

## GUYANA

### CCPR A/37/40 (1982)

249. The Committee considered the initial report of Guyana (CCPR/C/4/Add.6) at its 353rd, 354th and 357th meetings held on 5 and 7 April 1982 (CCPR/C/SR.353, 354 and 357).

250. The report was introduced by the representative of the State party who elaborated on the information provided in the report, giving more detailed references to the articles of the Constitution and legislative acts which were relevant to the articles of the Covenant.

251. Members of the Committee observed that the report was extremely concise, providing only a general legal framework with reference to the Constitution and statute law and it was pointed out that the Committee's task under the Covenant was not confined to comparing the laws of a State party with the normative standards established under the Covenant. Reference was made to a statement in the report denying the existence of any factors and difficulties affecting the enjoyment of the rights and freedoms provided for in the Covenant, and it was asked whether that meant that the rights and freedoms embodied in the Covenant were fully enjoyed in the country since the coming into force of the Covenant in Guyana in 1977 and, if so, how Guyana had managed to avoid any of the difficulties encountered by most countries in fully implementing the provisions of the Covenant. Members of the Committee observed that the new Constitution of Guyana was a basic charter for the country's political life, characterized by a number of original features which could have important implications in the field of human rights. Questions were asked as to whether the change of Constitution was due to certain difficulties encountered under the previous Constitution and, if so, what those difficulties had been and what innovations and remedies the new Constitution had introduced. Information was requested on the extent to which the Covenant was known in Guyana to the general public, to the courts, police and prison authorities and to all those responsible for the administration of public affairs. Noting that there was little point in ratifying an international treaty such as the Covenant if the citizenry of the country did not know about it, members asked whether the Government was taking action to make the authorities in the country at all levels as well as the public aware of the Covenant, and whether Government officials concerned were aware of the Committee's approach to its work, of its guidelines for the preparation of reports and of the general comments which were contained in its last report to the General Assembly. 10/

252. In relation to article 2 of the Covenant, members noted that according to the report, the provisions of the Covenant may not be invoked before or directly enforced by the Courts, other tribunals or administrative authorities but that they could indirectly be enforced by the Courts to the extent that they are subsumed in comparable provisions of the Constitution, and the ordinary statute law of Guyana. They also referred to certain articles of the Schedule to the Constitution and asked whether, under their terms, the

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10/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 40 (A/36/40), annex VII.

President could change any law, including the Constitution. Stressing that the provisions of the Covenant contained specific rights and freedoms and that they transcended those of the Constitution in that they were binding international treaty obligations, members requested information on the specific laws which had been enacted to implement the Constitution and to ensure that the rights stipulated in the Covenant were effectively enjoyed, on any national bodies responsible for implementing human rights and on any court decisions which might have been taken relating to the practical application of human rights provisions.

253. Noting that the ombudsman system could represent a very effective remedy but that it could be an excuse for a lack of other remedies, members requested information on the background to the establishment of this office in Guyana, how many cases were dealt with each year, whether the ombudsman was responsible for reporting on his activities and, if so, to whom and in what form, and on both the successful and unsuccessful work of the ombudsman in protecting fundamental rights and freedoms. Information was also requested on all other available remedies, particularly on remedies available for someone who was subject to discrimination; on the jurisdiction of the High Court and on whether it covered all human rights or merely those specified in article 153 of the Constitution and whether, in practice, people had availed themselves of recourse to the High Court to ensure that their basic rights were safeguarded. In this connection, reference was made to article 8 of the Constitution and it was asked who determined whether a law was inconsistent with the Constitution and declared it null and void, whether the judiciary had the authority to do so and at whose request this could be done, and whether the power of review extended to the executive.

254. As regards article 3 of the Covenant, reference was made to the Committee's general comment 4/13, 10/ and more information was requested on the steps, in addition to purely legislative measures of protection, which had been or were being taken to give effect to the precise and positive obligations under this article, on the progress that was being made and on the factors and difficulties that were being met in this regard.

