



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

**Third periodic report submitted by Guyana under
article 40 of the Covenant pursuant to the optional
reporting procedure, due in 2021***

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* The present document is being issued without formal editing.



Part 1 – General Information related to the implementation of the ICCPR

Introduction

1. As a State Party to the ICCPR, the Government of Guyana, newly elected and appointed on August 2nd, 2020, is pleased to submit this, its Third Periodic Report to the United Nations Human Rights Committee (UNHRC) on the ICCPR. This submission puts Guyana in compliance with Article 40 of the ICCPR and demonstrates the Government of Guyana's commitment to the protection of human rights.

2. The Report contains a description of the measures undertaken by the State Party in implementing the International Covenant on Civil and Political Rights (ICCPR). The Report takes into consideration the issues highlighted by the Committee in its concluding observations of April 25, 2000 (CCPR/C/79/Add.121) and the List of Issues Prior to Reporting adopted by the HRC at its 129th Session. This report, in form and substance, follows the guidelines promulgated by the UNHRC.

3. The Government of Guyana (Hereafter GoG) is committed to fulfilling its international law obligations in ensuring that the civil and political rights of all those persons within its jurisdiction are respected and promoted. The GoG believes that the ideal of the realization of civil and political rights can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights as well as his economic, social and cultural rights. The GoG therefore believes in the interdependency and indivisibility of all human rights and has undertaken steps to adopt policies to fulfill the same in order to enhance the protection and promotion of all human rights.

4. It is important to note that the GoG has implemented a standing national mechanism for reporting and follow-up (NRMF) to ensure timely reporting and effective follow-up under the various UN human rights treaties which Guyana has ratified.

5. This NRMF takes the form of a standing ministerial committee within the newly created Ministry of Parliamentary Affairs and Governance (MinPAG) in September 2020. In fact, one of the mandates of this Ministry is the preparation, monitoring and follow up with regards to Guyana's international treaty obligations on human rights and anti- corruption. This national standing mechanism is reflected both in the Governance programme of the Ministry of Parliamentary Affairs and Governance and the group of identified liaisons from relevant government ministries and agencies. The team, which is comprised wholly of the Ministry's Research Team and the agency liaisons prepared the ICCPR report and are working on the compilation of other pending treaty reports. Liaisons supply information and offer insight on programmes and agencies from their subject ministry/agencies whilst MinPAG manages and prepares the final reports. Furthermore, this standing mechanism will monitor and follow up with government agencies and Cabinet on recommendations made.

6. A national standing mechanism has also been established to exclusively address Guyana's treaty obligations to the UN Convention Against Corruption and the Inter-American Convention Against Corruption (IACAC/MESICIC). A National Coordinating Committee with regards to these two conventions is comprised of technical experts representing 12 ministries and state agencies that are relevant to these two conventions. This body established on June 8, 2021 meets monthly and is working on the recommendations of the last reports on these conventions and preparing Guyana's 2nd Self- Assessment under the UNCAC.

7. Guyana also has appointed a Lead Expert on the IACAC MESICIC.

8. As a new Ministry whose mandate includes Parliamentary Affairs and Governance, Guyana wishes to go on record with its appreciation to the United Nations Office in Guyana, the UN Human Rights Council/UPR Trust Fund and the UN Office of Drugs and Crime for its support in building capacity to the young staff in the new Ministry as well as facilitating support to the staff and focal points in the various government agencies to receive training on these conventions. Thus far, the NRMF has benefitted from training on the UN Human

Rights Mechanisms, the National Mechanism for Implementation Reporting and Follow-up, as well as specialized training on specific Treaties including the ICCPR and the ICERD. The Ministry aims to bring all outstanding reports on human rights up to date by end 2022.

9. The focus of the Government through this Ministry is to develop institutional capacity not only within this Ministry but also across relevant government entities to ensure that there is a fully functioning permanent national mechanism.

10. Whilst reporting remains critical and paramount at this time, the NRMF, outlined in paragraphs 5 and 6 will also be prioritized to ensure that there is “buy in” by the agencies, and a concrete understanding of the importance of the mechanism. This will ensure that follow-up on the recommendations is being brought to the highest level of government in a timely manner.

11. Due to the brevity of available time since the establishment of these mechanisms, and the focus on building capacity with a new and young staff in the MinPAG and other government agencies, Guyana must report that it has not been able to have the level of inclusion of civil society bodies as it desired. However, the positions of the various civil society bodies on the human rights issues identified in the UN List of Issues are publicly known.

12. This report illustrates the Government of Guyana’s profound commitment to the recognition, and protection of persons’ human rights. It shows that Guyana took the unusual, yet highly effective step of including the ICCPR into the Fourth Schedule of the Constitution of the Cooperative Republic of Guyana, Cap 1:01. Art 154, provides for the executive, the judiciary, legislature and administration to uphold the international conventions it has ratified in the Fourth Schedule. This step accords the ICCPR, and the rights it contains, constitutional, supremacy status. It also shows that the Government of Guyana, through a series of profound amendments during the Constitutional Reform process (1999–2001),¹ has also included articles 138-149 in its Constitution, which recognise and protect rights similar to those articulated in the ICCPR.

13. Further, the GoG is committed to continuous efforts to realize the human rights of all persons including taking actions to bring Guyana’s statutes into compliance with its international Human Rights obligations. This includes many of the most recent amendments to legislation tabled in the Legislature by various subject Ministers, including the amendment of the Adoption of Children Act (2021) which specifically brings Guyana into compliance with the 1996 Hague Convention.

14. The Law Reform Commission was appointed on July 29, 2021 in accordance with the amended 2021 Law Reform Commission Act. Therefore, a permanent mechanism is now in place for the review and updating of Guyana’s statutes.

Recent Political Developments

March 2, 2020 National and Regional Elections

15. On December 21st, 2018, the National Assembly of Guyana passed a No Confidence motion against the APNU+AFC (A Partnership for National Unity + Alliance for Change) Coalition Government. The Leader of the Opposition gave notice of the motion which was then passed with the Assembly divided: 33 in favor to 32 against. The General and Regional Elections should have been held within three months as required by the Constitution. The motion was rejected by the APNU+AFC government with the argument that 34 and not 33 was what constituted a majority in the National Assembly. The matter was also challenged by the former Attorney General, Basil Williams, on the grounds that the vote by APNU+AFC Coalition Member of Parliament, Charrandas Persaud for the no confidence motion should be disqualified since Persaud had dual Citizenship. The matter was appealed to the Caribbean Court of Justice, Guyana’s apex court, which ruled on July 12th, 2019 that:

¹ See Guyana’s First Report to the UPR, May 2010.

(a) The provisions of Article 106(6) and (7) of the Constitution apply to a No Confidence motion;

(b) Thirty-three votes constitute a majority of the 65-member National Assembly;²

(c) Mr. Charrandas Persaud was ineligible to be elected to the Assembly by virtue of his citizenship of Canada but his vote on the motion of no confidence motion was valid;³

(d) Nothing in the anti-defection regime established at Article 156(3) of the Constitution rendered Mr. Persaud incapable of casting his vote on that motion in the manner in which he did;⁴

(e) The National Assembly properly passed a motion of no confidence in the Government on 21 December 2018;⁵

(f) Upon the passage of this motion of no confidence in the Government, the clear provisions of Article 106 immediately became engaged.⁶

16. Following this ruling, the General and Regional elections should have been held within three months, that is, by mid-September 2019. After many efforts to defer the elections being held with the overt collaboration of the Chief Elections Officer (CEO) of the Guyana Elections Commission (GECOM) with the government, elections were finally held on March 2nd 2020.

17. What followed is now part of global history, as noted by former Prime Minister of Jamaica, Bruce Golding, Chief of the OAS Electoral Observer Mission to the OAS Permanent Council on May 13, 2020 held to discuss the Guyana elections. Golding stated: *“I have never seen a more transparent effort to alter the results of an Election. More than a dozen copies of the Statements of Poll are prepared at each polling station after the ballots are counted on election night (at each polling station). One copy is posted on the wall outside the polling station and each party representative – and there were nine in all – each party representative is entitled to receive a copy. It takes an extraordinarily courageous mind to present documents with fictitious numbers when there is such a sturdy paper trail exists. And this is being illustrated now as the recount proceeds.”*

18. Remarkably, the March 2020 Elections were observed by the Commonwealth of Nations, the Organization of American States, the European Union, the CARICOM and the Carter Centre – all of whom concluded that March 2nd Elections Day had been conducted in a free, transparent and fair manner.

19. It took five long months for the declaration of the results to be made, including the period for the recount of all the ballots of the 10 Administrative Regions of Guyana. The tabulation of nine of the 10 Regions with little or no problems. Controversy arose surrounding the tabulation of the votes in the country’s largest electoral district, Region Four on March 5, 2020. The Returning Officer (RO) for Region Four utilized a spreadsheet (which differed from the Statements of Poll) instead of the Statements of Poll (SOPs) to tabulate and declare the results for the region.

20. On March 6, 2020, as the sitting government announce it would be sworn in as the new government, there was spontaneous unrest within two Administrative Regions, resulting in a teenage protester being killed. Noteworthy this was the only day of any civil unrest for the prolonged period from March 2, 2020 to August 2, 2020, declaration of the results by the Guyana Elections Commission.

² Christopher Ram, Bharrat Jagdeo, Charrandas Persaud versus The Attorney General et al (2020) Caribbean Court of Justice, Appellate Jurisdiction. Application GYCV2019/009 <<http://www.ccej.org/wp-content/uploads/2021/02/2019-CCJ-14-AJ.pdf>>.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

21. Former Attorney General and executive member of the People's Progressive Party (PPP/C) filed an injunction in the High Court on March 5, 2020, restraining the RO from declaring results for the electoral district.
22. The Chief Justice ruled on March 11, 2020, that the RO should return to the verification process in compliance with Section 84 of the Representation of the People's Act, that is using the Statements of Poll. On March 13th, the second declaration for the region by the RO was once again mired in controversy as party representatives of small parties and the main opposition, the PPP/C, cited the unconventional methodology the RO adopted for displaying the SOPs where international and local observers as well as party agents were unable to properly discern the figures on the Statements of Poll.
23. With the intervention of CARICOM, a recount was agreed upon on March 16, 2020 between then President David Granger and Leader of the Opposition, Bharrat Jagdeo. A former candidate of the governing party filed another injunction blocking the Guyana Elections Commission from undertaking the recount on the grounds that the agreement between the country's two political leaders could not determine the actions of GECOM since it was a constitutional body. This application for an injunction was subsequently rejected by the Court of Appeal.
24. The national recount of votes commenced on the 6th of May and was completed one month later, on June 9th.
25. It should be noted that the results for each ballot box counted for each day during the recount was publicly posted every day on television so that the public could see the votes for each of the political parties, and, at the end of the recount knew that that the PPP/C had won the elections.
26. As a result, the CEO was instructed by the GECOM Chair Justice (Ret'd) Claudette Singh to prepare the report for the Commission, instead he prepared a report in contrast to the results of the recount.
27. The CEO's report was halted again due to the filing of a case by private citizen in the Court of Appeal which blocked the Guyana Elections Commission's CEO from submitting a report based on the results of the national recount. The Court of Appeal on June 22nd ruled by a 2-1 majority that the CEO in determining results of the elections, must do so based on the political party which received the most 'valid' votes.
28. In one of the many decisive court rulings and the one that should have ended this saga was the appeal to the CCJ made by the PPP/C on June 23rd, 2020 following the June 22nd, 2020 Court of Appeal ruling.
29. President of the Caribbean Court of Justice (CCJ), Justice Adrian Saunders in the delivery of the Court's judgment stated that the finality clause contained in Article 177(4) of the Constitution was in that matter inoperable and as a result the Caribbean Court of Justice had jurisdiction to hear the case.
30. The Caribbean Court of Justice ruled that it also had the jurisdiction to invalidate the report of the Chief Elections Officer, Keith Lowenfield. In the delivery of the judgment, Justice Adrian Saunders also stated that a modification of the definition of a valid vote was not to be done, as Guyana's elections laws already defined valid votes as those seen as valid "on the face" of them and were not rejected or spoilt.
31. Following the ruling of the CCJ, citizen Misenga Jones filed an application in the High Court which asked the court to issue several orders that would instruct the Guyana Elections Commission to rely on a report submitted by the CEO. This report of the CEO contained the contentious and fraudulent March 13th declarations from the Region Four RO. Jones's application therefore sought to disregard the results obtained from the national recount of votes. The Chief Justice Roxanne George dismissed the application citing that the High Court had a narrow jurisdiction to hear the case and the submissions to the court were hopelessly flawed. Attorneys for Jones moved to the Court of Appeal once again to appeal the Chief Justice's decision.
32. The Court of Appeal on July 30th dismissed the appeal which restrained the Guyana Elections Commission from making a declaration for the General and Regional elections

based on the results of the national recount of votes. The Appellate Court's ruling was unanimously handed down.

33. The CEO was instructed to prepare a report for the Commission by 10:00hrs on Saturday August 1st. He failed to do so. The CEO submitted his report when the Commission resumed on August 2, 2020, the results were declared and the PPP/C won 33 seats, the APNU+AFC Coalition 31 seats and the Liberty Justice Party 1 seat. The GECOM Chair wrote the Chancellor, Justice Yonette Cummings-Edwards, requesting that immediate arrangements be made for the swearing in of Guyana's 9th Executive President, Dr. Mohamed Irfan Ali.

34. The President was sworn on Sunday August 2nd, bringing an end to the country's five-month long impasse. The Prime Minister Brigadier Mark Phillips, Vice President Bharrat Jagdeo, Attorney General and Minister of Legal Affairs Mohabir Anil Nandlall and Minister of Parliamentary Affairs and Governance, Ms. Gail Teixeira were also sworn in with the President. Four days later the rest of the Cabinet was sworn in.

35. Throughout the entire five months the containers with the ballot boxes were voluntarily guarded by a large group of young individuals calling themselves the "Guardians of Democracy."

