties. The threat of fines for saying things that might be interpreted as 'offensive' directly flouts the possibility of honest debate, and, in so doing, risks contravening Suriname's obligation to guarantee freedom of expression under international law.

⁶ Ibid., Art 19-20.

⁷ Convention on the Elimination of All Forms of Racial Discrimination (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195 (CERD) Art 4.

⁸ Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, further to Human Rights Council decision 1/107 on incitement to racial and religious hatred and the promotion of tolerance, A/HRC/2/3, 20 September 2006, Art 47.

⁹ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 19(3).

¹⁰ UN Human Rights Committee, General Comment No. 34 (2011), CCPR/C/GC/34, 25.

(b) Right to Life and Maternal Health

13. Article 14 of Suriname's Constitution provides that 'everyone has the right to life' and that 'this right shall be protected by the law.'¹¹
14. The right to life for the unborn is protected by Articles 355-359 of the Penal Code, which prohibit abortion. Under the law, a woman who undergoes an induced abortion may be subject to up to three years imprisonment, and anyone who performs an abortion may be subject to up to four 4 years and a half of imprisonment if the woman consented, and up to 12 years if she did not consent.¹²
15. In its initial national report to the Committee on the Rights of the Child, Suriname made it explicit that it interpreted the Convention as recognizing the unborn child's right to life, stressing that 'The interruption of the development of an unborn human life is considered as such a serious measure that it can only be accepted if the woman's life is endangered.'¹³
16. Despite restrictive laws, it has been alleged that many illegal abortions occur in Suriname, which has contributed to the rising number of maternal deaths. The data is ambiguous with regard to the actual number of abortions performed in the country illegally; however, it is clear that Suriname does suffer from maternal health problems, and that reducing recourse to abortion is imperative to safeguard the lives of both women and children. Although Suriname's maternal mortality rate has been decreasing over the last few decades, it still measured at 120 deaths per 100,000 births in 2017.¹⁴
17. Every maternal death is a tragedy. It devastates the woman's family, in particular the woman's children, and affects the entire community socially and economically. It is crucial that the Government of Suriname undertake urgent efforts to accurately record maternal health data and ultimately to improve the health of its mothers.

The Right to Life in International Law

18. Article 6(1) of the ICCPR stipulates that 'Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.'¹⁵
19. The ICCPR's prohibition of the death penalty for pregnant women implicitly recognizes the right to life of the unborn. Article 6(5) states that a 'sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.'¹⁶ This clause must be understood as recognizing the unborn child's distinct identity from the mother and protecting the unborn child's right to life.

¹¹ Constitution of Suriname, art. 14.

¹² Penal Code of Suriname, G.B. 1911 no. 1, art. 355-359.

¹³ Committee on the Rights of the Child 'Initial Reports of States parties due in 1995: Suriname' (23 September 1998), CRC/C/28/Add.11, 29.

¹⁴ WHO, UNICEF, UNFPA, World Bank Group, and the United Nations Population Division 'Trends in Maternal Mortality: 2000 to 2017: Suriname' (2019)

<<https://data.worldbank.org/indicator/SH.STA.MMRT?locations=SR>>.

¹⁵ ICCPR, art. 6.

¹⁶ Ibid., art. 6.

20. The *travaux préparatoires* of the ICCPR explicitly state that ‘the principal reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death sentence should not be carried out on pregnant women was to save the life of an innocent unborn child.’¹⁷ Similarly, other early UN texts note that the intention of the paragraph ‘was inspired by humanitarian considerations and by *consideration for the interests of the unborn child*.’¹⁸
21. The protection of unborn life is also found through an ordinary reading of the language in the preamble of the CRC. The preamble states that ‘the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.’¹⁹
22. Article 1 of the CRC defines a child as ‘every human being below the age of eighteen years.’²⁰ This provides an upper limit as to who is a child, but does not provide a lower limit on when the status of ‘child’ attaches. Moreover, Article 6 of the CRC holds that ‘States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child.’²¹ Viewed in the context of the preamble, both Articles 1 and 6 of the CRC indicate recognition and protection of unborn life.
23. Suriname must resist calls to liberalize its abortion law under the pretext that rendering abortion ‘safe’ will limit recourse to abortion and improve the health of mothers. Maternal health has undergone significant improvements in the country, and can continue to do so without a change in the abortion law.
24. Almost all maternal deaths, wherever they occur, are preventable, particularly when skilled birth attendants are present to manage complications and the necessary drugs are available, such as oxytocin (to prevent haemorrhage) and magnesium sulphate (to treat pre-eclampsia). These issues must be remedied, but frequent calls to increase legal abortion access as a necessary precondition to solving them are misguided. Furthermore, abortion can never be safe because it takes the life of the unborn child, and harms the mother through the loss of her child.
25. Suriname must focus on introducing measures to reduce recourse to abortion, in line with paragraph 8.25 of the Programme of Action of the International Conference on Population and Development.²² Measures to reduce abortion include improving access to education, which empowers women and leads to social and economic development, as well as facilitating healthy decision-making.
26. Ensuring that its laws protecting the right to life of the unborn are fully respected, and improving the support available to mother and child by ensuring the care they

¹⁷ UN General Assembly, UN Doc A/C.3/SR.819, (25 November 1957) 17, 33. In accordance with Article 32 of the 1969 Vienna Convention on the Law of Treaties, the *travaux préparatoires* are considered to be a ‘supplementary means of interpretation’.

¹⁸ UN Commission on Human Rights, 5th Session (1949), 6th Session (1950), 8th Session (1952), A/2929, Chapter VI, 10.

¹⁹ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC), preamble.

²⁰ *Ibid.*, art 1.

²¹ *Ibid.*, art 6.

²² Report of the International Conference on Population and Development, Cairo, 5-13 September 1994 (1995) UN Doc. A/CONF.171/13/Rev.1 (ICPD) ¶ 7.24.

need, rather than increased access to abortion, must be Suriname's priority to solve the country's maternal health concerns.

(c) Recommendations

27. In light of the aforementioned, ADF suggests the following recommendations be made to Suriname:

- a. Fully guarantee the right to freedom of opinion and expression, including by repealing Article 196 of the Penal Code on blasphemy;
- b. Align Articles 175 and 175bis of the Penal Code fully with international human rights obligations on freedom of expression;
- c. Resist calls to liberalize abortion access, and instead afford full protection to the right to life of both pregnant women and their unborn children;
- d. Take measures to improve health care infrastructure, access to emergency obstetric care, midwife training, and resources devoted to maternal health;
- e. Advance efforts to safely get mothers and babies through pregnancy and childbirth, with special attention paid to improving health-care access for women from poor and/or rural backgrounds;



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