



Greater Caribbean for Life
committed to the abolition of the death penalty



Co-operative Republic of Guyana's Compliance with the International Covenant on Civil and Political Rights: Death Penalty

Submitted by The Advocates for Human Rights

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

The World Coalition Against the Death Penalty

and

The Greater Caribbean for Life

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The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, 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. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty is a volunteer-based non-government organization committed to strengthen the international dimension of the fight against the death penalty. Established in 2002, its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

The Greater Caribbean for Life (GCL) is an independent, not-for-profit civil society organization that was established in Port of Spain, Trinidad on October 2, 2013 to unite Caribbean abolitionist organizations and individuals. The region comprises 25 countries, including 13 Caribbean islands, the Caribbean states of South America (Columbia, Venezuela, and the Guyanas), the countries of Central America and Mexico, in addition to Puerto Rico, and the US, British, Dutch and French Caribbean territories. In the struggle against the death penalty, GCL reflects the greatest respect to the right to life. GCL has members in 16 Caribbean States and territories. This initiative began on October 19, 2011, when a group of organizations and individuals from countries of the Greater Caribbean opposed to the application of capital punishment, participated in an International Conference in Madrid on the Death Penalty in the Greater Caribbean. The Conference was organized by the Community of Sant'Edigio. GCL was constituted with the purpose of campaigning for and working towards the permanent abolition of the death penalty in the Greater Caribbean; supporting Caribbean abolitionist activists and organizations in this region; and collaborating with the international abolitionist community.

EXECUTIVE SUMMARY

1. Guyana has not abolished the death penalty or acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). The death penalty could be abolished by Guyana's Parliament, but politically Guyana does not appear inclined to do so.
2. An informal, non-binding moratorium on executions exists because no one has been executed since 1997. Death sentences, however, continue to be issued.
3. Guyana's general criminal law statute was amended to limit cases in which a death sentence can be imposed and removed the penalty of mandatory death sentences in almost all cases under that law.
4. In 2023, members of the Guyana Defence Force sought to challenge the constitutionality of the death penalty. In a landmark judgement, however, the Caribbean Court of Justice denied special leave to challenge its constitutionality, as the Court found that it would be a merely academic appeal or request for an advisory opinion, and as such deemed it inappropriate in the proceedings. The Court strongly hinted, however, that the death penalty was not a "saved law" as the Court of Appeal had found.¹
5. Guyana's Constitution prohibits torture, but Guyana retains laws that permit whipping, flogging, and apparent mandatory death sentences as punishment for certain crimes.
6. Over the reporting period there have been several alleged cases of pre-trial police abuse. The Police Complaints Authority, to whom complaints of such abuse are to be reported, appears less than effective to address these complaints due to non-compliance by other agencies with governing procedures.
7. The Government apparently provides police and security officers with inadequate human rights training, including as it relates to the prevention and prohibition of torture, ill-treatment, and excessive use of force.
8. The U.S. State Department has reported that as recently as 2022, prison and jail conditions, particularly in police holding cells, were reportedly harsh and potentially life threatening due to overcrowding, violence by other individuals in detention, physical abuse, unsanitary conditions, and a lack of potable water.
9. Historically, prisons have been severely overcrowded. One reason for overcrowding is the large number of people in pretrial detention who are not separated from people who have been convicted. This detention is caused in part by lengthy pretrial waiting periods related to mandatory Preliminary Inquiry proceedings prior to actual trial. Judicial inefficiency and staff shortages are contributing factors.
10. With the recent and pending construction of new and reconstructed prisons facilities, prison conditions may improve. Overcrowding might be lessened, and the significant case backlog reduced if an integrated case management system recently implemented for one magistrate's court on a pilot basis is expanded to other courts to expedite trials. Additionally, the case backlog could be reduced if the Preliminary Inquiry process is eliminated as has been suggested by Guyana's Attorney General.

¹ *Harte and Greendridge v The State* (2023) CCJ Application No GY/A/CR2023/002

11. Police tend to arrest individuals without a reasonable basis or just cause.
12. A significant portion of detained children have experienced police brutality. Prison officials do not separate youth 16 years of age and older from adults in detention. Employment and educational opportunities for youth who have been in the criminal justice system are limited, and current reforms have not reduced their high-rates of recidivism.
13. While a non-governmental legal aid clinic offers free legal aid and is largely funded by the Guyanese government, the clinic does not adequately offer its services in rural areas of the country and it needs further funding if it is to expand its offices into those areas.

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

I. Guyana retains the death penalty for more than the “most serious” crimes and has made no progress toward formally abolishing the death penalty (List of Issues Prior to Reporting, para. 12)

Retention of the Death Penalty

14. In its 2020 List of Issues Prior to Reporting² (LOIPR), the Committee requested the Government of Guyana to report on any progress being made towards abolishing the death penalty, including current obstacles to its abolition.³
15. In its 2022 State Party Report,⁴ the Government noted that since 1997 there have been no executions of persons sentenced to death in Guyana.⁵ The 2022 State Party Report further noted that its general criminal law was amended in 2010 to remove the mandatory death sentence for murder cases – making life imprisonment and imprisonment with the possibility of parole options instead – and limited the availability of the death penalty to certain cases of murder.⁶
16. The 2022 State Party Report failed to mention the other crimes for which a death penalty may or must be imposed. With approval from the president,⁷ a death sentence may be rendered for various military offenses not involving deaths.⁸ Additionally, presumably mandatory death sentences remain under other laws which include language that persons convicted of certain crimes “shall” be sentenced to death, without offering alternative sentencing options. The Court of Appeal found the mandatory death penalty was likely unconstitutional had the law not been amended in 2010, but did not make an express finding on this point. Crimes of this

² 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.

³ 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, ¶ 12.

⁴ 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.

⁵ 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, ¶ 160.

⁶ 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, ¶ 160.

⁷ Laws of Guyana, Cap. 15:01, Defence Act, §113 (2012). Available online at <https://www.mola.gov.gy/sites/default/files/Cap.%2015.01%20Defence.pdf> (accessed Dec. 30, 2023).

⁸ Laws of Guyana, Cap. 15:01, Defence Act, §§ 33(1), 34(1), 41(1), 42(i), 76(3)(a) (2012). Available online at <https://www.mola.gov.gy/sites/default/files/Cap.%2015.01%20Defence.pdf> (accessed Dec. 30, 2023).

nature include acts of terrorism resulting in death,⁹ treason,¹⁰ hijacking or piracy related to a vessel attack,¹¹ and supplying narcotics resulting in a young person's death.¹² Many of these crimes do not meet the ICCPR Article 6(2) threshold of the "most serious" crimes of an intentional killing.

