



International Covenant on Civil and Political Rights

Distr.: General
3 December 2015

Original: English

Human Rights Committee

Concluding observations on the third periodic report of Suriname*

1. The Committee considered the third periodic report of Suriname (CCPR/C/SUR/3) at its 3208th and 3209th meetings (see CCPR/C/SR.3208 and 3209), held on 21 and 22 October 2015. At its 3226th meeting, held on 3 November 2015, the Committee adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Suriname, albeit over five years late, and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures that the State party has taken during the reporting period to implement the provisions of the International Covenant on Civil and Political Rights. The Committee appreciates the written replies (CCPR/C/SUR/Q/3/Add.1) to the list of issues (CCPR/C/SUR/Q/3), which were supplemented by the oral and additional written responses provided by the delegation.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following:

- (a) The combating domestic violence act, in July 2009;
- (b) The Integral Gender Action Plan 2006-2010;
- (c) The national strategy to combat human trafficking, in April 2014;
- (d) The 2005-2010 policy plan developed by the Policy Committee for Persons with Disabilities.

4. The Committee welcomes the ratification of, or accession to, the following international instruments by the State party:

- (a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 18 May 2012;

* Adopted by the Committee at its 115th session (19 October-6 November 2015).



(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 25 May 2007.

C. Principal matters of concern and recommendations

Applicability of the Covenant in domestic courts

5. While taking note of the State party's explanations concerning article 106 of the Constitution, which provides that international agreements take precedence over national laws, the Committee regrets that the State party has presented no concrete examples of specific cases in which the provisions of the Covenant were invoked or applied by courts in Suriname. The Committee is further concerned that the draft bill on the establishment of a constitutional court, as envisioned in the Constitution, with the power to, inter alia, verify against international human rights treaties the purport of acts (art. 144 (2) (a)), has been pending before the National Assembly for a significant period of time (art. 2 of the Covenant).

6. **The State party should further develop existing mandatory training programmes to raise awareness among judges, lawyers and prosecutors about the Covenant and its applicability in domestic law to ensure that its provisions are taken into account before domestic courts. The State party should include in its next periodic report detailed examples of the application of the Covenant by domestic courts. The Committee encourages the State party to establish without delay the constitutional court envisaged in the Constitution with appropriate qualifications and independence.**

Views under the Optional Protocol

7. The Committee reiterates its concern about the absence of a specific procedure or mechanism to examine and give effect to its Views under the Optional Protocol to the Covenant. In this regard, while taking note of the information provided by the State party concerning communications No. 146/1983 and Nos. 148/1983-154/1983, *Baboeram-Adhin et al. v. Suriname*, the Committee regrets that no significant progress has been made in this case (see paras. 21-22 of the present concluding observations) (art. 2).

8. **The State party should establish a specific procedure for ensuring full compliance with the Views adopted by the Committee under the Optional Protocol. The Committee reiterates its previous recommendation urging the State party to implement the Committee's Views in *Baboeram-Adhin et al. v. Suriname* (see CCPR/CO/80/SUR, para. 8).**

National human rights institution

9. While welcoming the establishment, on 30 March 2015, of the National Human Rights Institute, the Committee regrets the absence of information regarding the Institute's mandate and the resources available to it (art. 2).

10. **The State party should take measures to ensure the effective functioning of the National Human Rights Institute with a broad human rights mandate, and provide it with adequate financial and human resources, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

Non-discrimination and equality between men and women

11. While welcoming the information provided by the State party on the amendment of the Nationality and Residence Act, and the proposed amendments to the Identity Act and the Personnel Act, the Committee remains concerned that discriminatory legislation in relation to gender remains in force (see CCPR/C/SUR/3, paras. 48 and 49) (arts. 2, 3, 23 and 26).

12. The State party should expedite the revision of the Identity Act and the Personnel Act to repeal or amend provisions that are inconsistent with the Covenant, including those that discriminate on the basis of gender. The State party should take appropriate measures to enhance and promote equality in the light of the Committee's general comment No. 28 (2000) on the equality of rights between men and women.

