
amnesty international

Guyana
Submission to the UN Universal
Periodic Review

Eighth session of the UPR Working Group of the UN
Human Rights Council
May 2010



Executive summary

In this submission, Amnesty International provides information under sections B, C and D, as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*:¹

In section B, Amnesty International raises concern over shortcomings of legislation pertaining to the death penalty and criminalization of sexual orientation.

Section C highlights Amnesty International's concerns in relation to excessive use of force by the security forces, sexual violence against women, and the human rights of people living with HIV/AIDS.

In section D, Amnesty International makes a number of recommendations in the areas of concerns listed.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I, adopted 27 September 2007.

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B. Normative and institutional framework of the State

The death penalty

Although there have been no executions in Guyana since 1997, death sentences continue to be handed down by the courts. According to press reports, at least two new death sentences were handed down in 2009. In December 2008, Guyana voted against United Nations General Assembly resolution 62/149 calling for a global moratorium on executions. Guyana is one of only two English-speaking Caribbean nations where the death sentence is mandatory for convictions of murder. Mandatory death sentences violate international standards on fair trials: individualised sentencing is required to prevent cruel, inhuman or degrading punishment and the arbitrary deprivation of life. Amnesty International opposes the death penalty in all circumstances as a violation of the right to life and as the ultimate cruel, inhuman or degrading punishment.

Human rights, sexual orientation and gender identity

Sex between men is criminalized in Guyana. Sections 352-354 of Chapter 8.01 of the Criminal Law (Offences) Act criminalize “committing acts of gross indecency with a male person” (punishable with 2 years imprisonment); “attempts to commit an unnatural act” (including buggery) with another man (10 years imprisonment); and buggery (life imprisonment).

Archaic colonial laws are used to discriminate against transgender persons. Chapter 8.02 section 153 (1) (xlvii) of the Summary Jurisdiction (Offences) Act, punishes with a fine anyone “being a man, in any public way or public place, for any improper purpose, appears in female attire; or being a woman, in any public way or public place, for any improper purpose, appears in male attire”. Between 6 and 7 February 2009, seven individuals were detained and charged under this offence in the capital Georgetown. They were reportedly not allowed to make a phone call or contact a lawyer, and were mocked by police officers. On 9 February 2009, they were convicted and fined.

C. Promotion and protection of human rights on the ground

Excessive use of force by the security forces/Impunity and lack of independent investigations

Amnesty International is concerned at reports of excessive use of force employed by the Guyana Police Force (GPF) and the Guyana Defence Force (GDF), including beatings and unlawful killings, and by the lack of independent investigations into such incidents. There is no independent body to investigate allegations of abuses committed by members of the security forces in Guyana.

At the end of October 2009, three individuals, including a 15 year-old boy, were subjected to torture and ill-treatment while in police custody during an investigation into the murder of a former local government official. The unnamed teenager was arrested on 27 October and taken to Leonora police station, 12 miles from the capital Georgetown, where he was badly beaten. When he refused to sign a confession, police

officers held him down and doused his genital area with an inflammable liquid, which they set alight. He was not given proper medical treatment and access to legal representation until 31 October, when he was released and admitted to hospital.

Deonardine Rafik was detained on 26 October 2009 in connection with the same investigation. He was struck by a piece of wood on his back, legs, buttocks, face and scalp and forced to sign a confession stating that he was involved in the murder. His lawyers were only granted access to him on 29 October after repeated attempts and he was finally brought before a court and charged with murder on 30 October. His face was visibly bruised and the wound on his scalp had not been stitched. The magistrate presiding over the hearing ordered that he receive immediate medical treatment. He is currently in prison pending a preliminary investigation. According to his lawyer and family, at the time of writing he had yet to receive medical attention.

Nouravie Wilfred was detained on 27 October 2009 and held incommunicado for seven days before being released. He was also reportedly subject to ill-treatment. Two police officers were detained and charged on 4 November 2009 with the "unlawful wounding" of Deonardine Rafik and Nouravie Wilfred.

In a separate incident, Donna Herod was shot dead during an alleged shoot-out between police and gunmen in the village of Friendship, East Coast Demerara, on 4 September 2007, as she was taking her children home from school. The shooting reportedly happened during a police operation in the village in pursuit of a number of wanted men who were hiding in a house. Police claimed that Donna Herod was caught in the crossfire between themselves and the gunmen and that the police were headed away from scene of the shooting. Eyewitnesses, however, stated that there was no confrontation with the gunmen at the time of the shooting, suggesting it was a case of excessive use of force and unlawful killing. In July 2009, a Coroner's Inquest finally found that there was insufficient evidence to determine who was responsible for her death.

