



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights Reports](#) » [2009 Country Reports on Human Rights Practices](#) » [Western Hemisphere](#) » [Guyana](#)

2009 Human Rights Report: Guyana

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

March 11, 2010

The Co-operative Republic of Guyana is a multiparty democracy with a population of approximately 760,000. President Bharrat Jagdeo was reelected to a second full term in 2006 elections considered generally free and fair by international observers. President Jagdeo's People's Progressive Party Civic (PPP/C) has been the majority party in Parliament since 1992. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in some areas. The most significant reported abuses included killings by police, torture and mistreatment of suspects and detainees by security forces, poor prison and jail conditions, and lengthy pretrial detention. Other problems included government corruption and sexual and domestic violence against women and abuse of minors.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary killings; however, security forces committed unlawful killings. The Police Complaints Authority (PCA) received four complaints of unlawful killings compared with eight the previous year. In most cases the police reportedly shot the victims while attempting to make an arrest or while a crime was being committed.

On April 12, a 19-year-old man died at the Georgetown Public Hospital Corporation after being shot in the head by an off-duty member of the Presidential Guard following what police said was a robbery. The file went to the PCA in December, but no evidence was brought forward to contradict the police account of the circumstances. At year's end authorities had filed the case with the Office of the Director of Public Prosecutions (DPP).

On August 24, three on-duty members of the Coast Guard, Sherwyn Harte, Delon Gordon, and Deon Greenidge, were charged with murder in the August 20 strangling of businessman Dweive Kant Ramdass; three of their relatives were charged for being accessories in the crime, which took place in the course of a robbery. On September 17, an army board of inquiry found that the coast guardsmen confessed that they were responsible for the abduction and robbery.

Concerning the July 2008 manslaughter case against prison officials Kurt Corbin and Gladwin Samuels, the Magistrate's Court began the Preliminary Inquiry (PI), which was scheduled for a ruling in January 2010.

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The police investigation into the July 2008 death of prison inmate Nolan Noble from blunt-force trauma to the head, and the October 2008 Brickdam Police Station death from multiple injuries of James Nelson, did not result in the filing of any charges nor any request to commence an inquest.

In the January 2008 case of extreme violence in Lusignan, authorities in September 2008 charged Mark Williams, Dwane Williams, and James Hiles, and at year's ending the case remained pending.

In the February 2008 case of extreme violence in Bartica, authorities on May 13 charged five persons: Mark Williams, Dennis Williams, Clebert Reece, Michael Caesar, and Roger Simon. The preliminary investigation has been heard, and at year's end the case remained pending at the Bartica Magistrate's Court.

A coroner's inquest into the 2007 killing of Donna Herod completed on August 4 found insufficient evidence to determine responsibility for the death.

On April 16, a court sentenced police officer Clement Bailey to four years' imprisonment for the 2007 killing of Clifton Garraway. Bailey pleaded guilty to the lesser charge of manslaughter.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture however there were numerous allegations that prison officers tortured inmates. There were also allegations of police abuse of suspects and detainees.

During the year the PCA received 78 complaints of unlawful arrest and 46 complaints of unnecessary use of violence.

During a cocaine raid on March 3 in Wakenaam, police allegedly abused two individuals. Mitchell Thomas, a farm hand, was placed in a huge ants' nest by members of the Joint Services and left there for several minutes while the insects bit him. Ryan Gordon, 17, was beaten by the same persons and later gave a detailed testimony to the police to facilitate a full-scale investigation; however, there was no known information regarding an investigation.

On March 15, police shot 19-year-old Ryan Hescott, wounding him in the right arm during a raid. The police claimed that Hescott fired at them.

Following a July 17 arson attack on the Ministry of Health, police arrested and allegedly beat a number of suspects before determining whether the individuals committed a crime. Local media reported several cases of random police brutality, arrest, and interrogation prior to investigation.

On October 27, authorities charged three police officers involved in abusing three individuals in related cases.

