



**Co-operative Republic of Guyana's Compliance with the International Covenant on Civil and Political Rights: LGBT+**

**Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996

and

**Khaleem Ali**

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Founded in 1983, **The Advocates for Human Rights** is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact-finding, direct legal representation, education and training, and publications. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States, including LGBTIQ+ individuals who have experienced discrimination and violence based on sexual orientation, gender identity and expression, and sex characteristics.

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## EXECUTIVE SUMMARY

1. This report addresses compliance by the Government of Guyana (Government) with its human rights obligations concerning people who are lesbian, gay, bisexual, transgender and other sexual or gender minorities (LGBT+).
2. No Guyanese laws expressly prohibit discrimination on the grounds of sexual orientation, gender identity, gender expression, and LGBT+ people report experiencing discrimination almost all facets of their lives, including in education, health, public transportation, and access to justice. There is also little redress for LGBT+ people who experience discrimination.
3. LGBT+ individuals face significant risks of discrimination and violence from State and non-State actors, including police. Many LGBT+ people who experience violence do not report violations of their human rights to police for fear of further persecution.
4. The Government retains laws that criminalize consensual same-sex sexual activity between men. Although the laws are not regularly enforced, police use the threat of criminal charges to exploit men they find in compromising situations.

### **The Co-Operative Republic of Guyana (Guyana) fails to uphold its obligations under the International Covenant on Civil and Political Rights**

#### **I. The Government does not protect LGBT+ individuals from discrimination and violence — (List of Issues Prior to Reporting, paras. 6, 8)**

##### *Anti-Discrimination Legislation*

5. In its 2020 List of Issues Prior to Reporting (2020 LOIPR),<sup>1</sup> the Committee on Human Rights (the Committee) requested the Government to report on what anti-discrimination legislation it had adopted, beyond employment discrimination, that “criminalizes direct and indirect discrimination” based on sexual orientation and gender identity and provides effective victim remedies.<sup>2</sup>
6. In its 2022 State Party Report<sup>3</sup> the Government responded by citing Section 149(1) of the Guyanese Constitution that prohibits discrimination.<sup>4</sup> The Government also cited two laws<sup>5</sup> –

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<sup>1</sup> Human Rights Committee, *List of issues prior to submission of the third report of Guyana*, (Aug. 31, 2020), U.N. Document CCPR/C/GUY/QPR/3.

<sup>2</sup> Human Rights Committee, *List of issues prior to submission of the third report of Guyana*, (Aug. 31, 2020), U.N. Document CCPR/C/GUY/QPR/3, ¶ 6.

<sup>3</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3.

<sup>4</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3, ¶ 81.

<sup>5</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3, ¶¶ 83, 85.

the Prevention of Discrimination Act<sup>6</sup> and the Termination of Employment and Severance Pay Act<sup>7</sup> – as evidence of steps taken against discrimination.

7. Article 149(1) of the Guyanese Constitution does not expressly prohibit discrimination based on sexual orientation, gender identity, or gender expression. This Article expressly prohibits discrimination only based on “race, place of origin, political opinion, colour, creed, age, disability, marital status, sex, gender, language, birth, social class, pregnancy, religion, conscience, belief or culture.”<sup>8</sup>
8. In 2001 the Guyanese Parliament approved an amendment to Article 149(1) to prohibit discrimination on the basis of sexual orientation, but Guyana’s President refused to assent to the amendment under pressure from religious communities.<sup>9</sup> In 2003 an amendment of Article 149(1) to prohibit sexual orientation discrimination was again introduced into Parliament, but “floundered ... with no vote being taken.”<sup>10</sup>
9. Neither the Termination of Employment and Severance Act nor the Prevention of Discrimination Act (the Act), as cited by the Government, expressly prohibit discrimination based on sexual orientation, gender identity or expression.<sup>11</sup> While the Act prohibits discrimination on the basis of sex, sex is restricted to a close reading of biologically male or female.”<sup>12</sup>

#### *Discrimination Against LGBT+ Individuals*

10. In the 2020 LOIPR, the Committee requested the Government to provide statistical information on discrimination complaints indicating their basis, nature, investigation, outcome, and redress to victims.<sup>13</sup>

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<sup>6</sup> Laws of Guyana, Cap. 99.08, Prevention of Discrimination Act (2012). Available online at: <https://www.mola.gov.gy/sites/default/files/Cap.%209908.pdf> (accessed Jan. 6, 2024).

<sup>7</sup> Laws of Guyana, Cap. 96.01, Termination of Employment and Severance Pay Act (2012). Available online at: <https://www.mola.gov.gy/sites/default/files/Cap.%209601%20Termination%20of%20Employment%20and%20Severance%20Pay.pdf> (accessed Jan. 6, 2024).