Three days after an arson attack on the Ministry of Health on 17 July 2009, Troy Small was allegedly beaten and threatened with a gun by a group of men, including a uniformed member of the GDF, in an apparent attempt to extract information about the fire. He was badly beaten and was left at Alberttown Police Station in the capital. An investigation is apparently ongoing; however, Amnesty International is not aware of any outcome.

Following the October 2009 conviction of Guyanese national Roger Khan in the United States on charges of drug smuggling, witness tampering and gun possession, the Guyanese government announced that a special investigative team of the Guyana Police Force would investigate his involvement in a "death squad" which operated in Guyana several years ago. The so-called "phantom squad" reportedly tortured, "disappeared" and killed more than 200 individuals from 2002-2006. Its members included serving and former police officers, and it allegedly had links with government officials. While Amnesty International welcomes news that there will be a new investigation into very serious violations which have remained shrouded in impunity, the organization is very concerned that unless a truly independent commission of enquiry is established there is little likelihood that truth and justice will be achieved.

Violence against women

Amnesty International is concerned about the high levels of physical and sexual violence against women and girls in Guyana. At the end of 2008, the Guyana Police Force stated that it had received and investigated 2,811 reports of domestic violence throughout the country.

Amnesty International recognizes recent steps by the government to address violence against women. The organization welcomes the tabling of a Sexual Offences Bill before a Special Select Committee of the National Assembly in July 2009. The bill would significantly improve existing gender-discriminatory legislation. Among its provisions, the bill seeks to widen the definition of rape and also criminalizes marital rape.

Amnesty International hopes that the bill's passage can be expedited through the National Assembly and its provisions be swiftly and effectively implemented.

A National Domestic Violence Policy was launched in June 2008 with the aim of providing a multi-sectoral response to domestic violence. National NGOs, however, have criticized the lack of a co-ordinated implementation of the policy. The failure of some members of the Guyana Police Force to comply with the policy has also been raised and Domestic Violence Units have yet to be established in each of the seven geographical divisions of the police. NGOs have also called for more counselling and referral services outside the capital where few currently exist.

HIV/AIDS and human rights

Guyana has made progress in fighting discrimination in the workplace against people living with HIV/AIDS. In April 2009, a National HIV/AIDS Workplace Policy was introduced and reports of discrimination have gone down. However, stigma and discrimination towards HIV/AIDS still remain a barrier to the successful implementation of treatment, particularly for members of the LGBT community. The discrimination they face from the general public and also directly from some health workers discourages them from obtaining HIV-related information, HIV testing and treatment. The UNAIDS Country Coordinator for Guyana has said that homophobia has fuelled the HIV epidemic. Violations of the rights to privacy and confidentiality also discourage people from seeking an HIV test or treatment.

D. Recommendations

Amnesty International calls on the government:

The death penalty

- To repeal all provisions allowing for the death penalty and to immediately declare a moratorium on all executions;
- To commute all death sentences to terms of imprisonment;
- Pending abolition of the death penalty, to ensure rigorous application of international standards for fair trial in all death penalty cases.

Human rights, sexual orientation and gender identity

- To repeal all provisions allowing for the criminalization of same sex relations;
- Repeal all provisions, including Chapter 8:02 section 153 (1) (xivii) of the Summary Jurisdiction (Offences) Act, which are used to discriminate against lesbian, gay, bisexual and transgender persons.

Violence against women

- To expedite passage and implementation of the Sexual Offences Bill;
- To ensure the co-ordinated implementation of the National Domestic Violence Policy.

HIV/AIDS and human rights

- To combat discrimination and stigma surrounding HIV/AIDS and particularly against members of the LGBT community.

Excessive use of force by the security forces and impunity for human rights violations

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

Ratification of international human rights instruments

- To ratify the following international treaties: the Second Optional Protocol to the International Covenant on Civil and Political Rights (and to remove reservations to its First Optional Protocol); the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; and the International Convention for the Protection of All Persons from Enforced Disappearance;
- To ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Convention on the Rights of Persons with Disabilities, both of which Guyana has already signed;
- To ratify the American Convention on Human Rights.

Annex: Amnesty International documents for further reference²

Guyana: Urgent Action - Tortured Guyanese man may face unfair trial, AI Index: AMR 35/003/2009, 6 November 2009

Guyana: Urgent Action - One incommunicado, two tortured, AI Index: AMR 35/002/2009, 3 November 2009

'I am not ashamed!': HIV/AIDS and human rights in the Dominican Republic and Guyana; AI Index: AMR 01/002/2006, 31 May 2006

² Available on Amnesty International's website: <http://www.amnesty.org/en/region/guyana>