

GUYANA 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Cooperative Republic of Guyana is a multiparty democracy. National and regional elections took place in March, and the People's Progressive Party/Civic (PPP/C) won both the presidency and a majority of representational seats. International and local observers considered the elections free and fair. The incumbent government, however, contested the results of the national elections, leading to numerous rounds of litigation over a three-month period that included a month-long recount, which the incumbent government accepted.

The police commissioner heads the Guyana Police Force, which reports to the Ministry of Home Affairs and is responsible for maintaining internal security. The Guyana Defense Force is responsible for external security but also has some domestic security responsibilities. The defense force, headed by a chief of staff, falls under the purview of the Defense Board, which the president of the country chairs. Civilian authorities maintained effective control over police and the military. Members of the security forces committed few abuses.

Significant human rights issues included: unlawful or arbitrary killings, including extrajudicial killings; harsh prison conditions; and laws that criminalize consensual same-sex sexual conduct between adult men.

Government officials did not enjoy impunity for human rights abuses. There were independent and transparent procedures for handling allegations of abuses by security forces.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were reports that the government or its agents committed arbitrary or unlawful killing. In July police shot and killed Cecil Sampat, an unarmed civilian. According to police, Sampat was one of three passengers in a car who opened fire on the police. No gun was found in Sampat's vehicle, however, nor was there gunshot residue on Sampat or the other passengers. In August the government charged the police officers who allegedly shot and killed Sampat.

The Guyana Police Force's Office of Professional Responsibility investigates whether security force killings were justifiable and recommends prosecutions where appropriate.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

The law prohibits such practices. There were allegations, nonetheless, that prison officials mistreated inmates.

Impunity was not a significant problem in the security forces. The Guyana Police Force's Office of Professional Responsibility investigates whether security force killings were justifiable and recommends prosecutions. The government conducted human rights training for the security forces.

Prison and Detention Center Conditions

Prison and jail conditions, particularly in police holding cells, were reportedly harsh and potentially life threatening due to overcrowding, physical abuse, and inadequate sanitary conditions.

Physical Conditions: In October the Guyana Prison Service reported there were 1,761 prisoners in seven facilities with a combined design capacity of 1,505. Overcrowding was in large part due to a backlog of pretrial detainees, who constituted approximately 30 percent of the total prison population.

In 2018 the government released the findings of a 2017 independent study funded by the Inter-American Development Bank that found prison officers physically abused prisoners. In 2018 the government reported the UN Working Group of Experts on People of African Descent found that prison conditions at Lusignan Prison were appalling and cells were unfit for human habitation. Prisoners reported unsanitary conditions and a lack of potable water, and they also complained of lengthy confinement in their cells with limited opportunities for sunlight.

The adult prison population contained individuals 16 years of age and older. In most cases, however, offenders younger than 16 were held in a juvenile correctional center that offered primary education, vocational training, and basic medical care.

Administration: Authorities stated they investigated and monitored prison and detention center conditions monthly, and committees prepared reports after each visit. Prisoners often circumvented procedures for submitting complaints of inhuman conditions or mistreatment by passing letters addressed to government officials through family members.

Independent Monitoring: The government permitted outside groups to monitor prison conditions independently.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government generally observed these requirements.

Arrest Procedures and Treatment of Detainees

An arrest requires a warrant issued by a court official unless an officer who witnesses a crime believes there is good cause to suspect a crime or a breach of the peace has been or will be committed. The law stipulates that a person arrested cannot be held for more than 72 hours unless brought before a court to be charged. Authorities generally observed this requirement. Bail was generally available except in cases of capital offenses and narcotics trafficking.

Although the law provides criminal detainees prompt access to a lawyer of their choice and to family members, authorities occasionally did not fully respect this right.

The state provides legal counsel for indigent persons only when such persons are charged with a capital offense. The Legal Aid Clinic, a nongovernmental organization (NGO), 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.

Arbitrary Arrest: In August police arrested Christopher Jones, a senior member of the opposition, and searched his home, although Jones had a court-issued injunction preventing the search.

Pretrial Detention: Lengthy pretrial detention remained a problem, due primarily to judicial inefficiency, staff shortages, and cumbersome legal procedures. The average length of pretrial detention was three years for those awaiting trial at a magistrates' court or in the High Court. This often exceeded the maximum possible sentence for the crime for which they were charged.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

Delays and inefficiencies undermined judicial due process. Shortages of trained court personnel, postponements at the request of the defense or prosecution, occasional allegations of bribery, poor tracking of cases, and police slowness in preparing cases for trial caused delays.

