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Report of the Working Group on the Universal Periodic Review*

Guyana

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

At the review of Guyana before the UPR in May 2010, Guyana agreed to examine 55 recommendations and to provide responses in due course, but no later than the fifteenth session of the Human Rights Council, in September 2010.

A. The State Party wishes to briefly inform the UNHRC of some developments since it appeared before the UPR in May 2010:

1. Guyana wishes to inform the UN HRC that the UPR process attracted considerable attention particularly in the local media.
2. Guyana wishes to report that the Indigenous Peoples Commission was approved by the National Assembly on July 29, 2010. The members will be appointed in September 2010 and it is expected to be fully operational before the end of the year. Office facilities and budgetary allocations are in place.
3. The other three constitutional human rights commissions ---Women and Gender Commission, the Rights of the Child Commission and the Ethnic Relations Commission-- are now all functioning with offices and dedicated budgetary allocations.¹
4. In keeping with the Constitution, the Leader of the Opposition will be called upon to submit six names to the President from which he will select and appoint the chairperson of the Human Rights Commission. The Human Rights Commission becomes the secretariat of the above-mentioned human rights commissions.
5. The new Sexual Offences Act, referred to at the UPR, was publicly assented to by the President before an audience of a thousand civil society participants on May 24, 2010.² This public signing, the first ever, graphically demonstrated the government and society's condemnation of sexual violence in our society. Following this, a new and reinvigorated campaign involving communities, civil society, the media and all religious bodies (Christian, Hindu and Muslim) has been launched to end domestic and sexual violence.
6. Guyana acceded to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography on July 30, 2010 and the Optional Protocol to the Convention on the Rights of the Child on Children in Armed Conflict on August 11, 2010.
7. Guyana also ratified the UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families on July 7, 2010.
8. Guyana tabled an amendment to the Criminal Law (Offences) Act on August 9, 2010 in the National Assembly which will provide for sentencing including life imprisonment or shorter periods, and parole, for differentiated categories of murder. This will be debated after the parliamentary recess ends in October 2010.³
9. Guyana has also tabled amendments to the Training School Act and the Juvenile Offenders Act on August 5, 2010 listed for debate in October which will remove the use of corporal punishment in juvenile detention centres. It should be pointed out that prior to this administrative measures disallowed corporal punishment in the sole co-ed juvenile rehabilitation centre in Guyana.
10. The Parliamentary Special Select Committee to consider the 2004 report of the High Level Commission of Inquiry into the Disciplined Forces (DFC)⁴ completed its work on the 164 recommendations. The Committee's report accepted 155 recommendations which were

approved by the National Assembly on June 10, 2010. It is worth noting that sections addressing issues such as extra-judicial killings, accountability to civilian authorities and complaints against the Police, Prison and the Army were all accepted.⁵ Approximately 50 % of these recommendations are already at different stages of implementation and have formed part of the security sector modernization programme.

11. Furthermore, the National Assembly supported the recommendation that the Chancellor of the Judiciary “is expected to ensure that members of the Judiciary and Magistracy who have responsibility for the oversight of the prisons make periodic visits” and that the Minister of Home Affairs “shall establish a Board of Visiting Justices in compliance with the Prison Act” in addition to the civilian based oversight Prison Visiting Committees already in place and functioning. Guyana continues to take steps to review and improve the prison system within its capabilities.⁶

12. Guyana expects to appoint the members of the Parliamentary Standing Committee to Oversight the Security Sector on the return from parliamentary recess.⁷

13. Guyana also wishes to make one correction and one clarification to the UN document A/HRC/WG.6/8/GUY/2 dated February 22, 2010 entitled “Compilation by the OHCHR in accordance with paragraph 15(b) of the annex to the HRC resolution 5/1” which it did not make before the UPR due to time constraints.

14. Section B, Constitutional and legislative framework, Para 4, refers to the use of Article 40 of the Guyana Constitution in relation to discrimination. Guyana wishes to redirect the OHCHR to the revised 2003 Guyana Constitution (available at www.parliament.gov.gy) Part 11, Specific Rules, Title 1 Protection of Fundamental Rights and Freedoms of the Individual, Article 149 (1- 7), Protection from Discrimination on the grounds of race, etc (Act No. 10. of 2003) with particular attention to Article 149 (1) (2) and (3)⁸ and the Prevention of Discrimination Act 1997⁹. Guyana is of the view that these constitutional and statutory provisions include ethnicity and nationality.

15. The clarification refers to Section C Institutional and human rights infrastructure, Para 6, followed by the recommendation at Para 7 and UPR Recommendation 68.11.