<sup>8</sup> See Laws of Guyana, Cap. 1.01, Constitution of the Co-operative Republic of Guyana Act, §149 (2012). Available online at: [https://www.mola.gov.gy/sites/default/files/Cap.101%20Constitution\\_0.pdf](https://www.mola.gov.gy/sites/default/files/Cap.101%20Constitution_0.pdf) (accessed Jan. 1, 2024).

<sup>9</sup> Society Against Sexual Orientation Discrimination, The Sexual Rights Initiative, *Report on Guyana 8th Round of the Universal Periodic Review – May 2010*, ¶ 5. Available online at: (accessed Jan. 10, 2024)

[https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session8/GY/JS1\\_UPR\\_GUY\\_S08\\_2010\\_JointSubmissionSASODSexualRightsInitiative.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session8/GY/JS1_UPR_GUY_S08_2010_JointSubmissionSASODSexualRightsInitiative.pdf) (accessed Jan. 10, 2024).

<sup>10</sup> Society Against Sexual Orientation Discrimination, The Sexual Rights Initiative, *Report on Guyana 8th Round of the Universal Periodic Review – May 2010*, ¶ 5. Available online at: [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session8/GY/JS1\\_UPR\\_GUY\\_S08\\_2010\\_JointSubmissionSASODSexualRightsInitiative.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session8/GY/JS1_UPR_GUY_S08_2010_JointSubmissionSASODSexualRightsInitiative.pdf) (accessed Jan. 10, 2024).

<sup>11</sup> See Laws of Guyana, Cap. 96.01, Termination of Employment and Severance Pay Act, § 8, (2012). Available online at: <https://www.mola.gov.gy/sites/default/files/Cap.%209601%20Termination%20of%20Employment%20and%20Severance%20Pay.pdf> (accessed Jan. 6, 2024).

<sup>12</sup> *SASOD seeks amendments to Discrimination Act*, *Guyana Chronicle*, (Dec. 7, 2010), <https://guyanachronicle.com/2020/12/07/sasod-seeks-amendments-to-discrimination-act/> (accessed Jan. 16, 2024).

<sup>13</sup> Human Rights Committee, *List of issues prior to submission of the third report of Guyana*, (Aug. 31, 2020), U.N. Document CCPR/C/GUY/QPR/3, ¶ 6.

11. The Government only addressed complaints of police abuse reported to the Police Complaints Authority (PCA),<sup>14</sup> which are discussed in paragraphs 30 through 32 below.
12. Although the Guyanese Constitution created a Human Rights Commission<sup>15</sup> with a complaint mechanism for alleged international treaty violations, a report by the Georgetown Law and Human Rights Institute (GLHRI Report) found that the Commission “exists only on paper.”<sup>16</sup> Given that this is a constitutional body, the state is mandated to ensure its existence, resourcing, and operation in accordance with the supremacy of the Constitution.
13. There is widespread discrimination against LGBT+ individuals in Guyana, including official and social discrimination in employment, access to education and medical care, and in public spaces.<sup>17</sup>
14. The GLHRI Report further found “discrimination in every major facet of life including health, education, employment, and access to justice.”<sup>18</sup> As stated by Grace, a transgender woman interviewed for the report, “[D]iscrimination when it comes to [the] [LGBT+] population is . . . high everywhere – in church, in the community, in home, in the workplace, in the health sector – it is very, very high.”<sup>19</sup>
15. In the arena of education, bullying of [LGBT+] students is a “silent epidemic” that leads to those students dropping out and “becoming further marginalized.”<sup>20</sup> Nearly one-third of LGBT+ persons interviewed for the GLHRI Report also reported bullying and discrimination by their teachers, who are subject to a Code of Conduct that prohibits discrimination only because of “ability, race, colour or creed.”<sup>21</sup>
16. A local NGO, Guyana Trans United noted that “[e]mployers use the lack of this protected status [under the Prevention of Discrimination Act] to discriminate against lesbian, gay,

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<sup>14</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3, ¶¶ 117 -120.

<sup>15</sup> Laws of Guyana, Cap. 1.01, Constitution of the Co-operative Republic of Guyana Act, §212G, (2012). Available online at: [https://www.mola.gov.gy/sites/default/files/Cap.101%20Constitution\\_0.pdf](https://www.mola.gov.gy/sites/default/files/Cap.101%20Constitution_0.pdf) (accessed Jan. 1, 2024).

