



The Equal Rights Trust

126 North End Road
London W14 9PP
United Kingdom

Tel.: +44 (0) 20 7610 2786
Fax: +44 (0) 20 3441 7436
info@equalrightstrust.org
www.equalrightstrust.org

Board of Directors

Bob Hepple (Chair)
Sue Ashtiany
Danby Bloch
Tapan Kumar Bose
Sonia Correa
Hywel Ceri Jones
Asma Khader
Claire L'Heureux-Dubé
Gay McDougall
Bob Niven
Kate O'Regan
Michael Rubenstein
Stephen Sedley
Theodore Shaw
Sylvia Tamale

The Equal Rights Trust
is a company limited by
guarantee incorporated in
England and a registered
charity. Company number
5559173. Charity number
1113288.

Dimitrina Petrova
Executive Director

The Equal Rights Trust

Parallel report submitted to the 52nd session of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) in relation to the combined seventh and eighth periodic reports submitted by:

Guyana

June 2012

Statement of Interest

1. The Equal Rights Trust (ERT) submits this parallel report to the United Nations Committee on the Elimination of Discrimination Against Women (the Committee) for its forthcoming review of the combined seventh and eighth periodic reports of Guyana under Article 18 of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (the Convention).
2. ERT is an independent international organisation whose purpose is to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice. Established as an advocacy organisation, resource centre and think tank, it focuses on the complex relationship between different types of discrimination and inequality, developing strategies for translating the principles of equality into practice.
3. In the course of its mission, ERT undertakes research on the patterns of discrimination – including gender based discrimination – which prevail in different states, and of the adequacy of domestic legislation and policy to address these forms of discrimination. ERT also undertakes projects, in partnership with civil society organisations, to develop the capacity of these organisations to undertake documentation, advocacy and litigation in order to enhance the realization of the rights to equality and non-discrimination in their country. Since 2010, ERT has been involved in two projects, undertaken in partnership with the Society Against Sexual Orientation Discrimination (SASOD) focused on empowering civil society to challenge discrimination in Guyana. While this work

has focused on the protection of persons of different sexual orientation or gender identity, ERT has also documented significant discrimination against other groups, including women, which will contribute to a forthcoming report on addressing discrimination and inequality in Guyana. The present submission is based on the findings of this research.

Executive Summary

4. ERT's research indicates that, despite a range of legislation, policy, practice directives, and other instruments aimed at addressing discrimination, harassment and violence against women, there remains substantial inequality between men and women in Guyana. ERT's research has found that social perceptions of women in Guyana are heavily influenced by a traditional patriarchal attitude which portrays women as weaker than, and inferior to, men. This attitude finds expression in the presentation of women in the media, politics and society and its negative consequences are manifested in high levels of physical and sexual violence and discrimination in employment, education and other areas of social life.
5. Guyana has a wealth of legal provisions providing protection from discrimination on grounds of gender and sex. The Constitution provides both a right to non-discrimination on a number of grounds, and a free-standing right to equality which is not restricted to specific grounds, areas of life or types of conduct. In addition, Article 149F provides a specific right to equality for women. Alongside these constitutional protections, women in Guyana enjoy protection under the Equal Rights Act, which provides that "all forms of discrimination against women or men on the basis of their sex or marital status are illegal",¹ and the Prevention of Discrimination Act, which provides protection from discrimination on a number of grounds in the areas of employment and access to goods, services and facilities. In addition, women have legal protection from gender-based violence under both the Domestic Violence Act and the Sexual Offences Act.
6. In its forthcoming report, ERT identifies a number of problems with the legal framework of Guyana related to equality, some of which arise directly from the inconsistencies between the various instruments listed above. In addition, ERT analysis finds that these laws leave a number of gaps in protection, notably in failing to provide protection from grounds which intersect with sex and gender, leaving certain groups of women exposed to discrimination and discriminatory violence. In this submission, we highlight a number of these concerns, and concerns related to the effective implementation and enforcement of laws providing protection from discrimination. The assessment of Guyana's obligations in this area is informed by the Committee's elaboration of state obligations under Article 2 in its *General Comment 28 on the Core Obligations of State Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women* (General Comment 28) and by the Declaration of Principles on Equality (the Declaration), a document of international best practice on equality. The Declaration was drafted and adopted in 2008 by 128 prominent human rights and equality advocates and experts, and has been described as "the current international understanding of Principles on Equality".² It has also been endorsed by the Parliamentary Assembly of the Council of Europe.³
7. ERT's research indicates that among the most significant problems affecting women in Guyana are those which result from failures of implementation and enforcement of protective legislation, and in particular legislation providing protection from discriminatory violence. This research indicates that one of the key drivers of gender-based violence in Guyana is the

¹ Equal Rights Act 1990, subsection 2(2).

