Human Rights Committee

Concluding observations on the third periodic report of Guyana

1. The Committee considered the third periodic report of Guyana at its 4097th, 4099th, and 4101st meetings, held in hybrid format on 18, 19 and 20 March 2024. At its 4109th meeting, held on 26 March 2024, it adopted the present concluding observations.

A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its third periodic report in response to the list of issues prior to reporting prepared under that procedure. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party’s delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the additional information provided in writing.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following legislative and policy measures:

   (b) The Data Protection Act, 2023.
   (c) Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2022, and (Amendment) Act, 2023.
   (d) Digital Identity Card Act 2023
   (f) The Bail Act, 2022.
   (g) The Narcotic Drug and Psychotropic Substance (Amendment) Act, 2022.
   (h) Mental health Protection and Promotion Act, 2022.

* Adopted by the Committee at its 140th session (4-28 March 2024).
1 CCPR/C/GUY/3.
2 See CCPR/C/SR.4097, CCPR/C/SR.4099 and CCPR/C/SR.4101.
3 CCPR/C/GUY/QPR/3.
(k) The Adoption of Children Act, 2021.
(n) The Low Carbon Development Strategy (2030), 2021-2030.

C. Principal matters of concern and recommendations

Constitutional and legal framework within which the Covenant is implemented

4. While noting the information provided by the State party that a constitutional reform will commence in 2024, the Committee is concerned that article 154 (A) (6) of the current Constitution provides that the State party may divest itself or otherwise limit the extent of its obligations under the Covenant. It is also concerned that the interpretation of Article 154 (A) (2) of the Constitution may restrict the application of the Covenant within the national legal framework. The Committee is also concerned that the State party has not fully incorporated the provisions of the Covenant into its domestic legal system. Furthermore, it is concerned about the lack of specialized training on the Covenant and the justiciability of the rights therein for judges, prosecutors, and lawyers, and of awareness-raising activities for the general public (art. 2).

5. The State party should strengthen its efforts, including through the constitutional review process, to ensure the compatibility of its statutory and customary law with the Covenant. It should consider reviewing Article 154 (A) (2) and (6) of the current Constitution to ensure that rights protected by the Covenant are restricted only as permitted thereunder. The State party should fully incorporate the provisions of the Covenant in domestic legislation. The State party should implement a thorough, accessible, and regularly updated program of specialized training on the Covenant for judges, prosecutors, and lawyers to ensure that they apply and interpret domestic law in the light of the Covenant. It should also raise awareness of the Covenant among all actors responsible for the implementation of the Covenant, as well as for the general public.

Views under the Optional Protocol

6. While welcoming the information provided by the State party that it is reviewing its reservation made upon re-accession to the Optional Protocol in 1999 and considering its withdrawal, the Committee reiterates its previous concern that the reservation is still in place. The Committee regrets the lack of detailed information provided on the implementation of its Views, their legal status and the specialized training on the individual communications mechanism in the State party. It is also concerned about the absence of a specific procedure or mechanism to examine and give effect to the Committee’s Views under the Optional Protocol to the Covenant (art. 2).

7. Recalling its previous recommendation, the State party should give further consideration to taking concrete steps to withdraw its reservation to the Optional Protocol to the Covenant. The State party should ensure the implementation of the recommendations contained in Views adopted by the Committee, including through domestic courts, so as to guarantee the right of victims to an effective remedy. It should consider adopting legislation recognizing the right of authors of communications to whom the Committee has granted any measure of reparation to demand before the

4 CCPR/C/79/Add.121.
5 CCPR/C/79/Add.121.
domestic courts the implementation of such measures. It should also consider establishing a national mechanism to monitor the implementation of Views of the Committee.

National Human Rights Institution

8. While the Committee takes note of the information provided by the State party that the current constitutional provision for appointing the Chairperson of the Human Rights Commission impedes the State's efforts to operationalize the Commission, the Committee regrets the lack of clear progress towards operating such an institution and the ongoing vacancy in the position of the Chairperson of the Commission, which hinders its operation in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles)(art. 2).