<sup>16</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018) 69. Available online at: <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024); *see also*, Laws of Guyana, Cap. 1.01, Constitution of the Co-operative Republic of Guyana Act, §212N, (2012). Available online at:

[https://www.mola.gov.gy/sites/default/files/Cap.101%20Constitution\\_0.pdf](https://www.mola.gov.gy/sites/default/files/Cap.101%20Constitution_0.pdf) (accessed Jan. 1, 2024).

<sup>17</sup> U.S. State Department, *2022 Country Reports on Human Rights Practices: Guyana*, 12. Available online at: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guyana/> (accessed Jan. 1, 2024).

<sup>18</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018), 13. Available online at: <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

<sup>19</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018), 26. Available online at: <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

<sup>20</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018), 30. Available online at: <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

<sup>21</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018), 28. Available online at: <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

bisexual and transgender (LGBT) persons.”<sup>22</sup> Many of the LGBT+ people interviewed for the GLHRI Report encountered discrimination in employment.<sup>23</sup> Employers often explicitly discriminate against openly gay applicants by saying “‘We don’t employ gay people,’ ‘Gays bring sick[ness],’ ‘Gays are pedophile[s],’ or ‘We don’t want you because we are Christian.’”<sup>24</sup>

17. Although Guyana’s Department of Labor has procedures for reporting discrimination, in 2018 the Department stated it had never received a complaint about LGBT+ discrimination.<sup>25</sup>
18. LGBT+ interviewees for the GLHRI Report “consistently reported facing discrimination when seeking healthcare or when undergoing treatment.”<sup>26</sup> A transgender woman who went to the hospital for the flu recounted that the doctors denied her care and medication. The report also detailed how the Georgetown Public Hospital discriminated against a gay man, waiting for hours to be seen for a serious head injury while other patients arriving later and with seemingly less-serious health concerns were given preference.
19. Public transportation providers frequently discriminate against the LGBT+ community by denying LGBT+ people access to public transportation services. A gay man interviewed for the GLHRI Report, said, “The bus don’t want you when they learn you’re gay. [The drivers] chase you out. . . . It happened to me several times in Georgetown.”<sup>27</sup>
20. Overall, social stigma against LGBT+ people is widespread: “According to a 2014 survey, approximately 12 percent of men who had sex with men experienced stigma daily, while approximately 30 percent of transgender youth and adults encountered stigma every day or regularly.”<sup>28</sup> These numbers may not accurately reflect stigma, however, because many LGBT+ people do not publicly disclose their sexual orientation or gender identity.

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<sup>22</sup> UNAIDS, *Guyana’s Transgender Community Calls for Protection under Anti-Discrimination Laws*, (Feb. 28, 2022). Available online at:

[https://www.unaids.org/en/resources/presscentre/featurestories/2022/february/20220228\\_guyana-transgender-anti-discrimination-laws](https://www.unaids.org/en/resources/presscentre/featurestories/2022/february/20220228_guyana-transgender-anti-discrimination-laws) (accessed Jan. 10, 2024).

<sup>23</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018), 37. Available online at: <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

<sup>24</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018), 38. Available online at: <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

<sup>25</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018), 43. Available online at: <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

<sup>26</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018), 49. Available online at: <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

<sup>27</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018), 63. Available online at: <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

<sup>28</sup> U.S. Department of State, *2018 Country Reports on Human Rights Practices: Guyana*, 11. Available online at: <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/guyana/>.

## *Violence against LGBT+ Individuals*

21. In the 2020 LOIPR, the Committee requested the Government to “indicate all measures adopted to combat and prevent acts of discrimination, stigmatization, and violence” against LGBT+ people.<sup>29</sup>
22. The Government acknowledged that no Guyanese laws specifically prohibit discrimination based on sexual orientation or gender identity<sup>30</sup> however, the Government pointed to the Caribbean Court of Justice (CCJ) case<sup>31</sup> that voided a law criminalizing “crossdressing” because the law discriminated against transgender women.<sup>32</sup> The Government further noted that the case “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 LGBTQ [lesbian, gay, bisexual, transexual, queer] Community.”<sup>33</sup>
23. The Government’s use of the CCJ decision (paragraph 22) suggests that change would therefore only come through the courts and legal process as opposed to executive action and parliamentary measures. Legal proceedings are costly and often plaintiffs in cases addressing marginalized groups’ rights appeal to the final court of appeal. The apex court of Guyana, the CCJ, is located in Trinidad and Tobago. This creates an additional expense for any litigant challenging discriminatory laws and policies and therefore, acts as a deterrent.
24. The Government also pointed to the 2021 repeal of the voided “crossdressing” law,<sup>34</sup> and cited common law and Guyanese general laws that criminalize violence against all Guyanese.<sup>35</sup> The Government further stated that the Guyana Police Force (GPF) has ongoing officer training to deal with all “vulnerable groups,” and “partners with civil society to implement training sessions and workshops on gender and sexual diversity.”<sup>36</sup>
25. Despite these measures, non-State actors continue to inflict violence upon LGBT+ people. A Guyanese news source reported in 2021 that the brother of a 21-year-old transgender woman’s girlfriend allegedly shot the transgender woman “largely because of her sexual identity.”<sup>37</sup>

