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U.S. Department of State

Guyana Country Report on Human Rights Practices for 1996

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GUYANA

The Co-operative Republic of Guyana is a small, developing nation with a unicameral parliament chosen by direct elections in a multiparty political system. Dr. Cheddi Jagan of the Peoples' Progressive Party (PPP), which has a plurality in Parliament, is Executive President. The President appoints a Prime Minister and other cabinet ministers. The 1992 general election was considered the first free and fair poll since 1965. There is a constitutionally independent, albeit somewhat inefficient, judiciary.

The Guyana Defence Force (GDF) and the Guyana Police Force (GPF) are under civilian control. The GPF has the authority to make arrests and maintains law and order throughout the country. The GDF is a professional military responsible for national defense, internal security, and emergency response. The President deployed the GDF in 1996 to support police efforts against surging violent and drug-related crime. Some members of the police allegedly committed human rights abuses.

Guyana is a very poor country. Its mixed economy depends on the export of primary commodities from agriculture, fisheries, forestry, and mining. Sugar, rice, bauxite, and gold are the leading exports. The economy is slowly moving away from decades as a centrally directed, nationalized economy to one based on a mix of private and state enterprises. The standard of living for most citizens is low, with more than half living in poverty. External debt is high, there are severe shortages of skilled labor, and the economy is constrained by an inadequate and ill-maintained infrastructure for transportation, power distribution, flood control, and communications. The estimated economic growth rate for the first half of 1996 was about 6.3 percent, with per capita gross domestic product estimated around \$632.

The Government's human rights record remained the same. Human rights problems continued to include police abuse of suspects, allegations of extrajudicial killings, poor prison conditions, delays in the inefficient judicial system, societal violence against women and children, and discrimination against women, minorities, and indigenous Amerindians. The authorities continued efforts to improve police training and prison conditions, especially in the areas of inmate training and rehabilitation, despite very limited resources. However, police abuses were often committed with impunity, and the Police Complaints Authority was largely ineffective because it lacks independent power. There are still some limitations on worker rights, but political control of trade union activity continued to diminish.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political killings.

Some controversial cases led to allegations that police killed criminal suspects under questionable circumstances. The GPF's standing orders regulate police conduct in situations where firearms can be used. The principles guiding use of firearms permit police resort to weapons when other means are ineffective, for protection of property, and in self-defense.

In June the Guyana Human Rights Association (GHRA) reported an upsurge in violent incidents involving the police, asserting that there were 16 fatal shootings, 6 near-fatal shootings, 4 deaths in custody, and 30 cases of police assaults or brutality. The GHRA suggested that this trend in police practice is causing the public to be suspicious of and lose confidence in the GPF.

Cases alleging police abuse of power or unlawful use of deadly force are investigated by the statutorily independent Police Complaints Authority (PCA). Any police officer determined by the PCA to have acted unlawfully is reportedly disciplined, dismissed, or prosecuted. While critics admit that the PCA internal review process occurs in some cases, they don't believe that the authorities sufficiently investigate and punish many of the police officers responsible. Following a number of complaints against the police, the GPF introduced in July an internal affairs committee to review controversial cases in order to identify and discipline officers who act beyond their legal authority. The GPF also introduced a policy of a 48-hour response time to public complaints and inquiries, along with a special 24-hour hot line.

Allegations of police abuse are not new, but the controversial nature and public perception of some of these cases raised questions about the conduct of some GPF officers. On May 22, 20-year-old Jermain Wilkinson died from injuries he received during a police raid. Lance Corporal Robert Beresford allegedly helped beat Wilkinson and shot him in the leg. Wilkinson died hours later. Concerned citizens created the Justice for Jermain Committee (JFJC), which held public demonstrations that led to Beresford being charged with manslaughter. At the conclusion of a preliminary hearing in September, the magistrate raised Beresford's charge from manslaughter to murder, in view of sufficient doubt that the shooting was justified and inconsistent defense testimony. The court remanded Beresford to Georgetown prison to await trial, but he did not go to prison as ordered and left the court with police escorts. He was later reported to be ill and under guard at a hospital. The JFJC claimed that this conduct represents a double standard favoring police criminal suspects; and GPF officer involvement appeared designed to thwart the course of justice and disregard the court's authority. Beresford appealed the ruling that changed his charges to murder, and a hearing was set for early 1997. The Wilkinson case is

representative of some of the principal concerns about police use of deadly force and the perceived failure of the authorities to respond adequately to grievances against the police.