36. Throughout this period, the repeated attempts by the APNU+AFC Coalition government and its representatives with the CEO to stop the declaration of the recount were thwarted not by GECOM but primarily by the judiciary, in particular, Guyana's apex court, the Caribbean Court of Justice (CCJ) to defend the Constitution of Guyana and the democratic rights of the Guyanese people. The resilience of the Guyanese people in the face of such provocation is unprecedented.

37. On September 1, 2020, the Legislature was convened, and, Members of Parliament for the Government and Opposition were sworn in. The 2020 Budget was passed on October 2nd, 2020.

38. The APNU+AFC Coalition, now the majority in the Parliamentary Opposition, has not accepted the results and does not recognize the legitimacy of the Government. It has brought two election petitions to the courts which have been dismissed and have filed appeals.

39. A number of GECOM officials including the Chief Elections Officer Lowenfield, the Deputy Chief Elections Officer, Roxanne Meyers, Returning Officer Ming, and other staff,⁷ as well as the Chairperson of the People's National Congress (the major party in the APNU+AFC Coalition) Mrs. Volda Lawrence,⁸ have been charged and are before the courts for election offences.

40. Guyana wishes to go on record to express its profound appreciation to the United Nations Secretary General, the Secretary General of the Commonwealth, the Secretary General of the Organization of American States, the Chairman of the Caribbean Community, the Head of the European Union, the Carter Centre and over 100 countries that stood resolutely on the side of democracy and prevented the hijacking of an election.

Part 2 – Specific information in the implementation of Articles 1–27 of the ICCPR

Constitution and legal framework within which the Covenant is implemented

41. The Government of Guyana will be reviewing whether it should withdraw its reservation made upon re-accession to the Optional Protocol made by Parliamentary Resolution No. 15 of 1998. Despite the Reservation, however, the Government of Guyana

⁷ Lowenfield, Meyers, Mingo were charged on 29th of June, 2021 with various counts of conspiracy to defraud the voters at March 2, 2020 elections.

⁸ Lawrence was charged on October 13, 2020 with forgery and conspiracy to commit fraud.

remains committed to respecting and protecting the rights of its citizens as set out in the International Covenant on Civil and Political Rights. Several Guyanese have exercised this option over the years, a testament of the knowledge of this option among Guyanese.

42. Guyana is a hybrid Republican-Westminster parliamentary state with a proportional representation electoral system governed by a Constitution.

43. Article 154A guarantees the protection of the ICCPR as incorporated into Guyana's Constitution, while Article 153 (1) allows persons to seek relief in Guyana's courts for any alleged breach of Articles 138–149 of the Constitution. Guyanese have used these provisions to allege violations of freedom of expression (*McEwan and others v Attorney General of Guyana* [2018] CCJ 30 (AJ)), cruel and inhuman treatment (*Twyon Thomas v AG No. 12 M 2020* (Unreported)), and liberty (*Gobin and another v Attorney General of Guyana and others* (2020) 96 WIR 488).

44. Judges, prosecutors and lawyers in Guyana are exposed to human rights law during their training, and are aware of international treaties and principles, as well as local legislation regarding human rights.

45. Whilst the GoG is desirous of operationalising the Human Rights Commission, and its subsequent accreditation with the Global Alliance of Human Rights Institutions, the present constitutional provision for the appointment of its Chairperson, however, has been an impediment. The appointment of the Human Rights Commission requires the Leader of the Parliamentary Opposition to submit 6 names from which the President selects the Chairperson.

46. The 1999–2001 Constitutional Reform amendments included an element of power sharing requiring the Leader of the Parliamentary Opposition being consulted and in some appointments through “meaningful consultation”⁹ in the appointments of specified constitutional post holders and members of the three Service Commissions (Judicial and Public), Human Rights Commission and the Guyana Elections Commission. It also included parliamentary consensual mechanisms in the appointments of the rights, service and procurement commissions.

47. At this time, several rights commissions have expired, and, their nomination process is before a constitutionally provided Parliamentary Standing Committee of Appointments to Commissions.

Anti-Corruption measures (Articles 2 and 25)

48. The Government of Guyana has taken several steps to ensure transparency and accountability as critical to good governance of the state, and to prevent and combat corruption at all levels of public administration.

49. Guyana ratified the Inter-American Convention Against Corruption on November 12, 2000, and has been an active member of the MESICIC since 2008. It ratified the UN Convention against Corruption on April 16, 2008, and, is preparing its second review with the assistance of the UNODC.

The State Assets Recovery Agency (SARA)

50. The State Assets Recovery Agency (SARA) was disbanded in September 2020 on the grounds of failure to realistically promote and protect transparency and accountability. The work of the agency involved unlawful retroactive effects and many of the provisions accessible to the agency collided directly with the Constitution of Guyana. Further, the State Assets Recovery Act (#14 of 2017) which established the agency directly proffered unrealistic authority and power to the head of agency, which directly circumvented and disrupted the work of other existing crime fighting and anti-corruption mechanisms. These disparities, including the incongruences with legislation that protect the fundamental rights

⁹ Defined in the Constitution.

of citizens in relation to property and protection of the law were key determining factors in the decision to disband the agency.

51. New legislation will be promulgated to properly establish an entity to monitor state assets recovery consistent with the Constitution of Guyana and all legislation which protects the fundamental human rights of Guyanese. This will ensure that unrestrained powers are not granted to any single person or agency, but that the operations of protecting state assets are conducted in a fair and prudent manner.

52. Nonetheless, during the time between the disbandment of the SARA and the submission of this report, former government officials who were involved in fraudulent activities, including the unlawful possession of state assets, have been charged by the relevant courts. These charges were brought about after investigations done by the Auditor General's Office and the Special Organized Crime Unit/ Guyana Police Force exposed instances of misconduct and abuse of power.

The Auditor General's Report, and the Public Accounts Committee

53. The Constitution of Guyana established the Office of the Auditor General, whose office is tasked with auditing, and reporting on the public accounts of all officers and authorities of Guyana (Article 223 (1) of the Constitution of Guyana). The 2001 constitutional amendment protected the Office of the Auditor General's from interference by anyone. The Auditor General is required to prepare a report of his findings and recommendations each year, and then to submit the same to the Speaker of the National Assembly to be laid in the National Assembly. The Annual Report is also made available to the media and is published on the website¹⁰ of the Auditor General's office. All annual reports are up to date.

54. Importantly, the annual report is perused in detail by the Public Accounts Committee, a Parliamentary Standing Committee of the National Assembly, whose proceedings are usually open to members of the media. During this process, the PAC requires representatives of the agencies under scrutiny to respond to the statements in the report.

55. The Public Accounts Committee has recently undergone changes in leadership at the level of the Chairperson. The constitution of Guyana specifies that the chairperson of the committee should be a representative from the parliamentary opposition. After the change of government in 2020, a new Chairperson was identified from the APNU/AFC Opposition. However, after investigations done at the level of the Office of the Auditor General in 2016 and 2020 and the Public Procurement Commission in 2016 revealed that the Chairperson was involved in fraudulent operations (see paragraph 52), the government representatives tabled a motion to have the chair removed and replaced by another member of the opposition. This process was repeatedly undermined. Ultimately, a motion was tabled in National Assembly remove the chairperson. This motion was passed by a simple majority vote in June 2021 and the chairperson was replaced by another competent representative of the opposition.

Legislative Framework

56. Fiscal Management and Accountability Act, Cap 73:02, The Financial Management and Accountability Act, Cap 73:02, (FMAA) (2003) regulates the preparation and execution of the annual budget, the receipt control and disbursement of public funds, accounting for public funds, and other related matters. It is intended to ensure the transparent and efficient management of Guyana's finances.

57. Importantly, section 16 of the FMAA provides that no public funds can be expended except in accordance with Article 217 of the Constitution of Guyana. That Article stipulates, among other things, that monies may only be withdrawn to meet expenditure authorised by the Constitution, an Act of Parliament, and an Appropriation Act.

¹⁰ www.audit.org.gy.

58. Section 32 of the FMAA dictates that drawing rights are required to carry out various transactions regarding public funds. These rights are conferred or withdrawn by the Minister with responsibility for finance.

59. Article 38 (1) of the FMAA requires that, with few exceptions, all public monies received on behalf of the Government of Guyana must be paid into the Consolidated Fund.

60. Ministers and other public officials are expressly proscribed from misusing, misapplying, or improperly disposing of public funds (s48 FMAA). A Minister or public official who causes or contributes to the loss of public monies through misconduct or deliberate or serious disregard or reasonable standards of care are personally liable for such losses.

61. For transparency, the Government of Guyana is required to disclose Guyana's public debt and lending (sections 69 and 70 FMAA).

62. Also, all financial statements regarding all public funds are to be audited by the Auditor General, who must present his report to the Speaker of the National Assembly within nine (9) months following the end of each fiscal year (sections 74 (1) and (2) FMAA).

Procurement Act, Cap 73:05

63. The Procurement Act, Cap 73:05, (2003), (2003) regulates the procurement of goods, services, and the execution of works by the State. The Act promotes competition among suppliers and contractors, and fairness and transparency in the procurement process.

64. The National Procurement and Tender Administration Board manages the government procurement process. Its website posts information on contracts, minutes of opening of tenders, and awards.¹¹

65. The Act is buttressed by the Public Procurement Commission established by Article 212W of the Constitution. The Commission monitors public procurement, including procurement procedures, toward ensuring the procurement of goods, services, and the execution of works in a fair, equitable, and cost-effective manner. There is also a Public Procurement Commission Tribunal Act, Cap 73:06, which may hear appeals from the decisions of the Public Procurement Commission in the execution of its functions.

66. Further, the Public Procurement Commission has investigatory powers such as its "Investigation into the Procurement of Consultancy Services for the Feasibility Study and Design for the New Demerara River Bridge".¹² Similar investigations, along with more proactive measures taken to guarantee transparency are reassuring to the public that taxpayers' dollars are being spent effectively and where they have been misappropriated and/or misused for personal gain the law is being enforced.

67. The Procurement Commission is appointed through an agreed on consensual mechanism by the Parliamentary Standing Public Accounts Committee (PAC) with the requirement of a two-thirds majority in the National Assembly. The first Commission was appointed in 2018 for three years and the PAC is at present in the process of nominating new members to the PPPC.

68. Government subventions are provided in accordance with the constitutional provisions (art. 222A) to seventeen constitutional bodies and commissions including the Integrity Commission, the Office of the Auditor General and the Public Procurement Commission, which monitor the work of the government agencies and officials to maintain fairness, transparency and accountability.

¹¹ www.nptab.gov.gy.

¹² <https://cms.ppc.org.gy/wp-content/uploads/2020/11/Investigation-Report-on-New-DH-Bridge-Consultancy-Award.pdf>. This investigation was key in unearthing fraud committed by government officials and senior personnel in the selection of a contractor to construct the new Demerara River Bridge. In 2021, the former Minister of Public Infrastructure and the General Manager of the Demerara Harbour Bridge Corporation (DBHC) have been charged for defrauding the DBHC of over \$ GY160 million.

Access to Information

69. The Access to Information Act 2011 (Act 21 of 2011) was promulgated with the intention of making the information and documents enumerated therein available to members of the public after the prescribed process. This process has been, and continues to be, utilised by members of the Guyanese public to access various documents. There have been issues in recent years, however, which saw the Commissioner of Information taking legal action against the previous administration for, among other things, unlawful dismissal, and failing to furnish his office with the resources needed to execute its mandate.

70. The GoG makes every effort to ensure that the public remains informed and can access information easily. As such, every Government Ministry is required to have a website and active social media accounts (Facebook, Instagram, Twitter, etc.) as is necessary and deemed most effective for their purposes. These platforms are constantly updated to reflect the work being done by the Ministries, provide information to the public and create an easily accessible means of open communication. This also allows for accessibility and greater communications with the public to offer real-time responses, as far as practically possible. These have been effectively used by Government Ministers to consult with the public during the Covid 19 pandemic, e.g. Minister of Education has repeatedly virtually meet thousands of teachers and parents regarding the re-opening of schools.

71. The GoG's commitment to public access to information extends beyond current legislative measures. Its philosophy of inclusive and responsive government dictates that the public is well informed and thereby empowered.

72. The GoG operationalized the long-awaited liberalization of the telecommunications sector, and, implemented the ICT Access and eServices project, which provided for 200 ICT hubs in the hinterland and riverine communities. To achieve this, the GoG has created new opportunities for fibre optic cables, reduce cost of bandwidth, reduce cost of data so that our ICT environment will also become competitive and affordable.

73. Most recently, senior technical personnel at the Ministry of Parliamentary Affairs and Governance received scholarships from the School of Governance of the Organisation of American States and have completed a virtual course titled "Advancing Open Government in the Caribbean, Strategies and Tools to Increase Transparency and Citizen Participation in Public Policy".

74. The Ministry of Parliamentary Affairs and Governance will make available to the public all submitted reports regarding our treaty obligations.

Criminalisation of corruption

75. Sections 332–337 of the Criminal Law (Offences) Act, Cap 8:01, criminalises, and provides penalties for persons found guilty of corruption.

76. Additionally, ss 99–105 of the Summary Jurisdiction (Offences) Act, Cap 8:02, proscribe and criminalise corrupt conduct by public officials.

77. Both statutes have been invoked with charges brought against a number of officials in the former government are before the courts for public misconduct in use of funds and lands, and other assets.

The Integrity Commission Act, and the Integrity Commission

78. The Integrity Commission Act, Cap 26:01, provides for the establishment of the Integrity Commission. Under this Act, elected officials including the President, Ministers, Members of Parliament, elected officials at local government, Judges and Magistrates, public officers, including senior public servants, are required to declare the totality of their assets and liabilities to the Commission on a yearly basis. These declarations are then examined and verified by the Commission.

79. The Commission also has powers to publish the names of persons who have failed to submit their declaration within the stipulated time, and to prosecute persons who remain non-compliant. In 2019, the Commission exercised this power and published a list of persons who were non-compliant. The list included members of the then Executive and the Legislature.