Two police officers tortured a 14-year-old murder suspect, Twyon Thomas, dousing him with alcohol and setting his genitals on fire during an investigation of the killing of a former government official. Thomas was also struck on the ears and head with a piece of wood and beaten with a baton. On November 30, Sergeant Narine Lall and Constable Mohanram Dolai were charged for unlawfully and maliciously wounding Thomas with intent to maim, disfigure, or cause grievous bodily harm. Both individuals were granted bail, and the case continued at year's end. On December 8, the Ministry of Home Affairs (MoHA) released a police report that confirmed the allegations of torture associated with this case.

The two officers were also charged on November 4 with abusing two other suspects in the same case, Mohanram Dolai and Nouravie Wilfred. A third officer, Corporal Oswald Foo, was also charged in the Rafick case. They reportedly used a piece of wood to strike a suspect on the back and legs. One suspect was forced to sign a confession and was held in prison from October 26 until December 2, two weeks after the DPP had ordered his release. The other suspect was released without any charges being filed.

On November 2, a policeman allegedly sexually harassed and attempted to rape a Brazilian woman who reported a stolen passport. Her husband reported the matter to the police, and the officer was in custody at year's end.

On December 2, authorities remanded police constable Gavin Holder to prison for allegedly indecently assaulting over a six-day period a 15-year-old girl who was in police custody. On December 1, authorities also charged police constable Gary Verwayne for the same offense. Hearings in both cases were scheduled for the Springland Magistrate's Court in January 2010. On December 23, authorities arrested police constable Colin Jonas and an accomplice for robbing a businessman of cash and jewelry worth GYD 500,000 (\$2,500) at his shop in Crabwood Creek. The suspects were granted GYD 300,000 (\$1,500) bail on December 29 pending a court hearing in early 2010.

Prison and Detention Center Conditions

Prison and jail conditions were poor and deteriorating, particularly in police holding cells. Capacity and resource constraints were a problem. The Prison Authority reported that at the end of September there were 1,989 prisoners in five facilities, which had a design capacity of 1,580. More than half of the prisoners were in Georgetown's Camp Street Prison, which was designed to hold 600 inmates but held 1,053. Overcrowding was in large part due to backlogs of pretrial detainees, which constituted approximately 43 percent of the total prison population. Unlike in preceding years, each prison had an assigned medic, and doctors visited on assigned hours.

There were three reported cases of death in prisons due to neglect or prison official abuse.

All newly hired prison guards received limited human rights training from the Guyana Human Rights Association (GHRA), but the government made no provision for reinforcement training beyond this initial stage.

Although funding and plans were approved for rehabilitation of the Brickdam facility lock-ups, overall these conditions remained worse than those in the prisons. Visitors described the facility as dark, malodorous, unhygienic, and crowded, and it had no medical attention available to detainees. Meals normally were inadequate; friends and relatives routinely had to bring detainees food and water. Although precinct jails were intended to serve only as pretrial holding areas, some suspects were detained there as long as two years, awaiting judicial action on their cases.

Juvenile offenders 16 years of age and older were held with the adult prison population. Juvenile offenders ages 15 and younger were held in the New Opportunity Corp (NOC), a juvenile correctional center that offered primary education, vocational training, and basic medical care. Problems at the NOC included lax security and understaffing. There were complaints that juvenile runaways, or those out of their guardians' care, were placed with juveniles who had committed crimes, with the result that some petty offenders became involved in more serious criminal activity.

Unlike in preceding years, no women were held in the same facilities as men. The Prison Authority reported that there were 88 female inmates in the women's prison located in New Amsterdam. Due to inadequate facilities, juvenile female pretrial detainees were sometimes held with adult female pretrial detainees.

The Prison Authority offered rehabilitation programs focused on vocational training and education; however, such programs did not adequately address the needs of prisoners with substance abuse problems.

On March 13, prison officers allegedly beat and fractured the left foot of Camp Street Prison inmate Roscio Mercurius, after he was caught in a drug-smuggling operation in which a prison official was arrested for smuggling marijuana into the facility.

On March 24, prison officers allegedly beat Camp Street Prison inmate Suruj Narine Singh severely. There were other unconfirmed allegations of officers beating prisoners and then refusing to take them to Georgetown Hospital for medical attention, for fear that their actions would be exposed.

On August 3, a court found a Guyana Police Force (GPF) officer guilty of failing to follow procedures in the case of inmate Ramesh Sawh's suicide in January 2008. However, in November the director of public prosecutions concluded that there was no evidence to charge the police officer in the death.