Participation of women

13. While noting the increase in representation of women in political and public life, the Committee remains concerned that women continue to be significantly underrepresented in decision-making positions in Cabinet and in local government, as well as in the private sector. The Committee notes the delegation's acknowledgment that there were still concerns that certain jobs went to women and others to men, which could create inequalities (arts. 3 and 26).

14. The State party should further strengthen its efforts to increase the participation of women in the political and public domains, particularly in decision-making positions, if necessary through temporary special measures. It should also take concrete measures to eliminate gender biases and stereotypes regarding the roles and responsibilities of men and women in the family and society.

Minimum age of marriage

15. The Committee notes that in the course of the reporting period the minimum age of marriage was raised to 15 for women and 17 for men, and that a draft amendment to the Civil Code, currently being considered by the National Assembly, proposes setting a minimum age of 18 for both men and women. The Committee remains concerned that the current minimum age for marriage is too low and that it discriminates on the basis of sex (arts. 3, 23 and 24).

16. The State party should eliminate discrimination on the basis of sex with regard to the minimum age for marriage. It should also amend its laws so as to bring the minimum age for marriage into line with international standards.

Public emergency

17. The Committee reiterates that the State party's interpretation of the circumstances under which a state of emergency can be declared or rights can otherwise be limited under article 23 of the Constitution are too broad (see CCPR/CO/80/SUR, para. 9). It also notes with concern that the State party's law does not specify the rights that may not be restricted or suspended under any circumstances (art. 4).

18. The State party should take the steps necessary to ensure that rights are limited only in compliance with the Covenant, in particular with respect to the principles of exceptional threat, proportionality and non-discrimination and the non-derogability of the fundamental rights referred to in article 4. The Committee draws the State party's attention to its general comment No. 29 (2001), in which the Committee deals with the matter of temporary derogations from obligations during states of emergency.

Death penalty

19. While welcoming the elimination, on 13 April 2015, of the death penalty from the Penal Code, the Committee regrets that the State party has not yet amended its Military Penal Code accordingly (art. 6).

20. **The State party should take all steps necessary to abolish the death penalty under military law. The Committee encourages the State party to consider acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.**

Impunity for past human rights violations

21. The Committee is concerned that in April 2012 the National Assembly adopted an amendment to the 1992 Amnesty Act, extending the period covered by the amnesty to between April 1980 and August 1992. It also expresses concern over the State party's reliance on this amendment and the absence of the yet-to-be-established constitutional court in order to suspend, despite the Views set out by the Committee in *Baboeram-Adhin et al.*, the prosecution brought against the President, Desiré Bouterse, and 24 others accused of the extrajudicial executions of 15 political opponents in December 1982. Furthermore, the Moiwana massacre of 1986 and other grave human rights violations that occurred during the de facto military regime continue to go unpunished. Lastly, the Committee notes with concern the delegation's acknowledgement of the reluctance of some witnesses to testify in relation to the Moiwana case (arts. 6 and 7).

22. **Recalling its previous recommendation (see CCPR/CO/80/SUR, para. 7), the Committee urges the State party to repeal the Amnesty Act. The State party should also comply forthwith with international human rights law requiring accountability for those responsible for serious human rights violations in respect of which States are required to bring perpetrators to justice, including by completing the pending criminal prosecutions. In this regard, the Committee draws attention to its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, in particular paragraph 18, in which the Committee states that States parties may not relieve perpetrators of acts such as torture, arbitrary or extrajudicial killings or enforced disappearance from their personal responsibility. The State party should also ensure the effective protection of witnesses and diligently enquire into all cases of suspected witness intimidation.**

Prohibition of torture and ill-treatment

23. The Committee is concerned that the State party's criminal legislation does not adequately ensure that acts covered by the internationally accepted definition of torture are fully criminalized. It is also concerned that there is neither an independent complaint authority to deal with such complaints, nor an effective system for the prevention of torture (art. 7).