17. The Government also did not identify obstacles to the abolition of the death penalty. the Government of Guyana had previously indicated a willingness to hold a referendum or other consultative processes to ascertain the will of the Guyanese people on the death penalty, but there are no reports that such a referendum has been held.¹³The ruling party, the People's Progressive Party, however, appears to be resisting abolition of the death penalty.¹⁴
18. In 2021, the current Attorney General, Anil Nandlall, a member of Guyana's current ruling party, stated that the legality of the death penalty is part of Guyana's Constitution and its retention in the Constitution is a manifestation of the will of the Guyanese people.¹⁵ In a 2022 case upholding the death penalty's constitutionality, the Attorney General argued that the issue could be settled only by Parliament.¹⁶ It must be underscored that the Attorney General is also a member of the Parliament. The Executive Government is formed based on a proportionate representative system. The Executive Government holds the most seats in Parliament and also sets the legislative agenda for the National Assembly (Parliament). Therefore, it is a lack of political will which has resulted in the continuous retention of the death penalty.
19. According to Amnesty International, at the end 2021 there were 27 people under sentence of death sentences in Guyana,¹⁷ with four additional death sentences issued in 2022, and 17 people under the death sentence by the end of 2022, at least three of whom were women.¹⁸ The

⁹Laws of Guyana, Cap. 8:01, Criminal Law (Offences), §309a, (2012). Available online at <https://www.mola.gov.gy/sites/default/files/Cap%20801.pdf> (accessed Dec. 30, 2023).

¹⁰ Laws of Guyana, Cap. 8:01, Criminal Law (Offences), §317, (2012). Available online at <https://www.mola.gov.gy/sites/default/files/Cap%20801.pdf> (accessed Dec. 30, 2023).

¹¹ Laws of Guyana, Cap. Anti-Terrorism and Terrorist-Related Activities Act 2015, §§3(1)(a)(1), 3(1)(a)(2), 21(1), 22(1), 27(1), 32(1), 32(2), (2016). Available online at https://counterterrorlaw.info/assets/downloads/Guyana_2015_Anti-Terrorism_Act.pdf, (accessed Dec. 30, 2023); Laws of Guyana, Cap. 10:08, Hijacking and Piracy Act, §7, (2012). Available online at <https://www.mola.gov.gy/sites/default/files/Cap.%201008%20Hijacking%20And%20Piracy.pdf> (accessed Dec. 30, 2023).

¹² Laws of Guyana, Cap. 10:10, Narcotic Drugs and Psychotropic Substances (Control) Act, §6, 73(1). Available online at <https://www.mola.gov.gy/sites/default/files/Cap.%201010%20Narcotic%20Drugs%20and%20Psychotropic%20Substances%20%28Control%29.pdf>, (2012).

¹³ Human Rights Council, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*, (Jan. 10, 2020), U.N. Doc. A/HRC/WG.6/35/GUY/1 ¶ 108).

¹⁴ *Rethinking the death penalty in Guyana's Laws – should it be abolished?*, Village Voice, October 11, 2023, <https://villagevoiceneews.com/2023/10/11/rethinking-the-death-penalty-in-guyanas-laws-should-it-be-abolished/> (accessed Dec. 30, 2023).

¹⁵ Admin, *Legal Challenge to Death Penalty: Retention a Manifest Will of Guyanese*, Guyana Times, October 11, 2021, <https://guyanatimesgy.com/legal-challenge-to-death-penalty-retention-a-manifestation-of-the-will-of-guyanese/> (accessed Dec. 21, 2023).

¹⁶ Renay Sambach, *A Look at the Death Penalty*, Kaieteur News (Nov. 28, 2022), <https://www.kaieteurnews.com/2021/11/28/a-look-at-the-death-penalty-2/> (accessed Dec. 30, 2022).

¹⁷ Amnesty International, *Death Sentences and Executions 2021*, (May 2022), 13, <https://www.amnesty.org/en/documents/act50/5418/2022/en/>

¹⁸ Amnesty International, *Death Sentences and Executions 2022*, (May 2023), 16, <https://www.amnesty.org/en/documents/act50/6548/2023/en/>, (accessed Dec. 20, 2023).

Court of Appeal overturned and replaced at least three death sentences with life sentences in 2022.¹⁹

20. In January 2023, the Guyana Supreme Court of the Judicature sentenced two men to death under the Hijacking and Piracy Act. Guyana’s Prime Minister stated that the death penalty is required to deter piracy attacks and “bemoaned” the moratorium on executions, which the President of Guyana continues to support.²⁰

Second Optional Protocol to the ICCPR

21. The Committee also requested Guyana to provide an update of its plans to accede to the Second Optional Protocol and to report on the status of a draft memorandum on accession.²¹
22. The Government did not identify any specific plans to accede to the Second Optional Protocol in its State Party Report, nor did it mention the draft memorandum related to accession. Instead, the Government reported that it would consider recommendations for Guyana to abolish the death penalty and accede to the Second Optional Protocol.²²
23. In 2007, 2008, 2010, 2012, 2014, and 2016, Guyana voted against the biennial U.N. General Assembly resolution calling for a universal moratorium on the death penalty. In 2018, 2020, and 2022 Guyana abstained from voting on the same resolution.²³

II. Excessive use of force by police may rise to the level of torture and other cruel, inhumane or degrading treatment or punishment – (List of Issues Prior to Reporting, paras. 15, 16)

Legal Framework Related to Torture

24. The Committee requested information on Guyana’s legislative framework to prevent and combat torture and excessive use of force, as well as to the definition of torture.²⁴
25. In response, the Government noted the language in Art. 141(1) of its Constitution that no person shall be subjected to torture, inhuman or degrading punishment or other treatment, as

¹⁹ The Death Penalty Project, “Guyana’s Court of Appeal refuses to declare the death penalty unconstitutional,” accessed Jan. 29, 2023, <https://deathpenaltyproject.org/guyanas-court-of-appeal-refuses-to-declare-the-death-penalty-unconstitutional/>.

²⁰ Michael Chalupovitsch, Law Library of Congress, *Guyana: Piracy Convictions Lead to Death Sentence*, (March 24, 2023), <https://www.loc.gov/item/global-legal-monitor/2023-03-23/guyana-piracy-convictions-lead-to-death-sentence/?locl=calln>, (accessed Dec. 30, 2023).