Unlike in the preceding year, there was no indication that the government declined to permit independent monitoring of prison conditions, but there were no known monitoring visits during the year.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The GPF, which is headed by the commissioner of police and overseen by the MoHA, employed 2,884 officers and is responsible for maintaining internal security. The GPF's duties include: defending the country's territorial integrity, assisting civil authorities to maintain law and order, and contributing to economic development. The GPF, headed by the Chief of Staff, consisted of approximately 3,000 troops; it falls under the purview of the Defense Board, which the president chairs.

Poor training, poor equipment, and acute budgetary constraints severely limited the effectiveness of the GPF. Public confidence in and cooperation with the police remained low. There were reports of corruption in the force. Most cases involving charges against police officers were heard by lower magistrates' courts, where specially trained police officers served as the prosecutors. On August 31, three policemen were charged with larceny by public officers on charges of stealing money retrieved from suspects held for robbery and murder of Dweive Kant Ramdass.

Following public outcry over police brutality in an October 31 case in which two police officers tortured a 14-year-old boy (see section 1.c.), several staff changes occurred within police ranks. Assistant Police Commissioner Paulette Morrison, who commanded the police Division on the West Coast Demerara where the officers in question engaged in torture, was transferred to another division resulting in changes among other police divisional heads. In the reshuffle, Assistant Police Commissioner Steve Merai, who once headed the "Black Clothes" police squad responsible for several extrajudicial killings, became commander of Division B.

Shifting local police staff from one division to another without prosecuting perpetrators of abuse heightened public anger over police brutality and impunity. Although Home Affairs Minister Clement Rohee acknowledged that the fault rested with the members of the GPF, neither the two police detectives charged with torture nor their supervisors were obliged to resign. They were, however, suspended from duty pending the outcome of the criminal charges. Members of the opposition party and local media called for the removal of Police Commissioner Henry Green and for the government to investigate and prosecute individuals connected to cases of police brutality.

The PCA's efforts to conduct impartial and transparent assessment of the accusations it received were obstructed by staff shortages (five of eight full-time positions were filled), as well as the lack of an investigative unit. By law the police

commissioner must comply with the PCA's recommendations on complaints, but the PCA relied on the GPF to conduct investigations into complaints against its own officers. Long delays in receiving reports from the commissioner also thwarted the complaints process.

The PCA received 364 written and oral complaints, 42 of which were sent from the Commissioner of Police. Four of the complaints involved police killings, while the others were mostly for police neglect of duties or misconduct in public places, unlawful arrest, illegal search, corrupt transactions, and unnecessary use of force. At year's end an investigation had been concluded in 264 of the complaints by the GPF Office of Professional Responsibility, while 100 awaited final determination.

The GDF provided human rights training for 239 officers during the year.

Arrest Procedures and Treatment While in Detention

An arrest requires a warrant issued by a court official, unless an officer who witnesses a crime believes there is good cause to suspect that a crime or a breach of the peace has been or will be committed. The law requires that a person arrested and held for more than 72 hours be brought before a court to be charged; authorities generally observed this requirement in practice. However, in October during a notorious investigation of a killing, authorities held a 20-year-old suspect seven days without permitting him to see family or legal representatives or to receive medical attention.

Bail was generally available except in cases of capital offense and narcotics trafficking.

Although the law provides criminal detainees prompt access to a lawyer of their choice and to family members, in practice these rights were not fully respected. The state provides legal counsel for indigent persons only when such persons are charged with a capital offense. However, the Legal Aid Clinic provides legal counsel at a reduced fee in certain circumstances, as determined by the Clinic. Police routinely required permission from the senior investigating officer, who was seldom on the premises, before permitting counsel access to a client.

Lengthy pretrial detention, due primarily to judicial inefficiency, staff shortages, and cumbersome legal procedures, remained a problem. The average length of pretrial detention four months to three years for those awaiting trial at a magistrate's court and two years for those awaiting trial in the High Court.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice.

Delays and inefficiencies undermined judicial due process. Delays in judicial proceedings were caused by shortages of trained court personnel and magistrates, inadequate resources, postponements at the request of the defense or prosecution, occasional allegations of bribery, poor tracking of cases, and the slowness of police in preparing cases for trial.