9. The State party should take the necessary measures to operationalize the Human Rights Commission as an independent national human rights institution in accordance with the Paris Principles and consider reviewing the constitutional provision impeding the process of designating a Chairperson of the Commission as a matter of priority. The State party should also ensure that the Human Rights Commission is provided with adequate human and financial resources necessary to enable the Commission to carry out its mandate effectively.

Anti-corruption measures

10. The Committee takes note of the adoption of several laws and regulations by the State party to combat corruption, as well as measures such as the creation of a Special Organized Crime Unit of the Guyana Police Force to have primary responsibility for investigating financial crimes. However, the Committee remains concerned that the institutional framework to combat corruption is not yet sufficiently strong and effective in practice to adequately prevent or prosecute corruption, including in the police force and of high-level public officials. For example, the Committee is concerned about reports that: (a) the Commissioner of Information does not address all requests from the public; and (b) the Protected Disclosures and Witness Protection Act has not yet entered into force (arts. 1, 2, 14, and 25).

11. The State party should expand its efforts to adopt and implement, efficient, and prompt measures to promote good governance and combat corruption and impunity at all levels of government. In this respect, the Committee urges the State party to:

   (a) Adopt concrete measures to address the root causes of corruption as a matter of priority;

   (b) Ensure that all corruption cases, including cases of those involved in high-level corruption and corruption in police force, are independently and impartially investigated and prosecuted, and that perpetrators, if convicted, are sanctioned with penalties commensurate with the seriousness of the offence, and that victims receive full reparation;

   (c) Take the measures necessary to ensure, in practice, the independence, effectiveness, transparency, and accountability of all anti-corruption bodies, including the Auditor’s General Office, the Commissioner of Information, the Integrity Commission, and the Public Procurement Commission;

   (d) Ensure that the right of access to information held by Commissioner of Information can be effectively exercised in practice;

   (e) Effectively protect whistle-blowers and witnesses through, inter alia, expediting the entry into force of Protected Disclosures and Witness Protection Act.

12. The Committee is concerned about reports of corruption, lack of transparency and accountability in the management of natural resources, particularly in the oil and gas extractive sector. In this regard, the Committee is concerned about reports of corruption by public officials in this sector, and the lack of information on measures taken to investigate such allegations (arts. 1, 2, 14, and 25).
13. The State party should take all appropriate measures to ensure that the management of its natural resources is not subject to corruption. It should also ensure that government permits granted for the exploitation of natural resources and licenses to exploit oil fields undergo adequate prior environmental and societal impact assessments carried out in a systematic and transparent manner, with a meaningful participation of all affected communities. Furthermore, the State party should ensure prompt, thorough, independent, and impartial investigations into reports of corruption in awarding public contracts and prosecute, and if a person is convicted apply penalties commensurate with gravity of the crime.

Non-discrimination

14. The Committee notes the information provided by the State party that it is reviewing the Prevention of Discrimination Act of 1997. However, the Committee remains concerned about the absence of comprehensive anti-discrimination legislation that may extend beyond discrimination in employment, provide full and effective protection against all forms of discrimination prohibited under the Covenant, including direct, indirect, and multiple discrimination, and contain a list of prohibited grounds of discrimination in line with the Covenant. The Committee is also concerned about reports of (a) the continued ethnic divide and tensions in the State party; (b) hate speech and incitement to racial hostility by politicians and public officials as well as racial profiling by the police; (c) ill-treatment of and violence, including sexual violence on transgender individuals in police custody and prisons, that is worsened by underreporting and ineffective investigations into such human rights violations; (d) failure by the police to investigate all allegations of discrimination and violence against lesbian, gay, bisexual and transgender persons, particularly murders, and to bring perpetrators to justice (arts. 2, 7 and 26).