Trial Procedures

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right.

Defendants enjoy a presumption of innocence. Cases in magistrates' courts are tried without jury, while cases involving more serious crimes are tried by jury in the High Court. The constitution provides that a person shall be informed in detail of the nature of the offense charged as soon as reasonably practicable. Defendants have the right to a timely trial and free assistance of an interpreter. The constitution also provides for persons charged with a criminal offense to be given adequate time and facilities for the preparation of a defense. Authorities routinely granted trial postponements to both the defense and prosecution. Defendants have the right to be present at their trial and confront adverse witnesses, and they may present their own witnesses and evidence. Defendants cannot be compelled to testify or confess guilt, and they have the right to appeal.

While the law recognizes the right to legal counsel, it was limited to those who could afford to pay, except in cases involving capital crimes. Although there is no formal public defender system, a defendant in a murder case that reaches the High

Court may receive 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.

Civil Judicial Procedures and Remedies

The law provides for an independent and impartial judiciary in civil matters, and the government generally respected this provision. Individuals can access the court system to initiate lawsuits seeking damages for, or cessation of, human rights violations. The magistrates' courts deal with both criminal and civil matters. Delays, inefficiencies, and alleged corruption in the magistrates' court system affected citizens' ability to seek timely remedies in civil matters, and there was a large backlog of civil cases. Citizens have the right to appeal adverse domestic decisions to the Caribbean Court of Justice.

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

The law generally prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. Independent media were active and at times expressed a wide variety of views without restriction. The ruling party's monopoly of state media creates an imbalance in public discourse and tends to give them a public affairs advantage, since the opposition does not have an outlet of its own.

Libel/Slander Laws: Defamatory libel is a crime punishable by imprisonment of three years or less. There were no reports the government used these laws to restrict public discussion or retaliate against journalists or political opponents.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

Freedom of Peaceful Assembly

In May authorities arrested antigovernment political protesters. Officials stated the protesters violated supplemental legislation that prohibited public gatherings during the COVID-19 pandemic.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. In response to the COVID-19 pandemic, the government put in place a curfew from 6 p.m. to 6 a.m. from April to September and 9 p.m. to 4 a.m. from October to protect public health and announced that violators would be fined. Police arrested and fined more than 2,000 persons for curfew violations as of October.

In-country Movement: The law requires that local village councils grant permission in advance for travel to indigenous areas, but most individuals traveled in these areas without a permit.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Access to Asylum: The law does not provide for protection of asylum seekers, and the government has not established a system for providing protection for refugees. Although the government is not a signatory to the 1951 Convention on Refugees or the 1967 Protocol on Refugees, the government reported that it did not prosecute or deport Venezuelan refugees or asylum seekers. In the absence of national legislation and requisite government capacity, the UNHCR assumed the main responsibility for determination of refugee status.

Temporary Protection: The government also provided temporary protection to individuals who may not qualify as refugees.

g. Stateless Persons

Not applicable.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. Elections also take place within indigenous communities, where members elect indigenous leaders every 33 to 36 months.

Elections and Political Participation

Recent Elections: National and regional elections were held on March 2. A no confidence vote in December 2018 against the ruling A Partnership for National Unity+Alliance for Change (APNU+AFC) coalition government triggered snap national elections for March 2019. Several rounds of litigation initiated by the coalition government and opposition People's Progressive Party/Civic (PPP/C)

delayed the elections until March 2, 2020. The APNU+AFC coalition's refusal to accept the elections result that showed their loss created a five-month postelections impasse, which included a national recount, refusal to accept the results of the recount, and litigation in the Caribbean Court of Justice, the country's court of final instance. The PPP/C won by a margin of 15,000 votes against the APNU+AFC coalition, and Mohamed Irfaan Ali of the PPP/C was installed as president on August 2. The general elections resulted in the return of the PPP/C to government after a five-year hiatus from a previous 23-year administration. International observers concluded the March 2 national and regional elections were free and fair. Local government elections were held in 2018 in all eligible communities throughout the country and were considered free, fair, and credible by international observers.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups in the political process, and they did participate. The law requires that one-third of each list of candidates be women.

Section 4. Corruption and Lack of Transparency in Government

The law provides for criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were isolated reports of government corruption during the year, and administration officials investigated these reports. There remained a widespread public perception of corruption involving officials at all levels, including the police and judiciary.