The court system is composed of several magistrates' courts, the High Court, and the Court of Appeal. There is also the right of final appeal to the Caribbean Court of Justice. The magistrates' courts handle both criminal and civil matters. Specially trained police officers serve as prosecutors in lower magistrates' courts. The DPP is statutorily independent, may file legal charges against offenders, and handles all criminal cases.

The Judicial Services Commission (JSC) has the authority to appoint judges, determine tenure, and appoint the DPP director and deputy director. The president, on the advice of the JSC, may temporarily appoint judges to sit on magistrates' courts and on the High Court. There were ten sitting High Court justices, including the Chief Justice; 20 magistrates; and three judges on the Court of Appeal. The chief justice and the chancellor of the judiciary were serving in acting capacities.

Trial Procedures

Trials are public, and defendants enjoy a presumption of innocence. Cases in magistrates' courts are tried without jury; more serious cases are tried by jury in the High Court. Defendants can confront witnesses against them and have access to relevant government-held evidence. Defendants have the right to appeal. Trial postponements were granted routinely to both the defense and the prosecution. The law extends these rights to all citizens.

The law recognizes the right to legal counsel; however, except in cases involving capital crimes, it was limited to those who could afford to pay. Although there is no public defender system, a defendant in a murder case that reaches the High Court receives a court-appointed attorney. The Georgetown Legal Aid Clinic, with government and private support, provided advice to persons who could not afford a lawyer, particularly victims of domestic violence and violence against women.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

The case of former GDF officer Oliver Hinckson, whose indictment in 2008 for sedition some observers claimed was politically motivated, was scheduled for court hearing at the Georgetown magistrate's court in February 2010.

Civil Judicial Procedures and Remedies

The law provides for an independent and impartial judiciary in civil matters, and the government generally respected this provision in practice. The magistrates' courts deal with both criminal and civil matters. Delays, inefficiencies, and corruption in the magistrate court system affected the ability of citizens to seek timely remedy in civil matters, and there was a large backlog of civil cases.

On March 8, the Executive Committee of the GHRA reported that figures released earlier in the year indicated "an average of 1,000 new cases per month being introduced to the court system, all of which are handled by nine permanent, four contracted, and four temporary magistrates, along with the backlog of cases accumulated over years." On March 23, the National Assembly passed a judicial decisions bill that specifies time limits for a judge to issue a decision after evidence is given in civil proceedings. The president assented on August 14, effectively making this bill a law.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits searches without warrants, and the government generally respected this, but there was one report of police officers searching a home without a warrant. On May 22, two men said that they were badly beaten by joint services members at their home in Linden, arrested, and then released. A police press release stated that the men were in custody, assisting with investigations into the discovery of an unlicensed 12-gauge shotgun and marijuana at a house in the area, but the men said that the police knocked down their door and beat them before identifying themselves.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, the government demonstrated diminishing tolerance for publicly expressed views or opinions different from its own.

The independent media were active and expressed a wide variety of views without restriction. International media operated freely. The partially government-owned daily newspaper, the *Guyana Chronicle*, which typically displayed a progovernment slant, covered a broad spectrum of political and nongovernmental groups. The independent daily

newspapers, *Stabroek News* and *Kaieteur News*, freely reported and editorialized on the government's policies and actions.

On March 2, CNS TV 6 dropped a minority political party's TV program, *AFC on the Move*, from its scheduled programming in the interest of not causing public unrest. According to the party chairman, a government official called CNS 6 and threatened the owner of the station, stating that if the program were broadcast, the owner would be charged with libel.

On October 14, in a case filed by a local television operator, the Court of Appeal ruled that the government had an unlawful monopoly on the airwaves and that the National Frequency Management Unit (NFMU) was not adequately considering radio license applications. All radio stations that operate on the electromagnetic spectrum are government-controlled.