² *Naz Foundation v. Government of NCT of Delhi and Others* WP(C) No.7455/2001, Para. 93.

³ Parliamentary Assembly of the Council of Europe, *Resolution and Recommendation: The Declaration of Principles on Equality and activities of the Council of Europe*, REC 1986 (2011), 25 November 2011, available at: http://assembly.coe.int/ASP/Doc/ATListingDetails_E.asp?ATID=11380.

perpetuation of negative stereotypes about the role and position of women and men in society (Article 5 of the Convention). ERT has also identified these attitudes as an important factor in the high levels of stigma, discrimination and violence against lesbians and male-to-female transgender persons. The second part of this submission focuses therefore on concerns about the high levels of gender-based violence in Guyana, and the severe discrimination and violence directed against lesbians and male-to-female transgender persons. The assessment of Guyana's obligations in respect of gender-based violence is informed by the Committee's elaboration of state obligations in its *General Recommendation No. 19 on Violence Against Women* (General Comment 19).

Article 2 – Policy Measures

8. Under Article 2 of the Convention, State Parties undertake to “condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women” and to “embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle”. The Committee, in its General Comment 28, has elaborated on the nature of states' obligation arising under Article 2, stating that:

*Article 2 is crucial to the full implementation of the Convention since it identifies the nature of the general legal obligations of States parties. The obligations enshrined in article 2 are inextricably linked with all other substantive provisions of the Convention, as States parties have the obligation to ensure that all the rights enshrined in the Convention are fully respected at the national level.*⁴

9. Expanding on this statement, the Committee has confirmed that the obligation on state parties under Article 2 has three elements. States are required to *respect* the right to non-discrimination by refraining from “making laws, policies, regulations, programmes, administrative procedures and institutional structures that directly or indirectly result in the denial of the equal enjoyment by women of their civil, political, economic, social and cultural rights”;⁵ to *protect* the right by “protect[ing] women from discrimination by private actors and tak[ing] steps directly aimed at eliminating customary and all other practices that prejudice and perpetuate the notion of inferiority or superiority of either of the sexes”;⁶ and to *fulfil* the right by adopting a “wide variety of steps to ensure that women and men enjoy equal rights de jure and de facto, including, where appropriate, the adoption of temporary special measures”.⁷

Discriminatory Laws

10. Many discriminatory provisions in Guyanese law have been repealed, replaced or amended in recent decades. Indeed, section 3 of the Equal Rights Act 1990 (prior to an amendment in 1997 which deleted the section), read together with the Schedule to the Act, amended 24 other pieces of legislation to remove or amend provisions which discriminated against women.⁸ These included the Summary Jurisdiction (Magistrates) Act in which nineteen different sections were amended. Minor amendments were also made to a number of other pieces of legislation, including the Marriage Act, Guyana Citizenship Act, Immigration Act, and Summary Jurisdiction (Offences) Act.

⁴ Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 28 on the core obligations of States parties under article 2*, CEDAW/C/GC/28, 2010, Para 6.

⁵ *Ibid.*, Para 9.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ Equal Rights Act 1990, section 3 (now deleted) and Schedule III (now deleted).