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<sup>29</sup> Human Rights Committee, *List of issues prior to submission of the third report of Guyana*, (Aug. 31, 2020), U.N. Document CCPR/C/GUY/QPR/3, ¶ 8.

<sup>30</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3, ¶ 114.

<sup>31</sup> *McEwan v. Attorney General of Guyana*, [2018] CCJ 30 (AJ), (Nov. 13). Available online at: [MC-EWAN-et-al-v-AG-OF-GUYANA-Copy.pdf](#) (humandignitytrust.org) (accessed Jan. 6, 2024).

<sup>32</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3, ¶ 114; see also *McEwan v. Attorney General of Guyana*, [2018] CCJ 30 (AJ), (Nov. 13) ¶ 72. Available online at: [MC-EWAN-et-al-v-AG-OF-GUYANA-Copy.pdf](#) (humandignitytrust.org) (accessed Jan. 6, 2024).

<sup>33</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3, ¶ 114.

<sup>34</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3, ¶ 115.

<sup>35</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3, ¶ 117.

<sup>36</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3, ¶ 120.

<sup>37</sup> News Room Guyana, *Transgender Woman Shot by Girlfriend's Grother Claims It was a Hate Crime*, (Apr. 14, 2021). Available online at: <https://newsroom.gy/2021/04/14/transgender-woman-shot-by-girlfriends-brother-claims-it-was-a-hate-crime/> (accessed Jan. 9, 2024).

26. In 2019, Joel Simpson, an LGBT+ activist, reported that a group of men attacked him while he was waiting for food at a late-night food shop, presumably because he is gay. The Ministry of Social Protection later condemned the attack, saying that “LGBT people should be able to feel safe at work, in the streets and to be accepted for who they are.”<sup>38</sup> Yet, to date the Ministry has not taken any progressive steps to concretize this position.
27. In July 2019, the Guyana Court of Appeal reduced Clive Knights’ conviction for the murder of insurance company executive Bert Whyte in 2012. The Court reversed the conviction for murder and instead found Knights guilty of manslaughter and reducing his sentence from 57 years to 30 years’ imprisonment. Knights claimed that he fatally stabbed Whyte after Whyte had made unwanted sexual advances.<sup>39</sup>
28. There are credible reports that at least four other people have been murdered because of their perceived or actual sexual orientation since 2013, including a transgender sex worker in 2015,<sup>40</sup> and three other people believed to be gay or transgender in 2013.<sup>41</sup> Murders of LGBT+ people may be underreported, however, due to victims’ identities not being shared with the public.

#### *Police Treatment of LGBT+ People*

29. The Committee asked the Government to respond to alleged police mistreatment of detained transgender individuals, as well as police failures to investigate all instances of alleged discrimination and violence against LGBT+ people and to bring perpetrators to justice.<sup>42</sup>
30. The Government replied that it was “unable to verify instances of ill-treatment of LGBTQI [lesbian, gay, bisexual, transexual, queer, intersex] persons in police custody and prison, as there have been no formal reports of these instances in recent times to the relevant bodies.”<sup>43</sup> The Government further stated that it had mandated the Police Complaints Authority (PCA) to investigate any police failure to adequately handle reports of discrimination, abuse, violence and death regarding any citizen, including those in the LGBT+ community.<sup>44</sup> Citing the

<sup>38</sup> Stabroek News, *Social Protection Ministry condemns attack on Joel Simpson*, (June 30, 2019). Available online at: <https://www.stabroeknews.com/2019/06/30/news/guyana/social-protection-ministry-condemns-attack-on-joel-simpson/> (access Jan. 10, 2024).

<sup>39</sup> Stabroek News, *Court of Appeal reduces jail term for killer of GTM executive*, (Jul. 25, 2019). Available online at: <https://www.stabroeknews.com/2019/07/25/news/guyana/court-of-appeal-reduces-jail-term-for-killer-of-gtm-executive/> (accessed Jan. 9, 2024).

<sup>40</sup> Kaieteur News, *Male Sex Worker Shot Dead by Angry Client*, (Jul. 23, 2015). Available online at: <https://www.kaieteurnews.com/2015/07/23/male-sex-worker-shot-dead-by-angry-client/> (accessed Jan. 14, 2015).