15. The Committee State party should:

(a) Adopt comprehensive anti-discrimination legislation that explicitly addresses all spheres of life and prohibits direct, indirect, and intersectional discrimination on all grounds including race, ethnicity, age, nationality, religion, migration status, disability, sexual orientation, and gender identity, and ensure access to effective and appropriate remedies for victims of discrimination;

(b) Redouble its efforts to end the existing divide and tensions between ethnic groups and discrimination against ethnic minority groups, including by creating opportunities for open dialogue between various ethnic groups, promoting inter-ethnic harmony and tolerance, and overcoming prejudices and negative stereotypes, including in schools and universities and through the media;

(c) Take the necessary steps to prevent, condemn, and combat hate speech and incitement to racial hostility directed at the groups most exposed to racial discrimination, including by public officials and politicians;

(d) Take all the measures necessary to effectively combat and eliminate racial profiling by law enforcement officers, inter alia by providing mandatory training on cultural diversity and the inadmissibility of racial profiling to law enforcement personnel;

(e) Combat violence and discrimination against persons based on their sexual orientation and gender identity and ensure that offences motivated by the victim’s sexual orientation, or real or perceived gender identity are investigated promptly and establish specific investigation protocols for these cases, that those responsible are brought to justice and appropriately punished and that the victims receive full reparations.

Gender equality

16. The Committee notes with appreciation the information provided by the State party that the representation of women in Parliament has increased to 39 percent, and 49 percent of managerial positions are held by women. However, the Committee is concerned about the lack of use by the State party of temporary special measures aimed at accelerating the
achievement of substantive equality of women and men, including through statutory quotas for women’s representation in national and local legislative assemblies. The Committee is also concerned about the persistent wage gap (arts. 2, 3, 25, and 26).

17. In line with the recommendations made by the Committee on the Elimination of Discrimination against Women, the State party should consider adopting temporary special measures, such as statutory quotas and a gender parity system to accelerate substantive equality of women and men in all areas where women are underrepresented or disadvantaged. It should also intensify its efforts to close the wage gap between men and women.

Violence against women, including domestic violence

18. The Committee notes the measures taken by the State party to prevent and combat violence against women, including the establishment of the Sexual Offence Courts. It is nonetheless concerned about the prevalence of violence against women, including domestic and sexual violence, and femicide. It is also concerned by the low rate of reporting of violence by victims, and the low conviction rate, which fosters impunity for the perpetrators. The Committee is further concerned about the insufficient number of shelters for victims of domestic violence and their children throughout the State party particularly in rural and hinterland areas. It is also concerned that femicide is not expressly defined as a specific criminal offence, which hampers the identification of all cases of femicide (art. 2, 6, 7, 14 and 26).

19. The Committee endorses the recommendations made by the Committee on the Elimination of Discrimination against Women and urges the State party to take the necessary measures to prevent, combat, and eradicate all forms of violence against women including sexual and domestic violence and femicide. The State party should adopt a national action plan to combat gender-based violence against women and adopt and enforce comprehensive legislation to criminalize all forms of violence against women, including intentional killings of women with a gender-related motivation. It should encourage the reporting of cases of violence against women, including domestic violence and sexual harassment, by inter alia improving access to justice and addressing the social stigmatization of victims, especially in rural and hinterland areas. The State party should also ensure that all forms of violence against women and girls, including domestic and sexual violence and femicide are investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated. It should increase the number of shelters and assistance centres.

Maternal mortality, sexual and reproductive health, voluntary termination of pregnancy

20. While noting the information provided by the State party that maternal mortality rates are decreasing, the Committee is concerned that they remain high (100 deaths per 100,000 live births). The Committee is also concerned about the limited access to safe, legal, and effective abortions services in all areas of the country, particularly for Indigenous women, women living in rural areas, and women living in poverty, which results in a high number of unsafe, clandestine abortions. The Committee is further concerned about the increasing number of breast cancer mortality due to lack of adequate health services, including access to mammograms, and screening services that can promote the early detection of breast cancer among women throughout the territory (art. 2, 6, and 7).

21. In the light of paragraph 8 of the Committee’s general comment No. 36 (2018) on the right to life, the State party should redouble its efforts to prevent and combat maternal mortality and ensure women’s access to safe and legal abortion in practice, especially for Indigenous women, women in rural areas and women living in poverty. It should also strengthen the efforts to address the high rates of breast cancer by

6 CEDAW/C/GUY/CO/9.
improving prevention, early detection, treatment, and psychological support for women and girls with cancer and allocating adequate human and financial resources for that purpose.

