

**Economic and Social Council**Distr.: General
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Committee on Economic, Social and Cultural Rights**Concluding observations on the combined second to fourth periodic reports of Guyana*****A. Introduction**

1. The Committee on Economic, Social and Cultural Rights considered the combined second to fourth periodic reports of Guyana on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/GUY/2-4) at its 60th and 61st meetings (see E/C.12/2015/SR.60 and 61), held on 28 and 29 September 2015, and adopted the following concluding observations at its 78th meeting, held on 9 October 2015.

2. The Committee had considered the initial report of Guyana during its sixteenth session, held from 28 April to 16 May 1997, and had concluded the review without adopting concluding observations owing to the fact that the information provided was not sufficient to assess the effective implementation of the rights enshrined in the Covenant in the State party.

3. The Committee welcomes the combined second to fourth periodic reports submitted by the State party, despite the long delay in submission, and the supplementary information provided in the replies to the list of issues (E/C.12/GUY/Q/2-4/Add.1). The Committee also appreciates the constructive dialogue held with the State party's high-level delegation.

B. Positive aspects

4. The Committee welcomes the accession to or the ratification of:

- (a) The Convention on the Rights of Persons with Disabilities, in 2014;
- (b) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in 2010;
- (c) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2010;
- (d) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2010.

* Adopted by the Committee at its fifty-sixth session (21 September-9 October 2015).



5. The Committee also welcomes the adoption by the State party of:
 - (a) The Sexual Offences Act, 2010;
 - (b) The Persons with Disabilities Act, 2010;
 - (c) The Prevention of Crimes (Amendment) Act, 2008;
 - (d) The Amerindian Act, 2006.

C. Principal subjects of concern and recommendations

Data collection

6. The Committee regrets the scarcity of official data regarding the implementation of economic, social and cultural rights, as well as the outdated and non-disaggregated nature of much of the data provided by the State party. Discrepancies between official State party statistics and those provided by the United Nations agencies are also noted. The Committee is concerned at the absence of an effective data collection system, which hampers the robust analysis of the actual realization and progress of economic, social and cultural rights and the development of effective policies.

7. **The Committee recommends that the State party take all necessary measures to set up a data collection system to enable the timely collection of reliable data, robust analysis, and effective and efficient data management, including through strengthening the human, financial and technical capacity of the Bureau of Statistics. It requests the State party to provide, in its next periodic report, updated and disaggregated data, on an annual comparative basis, to enable it to assess the actual realization of the Covenant rights. In that respect, the Committee refers the State party to the conceptual and methodological framework for human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).**

Domestic application of the Covenant

8. The Committee notes that the rights guaranteed by the Covenant have not yet been applied or invoked in the jurisprudence of the State party. It is concerned that article 154 (A) (6) of the Constitution provides that the State party may divest itself or otherwise limit the extent of its obligations under the Covenant. The Committee is also concerned that article 154 (A) (2) of the Constitution may be interpreted as limiting the applicability of the Covenant within the domestic legal order.

9. **The Committee recommends that the State party take all appropriate measures to ensure the direct applicability of the Covenant provisions in its domestic legal order and enhance training for judges, lawyers and public officials on the Covenant. It also recommends that the State party consider reviewing article 154 (A) (2) and (6) of the Constitution. The Committee draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.**

Legal aid

10. The Committee is concerned that there are insufficient free legal aid services and that this may prevent disadvantaged and marginalized individuals and groups, particularly Amerindian people, from claiming their rights and obtaining appropriate remedies in case their economic, social and cultural rights are at risk and /or violated.

11. **The Committee recommends that the State party take the measures necessary to strengthen the existing free legal aid system and to raise public awareness about the system, particularly among people living in hinterland and rural areas.**

National human rights institution

12. The Committee is concerned that the State party has not taken steps to put in place a national human rights institution, in accordance with the principles relating to the status and functioning of national institutions for the promotion and protection of human rights (Paris Principles). It is also concerned that the process of setting up the human rights commission provided for in article 212 of the Constitution has not been completed.