On October 29, authorities arrested anti-PPP/C activist Mark Benschop for interfering with a search of his residence by police and officials from the NFMU. During the incident, NFMU officials seized FM radio broadcast equipment from Benschop's residence, alleging that Benschop had begun transmitting illegally. Government intimations that Benschop was linked to the July 17 Ministry of Health fire and other alleged "terrorist" acts were not substantiated, and Benschop was released from jail on November 2. The government's monopoly on radio broadcasting, although ruled illegal by the Court of Appeal, continued, limiting the expression of opposition views.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that there were an estimated 27 Internet users per 100 inhabitants in 2008.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

On September 2, MoHA officials briefly detained approximately 40 foreign missionaries of The Church of Jesus Christ of Latter-Day Saints (Mormons). Prior to their detention, the missionaries received an official notice requiring them to appear before a court of law for a hearing on their immigration status. Before this hearing could take place, however, they were detained and ordered to depart. After President Jagdeo was informed of the situation via diplomatic channels, he instructed the Mormons to depart the country within one month, which they did. The news media reported that the government was wary of the church's independent charity work in the interior and of the missionaries' alleged close relationship with opposition figures.

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small, perhaps fewer than 10 members.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The Amerindian Act requires that the local village council grant permission for travel to Amerindian areas. In practice most persons traveled throughout these areas without a permit.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to a country where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government did not receive any petitions to grant refugee status or asylum.

Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair national elections based on universal suffrage. However, local government elections, which the law provides should be held every three years, have not been carried out since 1994. On December 10, the Local Authorities (Elections) Amendment Bill was passed in the National Assembly, which extended to December 1, 2010, the date by which elections can be held. Political parties operated without restrictions or outside interference.

Elections and Political Participation

The most recent elections took place in 2006, when citizens voted in a generally free election to keep the PPP/C government in office. Incumbent President Bharrat Jagdeo was reelected to a five-year term. International observers, including teams from the Organization of American States, the Caribbean Community, the Carter Center, and the Commonwealth, noted isolated irregularities not sufficient to change the outcome, declared the election to be substantially free and fair, but noted that ruling party use of government resources during the campaign disadvantaged opposition parties.

On September 2, a new hearing in the High Court began as the Elections Commission and the ruling PPP/C party continued to challenge the minority Alliance for Change (AFC) party's 2006 claim that incorrect vote counting in Region 10 in the national elections had wrongly awarded a seat to the PPP/C that should have gone to the AFC. As of December 31, the matter has been heard by the Chief Justice and reserved for decision.

The constitution requires that one-third of each party list of candidates be female but does not require the parties to select women for seats. There were 20 women in the 65-seat National Assembly; five of 21 cabinet ministers were women.

While supporters of the two major parties (the PPP/C and the People's National Congress/Reform) were drawn largely from the Indo-Guyanese and Afro-Guyanese communities, respectively, political party leadership was more diverse. The ethnically diverse National Assembly included three indigenous members. The cabinet was also ethnically diverse,

mirroring the ethnic makeup of the general population. More than 20 percent of the 21 cabinet ministers were Afro-Guyanese, including the prime minister and the head of the presidential secretariat; there were also two Amerindian cabinet ministers.

Section 4 Official Corruption and Government Transparency

The law provides for criminal penalties for official corruption; however, the government did not implement the law effectively. The World Bank's worldwide governance indicators reflected that government corruption was a serious problem. There was a widespread public perception of serious corruption in the government, including law enforcement and the judicial system. Low-wage public servants were easy targets for bribery.

Public officials are subject to financial disclosure laws and are required to submit information about personal assets to the Integrity Commission, but compliance was uneven and the commission had no resources for enforcement or investigations.

The law does not provide for public access to government information. Government officials were generally reluctant to provide public information without approval from senior administration officials.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The UN Human Rights Council's independent expert on minority issues visited the country from July 28 to August 1, 2008. The government stated that the expert failed to incorporate its views adequately into her report and that she misled officials about the nature of her mission. The government submitted an official response to the Human Rights Council, registering its profound concern about the report and the independent expert's conclusions. The government also questioned the independent expert's focus on the Afro-Guyanese community and the exclusion of other minorities in her report.

A few domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were often uncooperative and unresponsive to their views; when they did respond, it was generally to criticize.

The constitution allows for a governmental human rights commission, but it has yet to be established.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

While the constitution provides fundamental rights for all persons regardless of race, gender, religion, or national origin, the government did not always enforce these provisions.