²¹ 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, ¶ 12.

²² 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, ¶ 160.

²³ World Coalition Against Death Penalty, *9th Resolution for a Moratorium on the Death Penalty: The Trend is Growing*, (Dec. 20, 2022), <https://worldcoalition.org/2022/12/20/9th-resolution-for-a-moratorium-on-the-death-penalty-the-trend-is-growing/> (accessed Dec. 30, 2023).

²⁴ 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, ¶ 15.

well as the Constitution's incorporation of the ICCPR and Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.²⁵

Complaints of Police Abuse

26. The Committee also requested statistics related to reports of widespread torture, ill-treatment, or excessive use of force by police and prison officials against people in detention.²⁶
27. The Government identified three complaints of torture since 2000, all related to pretrial detention resulting in complaints to the Police Complaints Authority (PCA) and subsequent criminal charges being filed against the accused officers.²⁷
28. The U.S. State Department reported the PCA received 78 complaints of unnecessary use of violence in 2009,²⁸ 11 in 2010,²⁹ 11 in 2011,³⁰ and 36 in 2012.³¹ A Guyanese government website further reported that in 2018 the PCA received 513 complaints, of which 159 were rejected, 276 were closed, 98 were pending investigation, and five were referred to the Police Service Commission or the Police Disciplinary Authority for advice.³² According to the Chairman of the PCA, in 2019, the PCA closed 276 complaints after preliminary investigation, referred three to the Commissioner of Police, and sent five to the Director of Public Prosecution.³³ Twenty-seven complaints remain pending. The Chairman also has disclosed that 237 complaints were filed in 2020, 220 in 2021, and 194 in 2022.³⁴

Identified Cases of Torture or Excessive Use of Force

29. The Government selectively admitted to instances of torture and/or excessive use of force by police, but not all instances. For example, the Government noted that police had burned 14-year-old Tywone Thomas's genitals and initially denied him medical care after they had arrested him on suspicion of murder in 2009.³⁵ The Government did not mention, however,

²⁵ 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, ¶¶ 205, 206; *See*

²⁶ 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, ¶15.

²⁷ 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, ¶ 211.

²⁸ U.S. State Department, 2009 Country Reports on Human Rights Practices: Guyana, (Mar. 10, 2010), 2. Also available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2009/wha/136115.htm>, (accessed Dec. 31, 2023).

²⁹ U.S. State Department, 2010 Country Reports on Human Rights Practices: Guyana, 2, (Apr. 8, 2011). Also available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2010/wha/154508.htm>, (accessed Dec. 31, 2023).

³⁰ U.S. State Department, 2011 Country Reports on Human Rights Practices: Guyana, 2. Also available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2011/wha/186520.htm>, (May 24, 2012), 2, (accessed Dec. 31, 2023).

³¹ U.S. State Department, 2012 Country Reports Human Rights Practices: Guyana, (Apr. 19, 2013), 2. Also available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2012/wha/204456.htm>, (accessed Dec. 31, 2023).

³² Guyana Department of Public Information, (August 23, 2021), *Checks and balances*, <https://dpi.gov.gy/checks-and-balances/>, (accessed Dec. 31, 2023).

³³ *Wrongful Arrests, Unlawful Searches among Misconduct Found by Police Complaints Body*, Stabroek News, (June 20, 2021), <https://www.stabroeknews.com/2021/06/20/news/guyana/wrongful-arrests-unlawful-searches-among-misconduct-found-by-police-complaints-body/> (accessed Dec. 31, 2023).

³⁴ *Police Complaints Head Accuses Top Cop of Violating Act*, Stabroek News, (August 15, 2023), <https://www.stabroeknews.com/2023/08/15/news/guyana/police-complaints-head-accuses-top-cop-of-violating-act/> (accessed Dec. 31, 2023).

³⁵ 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, ¶ 212.

Deonarine Rafick, who they arrested as part of the same murder investigation and allegedly beat with a stick and burned the inside of Rafick’s mouth with cigarettes.³⁶

30. The 2022 Government also referred to the 2013 arrest and sodomization of Cowlyn Harding for allegedly assaulting a police officer and resisting arrest,³⁷ but did not mention two other persons arrested in that matter – two-month pregnant Tiffany Edwards, who police allegedly kicked in the stomach three times and later suffered a miscarriage, and Teanisha Evans, who police allegedly pushed and causing an eye injury.³⁸
31. In 2014, police allegedly forced 15-year-old Alex Griffith to play “Russian roulette” when the gun discharged and he was shot in the mouth. In the same year, a police officer allegedly doused 19-year-old Junior Thorrington with methylated spirits and set him on fire while Thorrington was in custody. Thorrington sustained second degree burns to his hands.³⁹
32. In December 2019, eight men, including two law enforcement officers allegedly abducted, beat, and burned 17-year-old Akshay Budhirem with hot water to determine the location of a phone and game Budhirem was accused of stealing.⁴⁰
33. In 2022, police reportedly detained and set on fire 17-year-old Jaheim Peters after Peters was accused of armed robbery.⁴¹

³⁶ Amnesty International, *Acts of Torture by Guyanese Police must be Punished*, (November 4, 2009). Available online at <https://www.amnesty.org/en/latest/news/2009/11/acts-torture-guyanese-police-must-be-punished-20091104/>, (accessed Dec. 30, 2023).

³⁷ 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, ¶ 214.

³⁸ Amnesty International, *Submission to the UN Universal Periodic Review*, January 2015, 5. Available online at <https://www.amnesty.org/en/wp-content/uploads/2021/07/amr350012014en.pdf>, (accessed Dec. 30, 2023).

³⁹ Amnesty International, *Submission to the UN Universal Periodic Review*, January 2015, 6. Available online at <https://www.amnesty.org/en/wp-content/uploads/2021/07/amr350012014en.pdf>, (accessed Dec. 30, 2023).

⁴⁰ *Slow Recovery for Teen Allegedly Tortured by Cops*, Strabroek News (Jan. 8, 2020), <https://www.stabroeknews.com/2020/01/08/news/guyana/slow-recovery-for-teen-allegedly-tortured-by-cops/>, (accessed Dec. 31, 2023).

⁴¹ *Teen Tortured by Police Sues State for \$150 Million*, Kaieteur News, (Nov. 21, 2023), <https://www.kaieteurnewsonline.com/2023/11/21/teen-tortured-by-police-sues-state-for-150m/> (accessed Dec. 31, 2023), see also, *Man Files \$150m Lawsuit over Alleged Torture at Vigilance Police Station*, Strabroek News, (11/21/2023) <https://www.stabroeknews.com/2023/11/21/news/guyana/man-files-150m-lawsuit-over-alleged-torture-at-vigilance-police-station/> (accessed Dec. 31, 2023).