16. Whilst it is true that Guyana does not have a body accredited to the ICC, it has established constitutional human rights commissions. Having examined the Paris Principles vis-à-vis its Human Rights Commissions, Guyana is of the view that it is in compliance with these Principles¹⁰

17. Guyana’s priority at this time is to ensure that the Human Rights Commission and the 4 other commissions are all established and fully operational. At a subsequent date the issue of Guyana’s accreditation with the ICC as proposed will come under consideration.

18. As an emerging democracy and a developing nation, Guyana faces many challenges; firstly in overcoming the damage done to and reconstructing the body politic, infrastructure and socio-economic status after the 28 years of an administrative dictatorship as well as new challenges faced with global recession and climate change. With a small population, limited resources and a relatively sizeable country, it has to constantly prioritize its interventions with available resources to ensure success.

19. Guyana, in spite of these challenges, however, remains irrevocably committed to democracy and the protection of human rights, rule of law and good governance for its people.

20. Guyana continues to work towards effectively strengthening the implementation of the 57 recommendations it supported and those herein to which it has made further commitments in accordance with its capabilities. Recommendations which could not be accepted relate to issues that have been subject to intense debate in the past and more

recently among all stakeholders. The debate on these is on-going and will be decided democratically.

21. Guyana continues to make efforts to complete the submission of outstanding State party reports to the ICCPR, CERD and CESCR by the end of 2010.

B. The Response of the Government of Guyana to the Universal Periodic Review (A/HRC/15/14), Part 11, 70- 70.55:

Recommendation 70.1

22. Guyana acceded to the two Optional Protocols on the Convention on the Rights of the Child and ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

23. Guyana voluntarily commits to continue to actively consider those remaining international human rights instruments.

Recommendation 70.2

24. Guyana continues its consideration of this Optional Protocol.

Recommendation 70.3

25. Guyana is primarily committed to the implementation of the recently adopted Rights of Persons with Disabilities Act. This statute has been carefully scrutinised and found to be in compliance with the Convention. Guyana will continue to actively consider ratifying the Convention.

Recommendations 70.4 and 70.5

26. See Guyana's response to Recommendations 70.1, 70.2 and 70.3.

Recommendation 70.6¹¹

27. See Guyana's response to Recommendations 70.1, 70.2 and 70.3.

Recommendation 70.7

28. See Guyana's response to Recommendations 70.1 and 70.2.

29. Although Guyana has not signed the IACHR, as a member of the OAS, it is obligated to report and to respond to matters raised by that body and does so as requested from time to time.

Recommendation 70.8

30. See Guyana's response to Recommendations 70.1, 70.2 and 70.7.

Recommendation 70.9

31. Guyana indicated that public opinion continues to be strongly in favour of the retention of the death penalty at this time.

32. To substantiate this view, Guyana asks the UN HRC to note that in February 2008 over a period of 4 meetings of the National Stakeholders Forum on crime and security, the three main religious bodies (Christian, Hindu and Muslim), and one parliamentary political

party supported the retention of and the enforcement of the death penalty for those on death row.¹²

33. Furthermore, the broad-based 1st National Crime Prevention Conference convened under the theme “Making our communities safer” comprehensively examined and addressed the causes and challenges of violent crime in Guyana and unanimously adopted the Liliendaal Declaration on Crime Prevention November 24, 2009. One of the 51 recommendations called for the “re-introduction of the death penalty...”

34. Guyana is voluntarily committing to continue consideration of this issue over the next 2 years and to report its findings to the UNHRC.

Recommendations 70.10 and 70.11

35. Guyana voluntarily commits to consider this and report in one year’s time to the UNHRC and the ILO.

Recommendation 70.12

36. See Guyana’s response to Recommendations 70.10 and 70.11.

37. Guyana adopted the UN Declaration on the Rights of Indigenous Peoples on September 13, 2007. Furthermore through constitutional, legislative and administrative means it is in compliance with the recognition of land rights and effective political participation as it relates to the International Convention on the Elimination of all Forms of Racial Discrimination, the UN Declaration on the Rights of Indigenous Peoples and the ILO # 169.

38. Guyana re-affirms and reiterates Part IV, B 1, 2, and 3, of its report to the UPR. Guyana reiterates that it is the only country in the region that has granted through a participatory process legal communal land titles to 134 indigenous communities that are “absolute and forever”, a total grant representing 14 % of its land mass. Guyana is proud that it has corrected an historical injustice.