255. In connection with article 4 of the Covenant, it was noted that article 150 (2) of the Constitution appeared to allow derogations that would be contrary to the provisions of article 4 of the Covenant which stipulated that measures derogating from obligations under the Covenant, in time of public emergency, could not involve discrimination solely on the grounds of race, colour, sex, language, religion or social origin and it was asked how, if that was so, such derogations could be justified and whether there had been any proclamation of emergency since the Covenant had entered into force in respect of Guyana.

256. Regarding article 6 of the Covenant, it was stated that implementation of this article required that the law must strictly control and limit the circumstances in which a person might be deprived of life by the State authorities and that one very important context in which that applied was the use of force by the police; and it was asked what rules applied to the use of force by the police, whether they were strictly enforced and whether the police received proper training and instruction in that regard. In this connection, it was asked whether an investigation had been conducted concerning the mass deaths which occurred during the events at Jonestown as well as the death of the political activist Walter Rodney and, if so, what the findings had been. It was also asked whether any consideration had been given to abolishing the death penalty in Guyana.

257. Commenting on articles 7 and 10 of the Covenant, members wondered whether, in the light of article 141 of the Constitution, antedating the Constitution there were some laws which authorized some form of inhuman or degrading treatment or punishment and, if so, how that could be explained. Information was requested regarding the procedures for reviewing and investigating complaints brought by persons detained in prisons or other establishments; on whether juvenile persons were separated from adults, on the opportunities for contact between detainees and relatives, and for independent supervision of conditions of imprisonment, and on whether prisoners were required to work and, if so, whether they were remunerated.

258. In relation to article 9 of the Covenant, it was asked in what circumstances and under what conditions a person could be subjected to preventive detention, whether any prisoner including members of the opposition, were held in preventive detention or had been arrested and charged in the recent past and, if so, on what grounds and for how long. It was noted that the provision of the Constitution that any person who was arrested or detained should be informed “as soon as reasonably practicable” of the reasons for his arrest or detention, fell short of article 9 (2) of the Covenant which required that such person should be promptly informed of any charges against him and it was asked whether the right of habeas corpus, as called for in the Covenant, was duly provided for and respected in Guyana and what criteria applied in assessing reparation claims for the inconvenience suffered by persons who were subjected to wrongful arrest.

259. In connection with article 14 of the Covenant, it was pointed out that a truly independent judiciary was a firm guarantee of the rights of individuals and that nothing should be done to impair that independence, and it was asked how the independence of the Guyanan judiciary was safeguarded, whether the President could appoint or dismiss judges, whether there were legal provisions to protect judges who arrived at decisions differing from the Government’s notion of public order and whether there had been any complaints from judges that they had been subjected to pressure from any quarter.

260. As regards article 17 of the Covenant, information was requested on the provisions which had been adopted to guarantee the right to privacy as well as on any restrictions on the exercise of this right and on the provisions which enabled agents of the State to enter the homes of individuals or to interfere with private correspondence.

261. In relation to articles 19 and 22 of the Covenant, reference was made to a provision of the Constitution recognizing the need to ensure fairness and balance in the dissemination of information to the public, and it was asked what was done to that end and how that provision operated in practice, how many newspapers there were and how many of them belonged to the opposition; whether persons opposed to Government policies were free to present their views on state-controlled radio and television stations. It was asked what laws existed in Guyana concerning sedition, treason and offences against the State, how many people had been arrested, charged and convicted under such laws since 1977; and whether the perception of an immediate threat to the State was sufficient to secure the conviction of individuals who were not actually using force. Information was requested on trade unions and human rights organizations in the country and on the mode and extent of Government co-operation with them, as well as on whether the various political parties were on a footing of legal equality.

262. Commenting on article 25 of the Covenant, members requested detailed information on the electoral process, particularly on how elections were organized in practice, how lists of candidates were drawn up; what measures existed in Guyana to ensure that people could register as voters and what remedies they had in that regard; and whether there were any independent bodies to supervise elections so as to ensure the effective protection of rights under article 25 of the Covenant.

263. As regards article 27 of the Covenant, information was requested on the various ethnic groups in the country, including the Amerindian population; on any special efforts that were made to preserve their religion and culture and protect their rights as well as information on the racial composition of public bodies, and on the extent to which the Constitution allowed such groups to participate in public service.

