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COMMITTEE AGAINST TORTURE
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Conclusions and recommendations of the Committee against Torture

GUYANA

1. The Committee considered the initial report of Guyana (CAT/C/GUY/1) at its 734th and 737th meetings (CAT/C/SR.734 and 737), held on 13 and 14 November 2006, and adopted, at its 748th meeting on 22 November 2006 (CAT/C/SR.748), the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the presentation of the initial report of the Guyana, which complies partly with the Committee's guidelines on the form and content for the preparation of initial reports, but nevertheless regrets that it was submitted with a seventeen-year delay.
3. The Committee commends the report's frankness and the State party's acknowledgement of shortcomings in the implementation of the Convention. The Committee welcomes the constructive and frank dialogue conducted with the representative of the State party and appreciates the answers provided to the questions raised during the dialogue.

B. Positive aspects

4. The Committee acknowledges the ongoing efforts of the State party to reform its legal and institutional system. In particular, the Committee notes with satisfaction the following positive developments:

- (a) The ratification by the State party of most of the core international human rights treaties;
- (b) The ratification by the State party of the Rome Statute of the International Criminal Court, on 24 July 2004;
- (c) The recent efforts made to reform and strengthen the national legislative base, including the following legislation:
 - Combating of Trafficking in Person Act in 2005, which provides measures to combat trafficking in persons;
 - Witness Protection Bill in May 2006;
 - Mutual Cooperation in Criminal Matters Bill in April 2006;
 - Justice Protection Bill in May 2006.

C. Factors and difficulties impeding the implementation of the Convention

5. The Committee notes that the State party has for several years been going through a period of economic constraints, social violence and widespread criminality which has had and continues to have an impact on the country. The Committee points out, however, that, as stated in article 2, paragraph 2, of the Convention, no exceptional circumstances whatsoever may be invoked as a justification of torture.

D. Subjects of concern and recommendations

6. The Committee notes that it is not clear whether or not all acts of torture are offences under the State party's criminal law. (*articles 1 and 4*)

The State party should take the necessary legislative measures to ensure that all acts of torture are offences under its criminal law in accordance with the definition contained in article 1 of the Convention, and that these offences are punishable by appropriate penalties which take into account their grave nature.

7. The Committee is concerned about the past irregularities in the practice of approval of firearm licenses in Guyana, whereby licenses have been allegedly granted indiscriminately and the firearms used to commit offences prohibited by the Convention. (*article 2*)

The State party should strengthen the administrative measures to control the indiscriminate issuance of firearms licenses, ensuring that the process of application of firearms is streamlined and that the Firearm Regulations are applied uniformly and amended where necessary.

8. The Committee regrets the lack of information on the compliance by the State party with article 3 of the Convention.

The Committee would like to remind the State party of the absolute nature of the prohibition to expel, return (refouler) or extradite a person to another state where there are substantial grounds for believing that the person would

be in danger of being subjected to torture, as established by article 3 of the Convention. The State party should submit in its next periodic report information regarding the implementation of article 3 of the Convention in cases of extradition, expulsion or return (refoulement) of foreigners.

9. While taking note of the efforts made by the State party in addressing the issue of the ethnic composition in the Guyana Police Force, the Committee is concerned about the reduced presence of persons of Indo-Guyanese origin in the police force which would appear to be among the underlying causes of the high number of deaths in custody of persons of Indo-Guyanese origin.

The State party should continue its efforts to diversify the ethnic composition of the Guyana Police Force and take appropriate measures to prevent the incidence of deaths in custody.

10. Whilst taking note of the low number of health personnel in the country, the Committee is concerned at the absence of training for medical officers on their obligations under the Convention, particularly to identify and document cases of torture and to assist in the rehabilitation of victims. (*article 10*)

The State party should take the necessary steps to ensure that adequate training is provided to the medical personnel in the country regarding their obligations under the Convention and in accordance with the Istanbul Protocol. The State party is encouraged to seek international cooperation and technical assistance to conduct such trainings.

11. The Committee is concerned about reports on the excessive length of pre-trial detention, which, despite existing legislation limiting its duration, can occasionally last between three and four years. (*article 11*)

The State party should take all necessary measures to guarantee that the mandatory limits established by law are respected in practice in order to ensure that pre-trial detention is only used as an exceptional measure for a limited period of time.

12. The Committee has noted the unacceptable detention conditions prevailing in Guyana, in particular in the Georgetown and Mazaruni prisons. The most widespread problems are overcrowding, poor hygienic and physical conditions, as well as lack of human, material and financial resources.

The State party should take immediate steps to reduce overcrowding in prisons by improving the infrastructure and hygienic conditions and making available the necessary material, human and budgetary resources to ensure that the conditions of detention in the country are in conformity with minimum international standards. The State party is encouraged to seek and/or devote technical assistance for this purpose.

13. The disciplinary measures used in the treatment of prisoners are a matter of concern for the Committee, in particular Section 37 of the Prison Act, 1998, which allows whipping, flogging and reduction of diet. (*article 2 and 11*)

While taking note of the statement of the representative of the State party that these disciplinary measures have not been used, the State party should review all legal provisions which authorize these practices with a view to abolishing them as a matter of priority. The State party is reminded that treatment of prisoners should guarantee full respect for the dignity and human rights of all prisoners in conformity with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

14. The Committee is concerned at allegations that children (ages 10-16) are not always separated from adults while on remand and at the dire conditions of detention. (*article 11*)

The State party should adopt urgent measures to ensure that children (ages 10-16) are always separated from adults while on remand. The State party should also take measures to bring the conditions of detention in conformity with the United Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (The Tokyo Rules).