The Act also includes a Code of Conduct which is aimed at maintaining integrity among public officials and officers.

Other legislation

80. The Protected Disclosures Act 2018 (Act 5 of 2018), and, the Witness Protection Act 2018 (act 7 of 2018), are both aimed at bolstering Guyana's anti-corruption legislative framework. These Acts have not been activated, but their operationalization is high on the State Party's legislative agenda.

Non-discrimination (Articles 2, 3, 23, 25, and 26)

Constitutional Protections

81. The Constitution prohibits discrimination on various grounds in all areas of life.

82. Article 149 (1) (b) of the Constitution specifically proscribes "*any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority*" from discriminating against persons.

The term "*discriminatory*" under the Constitution is defined in Article 149 (2) (2001 amendment) and refers to different treatment on the basis of "*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 such description are not made subject or are accorded privileges or advantages which are not afforded to other persons of the same or another such description.*"

Legislative Protections

83. The 1997 Prevention of Discrimination Act, Cap 98:08, precedes the constitutional amendments of 1999-2001, and, specifically article 149. It protects persons from discrimination by the State in employment, training, recruitment, membership of professional bodies. It also requires men and women to receive equal pay for equal work. Section 4 (2) (a) of this Act also establishes being part of the "*indigenous population*" as a prohibited "*ground of discrimination.*" It is unlawful to discriminate against persons on the grounds listed in section 4 (2) of the Prevention of Discrimination Act in relation to "*recruitment, selection or employment or any other person for purposes of training, apprenticeship or employment...*"

84. The Prevention of Discrimination Act is listed for review on the GoG' legislative agenda in the Twelfth Parliament with regards to additional considerations of discrimination in employment, including those based on sexual orientation/identity.

85. Additionally, the Termination of Employment and Severance Pay Act, Cap 96:01, (TESPA), (1997) Section 8 (1) stipulates that a person shall not be dismissed for, among other things, their "*race, sex, religion, colour, ethnic origin, national extraction, social origin, political opinion, family responsibility, or marital status...*"

86. The Person with Disabilities Act, Cap 36:05, 2010 seeks to provide for the welfare, integration and rehabilitation of person with disabilities and eliminates discrimination based on disability. The Disabilities Act also mandates the establishment of the National Commission on Disabilities, which works full time to achieve the above-mentioned goals. The Commission is appointed by the Cabinet and is presently functioning with representatives of organizations of persons with disabilities.

Addressing ethnic tensions and ethnic insecurities

87. Due to the ethnic diversity of Guyana, no one ethnic group comprises 50% of the population, Guyana therefore is a country made of minorities. The largest ethnic group is Indo-Guyanese, the second largest group is Afro-Guyanese, with a growing mixed population. The fastest growing ethnic group is the indigenous peoples known as Amerindians.

88. Afro-Guyanese population are the most dominant in the public service, the security, education and health sectors; Indo-Guyanese in the agriculture and commercial sectors.

89. Article 149 (2) of the Constitution and section 4 (2) (a) of the Prevention of Discrimination Act proscribe discrimination on the basis of ethnicity.

90. Persons alleging discrimination under any of the legal provisions may seek relief in Guyana's Courts. Most recently, several Regional Executive Officers dismissed in 2020 have challenged their dismissals based on discrimination, among other things. In another case, Senior Superintendent of Police, Calvin Brutus, recently moved to the court alleging that a decision by the Police Service Commission not to promote him was discriminatory.

91. Under the previous administration, the courts were also approached and several such cases have been concluded recently.

92. Section 2 (1) Racial Hostility Act, Cap 23:01, renders hate speech and incitement to racial hostility by any person an offence. Importantly, a person convicted of an offence under this section is, among other, disqualified for election as a member of the National Assembly, for membership of any local government authority, and several other offices. Further, Section 139E of the Representation of the People Act, Cap 1:03, enjoins political parties from taking any action which results or can result in racial or ethnic violence or hatred. These laws were enacted after periods of violence to signal Guyana's abhorrence of racism, racial hostility and inciting racial violence and to provide serious penalties for such actions.

93. In July 2015, 1,972 young Amerindian Community Support Officers (CSOs) from approximately 187 Amerindian communities and villages who were employed under the Youth Entrepreneurship and Apprenticeship Programme (YEAP) were terminated without reason or warrant. This action had an immediate effect on an estimated 12,000 Amerindian people who were both directly and indirectly benefiting from the income generated through the programme and the CSOs.

94. Further, in 2016–2017 the previous Government administration made a series of decisions to close a total of three sugar-cane estates (Wales, Rosehall, Skeldon) directly affecting 7000 estate workers, rendering them jobless, and without income or any alternative income generation means. These 7000 estate workers, from along the coastal plains of Guyana were predominantly Indo-Guyanese, and consequently, perceived to be supporters of the PPP/C, the then Parliamentary Opposition.

95. While 7000 workers suffered directly from the closure of the estates,¹³ this impacted on the very fabric of large numbers of rural communities and local businesses as well as the manufacturing sector, while reducing foreign currency earnings. It is estimated that one quarter of the population was affected.

96. The ILO study on the impact of the closure of the sugar estates was released in 2021.¹⁴ The study found that the livelihoods of sugar workers who were laid off were severely compromised. Notably, many of those affected workers shared the concern that they were too advanced in age to be considered by new employers given their limited ability to apply their skills outside of GUYSUCO. This was further evidenced by the fact that many of the laid off workers were still unemployed at the time of the study, nearly four years after the closure of the estates.

97. This decision was taken in spite of advice of a Presidential appointed Commission of Inquiry into the Sugar industry in 2015 that found the "*closure of these estates would have catastrophic consequences for the country...as it was a foreign currency earner and provided jobs and supported many businesses across the country.*"¹⁵

98. The GoG, within its first year in office, has made efforts to restore the functionality of two of three sugar estates and over 600 workers have been re-employed in the first few months of this year. The GoG continues to work towards restoring the sugar industry, in the

¹³ No severance payments in violation of the TESPA were provided until 2018.

¹⁴ ILO (2021) Study of the Socio-economic Impact of the Closure of the GUYSUCO Sugar Estates on Sugar Workers in Guyana.

¹⁵ The COI into the GUYSUCO, Volumes 1, 11 and 111.

interest of maintaining economic diversity and ensuring that all Guyanese are actively employed and have stable income generation means.

99. Further, at the inception of the previous administration's tenure, reports of thousands of senior public servants being terminated without warrant were noted. Sixty-eight female high-ranking public servants were terminated based on ethnicity or suspected political affiliation, the majority were Indo-Guyanese. This widespread termination of government officials was vindictive and discriminatory. This led to the loss of institutional, technical and institutional knowledge.

100. Instances of discrimination in the period 2015-2020 were also noted in the selection of applicants for government sponsored scholarships. Regrettably, during this time, scholarships were not awarded to a diverse group of students, and even political personalities and government Ministers were awarded the most expensive scholarships.

101. The current GoG has removed these barriers and have created equal opportunities for all Guyanese to access scholarships through the Guyana Online Academy of Learning (GOAL), which is expected to award a total of 20,000 scholarships in five years, and has already enrolled 6000 students from across the ten administrative regions of Guyana.¹⁶ The GoG has expended resources to ensure that these scholarships were and are accessible to all Guyanese, reaching even the most remote Amerindian Villages and equipping them with ICT hubs to ensure that every Guyanese has equal affordable access to quality education.

102. The GoG further informs the committee with much regret that between 2015 and 2020, discrimination also permeated the procurement mechanisms in government agencies. Contractors were disenfranchised because of their ethnicity and perceived political affiliation.

103. Government procurement has been opened again in keeping with the Procurement Act and there is open competitive bidding. This has created a more transparent system and contributes to building more confidence in the procurement process. As a result, greater opportunities have opened for up job creation.

104. The GoG is promoting "One Guyana" as its underlying philosophy in its policies, programmes and national developmental agenda. The broad-based inclusive "One Guyana Commission" headed by the Prime Minister will be established in the near future.

Racial profiling by and racial imbalance in the Guyana Police Force

105. The State Party does not possess empirical data to suggest racial profiling by members of the Guyana Police Force (GPF) in its recruitment. Additionally, all of Guyana's ethnic groups are eligible to join the GPF.

106. The GOG recognises the report of the International Court of Jurists in the 1960s which pointed to the lack of ethnic representation of Indo-Guyanese in the Guyana Police Force (GPF) and agrees that more progress should have been made in achieving greater ethnic diversity in the entire security sector. The percentage of Indo-Guyanese, Amerindians (indigenous) and mixed ethnic groups in the GPF have improved slightly. Greater sensitization of the GPF and the Guyana Defence Force (GDF) regarding cultural and religious practices (Hindus, Muslims, diet) have helped. However, in the last 5 years, there was dissatisfaction amongst both members of the GPF and the GDF due to perceptions of discrimination in promotions.

The Role of the Ethnic Relations Commission

107. Article 212D(d) of the Constitution requires the Ethnic Relations Commission (ERC) to, among other things, provide equality opportunity (Article 212D (a)), promote the elimination of all forms of discrimination (Article 212D (b)), discourage and prohibit the advocacy or promotion of discriminatory practices on the ground of ethnicity (Article 212D

¹⁶ Notably for this first year, there were 7000 applicants and 6000 were awarded GOAL scholarships from all regions of Guyana. This is the first time such opportunities have been provided on such a large scale.

(c)), and investigate complaints of racial discrimination (Article 212D(j)). The Commissioners headed by a Chairperson are assisted by its Secretariat.

108. The members of the ERC are appointed through a two-stage agreed on consensual mechanism in the Parliamentary Standing Committee on Appointments with a 2/3 majority vote in the National Assembly in the first stage with regards to the list of civil society bodies to be consulted for nominations and a simple majority for the names that are sent to the President to appoint. The Chairperson is elected by the appointed members.

Complaints received and investigated by the ERC

109. The ERC reported that it investigated one hundred and sixty-four (164) complaints in 2020. Forty-three (43) of those complaints are still being investigated, while one hundred and seventeen (117) of those complaints were closed. Complaints remain active owing to non-cooperation by the respondents, and the ERC's inability to identify and locate respondents who utilise fake Facebook profiles to make racially offensive statements.

110. The Commission expired on April 21, 2021, and the Parliamentary Standing Committee on Appointments has commenced the process of implementing stage one of the processes. In the interim the Secretariat continues to function with limited authority.

111. In the period 2018 to 2021, there have been many public criticisms in the media by civil society actors and political parties about the ERC and its tardiness in taking action or their silence and inaction regarding racial comments made by Ministers of the Government in the media and in the National Assembly, known politicians and political activists, both on the television and radio programmes, as well as on Facebook, especially where evidence was produced by the complainants formally to the ERC. Leading up and during the 2020 Election campaign and the post-election five month wait for the declarations, the ERC is accused having gone silent in the face of inciting comments and behavior although it was also an accredited Local Election Observer.

112. The Commission has also been accused like the Guyana Elections Commission of bias in the recruitment of staff which does not reflect the diversity of Guyana's population.

113. As a result, Commission's inaction or silent complicity has damaged the public trust in the Commission executing its constitutional mandate.

Stigmatisation, and violence against the LGBTQI Community

114. Guyana's laws do not specifically stipulate sexual orientation or sexual identity as a prohibited ground for discrimination, but the recent Caribbean Court of Justice (CCJ) case of *McEwan et al v. The Attorney General of Guyana* [2018] CCJ 30 (AJ) has clarified that Guyana's non-discrimination laws can be interpreted as, and, in some cases do, in fact offer protection to members of the LGBTQI Community. In that case, laws which were viewed as criminalising 'cross-dressing' were adjudged to have discriminated against transgender women, and were, for that, as well as other reasons, null, and void.

115. The GoG brought the Summary Jurisdiction Offences (Amendment) Bill (No.6 of 2021) which was passed on August 9, 2021 in accordance with the CCJ's decision in *McEwan*. This Act has deleted Section 47(xlvii). By this amendment, the GoG explicitly acknowledged that the law was archaic and inconsistent with the Constitution of Guyana. This is a clear indication of the State Party's intentions for continuous progressive development of human rights through meaningful legislative amendments.

116. The inclusion of sexual orientation, gender identity and gender expression as grounds for non-discrimination in the Constitution is still under consideration as are efforts by the GoG to repeal sections 352 to 354 of the Criminal Law (Offences) Act. As with all complex or controversial matters the GoG will involve national stakeholders.

117. Verbal, physical or sexual violence against all Guyanese, including members of the LGBTQI community constitute criminal offences under the Criminal Law (Offences) Act, Cap 8:01, the Summary Jurisdiction (Offences) Act, Cap 8:02, the Sexual Offences Act 2010, and common-law. The GoG is unable to verify instances of ill-treatment of LGBTQI persons

in police custody and prison, as there have been no formal reports of these instances in recent times to the relevant bodies, the GPF, the rights and services commissions or the courts.

118. Further, the Police Complaints Authority established by the Police Complaints Authority Act, Cap 17:01, is an established mechanism mandated to investigate all allegations of failure by the GPF to adequately handle police reports made by Guyanese inclusive of reports of and/ or discrimination against any citizen, including the LGBTQI community, and reports of abuse, violence and death.