Spontaneous community-based groups formed on three occasions as a result of police involvement in shootings: The Justice for Jermain Committee; the Bourda Market Group (BMK); and the Mahaica Justice Committee (MJC). The BMK formed after a July incident in one of the capital's major markets where city constable Oscar Cambridge shot Frankie Figueira in the chest and crippled him from the waist down due to a bullet lodged in his spine. The MJC grew out of a September incident in which two police officers were charged with manslaughter for allegedly shooting to death Ulrich Lynch, a GDF soldier, in a New Amsterdam disco. The MJC wants the joint GDF/GPF board of inquiry to upgrade the charges against the police to murder.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution prohibits torture and there were no known incidents to suggest such an official policy or practice. However, there were credible reports that criminal suspects were beaten while in custody of the GPF. In addition, several cases of wounding by the police of citizens who were not necessarily criminal suspects were reported. In April police allegedly kicked and beat Kenworth Alleyne, and then shot him in both legs at close range. Alleyne had no criminal record nor was he charged with a crime; the officers were reportedly disciplined. Kamal Khan alleged that two police detectives shot him in the penis in a game of Russian roulette, and threatened him with death if he told what had happened. These officers were brought before the court charged with wounding with intent to commit grievous bodily harm. Rohoni Caceras alleged that police officers repeatedly kicked and struck her in the face after they responded to a traffic mishap involving a minibus and a car in which she was traveling. These officers were not disciplined for their conduct.

Although the PCA is the principal body charged with looking into complaints of police brutality or abuse, it has no power to interview police officers or witnesses and must rely on material submitted by the police. The PCA refers cases of alleged abuse to the Police Commissioner. Investigations of such charges sometimes result in serious disciplinary action. Officers charged as a result of complaints to the PCA are routinely suspended for a few days and sometimes fined, but rarely jailed. In 1995 the GPF reported that it received 113 complaints and answered 111 of them. Additionally, the authorities charged and tried 32 police officers for criminal offenses, dismissed 5 others from the force, and disciplined several others. Critics of this process complain that the police force is responsible for investigating itself.

Prison conditions are Spartan but generally meet minimum international standards. Periodic overcrowding is a problem; 5 prisons had a 1995 daily average of 896 inmates in space intended for 300. Eight people died in prisons, as distinguished from police lock-ups, in 1995. Seven died from medical conditions ranging from HIV to tuberculosis and pneumonia, among others. One reportedly died from hanging himself. The authorities note, however, that the incidence of communicable diseases among inmates is consistent with that of the general population.

In 1995 the GHRA cited poor diet, inadequate medical attention, underpaid and poorly trained staff, and lengthy trial delays as problems facing the prison system. The local press reported that due to overcrowding, tuberculosis, sexually transmitted diseases including HIV/AIDS, and other health problems are rising, posing serious public health risks for inmates when they are freed and return to their

communities. Additionally, due to restricted budgets and other limitations, the large influx of prisoners in recent periods reduces efforts directed at rehabilitation and training.

Significant progress has been made in facilities improvements in recent years. In spite of severe financial shortages, infrastructure deficiencies, and inadequate human resources, prison officials have endeavored to train the relatively small staff and improve general conditions of diet, medical care, and academic and technical skills training for inmates. A successful part of the rehabilitation program is a literacy program, and there are options for inmates to achieve secondary school diplomas. Technical training in agricultural and construction skills is provided to help inmates obtain employment upon release from prison.