Women

Rape and incest are illegal but were neither frequently reported nor prosecuted; spousal rape is not illegal, which contributed to an atmosphere where victims were often reluctant to report incidents. A person who commits spousal rape may instead be charged with causing grievous bodily harm or aiding and abetting.

If a case does come to trial, a judge has discretion to issue a sentence of any length in a rape conviction, depending upon the circumstances and severity of the act committed. The apparent norm appeared to be a sentence of five to 10 years' imprisonment. Sixty persons were charged with rape during the year, and 15 persons were convicted of rape (a figure that includes persons charged in preceding years). Additionally, 254 persons were charged with statutory rape during the year, and 22 persons were convicted of statutory rape (including persons charged in preceding years).

Violence against women, including domestic violence, was widespread and crossed racial and socioeconomic lines. The law prohibits domestic violence, gives women the right to seek prompt protection, and allows victims to seek protection, occupation, or tenancy orders from a magistrate. Penalties for violation of protection orders include fines up to GYD \$10,000 (\$50) and 12 months' imprisonment; however, this legislation frequently was not enforced.

According to the NGO Help and Shelter, the GPF received Inter-American Development Bank funds to refurbish all police units, which are required to include domestic violence units where victims can be counseled in private. The group noted discrepancies in police training for domestic violence, with some divisions actively involved in training, while others remained unfamiliar with the basic violence protection order.

Help and Shelter handled 471 cases of abuse and violence, including child, spousal, nonspousal, and other domestic abuse; 254 of the cases involved spousal abuse directed against women. Help and Shelter ran a free shelter for victims of domestic violence and operated a hotline to counsel victims with the funds it received from both private donors and the government. During the year Help and Shelter conducted 20 workshops and 321 awareness sessions in sensitizing individuals about domestic violence, and 1,049 persons were counseled for domestic abuse or violence.

Prostitution is illegal but present. It continued to receive greater public attention due to the high incidence of HIV/AIDS among prostitutes.

Sexual harassment is prohibited under the Prevention of Discrimination Act, which provides for monetary penalties and award of damages to victims, but its application is confined to the workplace. Harassment in schools, for instance, is not covered under the law. Any act of sexual harassment involving physical assault can also be prosecuted under relevant criminal statutes. Although reports of sexual harassment were common, there were no prosecutions for sexual harassment under the Prevention of Discrimination Act, and charges of sexual harassment were often settled out of court.

The Guyana Responsible Parenthood Association (GRPA) was established in 1973. It collaborates closely with the Ministry of Health's Maternal and Child Health Department to lecture on safe parenthood. GRPA has offered contraceptive services at its headquarters and government clinics since the early 1980s.

Couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination. Access to contraception, and skilled attendance at delivery and in postpartum care were widely available. The UN Children's Fund reported that 83 percent of births had a skilled attendant. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections, including HIV/AIDS.

The law prohibits discrimination based on gender, but there was no legal protection against such discrimination in the workplace. Although women constituted a significant proportion of the workforce, there were credible reports that they were not equally treated and faced disadvantages in promotion. Job vacancy notices routinely specified that the employer sought only male or only female applicants. The Women's Affairs Bureau of the Ministry of Labor monitored the legal rights of women, but its role was limited to employment-related services. The bureau also held seminars on leadership and gender equity issues for women throughout the country. The constitution provides for a Women and Gender Equality Commission, but implementing legislation has not been passed.

The law protects women's property rights in common-law marriages. It entitles a woman who separates or divorces to one-half of the couple's property if she had regular employment during the marriage and one-third of the property if she had not been employed.

Children

Citizenship is derived by birth within the country's territory or by birth to a Guyanese citizen abroad.

Reports of physical and sexual abuse of children were common. During the year Help and Shelter handled 66 cases of child abuse, and 76 child abuse cases were filed with the courts.

Law enforcement officials and NGOs believed that the vast majority of child rape and criminal child abuse cases were not reported. As with cases of domestic abuse, NGOs noted reports that some police officers and magistrates could be bribed to make cases of child abuse "go away."