Recommendation 70.13 and 70.14

39. See response to Recommendations 70.1, 70.2, 70.7 and 70.8

40. With competing priorities for limited resources, Guyana does not consider the drafting and adoption of national refugee legislation a priority at this time.

Recommendations 70.15, 70.16, 70.17, 70.18

41. With regard to the standing invitations to special procedures, Guyana reiterates its readiness to continue to respond to invitations from the Council, to offer full collaboration with mandate holders and to preserve the right to invite as it finds appropriate other mandate holders.

Recommendation 70.19

42. Guyana will consider this recommendation.

43. Guyana categorically states that torture is prohibited. It also re-affirms that the constitutional and legislative framework supported by the institutional provisions for complaints mechanisms and redress, including the new HR Commissions, and, an open and free media, allow for such cases to be addressed.

Recommendation 70.20

44. Guyana ensures access to comprehensive HR training for all prison staff: new recruits receive training and those in service.¹³

Recommendations 70.21 and 70.22

45. Guyana's Constitution prohibits discrimination as well as provides for recourse to the courts on a constitutional motion. Guyana reiterates that statutory instruments such as the Prevention of Discrimination Act, the Equal Rights Act, the Racial Hostility Act, the Rights of Persons with Disabilities Act, 4 new children's statutes, and, progressive labour laws further enforce its anti-discrimination position.

46. Guyana holds to the view that the state does not discriminate by statute, policy, programme or administration. It does recognize, however, that disparities created by poverty and geographic distance coupled with competing and limited resources pose challenges to ensure equitable distribution of goods and services to its people. Its Poverty Reduction Programmes concentrate on equalizing access to goods and services for those who are vulnerable- women, children, the elderly, indigenous peoples and differently-abled persons.¹⁴

47. Guyana is considered an open, hospitable and tolerant multi-cultural, multi-ethnic and multi-religious society.

Recommendation 70.23

48. See Guyana's response to Recommendation 70.9 and Section A page 2 of this addendum.

49. Guyana wishes to point out that there is no official or unofficial moratorium on the death penalty despite the fact that there have been no executions for more than ten (10) years.

Recommendations 70.24, 70.25, 70.26, 70.27, 70.28, 70.29, 70.30, 70.31

50. See Section A and Guyana's response to Recommendations 70.9 and 70.23.

Recommendation 70.32, 70.33, 70.34 and 70.35

51. See Guyana's response to Recommendations 70.1, 70.9 and 70.23.

52. Guyana voluntarily commits to continue its consideration of the abolition of the death penalty and to report its findings to the UNHRC in 2 years.

Recommendations 70.36, 70.37, 70.38, 70.39, 70.40 and 70.41

53. Corporal punishment is an issue which evokes strong views in the public. However, there is a distinction between punishment implemented under strict rules in the educational system (Education Act) and persons who physically abuse children. The latter cases are treated under the Domestic Violence Act, the Protection of Children Act 2009 and the Child Care Protection Agency Act 2009.¹⁵

54. The consultative process on a new draft Education Bill, which included "soliciting views of the various stakeholders on the issue of corporal punishment" as directed by the National Assembly, is on-going.

Recommendation 70.42

55. Guyana's Constitution, Article 139 (1) makes it mandatory that a person can only be detained up to 72 hours before charges are brought, if more time is required this must be obtained with permission of the court with good cause. Article 139 (2) states that "no law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless a tribunal established for the purposes of this paragraph has reported before the expiration of the said period of three months that there is, in its opinion, sufficient cause for detention."

56. Guyana is satisfied that it complies with this recommendation. With the help of the IDB and the MCC/USAID, initiatives to reduce the backlog in the courts have had some success.

Recommendation 70.43

57. The new draft Juvenile Justice Bill under consultative review and this issue will be considered in that context.

Recommendation 70.44 and 70.45

58. Guyana considers that these recommendations on "allegations of grave human rights abuses,¹⁶ including murders and extrajudicial killings, allegedly committed by members of the armed forces and the "Phantom Squad" in the period 2002-2006"¹⁷ to be one sided, misinformed and prejudicial.