<sup>41</sup> Amnesty International, *Guyana: Insufficient action on long-standing human rights concerns: Amnesty International submission to the UN Universal Periodic Review, January 2015*, , (June 2014) 8. Available online at <https://www.amnesty.org/en/documents/amr35/001/2014/en/> (accessed Jan. 12, 2024); *see also* U.S. State Department, *2013 Country Reports on Human Rights Practices: Guyana*, (Feb. 27, 2014) 18. Available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2013/wha/220449.htm> (accessed Jan. 12, 2024); *see also*, Kaieteur News, *Mocha Murder... Who killed Delon Melville?*, (Aug. 19, 2013). Available online at: <https://www.kaieteurnews.com/2013/08/19/mocha-murderwho-killed-delon-melville/> (accessed Jan. 12, 2024).

<sup>42</sup> Human Rights Committee, *List of issues prior to submission of the third report of Guyana*, (Aug. 31, 2020), U.N. Document CCPR/C/GUY/QPR/3, ¶ 8.

<sup>43</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3, ¶ 117.

<sup>44</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3, ¶ 118.

GLHRI Report,<sup>45</sup> the Government said that the LGBT+ community had not brought many cases to the PCA, and that a local NGO estimated there were fewer than ten cases in the past ten years.<sup>46</sup> The Government acknowledged that the PCA’s slow investigative mechanisms can be a disincentive to LGBT+ persons reporting complaints.<sup>47</sup> The Government also did not address the possibility that LGBT+ people do not report all violations they experience to the PCA.

31. There are questions, however, about the PCA’s independence and capacity, noting that “[p]olice abuses continue, with impunity being the norm, and there has been a spate of allegations of egregious police brutality in recent months.”<sup>48</sup> In 2018, a new Chairman was appointed, but questions as to the PCA’s effectiveness remain due to allegations by the Chairman that the Police Commissioner is avoiding the PCA’s review of complaints.<sup>49</sup>
32. Further, some of the people interviewed for the GLHRI Report noted that they had filed multiple letters with the PCA and never received any information on their case or that their cases were repeatedly dismissed.<sup>50</sup>
33. There is no formalized body or procedure in place to specifically to address police abuse of and brutality toward LGBT+ people. Police often dismiss, mock, or ignore LGBT+ people when they seeking assistance from police. The fear of stigmatization also prevents people from making reports.
34. Local NGOs have also reported numerous incidents of violence by non-State actors against LGBT+ people that police have only seldomly investigated<sup>51</sup>
35. Police only investigated and charged someone in a 2014 alleged shooting of a drive-by shooting of a small group of transgender people after public outcry.<sup>52</sup> Also in 2014, a gay or bisexual man went to a police station to file a complaint, while he was there, police reportedly

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<sup>45</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018) 80. Available online at: <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

<sup>46</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021, (May 31, 2022)*, U.N. Document CCPR/C/GUY/3, ¶ 119.

<sup>47</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021, (May 31, 2022)*, U.N. Document CCPR/C/GUY/3, ¶ 119.

<sup>48</sup> Amnesty International, *Guyana: Insufficient action on long-standing human rights concerns: Amnesty International submission to the UN Universal Periodic Review, January 2015*(June 2014) 3. Available online at <https://www.amnesty.org/en/documents/amr35/001/2014/en/> (accessed Jan. 12, 2024).

<sup>49</sup> Stabroek News, *Police Complaints Head Accuses Top Cop of Violating Act*, (Aug. 15, 2023). Available online at: <https://www.stabroeknews.com/2023/08/15/news/guyana/police-complaints-head-accuses-top-cop-of-violating-act/> (accessed Dec. 31, 2023).

<sup>50</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018) 80. Available online at <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

<sup>51</sup> U.S. State Department, *2022 Country Reports on Human Rights Practices: Guyana*, at 12. Available online at: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guyana/> (accessed Jan. 1, 2024).

<sup>52</sup> U.S. State Department, *2014 Country Reports on Human Rights Practices: Guyana*, (June 25, 2015) 18. Available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2014/wha/236694.htm> (accessed Jan. 12, 2024).



ordered him to take off his clothes and stand on a counter for several hours.<sup>53</sup> This kind of action deters LGBT+ individuals from reporting crimes to police.

