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Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1

Guyana*

The present report is a summary of 8 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

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

I. Background and framework

Scope of international obligations

1. Amnesty International (AI) called on Guyana to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP2) and to remove reservations to the First Optional Protocol (ICCPR-OP1). AI also recommended the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW); the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT); and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OP-CRC-SC).² In addition, AI called on the Government to ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CED); the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CRMW); the Convention on the Rights of Persons with Disabilities (CRPD); and the American Convention on Human Rights.³

II. Promotion and protection of human rights on the ground

Implementation of international human rights obligations

1. Equality and non-discrimination

2. JS1 noted that by signing the two resolutions of the Organization of American States (OAS) on Human Rights, Sexual Orientation and Gender Identity, Guyana took an important step in its commitment to end violence and related human rights violations committed against individuals because of their sexual orientation and gender identity.⁴ JS1 reminded Guyana of this commitment and recommended to amend the Constitution to include gender identity and sexual orientation as grounds for discrimination, so as to protect LGBT persons and allow for legal recourse.⁵

3. JS1 indicated that transgender persons are discriminated against in Section 153 of the Summary Jurisdiction (Offences) Act, because it establishes as an offence a man appearing in female attire or a woman in male attire, “for any improper purpose”, in any public way or public place.⁶ AI called on Guyana to repeal all provisions, including Chapter 8:02 section 153 (1) (xlvii) of the Summary Jurisdiction (Offences) Act, which are used to discriminate against lesbian, gay, bisexual and transgender persons (LGBT).⁷

4. According to JS1, there are two dominant cultural traits in Guyana which contribute to the discrimination of LGBT persons: a) the public tolerance of music with homophobic lyrics which call for the killing and maiming of homosexuals and b) the growing influence of foreign churches which fuel the religious homophobia in Guyana.⁸

5. AI noted that Guyana has made progress in fighting discrimination in the workplace against people living with HIV/AIDS. In April 2009, a National HIV/AIDS Workplace Policy was introduced and reports of discrimination have gone down. However, AI stressed that the stigma and discrimination towards HIV/AIDS still remain a barrier to the successful implementation of treatment, particularly for members of the LGBT community. The discrimination they face from the general public and also directly from some health workers, discourages them from obtaining HIV-related information, HIV testing and

treatment.⁹ AI called on Guyana to combat discrimination and stigma surrounding HIV/AIDS and particularly against members of the LGBT community.¹⁰

2. Right to life, liberty and security of the person

6. While noting that there have been no executions in Guyana since 1997, AI highlighted that death sentences continue to be handed down by the courts, and that according to press reports, at least two new death sentences were handed down in 2009. AI recalled that the death sentence is mandatory for convictions of murder in Guyana. It added that mandatory death sentences violate international standards on fair trials, since individualised sentencing is required to prevent cruel, inhuman or degrading punishment and the arbitrary deprivation of life.¹¹ In December 2008, Guyana voted against United Nations General Assembly resolution 62/149 calling for a global moratorium on executions.¹² AI recommended that Guyana repeal all provisions allowing for the death penalty and immediately declare a moratorium on all executions. AI also called on Guyana to commute all death sentences to terms of imprisonment and, pending abolition of the death penalty, to ensure rigorous application of international standards for fair trial in all death penalty cases.¹³

7. AI was concerned at reports of excessive use of force by the Guyana Police Force (GPF) and the Guyana Defence Force (GDF), including beatings and unlawful killings. It also highlighted that there is no independent body to investigate allegations of abuses committed by members of the security forces in Guyana.¹⁴ AI indicated that in October 2009, three individuals, including a 15 year-old boy, were subjected to torture and ill-treatment while in police custody during an investigation into the murder of a former local government official.¹⁵ It also referred to the so-called “phantom-squad”, which reportedly tortured, “disappeared” and killed more than 200 individuals from 2002-2006. According to AI, its members included serving and former police officers, and it allegedly had links with government officials.¹⁶

8. JS1 reported that police have been accused by cross-dressers of harassment and physical violence. Transgender sex workers mentioned that many police raped and brutalised them.¹⁷ JS1 recommended that members of the uniformed forces - police, prison and army - be educated and that their performance be evaluated on the basis of their obligations in terms of non-discriminatory treatment towards sex workers, LGBT persons and people living with HIV. It added that discriminatory and abusive behaviour on the part of police officers should be investigated and punished where necessary.¹⁸