The GHRA participates as a member of the prison's visiting committee, which investigates prisoner complaints, inspects diets, reviews primary medical care services, and provides recommendations to prison authorities. The GHRA also participated in training and development programs for prison staff and a family visit program for children of female inmates in the New Amsterdam prison.

Groups concerned with conditions in police station temporary holding facilities report them to suffer often from poor sanitation and limited access to medical care. Some lock-ups are bare, overcrowded, damp, and uncomfortable. Few have beds, wash basins, furniture, or utensils. Diets and food preparation are of inconsistent quality. Each cell can have up to five persons, but rarely a toilet. Inmates are sometimes escorted by staff members outside of the cells to use holes in the floor for toilets. Inmates generally sleep on a thin pallet on the concrete floor. The East La Penitence police lock-up, where female prisoners are held until sentencing, is below standard compared to other lock-ups and prisons in the country. Intended as a temporary holding place before sentencing prisoners, the station has become a long-term home for many women whose cases are delayed by the overburdened judicial system.

d. Arbitrary Arrest, Detention, or Exile

The Constitution provides that no person may be deprived of personal liberty except as authorized by law and requires judicial determination of the legality of detention, a mandate that the authorities generally respected in practice.

Arrest does not require a warrant issued by a court official. Police may arrest without a warrant when an officer witnesses a crime or at the officer's discretion in instances where 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 24 hours be brought before a court to be charged. Bail is generally available, except in capital offense cases. In narcotics cases, magistrates have limited discretion in granting bail before trial but must remand persons convicted on narcotics crimes into custody, even if an appeal is pending.

Exile is not practiced.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice.

The court system is composed of a High (Supreme) Court, a national court of appeal, and a system of magistrate courts that have branches in the various regions of the country.

Magistrates are members of the civil service and are trained lawyers. The magistrate courts deal with both criminal and civil matters. The Ministry of Legal Affairs headed by the Attorney General is the principal legal advisor to the State. The Director of Public Prosecution is statutorily independent and can file legal charges against offenders. The Constitution provides that anyone charged with a criminal offense has the right to a hearing by a court of law. This right is respected in practice.

Delays in judicial proceedings are caused by shortages of trained court personnel and magistrates, inadequate resources, postponements at the request of the defense or prosecution, occasional alleged acts of bribery, and the slowness of police in preparing cases for trial. The inefficiency of the judicial system is so great as to undermine due process. The GHRA asserted that prisoners are often detained for 3 or 4 years while awaiting trial; however, the authorities denied that delays were this long. Defendants are granted public trials, and appeal may be made to higher courts. Appeals of some murder cases have experienced long delays. Trial postponements are routinely granted to both the defense and the prosecution. However, programs designed to improve legal structures, reform judicial procedures, upgrade technical capabilities, and improve efficiency of the courts are having a positive effect.

Although the law recognizes the right to legal counsel, in practice, with the exception of capital crimes, it has been limited to those who can afford to pay. The Georgetown Legal Aid Clinic, with public and private support, provides advice to people who cannot afford a lawyer, with a special interest in cases of violence against women and criminal cases related to civil cases in such matters (e.g., assault as part of a divorce case). The Government provides a small cash grant for the clinic as well as the services of a lawyer from the Attorney General's office. Apart from these efforts, very few lawyers provide free services in criminal cases. Defendants in murder cases who need a lawyer are assigned an attorney by the court. The Guyana Association of Women Lawyers provides free legal services for civil cases only.

There were no reports of political prisoners.

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

The Government generally respects the right to privacy. The laws requiring judicially issued warrants for searches were generally respected.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Government generally respects the constitutional provision for freedom of speech, and citizens freely criticize the Government and its policies.