11. However, a number of discriminatory laws remain in place, including in particular two sets of provisions which criminalise the activities and lifestyles of transgender persons. One of these two instruments, the Summary Jurisdiction (Offences) Act 1894 contains an offence which directly discriminates against transgender persons. Section 153(1)(xlvii) creates a summary offence, which attracts a fine, of dressing in the attire of the opposite gender in a public place for an improper purpose. In addition to the provision's directly discriminatory nature, evidence from recent years indicates that this provision may be disproportionately applied to criminalise male-to-female transgender persons.
12. In February 2009, seven transgender persons were charged and fined under section 153 of the Summary Jurisdiction (Offences) Act 1894. The seven persons reported to ERT's partner in Guyana, SASOD, that they were photographed, told to remove their "female clothes" in front of several police officers and then ordered to put on "men's clothing". Falatama, one of the persons arrested, said: "It was one of the most humiliating experiences of my life. I felt like I was less than human."⁹ Police officers kept five of the arrested persons in solitary confinement until their appearance before a magistrate,¹⁰ contending that it was for their safety. In court, when handing down the sentences, the then Acting Chief Magistrate, Melissa Robertson, told the detainees they were not women but men, and exhorted them to "go to church and give their lives to Christ".¹¹ On 19 February 2010 SASOD filed a motion before the Supreme Court of Judicature challenging section 153. The motion sought to have section 153(1) (xlvii) of the Summary Jurisdiction (Offences) Act invalidated as irrational, discriminatory, undemocratic, contrary to the rule of law and unconstitutional. The case is still to be decided.
13. In addition to this provision, ERT is concerned about certain aspects of legislation in the areas of family and personal laws which discriminate against women, or may be subject to discriminatory implementation. In relation to divorce, the Matrimonial Causes Act provides for either spouse to apply for divorce if their spouse has committed adultery, desertion, cruelty or is of incurably unsound mind,¹² but contains no provision for no-fault divorce as has the Committee has called for in its Concluding Observations on a number of other states.¹³ Judicial separation is dealt with a similar but separate way in the Summary Jurisdiction (Magistrates) Act 1894.¹⁴ This Act allows for the court to make orders which declare spouses no longer required to cohabit, and to provide for custody and maintenance in certain circumstances including where the spouse has been convicted of aggravated assault, desertion, or cruelty.¹⁵ However, the court may not make such orders if the complainant spouse has committed adultery.¹⁶

⁹ SASOD, *Marking World Day of Social Justice, Transgender citizens, supported by SASOD, move to the courts to challenge Guyana's law against 'cross-dressing'*, 22 February 2010, available at: <http://sasod.blogspot.com/2010/02/marking-world-day-of-social-justice.html>.

¹⁰ The individuals involved in this case were arrested at different times; depending on the time of arrest the five persons were held between two and three days.

¹¹ SASOD, *Marking World Day of Social Justice, Transgender citizens, supported by SASOD, move to the courts to challenge Guyana's law against 'cross-dressing'*, 22 February 2010, available at: <http://sasod.blogspot.com/2010/02/marking-world-day-of-social-justice.html>.

¹² Matrimonial Causes Act 1916, subsection 9(1).

¹³ See for example, Committee on the Elimination of Discrimination Against Women, *Concluding Observations on Sri Lanka*, UN Doc. CEDAW/C/LKA/CO/7, 2011, Para 45; Committee on the Elimination of Discrimination Against Women, *Concluding Observations on Luxemburg*, UN Doc. CEDAW/C/LUX/CO/5, 2008, Para 34.

¹⁴ Summary Jurisdiction (Magistrates) Act 1894, sections 34-36.

¹⁵ Summary Jurisdiction (Magistrates) Act 1894, sections 34-36.

¹⁶ Summary Jurisdiction (Magistrates) Act 1894, section 38.

14. The Married Persons Property Act provides that in divorce proceedings, disputed property of persons who have been living together for less than five years may be distributed as the judge sees fit, taking into account the contribution made by a spouse to the marriage, looking after the home and caring for the family.¹⁷ In cases where spouses have been living together for more than five years the Act provides that one third of the property be awarded where the claimant party was not working and half be awarded where they were,¹⁸ though a judge may depart from these rules for good and sufficient reason.¹⁹ ERT shares the concern of the Committee, expressed in its 2005 review of Guyana,²⁰ that this provision will indirectly discriminate against women who are more likely to have foregone formal employment in favour of child raising responsibilities. Additionally, some laws still privilege the position of men in relation to their children. Under the Domicile Reform Act 1988 where parents are living together a child is taken to have the domicile of their father.²¹
15. The Equal Rights Trust urges the Committee to recommend that the government undertake, in consultation with civil society and other stakeholders, an audit of discriminatory legal provisions and provisions which are open to discriminatory application, and introduce legislation to amend or repeal all such provisions.

Measures to protect the right to non-discrimination

16. In contrast to the existence of the aforementioned discriminatory provisions Guyana has a number of legal provisions which provide protection from discrimination. The principles of equality and non-discrimination feature strongly in the Constitution of Guyana. The right to non-discrimination is provided in Article 149. Article 149(1)(a) offers protection from laws which discriminate directly and indirectly while sub-paragraph (b) prohibits discriminatory actions by public officials. Article 149(2) provides a definition of “discriminatory”:

In this article the expression ‘discriminatory’ means affording different treatment to different persons attributable wholly or mainly to their or their parents’ or guardians’ respective descriptions by [...] sex, gender [...] whereby persons of one such description are subjected to disabilities or restrictions to which other persons of the same or another such description are not made subject or are accorded privileges or advantages which are not afforded to other person of the same or another such description.