Death penalty

22. The Committee welcomes the amendment of the Criminal Law Offences Act in 2010, removing the mandatory death penalty and making provisions for life imprisonment and imprisonment with the possibility of parole. The Committee also notes that no sentence of the death penalty has been carried out since 1997. However, the Committee regrets that the imposition of the death penalty remains possible under Article 138 of the Constitution and that the State party still retains the death penalty for certain offences that do not meet the threshold of the “most serious crimes” within the meaning of Article 6 (2) of the Covenant, such as treason and hijacking or piracy related to a vessel attack. The Committee also regrets the lack of information as to whether individuals whose convictions and sentences have become final can present newly discovered evidence of innocence to the courts or other public authorities (art. 2 and 6).

23. Bearing in mind the Committee’s general comment No. 36 (2018) on the right to life, the State party should:

(a) Take all necessary steps to abolish the death penalty in its laws and remove it from the Constitution;

(b) Carry out awareness-raising measures to mobilize public opinion in support of the abolition of the death penalty;

(c) Consider acceding to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty;

(d) Provide a mechanism to enable reconsideration of convictions and sentences on the basis of newly discovered evidence, as recommended by the Committee’s general comment No. 36, and provide appropriate remedies, including compensation, to those who have been exonerated.

Extrajudicial Killings

24. The Committee is concerned by reports that extrajudicial killings continue to be carried out in the State party, including by police forces. In this regard, the Committee regrets that it has not received sufficient information about the measures taken to combat and prevent such offences. Additionally, the Committee is concerned that the alleged extrajudicial killings that occurred between 2002 and 2006 have not been adequately investigated, and prosecuted, and the perpetrators were not duly sanctioned. In this regard, the Committee is concerned that no substantive progress has been made to establish the Presidential Commission of Inquiry to investigate allegations of extrajudicial killings during that period despite the government’s plan to do so in 2018 (art. 6).

25. The State party should ensure that all allegations of extrajudicial killings are promptly, impartially, transparently, and thoroughly investigated; that perpetrators are prosecuted, and, if convicted, penalties commensurate with the gravity of the crimes are imposed on them; and that full reparation is provided to victim’s families. It should, as a priority, establish the Presidential Commission of Inquiry to investigate alleged extrajudicial killings during the period between 2002 and 2006. The State party should take all necessary measures to prevent such extrajudicial killings in the future.

Environmental degradation by pollution and climate change

26. While welcoming the State party’s ratification of the Regional Agreement on Access to Information, Public Participation, and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escacú Agreement), the Committee is concerned about reports of inadequate implementation of environmental regulations including of the Environmental Protection Act and the lack of detailed information on the effective role of the Environmental Protection Agency in the implementation of these regulations. The Committee is also concerned about the limited access to environmental information and lack of effective
consultation and meaningful participation by the most disadvantaged groups, including the Amerindians and fishery-dependent communities in decision-making processes directly impacted by pollution and climate change. Furthermore, the Committee is concerned about the prevalence of illegal mining activities, which contribute significantly to desertification, and by the lack of thorough assessment of the environmental impact of such activities by the Environmental Protection Agency. Additionally, it is concerned by the negative effects of water pollution and air contamination caused by these activities, as well as poor management of hazardous waste and their impact on environmental health conditions, such as abnormal childbirths, fatigue and memory loss. It is concerned about reports of the hazards posed by mercury contamination and poisoning from mining activities in inhabited areas, particularly by indigenous peoples (art. 6, 17 and 19).