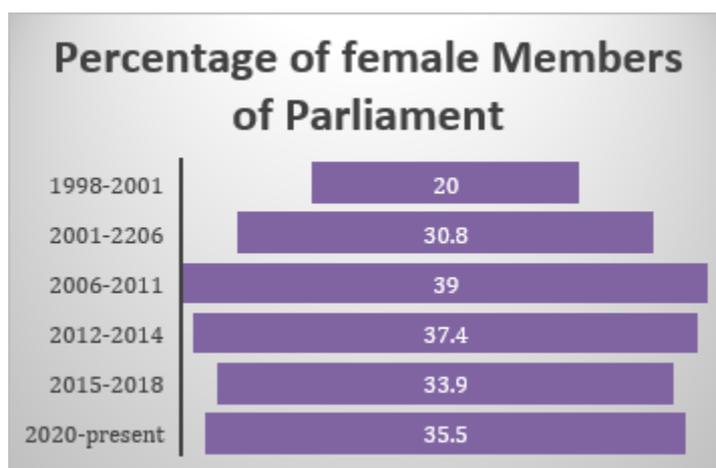
119. LGBTQI rights organisations report that there have not been many cases brought to the PCA by the LGBTQI community.¹⁷ The Society against Sexual Orientation Discrimination (SASOD) the oldest organization, estimated that less than 10 cases were filed with the PCA over the last 10 years. However, investigative mechanisms of the PCA, can be slow which may serve as a disincentive to LGBTQI persons making reports.¹⁸

120. The GPF has made efforts to ensure that officers are properly trained to interact with, and handle cases brought by all vulnerable groups, and as such, partners with civil society to implement training sessions and workshops on gender and sexual diversity. These are on-going.

Gender Equality (Equitable Representation of women in public and political life) Articles 3 and 26

121. Section 11B (5) of the Representation of the People Act, Cap 1:03, (2000 amendment) introduced an eligibility criteria to contest elections; in order for a political party to be eligible to contest General, Regional and Local Government Elections, one-third (1/3) of each party's National Top-up list and one third of the Geographic representatives must be reserved for women. There are no statutory provisions stipulating quotas for the selection of female Members of Parliament, Ministers of Government, or senior government employees. However, according to Parliament Office, no less than 30 per cent women have sat as Members of Parliament since 2001 elections under this amendment. The graph below shows the proportion of female representation in Parliament for the last six sessions, with the highest level of female representation occurring in the 2006–2011 session.

Figure 1: Percentage of female members of parliament by session



122. The 2019 and 2020 Guyana Labour Force Survey (GLFS)¹⁹ reveals the proportion of women holding managerial positions across the workforce; women have advanced to

¹⁷ Trapped; Cycles of Violence and Discrimination Against LGBTQ persons in Guyana (Georgetown University) page 80.

¹⁸ The Police Complaints Authority 2019 Report tabled in the National Assembly on June 10, 2021 contains no complaints by the LGBTQI community.

¹⁹ https://statisticsguyana.gov.gy/wp-content/2020/10/GLFS_Bulletin_2020_First_Quarter.pdf.

managerial positions in almost equal proportion to men. Although there has been some fluctuation over the survey period, the 2020 figure remains at approximately 49%.

123. The GLFS survey also provides recent data on the average monthly labor related income for men and women from 2018 to the first quarter of 2020. For the years 2018 and 2019, there was a noticeable disparity in the average monthly earnings of men and women, with men earning approximately 22% more than women in 2018 and 16% more in 2019. By the first quarter of 2020, however, women were earning slightly more than men for salaried workers. The disparity is much greater and remains prevalent among self-employed persons.

124. In its report to the Second UPR, women in authority positions and high offices as Ministers, Permanent Secretaries, Judges, Magistrates, and heads of Agencies had increased on average to one third. However, in certain occupations women continue to dominate, such as the judiciary and magistracy, legal, teaching, medical and nursing professions.

125. Since the new government assumed office in August 2020, 11 female Permanent Secretaries (PSS) and 9 male Permanent Secretaries have been appointed.

126. The number of female judges and magistrates remain in the majority, with 10 female judges, 16 female magistrates and 2 female land court judges.

127. In the last year, several new initiatives have been introduced by the GoG to further propel women and girls to attain equal economic status with men. This includes the Women's Innovation and Investment Network (WIIN), which is a new programme by the Ministry of Human Services and Social Security (MHSSS) geared towards providing targeted training that is expected to bring about measurable positive changes in the lives of women and girls. Notably, the programme will also include the provision of functional business skills and legislative literacy with awareness training on social issues, and will cover areas in anger management, emotional intelligence, coping mechanisms, as well as information on available support systems.²⁰

128. On August 17, 2021, the MHSSS launched the first women's business incubator under the auspices of President Dr. Irfan Ali that is poised to help thousands of women to start up, sustain and market small businesses. The event also saw the launch of the Ministry's free WIINApp that will link women from across the country, allowing them to promote their businesses and garner support from both local and international markets. The App which will be managed by the women business owners is expected to be available in a few weeks.

129. The GoG is also providing equal opportunities for Guyanese in all 10 Administrative Regions to access technical, post-secondary, and quality tertiary education programmes through the Guyana Online Academy of Learning (GOAL) (see para. 101) programme launched in 2021 and other training programmes. Through GOAL, full scholarships are to be awarded for tertiary programmes from the certificate to the Doctoral level at accredited universities.

Violence against women and domestic violence (Articles 2, 3, 6, 7 and 26)

130. As a signatory to the CEDAW and the Belem do Para Convention, Guyana has enacted several pieces of legislation that provide the political and legal framework for implementation of the provisions of these conventions and treaties. These include the Domestic Violence Act 1996 with Regulations (2015); Prevention of Discrimination Act 1997; Combating of Trafficking in Persons Act 2005; Status of Children Act 2009; The Protection of Children Act 2009; The Child Care Protection Act 2009; The Sexual Offences Act 2010, and the Sexual Offences (Amendment) Act 2013; Criminal Offences Act, and the Criminal Law (Procedure) Act.

131. These Acts make provisions for the establishment of Institutions, Commissions, Committees and Task Forces that coordinate national efforts to sensitize the public through

²⁰ Since its launching 3 months ago, the WIIN programme has received more than 4,000 applicants countrywide with over 500 already trained in Administrative Regions Three, Four and Five, Six.

prevention programmes, and provide integrated, multi-sectoral services to women and children and to survivors of violence and trafficking. These statutes also make provision for the protection of survivors and their dependents via Protection, Occupancy and Tenancy Orders, and provide the legal parameters for instituting penalties for perpetrators of violence.

132. Rape and sexual abuse of children and women are specifically criminalized under the Sexual Offences Act. Section 37 also clearly provides that marriage or any other relationship is no defense to any of the charges under the Act.

133. Domestic violence in Guyana is specifically addressed by the Domestic Violence Act, Cap 11:09. Conduct which constitutes domestic violence, including assault and battery, is also criminal offences, under separate statutes. Under this Act, courts are vested with powers to grant protection orders, which victims may obtain without the need of an attorney. Police officers are also granted powers of arrest where domestic violence is proven to have occurred.

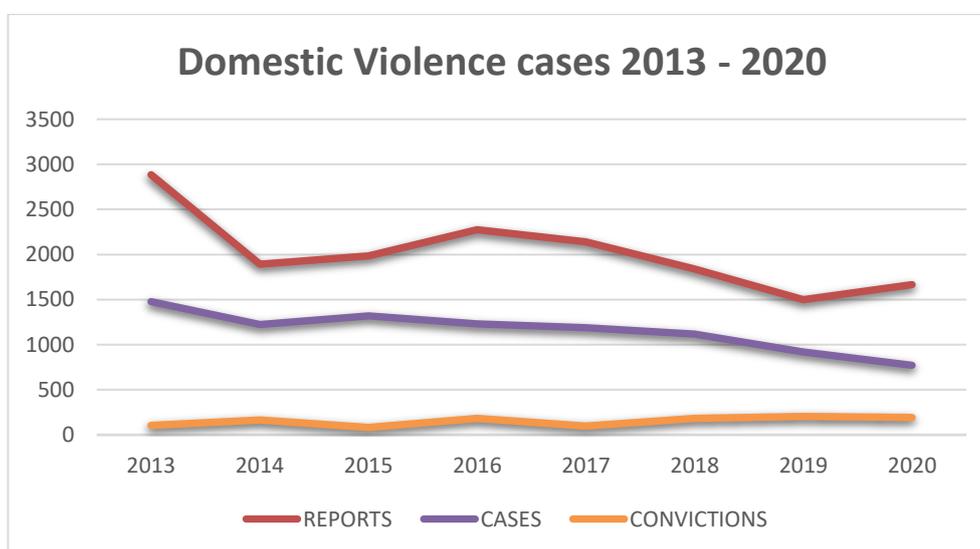
134. The incidence of domestic violence remains significant despite the extensive legislative, policy and administrative framework and awareness programmes.

135. The UN Women, UNDP, IDB, USAID, in collaboration with the Global Women's Institute of George Washington University and the University of Guyana, conducted the Guyana Women's Health and Life Experiences Survey (WHLES) through the Guyana Bureau of Statistics to better understand the magnitude of and women's experiences with GBV in all regions of Guyana.

136. This 2019 national survey revealed that more than half (55%) of all women experienced at least one form of violence. One (1) in every two (2) women in Guyana has or will experience Intimate Partner Violence (IPV) in their lifetime. More than one in ten has experienced physical and/or sexual violence from a male partner in the past 12 months.

137. Figure 2 reveals that there is a significantly low conviction rate for such cases. This was also reported by Guyana in its report to the 2nd UPR in 2015.

Figure 2: GPF Domestic Violence cases 2013–2020



138. According to data from the Ministry of Home Affairs, there were 14,236 reported cases of domestic violence with 13,543 perpetrators being charged for the period 2013 to 2019. In 2020 there were 1,662 domestic violence reports and investigations led to 894 persons being charged and placed before the courts. For January to June 2021, there were 896 reports of domestic violence compared to 2020 with 733 reports. For the period 2013 to 2017, there were 528 reported cases of sexual violence and 516 perpetrators being charged.

139. The University of Guyana, the Guyana Press Association, the Chancellor of the Judiciary, and UNICEF on March 20, 2020, launched Guyana Media Guidelines for reporting

interpersonal violence to encourage more responsible and sensitive reporting on domestic and sexual violence.

140. The focus on reducing domestic violence in the last quarter of 2020 and 2021 has been given new impetus with a series of initiatives.

141. The introduction of the “Spotlight Initiative” through the UN Office in Guyana with EU funding has given a significant impetus to the campaign to address domestic and sexual violence. This is being spearheaded by the Minister of Human Services and Social Security and the UN Resident Coordinator co-chairing a broad-based Steering Committee with representation from Ministries, Civil Society and UN agencies which manages the programme.

142. The MHSSS launched its 914 domestic violence emergency hotline, and in July included Spanish interpreters to facilitate Venezuelans and other Spanish speaking migrants in Guyana to make reports

143. On June 4, 2021, Cabinet appointed the members of the National Task Force on Sexual Violence²¹ in keeping with the Sexual Offences Act. This body is chaired by the Minister responsible for Human Services and Social Security, (MHSSS).

144. On August 24, 2021, to intensify the efforts to reduce the level of DV and to demonstrate the seriousness and urgency this requires, the Minister of HSSS in partnership with the Minister of Home Affairs and the Commissioner of Police, Guyana Police Force launched an initiative called COPSQUAD2000 where 2,000 officers will be trained before the end of this year. This initiative will have at least one officer at every police station across the country who will receive specialized training on how to address issues of domestic violence. Notably, the United Nations Population Fund (UNFPA) is also playing an integral role in the training.

Other regulatory and service provisions currently being implemented include the following:

145. Protocols for Social Workers, Medical Practitioners, Police Officers and Prosecutors have been developed and training is ongoing. UNICEF has provided tremendous support to the Ministry of Human Services and Social Security in the development of Standards for Professional Social Work Practice.

146. A newly drafted Combatting Trafficking in Persons Bill (replacing the 1997 Act of the same name) will be sent to the National Assembly before year end.

147. The National Plan of Action for the Prevention of Sexual Violence (targeting 4 pillars: prevention, protection, prosecution & participation) is being drafted²² and will be reviewed and implemented by the newly appointed National Task Force on Sexual Violence.

148. A National Plan of Action for the implementation of the Domestic Violence Act is also in draft.

149. Three Sexual Offences Courts (High Court), have been established and are in full operation. Ongoing psycho-social support is available to survivors of violence pre-trial, during trial and post-trial.

150. Generally, victim/survivor support services are available to all Guyanese regardless of ethnicity, nationality, social class, sexual orientation, economic background, and status of relationships. Services can range from social assistance programmes to justice and policing, health care, legal aid, and, temporary accommodation. In respect of the latter, only female victims of gender-based violence and their dependents have been provided with temporary accommodation.²³

²¹ This body did not function between 2016 and 2020.

²² With the support of UNICEF and the UNFPA.

²³ The Ministry provides a temporary arrangement for male victims.

151. Currently, two such temporary shelters are available to female victims of domestic violence. One is fully owned and operated by the GoG and the other is operated by a non-governmental organization²⁴ and fully subsidized by the Government.

152. Despite the data showing that more females than males were victims of domestic and sexual violence; and more males than females as perpetrators, the number of perpetrators of violence against children is largely female.

Other areas of support for survivors include:

153. GoG support includes:

- Provision of job aid/capacity building and skills training via the Board of Industrial Training (BIT), Guyana Women's Leadership Institute (GWLI), the Central Recruitment and Manpower Agency (CRMA) and Residential Care Services at the Hugo Chavez Rehabilitation and Reintegration Programme;
- Financial assistance through the Public Assistance and Difficult Circumstances Programmes;
- Clinical Intervention;
- Subsidized Legal Aid Services;
- Search and Rescue Services for Trafficking in Person (TIP) victims;
- Ongoing psycho-social support is available to survivors of violence post-trials;
- Inter-agency collaboration in continuing education, entrepreneurship, and victims' advocacy support.

Steps taken to encourage reporting violence against women

154. The provision which allows women to obtain protection and other orders without the aid of an attorney-at-law or police officer was intended to encourage increased reporting, and relief under the Domestic Violence Act.

155. The establishment of a Family Court with greater privacy for victims of domestic and sexual violence, including the use of giving evidence via video conferencing has created a safer environment for victims, especially children.

156. In addition, Guyana has adopted the procedure of paper committals and specialised courts for sexual offences. These steps were affected to expedite the process of criminal trials of persons accused of sexual violence, minimise or eliminate the re-victimisation of victims, and encourage reporting. These initiatives serve to increase access to justice and reduce the backlog of such cases.