9. AI expressed concern about the high levels of physical and sexual violence against women and girls in Guyana, adding that at the end of 2008, the Guyana Police Force had received and investigated 2,811 reports of domestic violence throughout the country.¹⁹ AI recognized recent steps by the Government to address violence against women. It welcomed the tabling of a Sexual Offences Bill in July 2009, which would significantly improve existing gender-discriminatory legislation. Among its provisions, the Bill seeks to widen the definition of rape and also criminalize marital rape. AI hoped that the Bill’s passage can be expedited through the National Assembly and its provisions be swiftly and effectively implemented.²⁰

10. AI reported that a National Domestic Violence Policy was launched in June 2008 with the aim of providing a multi-sectoral response to domestic violence. However, national NGOs have criticized the lack of a coordinated implementation of the policy. AI added that the failure of some members of the Guyana Police Force to comply with the policy has also been raised, and that Domestic Violence Units have yet to be established in each of the seven geographical divisions of the police. According to AI, NGOs have called for more counselling and referral services outside the capital where few currently exist.²¹ AI called on Guyana to expedite passage and implementation of the Sexual Offences Bill,

as well as to ensure the coordinated implementation of the National Domestic Violence Policy.²²

11. The Global Initiative to End All Corporal Punishment Against Children (GIEACPC) made reference to the legality of corporal punishment of children in all settings in Guyana, despite the concerns and recommendations of the Committee on the Rights of the Child, the Committee Against Torture, and the Human Rights Committee.²³ GIEACPC noted that corporal punishment in Guyana is lawful in the home and in schools. In the penal system, corporal punishment is lawful as a sentence for crimes for males under the Whipping and Flogging Act (1922), the Juvenile Offenders Act (1931), the Criminal Law (Offences) Action, and the Summary Jurisdiction (Offences) Act. GIEACPC further indicated that corporal punishment is lawful as a disciplinary measure in penal institutions and in alternative care settings.²⁴ It recommended that the Government introduce legislation as a matter of urgency, to prohibit all corporal punishment of children in the family home and all other settings.²⁵ The University of Oklahoma College of Law International Human Rights Clinic (UOCLIHRC) recommended banning corporal punishment in schools to become compliant with Article 19 of the Convention on the Rights of the Child.²⁶

12. UOCLIHRC also indicated that the lack of adequate education and employment opportunities encourage many Amerindian women to engage in sex work to supplement their income. Sex work and trafficking also develop alongside industries like mining. Many Amerindian women are manipulated and lured into prostitution by false promises of work in guesthouses, restaurants, and shops on the coast.²⁷ According to UOCLIHRC, Guyana has taken measures to ensure that information on the dangers of human trafficking and sex work is disseminated to the public. However, the remoteness of the hinterland makes it difficult for information to be transmitted to Amerindians. One such effort by the Government was to release a report by the National Task Force in 2008; however, the data collected provided inconclusive information on Amerindians and exploitation.²⁸ UOCLIHRC recommended that Guyana take efforts to ensure that information on sexual exploitation and trafficking is being disseminated to the hinterlands. It also recommended enforcing laws against human trafficking and prostitution by more effectively educating the police force and judicial bodies.²⁹ UOCLIHRC further recommended that Guyana educate Amerindians giving them more employment opportunities to provide for their families, and that it include ample information and data in the next report released by the National Task Force.³⁰

3. Administration of justice, including impunity, and the rule of law

13. AI called on Guyana to ensure that all complaints of human rights violations by the security forces are subject to immediate, thorough and independent investigation and, if state agents are charged with such crimes, that their cases are brought to trial in an expeditious manner.³¹ AI also recommended that Guyana conduct a fully independent investigation into human rights abuses allegedly committed by a 'death squad' between 2002-2006, and to ensure that those responsible are brought to justice and that witnesses and their families are offered effective protection in all these investigations.³² AI further called on Guyana to ensure that members of the Guyana Police Force are adequately trained on the appropriate use of force and firearms in accordance with international standards, including the Basic Principles on the Use of Force and Firearms by Law enforcement officials.³³