27. In light of paragraph 26 of its General Comment No. 36 on the Right to Life (2018), the State party should:

   (a) Enhance the ability of the public to participate meaningfully in environmental decision-making and access to information, particularly Amerindians and fishery-dependent communities, including air and water quality, laws, regulations, policies, permit applications and decisions, pollution data, and enforcement actions taken;

   (b) Redouble its efforts to address water pollution and air contamination, improve waste management, improve the framework for ensuring compliance with relevant regulations, and regulate the maximum permissible concentrations of air and water pollutants;

   (c) Revise the legal framework governing social and environmental responsibility and the legal regime and regulatory standards applicable to mining activities, including by private foreign companies, to impose on them an obligation to exercise due diligence to identify the risks of violation of the rights protected by the Covenant, prevent and mitigate these risks, and prevent violations of these rights.

Prohibition of torture and other cruel, inhuman, or degrading treatment or punishment

28. The Committee is concerned about the absence of specific anti-torture legislation that expressly defines and criminalizes torture and other ill-treatments. The Committee is also concerned about reports of widespread torture or ill-treatment of persons deprived of liberty, including of: (a) torture and ill-treatment carried out to extract confessions during investigations; and (b) sexual violence including rape of detainees by the police. The Committee regrets the low rate of criminal investigations, prosecutions, and convictions concerning such allegations. It also regrets the lack of information regarding investigations into reported violations where the Police Commissioner blocks allegations of wrongdoing from reaching the Police Complaints Authority, (art. 7).

29. The State party should take all necessary measures to end the practice of torture and ill-treatment in line with the Covenant and international standards, in particular, it should:

   (a) Urgently adopt anti-torture legislation and ensure that it contains a definition of torture compliant with international law.

   (b) Conduct prompt, thorough, transparent, and impartial investigations into all allegations of torture and inhuman and degrading treatment, in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), ensuring that perpetrators are prosecuted and, if found guilty, are punished with sanction commensurate with the severity of the crime, and that victims are provided with full reparation, including rehabilitation and adequate compensation.

   (c) Consider strengthening the mandate of the Police Complaints Authority to ensure that it is empowered to investigate all cases of torture and ill-treatment effectively and independently, including its ability to initiate investigations on its own motion into the allegations of such abuses.
(d) Provide all law enforcement officers, prison personnel, and other public officials with mandatory training covering international norms on the prevention of torture, including the Principles on Effective Interviewing for Investigations and Information-Gathering (the Méndez Principles).

Treatments of persons deprived of liberty and conditions of detention

30. While recognizing the efforts of the State party to address overcrowding in prisons, the Committee is concerned about the harsh and life-threatening conditions in prisons which include, severe overcrowding, physical abuse, lack of access to adequate medical care, potable water, sanitary conditions, and limited sunlight. It is also concerned by reports of the lack of transparency, accountability, and independence of the Prison Visiting Committees, which are mandated to regularly inspect prisons and investigate prisoners’ complaints (arts. 6, 7, 9, 10, 14 and 26).

31. The State party should ensure that the conditions of detention are in compliance with relevant international human rights standards. In particular, the State party should:

   (a) Harmonize laws and policies on the detention of prisoners with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

   (b) Take immediate measures to significantly reduce overcrowding in prisons, including through the wider application of non-custodial measures as an alternative to imprisonment, as outlined in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

   (c) Improve the conditions of detention, and ensure adequate access to health care, clean water, and natural light for persons held in all places of deprivation of liberty;

   (d) Facilitate independent, effective, and regular monitoring of all places of detention without prior notice and on an unsupervised basis, including by establishing an independent mechanism to monitor the prison conditions and providing mandatory training for relevant law enforcement officers as well as judges, prosecutors, and other legal professionals regarding prevention of deaths in custody.

Liberty and security of person

32. The Committee is concerned about the widespread practice of arbitrary and unlawful arrest by police officers, leading to subsequent unlawful detention, including of minors. It regrets the lack of information provided about the number of investigations, convictions, and punishments undertaken following complaints of arbitrary and unlawful arrest and detention. Moreover, it notes with concern the absence of a restitution system for individuals falsely imprisoned or detained without bail for extended periods. Additionally, the Committee remains concerned about the high number of pretrial detainees and remand prisoners who are often deprived of their liberty for undue prolonged periods, up to 3 years, and that detainees are not always separated depending on their detention regime (arts. 9 and 14).