264. The representative of the state party replied briefly to some questions relating to the organization of the judiciary in Guyana and apologized for not being able, owing to the shortage of time to prepare his replies, to reply to all the questions posed by members of the Committee. He assured the Committee, however, that he would refer its questions to his Government for consideration and reply and would inquire as to when a supplementary report might be submitted and inform the Committee accordingly.

## **CCPR A/55/40 (2000)**

346. The Committee considered the second periodic report of Guyana (CCPR/C/GUY/99/2) at its 1829th to 1830th meetings (CCPR/C/SR.1829 and 1830), held on 24 and 27 March 2000, and adopted at its 1836th meeting, on 30 March 2000, the following concluding observations.

### **1. Introduction**

347. The Committee expresses its satisfaction at the submission of the second periodic report of Guyana. It welcomes the opportunity to examine the State party's report after over a decade in which the State party has failed to fulfil its reporting obligations under article 40 of the Covenant. The Committee regrets that the report deals with the situation only up to 1987 and that it fails to provide information on the practical implementation of rights protected by the Covenant.

348. The Committee welcomes the copies of legislation that were provided by the State party during the session, but regrets that the delegation was unable to provide full information on the current situation in the State party in answer to the list of issues and the Committee members' questions. The Committee notes that the list of issues was provided to the State party some months before the session. Some helpful written information was provided to the Committee during the discussions but it did not address all the questions posed.

### **2. Positive aspects**

349. The Committee notes with satisfaction the efforts being made by the State party in its transition to democratic rule to harmonize many aspects of the domestic legal order with international standards.

350. The Committee welcomes the enactment of the Domestic Violence Act in 1996 and its extension to children.

### **3. Principal subjects of concern and recommendations**

351. The Committee is concerned that not all Covenant rights have been included in the current Constitution and therefore cannot be directly enforced. No information was provided as to how the rights that are enumerated in the Constitution are given effect and how their violations are remedied. The Committee notes that a constitutional reform process is near completion in the State party, but regrets that the delegation could not provide specific information as to how the enjoyment of Covenant rights will be ensured by the new Constitution.

352. The State party should ensure that all Covenant rights are implemented in domestic law and should give consideration to including those rights in the new Constitution. It should also explain how the new Caribbean Court of Appeal will affect the remedies available to alleged victims of human rights violations.

353. The Committee regrets the continued application of the death penalty and is particularly

concerned that in some cases the procedural safeguards of fair trial may not have been respected in imposing the death penalty, contrary to articles 6 and 14 of the Covenant.

354. The State party is encouraged to consider the abolition of the death penalty. The State party must take measures to ensure strict compliance with procedural safeguards in all criminal cases.

355. The Committee regrets the lack of information concerning the right to legal assistance in practice for persons charged with criminal offences and urges the State party to ensure that its obligations in that regard under article 14 of the Covenant are fully met.

356. The Committee regrets that the State party has not taken steps to implement the Committee's Views in respect of communication No. 676/1996 (Yasseen and Thomas v. Guyana) under the Optional Protocol.

357. The State party is urged to implement fully the Committee's Views in communication No. 676/1996 and to formally withdraw its reservation made on its reaccession to the Optional Protocol. The State party should consider adopting appropriate procedures for taking into account the Committee's Views under the Optional Protocol.

358. The Committee is deeply concerned about allegations that extrajudicial killings by the police take place in the State party and at information received alleging widespread police brutality. The Committee is further concerned that the State party was unable to provide information about specific incidents to which the Committee drew attention.

359. Allegations of extrajudicial killings and excessive use of force should be promptly investigated by an impartial body and measures taken to ensure the prosecution of offenders and to provide effective remedies to victims. All law enforcement officials should be thoroughly trained in international human rights standards, particularly those contained in the Covenant (arts. 6, 7 and 10).

360. The State party should include detailed information in its next report about the role and functions of the Police Complaints Authority, measures taken to ensure its independence and impartiality, its relationship with other police investigative mechanisms and the implementation and effectiveness of its decisions and recommendations (arts. 6 and 7).

361. The Committee is concerned that corporal punishment is still resorted to in the State party and regrets the lack of specific information on this issue.