36. Local NGOs further report that LBT+ women “experience negative treatment at the hands of the police.”<sup>54</sup> There are multiple incidences of police refusing to help or actively discriminating against LBT+ women because of their sexual orientation and/or gender identity or expression. Police have also been known to forcibly intimidate LBT+ women, solicit bribes, and demand sexual favors.
37. LGBT+ persons also generally fear reporting crimes against them “because they believed or were told that charges would also be brought against them because of their sexual orientation or gender identity” (See Section II below on criminalization of consensual same-sex sexual activity between adults).<sup>55</sup>
38. Police have weaponized the laws criminalizing consensual same-sex sexual activity between adult men to extort men who they have found in compromising situations. Police demand bribes in lieu of filing criminal charges, despite the difficulty in proving that the men had engaged in criminal behavior.<sup>56</sup>
39. Transgender sex workers have reported that police allegedly rape, brutalize, and extort sexual favors from them, and that “[m]ost of the cases are not reported to the police, due to the lack of confidence in their response and reaction.”<sup>57</sup>
40. LGBT+ people also encounter discrimination when attempting to report same-sex intimate partner violence, including police allegedly ridiculing people attempting to make reports, expressing satisfaction that same-sex sexual partners are engaging in violence, or refusing to take individuals’ reports of violence.<sup>58</sup>

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<sup>53</sup> Leon Suseran, *LGBT get Poor Treatment at Police Stations, Hospitals – UNDP Analyst*, Kaieteur News, (May 29, 2014). Available online at: <https://www.kaieteurnews.com/2014/05/29/lgbt-get-poor-treatment-at-police-stations-hospitals-undp-analyst/> (accessed Jan. 12, 2024).

<sup>54</sup> Guyana RainBow Foundation, The International Gay and Lesbian Human Rights Commission, Society Against Sexual Orientation Discrimination, *Human Rights Violations of Lesbian, Bisexual, and Transgender (LBT) People in Guyana: A Shadow Report*, (July 10, 2012), 6. Available online at: [https://www2.ohchr.org/english/bodies/cedaw/docs/ngos/GuyanaLGBTSubmission\\_for\\_the\\_session.pdf](https://www2.ohchr.org/english/bodies/cedaw/docs/ngos/GuyanaLGBTSubmission_for_the_session.pdf) (accessed Jan. 12, 2024).

<sup>55</sup> U.S. State Department, *2013 Country Reports on Human Rights Practices: Guyana*, (Feb. 27, 2014) 18. Available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2013/wha/220449.htm> (accessed Jan. 12, 2024).

<sup>56</sup> Society Against Sexual Orientation Discrimination, The Sexual Rights Initiative, *Report on Guyana 8th Round of the Universal Periodic Review – May 2010*, (2010), 2. Available online at: (accessed Jan. 10, 2024). [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session8/GY/JS1\\_UPR\\_GUY\\_S08\\_2010\\_JointSubmissionSASODSexualRightsInitiative.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session8/GY/JS1_UPR_GUY_S08_2010_JointSubmissionSASODSexualRightsInitiative.pdf) (accessed Jan. 10, 2024).

<sup>57</sup> Society Against Sexual Orientation Discrimination, The Sexual Rights Initiative, *Report on Guyana 8th Round of the Universal Periodic Review – May 2010*, (2010), 2, 3. Available online at: (accessed Jan. 10, 2024). [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session8/GY/JS1\\_UPR\\_GUY\\_S08\\_2010\\_JointSubmissionSASODSexualRightsInitiative.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session8/GY/JS1_UPR_GUY_S08_2010_JointSubmissionSASODSexualRightsInitiative.pdf) (accessed Jan. 10, 2024).

<sup>58</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018) 76. Available online at <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

41. Guyana has no minimum education requirements for police and provides inadequate training to new and existing police officers, perhaps contributing to police officers' mistreatment of LGBT+ people.<sup>59</sup>