17. Yet the scope of Article 149 is limited in a number of respects. Firstly, the list of grounds specified, though extensive, is limited, and omits a number of important grounds which provide women with protection from discrimination, including notably sexual orientation, gender identity and health status. The Committee has stressed the obligation for state parties to adequately prohibit discrimination on other grounds which may affect women as an inherent element of state obligations under Article 2.²² Secondly, the definition of “discriminatory” in Article 149(2) is limited to “affording different treatment to different persons”, thus restricting protection under sub-paragraph (b) to acts of direct discrimination only. Thirdly, Article 149(1)(b) does not extend to providing protection from discrimination by private actors, such as employers and service providers, an omission which has the potential to limit protection very

¹⁷ Married Persons (Property) Act 1904, section 9.

¹⁸ Married Persons (Property) Act 1904, subsections 9(a) and (b).

¹⁹ Married Persons (Property) Act 1904, section 9.

²⁰ Committee on the Elimination of Discrimination against Women, *Concluding Observations on Guyana*, UN Doc. A/60/38, paras.269–314, 2005, Para 289.

²¹ Domicile Reform Act 1988, subsection 5(1).

²² See above, note 4, Para. 18.

substantially. Consequently, the scope of the protection provided by the Constitution in Article 149(1)(b) falls short of the standard prescribed by the Committee in its General Recommendation 28 which has recognized that the scope of the right to non-discrimination includes both direct and indirect discrimination,²³ and that state parties must “protect women from discrimination by private actors”²⁴ A number of exceptions provided in Article 149(4)-(7) further limit the scope of the right to non-discrimination provided therein.

18. However, other provisions, introduced following Constitutional amendments in the period 2001-2003, offer women substantially better protection for the rights to non-discrimination and equality. Among these is Article 149D, a right to equality, which states:

- a. The State shall not deny to any person equality before the law or equal protection and benefit of the law.*
- b. The State shall, for the purpose of promoting equality, take legislative and other measures designed to protect disadvantaged persons and persons with disabilities.*
- c. Equality includes the full and equal enjoyment of all rights and freedoms guaranteed by or under this Constitution or any other law.*

19. This provision contrasts strongly with Article 149 in that it provides broad protection to all persons in relation to equality before the law and equal protection and benefit of the law. Unlike Article 149, the right to equality in Article 149D is not limited to protection on the basis of specified grounds, nor is it limited to acts done by the state. ERT welcomes the inclusion of Article 149D as a positive step in improving protection from discrimination for women and other groups. However, while Article 149D has the potential to overcome the limitations noted in relation to Article 149, ERT urges Guyana to consider amending Article 149, in line with international best practice which suggests that the right to non-discrimination should be separately and specifically protected as a fundamental and free-standing right.²⁵

20. Article 149F provides specific rights to equality and non-discrimination for women. Paragraph (1) states:

Every woman is entitled to equal rights and status with men in all spheres of political, economic and social life. All forms of discrimination against women on the basis of gender or sex are illegal.

21. Thus, paragraph (1) provides a standalone right to equality of status and rights for women, in addition to a significantly broader protection from discrimination than that provided under Article 149. Unlike Article 149, Article 149F provides protection from “all forms” of discrimination, which, under international law, clearly encompasses both direct and indirect discrimination,²⁶ together with harassment²⁷ and discriminatory violence.²⁸ In addition, unlike Article 149, which prohibits discrimination only in law and by state actors, the prohibition of “all forms” of discrimination appears to apply to both public and private actors. However, it is unclear how the protection under Article 149F(1) interacts with the exceptions to Article 149; in particular, in the absence of jurisprudence dealing with this question, it is unclear whether the

²³ See above, note 4, Para 16.

²⁴ See above, note 4, Para 9.

²⁵ See Declaration of Principles on Equality, Principle 4.

²⁶ See above, note 4, Para 16.

²⁷ Committee on the Elimination of Discrimination against Women, *General Recommendations No. 19: Violence against women*, 1992, Para 17.

²⁸ *Ibid.*, Para 6.

prohibition on all forms of discrimination in Article 149F would apply to matters of personal law which are excluded from the application of Article 149.