362. The State party should take legal and other measures to eliminate corporal punishment (art. 7).

363. The Committee is concerned at the low level of participation by women in the workforce and in the conduct of public affairs. It regrets that the State party could not provide any information on the application and effect of the Anti-Discrimination Act of 1997 or the Equal Rights Act of 1990. It is also concerned at the apparent conflict between article 29 of the Constitution, which mandates equal rights for women and men, and article 149 (3) (b), which excludes from the prohibition on

discrimination laws dealing with marriage, divorce, and inheritance.

364. The State party is urged to take positive measures to ensure equality of opportunity for women in all fields and to ensure that the principles of equality and non-discrimination on all grounds and in all areas of activity are fully implemented in the new Constitution.

365. The Committee is concerned that the Domestic Violence Act of 1996 appears to have been applied in very few cases and at the lack of information relating to its impact in reducing the level of violence against women.

366. Police and other law enforcement personnel should be trained to understand the importance of ensuring that women who are victims of violence are accorded equal protection and that preventive and punitive measures are enforced.

367. The Committee regrets that the law relating to the arrest and charge of suspects does not appear to ensure compliance with article 9 of the Covenant in that it does not provide for persons to be brought promptly before a judge or provide an enforceable right to compensation against the State in case of unlawful arrest. The Committee regrets deeply that the periods of pre-trial detention are prolonged for as long as three or four years.

368. The State party should review its laws on arrest and detention and should take effective legal and other measures to reduce the period of pre-trial detention and to ensure full compliance with article 9 ((3) and (5)) of the Covenant.

369. The Committee expresses its profound concern that children, including children under 10 years of age, are held in detention on remand.

370. The State party should take immediate steps to ensure that children are not held in detention together with adults and that young children are not held in detention at all (arts. 10, para. 2, and 24).

371. The Committee expresses deep concern over dire prison conditions (art. 10), including poor sanitation and lack of adequate food and medical care, resulting in disease and death. This is exacerbated by the excessive recourse to imprisonment as a punishment or as a preventive measure and by the overcrowding of prisons.

372. The State party is reminded of its obligation under article 10 to ensure that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. It is encouraged to consider greater use of alternative forms of punishment or preventive measures.

373. The Committee notes proposals to recruit part-time and temporary judges to deal with the backlog of cases waiting to be tried.

374. The State party is urged to ensure that the recruitment of temporary judges does not undermine the competence, independence and impartiality of the judiciary.

375. The Committee is concerned that freedom of expression may be unduly restricted by reason of the Government monopoly of radio broadcasting. It is also concerned at the lack of specific remedies for journalists who have been subjected to violence or harassment by the police or other authorities (art. 19).

376. The State party should remove restrictions on freedom of expression which are incompatible with article 19, paragraph 3, and should ensure that effective remedies are available to any person whose rights under article 19 of the Covenant have been violated.

377. The Committee is concerned at insufficient attention being paid to the need for multi-ethnicity within the police force, and at reports of considerable ethnic tension and at manifestations of incitement to discrimination, hostility or violence on racial grounds.

378. The State party should encourage recruitment to the police force of members of all ethnic communities, and ensure strict compliance with article 20, paragraph 2, of the Covenant by enforcing the prohibition of incitement to racial hostility and by taking measures to reduce ethnic tension between all the different groups in Guyana.

379. The Committee regrets the delay by the State party in amending the Amerindian Act, and is concerned that members of the indigenous Amerindian minority do not enjoy fully the right to equality before the law. It is particularly concerned that the right of Amerindians to enjoy their own culture is threatened by logging, mining and delays in the demarcation of their traditional lands, that in some cases insufficient land is demarcated to enable them to pursue their traditional economic activities and that there appears to be no effective means to enable members of Amerindian communities to enforce their rights under article 27.

380. The State party should ensure that there are effective measures of protection to enable members of indigenous Amerindian communities to participate in decisions which affect them and to enforce their right to enjoy their rights under the Covenant.

### 3. Dissemination of information about the Covenant (art. 2)

381. The Committee draws the attention of the State party to the Committee's revised Guidelines for the preparation of reports. The third periodic report should be prepared in accordance with those guidelines, with particular attention paid to the implementation of rights in practice. It should indicate the measures taken to give effect to these concluding observations. The third periodic report should be submitted by 31 March 2003.