Corruption: Corruption by police officers was frequent. There were reports the government prosecuted members of the police force during the year. In July the government prosecuted police officer Richard Persaud for extortion. Persaud resigned from the police force in August, and the prosecution against him was underway as of October.

Financial Disclosure: The law requires public officials to declare their assets to an integrity commission and sets out both criminal and administrative sanctions for nondisclosure. If a person fails to file a declaration, the daily newspapers and the official gazette can publish that fact. Failure to comply with the law can lead to a summary conviction, fines, and imprisonment for six to 12 months. If property is not disclosed as required, the magistrate convicting the defendant must order the defendant to make a full disclosure within a set time. Although the integrity commission was reconstituted in 2018, after a 12-year hiatus, it did not appear to

be fully functional. No publications or convictions occurred during the first nine months of the year.

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

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. These groups at times complained government officials were uncooperative and unresponsive to their requests. They stated that when officials responded, it was generally to criticize the groups rather than to investigate allegations.

Government Human Rights Bodies: The law provides for an ombudsperson to investigate official government actions or actions taken by government officials in exercise of their official duties. Observers reported the ombudsperson operated independently of government interference.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape, and domestic violence. The law provides stringent penalties for rape, with life imprisonment as the maximum penalty. There were reports of successful prosecution of cases of rape. Successful prosecution of domestic violence cases was infrequent.

Domestic violence and violence against women, including spousal abuse, was widespread. The law prohibits domestic violence and allows victims to seek prompt protection, occupation, or tenancy orders from a magistrate. Penalties for violation of protection orders include fines and 12 months' imprisonment. There were reports of police accepting bribes from perpetrators and of magistrates applying inadequate sentences after conviction.

Sexual Harassment: The law prohibits sexual harassment in the workplace and provides for monetary penalties and award of damages to victims. The law does not cover harassment in schools. Acts of sexual harassment involving physical assault are prosecuted under relevant criminal statutes. While reports of sexual harassment were common, no cases had been filed as of September.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: Although women enjoy the same legal status and rights as men, gender-related discrimination was widespread and deeply ingrained. The law prohibits discrimination based on gender, but there was no meaningful enforcement against such discrimination in the workplace. Job vacancy notices routinely specified that the employer sought only male or only female applicants, and women earned approximately 58 percent less than men for equal work.

Children

Birth Registration: Citizenship is derived by birth within the country's territory or by birth to a Guyanese citizen abroad. The law requires that births be registered within 14 days but also provides for registration of births after the 14-day period. Births at hospitals and health facilities were registered within a day of delivery.

Child Abuse: The law prohibits abuse of children, including physical abuse, sexual abuse, and sexual exploitation. There were frequent, widespread reports of physical and sexual abuse of children. As with cases of domestic abuse, NGOs alleged some police officers could be bribed to make cases of child abuse "go away."

Child, Early, and Forced Marriage: The legal age for marriage is 18, but boys and girls may marry at age 16 with parental consent or judicial authority. UNICEF reported that 30 percent of women were married before age 18.

Sexual Exploitation of Children: The age of sexual consent is 16. By law a person who has sexual relations with a child younger than 16 may be found guilty of a felony and imprisoned for life. There were continued reports of children being exploited in prostitution. The law prohibits the commercial sexual exploitation of children age 18 and younger and stipulates penalties commensurate with those prescribed for other serious crimes, such as rape. Laws related to pornography and pornographic performances do not prohibit the use, procuring, and offering of a child for each of these purposes. The law also regulates selling, publishing, or exhibiting obscene material, defined as anything that could deprave or corrupt those open to immoral influences. The country is not a destination for child sex tourism.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

Excluding expatriates, the Jewish community had fewer than five members. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The constitution mandates that the state “take legislative and other measures” to protect disadvantaged persons and persons with disabilities. The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities, but civil society groups stated the law was not regularly enforced. The law provides for a National Commission on Disabilities to advise the government, coordinate actions on problems affecting persons with disabilities, and implement and monitor the law. The commission focused its attention on sensitizing the public about the law and on compliance, as well as performing sensitization workshops with the Ministries of Human Services and Social Security, Education, and Health.

There were segregated schools for the blind and for persons with other disabilities in the most populous regions of the country. As a result, children with disabilities rarely attended mainstream schools, since these lacked the necessary accommodating curriculum and infrastructure. Lack of appropriate transportation and infrastructure to provide access to both public and private facilities made it difficult for persons with disabilities to be employed outside their homes.