On July 29, the government established the Child Care and Protection Agency. Legislation states that the agency has the power to implement policies and decisions in relation to the laws governing children, to monitor childcare facilities, to intervene in cases of child abuse or neglect, and to protect vulnerable children. The agency launched a hotline in November to which anyone who suspects someone of abusing or harming a child may place a call.

The age of sexual consent is 16. Under the law anyone who has sexual relations with a girl under 16 can be found guilty of a felony and imprisoned for life. There were unconfirmed reports of child prostitution, although there were no indications that the country is a destination for child sex tourism.

There is no legal prohibition of child pornography. However, Section 350 of the Criminal Law Offences Act regulates selling, publishing, or exhibiting obscene material, defined as anything that could deprive or corrupt those open to immoral influences.

Trafficking in Persons

The law prohibits all forms of trafficking in persons, and five such cases were filed with the courts during the year.

The Ministerial Task Force on Trafficking in Persons reported that there were two reports of persons presumed to be trafficked in 2008, and two persons were charged early in January for human trafficking. The preliminary inquiry has begun and was set for continuation in February 2010 at the Albion Magistrate's Court.

Penalties for trafficking include three years' to life imprisonment, forfeiture of property, and full restitution to the victims. There were no convictions under the Trafficking in Persons Act during the year. Prosecution of human traffickers was more difficult in the interior, where infrequent court sessions delayed prosecution of cases. There is a National Plan of Action to combat human trafficking as well as a National Task Force for Combating Trafficking in Persons, which meets to address anti-trafficking issues and consists of multiple government agencies. The MoHA chaired the task force and monitored enforcement.

There was no evidence that government officials or institutions participated in or condoned human trafficking.

There were no reports of societal discrimination against trafficking victims. The government also worked closely with, and provided some financial support for, the NGOs Help and Shelter and Red Thread, although neither reported any trafficking victims during the year.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The constitution mandates the state to "take legislative and other measures designed to protect disadvantaged persons and persons with disabilities"; however, there is no law allowing such persons to contest discriminatory acts. There is also no law mandating provision of access for persons with disabilities, and the lack of appropriate infrastructure to provide access to both public and private facilities makes it difficult for persons with disabilities to be employed outside their

homes. The National Commission on Disabilities, comprising 15 cabinet-appointed members, is charged with advising the government and acting as a coordinating body on issues affecting persons with disabilities. The Open Door Center offered assistance and training to persons with disabilities throughout the year.

Indigenous People

According to the 2002 census, the indigenous population constituted 9 percent of the population. There were nine tribal groups, and 90 percent of indigenous communities were located in the remote interior. Their standard of living was lower than that of most citizens, and they had limited ability to participate in decisions affecting their lands, cultures, traditions, and allocation of natural resources. Indigenous communities had limited access to education and health care. All indigenous communities had primary schools, and there were 10 secondary schools in remote regions. The secondary schools had dormitories that housed approximately 1,400 students at government expense. Government programs trained health workers, who staffed rudimentary health facilities in most communities.

By law persons wishing to enter indigenous lands must obtain prior permission from the local village council, but most visitors traveled in these areas without a permit. Rules enacted by the village council require approval from the minister of Amerindian affairs before entering into force.

Since passage of the Amerindian Act of 2006, the government has increased the number of communal land titles for Indigenous communities from 74 to 96, more than doubling the area from 6.5 percent of the national territory to 14 percent. A total of 134 communities now have collective land titles, and approximately five communities remained without collective land rights.

To earn cash, some villages contracted with loggers, sawmillers, and miners to exploit timber and other natural resources on their land. These generally were unequal exchanges benefitting the contractors more than the communities.

Some indigenous groups and others perceived President Jagdeo's Low Carbon Development Strategy (LCDS) as another government "land grab." The Jagdeo administration conducted consultations with several indigenous communities on the LCDS, but many objective observers described the sessions as one-way presentations by government officials. The LCDS stated that indigenous communities with legal title to their lands may opt in.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Sodomy is punishable with a maximum sentence of life in prison. There are no laws concerning female-to-female sex. On September 18, Health Minister Leslie Ramsammy publicly called for a Caribbean-wide discussion on the laws, stating that "many homosexuals suffer because of the stigma and discrimination attached" to their sexual orientation.

