

COMMITTEE AGAINST TORTURE

Thirty-seventh session

6-24 November 2006

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

Conclusion and recommendations of the Committee against Torture (Extracts  
for follow-up)

GUYANA

( ... )

C. Subjects of concerns and recommendations

( ... )

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.

STATE PARTY RESPONSE:

As pointed out in our initial report to the Committee against Torture, there are 5 Prisons (Georgetown, New Amsterdam, Lusignan, Timehri and Mazaruni) for males and one in New Amsterdam for females in Guyana. Four of which are under-populated.

The State Party has recognized for many years the need for a new modern, larger and more secure prison. However, as with all developing countries, the desired objective has to be counterbalanced with the demands to reduce poverty, provide water, education and health care to its people, especially children, and more particularly, the poorest and the most vulnerable in our society.

The Committee is no doubt aware that no international financial institution will provide loans to build prisons and or improve lock-ups. Guyana's recent experience with one such agency assisting with the modernization of the Guyana Police Force, the administration of justice and prison reform would not allow any funds to be used towards the creation of, or the improvement to, the physical facilities in the prisons or the lock-ups in the police stations.

Regrettably, there was little attention paid to the conditions in these two identified prisons when Guyana was before the Committee or were that to have been the case, further information could have been provided at the time. The State party notes that these prisons are part of these recommendations and Guyana is prepared to answer.

As pointed out in November 2006, the overcrowding in the Georgetown Prison is directly related to the large number of remand prisoners who are waiting for their day to appear in courts or who are before courts in the city and the length of time the courts take to conclude a case. It is also the prison of highest security.

To illustrate this point, in 2006, 2,834 prisoners were remanded with a total of 2, 246 in the Georgetown Prison, 566 in the New Amsterdam Prison and 22 in the Lusignan Prison.

However, the Committee is asked to note that there is a system in place for granting remission of sentences and Parole by the Parole Board countrywide, but more particularly, to relieve the pressure on the Georgetown Prison. Prisoners once sentenced are transferred to other prisons, wherever possible, once security considerations are cleared.

The Committee is asked to note that since Guyana last reported two horrific massacres were perpetrated on innocent people in two villages by armed gangs in January and February 2008 which lead to 23 ordinary citizens being brutally executed, including 5 children who were asleep in their beds.

As a result of this alarming crime situation, and increased vigilance by the Guyana Police Force, the numbers of prisoners have increased, especially those involved with armed robberies, murder and piracy. However, there has been some modest improvement in the level of case management in the courts in the last year.

The State party does not accept that there is overcrowding at the Mazaruni Prison. In contrast to the Georgetown Prison, the Mazaruni Prison does not suffer from overcrowding and conditions are better there in terms of the availability of land for agricultural production and use by the prison population in terms of exercise and space. Mazaruni Prison is located further inland and only convicted prisoners are sent there.

The Committee is asked to note that the total prison population of 1546 (female and male) (2007) is approximately 0.4% of the country's population.

Furthermore, the Guyana government has increased the budgetary allocations in 2007 and 2008 towards the improvement of conditions in the entire prison system including expansion of the skills training programmes for prisoners, special programmes for anger management and sex offenders, as well as opportunities for agricultural production. A number of companies and donor agencies have made contributions of equipment to the Guyana Prison Service towards enhancing the skills training programmes.

In three prisons, a large percentage of inmates work outside the confines of the Prisons in animal and plant husbandry, carpentry and with the local government works for which they receive compensation.

There are libraries, facilities for some indoor and outdoor games, and other forms of recreation provided. Inmates on request are encouraged and allowed to study and write their secondary exit examinations.

It should be noted that prisoners successfully compete annually against the rest of the country at national steel pan competitions as well as in national boxing competitions.

In most prisons there is an infirmary staffed on a 24 hour basis and where necessary prisoners are sent to the public health hospital system for more in depth and extensive care, surgery etc.

Guyana reported in November 2006 on the provision and existence of functioning Prison Visiting Committees at all 5 Prisons. The Minister of Home Affairs held a one day retreat with all the members of the Prison Visiting Committees in 2007. A copy of this report is attached for easy reference.

As mentioned in the State Party's presentation in November 2006, the British government has been working with countries in the English-speaking Caribbean on prison reform. These reforms include training many levels of Prison staff as well as lending technical advice to improve the operations of the prison system. Guyana's Prisons have benefitted considerably over the last 4 years with this support.

However, attention is also being focused on legislative and judicial reform to improve the administration of justice and reduce the number of remand prisoners.

Under two loan projects, the GOG/IDB Citizen Security Programme and the GOG/IDB Justice Administration Programme, referred to in

the November 2006 presentation, it is anticipated that there would be improvements in the time taken to hear cases, thus reducing a large remand prison population, and improving the administration by the Prison staff.