34. The U.S. State Department has identified at least 17 specific cases of police abuse,⁴² including one case in which a minor was bitten by ants,⁴³ four cases involving beatings,⁴⁴ one case concerning electric shock,⁴⁵ and four cases relating to alleged rape.⁴⁶
35. Some NGOs have noted, however, that while the Government has admitted to some instances of torture, there are concerns that its admission has been a political tool to shame the previous administration. There remains a lack of independent monitoring and investigation of incidents of torture within police custody.
- Police Complaints Authority (PCA)*
36. In its 2020 LOIPR, the Committee requested information on the PCA’s investigative role with regard to complaints of torture or ill-treatment and excessive use of force by the police, as well as “its relationship with other police investigative bodies,,,[and the] steps taken to ensure its independence and impartiality.”⁴⁷ The Committee further requested statistical data on the number of complaints made to the PCA and the outcome of those complaints.
37. No direct response was provided by the 2022 State Party Report to these requests.
38. The Government established the PCA to receive complaints concerning various types of misconduct by the police force.⁴⁸ After an initial evaluation of a case, if the Commission does not reject the claim, the PCA forwards the claim to the Commissioner of Police for full

⁴² 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, ¶¶ 211–215.

⁴³ U.S. State Department, 2009 Country Reports on Human Rights Practices: Guyana, (Mar. 10, 2010), 2. Also available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2009/wha/136115.htm>, (accessed Dec. 31, 2023).

⁴⁴ U.S. State Department, 2009 Country Reports on Human Rights Practices: Guyana, (Mar. 10, 2010), 2. Also available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2009/wha/136115.htm>, (accessed Dec. 31, 2023); U.S. State Department, 2011 Country Reports on Human Rights Practices: Guyana, 2. Also available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2011/wha/186520.htm>, (May 24, 2012), 2, (accessed Dec. 31, 2023); U.S. State Department, 2013 Country Reports on Human Rights Practices: Guyana, (Feb. 27, 2014), 2. Also available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2013/wha/220449.htm> (accessed Dec. 31, 2023); U.S. State Department, 2016 Country Reports on Human Rights Practices: Guyana, 2. Also available online at <https://www.state.gov/reports/2016-country-reports-on-human-rights-practices/guyana/> (accessed Dec. 31, 2023).

⁴⁵ U.S. State Department, 2013 Country Reports on Human Rights Practices: Guyana, (Feb. 27, 2014), 2. Also available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2013/wha/220449.htm> (accessed Dec. 31, 2023).

⁴⁶ U.S. State Department, 2010 Country Reports on Human Rights Practices: Guyana, 2, (Apr. 8, 2011). Also available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2010/wha/154508.htm>, (accessed Dec. 31, 2023); U.S. State Department, 2012 Country Reports Human Rights Practices: Guyana, (Apr. 19, 2013), 2. Also available online at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2012/wha/204456.htm>, (accessed Dec. 31, 2023); U.S. State Department, 2017 Country Reports Human Rights Practices: Guyana, 2. Also available online at <https://www.state.gov/reports/2017-country-reports-on-human-rights-practices/guyana/> (accessed Dec. 31, 2023); U.S. State Department, 2019 Country Reports Human Rights Practices: Guyana, 2. Also available online at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/guyana/> (accessed Dec. 31, 2023).

⁴⁷ 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, ¶ 16.

⁴⁸ Laws of Guyana, Cap. 17:02, Police Complaints Authority Act, §8, (2012). Available online at <https://mola.gov.gy/sites/default/files/Cap.%2017.02%20Police%20Complaints%20Authority.pdf> (accessed Dec. 31, 2023).

investigation; but if the complaint relates to deaths arising from certain alleged crimes, the law charges the Commissioner with supervising the investigation.⁴⁹

39. The current Chairman of the PCA assumed office in 2018,⁵⁰ and after his first year in office, reported open abuse of the constitution by “a substantial number” of police officers under investigation, including the wrongful arrests of members of the public and unlawful searches. He reportedly said that the police continued to infringe on the fundamental rights of citizens on a regular basis.⁵¹
40. In 2021 the Chairman said that members of the public sometimes get a “horrible” time when they must deal with the police. He further said that, “There are still some decent police around but the decent ones are in the minority. I am saying this in my annual reports and I have to say this to this Commissioner of Police. Nothing has been done.”⁵²
41. In the PCA’s 2022 annual report, the Chairman accused the Police Commissioner of violating the PCA’s governing Act and avoiding the PCA’s review of complaints. In the report, the Chairman concluded that the police force is covering up wrongdoing within its ranks.⁵³

Human Rights Training

42. The Committee further requested information on the Government’s efforts to provide human rights training to law enforcement and security officers, including on the prevention and prohibition of torture, ill-treatment, and excessive use of force,⁵⁴ but the Government provided no such information.
43. On 25 January 2023, the U.S. Department of State’s Bureau of Democracy, Human Rights, and Labor conducted training on human rights for members of the Guyana Police Force and the Guyana Prison Service. The training focused on the Leahy Law, “which prohibits State assistance to foreign security forces if there is credible information that a security force unit has committed a gross violation of human rights (GVHR),...include[ing] extrajudicial killings, torture, forced disappearance, or rape under the color of law.”⁵⁵

⁴⁹ Laws of Guyana, Cap. 17:02, Police Complaints Authority Act, §§ 8, 9, 12, 14, (2012). Available online at <https://mola.gov.gy/sites/default/files/Cap.%2017.02%20Police%20Complaints%20Authority.pdf> (accessed Dec. 31, 2023).

⁵⁰ *New Chairman of Police Complaints Body Sworn in*, Stabroek News, Sept. 13, 2018, <https://www.stabroeknews.com/2018/09/13/news/guyana/new-chairman-of-police-complaints-body-sworn-in/> (accessed Dec. 31, 2023).

⁵¹ *Wrongful Arrests, Unlawful Searches among Misconduct Found by Police Complaints Body*, Stabroek News, June 20, 2021, <https://www.stabroeknews.com/2021/06/20/news/guyana/wrongful-arrests-unlawful-searches-among-misconduct-found-by-police-complaints-body/> (accessed Dec. 31, 2023).