33. The State party should:

   (a) Ensure that all detainees enjoy full legal and procedural safeguards in accordance with the Covenant and the Committee’s general comment No. 35 (2014) on liberty and security of person;

   (b) Take all the measures necessary to prevent the practice of arbitrary and unlawful arrest, especially of minors. It should also immediately release those who are unlawfully detained, conduct thorough, independent investigations into these cases without delay, bring the suspected perpetrators to justice, and provide effective remedies to the victims.

   (c) Ensure that all victims of arbitrary detention have access to an effective remedy and receive adequate compensation, restitution, and rehabilitation.
(d) Ensure that pretrial detention is reasonably necessary, based on individual circumstances and judicially reviewed on a regular basis; that detainees are held only at official detention facilities and encourage the application of non-custodial alternative measures as provided for in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).

(e) Take necessary measures to ensure the separation of remand detainees from those serving a prison sentence.

Juvenile justice

34. The Committee notes that the State party has raised the age of criminal responsibility from 10 years to 14 years old. However, the Committee is concerned that children between 16 and 18 years of age who are in conflict with the law, are excluded from the juvenile justice system and tried as adults. It is also concerned about the lack of legal guarantees to ensure that the deprivation of liberty of children is used only as a measure of last resort and for the shortest possible period (arts. 7, 9, 10, and 24).

35. The State party should ensure that its juvenile criminal justice system upholds the rights set forth in the Covenant, including the right of children in conflict with the law to be treated in a way that will promote their integration into society. The State party should ensure that the detention and incarceration should be used only as a last resort; and that in any case children are separated from adults.

Elimination of slavery, servitude, and trafficking in persons

36. The Committee welcomes the State party’s efforts to prevent and combat trafficking in persons and child labour. However, it is concerned about the continued prevalence of human trafficking in persons and child labour, particularly in rural and hinterland areas. It is also concerned about reports of engagement of children in hazardous work, including among the Amerindian communities. The Committee regrets the absence of detailed information on the number and situation of street children, such children being at the greatest risk of violence and vulnerable to sexual exploitation. The Committee notes the State party’s efforts to guarantee the right to identity from birth. However, it is concerned about reports of continuing difficulties in the registration of births and the delivery of birth certificates in the interior areas of the State party, which increases children’s vulnerability (arts. 2, 7, 8, 24, and 26).

37. The State party should:

(a) Strengthen its efforts to combat, prevent, eradicate, and punish trafficking in persons by, inter alia, improving the early identification of victims, providing for the effective prosecution, and sanctioning of perpetrators of trafficking in persons, with particular attention paid to public officials, and ensuring that victims receive reparations;

(b) Strengthen prevention and awareness-raising campaigns and training aimed at public officials and other persons responsible for investigating and prosecuting cases of trafficking in persons and ensure that sufficient financial, technical, and human resources are allocated to all institutions responsible for preventing, combating, and punishing those offences;

(c) Redouble its efforts to combat and eradicate child labour, particularly in hazardous work, including by increasing labour inspections;

(d) Take urgent and appropriate steps to identify the root causes of the street children phenomenon, develop programmes to address those causes, provide shelter for these children, identify, compensate, and assist the victims of sexual abuse and bring those responsible to justice;

(e) Continue its efforts to ensure that all children born on its territory are registered and receive an official birth certificate, including by streamlining birth registration in the interior areas of the State party through, among others, local registry offices, mobile units and outreach programmes.
Treatment of aliens, including refugees and asylum seekers

38. The Committee notes the challenges faced by the State party owing to the influx of a high number of asylum seekers and people in need of international protection from neighbouring countries, and the measures taken by the State party to assist them. However, the Committee is concerned about the absence of a national refugee law and asylum procedures. The Committee is deeply concerned about the vulnerable situation of asylum seekers, those in need of international protection and refugees in the State party including those arriving from the Bolivarian Republic of Venezuela and Haiti, particularly about the obstacles to the acquisition of legal status and access to basic social services, as well as the imposition of visa restrictions on Haitians. It is also concerned about the absence of legal provisions recognizing the principle of non-refoulement. The Committee notes that the State party has not yet ratified the international instruments relating to the protection of refugees and asylum seekers. The Committee is further concerned about the information regarding the legislation on the acquisition of nationality, which would prohibit Guyanese citizens born abroad from handing down Guyanese nationality to their children, which has led them to become stateless (arts. 2, 6, 7, 9, 10, 13, and 26).