The independent Stabroek News continued to publish seven times a week. Independent and opposition newspapers frequently criticized the Government in editorials and satirized it in cartoons. The government-owned Guyana Broadcasting Corporation operates two radio stations, Radio Roraima and Voice of Guyana. The Government also owns and operates one television station. There are no private radio stations, but 15 private television stations produce newscasts that are often critical of the Government.

The Government reallocated television channels in a manner that some critics assert favors the government-owned station to the disadvantage of the privately owned stations, which have been critical of the Government. Independent media organizations claim that government supporters have subjected them to telephone threats and other forms of intimidation. However, there is no proof that such

harassment is directed or sanctioned by the Government.

The Government respects academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respects this right. The Public Order Act requires police permits for mass political meetings. The Police Commissioner has the authority to refuse permission for a public meeting if he believes that it will provoke a breach of the peace. In cases of refusal, applicants can appeal to the Minister of Home Affairs whose decision on the matter is final. Political parties and other groups held public meetings and rallies throughout the country without hindrance.

The Constitution also provides for freedom of association, and the Government generally respects this right.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. Members of all faiths are allowed to worship freely, and there are no restrictions on foreign religious proselytizing.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of movement within Guyana. Travel to Amerindian areas requires government permission, the result of a law dating from colonial times designed to protect the indigenous people from exploitation. In practice, however, most people travel throughout these areas without regard to the formality of a permit. Citizens are free to travel abroad, to emigrate, and to return.

The Government cooperates with the office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government does not have a fixed policy on refugees or asylum but is studying draft model legislation prepared by the UNHCR. The issue of provision of first asylum did not arise; there were no reports of forced return of persons to a country where they feared persecution.

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

Guyana has a unicameral Parliament chosen by direct election in a multiparty political system based on proportional representation. The leader of the party that obtains a plurality of seats in Parliament during national elections becomes President, with a 5-year term of office, unless the party loses control of Parliament or calls elections earlier. The President appoints a cabinet and a Prime Minister who, with the President, exercise executive power.

Citizens are free to join or support political parties of their choice and established nearly 20 new ones in 1996. The two major parties--the PPP and the People's National Congress (PNC)--are largely formed by Indo-Guyanese and Afro-Guyanese, respectively. The 1992 general election, considered free and fair by foreign observers, brought the former opposition party to power. Any citizen 18 years or older can register to vote, and about 80 percent cast votes in the 1992 election. In January a seven-member commission was sworn in to oversee the national elections expected in 1997 and which must take place no later than March 1998. The commission began its first task--preparation of voter registration lists--in

June.

There are no legal impediments to participation of women or minorities in the political process, but historically, neither women nor Amerindians were encouraged to participate, other than by voting. The 17-person cabinet includes 2 women. The 72-member Parliament includes 12 women and 10 Amerindians, representing both major parties.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Guyana Human Rights Association, the most active local human rights group, functioned without government interference.

The GHRA is a nongovernmental organization (NGO) formed in 1979 with the participation of trade unions, professional organizations, various ethnic groups, and churches. It issues periodic press releases and publishes an annual report on human rights in Guyana. The Government made no public statements in direct response to either GHRA or foreign human rights reports and appears willing to discuss human rights issues with international or domestic NGO's.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides fundamental rights for all persons regardless of race, sex, religion, or national origin. However, the Government does not always enforce these provisions effectively.

Women

Violence against women, including domestic violence, is a significant problem. Rape and incest are common. Lawyers say that more victims are reporting these crimes to the authorities although there is still a social stigma attached to them. The police are sometimes hesitant to interfere in cases of domestic disputes. Because of their economic circumstances and the lack of any family shelter or other place of solace, victims of domestic violence are often trapped in their homes with their abusers. A shelter for battered women, operated by a private organization, is expected to open in early 1997. Although the Government has not sponsored or funded programs for victims of violence, it provides a subsidy to an NGO working in this area.