59. The movers appear to have ignored the fact that the worst crime and killing spree in its history was waged by violent criminal gangs during the period 2002 -2008 leading to the murder or permanent maiming of hundreds of men, women and children. The massacre of 25 persons (including 5 children) in two communities in two nights in 2008, and, the assassination of a Minister of government, members of his family and two guards in April 2006, execution-style by the "Fine man" gang, has been documented locally and internationally.¹⁸

60. It cannot be over-emphasized that the state and all of its citizens were under siege by these violent criminal gangs using terroristic tactics and politically motivated so as to make the country ungovernable.¹⁹

61. Despite this horrific period, Guyana, however, has not been complacent in the face of allegations of abuses of human rights by members of the Disciplined Forces. Various Boards of Inquiry, including several court martial, were established which investigated specific cases.²⁰ The Police Complaints Authority and the Office of Professional Responsibility/Guyana Police Force also received complaints and investigated these leading to a number of the perpetrators being brought before the courts. These permanent bodies, the PCA²¹ and the OPR/GPF²² continue to function and are responsive.

62. Guyana made a commitment, before the UPR, that once evidence and witnesses are available all those responsible for the crime wave of 2002-2008 would be brought to justice, whether they were part of the violent criminal gangs or those in the "Phantom Squad".²³

63. Guyana does not accept this recommendation.

Recommendation 70.45

64. Guyana does not accept the need for another inquiry and thus rejects this recommendation.

Recommendation 70.46

65. Guyana repeats its position at Recommendation 70.44, Para 5.

Recommendations 70.47, 70.48, 70.49, 70.50, 70.51, 70.52, 70.53,

66. The 2003 attempt to include “sexual orientation” in the constitution failed to receive the support of the National Assembly.

67. Despite this, there is no discrimination by the state against persons based on their sexual orientation. Guyana does not deny that there may be interpersonal prejudices based on cultural attitudes and religious views.

68. No case of discrimination on the grounds of sexual orientation has been brought to the courts, nor is there any known report before any of the human rights commissions or the Police Complaints Authority, nor any reported violence targeting persons based on their sexual orientation.

69. Guyana is voluntarily committing to hold consultations on this issue over the next 2 years and based on the outcome of this democratic process, these will be reflected in Guyana’s laws.

Recommendations 70.54 and 70.55

70. See Guyana’s response to Recommendation # 70.14

Notes

- ¹ Guyana refers to information provided before the UPR about the parliamentary and civil society engagement in the establishment of these constitutional commissions.
- ² This Act came into operation by (Commencement) Order on May 25, 2010.
- ³ An electronic copy is attached.
- ⁴ This body was established in accordance with Article 197 (5) of the Constitution and by way of Resolution # 21 of May 16, 2003 in the National Assembly. The Leader of the Opposition named 2 members, the government two and the President named the chair. Its report required an affirmative resolution of the National Assembly.
- ⁵ In keeping with recommendations of the 2004 DFC Report and those of the 2003-2004 Presidential Commission of Enquiry into extra- judicial killings, on the granting and issuance of Firearm licenses subject to review by an oversight body, the Firearms regulations have been so amended.
- ⁶ The Guyana Prison Service (GPS) held a one day retreat of Senior officers on August 12, 2010 to examine the 2010-2015 Strategic Plan for the GPS and focused on correctional measures, prison rehabilitation programmes, welfare issues, custodial and non-custodial capacity constraints, recruitment and training, prison enterprise development and the application of appropriate technology for the all round development of the prison system. The retreat called for a Sentence Management Board and the launching of an Internal Cadetship Programme.
- ⁷ The National Stakeholders Forum of Feb 18th, 19th , 20 and 27th 2008 made up over 100 national civil society organizations agreed to a new national security plan to fight crime as well as establish a parliamentary oversight committee on the security sector and the completion of the appointment of the 4 constitutional Human Rights Commissions. These agreements and recommendations were unanimously affirmed by way of Parliamentary Resolution # 54 of March 27, 2008 and are in various stages of implementation as reported herein.
- ⁸ Article 149 (1) (a) states that “ no law shall make any provision that is discriminatory either of itself or in its effect “ and more particularly Article 149 (2) “in this article the expression “discriminatory “ means affording different treatment to different persons attributable wholly or mainly to their or their parents’ or guardians’ respective descriptions by race, place of origin, political opinion, colour , creed, age, disability, marital status, sex, gender, language, birth, social class, pregnancy, religion, conscience, belief or culture whereby persons of one such description are subjected to disabilities or