15. The Committee is particularly concerned about reports of widespread police brutality, the use of force and firearms by the police, as well as the lack of accountability of the Guyana Police Force. While the Committee welcomes the additional information provided by the representative of the State party with respect to the cases of two members of the police who had been charged and sentenced for abuses, it regrets the absence of data on enquiries, cases and convictions related to abuses by the police. (*articles 11 and 12*)

(a) The State party should ensure that the circumstances under which police officers are authorized to use force and firearms, are exceptional and clearly defined, and that members of the Guyana Police Force are adequately trained on the appropriate use of force and firearms in accordance with international standards, including the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

(b) The State party should take effective steps to guarantee the accountability of the Guyana Police Force and, to this effect, carry out prompt, impartial and effective investigations, try the perpetrators of acts of abuse and, when convicted, impose appropriate sentences, and adequately compensate the victims.

16. The Committee is concerned about allegations of extra-judicial killings by the police and the ineffective efforts made by the police in investigating those killings and apprehending the perpetrators. (*articles 11 and 12*)

The State party is urged to take immediate steps to prevent acts such as the alleged practice of extra-judicial killings by members of the police. The State party should take the necessary measures to guarantee that prompt and impartial inquiries are conducted, perpetrators are prosecuted and effective remedies are provided to victims.

17. The Committee is concerned with the Constitutional provision that allows the employment of part-time judges which could jeopardize their independence and impartiality. The Committee is also concerned about reports that indicate that this provision has been used to deal with the backlog of cases awaiting trial. (*articles 12 and 13*)

While the Committee takes note of the statement made by the representative of the State party that the Constitutional provision allowing for the use of part-time judges has not been applied, the Committee encourages the State party to amend the Constitution and delete this provision.

18. The Committee is concerned with the provision in the criminal code that establishes the minimum age of criminal responsibility, which is set at 10 years of age. (*article 13*)

The State Party should take the necessary measures to raise the minimum age of criminal responsibility to an internationally acceptable level, as already recommended by the Committee on the Rights of the Child (CRC/C/15/Add.224)

19. The Committee is concerned about reports of widespread sexual violence, including in places of detention, and about the extremely low rate of convictions in such cases. The Committee is also concerned about reports of numerous cases of intimidation and threats against victims of sexual violence and of the absence of a witness protection programme.

The State party is urged to take effective and comprehensive measures to combat sexual violence in the country, *inter alia*: (*articles 12 and 13*)

- (a) **establish and promote an effective mechanism for receiving complaints of sexual violence, including in custodial facilities;**
- (b) **ensure that law enforcement personnel are instructed on the absolute prohibition of violence and rape in custody as a form of torture as well as trained to deal with charges of sexual violence;**
- (c) **carry out prompt, impartial and effective investigations, try the perpetrators of such acts and, when convicted, impose appropriate sentences, and adequately compensate victims;**
- (d) **ensure that the complainant and witnesses are protected against all ill-treatment and intimidation as a consequence of the complaint or any evidence given;**

(e) establish a monitoring mechanism to investigate and deal with cases of sexual violence in the country.

20. The Committee is concerned about the reports regarding the high number of cases of domestic violence in the country.

The State party should take urgent measures to reduce cases of domestic violence, including training of police, law enforcement personnel and health personnel, in order to investigate and deal with instances of domestic violence. The State party should make a more effective use of the Domestic Violence Act of 1996.

21. Whilst the Committee expresses satisfaction for the creation of institutions for the promotion and protection of human rights, such as the Human Rights Commission, Women and Gender Commission, Indigenous Peoples Commission, Rights of the Child Commission, it regrets the fact that the necessary appointments to enable these institutions to begin work have not as yet been made by Parliament apparently due to political reasons.. *(article 13)*

The State party is strongly encouraged to take effective steps to expedite appointments to these institutions for the promotion and protection of human rights.

22. The Committee expresses its concern about the inability of the Office of the Ombudsman to continue functioning as a result of the non-appointment, since January 2005, of an Ombudsman by Parliament apparently due to political reasons. *(article 13)*

The State party is urged to take the necessary measures to ensure the resumption of the activities of the Office of the Ombudsman and provide it with the human and financial resources in order to allow it to carry out its mandate.

23. The Committee expresses its concern about the deplorable conditions of detention of those persons held on death row, which could amount to cruel, inhuman or degrading treatment. *(article 16)*

The State party should take all necessary measures to improve conditions of detention of persons on death row in order to guarantee their basic needs and fundamental rights.

24. The Committee notes with concern the lack of statistics, especially with regard to cases of torture, in relation to complaints, convictions of perpetrators and compensation provided to victims of torture.

The State party should provide in its next periodic report detailed statistical data, disaggregated by crime, ethnicity and gender, on complaints relating to torture and ill-treatment allegedly committed by law enforcement officials, and on the related investigations, prosecutions and criminal and disciplinary

sanctions. Information is further requested on any measures taken to compensate and provide rehabilitation services for the victims.

25. The Committee encourages the State party to consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
26. The State party is encouraged to disseminate widely the reports submitted by Guyana to the Committee and the latter's conclusions and recommendations, in appropriate languages, through official websites, the media and non-governmental organizations.
27. The Committee requests the State party to provide, within one year, information on measures taken in response to the Committee's recommendations contained in paragraphs 12, 16, 19, 20 and 21 above.
28. The Committee, having concluded that during the consideration of the report of Guyana sufficient information was adduced to cover the 17-year period of delay in submitting the initial as well as the periodic reports, decided to request the second periodic report by [...].