## **II. The Government has not decriminalized same-sex sexual activity (List of Issues Prior to Reporting, para. 8)**

### *Laws Criminalizing Consensual Same-Sex Sexual Activity Between Adult Men Not Repealed*

42. The Committee requested the Government to report on any steps taken to repeal sections 352 to 354 of the Criminal Law (Offences) Act,<sup>60</sup> which criminalize consensual same-sex sexual activity between adult men, as well as the number of people arrested, detained, and prosecuted under those sections.<sup>61</sup>
43. The Government replied that repeal of sections 352 to 354 is “still under consideration” by the Government, but that, “[a]s with all complex or controversial matters the GoG [Government of Guyana] will involve national stakeholders.”<sup>62</sup> The Government provided no information as to those arrested, detained, or prosecuted under the laws.
44. Laws that criminalize consensual same-sex sexual activity between adult men, even if unenforced, violate ICCPR articles 17(1) (the right to privacy) and 26 (the right to be free from discrimination).<sup>63</sup>
45. Under sections 352 to 354 of the Criminal Law (Offences Act), “[c]onsensual same-sex sexual activity among men is illegal and is punishable by up to two years in prison. Anal intercourse is punishable with a maximum sentence of life in prison, regardless of whether the intercourse is between persons of the same sex.”<sup>64</sup> These provisions were inherited from the British during the colonial period and were retained when Guyana gained its independence.<sup>65</sup> Because there are no gender-recognition laws that permit transgender people to be legally recognized as their gender, the Government legally classifies transgender women as men. Thus, if transgender women engage in consensual sexual activity with cisgender men, they would also be criminally liable under buggery laws.
46. Although there are reports that police have not actively enforced these laws in recent years, there are credible reports that police occasionally use the threat of criminal charges as a means to intimidate men they perceive to be gay or bisexual and transgender women.

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<sup>59</sup> Georgetown Law Human Rights Institute, *Trapped: Cycles of Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Persons in Guyana*, (May 2018) 80. Available online at <https://original-ufdc.uflib.ufl.edu/AA00063325/00001> (accessed Jan. 6, 2024).

<sup>60</sup> Laws of Guyana, cap. 8:01, Criminal Law (offences), §§ 352–354, (2012). Available online at: <https://www.mola.gov.gy/sites/default/files/Cap%20801.pdf> (accessed Dec. 30, 2023).

<sup>61</sup> Human Rights Committee, *List of issues prior to submission of the third report of Guyana*, (Aug. 31, 2020), U.N. Document CCPR/C/GUY/QPR/3, ¶ 8.

<sup>62</sup> Human Rights Committee, *Third periodic report submitted by Guyana under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*, (May 31, 2022), U.N. Document CCPR/C/GUY/3, ¶ 116.

<sup>63</sup> See *Toonen v Australia, Communication*, No. 488/1992, UN Doc. CCPR/C/50/D/488/1992 (1994). Available online at: <https://juris.ohchr.org/casedetails/702/en-US> (accessed Jan. 13, 2024).

<sup>64</sup> U.S. State Department, *2022 Country Reports on Human Rights Practices: Guyana*, 12. Available online at: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guyana/> (accessed Jan. 1, 2024).

<sup>65</sup> Human Dignity Trust, *Types of criminalization: Guyana*. Available online at: <https://www.humandignitytrust.org/country-profile/guyana/> (accessed Jan. 11, 2024).

47. As noted in paragraphs 36 and 46 above, police also solicit bribes from gay and bisexual men and transgender women to avoid arrest: “Just a threat of that offence [violation of sections 352 to 354] causes men to pay bribes because nobody wants to go to the station to report for anything that has to do with homosexuality.”<sup>66</sup>
48. In a 2017 letter from the Government to the Inter-American Commission on Human Rights, the Government wrote that “the issue of repeal [of sections 352 to 354] was brought to the attention of the Legislative arm of Government on several occasions and it was deemed unfit for the legislature to decide on the matter,” so “a recommendation was made for the matter be taken to a vote, where the people of Guyana will decide by a referendum on these matters.”<sup>67</sup> No such referendum has been held.
49. There appears to be growing public acceptance for the LGBT+ community. A 2022 survey (Perceptions Report) found that 72.4% of those surveyed said they were “accepting” or “tolerant” of homosexuals, representing a 28.5% increase from those giving such responses to a 2013 survey.<sup>68</sup> According to the Perceptions Report, 49.6% of those surveyed believed that the Government should protect the rights of gay, bisexual and transexual persons,<sup>69</sup> and 53.9% of those surveyed were “somewhat likely,” “likely,” or “very likely” to support decriminalizing consensual same-sex sexual activity between two men.<sup>70</sup>
50. Despite the apparent growing acceptance of the LGBT+ people in Guyana,<sup>71</sup> the 2021 legislative repeal of the judicially voided “crossdressing” law provoked heated debate on religious grounds.<sup>72</sup> Also, due to religious opposition, in 2001, the President refused to assent to a Constitutional amendment that would have prohibited discrimination based on sexual orientation.<sup>73</sup>

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<sup>66</sup> Bibi Khatoon, *Police Use Discriminatory Laws to Extort LGBT Persons-SASOD*, News Room Guyana (May 16, 2019). Available online at: <https://newsroom.gy/2019/05/16/police-uses-discriminatory-laws-to-extort-lgbt-persons-sasod/> (accessed Jan. 10, 2024).

<sup>67</sup> News Source Guyana, *Decriminalization of homosexuality to go to Referendum -Govt. tells Human Rights Commission*, (April 19, 2017). Available online at: <https://newssourcegy.com/news/decriminalization-of-homosexuality-to-go-to-referendum-govt-tells-human-rights-commission/> (accessed Jan. 11, 2024).