13. **The Committee recommends that the State party expedite the establishment of a national human rights institution, in accordance with the Paris Principles. The Committee also recommends that the State party finalize the process of establishing the human rights commission provided for in article 212 of the Constitution.**

Land and natural resources

14. While welcoming the adoption of the Amerindian Act, 2006, the Committee is concerned at the limitations of the Act in recognizing and protecting the rights of indigenous peoples, namely Amerindians. It is particularly concerned at:

(a) The lack of recognition and protection of indigenous peoples' customary systems of land tenure or customary laws pertaining to land and resource ownership and the lack of recognition of collective territories that are held jointly by several communities;

(b) The absence of clear criteria based on which Amerindian land title areas are determined;

(c) The limitation of indigenous communities with land titles to manage and control resources within their territories;

(d) The lack of protection of the land rights of indigenous peoples who still lack a legal land title or are in the process of obtaining one;

(e) The broad range of exceptions that allow mining and logging activities by external investors without the free, prior and informed consent of the affected indigenous peoples;

(f) The absence of effective legal remedies by which indigenous peoples may seek and obtain restitution of their lands that are held by third parties (art. 1).

15. **The Committee recommends that the State party revise the Amerindian Act 2006 and other relevant laws with a view to ensuring, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, that the Amerindian people's rights to their lands, territories and resources are fully recognized and protected and that their free, prior and informed consent is obtained in respect of the adoption of any legislation, policy and/or project affecting their lands or territories and other resources. It also recommends that the State party consider ratifying the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169).**

16. The Committee is concerned at the problems faced by Amerindian people in obtaining their land titles, including delays in the process despite the statutory time frame, and the lack of inspections by relevant authorities on illegal mining and logging in the hinterland areas. It is also concerned at some recent court rulings that support mining activities without obtaining the free, prior and informed consent of the affected communities (art. 1).

17. **The Committee recommends that the State party take appropriate measures:**
- (a) **To make the title granting process easily accessible for the Amerindian communities and more time efficient;**
 - (b) **To strengthen the inspections of mining and logging activities in hinterland areas, including by improving the human and financial capacities of the inspection bodies;**
 - (c) **To ensure that the interpretation and implementation of the Amerindian Act 2006 and other relevant laws take into account the United Nations Declaration on the Rights of Indigenous Peoples.**

Corruption

18. The Committee is concerned that corruption, which has a devastating impact on the enjoyment of economic, social and cultural rights, is pervasive in the country, including in relation to the procurement of goods and services by public authorities and public works contracts. It is also concerned that the institutional framework to counter corruption within the Government is weak and ineffective and thus unable to prevent or effectively prosecute corruption (art. 2 (1)).

19. **The Committee recommends that the State party:**
- (a) **Address the root causes of corruption, including by enhancing transparency, participation and accountability in the conduct of public affairs;**
 - (b) **Take steps to effectively combat impunity in cases of corruption through strict application of anti-corruption laws and prosecution of corruption;**
 - (c) **Strengthen mechanisms and procedures entrusted with the task of combatting corruption and ensure its cooperation with human rights institutions;**
 - (d) **Strengthen the responsiveness of the judiciary to corruption and ensure effective protection of victims of corruption, their lawyers, anti-corruption activists, whistle-blowers and witnesses;**
 - (e) **Address incidences of corruption involving the Toshaos (village captains) as representatives of indigenous communities.**

It encourages the State party to seek technical assistance from relevant international and regional organizations in this regard.

Non-discrimination

20. The Committee is concerned about the impact of ethnic discrimination, in particular in the context of the relationship between Afro-Guyanese and Indo-Guyanese, on the development of the country and the equal enjoyment of economic, social and cultural rights. The Committee is also concerned about the widespread discrimination based on sex, disability, sexual orientation and gender identity, and health status, in all areas of economic, social and cultural rights due to, inter alia, social prejudice and stereotypes. The Committee is further concerned that the Prevention of Discrimination Act 1997 is mainly applicable to the employment sector and does not cover all grounds of discrimination (art. 2 (2)).

21. **The Committee recommends that the State party spare no efforts to eliminate the causes of inter-ethnic discrimination. It also recommends that the State party review the Prevention of Discrimination Act 1997 and other relevant laws with a view to bringing them into full conformity with article 2 of the Covenant. The Committee draws the attention of the State party to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

Persons with disabilities

22. The Committee is concerned at the lack of reasonable accommodation for persons with disabilities, including physical accessibility to buildings and facilities, which hinders the enjoyment of their economic, social and cultural rights (art. 2 (2)).