The Government as recent as October 2008 passed three pieces of legislation in the Parliament that would assist in reducing the delays in the judicial system. The Evidence Bill, No.22 of 2008 allows for the use of use of video-link interviews as evidence in the courts, the Criminal Law ( Procedure) Amendment Bill, No. 17 of 2008, which provides for the use of paper committals to reduce the period taken for preliminary inquiries (which can take up to a year) and the Criminal Procedure ( Plea Bargaining and Plea Agreement) Bill, No. 18 of 2008, These will be assented shortly and copies of these will be forwarded to the Committee subsequently.

The Evidence Bill will also provide greater security to victims, especially children and witnesses.

Lastly with the assistance of the USAID, persons have been trained and certified in alternative dispute mediation and resolution, thus providing faster and mutually acceptable forms of settlement in civil disputes. This new approach is showing results and will also assist in reducing the stress on the penal and judicial systems.

( ... )

16. The Committee is concerned about allegations of extrajudicial killings by the police and the ineffective efforts made by the police in investigating those killings and apprehending the perpetrators (art. 11 and 12).

The State Party is urged to take immediate steps to prevent acts such as the alleged practice of extrajudicial 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.

STATE PARTY RESPONSE:

Guyana in its presentation to the Committee in November 2006 went in to great detail in order to illustrate the efforts made by the State Party to investigate such allegations and to assure the Committee of the seriousness with which such allegations were treated.

Guyana, however, is concerned that these matters cannot be tried in the media without the alleged victims or their families utilizing the avenues available to them in order to allow the investigation process to go forward.

As pointed out in the November 2006 hearing on Guyana, there are a number of entities/avenues that alleged victims and/or their families can utilize/approach to make reports and therefore allow the investigation process to commence and where redress can be made.

A victim and/or his family may approach any of the following bodies to make an exposure of extra-judicial or unlawful killing by a member of the Disciplined Forces:

- The Police Service Commission;
- The Police Complaints Authority (PCA) \*
- The Office of Professional Responsibility (OPR) of the Guyana Police Force
- The Guyana Defence Board or any of the Heads of the Disciplined Services where the first step would be to establish a Board of Enquiry
- Approach the courts under the constitution or any criminal law

\* A copy of the PCA Act was shared with the Committee and copies of its annual reports up to 2004; 2005/2006/2007 reports are attached.

Where such allegations do not relate to members of the Joint Services, the victim's family must make reports to the Police so that the perpetrators can be sought, apprehended and justice sought. Without persons coming forward to assist the investigations by the Police, much time will be lost and many may remain as unsolved cases.

The Committee is also reminded that reference was made to the Disciplined Forces Commission 2004 Report and the Commission of Enquiry in relation to allegation of extrajudicial killings. The recommendations of the first report have engaged the attention of two Special Select Committees of the 8<sup>th</sup> and 9<sup>th</sup> Parliament.

It should be noted that there have been no allegations or reports of extrajudicial killings by members of the Joint Services. There are cases under investigation which may point in the direction of drug or gang-related execution/retribution killings.

Unmistakably an important aspect of reducing crime and in particular violent crime relates to building confidence and trust between the police and communities.

The GOGIUK Security Sector Reform Action Plan 2007-2011 which addresses the modernization of the security sector includes improving police-community relations and strengthening the OPR and the PCA.

The GOGIUNDP Enhancing Public Trust, Inclusion and Security project signed in August 2008 provides a variety of interventions at the community levels for dialogue and improved collaboration between communities and their organizations, the Disciplined Services and local government officials in building safe neighbourhoods.

Guyana also established a Crime Stoppers Chapter in late 2007 and this has provided the cover of anonymity for persons reporting crimes as well as activities of corrupt or abusive policemen.

( ... )

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 treats 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 (arts 12 and 13), to:

- (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 changes 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.

STATE PARTY RESPONSE:

Guyana recognizes that domestic and sexual violence is occurring at unacceptable levels in the society at large. However, it is not convinced that it is considered the norm in the society nor that it socially and culturally acceptable.

The government passed the Domestic Violence Act 1996, and although, this piece of legislation is considered one of the most comprehensive pieces of legislation in the Caribbean region addressing this issue, it is presently under further review with the objective of making it clearer and stronger.

In late 2007, the State Party approved and publicly distributed its policy paper on Sexual Violence called "Stamp it Out" for consultations throughout the country. Thousands have participated in the consultations from a broad cross-section of society.

A new draft bill on Sexual Offences is also now in its final stages of consultation and it is anticipated that it shall be laid in the National Assembly for debate and passage into law in 2009.

In July 2008, the Prevention of Crimes (Amendment) Act 2008, Act No.11 of 2008, was passed in the Parliament and assented to on August 29, 2008 by His Excellency the President. This piece of legislation will allow for mandatory supervision of persons on the expiration of their sentences in relation to serious crimes including domestic violence. The said legislation also makes provision for mandatory supervision for life where acts affecting a child as victim such as "molestation, rape, sexual exploitation, pornography, incest and kidnapping."

The State Party is not aware of cases of intimidation of victims of sexual violence. However, it is aware of victim's families accepting money from the perpetrators so as not to let the case go forward. The Judiciary has had different responses to this over the years.