<sup>68</sup> RMK Consulting Enterprise, *A Study of Perceptions and Attitudes towards LGBT Persons in Guyana*, (Sep. 28, 2022) at 6, 7. Available online at: [https://ufdcimages.uflib.ufl.edu/AA/00/09/05/02/00001/AA00090502\\_00001.pdf](https://ufdcimages.uflib.ufl.edu/AA/00/09/05/02/00001/AA00090502_00001.pdf) (accessed Jan. 6, 2024).

<sup>69</sup> RMK Consulting Enterprise, *A Study of Perceptions and Attitudes towards LGBT Persons in Guyana*, (Sep. 28, 2022) 10. Available online at: [https://ufdcimages.uflib.ufl.edu/AA/00/09/05/02/00001/AA00090502\\_00001.pdf](https://ufdcimages.uflib.ufl.edu/AA/00/09/05/02/00001/AA00090502_00001.pdf) (accessed Jan. 6, 2024).

<sup>70</sup> RMK Consulting Enterprise, *A Study of Perceptions and Attitudes towards LGBT Persons in Guyana*, (Sep. 28, 2022) 13. Available online at: [https://ufdcimages.uflib.ufl.edu/AA/00/09/05/02/00001/AA00090502\\_00001.pdf](https://ufdcimages.uflib.ufl.edu/AA/00/09/05/02/00001/AA00090502_00001.pdf) (accessed Jan. 6, 2024).

<sup>71</sup> Guyana Chronicle, *Advocating for the rights and protection of the LGBTIQ+ community*. Available online at: (accessed Jan. 11, 2024). Available online at: <https://guyanachronicle.com/2021/06/27/advocating-for-the-rights-and-protection-of-the-lgbtqi-community/> (accessed Jan. 11, 2024).

<sup>72</sup> Lakhram Bhagirat, *Time for Gov't to Decriminalise Same-Sex Intimacy – SASOD*, Stabroek News, (Jul. 16, 2022). Available online at: <https://www.stabroeknews.com/2022/07/16/news/guyana/time-for-govt-to-decriminalise-same-sex-intimacy-sasod/> (accessed Jan. 9, 2024).

<sup>73</sup> Society Against Sexual Orientation Discrimination, The Sexual Rights Initiative, *Report on Guyana 8th Round of the Universal Periodic Review – May 2010*. Available online at: [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session8/GY/JS1\\_UPR\\_GUY\\_S08\\_2010\\_JointSubmissionSASODSexualRightsInitiative.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session8/GY/JS1_UPR_GUY_S08_2010_JointSubmissionSASODSexualRightsInitiative.pdf) (accessed Jan. 10, 2024).

### **III. Suggested Recommendations**

51. The coauthors suggest that the Committee make the following recommendations to the Government of Guyana:

- Repeal sections 352 to 354 of the Criminal Laws (Offenses) Act.
- Amend Article 149(1) to prohibit discrimination based on sexual orientation, gender identity or expression, and/or sex characteristics.
- Amend the Termination of Employment and Severance Act to prohibit discrimination based on sexual orientation, gender identity or expression, and/or sex characteristics.
- Amend and implement section 212N of the Guyana Constitution to expressly authorize administrative pursuit of discrimination and violence claims by LGBT+ persons.
- Develop mandatory police training and procedures for responding to claims of discrimination and violence against LGTBIQ+ persons in a manner consistent with Guyana's obligations under the International Covenant on Civil and Political Rights.
- Establish an independent body tasked with overseeing LGBT+ protection. Ensure that this body has resources for proper functioning and sufficient sub-offices in various regions to be able to provide refuge, support, and redress to LGBT+ people.
- Establish a special taskforce for dealing with crimes related to gender identity and expression.
- Engage in public education and awareness campaigns to demystify the LGBT+ community and challenge religious rhetoric on the issue.
- Establish laws that hold police officers personally liable (both in criminal and civil law) for failing to sufficiently address reports made by LGBT+ people, for their abuse toward LGBT+ people, and other violations related to the LGBT+ community.
- Introduce comprehensive sexual and reproductive health education in schools across Guyana to address issues related to bullying.
- Provide schools with guidance counsellors trained in working with LGBT+ youth – and create capacity training programs for school guidance counsellors where required – to provide counselling and support to LGBT+ youth across Guyana.
- Establish an advisory committee comprising of civil society organization officials working on LGBT+ issues and rights to support various governmental ministries to introduce gender transformative approaches to their mandates and streamline LGBT+ support.