⁵² *Police Complaints Chair in the Dark on if Cops Acting on Recommendations*, Stabroek News, Aug. 21, 2021, <https://www.stabroeknews.com/2021/08/21/news/guyana/police-complaints-chair-in-the-dark-on-if-cops-acting-on-recommendations/> (accessed Dec. 31, 2023).

⁵³ *Police Complaints Head Accuses Top Cop of Violating Act*, Stabroek News, Aug. 15, 2023, <https://www.stabroeknews.com/2023/08/15/news/guyana/police-complaints-head-accuses-top-cop-of-violating-act/> (accessed Dec. 31, 2023).

⁵⁴ 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, ¶ 15.

⁵⁵ Press Release, U.S. Embassy Georgetown, (Jan.25, 2022), <https://gy.usembassy.gov/u-s-embassy-conducts-human-rights-training-for-police-and-prison-service/> (accessed Dec. 31, 2023).

III. Prison conditions violate the basic rights of persons deprived of their liberty (List of Issues Prior to Reporting para. 17)

Prison Conditions

44. In its 2020 LOIPR, the Committee requested a progress report as to overcrowding; other material conditions (particularly at the Lusignan Prison); and the adequacy of food and water, clothing, bedding and health/medical services at detention facilities.⁵⁶
45. In response, the Government acknowledged prison overcrowding, with pretrial detentions making up 40% of the detentions.⁵⁷ The State Party Report pointed to improvements being implemented through a Criminal Justice System (SCJS) Programme that seeks to reduce pretrial detentions and trial periods and increase use of alternative sentencing.⁵⁸ The Government also reported headway in alternative sentencing, creation of a pretrial prisoners' legal aid clinic, implementation of a first-ever integrated case management system, increased training, and a strengthened Law Reform Commission.⁵⁹
46. In September 2022, the official capacity of the Guyana prison system was 1,373, and the prison population was at 151% of this capacity, with 27% of that population being pretrial detainees. In January 2023 Guyana's prison population had risen to 2,156, compared to 1,275 in 2004 and 1,884 in 2020.⁶⁰
47. The U.S. Department of State reported that a U.N. Working Group of Experts on People of African Descent visited the Lusignan Prison in 2017 and found that conditions at the prison could pose a serious risk to people detained there, including unsanitary conditions, limited sunlight, and a general lack of clean water.⁶¹
48. The U.S. State Department stated that in 2022 prison and jail conditions, particularly in police holding cells, were potentially life threatening due to overcrowding, violence among people deprived of their liberty, physical abuse, unsanitary conditions, and a lack of potable water.⁶² Prison cells do not have separate bathing and washroom facilities, and prisoners use communal bathrooms and washrooms.⁶³

⁵⁶ 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, ¶ 17.

⁵⁷ 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, ¶¶ 221.

⁵⁸ 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, ¶¶ 222–223.

⁵⁹ 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, ¶¶ 224–228.

⁶⁰ Institute for Crime & Justice Policy Research at Birbeck, University of London, *World Prison Brief: Guyana*, <https://www.prisonstudies.org/country/guyana> (accessed Jan. 1, 2024).

⁶¹ U.S. State Department, *2018 Country Reports on Human Rights Practices: Guyana*, 2. Available online at <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/guyana/> (accessed Jan. 2, 2024).

⁶² U.S. State Department, *2022 Country Reports on Human Rights Practices: Guyana*, 2–3. Available online at <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guyana/> (accessed Jan. 1, 2024).

⁶³ Prisoner Pack Guyana, (March 2023), <https://www.gov.uk/government/publications/guyana-prisoner-pack/prisoner-pack-guyana#prison-conditions-and-daily-life> (accessed Jan. 1, 2024).

49. Guyana has prisons in Georgetown, Mazaruni, New Amsterdam, Lusignan and Timehri.⁶⁴ Expansion work at the Mazaruni Prison was completed in 2020 to accommodate 220 additional individuals.⁶⁵ In March 2023, prison officials relocated more than 680 people deprived of their liberty who had been housed in the in the holding bay at the Lusignan prison to three new facilities at the prison to lessen overcrowding.⁶⁶ In March 2023, the Government began construction on three additional new structures to accommodate another 500 individuals.⁶⁷ With a total of \$5.5 billion GYD being earmarked for the Guyana Prison Service in 2023, some \$2.2 billion GYD was budgeted to advance construction at the Mazaruni and Lusignan prisons and to commence work for the reconstruction of the New Amsterdam prison.⁶⁸
50. Although construction of new prisons and prison structures may lessen overcrowding, it does not address the underlying factors that produce a growing prison population, nor does it lessen the number of people in pretrial detention.

Prison Deaths

51. The Committee also requested statistical data regarding prison deaths.⁶⁹
52. The Government reported the deaths of 19 people deprived of their liberty and one guard due to prison riots in 2016, 2017 and 2020.⁷⁰ The Government also reported four other deaths of people in detention.⁷¹
53. There are reports that in 2022 an individual deprived of their liberty died in a fight with another person housed in the same prison,⁷² and in 2023 an individual in detention died from injuries

⁶⁴ Guyana Prison Service,

<https://gps.moha.gov.gy/about/#:~:text=These%20locations%20are%20Georgetown%3B%20Mazaruni%3B,New%20Amsterdam%3B%20Lusignan%20and%20Timehri> (accessed Jan. 1, 2024).

⁶⁵ U.S. State Department, 2021 Country Reports on Human Rights Practices: Guyana, 3. Available online at <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/guyana/> (accessed Jan. 1, 2024).

⁶⁶ *New \$1.4 Billion Prison Facilities: Over 680 Prisoners Moved from Lusignan Holding Bay*, News Room, Mar. 27, 2023, New \$1.4 billion prison facilities: Over 680 prisoners moved from Lusignan holding bay – News Room Gu <https://newsroom.gy/2023/03/27/new-1-4-billion-prison-facilities-over-680-prisoners-moved-from-lusignan-holding-bay/yana>, (accessed Jan. 1, 2024).

⁶⁷ *New \$1.4 Billion Prison Facilities: Over 680 Prisoners Moved from Lusignan Holding Bay*, News Room, Mar. 27, 2023, New \$1.4 billion prison facilities: Over 680 prisoners moved from Lusignan holding bay – News Room Gu <https://newsroom.gy/2023/03/27/new-1-4-billion-prison-facilities-over-680-prisoners-moved-from-lusignan-holding-bay/yana>, (accessed Jan. 1, 2024).