Between February 6 and 10, police arrested at least eight transgendered persons, detaining them without reading them their rights, informing them of their charges, or allowing them to contact a lawyer. The acting chief magistrate ordered each of the men to pay a court fine of GYD \$7,500 (\$37) and told them they were "confused" about their sexuality and gender, stating "It's a curse on the family." There was no official response to the comments.

Other Societal Violence or Discrimination

Violence and discrimination against persons with HIV/AIDS were not widely reported.

Section 7 Worker Rights

a. The Right of Association

The constitution provides for the right of association and specifically enumerates workers' rights to form or belong to trade unions, and workers exercised this right in practice. The constitution bars GPF members from unionizing or associating with any established union. According to a Bank of Guyana report, in 2007 approximately 20 percent of the work force was unionized.

The law provides workers with the right to strike, and workers exercised this right in practice. Strikes may be declared illegal if the union leadership did not approve them or if they did not meet the requirements specified in collective bargaining agreements. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labor and leave a skeleton staff in place, but they are required to engage in compulsory arbitration to bring an end to a strike. The law defines and places limits on the retaliatory actions employers may take against strikers. The law does not define or limit retaliation against strikers, which is an issue settled between strikers and employers by the terms of resumption after a strike.

On December 2, following a two-week strike, the predominantly Russian-owned Bauxite Company of Guyana Inc. sent a letter to derecognize the union to the president of the Guyana Bauxite and General Workers Union, which represents nearly all 500 of the company's workers. The letter was sent shortly before the two sides were due for negotiations mediated by the Chief Labour Officer of the Ministry of Labour, Human Services and Social Security. Workers said the letter was a total disregard for the collective labor agreement and the laws. At year's end the strike had ended; 80 employees were fired, and the company no longer deducted union dues from employees who were rehired. Tensions remained between the union and the mine.

b. The Right to Organize and Bargain Collectively

Public and private sector employees possessed and exercised the right to organize and to bargain collectively. Ten collective bargaining agreements were signed in the first three quarters of the year. The Ministry of Labor is required to certify all collective bargaining agreements, and there were no reports that it refused to certify any specific agreement. Individual unions directly negotiate collective bargaining status. The chief labor officer and the staff of the Ministry of Labor provided consultation, enforcement, and conciliation services.

The law prohibits antiunion discrimination by employers; however, some unions alleged antiunion discrimination by the government. A July 8 report by the International Trade Union Confederation found that trade union rights were violated and that the government did not effectively enforce its laws. The report found that freedom of association and the rights to organize, bargain collectively, and strike were recognized in law but not in practice.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

Although the law sets minimum age requirements for employment of children, child labor in the informal sector was a problem.

Child labor was most prevalent in family-based businesses, farming, bars and restaurants, domestic work, and street vending. Small numbers of children performed hazardous work in the construction, logging, farming, fishing, manufacturing industries, and small-scale traditional mining. There are three times more children in the interior than in the coastal urban areas.

The Ministry of Labor collaborated with the Ministry of Education and the GPF to enforce child labor laws. The Ministry of Labor employed 20 labor inspectors who were charged with investigating child and exploitative labor activities; however, these were not sufficient to effectively enforce existing laws.

e. Acceptable Conditions of Work

The minimum public sector wage was GYD \$34,055 (\$170) per month. There were minimum wages for certain categories of private sector workers, including retail cashiers and clerks, printers, drivers, and conductors, starting with a minimum of GYD 4,120 (\$20) per week. Although enforcement mechanisms exist, it was difficult to put them into practice, and unorganized workers, particularly women and children in the informal sector, often were paid less than the service sector legal minimum wage. Laborers and untrained teachers at public schools also were paid less than the minimum wage. The legal minimum wage did not provide a decent standard of living for a worker and family.

The law sets hours of employment, which vary by industry and sector. In general, work in excess of a 44-hour workweek required an overtime payment rate. The law does not require a minimum weekly rest period but does state that a person cannot be compelled to work overtime.

The law also establishes workplace safety and health standards. The Occupational Health and Safety Division of the Ministry of Labor is charged with conducting factory inspections and investigating complaints of substandard workplace conditions. Inadequate resources prevented the ministry from effectively carrying out this function. Workers could not remove themselves from dangerous work situations without jeopardizing continued employment.