- restrictions to which other persons of the same or another description are not made subject or accorded privileges or advantages which are not afforded to other persons of the same or another such description.” Article 149 (3) states that “Paragraph 1(a) shall not apply to any law so far as that law makes provision (a) with respect to persons who are not citizens.... ”
- ⁹ See laws of Guyana at www.gina.gov.gy/gina_pub/laws/tableofcontents.pdf for laws enacted before 1998.
- ¹⁰ See Guyana revised Constitution Articles 212 J, 212 L, 212 M, 212 N, 212 O, 212 P and 212 A- F, 212 G, 212 H- K, 212 Q- R, 212 S-T, 212 U-V.
- ¹¹ Guyana signed the Convention on the Rights of Persons with Disabilities on April 11, 2007.
- ¹² The Society Against Sexual Orientation Discrimination (SASOD) recently organized a consultation on the abolition of corporal punishment and the death penalty and decriminalizing same sex relationships, the outcomes are to date unknown.
- ¹³ The Human Rights Training Manual (referred to at the UPR) is the standard instrument used in the Disciplined Services.
- ¹⁴ New interventions, such as school uniforms for all school children in the public educational system commenced in August 2010 and a new government-commercial bank microcredit facility for women launched in June 2010, continue to strengthen this policy.
- ¹⁵ Guyana’s report to the CROC April 2010 and the UPR May 2010 inform on its interventions to protect children from all forms of abuse including street children. Guyana reiterates that it enacted comprehensive and progressive legislation on children in 2009 and the Sexual Offences Act which provide greater protection for children.
- ¹⁶ The Joint Opposition Political Parties published a “Dossier in support of an Independent Legal Interrogation of Grave Human Rights Abuses in Guyana (1993-2009)” in November 2009. This Dossier stated that there were 449 killings. The JOPP admitted that the Dossier had been compiled based on media reports rather than on formal complaints/case submissions. The credibility of the Dossier has been challenged as persons who were said to have been killed by extra-judicial killings in fact were alive, died in traffic accidents or from natural or other causes. The report’s classifications/inclusions confuses alleged victims of extra-judicial killings and abuses by the Disciplined Forces and victims of gang violence, with those victims of predators, and innocent bystanders with other cases that are unrelated and uninvolved. The Guyana Human Rights Association stated that between 1980-2001 there were 239 fatal shootings by the Police and 18 deaths in police custody in “Ambivalent about Violence: A report on Fatal Shootings by the Police in Guyana, 1980-2001, February 2002”; these findings were repeated in its submission to the OHCHR in 2008, in which the majority of the cases occurred in the 1980-1992 period. In a more recent statement on October 22, 2009 the GHRA reported that it had a list of 60 persons killed from January 2002- June 2003 to submit to the special team set up by the Police to investigate murders allegedly committed by drug convict Shaheed “Roger” Khan
- ¹⁷ It should be noted that one of the Opposition parliamentary parties brought a motion on torture to the National Assembly in Feb 1 2008 which was debated. The Leader of the Opposition brought a parliamentary motion on October 23, 2009 calling for an international inquiry into “Roger” Khan, the so-called leader of the “Phantom Squad”, the Speaker advised that the motion was inadmissible and advised that it be amended in keeping with the Standing Orders but the Opposition took no further action. The government remains prepared to debate this matter.
- ¹⁸ Additionally 25 police ranks (the most in its 143 year history) and 3 soldiers were killed in this period, the majority were executed off-duty. One female prison officer is permanently disabled.
- ¹⁹ By way of Resolution # 69 of October 27, 2008 in the National Assembly the Joint Services were congratulated for bringing an end to the violent crime gangs who terrorized Guyanese society in the 2002-2008 period and were urged to foster greater public confidence.
- ²⁰ The findings of these bodies were published and available to the media; the media was also present during the proceedings of all court martial.
- ²¹ The Chairman, former Chancellor of the Judiciary and retired Justice Cecil Kennard, of the Police Complaints Authority in June 2010 reported that it had dealt with 25 cases of alleged unlawful killings over the past 3 years.(5-2007; 8- 2008; 8-2009; 4 -2010) .Inquests were currently being held into all of them. For 2010 thus far, he reported that the PCA had received 255 complaints against police ranks ranging from neglect of duty to unlawful arrest, using unnecessary violence and 4 cases of unlawful killing. There were 355 complaints to the PCA in 2009. The year of the highest

complaints to the PCA was in 1989 with over 580 complaints.

²² The OPR GPF reported that in 2010 that it had received 180 complaints in 2009 representing an 11% increase and 62 members of the force were before the courts charged with various crimes (robbery, simple larceny, bribery, indecent assault).

²³ In October 2009, a special unit headed by the Crime Chief of the Guyana Police Force publicly called “on all individuals, organizations or groups who may have information or vital evidence concerning the alleged murders involving the Fineman gang, Roger Khan’s gang or any other gang or individuals who may be involved to come forward and provide whatever information or evidence that may be available”. This has born some fruit and the special unit continues to function.