4. Right to privacy

14. JS1 indicated that the Criminal Law Offences Act criminalises consensual sexual activity between males and 'buggery', adding that some police have reportedly used the existence of these laws for extortion.³⁴ JS2 recommended that the Human Rights Council

urge Guyana to bring its legislation into conformity with its international human rights obligations by repealing all provisions which criminalise sexual activity between consenting adults of the same sex.³⁵ AI also called on Guyana to repeal all provisions allowing for the criminalization of same sex relations.³⁶

5. Freedom of religion or belief, expression, association and peaceful assembly and right to participate in public and political life

15. The Institute on Religion and Public Policy (IRPP) highlighted Guyana's comprehensive laws for the protection of religious freedom and conscience. IRPP noted that there have been very few instances of religious discrimination and in most circumstances the abuse was from a private citizen who was then punished according to the law.³⁷

16. JS1 recommended that Guyana open a broader dialogue on culture and human rights so as to guarantee that no human rights violations will be perpetrated under the name of culture, religion or tradition.³⁸

6. Right to social security and to an adequate standard of living

17. JS1 indicated that HIV is a serious health issue for men who have sex with men (MSM). According to JS1, there is an inconsistent response to LGBT persons who are in need of health care and related social services due to discrimination.³⁹ JS1 recommended ensuring that the needs of LGBT persons are addressed within the health care system. It added that their health and well being should not be left to the selective judgements of the health care workers, and that health education has to be targeted at the populations who are especially vulnerable to HIV and AIDS.⁴⁰

18. UOCLIHRC reported that health issues affecting Amerindians include disabilities, infant mortality, malaria, HIV/AIDS and tuberculosis. Indigenous people with disabilities encounter many problems while seeking treatment, because rehabilitative centres are chiefly in Georgetown and the lack of appropriate infrastructure makes travelling difficult.⁴¹ According to UOCLIHRC, the infant mortality rate has decreased in Guyana with an average of 47 per 1000 live births. However, the infant mortality rate is the highest in the hinterland regions with an average of 68 per 1000 live births.⁴² UOCLIHRC recommended that Guyana enhance the ascertainment of statistical data measuring the effectiveness of existing health and education programs implemented by the Government. It further recommended that Guyana increase access to medical facilities by constructing more health care centres in the interior of the country and expanding transportation between the interior and the coast. In addition, UOCLIHRC recommended expanding access to health care education and providing incentives to bring health care workers and educators to the interior.⁴³

7. Right to education and to participate in the cultural life of the community

19. UOCLIHRC recommended that Guyana modernize, expand the availability of teachers, and provide bilingual education in indigenous schools.⁴⁴ UOCLIHRC also recommended that cultural and language education be provided for health care workers and teachers in the interior.⁴⁵

8. Minorities and indigenous peoples

20. The Society for Threatened Peoples (STP) noted that of the 111,000 square kilometres that are claimed by the Amerindians, so far only 16,000 have been titled for them.⁴⁶ UOCLIHRC indicated that domestic law that protects indigenous land is generally unenforced, and injunctive relief in Guyanese courts is difficult. This allows for mining

interests to swarm across much of the interior of the country with minimal regulation. The resulting damage to Amerindian lands includes the collapse of fish stocks, pollution of useful waterways, desecration of sacred or religious sites, and mercury pollution that causes poisoning to animals and indigenous peoples. UOCLIHRC added that the economic impact on Amerindian communities has been notable, because the subsistence economy has been disrupted by pollution and dislocation.⁴⁷ According to STP, Amerindians in Aishalton have stated that small-scale mines operating thirty miles south in the Marudi Mountains directly endanger their community. STP added that only eleven mining officers are responsible for enforcing mining regulations across the country.⁴⁸ UOCLIHRC recommended the investment of further resources into the enforcement of domestic mining laws, including an increase in the number of paid field officers.⁴⁹ It also recommended that Guyana cooperate with indigenous leaders and honour legal title to indigenous land; strengthen court systems in the interior areas of the state and make efforts to provide counsel to indigenous persons in order to protect their land.⁵⁰