23. **The Committee recommends that the State party take all necessary measures to ensure that persons with disabilities fully enjoy their economic, social and cultural rights, particularly in the areas of employment, social security, health care and education, without discrimination. It also recommends that the State party intensify its efforts to provide reasonable accommodation to persons with disabilities in order to enhance their ability to access buildings and facilities.**

Lesbian, gay, bisexual, transgender and intersex persons

24. The Committee is concerned that the same-sex relations between consenting adults and cross-gender dressing are criminalized in the State party under sections 351 to 353 of the Criminal Law Offences Act (art. 2 (2)).

25. **The Committee recommends that the State party repeal the criminalization of same-sex relations between consenting adults and cross-gender dressing. It also recommends that the State party provide effective protection for lesbian, gay, bisexual, transgender and intersex persons against any form of discrimination on the ground of their sexual orientation.**

Equality between women and men

26. The Committee is concerned at the persistence of gender stereotypes relating to the roles and responsibilities of men and women in family and society, which leads to discrimination of women in various areas of life. In that context, it is also concerned at the lack of gender-sensitivity in the relevant legislation, which leads to indirect discrimination. It is further concerned at the high concentration of women in the informal economy, particularly in the agricultural sector, without adequate labour and social protection (arts. 3, 7 and 10).

27. **The Committee recommends that the State party take all necessary measures to combat gender stereotypes, including awareness-raising campaigns and through the media. It also recommends that the State party take appropriate steps to ensure all legislation is gender-sensitive. It further recommends that the State party adopt effective measures to promote the employment of women in the formal economy, including through temporary special measures.**

Unemployment

28. The Committee regrets that the State party did not provide sufficient information, including disaggregated statistical data, on the employment situation. It is concerned that unemployment rates are disproportionately high among youth, women, persons with disabilities, Amerindians and persons living in the hinterland areas. It is also concerned that the measures, including various vocational training programmes, taken by the State party to address the high unemployment of women and youth have not been effective and that there exists a large mismatch between the skills in demand and those in supply (art. 6).

29. **The Committee recommends that the State party take all necessary measures to collect disaggregated statistical data to enable assessment of the employment and labour market situations and to review and implement effective employment policies. It also recommends that the State party develop targeted measures, including quota**

systems and incentives to employers, with a time frame in order to increase employment opportunities for these groups.

Lack of a skilled workforce

30. The Committee is concerned at the skilled workforce drain, particularly in the areas of health care and education, and its negative impact on the enjoyment of the relevant rights by the people in the State party (art. 6).

31. **The Committee recommends that the State party take appropriate incentive measures to retain its skilled workforce and thus, to mitigate the adverse impact that the free movement policy under the Caribbean Community (CARICOM) Single Market and Economy strategy may have on the enjoyment of economic, social and cultural rights of the people in the country. It also recommends that the State party carefully monitor the implementation of the CARICOM strategy with a view to ensuring the enjoyment of economic, social and cultural rights by its people.**

Minimum wage

32. While welcoming the introduction of a minimum wage in the public sector, the Committee is concerned at the absence of a national minimum wage as well as the inadequate coverage and minimum wage levels, which are set through the National Minimum Wage Order for those who are not covered by collective bargaining agreements (art. 7).

33. **The Committee recommends that the State party take all necessary steps to establish a national minimum wage applicable to all employees, regardless of the type of contracts, working hour arrangements and sectors, which provides a decent living for workers and their families and is regularly adjusted.**

Social protection

34. The Committee is concerned at the inadequate level of coverage and benefit amounts under the social protection programmes of the National Insurance Scheme, including Old Age Benefits (contributory), Old Age Pensions (non-contributory) and child allowances. It is also concerned at the absence of unemployment benefits in the State party (art. 9).

35. **The Committee recommends that the State party take all necessary steps to ensure that all employees and self-employed persons are covered by the National Insurance Scheme and that the benefit amounts, particularly Old Age Benefits, Old Age Pensions and child allowances, are adequate so as to ensure a decent living for the beneficiaries. It also recommends that the State party provide social protection to those who cannot afford to contribute to the National Insurance Scheme through State-supported social assistance programmes. In that regard, the Committee draws the attention of the State party to its statement on social protection floors, as an essential element of the right to social security and of the sustainable development goals (see E/C.12/54/3). It further recommends that the State party consider establishing an unemployment benefit programme under the National Insurance Scheme.**

Domestic violence and violence against women

36. The Committee is concerned at the high prevalence of domestic violence and violence against women in Guyana and at the low number of cases reported, investigated and prosecuted and the lack of support for victims of violence (arts. 3 and 10).