The State is seeking in the aforementioned new legislation to address these anomalies so that Courts will address these socially unacceptable modes of behaviour not through discretion but by law.

What the State Party recognizes is that domestic and sexual violence must be treated with the greatest condemnation not only in law but even

more profoundly by undermining retrogressive attitudes and cultural norms that treat women and children as lesser beings through a range of interventions at the administrative, social and economic levels.

The state continues to offer assistance to victims with counseling, legal aid, financial support as well as support for alternative lodging and skills training to allow them to have greater choices in leaving a dangerous environment.

There is on-going training of Police to sensitize them in handling these cases in a more sympathetic and professional manner. The new police stations now include specific areas to facilitate reporting and to allow victims to identify their perpetrators without fear.

With specific reference to the recommendations at

- (a) the State Party is taking measures to improve reporting through improved legal and judicial interventions as well as increased partnerships with civil society bodies such as Help and Shelter, a non-governmental organization that offers a Home for battered women and the Guyana Legal Aid Clinic in 7 of the 10 administrative regions;
- (b) the State Party, through regular and specialized training programmes (referred to in the State Party's response to Question # 12) for the Police and Prison officials, and, improved facilities in the Police precincts and improved forensic capabilities, is making efforts within available resources.
- (c) the State Party through legislative reform and the GOG/IDB Justice Sector programme is addressing this recommendation. However, the State party cannot predict the outcome of the judicial procedures in such matters.

(d) and (e) form the basis of various interventions already referred to in our responses to No.12, No. 16 and No. 19. To repeat the introduction of one way mirrors for id parades, special rooms for victims, use of video interviews in evidence and paper committals in the courts assist in reducing the trauma the victims experience and allow for speedier justice.

(e) The establishment of a modern centralized crime statistical collection centre for Police and Prisons records and digitalization of the court registries, allow for better tracking and monitoring of the number of cases and their outcomes.

The state party also wishes to make a comment about the lack of a witness protection programme. Guyana is made up of 83,000 square miles and 752,000 people. The entire English-speaking Caribbean comprises of eight (8 ) million people. The implementation of a comprehensive witness protection programme with new identities such as implemented in the advanced developed countries defies all efforts. At the moment, the provision of safe houses and a shelter is being implemented as required.

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 more effective use of the Domestic Violence Act of 1996.

STATE PARTY RESPONSE:

From the response to Question # 19 above, the State Party assures the Committee that it is taking ever more strident measures to treat with the prevalence of domestic violence and sexual violence at multiple layers of the society.

Recognising that many victims or potential victims of Domestic Violence are women and children from the poorer sections of the population, the State Party has in 2008 expanded legal aid services to seven of its ten administrative regions. Citizens of these regions now have more meaningful access to justice. The State Party provides financial and human resources to the Guyana Legal Aid Clinic which has been able to expand their services to 7 of the ten administrative regions.

More awareness sessions continue to be held across the country , including the use of the media, to combat the world's challenge in addressing domestic violence.

The State Party is working in collaboration with Non-Governmental Organizations, Faith-Based Organizations, and Community-Based Organizations, on many initiatives to change the attitudes of citizens in Guyana to domestic violence and to ensure that service providers (Police, social workers, lawyers, medical practitioners) are properly trained to enforce the very comprehensive pieces of legislation that address this issue.

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

STATE PARTY RESPONSE:

The Parliamentary Standing Committee on Appointment of Members to Constitutional bodies has made some progress since November 2006. The required two-thirds majority was reached on the lists of civil society entities to consult for nominations to two of the Human Rights Commissions provided for in the Guyana Constitution, that is, the Rights of the Child Commission and the Women and Gender Equality Commission.

At present, these civil society organizations are holding their own consultations and are in different stages of submitting their nominees to the Parliamentary Committee. When this phase is completed, the Committee will then return to the floor of the National Assembly for approval based on a simple majority. The President will then appoint the names given to him from the National Assembly. It is hoped that these two Commissions will be appointed by year end, 2008.

Agreement has still not been reached at the Committee level on the other two other HR Commissions-the Indigenous Peoples and the Ethnic Relations- due to political differences.

( ... )

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.

The State Party apologizes for the delay in not submitting its response to the above-mentioned questions in the Concluding Observations and Recommendations of the Committee against Torture and assures the Committee of its continued commitment to complying with the Convention.

The State Party includes in its submission, copies of the following documents which have been referred to in this response:

1. Prevention of Crimes (Amendment) Act, ACT No. 11 of 2008
2. Copy of the GOG policy paper on "Stamp It Out"
4. Police Complaints Authority Annual reports for the years 2005, 2006 and 2007

Note Bene:

The Evidence (Amendment) Bill, Bill No.22 of 2008, was passed in Parliament on October 16, 2008 ••

The Criminal Law (Procedure) (Amendment) Bill, Bill No.20 of 2008, was passed in Parliament on October 16, 2008

The Criminal Procedure (Plea Bargaining and Plea Agreement) Bill, No. 18 of 2008 was passed in Parliament on October 16, 2008.