Intimate partner violence by police officers

157. The GoG has not been collecting data on the number of cases of intimate partner violence perpetrated by police officers, however, several former police and police have been charged and found guilty of sexual offences in recent years.

Voluntary Termination of Pregnancy (Articles 6, 7, and 8)

158. The Medical Termination of Pregnancy Act, Cap 32:05, provides women in Guyana with the right to choose and to lawfully terminate their pregnancies, and provides for matters related to the termination of pregnancies.

159. Currently, safe medical abortions are carried out by various public and private medical facilities, all of which are accessible to most Guyanese women who wish those services. Medical terminations of pregnancies (oral and surgical) can be accessed at the Georgetown Public Hospital Corporation (GPHC) and at Regional Hospitals across the ten administrative

²⁴ Several other centers managed by NGOs are also assisted by the GoG.

regions in Guyana. These services are not offered at primary health care centers. This is in keeping with the State Party's commitment to ensuring that persons accessing termination of pregnancy services, are offered safe, proper, holistic postoperative care and counseled on the use of prevention of pregnancy options such as birth control.

Right to life (Article 6)

160. Since 1997, there have been no executions of persons sentenced to death. The Criminal Law Offences (Amendment) Act 21 of 2010 removed the mandatory death penalty for persons convicted of murders and made provisions for life imprisonment and imprisonment with the possibility of parole. The death penalty was retained only in limited cases such as murder of a police officer on duty, a judicial officer or treason. Section 100(1)(a)–(e) as amended, stated that a sentence of death may only be imposed where a person is convicted for the murder of a member of the security forces, a prison officer, a judicial officer acting in execution of his duties, or where the murder is directly attributable to a person's status either as a witness of party in a pending or concluded criminal or civil case. Moreover, the aforementioned section confirms that the arbiter of law in relevant cases has the option to impose a sentence of imprisonment for life rather than impose a death sentence.

161. Notwithstanding the legality of the death sentence in limited circumstances, in reality, the courts loath the imposition of such a sentence²⁵ and the state has been even less willing to carry out executions.

162. In the circumstances, the GoG stated in its response to the Recommendations of the UNHRC on the Third UPR State Party Report in September 2020 that it noted and would consider the recommendations on the abolition of the death penalty and those on acceding to the Second Optional Protocol to the ICCPR.

163. The GoG has committed to broad-based and expansive electoral reform and constitutional reform during its tenure.

Police extrajudicial killings

164. The GoG, including the Disciplined Services, strictly prohibits extra-judicial killings.

165. Regarding the specific reference to the 2002–2008 crime wave, this was the most violent crime wave in Guyana's history where over a hundred innocent people including two massacres involving innocent children and a Minister of Government and his family, and 29 policemen on duty were killed as well as members of the criminal gangs who died in violent confrontations with the police, or, in what appeared to have been conflicts between gang members.

166. Allegations by the then Opposition party, the People's National Congress that over 400 Afro-Guyanese had been killed in extra-judicial killings were debunked and exposed to be untrue by one of the largest media houses, Stabroek News, which did a comprehensive full-fledged investigative report in 2019. The then President, former Leader of the Opposition, who had made these claims with other leaders of his party, did pursue establishing the Commission of Inquiry he had promised in the same year.

167. With reference to the List of Issues, right to life, there have been no reports or accusations in the last 6 years of extra-judicial killings.

168. In respect to the duty to carry out an effective official investigation when individuals have been killed or have disappeared, coroners²⁶ and magistrates hold inquests into deaths which occur under suspicious circumstances.

169. As a result of the crime wave, the Constitution was amended by Act No. 5 of 2009, which provided for the establishment of a new Parliamentary Standing Committee to

²⁵ 2010–2015, 15 prisoners with death sentences were exonerated or had their sentences commuted to life imprisonment and imprisonment for 20 years with parole.

²⁶ Coroners' Act amended in 2016.

Oversight the Security Sector.²⁷ This Committee has the responsibility for examining the policies and administration of the entities in the Security Sector, play a significant role in scrutinizing the Disciplined Forces with reference to compliance with Guyana's treaty obligations on human rights. This body may make recommendations for changes in law and or policy to the National Assembly.

170. This body functioned in the 9th Parliament but did not function in the 10th and 11th Parliaments. In the 12th Parliament, 2020–2025, the Committee has been appointed and is expected to commence functioning in October 2021.

Prevention and Mitigation of Climate Change

171. Guyana is a low-lying country endowed with enormous natural resources and agricultural wealth. Over 85 percent of the land is still forested with one of the lowest levels of deforestation of 0.06 percent and only 2.37 percent of the land is cultivated, as highlighted in the FAO Global Forest Resources Assessment 2020.

172. The Government recognizes the right to dispose of the natural wealth and resources without prejudice to international law obligations. Article 149 J (2) of the constitution enacts that the state shall protect the environment for the benefit of the generations, through reasonable legislative and other measures designed to prevent pollution and ecological degradation; promote conservation and secure sustainable development and use of natural resources while promoting justifiable economic and social development. Article 36 enacts that the well-being of the nation depends on preserving clean air, fertile soils, pure water and the rich diversity of plants, animals, and, eco-systems. Article 149 J (1) enacts that everyone has the right to an environment that is not harmful to his or her health or well-being

173. In respect to the right to life and climate change, it is submitted that Guyana is committed to the 2030 Sustainable Development Goals and to mitigate the effects of climate change. This commitment can be traced to former President Jagdeo's address to the 17th session of the UN Commission on Sustainable Development.

174. In addition to the constitutional provisions, Guyana has enacted legislative and administrative measures to preserve its environment and protect its people's livelihood and quality of life. Legislation relating to the environment, forestry, mining, and fishing, ensures that Guyana's natural resources are not plundered but managed in a sustainable manner. Due to its "best practice" of its rainforests, Guyana launched its Avoided Deforestation Policy in June 2008 highlighting the role of forests in controlling climate change and calling for incentives to reward countries who have not damaged their forests and to promote avoided deforestation as an environmental service.

175. In July 2009 reaching a new stage of national development policy, then President Bharrat Jagdeo launched the Low Carbon Development Strategy (LCDS), Guyana's unique model of a national development agenda that was people-centred and environmentally sensitive, aimed at preserving the rainforests of Guyana. The LCDS was subjected to intense scrutiny by the 134 Amerindian communities and national stakeholders over a two-year period which included its adoption in the National Assembly in the 9th Parliament. The strategy set out a platform for partnership in implementing the strategy that would not only benefit Guyana but the rest of the world.

176. President Jagdeo in 2009 *"the world is running out of time as the average global temperatures are rising too fast and our planet is on a trajectory towards human catastrophe of a scale never seen before."*

177. Guyana's Second UPR report in 2015, stated *"the Guyana-Norway partnership is the second largest interim REDD+ partnership in the world and the first national scale model. Under this partnership, Guyana is targeted to earn up to US\$ 250 million for its forest climate services.... These funds are being channelled through the Guyana REDD+ Investment Fund (GRIF)..A significant portion of the funds disbursed have gone to*

²⁷ The constitution also provides for the National Assembly to establish Disciplined Forces commissions 'from time to time, as may be necessary'. The recommendations of the 2004 Commission of Enquiry Report into the Disciplined Forces were approved by the National Assembly.

interventions that focus on the indigenous population; the US\$ 8.2M Amerindian Development Fund project provides funding to enhance the socio-economic development of Amerindian communities and US\$ 10.8 M is allocated to funding the Amerindian Land Titling Project.”

178. The GoG has also strategically repositioned regional agriculture to include the establishment of an Agricultural Modernization Fund, improved land policy and administration, expanded research, and developed physical infrastructure – especially in drainage and irrigation, sea and river defences, disaster preparedness programmes specific to agriculture – and the regional coordination of marketing activities to enhance trade in agriculture.

179. Regrettably, when the government changed in May 2015 the LCDS was abandoned, the funds for the Amerindian Land Titling were parked and no land titles were issued to pending and new community applications, whilst the agreement with Norway also stalled.

180. The present GoG will be updating the LCDS in a new round of broad-based consultations and involvement with the Amerindian communities in its term of office and is re-opening discussions with Norway.

181. As a signatory to the Paris Agreement Guyana has committed to action, having regard to the principle of common but differentiated responsibilities, to reduce Greenhouse Gas emissions, and combat climate change.

182. The Office on Climate Change is strategically positioned in the Office of the President.

183. Guyana has taken several actions to demonstrate its commitment to protecting the environment and preventing and mitigating climate change, including enacting the Environmental Protection Act, Cap 20:05, which provides for the management, conservation, protection and improvement of Guyana’s environment. The Environmental Protection Act also seeks to control or prevent pollution, assesses the impact of economic development, and manages the sustainable use of natural resources. The Environmental Protection Act, among other things, establishes an Environmental Protection Agency which is empowered to issue first development consent for all matters related to the environment. The EPA is an agency that falls within the Office of the President.

184. The Office of Investment (GO-INVEST) provides information and facilities on investment in all areas of Guyana, including natural resource development and exploitation such as mining, forestry and energy (hydropower and oil extraction). All the natural resources investments must meet the sector requirements (Guyana Geology and Mines Commission, Guyana Forestry Commission, Guyana Lands and Surveys Commission, and Guyana Energy Agency) as well as national environmental requirements. An individual or organisation involved in a project or activity that has the potential to significantly impact on the environment must apply to the Environmental Protection Agency (EPA) for an environmental permit, upon the completion of an environmental management plan or environmental impact assessment.

Extractive Industries Transparency Initiative (EITI)

185. In 2017, Guyana joined the Extractive Industries Transparency Initiative (EITI), which saw the establishment of the Guyana Extractive Industries Transparency Initiative (GYEITI). This move was aimed at improving transparency in all of Guyana’s extractive industries. In 2019, GYEITI published its first report which addresses Guyana’s 2017 financial year. The report contains a plethora of information regarding the agreements between the State and private entities involved in resource extraction, as well as figures on resource extraction.²⁸

²⁸ EITI Report – published in 2019
<https://eiti.org/files/documents/gyeitireport-fy2017-1-128.pdf>.

Forestry

186. The forest in Guyana has been making a huge contribution to fight against climate change. It is estimated that Guyana's forest produces about US\$54B ecosystem services to the world.

187. The EPA requires an Environmental and Social Impact Assessment (SEIA) before authorisation can be issued for any large-scale concession logging projects. This ESIA must comply with the statutory requirements, including but not limited to, steps to address social impacts, environmental degradation, and climate change such as the use of RIL, designation of biodiversity reserves, among others.

Ocean acidification and sea-level rise

188. Concerns associated with the rise in sea and river levels and ocean acidification are addressed through the management of GHG emissions through sustainable planning, development and regulating of oil and gas operations with the adoption of robust operating standards and technical requirements, particularly related to discharges and emissions.

189. As a low-lying country, the GoG is investing in major physical infrastructural works in drainage and irrigation, sea and river defenses over the next 4 years in anticipation of worsening weather patterns.

190. The recent floods (May–July 2021), considered the worst experienced, affected all 10 Administrative Regions, directly flooded over 53,000 homesteads, damaged large tracts of agricultural lands, including small subsistence farms in the Amerindian Communities and thousands of livestock.

191. Further, the EPA's Coastal and Marine Management Committee (CCMC) is an interagency committee, established in 2020 and chaired by the EPA, which is tasked with integrated coastal zone management. This includes efforts to restore, protect and conserve mangroves, as well as to improve coastal defenses considering the rising sea levels because of climate change.

192. Mangroves cover a total of 22,632.4 hectares and sequester 0.09gt estimated aboveground carbon which is equivalent to 0.257 gigatons of CO₂.

Gold Mining

193. Recognising the need to balance the benefits of gold mining to Guyana's economy with the impact it has on the environment, the GoG has taken the step to require additional conditions before approving mining projects. All mining operations are monitored by Guyana Geology and Mining Commission, the Forestry Commission, and the Ministry of Labour.

Oil and Gas

194. In 2010, the United States Geological Survey (USGS) identified the Guyana-Suriname basin as having the second highest resource potential after Greenland among unexplored oil basins in the world. The USGS estimated mean recoverable oil reserves of 15.2 billion barrels and gas reserves of 42 trillion cubic feet. Their assessment has not proven wrong as both countries discovered oil in 2015.

195. As Guyana embarks on its newest journey as an oil-producing State, the GoG recognizes there is the urgent need to ensure that oil and gas development is reconciled with Guyana's obligations under international law to control GHG emissions, to ensure sustainable development for its people and to mitigate environmental degradation.

196. Guyana's Vice President Dr. Jagdeo presented on "Guyana: An Emerging Oil Industry in the Context of Net Zero Emission" during an executive dialogue presentation at the Offshore Technology Conference, on August 22, 2021 in Houston, Texas. He defended Guyana's right to develop its oil and gas industry, even as it remains an advocate of lower carbon emissions. The former President, one of the Champions of the Earth, pointed out that even with Exxon Mobil's oil and gas productions, Guyana will remain a net-zero global carbon emitter, and will continue to have a position as a strong advocate in the reduction of carbon emissions.

197. Thus, Guyana as a net-zero emitter, holds the view that it can develop this industry in a major way while maintaining its environmental credentials and advocating globally for a decarbonised world. The GoG supports removing subsidies on exploration and support a carbon pricing that is critical to send signals to the industry to invest in renewables.

198. The GoG affirms that Guyana will continue to pursue a rigid, strong LCDS, develop the oil and gas industry in a manner and put in place regulations for the industry to develop in a safe manner, introduce cutting edge low carbon strategy and ensure it brings benefit to the Guyanese people.

199. Whilst there has been much public dissatisfaction with the 2016 GoG oil production licence with ExxonMobil Guyana,²⁹ and there is suspicion of corruption, there is no verifiable evidence of such in the granting of the license.

Conduct of EIAs and Access to Information

Amerindian and Fishery Department Communities and Individuals living in poverty

200. The GoG considers public participation and engagement as integral to executing its mandate and functions in accordance with article 13 of the Constitution.