22. The Convention and the Committee both recognise that in order to provide effective protection from discrimination, states are required to go beyond a simple prohibition of discrimination in their Constitution, and must also adopt specific anti-discrimination legislation. Thus, Article 2(b) specifically requires states to “adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women”, while the Committee has stated that states must “enact legislation that prohibits discrimination in all fields of women’s lives under the Convention and throughout their lifespan.²⁹ This view is further endorsed by other treaty bodies such as CESCR,³⁰ and the authors and signatories of the Declaration.³¹ Principle 15 of the Declaration which states that “[t]he realisation of the right to equality requires the adoption of equality laws and policies that are comprehensive and sufficiently detailed and specific to encompass the different forms and manifestations of discrimination and disadvantage”.³² Such anti-discrimination legislation should apply to both state and non-state actors, should prohibit discrimination in all areas of life governed by law and should define and prohibit direct discrimination, indirect discrimination and harassment in accordance with definitions accepted by the Committee.
23. Two pieces of legislation provide protection from discrimination on grounds of sex and gender in Guyana – the Equal Rights Act 1990, which provides specific protection for women, and the Prevention of Discrimination Act 1997, which provides protection from discrimination on a range of grounds, including sex and gender, in the areas of employment and the provision of goods, services and facilities.
24. Section 2(2) of The Equal Rights Act provides that “all forms of discrimination against women or men on the basis of their sex or marital status are illegal”.³³ However, discrimination is not defined in the Act, and no description of what constitutes “all forms of discrimination” is provided. Elsewhere, section 2 of the Act provides detailed protections in specific areas of life. Section 2(3) states that it is an offence to provide unequal remuneration to women and men for the same work or work of the same nature,³⁴ while section 2(4) prohibits discrimination against someone in respect of any employment, appointment or promotion on the ground only of sex. These provisions are supplemented by subsection (6) which states that it is an offence to discriminate against women in employment by offering men more favourable opportunities or conditions than women or giving preference to men in respect of arrangements for determining employment, terms of employment, refusal of employment and access to opportunities for promotion, transfer, training or other benefits;³⁵ Section 2(5) states that it is an offence under the Act to deny access to academic, vocational and professional training or equal opportunities in social, political or cultural activity on the ground only of sex.³⁶ Section 2(7) states that it is an offence to allow a woman to be searched by a man or a man to be searched by a woman.

²⁹ See above, note 4, Para 31

³⁰ Committee on Economic, Social and Cultural Rights, *General Comment 20: Non-discrimination in economic, social and cultural rights*, UN Doc. E/C.12/GC/20, 2009, Para 37.

³¹ *Declaration of Principles on Equality*, published by The Equal Rights Trust, London 2008, Principle 5.

³² *Ibid.*

³³ Equal Rights Act 1990, subsection 2(2).

³⁴ While section 2(3) of the Equal Rights Act does not explicitly provide for equal pay for work of equal value, section 9 of the Prevention of Discrimination Act obliges employers to “pay equal remuneration to men and women performing work of equal value”.

³⁵ *Ibid.*, subsection 2(6).

³⁶ *Ibid.*, paragraph 2(5)(a) and (b).

25. The Prevention of Discrimination Act prohibits discrimination in employment by both public and private employers and by those providing goods and services.³⁷ Section 4 of the Act defines discrimination as “any distinction, exclusion or preference the intent or effect of which is to nullify or impair equality of opportunity in any employment or occupation” on an extensive list of grounds which includes sex. Section 4(b) extends the list of grounds, by stating that discrimination also includes distinctions, exclusions or preferences based on “any characteristic which appertains generally or is generally imputed to persons who have one of the characteristics listed in 4(a).³⁸ This list of protected grounds, while extensive, notably fails to include sexual orientation and gender identity, as advised by authoritative interpretations of international human rights law.³⁹ The list also omits grounds of health status, which offers important protection to persons with HIV and AIDS and other conditions, and belief. Moreover, the list is “closed” meaning that new grounds, analogous to those listed, such as health status or genetic predisposition towards illness⁴⁰ cannot be added by the courts.
26. ERT welcomes the protection from discrimination on grounds of gender and sex provided by Articles 149, 149D and 149F of the Constitution, together with the Equal Rights Act and the Prevention of Discrimination Act. However, we are concerned that the capacity of women to benefit from the protections provided therein is limited both by the specific gaps and limitations of these laws, highlighted above, and by the lack of clarity about the interaction between the different provisions.
27. The Equal Rights Trust urges the Committee to recommend that the government establish, in consultation with civil society and other stakeholders, an independent review of the efficiency of the system of anti-discrimination law in Guyana, and its consistency with the requirements of the Convention. At a minimum, ERT would recommend that such a review should consider the following issues:
- a. The lack of explicit protection from discrimination on the grounds of sexual orientation, gender identity and health status under both the Constitution of Guyana and the Prevention of Discrimination Act;
 - b. The lack of protection from multiple discrimination and from discrimination on the basis of association and perception under both the Constitution of Guyana and the Prevention of Discrimination Act;
 - c. The potential for the exceptions provided to Article 149 of the Constitution of Guyana to limit the scope of protection available to women experiencing discrimination;
 - d. The potential for inconsistent application between Article 149 and Article 149D and 149F of the Constitution of Guyana.
28. In addition to the aforementioned concerns with the scope, definition and exceptions to the protection from discrimination provided by the laws of Guyana, ERT’s research and consultations with representatives of women’s organisations indicates that one of the most

³⁷ Prevention of Discrimination Act 1997, section 3.