The 1990 Equal Rights Act was intended to end discrimination based upon sex, but it is too restrictive to be an effective tool. There is no legal protection against sexual harassment in the workplace. Legislation prohibits dismissal on the grounds of pregnancy, and it does not occur in practice. The Women's Affairs Bureau of the Ministry of Labor, Human Services, and Social Security monitors the legal rights of women.

Legislation passed by parliament in 1990 protects women's property rights in common law marriages and entitles a woman who separates or divorces to one-half the couple's property if she had been working and one-third of the property if she had been a housewife. Divorce by consent remains illegal. Legislation also gives authority to the courts to overturn a man's will in the event that it does not provide for his wife, as long as she was dependent on him for financial support.

One of the few organizations that focus primarily on women's rights, other than those sponsored by political parties, is the Guyana chapter of the Caribbean Association for Feminist Research and Action.

Children

An estimated 65 to 86 percent of the population lives in poverty, and children are more severely affected than any other group. Although the Government provides free education through secondary school, the severe deterioration of the public education and health care systems has stunted children's futures. The public health system is inadequate and for many children private health care is unaffordable. Children are often not given the opportunity to attend school because their families need them to contribute to running the household by working or providing child care.

The worst effects on children's lives come from migration. More than 3 percent of the population emigrates every year in search of a brighter economic future. Parents often leave behind their children to be raised by family members, friends, or by other children. Media reports of rape and incest indicate that violence against children is a significant problem. The administration of justice for children is characterized by a system that lacks social services needed by children fleeing sexual, physical, or emotional abuse.

People with Disabilities

The lack of appropriate infrastructure to provide access to both public and private facilities makes it very difficult to employ the disabled outside their homes. There is no law mandating provision of access for people with disabilities.

There are several special schools and training centers for the disabled, but they lack trained staff and are in disrepair.

Indigenous People

Most of the small Amerindian population, composed of nine tribal groups, live in reservations and villages in remote parts of the interior. Their standard of living is much lower than that of most citizens, and their ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources is limited.

Amerindian life is regulated by the Amerindian Act, legislation dating from colonial times designed to protect indigenous people from exploitation. The act gives the Government the power to determine who is an Amerindian and what is an Amerindian community, to appoint Amerindian leaders, and to annul decisions made by Amerindian councils. It also prohibits the sale of alcohol to Amerindians and requires government permission before any Amerindian can accept formal employment, although these provisions generally are not enforced. Both individuals and Amerindian groups remain free to criticize the Government.

At a February conference sponsored by the World Bank, President Jagan assured the Amerindian population that the Government was committed to demarcating the lands to which they are entitled and to protecting Amerindian values from exploitation by foreign and local investors. However, Amerindians themselves did not select the Amerindian spokespersons at the conference. The Government chose them, and it did not invite the Guyanese Organization of Indigenous Peoples or the Amerindian People's Association, the two major NGO's representing indigenous people. These organizations mistrust the World Bank, which they claim has funded the construction of roads through tribal lands in the Rupununi savannahs. This activity has resulted in the decline of the Yanomami, Wapishana, Nimbigara, and Macushi nations, which live in areas southwest of the Rupununi river.

National/Racial/Ethnic Minorities

Longstanding ethnic tensions, primarily between citizens of African and Indian descent, continued to influence society and political life. Historical patterns of social organization, formed during the colonial period, have resulted in social and political organizations coalescing around ethnic groups. This pattern of racial and ethnic grouping has become politicized over the years, polarizing society along ethnic lines. Discrimination and exclusion continue to occur.

Some Indo-Guyanese allege that the 1965-92 PNC government established a pattern of racial discrimination in favor of the Afro-Guyanese. However, many Afro-Guyanese now allege that they suffer racial discrimination and "political victimization" by the predominantly Indo-Guyanese PPP, which they say directs benefits and opportunities to its supporters. The civil service and defense and police forces are overwhelmingly staffed by Afro-Guyanese. Recruitment efforts targeted at Indo-Guyanese candidates for the uniformed services generally have met with an unenthusiastic response, with most qualified Indo-Guyanese candidates opting for a business or professional career over military, police, or public service. The chief of staff of the Guyana Defence Force is Indo-Guyanese and there are other Indo-Guyanese officers in both the GDF and the police force.