201. Oil companies are required to conduct public consultations to both inform the public about oil extraction projects and to understand stakeholder concerns so that these can be incorporated into the environmental impact assessment (EIA). The EIA must address these concerns adequately before the project can be approved. A second round of public consultations is conducted after the EIA submittal whereby the content of the document is discussed with the Public for the purpose of further clarification and feedback. In its review of the document, the EPA³⁰ takes note of the mitigation measures proposed and determines whether those actions adequately address the concerns raised during consultations with affected groups including Amerindian and fishing communities. The EPA also has strict compensatory requirements for any pollution incidents which may occur and has also requested Parent Company Guarantees for all oil companies operating offshore Guyana.

Development of Standards

202. The EPA is empowered by its legislation to formulate standards for the improvement and maintenance of the quality of the environment and limits on the releases and emissions of contaminants into the environment.

203. In 2021, steps have also been taken to further regularize Permit Conditions for petroleum operations. For instance, in recognition of the Liza 1 Development Project flaring above pilot flare levels due to technical issues offshore Guyana, the EPA has modified the Permit for the project to include requests for permission to do so and the reasons for such and payments for CO₂ equivalent emissions because of excessive flaring. Moreover, the EPA established a Fines Framework for Flaring under the subsequent project, i.e., the Payara Development Project.

Review of the Environmental Protection Act and Regulations

204. The Ministries of Natural Resources and Legal Affairs with the EPA have been working closely with the World Bank toward the preparation of a strategic work plan which would foster growth and development of the EPA's technical and legal framework for regulating Guyana's newest sector. This will also include legislation on the discharge of pollutants in the marine environment, regulating safety zones and anchorage zones, and financial assurances for pollution liability for petroleum activities offshore Guyana.

²⁹ The government denied its existence for over a year.

³⁰ www.epa.gov.gy.

Prohibition of torture and other cruel and inhumane or degrading treatment or punishment (Article 7)

205. By ratifying the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and by including both in its Constitution, the Government of Guyana has signalled the seriousness with which it treats the issue of torture and human rights. Further, Article 141 (1) of the Constitution provides an absolute right to protection from such treatment by the State. Owing to its incorporation of the Convention Against Torture, “torture” in Guyana takes the meaning stated at Article 1 of that Convention.

206. Article 141 of the Constitution prohibits torture and inhumane or degrading treatment or punishment. Guyana has administrative and judicial mechanisms to address breaches of this right that occur horizontally (person vs person) and vertically (state vs. person).

207. Existing statutes which may constitute torture and inhuman treatment include the Criminal Law (Offences) Act, the Summary Jurisdiction (offences) Act, the Sexual Offences Act and the Combatting Trafficking in Persons Act.

208. No statement made under the pressure of torture may be invoked as evidence in proceedings before the courts. Section 4 of the Evidence Act Chapter 5:03 enacts that subject to this Act and any other written law in force, the rules and principles of the common law relating to evidence shall as far as they are applicable to the circumstances in Guyana be enforced.

209. The Judges Rules (common law) set out the guidelines for police questioning and the acceptability of the resulting statements and confessions as evidence in the court of law and clearly states that confession statements received under duress are inadmissible.

210. Under the Constitution, anyone accused of torture can be prosecuted and the aggrieved party can seek redress in the High Court with the right of appeal to the Court of Appeal and further appeal to its apex court, the Caribbean Court of Justice.

211. During the reporting period, there have been 3 cases of torture of persons in pre-trial detention which have led to Boards of Inquiry, complaints to the Police Complaints Authority and to criminal charges being laid against the accused officers.

212. Regarding compensation for victims of police excess and torture, the High Court Judge on June 27, 2011, in arriving at its decision, made extensive use of Article 154A of the Constitution, which allows it to rely on international Human Rights treaties to which Guyana has acceded to expand the rights to which citizens are entitled. To this end, the court relied on the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, and the Convention Against Torture and “exemplary damages for breach of constitutional rights” and “compensatory damages” to award monetary compensation for Twyon Thomas, the victim.³¹

213. Although there were no claims for damages in the instant case, the court awarded compensatory damages of \$4,500,000 for violations of article 139 (protection from arbitrary detention) and article 141 (protection against torture, cruel, inhumane, and degrading treatment, or punishment). Exemplary damages of \$2,000,000 were also awarded ‘to reflect the sense of public outrage, to emphasize the importance of the constitutional rights and the gravity of the breach, and to deter further breaches.’³²

214. In November 2013, Colwyn Harding was detained at the Timehri Police Station on the allegation that he had assaulted a police rank and had resisted arrest. Harding alleged that while he was in police custody, officers pushed a condom-covered baton into his anus, causing him to suffer internal injuries.

³¹ Twyon Thomas, a 14yrs old, was arrested on 27th October 2009 and taken to Wales Police Station, then to La Grange Police Station. He was later transferred to Leonora Police Station, where he was beaten and had his genitalia burned. On October 28, 2009, he was transferred to Vreed-en-hoop Police Station, but was not taken to a hospital until October 31st, 2009. Legal proceedings commenced on April 3, 2010 and concluded on June 17, 2011.

³² Justice Roxanne George, Twyon Thomas v AG and others (2011) High Court of Guyana.

215. On June 3rd, 2014, two constables were charged with assaulting Harding “so as to cause him actual bodily harm.”

216. In March 2016 the case against them was dismissed due to insufficient evidence at the Magistrates court. In February 2021 the High Court dismissed the \$80M lawsuit that Colwyn Harding had filed against the State after his attorney failed to attend the court hearing.

217. In July 2018, Jameek Hakim, a 19-year-old vendor, alleged that he was tortured during an interrogation into an alleged larceny. Hakim contended that he was arrested at his home and transported to the Whim Police Station, where he was reportedly put to kneel on the floor, trashed with an electric wire, kicked about his body.

218. An investigation was launched into the matter; however, no formal legal proceedings have been commenced.

219. As pointed out in Guyana’s 2010 UPR report, there are several mechanisms available to victims and oversight bodies to address allegations/reports of torture and mistreatment of citizens, as well as those who are detained in police lockups or prisons. In two of the three above-mentioned cases these mechanisms were used.

220. A special constitutional court reported on in Guyana’s 2nd UPR report is relatively new, effective and efficient additions to enhance access to justice and human rights. The victim or complainant/relatives can apply to the courts on a constitutional motion; the victim/relatives can take their complaint to the OHCHR under the ICCPR or the OAS IACHR.

Treatment of Persons Deprived of Liberty (Article 10)

221. One of the challenges Guyana faces with regards to its prison population is an overcrowding rate of 142.4%.³³ The official capacity is 1,323 (2020) with a prison population rate of 239/100,000.

222. One of the main contributory factors for prison overcrowding has been found to be the overuse of pre-trial detention making up 40% of the prison population.

223. Major improvements to Guyana’s administration of justice have been evolving through loan support from the IDB from 2006 to the present. The 2016 loan of US\$8 Million project, under the Criminal Justice System (SCJS) Programme, seeks to address overcrowding in prisons by reducing the use of pre-trial detentions, lengthy periods for trials and court delays and increasing the use of alternative sentencing, among other measures. The programme is designed to complement a previously approved citizen security programme targeting high crime neighborhoods.

224. During the mid-year review of the SCJS, August 25, 2021, Attorney General and Minister of Legal Affairs, Mohabir Anil Nandlall, stated that “*There are certain initiatives that are coming out of this project that are going to be transformational...(which) will permanently change the landscape of our legal sector.*”

225. The review noted that there was some headway in accomplishing the objectives of encouraging alternative sentencing although reducing the use of pretrial detention (remand) still seems to be an uphill task.

226. Among the achievements is the establishment of a legal aid clinic in January 2020 for pre-trial prisoners. The first first-ever integrated case management system was also implemented. This includes mapping of and training of organizations providing services related to legal aid services.

227. Some 140 persons were also trained as certified restorative justice practitioners and another 50 senior justice practitioners trained in leadership development. Meanwhile, work is ongoing to develop a cadre of specially trained probation officers.

228. Another key deliverable of the SCJS project is the strengthening of the newly appointed Law Reform Commission.

³³ <https://prisonstudies.org/country/guyana>.

229. A Restorative Justice Bill has been drafted and is under review and standards, guidelines and rules of procedure for the implementation of restorative justice in Guyana have been developed.

230. Recognising that a major factor contributing to the overcrowding in prison in Guyana is the flawed nature of the country's bail system, under the SCJS, a Bail Bill has been drafted which will ensure greater consistency in the granting of bail,³⁴ with specific guidelines for Magistrates and Judges when granting bail.

231. Two other alternatives to imprisonment are (i) probation where convicted have the opportunity to make amends and rehabilitate while remaining in their communities and (ii) the introduction of structured community service in Guyana, are under consideration.

232. As a result of Covid-19 and concern that the ongoing pandemic might exacerbate the backlog of cases in the judicial system, and, to restore and increase access to justice, the GoG in December 2020 converted retrofitted containers at the Lusignan Prison barracks into 14 courtrooms that are being used to enable virtual hearings of cases. This innovation has accelerated both hearings and trials and has allowed for the effective administration of justice. This new model has also allowed the judiciary to revisit policies of imprisonment and in some cases reduced bail, and, prioritise hearing those cases where the defendants were in custody for long periods.

233. Furthermore, Prison Visiting Committees have been re-appointed for all prison facilities. These Committees are responsible for assessing the welfare of prisoners and officers.

234. The Prison Parole Board was reconstituted in November 2020 to review and approve applications made by inmates for early release from prison. Parole is another means of addressing overcrowding in the prison system.

235. The courts as guardians of the constitution ensure that there is compliance with fundamental rights principles. The Judges in this period have released remand prisoners after undue delays in cases being heard by tardy prosecutors and defense lawyers.

Deaths of persons in places of detention

236. The most significant contributor to deaths of persons in places of detention during the reporting period was prison unrests. The deadliest of these occurred in March 2016, when 17 inmates perished at the Camp Street Prison as a result of a fire that was started by a group of prisoners who were venting their frustration at what they felt was the inordinate length of time they were on remand while awaiting trial. The inmates that perished were all males, most of whom were on remand for serious offences including murder. Following the deadly 2016 fire, a Commission of Inquiry was launched, and the findings were finally made public in 2017. However, many of the recommendations were never implemented.

237. The 2016 Commission of Inquiry into the Camp Street Prison disturbance recommended, inter alia, (1) that the Prison Service should adopt a management philosophy that encompasses modern principles of justice, training, humane conditions, discipline, and the use of force, (2) the implementation of an effective surveillance system within the prisons to record the conduct of both prisoners and prison officers, (3) the completion of a new prison at Lusignan and upgrading of the Mazaruni prison facilities to improve the holding capacity of prisoners under humane conditions, and (4) that rehabilitation programmes in the penal system should be compulsory, linked to external qualifying processes and provide the basis and momentum for enjoyment of a range of incentives.

238. In July 2017 another massive fire occurred at the same facility, which gutted a large portion of the prison; one prison officer was killed, and five high-profile prisoners escaped. This fire forced the relocation of the prisoners housed at the Camp Street facility to temporary facilities constructed at the Lusignan Prison. However, unrest continued at the Lusignan

³⁴ The Criminal Law (Procedures) Act Cap. 10:1 provides for sitting Magistrates to visit prisons to consider bail applications of detainees (remand).

facility in 2017, and in 2020, another riot resulted in the death of two inmates, bringing the total deaths, resulting from prison riots, to 20, i.e., 19 inmates and one prison officer.

239. On April 2, 2019, Shaheed Ali³⁵ was charged with murder and an inmate of Lusignan Prison where he was beaten by several other prisoners. Ali was initially treated at the prison infirmary, but due to the severity of his injuries, he died three days later in hospital. An investigation into the circumstances leading to his death was launched by the Guyana Police Force and the Guyana Prison Service who claimed that the identities of the inmates remained unknown.

240. On April 28, 2019, Samuel Little, a 23 year old inmate on remand, was killed by another inmate in the Lusignan Prison.

241. On June 1, 2020, Lallbachan, a 39 year old taxi driver, was arrested and taken to Suddie Police Station, detained and died whilst in police custody.³⁶ Woman Special Lance Corporal Milo was charged with manslaughter and 2 Detective Corporals Braithwaite and Glasgow were charged with attempting to obstruct justice.

242. Mr. Bachan's widow Samantha Bachan approached the courts for compensation (Samantha Bachan v The Attorney General High Court Proceedings No.2019-HC-DEM-CIV-SOC-344). Before the case commenced being heard, the Cabinet on August 26, 2021, approved the sum of twenty million Guyana dollars (G\$20M) as a full and final settlement of the proceedings along with interest from the date the proceedings were filed, to the wife/Administratrix of the Estate of the deceased who has custody of the minor children.

243. The US State Department's 2018 report on Guyana highlights that in January (2018) police shot and killed 34-year-old Marlon Fredericks, a mentally ill man. Police alleged Fredericks was killed as he attempted to escape custody from the Georgetown City Constabulary by Constabulary Lance Corporal, Gregory Bascom. Bascom was charged with the unlawful killing. The accused was placed on \$800,000 bail and the matter is still ongoing.

Conditions at the Lusignan and Mazaruni Prisons

244. The GoG has taken seriously the observations of the UN Working Group of Experts on People of African Descent which condemned the Lusignan Prison during its visit to Guyana in October 2017. In December 2020, work began on the present buildings to reduce crowding and improve conditions and in early 2021 a contract was signed for the construction of a new facility at the Lusignan Prison.

245. Construction of additional facilities at the Mazaruni Prison is expected to conclude this year. These improvements will further aid in reducing overcrowding and strengthen the rehabilitation and reintegration of offenders.

Liberty and security of the Person (Article 9)

Prohibition of illegal arrests, and investigations

246. Police Standing Orders, the Criminal Law (Procedures) Act, Cap 10:01, the Summary Jurisdiction (Procedures) Act, Cap 10:02, common law, and the Constitution prescribe the various criteria to be met for a lawful arrest to be affected.