³⁸ *Ibid.*, subsection 4(2).

³⁹ See for example, Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-discrimination in economic, social and cultural rights*, U.N. Doc. E/C.12/GC/20, 2009, Para 32; Committee on the Rights of the Child, *General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child*, U.N. Doc. CRC/GC/2003/4, 2003, Paras 2 and 6; Human Rights Committee, *Concluding Observations on Poland*, U.N. Doc. CCPR/CO/82/POL, 2004, Para 18.

⁴⁰ Both of these grounds have been recognised as meriting inclusion as protected grounds in The Declaration of Principles on Equality, Principle 5.

significant problems for women is failure to implement and enforce existing protections. At a conference in June 2012, for example, participants spoke of the *de facto* division between “men’s work” and “women’s work” which persists despite clear prohibitions on discrimination in employment under both the Equal Rights Act and the Prevention of Discrimination Act. Further concerns about implementation are highlighted by the testimony presented below in respect of different forms of gender-based violence.

29. The Equal Rights Trust urges the Committee to recommend that Guyana develop and implement, in consultation with civil society and the Women and Gender Commission, a comprehensive plan to improve the implementation and enforcement of laws providing protection from discrimination against women in Guyana. ERT would recommend that such a comprehensive plan should include, at least:
- a. Measures to raise awareness of the right to non-discrimination among both rights-holders and duty-bearers;
 - b. Measures to provide suitable education on equality as a fundamental right in all educational establishments, with a focus on modifying social and cultural patterns of conduct, and eliminating prejudices and customary practices which are based on the idea of the inferiority or superiority of men or women;
 - c. Measures to ensure that victims of discrimination have effective access to judicial and/or administrative procedures, including through the provision of legal aid for this purpose;
 - d. Measures to support and develop the Women and Gender Equality Commission, including through the allocation of increased financial support to its activities;
 - e. Measures to support and develop the Women's Affairs Bureau, including through the allocation of increased financial support to its activities.

Article 5 – Sex Roles and Stereotypes

30. As the Committee highlighted in its previous review of Guyana’s performance under the Convention, there is a “lack of systematic enforcement of existing legislation, of mechanisms to monitor and ensure compliance, and of effective remedies in case of breach.”⁴¹ ERT’s research indicates that this remains the case, and that the range of legal protections available for women in Guyana has not translated effectively into practice. Moreover, the research established that social attitudes towards women in Guyana represent a major barrier to gender equality and play an important role in undermining the effectiveness of protective legislation. As the Committee has previously noted, public and societal attitudes towards gender equality in Guyana are defined by “patriarchal norms and stereotypical and discriminatory cultural practices towards women”.⁴² Indeed, as the Government of Guyana itself has noted, “[t]here is still a predominance of behaviours and attitudes at all levels of society that support beliefs of the superiority of the male over the female”.⁴³ These views were corroborated by ERT’s own research. ERT interviewed Margaret Kertzious of Help and Shelter, who noted the presentation of women “as sex objects, in the media, in ads, in music etc” as major influences on public attitudes towards women.⁴⁴

⁴¹ Committee on the Elimination of Discrimination against Women, *Concluding Observations on Guyana*, UN Doc. A/60/38, paras.269–314, 2005, Para 291.

⁴² *Ibid.*, Para 271.

⁴³ Committee on the Elimination of Discrimination against Women, *State Report of Guyana*, UN Doc. CEDAW/C/GUY/3-6, 2004, Para 5a.

⁴⁴ ERT Interview with Margaret Kertzious of Help and Shelter, via email, March 2012.