37. **The Committee recommends that the State party intensify its efforts to combat all forms of violence against women, including domestic violence, particularly by strengthening legislative and judicial measures, to encourage the reporting, investigation and prosecution of cases of such violence. It also recommends that the State party enhance support for victims, including psychological, medical and legal support, and provide an adequate number of shelters for victims. It further encourages the State party to conduct awareness-raising campaigns and training for law enforcement officials, teachers, medical personnel and social workers.**

Legal age for marriage

38. The Committee is concerned at the low age of consent to marriage (16 years of age) set out in the Age of Consent Act, 2006 (arts. 3 and 10).

39. **The Committee recommends that the legal age of consent to marriage be raised to 18 years.**

Family and childcare

40. The Committee is concerned that women are overburdened with family responsibilities, particularly childcare and care for dependent family members, which has a negative effect on women's employment and professional careers. It is also concerned at the large number of single mothers who are financially and psychologically responsible for their children without maintenance support from the children's father nor adequate social assistance. It is further concerned at the increasing number of children in institutional care (arts. 3 and 10).

41. **The Committee recommends that the State party, inter alia:**

(a) **Take effective measures to promote the equal sharing of family responsibilities between men and women;**

(b) **Increase the availability of childcare and other social services and the child benefit amounts;**

(c) **Review family laws and strengthen their enforcement with a view to ensuring maintenance support from fathers;**

(d) **Prevent the separation of children from their families and provide various options of alternative care for children deprived of a family environment.**

Poverty

42. The Committee is concerned at the large percentage of people living in extreme poverty (18.6 per cent) and the disproportionately high poverty rates among people living in the hinterland areas, mainly Amerindian people (73.5 per cent), people living in rural areas, young people and households headed by women (art. 11).

43. **The Committee recommends that the State party intensify its efforts to eradicate poverty, including through a comprehensive analysis of the needs of the most disadvantaged and marginalized individuals and groups and the adoption of concrete and targeted measures.**

Housing and forced evictions

44. The Committee is concerned that, in spite of many efforts made by the State party to deal with squatter settlements, including the project aimed at upgrading the depressed areas, the number of people living in informal settlements remains high and that those living in such settlements, particularly in zero-tolerance areas, are vulnerable to forced evictions.

45. **The Committee recommends that the State party intensify its efforts to improve the living conditions in informal settlements. It also recommends that the State party establish a legal framework on forced evictions that is compliant with international standards and its general comment No. 7 (1997) on the right to adequate housing: forced evictions. It further recommends that the State party ensure that any eviction that is considered necessary is carried out as a means of last resort after all feasible alternatives have been explored and that those affected are informed and consulted before the eviction is carried out and provided with alternative suitable accommodation or adequate compensation.**

Water, sanitation and electricity

46. While noting good progress in overall access to water and sanitation, the Committee remains concerned that, in particular, people living in the hinterland areas still have very limited access to safe drinking water and sanitation facilities as well as to electricity (art. 11).

47. **The Committee recommends that the State party intensify its efforts with a view to ensuring access to safe drinking water, adequate sanitation facilities and electricity in the hinterland areas.**

Food security and nutrition

48. The Committee is concerned that, despite the measures taken by the State party to improve food security and nutrition, little progress has been made and that multiple forms of malnutrition, including undernutrition and obesity, remain serious public health concerns. It is particularly concerned at the high and increasing number of children under 5 years of age who are stunted (arts. 11 and 12).