247. Sections 50 (1) (a) and (c), 198 (1), (2) and (3) of the Criminal Law (Procedures) Act, and sections 10 (1), 70, and 92 of the Summary Jurisdiction (Procedures) Act stipulates the circumstances in which a person may be arrested without a warrant.

248. Article 139 (3) of the Constitution stipulates that an arrested person must be informed as soon as possible of the reasons for his arrest and must be permitted at his expense to talk to an attorney of his choosing. Additionally, Article 139 (4) of the Constitution states that an

³⁵ <https://www.stabroeknews.com/2019/04/08/news/guyana/murder-accused-who-was-fatally-beaten-in-lusignan-prison-was-victim-of-hit-relatives-say/>.

³⁶ See PCA 2019 report, p. 26.

arrested person must be brought before a court within seventy-two (72) hours of arrest or detention, or an application to the court for further detention without being charged.

249. The use of force by a police officer is governed by Police Standard Operating Procedures. Breach of any of the statutory or Constitutional provisions entitles a person alleging a breach to seek relief in a Court. Such breaches must also be reported to the Police Complaints Authority.

250. The Police Complaints Authority, the Office of Professional Responsibility/Guyana Police Force and the constitutional Police Service Commission provide oversight and regulatory mechanisms against professional misconduct by members of the Guyana Police Force.

251. However, it must be noted that most popular and sometimes the most effective means of exposing such violations is through citizen reporting and use of social media.

252. There are no political prisoners or reports of disappearances by or on behalf of government authorities.

Whether children in conflict with the law are treated in a way that facilitates their reintegration into society

253. The criminal justice system has been revamped since the passage of the Juvenile Justice Act 2018 which also repealed several older statutes regarding juvenile offenders.³⁷ The Act provides for the establishment of facilities for the custody, education, and rehabilitation of juvenile offenders as did previous statutes but changed the age a child can be charged and brought before the court (from 10 years old to 14 years) and emphasizes a restorative approach.

254. It is important to note that a special court has been established to deal with juvenile offenders. Section 3 (a) (i) and (ii) of the Act provides that when performing its function, the juvenile justice system aims to further the well-being of juveniles. The “best interest of the child” as provided for in the Constitution is considered paramount and the system is aimed at encouraging and facilitating meaningful lives for juvenile offenders. As such, an emphasis is placed on rehabilitation, education, and re-integration.

255. Section 3 (b) (i) of the Juvenile Justice Act 2018 provides that the juvenile justice system stipulates that the state should provide specific facilities where juveniles may be detained. Further, while section 3(b) (iii) requires meaningful consequences for juvenile offenders, proportionate to the offence and circumstance. Section 5 recognises “diversion” as the most appropriate and effective way to address juvenile crime. Diversion is defined by the Act as steering a juvenile away from formal court procedures to informal procedures.

256. Children under fourteen (14) years are presumed to be incapable of criminal capacity (section 4 (1)), and any child charged for an offence must be evaluated to ascertain his or her capacity (section 4 (2)). If the evaluation rebuts the presumption of incapacity, the child shall be treated as a juvenile and processed in accordance with the Act. If the presumption is not rebutted, the Court must turn the child over to the Childcare and Protection Agency.

257. If found guilty of an offence, a child or juvenile may not be sentenced to prison (section 41), and the finding of guilt shall not be recorded as a conviction (section 42). Committing a juvenile to custody must be a last resort (section 39 (1)).

258. The Ministry of Home Affairs has established a Juvenile Justice Unit that specifically monitors and intervenes regarding the treatment of children in conflict with the law.

Elimination of slavery, servitude, and trafficking in persons (Articles 2, 7, 8, 24, and 26)

259. Article 40 speaks to the fundamental rights and freedom of the individual.

³⁷ These include the Training School Act, the Wandering Act, etc.

260. Notwithstanding this, Article 140 of the Constitution speaks directly to the protection from slavery, servitude and forced labor and prohibits any person being held in slavery, servitude or forced labour. Article 140 (2) specifically also states that “No person shall be required to perform forced labor”.

261. Although Article 40 of the Constitution speaks to the fundamental rights and freedom of the individual, where it is implied that there is the prohibition of forced labor, Article 140 is the more appropriate provision in this regard and the two provisions should be taken together.

262. The Combating of Trafficking in Persons Act, Cap10:06, criminalizes trafficking in persons. Other Acts also criminalise acts usually associated with trafficking in persons, including kidnapping, rape, and sexual assault. These include the Sexual Offences Act, Kidnapping Act, the Criminal Law (Offences) Act and the Cybercrime Act.

263. In accordance with the C-TIPs Act, a Ministerial Task Force on Trafficking in Persons was appointed on October 9, 2020, and began functioning in December 2020. This multi-agency Task Force oversees and monitors the strict enforcement of this Act and is working on a new draft Plan of Action on Combatting Trafficking in Persons.

264. Persons convicted under the C-TIPs Act are under summary conviction sentenced to three (3) to five (5) years’ imprisonment and under indictment five (5) years to life imprisonment. Convicts may under the Act be ordered to pay restitution to the trafficked person(s). Additional sentencing is provided for under the Act for additional related offences and aggravating circumstances such as cases involving children.³⁸

265. Guyana’s legislation does not require proof of force, fraud, coercion or any other “means” to establish the offence of Trafficking in Persons in relation to children, which includes sexual exploitation. This is expressly provided in Section 3 (2) of the Combating of Trafficking in Persons Act No. 2 of 2005.

266. There is no express provision for labour exploitation cases which result in death, however, Section 8 (1) (d) and (e) of the *Combating of Trafficking in Persons Act No. 2 of 2005* provide for years to be added to the penalty where a trafficked person is exposed to a life-threatening illness or suffers a permanent or life threatening injury.

267. Section 4 of the *Combating of Trafficking in Persons Act* prohibits employers, managers, supervisors, contractors, employment agents and pimps from confiscating workers’ passports, immigration documents or government identification documents.

268. The Ministry of Human Service Services and Social Security’s Counter-Trafficking in Persons Unit and partners, for the reporting period, provided psychosocial support services to identified victims and survivors of human trafficking which included medical, social, legal, counseling, housing, training, employment opportunities, repatriation and reintegration services. Victims and survivors were able to access these free services on a voluntary, individualized needs basis.

269. The 2021 the US State Department Annual Country Report on Trafficking in Persons placed Guyana at Tier 1.³⁹

270. As stated earlier herein, a new Combatting Trafficking in Persons Bill has been drafted and is expected to be laid in the National Assembly in the fourth quarter of 2021.

271. With the help of the UN agencies in Guyana Standard Protocols have been prepared to guide agencies in addressing the prevention, detection of victims and apprehension of the perpetrators.

³⁸ In 2021, Savita Persaud was sentenced to ten years’ imprisonment for trafficking a child for the purpose of sexual exploitation, and to five years’ imprisonment for trafficking an adult female for the purpose of sexual exploitation. Additionally, the sum of two million, five hundred thousand dollars was ordered in restitution to be paid the two victims.

³⁹ <https://www.state.gov/reports/2021-trafficking-in-persons-report/guyana/>.

Child Labour

272. Guyana has ratified the International Labor Organization Convention 138, Minimum Age, International Labor Organization Convention 182, Worst Forms of Child Labor, the UN Convention on the Right of the Child, UN Convention on the Right of the Child Optional Protocol on Armed Conflict, UN Convention on the Right of the Child Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, and the Palermo Protocol on Trafficking in Persons.

273. The GoG wishes to report that it has attained a high level of enrolment and completion rate at the primary school level of 97.1% and attendance at school between the ages of 5 to 14 at 97.4%. This indicates that Guyana has achieved universal primary enrolment and completion.

274. The present Government is working towards universal secondary enrolment. In 2015 Guyana had achieved approximately 75% enrolment. The figures for 2019–2020 are not readily available.

275. The compulsory age for education is 15 years.⁴⁰ Education is free from Nursery to Secondary which is roughly ages 3 years to 17 years at completion of the secondary exit examinations.

276. It should be emphasized that where children are working the majority also attend school. Most of the children under the age of 15 years are working in the agriculture sector in family owned or managed businesses; and domestic work mainly in the family home, and street vending.

277. Due to the Covid 19 pandemic and the closure of schools since March 2020, there was a noticeable increase in children between the ages of 15 and 17 years of age involved in menial jobs, e.g. in the markets and at car wash-bays to assist their families who have been impacted by the closure of the operations of many businesses and the slowing down of the productive, industrial and entertainment sectors where hundreds of jobs have been lost. In October 2020, schools were partially opened only for students in Grades 5, 6, 10, 11 and 12. The GoG is aiming to re-open schools by mid-September 2021 now that it has acquired the Pfizer vaccines for the children between 12 and 18 years of age.

278. It should be noted that Guyana's laws prohibit children below the age of 18 doing hazardous work.⁴¹ Guyana has stipulated international standards in protecting children from hazardous employment and prohibited activities.

279. Furthermore, the Employment of Young Persons and Children Act, Cap 99:01 specifies at section 3(1) that no child below the age of 15 shall be admitted into employment in any occupation. Subsection (2) further prohibits the employment of any young person at nights in any industrial operation.

280. Several offences are created under Section 5 the Act for contravention of the above provisions. Moreover, a parent who knowingly or neglectfully allows a child to be taken into employment is also guilty of an offence and will also be liable to the same punishment as the employer. The GoG agrees that the offences and fines need to be increased.

281. It should also be noted that the Labour Act, Cap 98:01 refers to "employers" and "employees"; regardless of whether persons are nationals or non-nationals, they would benefit from the protection afforded to them under this law.

282. Considering the above, the 2019–2025 National Action Plan for the Elimination of Child Labor is reflective of the resolve of the GoG to eliminate all forms of child labour by 2025. The plan is aimed at, inter alia, enhancing public awareness, promoting civic engagement and advocacy, and children participation in the fight against child labour, widening access to education and technical and vocational training, strengthening legislative

⁴⁰ S13 and 22, Education Act Cap 39:01 compulsory education to age of 15. The minimum age for employment is 15 years.

⁴¹ Part 1, section 2 and Part 2, S3, Employment of Young Persons and Children Act Cap 99:01 and Sections 17, 41, 46 and 75 of the Occupational Safety and Health Act Cap 99:06.

protection and enforcement in combating child labor, and ensuring the provision of physical and psychological rehabilitation of children removed from child labor.

283. This Plan is premised on a compendium of statutes for the protection of the rights and safety of children. These include the Protection of Children Act, the Childcare and Protection Act, the Adoption Act, the Children Development and Services Act, the Education Act, the Sexual Offences Act, the Cybercrime Act, and, several labour laws.

284. The above provisions are a clear indication that Guyana has constructed a comprehensive legislative scheme aimed at stemming the exploitation of children.

285. Guyana has also recently submitted critical outstanding reports to the ILO.

Registration of Births

286. All births in Guyana are to be registered as soon as convenient, without fee.

287. The Registration of Births and Deaths (Amendment) Act 2021 (Act No. 9 of 2021) was passed in the National Assembly on August 3, 2021, which makes it easier for children and/or adults who were never registered. This amendment will particularly assist people living in rural and interior who face challenges of distance, costs and communication.

288. The amendment also ensures there is no difference in birth certificates issued to children who have been adopted.

289. Due to the covid pandemic, the Registrar's Office of Births and Deaths has been unable to dispatch mobile teams into the interior to assist in late registration and issue birth certificates.

290. Noteworthy, the GoG amended the Adoption Act in the National Assembly on August 3, 2021, to bring it into compliance with the 1996 Hague Convention.

Access to Justice, independence of the judiciary, and fair trials (Articles 2 and 14)

291. The introduction of the Supreme Court of Guyana Civil Procedure Rules (CPR) 2016 has assisted in reducing the backlog of civil cases in the judicial system by half. In 2020 UNDP conducted a Needs Assessment of the justice system in the Caribbean, and that report found that, in Guyana, the backlog of civil cases was reduced from 6000 to 250. The overriding objective of the CPR is to enable the Court to deal with cases justly and expeditiously.

292. Further, the innovation of converting shipping containers to court rooms at the prisons, mentioned earlier, has greatly improved access to justice by improving the speed and efficiency with which criminal cases involving persons in pre-trial detention are heard and dispensed with.

293. Notably, new Practice Directions were developed to maintain the full functions of the courts as far as possible, during the Covid 19 pandemic. To this end, hearing of both civil and criminal cases continued throughout the pandemic, wherein hearing of urgent matters by a judge in chambers was conducted via telephone conference or electronic means, and where an in-person hearing was necessary, the use of social distancing restrictions was strictly employed. This allowed for the courts to uphold citizens' right to a fair trial within a reasonable time.

294. In particular, a number of constitutional cases were heard with haste, and live streams by media outlets were permitted, thereby upholding the right to a public trial, as provided for in article 144(9) of Guyana's Constitution. This was of particular importance during the especially litigious 5-month period following the March 2, 2020, elections.

295. Currently, new judges cannot be appointed, as the Judicial Service Commission has not yet been appointed but is expected shortly.

Legal Aid Services

296. The primary channel through which legal aid services is provided in Guyana is the Guyana Legal Aid Clinic, a Non-Governmental Organization, supported by a financial subvention annually by the GoG. Although the Clinic is headquartered in Georgetown, legal aid services are extended to Administrative Regions 2, 5, 6, and 10.

297. Eligibility for legal aid includes both financial and substantive eligibility criteria. There is no financial eligibility requirement for persons under 18.

298. The data presented by the Clinic for the period 1994-December 2020 shows that most of the thousands of cases dealt with are civil in nature, and dominant among those are cases involving divorce, domestic violence, custody and access and division of property. Women in vulnerable situations have been the primary beneficiaries of these initiatives.

Freedom of expression (Articles 19 and 20)

299. Article 146 of the Constitution protects the right of all Guyanese to freedom of expression, including the right to hold opinions, and to receive and communicate ideas without interference. Any person whose right to freedom of expression is violated may initiate legal proceedings in Court to vindicate those rights.