⁶⁸ *Bids open for the reconstruction of the New Amsterdam Prison*, Newsroom, June 27, 2023, <https://newsroom.gy/2023/06/27/bids-open-for-the-reconstruction-of-the-new-amsterdam-prison/> (accessed Jan. 1, 2024).

⁶⁹ 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, ¶ 17.

⁷⁰ 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, ¶¶ 236–238.

⁷¹ 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, ¶¶ 239–243.

⁷² *Update: Inmate stabbed to death during fight over ‘bed space’*, News Room, (Mar. 28, 2022), <https://newsroom.gy/2022/03/28/update-inmate-stabbed-to-death-during-fight-over-bed-space/> (accessed Jan. 1, 2024).

arising from unknown causes.⁷³ Though police indicated in initial reports that they were investigating the matter, there has been no further update or information on said investigation.

Independent Monitoring

54. The Committee further requested information about any independent body mandated to monitor and inspect all places of detention.⁷⁴
55. As a response, the Government reported that the Prison Visiting Committees are responsible for assessing the welfare of people in detention and prison officers.⁷⁵ Additionally, the Government noted that the Prison Parole Board had been reconstituted to review and approve individuals' applications for early release from prison.⁷⁶
56. The Guyana Prison Service, created in 1975, is comprised of Prison Visiting Committees, each with five members. One or more members are supposed to visit each Guyanese prison monthly to hear and investigate prisoner complaints and, if necessary, report those complaints, along with their opinions, to the Director of Prison or the Minister.⁷⁷ It is unclear, however, what, if any, procedures governing the committees exist. Furthermore, the Guyanese Prison Service is a state body and therefore, subject to the control of the state and lacks independence. There is no information to suggest that the contents of any investigations or claims are publicly reported.
57. According to the U.S. State Department, in addition to the Prison Visiting Committees, Guyana permits outside groups to monitor prison conditions independently.⁷⁸ A U.N. Working Group of Experts on People of African Descent visited the Lusignan prison in 2017.⁷⁹

IV. Guyanese officials overuse pretrial detention, significantly contributing to prison overcrowding (List of Issues Prior to Reporting, paras. 18, 19)

Lengthy Pretrial Detention

58. In its 2020 LOIPR, the Committee requested information on the steps taken to address prolonged pretrial detention and non-custodial alternatives. The Committee further inquired as to whether individuals detained on remand were kept separate from people who had been convicted of crimes.⁸⁰

⁷³ Joseph Allen, *NA Prison inmate died in hospital after found injured in cell*, Stabroek News, August 25, 2023, <https://www.stabroeknews.com/2023/08/25/news/guyana/na-prison-inmate-died-in-hospital-after-found-injured-in-cell/> (accessed Jan. 1, 2024).

⁷⁴ 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, ¶ 17.

⁷⁵ 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, ¶ 233.

⁷⁶ 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, ¶ 234.

⁷⁷ Guyana Prison Service, <https://gps.moha.gov.gy/visiting-committee/> (accessed Jan. 1, 2024).

⁷⁸ U.S. State Department, *2022 Country Reports on Human Rights Practices: Guyana*, 2. Available online at <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guyana/> (accessed Jan. 1, 2024).

⁷⁹ U.S. State Department, *2018 Country Reports on Human Rights Practices: Guyana*, 2. Available online at <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/guyana/> (accessed Jan. 2, 2024).

⁸⁰ Human Rights Committee, *List of issues prior to submission of the third report Guyana*, (Aug. 31, 2020), U.N. Document CCPR/C/GUY/QPR/3, ¶ 18.

59. Although the Government admits that there is considerable overcrowding in its prisons and that one of the primary contributors to overcrowding is an overuse of pretrial detention – people in pretrial detention make up 40% of all people in detention – the Government provides little information on how it plans to address these issues.⁸¹
60. A U.S. State Department 2022 human rights report concluded that lengthy pretrial detention remained a problem, due primarily to judicial inefficiency, staff shortages, and cumbersome legal procedures. The average length of pretrial detention was three years for those awaiting trial at a magistrates’ court or the High Court. This often exceeded the maximum possible sentence for the crime for which they were charged. In July 2022 the High Court released Raymond Jones, a man accused of murder, after he spent more than nine years in pretrial detention.⁸² There is no system of restitution in place for people falsely imprisoned or detained for long periods without bail. It is quite common for cases to be dismissed due to the State’s lack of evidence to satisfy the required burden of proof. After serving their sentence, the Government releases people with no support to reintegrate back into society.
61. Guyanese Magistrates and Judges have the option of issuing community service orders or ordering probation, but they are rarely used. Though, as of 2023, the Guyanese government has embarked on creating sentencing guidelines for the Judiciary to abide by.⁸³

V. A large case backlog and lack of access to legal aid negatively impacts individuals’ access to justice– (List of Issues, para. 21)

Case Backlog

62. The Committee requested a report on the measures Guyana has adopted to address court backlog, particularly for criminal cases.⁸⁴
63. The Government reported that it had addressed the criminal-case backlog during the COVID pandemic by converting shipping containers at the Lusignan Prison barracks into judges’ chambers for virtual and in-person hearings. Unfortunately, as of the date of the 2022 State Party Report, the Government could not appoint new judges because it had not yet appointed the Judicial Service Commission, although it expected to do so shortly.⁸⁵
64. A 2020 report by the United Nations Development Program (UNDP) concluded that Guyana has a backlog of criminal cases because there are only two criminal courts and a shortage of judges and prosecutors. At the time of the report, there was one judge for sexual offences, 14 out of an expected 20 High Court judges, and 3 out of an expected 5 Appeal Court judges. The

⁸¹ 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, ¶¶ 222–228.

⁸² U.S. State Department, *2022 Country Reports on Human Rights Practices: Guyana*, 3. Available online at <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guyana/> (accessed Jan. 1, 2024).

⁸³ Guyana Times, *Guidelines being framed to fix “inconsistent, eccentric” sentencing – AG*, Guyana Times, July 27, 2023, <https://guyanatimesgy.com/guidelines-being-framed-to-fix-inconsistent-eccentric-sentencing-ag/>.

⁸⁴ Human Rights Committee, *List of issues prior to submission of the third report Guyana*, (Aug. 31, 2020), U.N. Document CCPR/C/GUY/QPR/3, ¶ 21.