39. The State party should:

(a) Adopt, without delay, a national legislation to protect the rights of refugees and asylum-seekers and to adopt relevant procedures in compliance with the Covenant and other international norms and standards;

(b) Ensure procedural safeguards against refoulement are in place and that effective remedies with respect to refoulement claims in removal proceedings are available, including reviews of rejections by an independent judicial body, in particular on appeal;

(c) Redouble its efforts to regularize the situation of persons in need of international protection, in particular by securing their legal status, and providing access to formal employment and basic services, while responding to the specific needs of those in a vulnerable situation;

(d) Consider reviewing its nationality legislation, to guarantee that no children, including those of Guyanese parents born abroad, can become stateless.


Access to justice, independence of the judiciary, and fair trial

40. The Committee is concerned about the role of the executive and the legislative in the appointment of members of the judiciary, particularly the appointment of the Chancellor and Chief Justice who are appointed directly by the President after obtaining the agreement of the leader of the opposition according to Article 127 of the Constitution, and the appointment of judges by the President after consultation with the Judicial Service Commission. The Committee is also concerned that the Judicial Service Commission is appointed by the President after consultation with the leader of the opposition. The Committee is further concerned about the reported practice of appointing “acting judges”, which does not guarantee the independence of the judiciary or its competence. While noting the information provided by the State party on the progress made in reducing the number of civil cases, the Committee remains concerned about the considerable backlog of cases particularly of criminal cases resulting in lengthy pretrial detention, exacerbated by delays in the appointment of judges. Furthermore, the Committee is concerned about reports of limited access to free legal aid for people living in rural areas and members of the indigenous communities (arts. 2 and 14).

41. The State party should take all measures necessary to reform the justice system, to this end, it should:

(a) Take measures necessary to safeguard the independence and impartiality of the judiciary, including by ensuring that the procedures for the selection,
appointment, promotion, sanction, and removal of judges are transparent and impartial and comply with the Covenant and relevant international standards, including the Basic Principles on the Independence of the Judiciary;

(b) Adopt a comprehensive strategy to address the backlog of cases throughout the judiciary, particularly criminal cases, and ensure the right to a fair trial without undue delay, in accordance with article 14 of the Covenant and the Committee’s general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial;

(c) Expand the provision of free legal aid by strengthening the financial and human capacity of the Legal Aid Centres, to facilitate access to justice for all, including to those living in rural areas and to indigenous communities.

Freedom of expression

42. The Committee notes with concern reports of harassment, intimidation, and defamation lawsuits filed against journalists, media workers, and human rights defenders (including environmental defenders) aimed at deterring or discouraging them from freely expressing their opinions, and the inadequacy of existing safeguards for addressing these issues. The Committee is also concerned by the chilling effect that criminal defamation laws and the Cybercrime law (2018) have on freedom of expression in Guyana. Furthermore, the Committee is concerned by the President’s power to appoint the members of the National Broadcasting Authority and its reported lack of independence and impartiality in its regulatory and licensing decisions (art. 19).

43. The State party should take immediate measures to ensure that everyone can freely exercise the right to freedom of expression, in accordance with articles 19 of the Covenant and the Committee’s general comment No. 34 (2011), and that any restrictions on the exercise of this right comply with the strict requirements of articles 19 (3) of the Covenant. In doing so, the State party should:

(a) Effectively prevent and combat acts of harassment and intimidation against journalists, media workers, human rights defenders, including environmental defenders, to ensure that they are free to carry out their work effectively and without fear of reprisals;

(b) Review and revise the current Cybercrime Law (2018), to avoid the use of vague terminology and overly broad restrictions and ensure its conformity with the Covenant;

(c) Consider decriminalizing defamation and restrict the application of criminal law to the most serious defamation cases, bearing in mind that imprisonment is never an appropriate penalty for defamation;

(d) Take necessary measures to ensure that the National Broadcasting Authority performs its functions in an independent, transparent and impartial manner.