General Comment 19 – Gender-based Violence

31. Amongst the most obvious and disturbing manifestations of these attitudes is the high level of gender-based violence, and the cultural acceptance of violence against women. One woman interviewed by the UN Independent Expert on minority issues in 2009 stated that “[i]t is simply true that as a society we believe in beating women and children”.⁴⁵ Similarly, research undertaken by the Bureau of Statistics indicates a worrying level of acceptance of gender-based violence among women themselves, with nearly 18% of women surveyed believing that men could justify beating their partner in a range of circumstances.⁴⁶
32. As the Committee noted in its General Recommendation 19, gender-based violence “seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men” and is “discrimination within the meaning of article 1 of the Convention”.⁴⁷ The Committee has clarified the State’s duty to eliminate gender-based violence and to provide redress, stressing in particular that state parties “may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation”.⁴⁸
33. Gender-based violence is one of the more alarming manifestations of the negative cultural stereotypes attached to women in Guyana. In an important 2005 report, *Without Conviction: Sexual Violence Cases in the Guyana Justice Process*, the Guyana Human Rights Association (GHRA) highlighted the problem of rising rates of certain forms of sexual violence. Since the GHRA report, significant amendments have been made to Guyana’s sexual offences legislation. The Sexual Offences Act 2010 represents a marked improvement on the previous law in this area, particularly in relation to the definition of the offence of rape, and includes a number of measures aimed at prevention. However, it remains to be seen whether this new legislation will lead to actual improvements for women affected by sexual violence. During her interview with ERT, Margaret Kertzious highlighted this problem with implementation and the approach of the authorities:

*We still have problems with the police enforcing the laws on the matter; other authorities such as the relevant ministries have been very supportive in the fight against gender violence and there are relevant laws and other policies in place to deal with the problem, but there is need for a more comprehensive and collaborative approach to effectively deal with the matter for the overall benefits for the victims.*⁴⁹

34. The level of domestic violence in Guyana is also a significant cause for concern, though there is an absence of recent, credible data. According to statistics collected in 2000 by Red Thread, a non-governmental organisation working with victims of domestic abuse, 27.7% of women in a relationship reported personally experiencing physical abuse, 26.3%, verbal abuse and 12.7%

⁴⁵ McDougall, G, Independent Expert on minority issues, *Report: Mission to Guyana*, UN Doc. A/HRC/10/11/Add.2, 2009, Para 54.

⁴⁶ Women surveyed were asked if they thought a man beating his wife was justified for any of the following reasons: when she goes out without telling him; when she neglects the children; when she argues with him; when she refuses sex with him; when she burns the food; when she prepares food late. See Guyana Bureau of Statistics and UNICEF, *Multiple Indicator Cluster Survey: Technical Report*, 2006, p. 135, Table Cp.8, available at: http://www.statisticsguyana.gov.gy/pubs/Guyana_MICS_Technical_Report_2006.pdf.

⁴⁷ Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 19 on Violence Against Women*, 1992, Paras 1 and 7

⁴⁸ *Ibid.*, para. 10 and 9.

⁴⁹ See above, note 44.

had suffered sexual violence.⁵⁰ The Red Thread study represents some of the most extensive data on domestic violence collected from speaking to victims, as opposed to using data on reported cases. NGOs working in this area have called on the government to “conduct a systematic nationwide survey to assess the extent of domestic violence and the attitude of the Guyanese public towards it”.⁵¹ In its report to the Committee, the government provides data on reported cases of domestic violence, with the most recent figures indicating that 2850 cases were reported to the police in 2009.⁵²

35. Of further concern is the extreme nature of some incidents of domestic violence, which in some cases has been linked to murder. Moreover, cultural attitudes continue to act as a barrier to effective protection from gender based violence, with negative stereotypes about women’s role in society and responsibility for violence exerting influence over debates on how to address domestic violence. ERT interviewed Karen De Souza, a representative of Red Thread, who noted that:

*In terms of domestic violence, because of the number of deaths that has been recorded, there is a general acceptance that this violence is wrong. But there is still the feeling that the woman is doing something to invite the violence, and that women who don’t leave the violent partner either like it, or something is wrong with them.*⁵³

36. ERT notes and welcomes the commitment of the government of Guyana and other agencies to addressing issues of gender-based violence, as evidenced by the enactment of the Domestic Violence Act and the Sexual Offences Act, and measures taken to raise public awareness of these laws and the rights provided therein. However, ERT shares the concerns of civil society organisations working on behalf of women in Guyana about the continuing high rates of violence against women, and public attitudes which continue to normalise such behaviour.

37. ERT therefore urges the Committee to recommend that Guyana redoubles its efforts to ensure that the Domestic Violence and Sexual Offences Acts are fully implemented. At minimum, this requires educating the public about the law, reviewing police procedures particularly around dealing with victims and investigations, and ensuring court processes are sensitive to the needs of victims and witnesses.