24. **The State party should amend the Penal Code to include a definition of torture that is fully in line with article 7 of the Covenant and other internationally established norms. It should also establish an independent complaint mechanism with the authority to investigate all reported allegations of and complaints about acts of torture and ill-treatment. The State party should further ensure that alleged perpetrators of those crimes are prosecuted and that the victims are adequately compensated. The Committee encourages the State party to consider acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto.**

Gender-based violence

25. While noting the efforts made by the State party to combat violence against women, including domestic violence, the Committee regrets the lack of information provided on the sanctions imposed on perpetrators and the remedies provided to victims (arts. 3 and 7).

26. The State party should ensure that cases of gender-based violence are thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that the victims are adequately compensated. It should also provide mandatory training for law enforcement and judicial officers, prosecutors and social workers on prosecuting perpetrators of gender-based violence, and facilitate victims' access to justice.

Arbitrary arrest and ill-treatment of lesbian, gay, bisexual, transgender and intersex persons

27. While acknowledging the efforts made by the State party to enhance tolerance towards the lesbian, gay, bisexual, transgender and intersex community, the Committee is concerned about reports of arbitrary detention and ill-treatment of such persons, especially transgender women, by members of the security forces. It regrets that the State party has provided no information about the sentences and criminal or disciplinary sanctions imposed on offenders (arts. 7 and 9).

28. The State party should take effective measures to put an end to the arbitrary arrest of lesbian, gay, bisexual, transgender and intersex persons. All instances of ill-treatment should be investigated and, if substantiated, the perpetrators should be prosecuted and punished with appropriate sanctions.

Trafficking in human beings

29. While noting the efforts made by the State party to combat human trafficking, including through international cooperation, the Committee is concerned about the difficulties victims experience in receiving access to effective protection, shelter and reparation (art. 8).

30. The State party should guarantee adequate protection and reparation, including compensation and rehabilitation, for victims. State resources should be allocated for the establishment and operation of shelters for victims of trafficking.

Judicial control of detention

31. The Committee is concerned that, according to the information provided by the delegation, a person arrested or detained on a criminal charge may be held in police custody for three or four days before being brought before a prosecutor, who can decide to extend the detention for a further period without judicial review (art. 9).

32. The State party should adopt legislation to ensure that anyone arrested or detained on a criminal charge is brought before a judge within 48 hours. The Committee draws the attention of the State party to its general comment No. 35 (2014) on liberty and security of person, in particular paragraph 33, in which it states that 48 hours is ordinarily sufficient to transport the individual and to prepare for the judicial hearing. An especially strict standard of promptness, such as 24 hours, should apply in the case of juveniles. Moreover, a public prosecutor cannot be considered an officer exercising judicial power under article 9 (3) of the Covenant (see para. 32 of the general comment).

Access to counsel

33. The Committee is concerned about the lack of clarity and uniformity with regard to the rules governing communication between defence lawyers and inmates, and that such communication can be unduly restricted. It is also concerned that eight-day incommunicado detention without legal representation can be ordered by the prosecutor or a court in the interest of an ongoing investigation, including in cases of drug trafficking or terrorism. In addition, the Committee expresses concern over the adequacy of legal aid services to low-income persons (art. 14).

34. The State party should establish a uniform legal framework applicable to all detention facilities, and guarantee and facilitate access to counsel for detainees in criminal cases from the outset of their detention, taking due account of article 14 of the Covenant and the Committee's general comment No. 32 (2007) on the right to equality before the courts and tribunals and to a fair trial (paras. 10, 23, 32, 34 and 38).

Conditions of detention

35. While noting the efforts made by the State party to improve the living conditions in detention centres, the Committee remains concerned by reports of substandard conditions of detention, mainly overcrowding and poor sanitation, in police stations and other temporary detention facilities. The Committee takes note of the assurances by the delegation that minors are never held in detention facilities with adults, despite the information from other sources to the contrary (art. 10).