Section 6 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. The law does not require employers to recognize a union in the workplace, even if a large majority of workers have indicated their desire to be represented by a union.

Approximately 34 percent of the work force is unionized. Most union members work in the public sector and in state-owned enterprises. Organized labor freely associates in one major national federation, the Guyana Trades Union Congress (TUC), which is composed of 22 unions. There is a tradition of close ties between the trade union movement and political parties.

Historically, the two major political parties wielded significant influence over the leadership of several unions, and trade union officials often served in dual roles as party officials. Although this still occurs, it is less common.

Workers have a generally recognized right to strike. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labor and leave a skeletal staff in place. A minority of strikes in 1996 were illegal, i.e., the union leadership did not approve them, or they did not meet the requirements specified in collective bargaining agreements. However, these strikes occurred in crucial sectors of the economy such as transportation.

There is no legislation prohibiting retaliation against strikers or of antiunion discrimination by employers. However, this principle is always included by the Government in the terms of resumption after a strike. Arbitration rulings, whenever agreed to by the contending parties, are legally enforceable.

Unions and their federations freely maintain relations with recognized Caribbean and international trade union and professional groups. All three of the major international trade union federations have affiliates in Guyana.

b. The Right to Organize and Bargain Collectively

Public and private sector employees possess and utilize the generally accepted right to organize and to bargain collectively. The Ministry of Labour certifies all collective bargaining agreements and has never refused to do so. This right is not codified, however, and employers are not legally required to recognize unions or to bargain with them.

Individual unions directly negotiate collective bargaining status, pursuant to the 1993 repeal of a regulation that required that all collective bargaining be negotiated through the TUC. Unions are dissatisfied with a provision granting the Ministry of Finance veto power over wage contracts negotiated by other ministries.

The Chief Labour Officer and the staff of the Ministry of Labour provide consultation, enforcement, and conciliation services. The Ministry eliminated a backlog of pending cases, but insufficient manpower and transportation continued to limit the Ministry's ability to function.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor, and there is no indication that it occurs.

d. Minimum Age for Employment of Children

The Factories Act and the Employment of Young Persons and Children Act set out minimum age requirements for employment of children. Legally, no person under age 14 may be employed in any industrial undertaking and no person under age 16 may be employed at night, except under regulated circumstances. The law permits children under age 14 to be employed only in enterprises in which members of the same family are employed. However, it is common to see very young children engaged in street trading in the capital. While cognizant of the situation, the Ministry of Labor does not employ sufficient inspectors to enforce existing laws effectively.

e. Acceptable Conditions of Work

The Labour Act and the Wages Councils Act allow the Labor Minister to set minimum wages for various categories of private employers. The minimum public sector wage is \$2.20 (G\$307.84) per day. Although enforcement mechanisms exist, it is difficult to put them into practice, and unorganized workers, particularly women and children, are often paid less than what is legally required. The legal minimum wage for the public sector is insufficient to provide an adequate standard of living for worker and family.

The Shops Act and the Factories Act set hours of employment, which vary by industry and sector. In general, work in excess of an 8-hour day or a 44-hour week requires payment of an overtime rate. However, if the initial contract stipulates a 48 hour workweek, then the overtime rate only applies for hours worked in excess of 48 hours. The law does not provide for at least a 24-hour rest period.

The Factories Act also sets forth workplace safety and health standards. The Occupation Health and Safety Division of the Ministry of Labour is charged with conducting factory inspections and investigating complaints of substandard workplace conditions. As with its other responsibilities, inadequate resources prevented the Ministry from effectively carrying out this function. Workers cannot remove themselves from dangerous work situations without jeopardizing continued employment.

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