Participation in Public Affairs

44. While welcoming the amendment to the Representation of the People Act in 2022 which introduces improvements in the electoral process, the Committee remains concerned that the electoral system is exacerbating the existing dual ethno-political polarization and contributing to the political marginalization of other ethnic minorities and indigenous peoples. Furthermore, the Committee is concerned about the partisan structure of the Guyana Elections Commission (GECOM), excluding members from other parties and indigenous peoples, and therefore impeding it from effectively and independently implementing its mandate. It is also concerned about reports that persons with disabilities are not adequately included, supported, and trained to exercise their right to vote, and that prisoners and pretrial detainees continue to be deprived of their voting rights in practice (arts. 2, 25 and 26).

45. The State party should:
(a) Review and revise the electoral system to guarantee full compliance with the Covenant, particularly Article 25 thereof, and in the light of the guidelines for States on the effective implementation of the right to participate in public affairs, to ensure equal enjoyment of the right to participate for all citizens, irrespective of ethnicity, and eliminate any unclear or vague provisions in the electoral regulations that may impede the systems transparent and fair operation;

(b) Take all the measures necessary to ensure that the Guyana Elections Commission (GECOM) is impartial and independent of political parties and is able to exercise its role as a guardian of democratic pluralism;

(c) Ensure that voting rights are made accessible to all citizens, including persons with disabilities and persons deprived of their liberty.

Rights of Indigenous Peoples

46. Although appreciating the information provided by the State party regarding laws and procedures to protect indigenous peoples in Guyana, the Committee echoes the concerns of the Committee on Economic, Social and Cultural Rights, and the Committee on the Elimination of Discrimination against Women, about the insufficient recognition of the right of indigenous peoples to the lands and territories that they have traditionally occupied, owned, or used, and the lack of progress on the introduction of necessary amendments to the Amerindian Act. Furthermore, the Committee is troubled by reports of inadequately regulated mining activities in the areas inhabited by Amerindians which have adversely affected the demarcation of their traditional lands, caused environmental degradation and threatened their health and traditional way of life. The Committee is also concerned by the credible reports of inadequate participation and consultations with affected indigenous peoples, including of the Wapichan communities, seeking to obtain their consent to the granting of exploration and resource development licenses in their traditional territories (arts. 1, 2, 25, 26 and 27).

47. The State party should expedite revisions of the Amerindian Act 2006 to ensure that the rights of indigenous peoples to occupy, own, use, and develop their traditional lands, territories, and resources are fully respected, and that the revised provisions are effectively applied in practice. The State party should expedite the demarcation and titling of the collective lands of indigenous peoples, including by improving the accessibility and efficiency of the title granting process for Amerindian communities. The State party should ensure that the necessary participation and consultations are held with indigenous peoples to obtain their free, prior, and informed consent before the adoption of any legislation, policy or project affecting their lands or territories and other resources.

D. Dissemination and follow-up

48. The State party should widely disseminate the Covenant, its third periodic report and the present concluding observations, with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society, and non-governmental organizations operating in the country, and the general public.

49. In accordance with rule 75 (1) of the Committee’s rules of procedure, the State party is requested to provide, by 29 March 2027, information on the implementation of the recommendations made by the Committee in paragraphs 5 (Constitutional and legal framework within which the Covenant is implemented), 41 (Access to justice, independence of the judiciary, and fair trial), and 47 (Right of Indigenous Peoples) above.

---

7 E/C.12/GUY/CO/2-4, paras. 14 and 16.
8 CEDAW/C/GUY/CO/9, para 43.
50. In line with the Committee’s predictable review cycle, the State party will receive in 2030, the Committee’s list of issues prior to the submission of the report and will be expected to submit within one year its replies, which will constitute its fourth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in Geneva in 2032.