300. Harassment, threats, or verbal or physical attacks are offences under the Summary Jurisdiction (Offences) Act, and Criminal Law (Offences) Act, and may be reported, investigated, and prosecuted. This GoG has not engaged in harassment of media workers critical of the government.

301. Various lawsuits, many successful, have been brought against individuals and media entities by persons in Government, but in their private capacity. These are cases in which statements made were claimed to be defamatory, and untrue. For instance, in 2020, a former senior government official was successful in five defamation cases against a local media entity. There are also several cases pending in court by a former government official against media houses.

302. Critical to freedom of expression, the GoG intends to amend the Cybercrime Act 2018 and the 2018 Broadcasting Act (Amendment) in the last quarter of 2021. These amendments include removing the sedition clause from the first and reversing the exorbitant broadcasting fees currently required to be paid by media houses in the second.

Participation in public affairs (Articles 25 and 26)

Current electoral system

303. The electoral system in Guyana at the national and regional elections uses a closed-list proportional representation (PR), 25 from ten (regional) constituencies and 40 from a national 'top up' list. The contesting political parties identify one of their parliamentary candidates as their presidential candidate. The electoral system was adopted in 2000 for the provision of the direct election of all members of the legislature which also maintains elements of geographical representation through introducing constituency lists.

304. National top up lists account for any misrepresentation that may result from the limited proportionality in small constituencies, since it determines the overall number of seats each party receives in the legislature by the application of proportional representation in relation to all 65 seats. Political cannot receive votes for their national top-up lists in regions where they have no list competing at the constituency level.

305. The GoG does not possess any empirical evidence to suggest that the current PR electoral system exacerbates ethno-political polarization and impedes social cohesion and diversity. The fact that the PR system requires a plurality of votes (50%) to hold government ensures that winner must win cross-over votes from other ethnic groups.

Representation of Indigenous people

306. Indigenous peoples (known as Amerindians representing 9 distinct linguistic groups) comprise almost 11% of the population and are the fastest growing ethnic group (2012 Census).

307. The first Amerindian to have been elected to the Parliament of Guyana was Stephen Campbell in 1957. In the post 2020 national elections, Amerindian Members of Parliament hold 10 of the 65 seats.

308. In the 2020 General and Regional elections the two main political parties, the APNU+AFC Coalition and PPP/C, as well as the new political parties⁴² had candidates on their lists from the indigenous communities. Political parties made efforts to reach out to voters in the various indigenous communities. There is therefore no empirical evidence that suggests that the domination of politics by the country's two largest political parties contributes to political marginalization of other ethnic minorities.

309. The GoG won 7 of the 10 Regional Democratic Councils, 3 of these are regions dominated by indigenous/Amerindian populations.

310. The Amerindian Act 2006 provides the legal framework for the land rights of Amerindian communities and a system of local governance based on traditional practices.

311. Each community elects their Toshao (Captain) and councilors every 2 years. All the Tshaos and Village representatives meet every 2 years to elect the Chairman and executive of the National Tshaos Council, the legal authority to represent Amerindian people and communities.

312. The National Tshaos Conference elects three representatives (one of whom must be a woman) to sit on the constitutional rights body, the Indigenous Peoples Commission. NGOs representing Amerindians nominate two persons (one of whom must be a woman) to sit on the same commission.

313. The NTC receives an annual subvention from the GoG for its secretariat, and within a year it will have its own headquarters built by the GoG.

314. During the annual NTC Conference the President and Ministers attend a session to listen to representation and remedy issues for the development of these communities.

315. Guyana has developed a unique model of participation, inclusion, and representation of its indigenous peoples.

GECOM

316. According to the CARICOM Electoral Observer Mission the 2020 General and Regional elections exacerbated the polarization between the country's two largest ethnicities in the country-African Guyanese and Indian Guyanese.⁴³

317. The GoG is of the view that political interference and lack of impartiality in the functioning of Guyana Elections Commission (GECOM) was responsible for the events that unfolded during the five months elections impasse in the country and the intensification of ethnic insecurities.

318. The Guyana Elections Commission (GECOM), a constitutional body, functions as Guyana's Election Management Body (EMBs). In this role of an EMB, GECOM according to Article 162 (1) and (2) and the Election Laws (Amendment) Act 2000 is a powerful electoral body in which its Commission where it perceives difficulties can carry out its mandate as it sees fit to resolve these issues.⁴⁴ Therefore, the power to make amendments to all election law is within the role of GECOM and is subject to negative resolution by parliament. This means that orders of GECOM become law automatically once the affirmation by parliament is not required. The Commission of GECOM is therefore not

⁴² One party focused on Indigenous communities and won a seat.

⁴³ Report of the CARICOM Observer Team For the Recount of the Guyana March 02,2020 Elections, CARICOM Electoral Observer Team, 13 June, 2020, p. 52.

⁴⁴ Ibid.

supposed to be subject to the direction of any department of government or political executive, political party or parliament. Its functions with the support of a Secretariat headed by the Chief Elections Officer.

319. The CARICOM EOM reported that it witnessed many instances where the GECOM Commissioners made ill-advised and contradictory statements to the media.⁴⁵ The team concluded in its report that the GECOM Commission does not function or act impartially because of the partisan loyalty of the Commissioners.⁴⁶

320. The recruitment, selection, appointment and promotion of permanent and electoral day staff in the GECOM needs to be addressed with urgency to ensure that it reflects the ethnic diversity of Guyana, and that its criteria, and processes are transparent and accountable.⁴⁷ This is a critical confidence building measure for the electorate.

Voting by persons with disabilities

321. The legal framework of Guyana has three options for persons with disabilities to vote: voting in person, providing that polling stations are physically accessible; voting by proxy; and assisted voting with an assistant of the voter's choice.⁴⁸

322. This issue will have to be addressed both administratively by GECOM and legally before the next elections to remove any impediments for persons with disabilities.

Legal Framework for Campaign Financing

323. The Representation of People Act, Chapter 1:03, Laws of Guyana makes various provisions for regulating campaign financing.

324. However, these provisions need to be reviewed during the examination of the electoral laws and electoral reform process.⁴⁹

Treatment of aliens, including refugees and asylum seekers (Articles 7, 9, 13, and 24 (3))

325. Guyana is not in a position to consider comprehensive national refugee legislation and asylum procedures as a priority currently. However, it shall remain on its agenda for consideration.

326. Despite the border issue between Guyana and Venezuela and the case before the ICJ which Guyana has brought, the GoG has taken a policy decision to offer humanitarian assistance to migrants fleeing from Venezuela. At this time, it is estimated that the number of these migrants number between 20,000–40,000 who are Venezuelan nationals, Guyanese Venezuelans who have lived there over several decades and their descendants, as well as nationals from other countries who have been residing in Venezuela.

327. Guyana continues to undertake substantial efforts to protect migrants from Venezuela who continue to arrive in Guyana, and to provide them with necessities within its available means, as well as regularizing their status in the country.

328. Guyana is in discussion with the United Nations High Commissioner for Refugees (UNHCR) on having an agreement to introduce the Population Registration and Identity Management Ecosystem (PRIMES), which allows for biometric registration of individuals.

329. The GoG has established a Multi-Agency Coordinating Committee on the Influx of Migrants from Venezuela in March 2021 which includes key focal points from relevant ministries, the Guyana Defence Force, the Civil Defense Commission and all relevant UN

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Notably 80% of the GECOM is one ethnic group, Afro-Guyanese.

⁴⁸ European Union Electoral Observation Mission, Guyana 2020 Final Report General and Regional Elections 2 March 2020 (European Union Electoral Observation Mission :2020), p. 30.

⁴⁹ The Parliamentary Special Select Committee in the 9th Parliament offered several models for consideration.

agencies in Guyana (IOM, UNHCR, UNFPA, UNICEF and PAHO). The Committee has been meeting and is co-chaired by the Minister of Foreign Affairs and International Cooperation and the Minister of Parliamentary Affairs and Governance.

330. Through this mechanism, the Government is leading and coordinating efforts by the various agencies to ensure that there is no duplication and that high-level policy recommendations which may impact on its territorial sovereignty and security are taken to Cabinet for consideration.

331. The GoG remains committed to ensuring that all migrants from Venezuela are properly registered and can access available essential services.

332. Further, the Ministry of Health makes every effort to ensure that migrants, especially children, are fully immunized with vaccines required by the country.

333. The GoG has made COVID-19 vaccines available to all persons resident in Guyana including migrants and or non-nationals above the age of 18 years. All other medical services provided by health institutions can be accessed by migrants free of cost at government-funded health facilities across the country. No questions are asked as to whether they are legally in the country or not.

334. Migrants affected by the widespread floods in Guyana were included in all flood relief efforts implemented through the Civil Defence Commission.

335. In regard to issue of non-refoulement, the UN Refugee Agency noted that *“Although not a signatory to the 1951 Convention, Guyana is commended for its efforts in keeping its borders open and facilitate and assist [sic] Venezuelans refugees and migrants and returning Guyanese as well as upholding the principle of non-refoulement.”* Cecilie Saenz Guerrero, UNHCR’s Senior Liaison Officer in Guyana also noted that *“the Government of Guyana is a model for other countries in the region that demonstrate solidarity by allowing Venezuelans to enter and register with Immigration.”*

336. Guyana will continue to offer humanitarian assistance to the migrants from Venezuela within the context of available resources.

Rights of Indigenous peoples (Article 27)

337. The Ministry of Amerindian Affairs is responsible for approximately 215 Amerindian communities across all ten administrative regions and for ensuring that the budgetary allocations benefit the development of these communities.

Free, Prior and Informed Consent

338. The principle of Free, Prior, and Informed Consent (FPIC) is guaranteed to all Amerindian peoples, pursuant to the Amerindian Act of 2006. Part V Section 44 of the Act expressly recognizes the inalienability of Village lands. Further to this, Part VI thoroughly provides for the recognition and protection of Amerindian lands by setting out the process through which Amerindian communities can apply for legally protected grants of land which they have traditionally occupied as well as provision for applications for extensions to Village lands. These communities are granted communal grants that are absolute and forever and therefore duly protected by the laws of Guyana.

339. Amerindian/ indigenous communities are the second largest landowner, legally owning more than 14% of Guyana’s land mass by communal land titles. The state is the largest landowner.

340. In 2015, the then Government closed the Amerindian Land Titling (ALT) Project and dismissed all the staff. It was subsequently re-established. Only 2 communal land titles were issued during the lead up to the March 2020 elections.

341. The GoG has re-established the ALT Project with budgeted resources within the Ministry of Amerindian Affairs to recommence the processing of communal titling of pending applications and demarcations of the areas so that the communities will be able to receive their communal land title.

342. The Act includes a governance structure and procedures which stipulate that evidence of a collective decision must be provided to support an application for village lands. Furthermore, every decision which affects the indigenous peoples within their communities is based upon engaging the Village general meeting. Such decisions include project proposals and permission to outsiders to mine in their titled lands which must be decided or approved at such a meeting. The Village General meeting is therefore the most important governance forum for decision-making within Amerindian communities.

Recognition of land rights

343. The preamble of the Constitution recognizes “*the special place in our nation of the Indigenous Peoples, and recognizes their right as citizens to land, and security and to the promulgation of policies for their communities.*” Further, Article 149G of the Constitution stipulates that “*Indigenous Peoples have the right to the protection, preservation and promulgation of their languages, cultural heritage and way of life*”.

344. Article 212S (1) of the Constitution requires the establishment of the Indigenous Peoples’ Commission, which has a mandate to “enhance the status of Indigenous Peoples, and to respond to their legitimate demands and needs.”

345. Part V Section 44 Amerindian Act 2006 explicitly recognizes the inalienability of Village lands. Further to this, Part VI thoroughly sets out the process by which Amerindians can apply for legally protected grants of land which they have traditionally occupied as well as provision for application for extensions to Village lands. All of these when granted or titled are duly protected by the laws of Guyana.

346. This principle is amplified in various legislation such as the Mining Act and the Forestry Act, which expressly recognize and protect indigenous people’s right to traditional use of their lands. These laws are duly enforced and protected by the Government and the courts. Persons seeking to engage in mining on Amerindian Village lands, or lands, or sources of water within the boundaries of Amerindian Villages must supply information requested by the Village, attend any consultation requested by the Village, negotiate with the Village, and ultimately obtain the consent of at least two-thirds of the persons present and entitled to vote at a Village general meeting (section 49 (1) (d)(e) and (f)).

347. Guyana is proud of its unique model of communal land titling which has allowed over 100 communities to hold communal grants which are “absolute and forever”. In fact, Guyana’s model which emerged from two years of consultations with all Amerindian communities is the only country where indigenous peoples hold legal title to their communal land and its usage, forever.

348. It is also the only country where every two years these communities hold elections for their Tashaos and Village Councils which are managed and run by the communities themselves, as well as a National Tashaos Council, also elected by their representatives, that is recognised as a legitimate body with a Secretariat and budgetary support from the GoG.

Conclusion

349. Guyana has taken progressive steps toward recognising, articulating, and protecting all rights provided in the ICCPR.

350. Beyond ensuring legal compliance, however, the GoG continues to take measures to ensure effective compliance with its obligations under the ICCPR. Persons alleging human rights violations may approach the courts to have those rights vindicated.

351. Recognising the difficulties that some persons have in securing legal representation to vindicate their rights, the Government of Guyana continues to provide, fund, or encourage legal aid to allow them to do so. Through Guyana’s ratification of the Optional Protocol to the ICCPR, the UNHRC may also receive and consider communications from persons who claim that one or any of their rights have been violated by the State.

352. The totality of these measures, along with the GoG's commitment to improve its reporting and being responsive as far as possible to the recommendations of the UNHCR, ensures that Guyana is making progress with its treaty obligations under the ICCPR.

353. The GoG remains committed to promoting and defending democracy, rule of law, transparency and accountable for all Guyanese and committed to building "One Guyana" that recognizes its diversity in a united nation where all Guyanese are beneficiaries of its wealth.