21. UOCLIHRC indicated that a positive development was the 2006 update of the Amerindian Act, which requires a miner to obtain permission from two thirds of the residents of an Amerindian community before carrying out mining activities in that territory. Unfortunately, section 50 of the Act provides an exception to this general rule, granting the Minister of Mines the ability to override any community that has vetoed the proposal.⁵¹ UOCLIHRC recommended that Guyana amend the Amerindian Act to revoke the veto power of the Minister of Mines.⁵²

22. UOCLIHRC indicated that while deforestation rates remain low, it holds a multitude of negative ramifications for indigenous people.⁵³ UOCLIHRC recommended that Guyana strengthen Amerindian land rights to facilitate indigenous community forest management. It also encouraged further development of alternative industries to exploitive ones, such as eco-tourism, that strengthen tribal land bases and maximize indigenous autonomy and decision-making.⁵⁴

III. Achievements, best practices, challenges and constraints

N/A

IV. Key national priorities, initiatives and commitments

N/A

V. Capacity-building and technical assistance

N/A

Notes

- ¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

Civil society

AI	Amnesty International*, London (UK);
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London (UK);
IRPP	Institute on Religion and Public Policy, Washington, D.C. (USA);
JS1	Joint Submission by the Society Against Sexual Orientation Discrimination (SASOD) and The Sexual Rights Initiative;
JS2	Joint submission by ARC International, Geneva (Switzerland), International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA International) and ILGA-Europe*, Brussels (Belgium);
STP	Society for Threatened Peoples*, Göttingen (Germany);
UOCLIHRC	University of Oklahoma College of Law International Human Rights Clinic, Oklahoma (United States of America).

Regional intergovernmental organization

IACHR	Inter-American Commission on Human Rights, Washington, D.C. (USA). • Report No. 81/07, Merits (publication), Case 12.504, Guyana October 15, 2007 • Report No. 1/06, Publication, Case 12.264, Guyana, February 28, 2006
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- ² AI, p. 6.
³ Ibid., p. 6.
⁴ JS1, p. 3.
⁵ Ibid., p. 4.
⁶ Ibid., p. 2.
⁷ AI, p. 5.
⁸ JS1, p. 3.
⁹ AI, p. 5.
¹⁰ Ibid., p. 5.
¹¹ Ibid, p. 3.
¹² Ibid, p. 3.
¹³ Ibid., p. 5. See also submission from the IACHR, Annex 1.
¹⁴ Ibid., p. 3. See also submission from the IACHR, Annex 1 and 2.
¹⁵ Ibid., p. 3. See submission for cases cited.
¹⁶ Ibid., p. 4.
¹⁷ JS1, p. 2.
¹⁸ Ibid., p. 4.
¹⁹ AI, p. 4.
²⁰ Ibid., p. 4.
²¹ Ibid., pp. 4-5.
²² Ibid., p. 5.
²³ GIEACPC, p. 3.
²⁴ Ibid., p. 2.
²⁵ Ibid., p. 1.
²⁶ UOCLIHRC, p. 6.
²⁷ Ibid., p. 4.
²⁸ Ibid., p. 4.
²⁹ Ibid., p. 4.
³⁰ Ibid., p. 4.
³¹ AI, p. 5. See also submission from the IACHR, Annex 1 and 2.
³² AI, p. 5. See also submission from the IACHR, Annex 1.

- ³³ AI, pp. 5-6. See also submission from the IACHR, Annex 1.
³⁴ JS1, p. 2.
³⁵ JS2, p. 2.
³⁶ AI, p. 5.
³⁷ IRPP, p. 3. See submission for cases cited.
³⁸ JS1, p. 4.
³⁹ Ibid., p. 3.
⁴⁰ JS1, p. 4.
⁴¹ UOCLIHRC, p. 5.
⁴² Ibid., p. 5.
⁴³ Ibid., pp. 5-6.
⁴⁴ Ibid., pp. 5-6.
⁴⁵ Ibid., pp. 5-6.
⁴⁶ STP, p. 1.
⁴⁷ UOCLIHRC, p. 2.
⁴⁸ STP, p. 1.
⁴⁹ UOCLIHRC, p. 2.
⁵⁰ Ibid., p. 3.
⁵¹ Ibid., p. 2 and Annex, p. 5.
⁵² Ibid., p. 3.
⁵³ Ibid., p. 3.
⁵⁴ Ibid., p. 4.
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