49. **The Committee recommends that the State party review the Food and Nutrition Security Strategy for Guyana (2011) taking into account the requirements of the Food and Agriculture Organization of the United Nations 2004 Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security. It also recommends that the State party take urgent measures to curb the rising number of children under 5 years of age who are stunted. It further recommends that the State party prioritize the adoption of legislative and policy measures in line with the International Code of Marketing of Breast-milk Substitutes, including ensuring that employers allow breastfeeding in the workplace, in order to increase the percentage of children who are exclusively breastfed during the first six months of their lives.**

Right to health

50. The Committee is concerned at the limited availability of health-care services, particularly mental health care, and the low quality of health-care services, owing to the lack of trained and qualified health-care professionals in the State party. It is also concerned at:

- (a) The disparity in health-care services between urban and rural areas and the lack of availability of health-care services in the hinterland areas;
- (b) The still high mortality level of infants and children under 5 years of age, despite the decrease in recent years;
- (c) The high and increasing level of maternal mortality;
- (d) The epidemic of malaria, tuberculosis and HIV/AIDS, particularly among the Amerindian population;

(e) The limited access to sexual and reproductive health-care services, particularly among Amerindian women and women with disabilities, and the lack of information on sexual and reproductive health, including information on contraceptive methods (art. 12).

51. The Committee recommends that the State party intensify its efforts to improve the availability, accessibility and quality of health-care services, including in the mental health sector. It also recommends that the State party take all necessary measures:

(a) **To address the regional disparity in accessing health-care services and to ensure that all health-care posts (or health-care huts) in the hinterland and rural areas are equipped with trained and qualified health-care professionals and essential medicines;**

(b) **To reduce infant and under-five mortality;**

(c) **To reduce maternal mortality, including through enhancing prenatal and postnatal care, taking into account the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality (A/HRC/21/22 and Corr.1-2);**

(d) **To combat malaria, tuberculosis and HIV/AIDS and to provide adequate and timely treatment to those affected by those epidemics, with particular focus on the existing gap in the provision of relevant services to Amerindians;**

(e) **To remove obstacles to access to sexual and reproductive health-care services, including by raising the awareness of health-care professionals on the special needs of indigenous women and women with disabilities, and to enhance information and education on sexual and reproductive health, inter alia, by including them in school curricula in accordance with the evolving capacities of children and adolescents, as well as in informal educational institutions.**

Right to education

52. The Committee is concerned at the decreasing enrolment rates and the high dropout rate, particularly of boys, in primary education, and at the low quality of education owing to the shortage of trained and qualified teachers, particularly in the hinterland and rural areas. It is also concerned that children in the hinterland have limited access to school owing to the insufficient infrastructure (arts. 13 and 14).

53. The Committee recommends that the State party intensify its efforts to counter the decreasing enrolment rate and the high dropout rates in primary education. It also recommends that the State party increase the number of trained and qualified teachers, including by training and certifying international volunteers and university students who may be available for primary education, as an interim measure. The Committee further recommends that the State party collect, keep and publish data on education. In that regard, the Committee draws the State party's attention to its general comment No. 13 (1999) on the right to education.

Indigenous languages

The Committee is concerned that some of the indigenous languages, including Warrau and Arawak, are at risk of extinction and that there is insufficient integration of indigenous cultures in school curricula (art. 15).

The Committee recommends that the State party take all necessary steps to support and preserve indigenous languages at risk of extinction and to enhance integration of indigenous cultures in the education system.

Access to the Internet

54. The Committee is concerned at the limited access to the Internet and other information and communication technologies, particularly in the hinterland and rural areas (art. 15).

55. **The Committee recommends that the State party continue working to expand Internet access, particularly in the hinterland and rural areas. The Committee also recommends that the State party extend assistance to the most disadvantaged and marginalized individuals and groups so as to enable them to access the Internet.**

D. Other recommendations

56. **The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

57. **The Committee invites the State party to consider ratifying the American Convention on Human Rights (Pact of San José) and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador).**

58. **The Committee invites the State party to continue to strengthen its cooperation on issues relating to economic, social and cultural rights with the Office of the United Nations High Commissioner for Human Rights and other relevant United Nations agencies and programmes.**

59. **The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among members of Parliament, public officials and judicial authorities, and to inform the Committee, in its next periodic report, about the steps taken to implement the recommendations contained herein. It also encourages the State party to engage non-governmental organizations and the wider civil society in the implementation of the present recommendations, as well as in the preparation of its next periodic report.**

60. **The Committee requests the State party to submit its fifth periodic report, to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (see E/C.12/2008/2), by 31 October 2020. The Committee also invites the State party to update its common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (see HRI/GEN/2/Rev.6, chap. I).**