⁸⁵ 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, ¶¶ 232, 291, 292, 293, 294, 295.

report recommended expanding court system technology given Guyana’s geographical challenges⁸⁶

65. In 2021, the U.S. Embassy in Guyana announced an expected investment of more than \$400,000 into an automated court case management system intended to help ensure criminal cases are handled expeditiously and reduce the case backlog.⁸⁷ The pilot launch of the paperless court case management system was announced in December 2023 for one Magistrate Court.⁸⁸
66. In January 2023 Attorney General and Minister of Legal Affairs, Anil Nandlall, disclosed that Guyana would be moving toward abolishing the Preliminary Inquiry process.⁸⁹ Processes related to Preliminary Inquiries have reportedly caused a backlog of people committed to prison waiting years to stand trial.⁹⁰ The Attorney General also stated that he would add 35 additional Special Prosecutors to the system to assist Police Prosecutors working in the Magistrates’ Courts.⁹¹
67. In June 2023 Mr. Nandlall met with representatives of UNDP to discuss potential programming opportunities aimed at extending support to the criminal justice system, specifically strengthening institutional capacity to effectively reduce the backlog of criminal cases. The Attorney General promised to establish a committee to liaise with the UNDP in the planning and execution of a program directed at reducing the criminal case court backlog.⁹² Mr. Nandlall said that a Bill to abolish Preliminary Inquiries “... will inevitably save judicial time, reduce the backlog of criminal cases, reduce the prison population on remand while at the same time ensuring that accused persons face penalties proportionate to the crimes committed.”⁹³
68. The UNDP has observed, however, that “while replacing Preliminary Inquiries with paper committals or sufficiency hearings, such a change, without other ‘fixes,’ will merely shift the

⁸⁶ United Nations Development Programme, *Caribbean Justice: A Needs Assessment of the Judicial System in Nine Countries*, (2020), 71. Available online at <https://www.undp.org/barbados/publications/caribbean-justice-needs-assessment-judicial-system-nine-countries> (accessed Jan. 1, 2024).

⁸⁷ U.S. Embassy in Guyana, *The United States and Guyana Announce a New Project to Improve the Efficiency and Performance of Guyana’s Judicial System*, (Feb. 11, 2021). Also available online at <https://gy.usembassy.gov/the-united-states-and-guyana-announce-a-new-project-to-improve-the-efficiency-and-performance-of-guyanas-judicial-system/>.

⁸⁸ *Pilot Case-Management System Launched to Revolutionise Court Operations*, Guyana Chronical, (December 6, 2023), <https://guyanachronicle.com/2023/12/06/pilot-case-management-system-launched-to-revolutionise-court-operations/> (accessed Jan. 1, 2024).

⁸⁹ *Govt. to abolish Preliminary Inquiries to ease backlog of cases – Attorney General*, Kaieteur News, (January 29, 2023), <https://www.kaieteurnews.com/2023/01/29/govt-to-abolish-preliminary-inquiries-to-ease-backlog-of-cases-attorney-general/> (accessed Jan. 1, 2024).

⁹⁰ United Nations Development Programme, *Caribbean Justice: A Needs Assessment of the Judicial System in Nine Countries*, (2020), 71. Available online at <https://www.undp.org/barbados/publications/caribbean-justice-needs-assessment-judicial-system-nine-countries> (accessed Jan. 1, 2024).

⁹¹ *Govt. to Abolish Preliminary Inquiries to Ease Backlog of Cases – Attorney General*, Kaieteur News, (Jan. 29, 2023), <https://www.kaieteurnews.com/2023/01/29/govt-to-abolish-preliminary-inquiries-to-ease-backlog-of-cases-attorney-general/> (accessed Dec. 30, 2023).

⁹² Guyana Department of Information, *Attorney General Meets with UNDP Delegation, Discussions Centred on Potential Programming Opportunities to Extend Support to the Criminal Justice System*, (June 21, 2023), <https://dpi.gov.gy/attorney-general-meets-with-undp-delegation-discussions-centred-on-potential-programming-opportunities-to-extend-support-to-the-criminal-justice-system/> (accessed Jan. 1, 2024).

⁹³ Guyana Ministry of Legal Affairs and the Chambers of the Attorney General, *Govt to Soon Table Bill to Abolish Preliminary Inquiries*, (Jul. 8, 2023), <https://mola.gov.gy/govt-soon-table-bill-abolish-preliminary-inquiries> (accessed Jan. 1, 2024).

overload to the various offices of the Director of Public Prosecutions (DPP) in the Caribbean region.”⁹⁴

69. As anticipated by the 2022 State Party Report, after a 20-year impasse on judicial appointments, the Guyanese President appointed new commissioners to the Judicial Services Commission in July 2023.⁹⁵ That Commission is responsible for advising the President on the appointment of new judges (except for the Chancellor and Chief Justice).⁹⁶ On 18 October 2023, the Commission placed a newspaper advertisement inviting applications for magistrates appointments, as well as for a land judge. Applications were required to be delivered to the Commission by 13 November 2023.⁹⁷

Legal Aid Services

70. The Committee further requested Guyana to indicate the progress it had made in improving access to the free legal aid system throughout the country, particularly in rural and hinterland areas, and in allocating adequate resources to that aid system. Moreover, it asked for details as to the number and types of cases for which aid had been sought, granted, and denied, along with the financial criteria for aid eligibility.⁹⁸
71. The Government responded that Guyana’s legal aid system was provided by a single non-governmental clinic located in Georgetown, supported by a financial subvention from the Government, and that clinic’s legal services were available in Guyana’s Administrative Regions 2, 5, 6, and 10. It further reported that there were financial and substantive eligibility criteria (not specified), but no financial eligibility requirements for persons under the age of 18.⁹⁹
72. The Government did not provide any statistics as to the legal aid matters handled, however, the Guyana Legal Aid Clinic provides data for regions 2, 4, 5 and 6¹⁰⁰. For those regions, in the aggregate from 1994 to 2022: and the clinic interviewed 3,118 people on criminal matters, and determined 74 were ineligible.¹⁰¹ For the first nine months of 2023, no one interviewed by the clinic was found ineligible, and in total there were 184 criminal case interviews.¹⁰²

⁹⁴ United Nations Development Programme, *Caribbean Justice: A Needs Assessment of the Judicial System in Nine Countries*, (2020), 9. Available online at <https://www.undp.org/barbados/publications/caribbean-justice-needs-assessment-judicial-system-nine-countries> (accessed Jan. 1, 2024).