38. In addition to these patterns of gender-based violence affecting all women, ERT’s research revealed significant problems with violence and harassment of lesbians and male-to-female transgender persons by both private and public actors, including notably the police. Melissa, a transgender person interviewed by ERT, testified that:

[...] a friend and I were waiting on a car on the road when a police van passed and put their lights in my face and started to laugh at me. My friend ran away. The police told me to take my clothes off. I said “no” and they told me that they would lock me up for buggery and that they would make sure it’s all over on the TV and newspaper. I started to cry and ask them what I can do. They talked among themselves for a while and then told me to pay them 10,000 dollars. I said ok. I told them I have to go home for the money. They threw me in their van and

⁵⁰ Red Thread, Study on Issues of Reproductive and Sexual Health, and of Domestic Violence Against Women in Guyana, 2000, Para 2.4.6a, available at: http://www.hands.org.gy/download/wom_surv.htm.

⁵¹ Help and Shelter, *Domestic Violence in Guyana*, 2006, pp. 56, available at: <http://www.hands.org.gy/files/dvguyana.pdf>.

⁵² Committee on the Elimination of Discrimination against Women, *State Report of Guyana*, UN Doc. CEDAW/C/GUY/7-8, 2010, Para 329.

⁵³ ERT Interview with Karen De Souza of Red Thread, via Skype, March 2012.

*took me home. One of the police took my cell phone and told me that I had to come back outside or they would break my door down. I ran upstairs, got the money and came back down to give it to them. I got my cell phone back and they told me next time it would not be so easy.*⁵⁴

39. Lesbians and transgender persons interviewed by ERT attested to threats of violence motivated by their sexual orientation or gender identity. E., a lesbian woman, told ERT's research team: "I've been called dyke, freak and child molester, mostly by random guys who I reject when they try to hustle me."⁵⁵ Other lesbian women testified to being threatened with rape or sexual abuse when they reject the advances of men in public. K., a lesbian woman, stated that "they didn't like that response and started to get aggressive, saying stuff like 'you need a good cock in you',⁵⁶ while E., testified that she and her girlfriend were confronted by men who "started calling us names, saying they were going to fuck us and 'make you a woman'".⁵⁷ Those interviewed also attested to discriminatory treatment by the police when they report crimes committed against them. A., a lesbian, told ERT's research team that when she attended a police station to report an attack by the boyfriend of a woman she was dating, the police "just laughed and made a mockery of the situation; it was like entertainment to them".⁵⁸
40. ERT is concerned by the evidence of permissive attitudes towards homophobic and transphobic harassment and violence which has been produced through our research in Guyana. ERT urges the Committee to recommend that Guyana develops and implements a comprehensive plan to address these patterns of harassment and violence, including by amending anti-discrimination laws to provide protection from discrimination on grounds of sexual orientation and gender identity, raising public awareness about these rights, and reviewing and reforming police procedures on dealing with discriminatory violence against persons of different sexual orientation and gender identity.

Conclusion

41. ERT notes and welcomes the range of constitutional and legislative measures which exist in Guyana to provide protection from discrimination against women. However, as this report makes clear, Guyana must go further if it is to ensure that it meets fully its obligations under the Convention and effectively respects, protects and fulfils the right to non-discrimination.
42. ERT recommends that the government of Guyana must amend or repeal discriminatory provisions which criminalise transgender persons. It recommends that Guyana reviews the system of laws providing protection from discrimination in Guyana, with a view to expanding their scope, increasing clarity and improving the efficiency of the system as a whole. Further, ERT recommends that Guyana considers measures to improve the enforcement and implementation of both anti-discrimination laws and laws providing protection from discriminatory violence directed against women. Finally, ERT recommends that Guyana amend both the Constitution and the Prevention of Discrimination Act in order to provide protection from discrimination on grounds of sexual orientation and gender identity, and undertake such other measures as are necessary to provide effective protection from discrimination and discriminatory violence against persons of different sexual orientation and gender identity. These recommendations are offered in order to assist Guyana in ensuring that its system of constitutional, legislative and policy measures is in line with its obligations under the Convention.

⁵⁴ ERT Interview with Melissa, Georgetown, Guyana, September 2011.

⁵⁵ ERT Interview with E., Georgetown, Guyana, September 2011.

⁵⁶ ERT Interview with Z., Georgetown, Guyana, September 2011.

⁵⁷ See above, note 55.

⁵⁸ ERT Interview with A., Georgetown, Guyana, September 2011.