36. The State party should adopt effective measures to ensure conditions of detention that respect the dignity of prisoners, in accordance with article 10 of the Covenant, including through the application of non-custodial measures. It should also ensure that juveniles are segregated from adults in all places of detention.

Psychiatric institutions

37. While noting the adoption of the mental health work plan for the period 2015-2017, the Committee regrets the paucity of available information on involuntary psychiatric care and the use of alternative forms of treatment (art. 9).

38. The State party should revise its laws and practices in the field of mental health in order to avoid arbitrary detention, in line with article 9 of the Covenant and the Committee's general comment No. 35 (para. 19).

Administration of justice

39. The Committee is concerned about numerous shortcomings in the State party's judicial system, in particular the insufficient number of judges and prosecutors, the courts' backlog of cases and the apparent lack of independence of the judiciary, which undermine fair trial guarantees. The Committee notes that the delegation acknowledged that judges' salaries were not considered attractive enough, and that a new regulation provided for their increase (art. 14).

40. The State party should furnish the justice system with appropriate human and financial resources so that it can operate effectively. In particular, it should recruit and train a sufficient number of judges and prosecutors to ensure adequate administration of justice and respect for fair trial guarantees throughout the country. The State party should also take all steps necessary to ensure the independence of the judiciary, including adequate salaries for judges.

Freedom of expression

41. The Committee remains concerned about reports of intimidation and harassment of human rights activists and journalists. It is also concerned that the offence of defamation is still penalized with deprivation of liberty, which may discourage the media from publishing critical information on matters of public interest (arts. 7 and 19).

42. **The State party should:**

(a) **Take adequate measures to prevent further erosion of freedom of expression, in particular threats to and harassment of human rights activists and journalists, and ensure that such cases are investigated promptly and that suitable action is taken against those responsible;**

(b) **Consider decriminalizing defamation, ensure that defamation is not subject to deprivation of liberty, and bring any other relevant provisions of the Criminal Code into line with article 19 of the Covenant, as interpreted in general comment No. 34 (2011) on the freedoms of opinion and expression.**

Birth registration

43. The Committee is concerned that children born to irregular migrant parents are often not registered at birth owing to a fear of arrest and/or deportation, putting children at risk of statelessness and hindering their access to essential social services, such as health care and education (art. 24).

44. **The State party should adopt effective measures to overcome difficulties in civil registration and ensure that all children born in its territory are registered and receive an official birth certificate. It should also carry out campaigns to raise awareness of the importance of birth registration of all children, including children born to irregular migrant parents.**

Corporal punishment

45. The Committee observes that although corporal punishment is explicitly prohibited in the penal system, it continues to be prevalent and accepted in society (arts. 7 and 24).

46. **The State party should take practical steps, including through legislative measures where appropriate, to put an end to corporal punishment of children in all settings. It should encourage non-violent forms of discipline as alternatives and should conduct public information campaigns to raise awareness about the harmful effects of corporal punishment.**

Rights of persons belonging to minorities

47. The Committee is concerned that indigenous and tribal peoples are not sufficiently consulted in the decision-making processes with respect to issues of interest to their communities. In this regard, concessions and licences on the land they claim continue to be granted for extractive use, including mining operations, and the execution of large-scale development projects, without prior consultation of indigenous communities (art. 27).

48. **The State party should also take all measures necessary to ensure effective and meaningful consultation with indigenous and tribal peoples in decision-making in all areas having an impact on their rights.**

D. Dissemination of information relating to the Covenant

49. The State party should widely disseminate the Covenant and the first Optional Protocol, the text of its third periodic report, the written replies to the Committee's list of issues and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public.

50. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party is requested to provide, within one year of the adoption of the present concluding observations, relevant information on its implementation of the recommendations made by the Committee in paragraphs 10 (national human rights institution), 22 (impunity for past human rights violations) and 32 (judicial control of detention) above.

51. The Committee requests the State party to submit its next periodic report by 6 November 2020 and to include in that report specific up-to-date information on the implementation of the recommendations made in the present concluding observations and of the Covenant as a whole. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.