⁹⁵ Clestine Juan, *JSC commissioners sworn in*, Guyana Chronicle, (July 14, 2023),

<https://guyanachronicle.com/2023/07/14/jsc-commissioners-sworn-in/#:~:text=The%20new%20Commissioners%20are%3A%20Chancellor%20%28ag%29%20of%20the,and%20Public%20Service%20Commission%20%28PSC%29%20chairman%2C%20Manniram%20Prashad.>

⁹⁶ Laws of Guyana, Cap. 1:01, Constitution of the Co-operative Republic of Guyana Act, §128 (2012). Available at https://www.mola.gov.gy/sites/default/files/Cap.101%20Constitution_0.pdf (accessed Jan. 1, 2024).

⁹⁷ *JSC advertises for judges, magistrates*, Stabroek News, (October 18, 2023),

<https://www.stabroeknews.com/2023/10/18/news/guyana/jsc-advertises-for-magistrates/> (accessed Jan. 1, 2024).

⁹⁸ Human Rights Committee, *List of issues prior to submission of the third report Guyana*, (Aug. 31, 2020), U.N. Document CCPR/C/GUY/QPR/3, ¶ 21.

⁹⁹ 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, ¶¶ 296, 297.

¹⁰⁰ Guyana Legal Aid Clinic: Statistics, <https://www.legalaid.org.gy/statistics> (accessed Jan.1, 2024).

¹⁰¹ <https://www.legalaid.org.gy/files/GLAC%20Statistics%201994%20to%202020.pdf>

¹⁰² See, Guyana Legal Aid Clinic: Statistics, <https://www.legalaid.org.gy/statistics> (accessed Jan.1, 2024).

73. The Legal Aid Clinic does not disclose specific eligibility criteria, merely stating that if the clinic assesses a person as being able to pay more than 75% of the fee that would be charged by a member of the private bar that person will not be eligible for legal aid and will be referred to a member of the private bar.¹⁰³
74. In addition to a Georgetown office, Guyana Legal Aid Clinic services can be accessed at offices at Anna Regina, Essequibo Coast, Vryman’s Erven, New Amsterdam, Berbice and Fort Wellington, West Coast Berbice.¹⁰⁴ Nevertheless, as concluded by a 2020 UNDP needs assessment analyzing Guyana and certain other Caribbean states, “access to legal aid [is], woefully inadequate, and further disenfranchisement from the legal system is aggravated by remoteness and the limited reach of legal services coverage outside of national capitals.¹⁰⁵ Thus, the suggestion was made to “Revamp the image of the legal aid clinics in Guyana and open offices within villages and not solely in the town. This will allow for easy access and more utilization of these services. Many of the times people do not use these services because they do not know of the service and because is centrally located. Most of the vulnerable groups live in villages and in the countryside.”¹⁰⁶ Thus, the needs assessment recommended that Guyana make legal aid universally accessible to all geographic locations including to rural communities.¹⁰⁷

VI. Suggested recommendations

75. The coauthors suggest that the Committee make the following recommendations to the Government of Guyana:
- Abolish the death penalty in all cases and replace it with a sentence that is fair, proportionate, and in compliance with international human rights standards.
 - Accede the Second Optional Protocol to the Convention.
 - Pending abolition or accession, clarify that death penalty sentencing is never mandatory and formalize a moratorium on executions.
 - Provide mandatory professional and continuing legal education to all police and security officers to ensure their compliance with law in making arrests.

¹⁰³ Guyana Legal Aid Clinic, *Guyana Legal Aid Clinic Summary of Matters Dealt with March 2019-December 2020*, <https://www.legalaid.org.gy/node/15> (accessed Jan. 1, 2024).

¹⁰⁴ United Nations Development Programme, *Caribbean Justice: A Needs Assessment of the Judicial System in Nine Countries*, (2020), 73. Available online at <https://www.undp.org/barbados/publications/caribbean-justice-needs-assessment-judicial-system-nine-countries> (accessed Jan. 1, 2024).

¹⁰⁵ United Nations Development Programme, *Caribbean Justice: A Needs Assessment of the Judicial System in Nine Countries*, (2020), 37. Available online at <https://www.undp.org/barbados/publications/caribbean-justice-needs-assessment-judicial-system-nine-countries> (accessed Jan. 1, 2024).

¹⁰⁶ United Nations Development Programme, *Caribbean Justice: A Needs Assessment of the Judicial System in Nine Countries*, (2020), 37. Available online at <https://www.undp.org/barbados/publications/caribbean-justice-needs-assessment-judicial-system-nine-countries> (accessed Jan. 1, 2024).

¹⁰⁷ United Nations Development Programme, *Caribbean Justice: A Needs Assessment of the Judicial System in Nine Countries*, (2020), 73. Available online at <https://www.undp.org/barbados/publications/caribbean-justice-needs-assessment-judicial-system-nine-countries> (accessed Jan. 1, 2024).

- Provide mandatory professional and continuing human rights training to ensure that their treatment of persons in detention complies with Guyana's Constitution and international human rights standards.
- Engage in a public education campaign in collaboration with civil society organisations on domestic and international human rights.
- Ensure that all governmental agencies and officials interacting with the Police Complaints Authority respect its authority and follow the procedures prescribed by Guyanese law and international human rights standards in addressing complaints of police abuse.
- Expand the scope of complaints that the Police Authority has primary authority to investigate.
- Review conditions in all existing detention facilities and ensure that all people in detention have safe and humane quarters through, as needed, the construction or reconstruction of new facilities.
- Ensure that all detention facilities comply with the Nelson Mandela and Bangkok Rules.
- Increase the implementation of non-custodial alternatives to pretrial detainment to reduce prison overcrowding.
- Eliminate the Preliminary Inquiry process, but only after evaluating what other changes in processing people under arrest or in detention might be necessary or desirable to reduce court case backlog.
- Increase government funding to permit the Guyana Legal Aid Clinic to open offices in Guyana's rural areas and makes its services accessible throughout the country.
- Establish an independent body responsible for investigating prison complaints and mandate that said body publicly report their findings.
- Impose personal liability for police officers and prison officers where people under remand and those convicted of crimes die as a result of police neglect, abuse and violence.
- Establish a prison restitution fund to support the families of people convicted of crimes who die in prisons at the hand of State officials and to provide compensation to persons whose charges are dismissed after being held in remand for extensive periods of time.
- Establish a "Bill of Rights" outlining the rights of people deprived of their liberty and duties owed to them by State officials while in detention. Ensure that people deprived of their liberty are informed of various enforcement mechanisms for their rights.
- Collaborate with the local Bar Association to work with experienced attorneys to establish pro-bono legal support mechanisms for people convicted of crimes to challenge their charge and conviction as related to the death penalty.