Indigenous People

Various laws protect the rights of the indigenous community, and members have some ability to participate in decisions affecting them, their land, and resources.

Rules enacted by village councils require approval from the minister of Amerindian affairs before entering into force. Indigenous lands were not effectively demarcated.

According to the 2012 census, the indigenous population constituted 10 percent of the total population. There were nine recognized tribal groups. An estimated 90 percent of indigenous communities were in the remote interior. The standard of living in indigenous communities was lower than that of most citizens, and they had limited access to education and health care. A UN study found that pregnant women in indigenous communities were not receiving mandatory HIV tests. In March political protesters made denigrating remarks against indigenous persons.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

Consensual same-sex sexual activity among men is illegal under the law and is punishable by up to two years in prison. Anal intercourse is punishable with a maximum sentence of life in prison, regardless of whether the intercourse is between persons of the same sex. These laws were not enforced during the year; activists reported it was more common for police to use the law to intimidate men who were gay or perceived to be gay than to make arrests. A law criminalizing cross-dressing remains despite a 2018 decision by the Caribbean Court of Justice that the law is unconstitutional.

No antidiscrimination legislation exists to protect persons from discrimination based on real or perceived sexual orientation, gender identity or expression, or sex characteristics. NGOs reported widespread discrimination of persons in this regard. Reports noted official and societal discrimination in employment, access to education and medical care, and in public space. According to a 2014 survey, approximately 12 percent of men who had sex with men experienced stigma daily, while approximately 30 percent of transgender youth and adults encountered stigma every day or regularly. A leading lesbian, gay, bisexual, transgender, and intersex (LGBTI) NGO reported frequent acts of violence against members of the LGBTI community.

HIV and AIDS Social Stigma

A 2014 UNICEF survey reported only 23 percent of persons ages 15 to 49 expressed accepting attitudes towards individuals with HIV.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of association and allows workers to form and join trade unions, bargain collectively, and conduct legal strikes. The law bars military and paramilitary members from forming a union or associating with any established union. The law prohibits antiunion discrimination by employers but does not specifically require reinstatement of workers fired for union activity.

The Ministry of Human Services and Social Security is required to certify all collective bargaining agreements. Individual unions directly negotiate collective bargaining status.

By law unions must have 40 percent support of workers, a provision the International Labor Organization (ILO) criticized. The government may declare strikes illegal if the union leadership does not approve them or if the union does not meet the requirements specified in collective bargaining agreements. Public employees providing essential services may strike if they provide a one-month notice to the Ministry of Public Service and leave a skeleton staff in place. The ILO noted that not all sectors deemed essential by the government adhered to international definitions, including the services provided by the Transport and Harbors Department and the National Drainage and Irrigation Board. Arbitration is compulsory for public employees, and such employees engaging in illegal strikes are subject to sanctions or imprisonment.

The government did not effectively enforce applicable laws. Penalties for violation of labor laws are small fines the government frequently did not impose. Penalties were commensurate with those for other laws involving denials of civil rights, such as discrimination. Administrative and judicial proceedings regarding violations often were subject to lengthy delays and appeals.

Some public-sector employee unions continued to allege antiunion discrimination by the government, asserting the government violated worker rights and did not effectively enforce the law. The unions were concerned that employers used hiring practices, such as contract labor and temporary labor, to avoid hiring workers with bargaining rights.

b. Prohibition of Forced or Compulsory Labor

The law criminally prohibits forced labor. Penalties were commensurate with those for other analogous serious crimes, such as kidnapping. Penalties for forced labor under trafficking-in-persons laws include forfeiture of property gained as a result of the forced labor, restitution to the victim, and imprisonment. Administrative labor law penalties are small monetary fines, deemed insufficient to deter violations and rarely enforced.

Country experts reported that forced and compulsory labor occurred in the gold-mining, agriculture, and forestry sectors, as well as domestic servitude. Children were particularly vulnerable to human trafficking, including forced labor (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children younger than age 15, with some exceptions, but it does not sufficiently prohibit the worst forms of child labor. Technical schools may employ children as young as age 14, provided a competent authority approves and supervises such work. No person younger than 18 may be employed in industrial work at night. Exceptions exist for those ages 16 and 17 whose work requires continuity through day and night, including certain gold-mining processes and the production of iron, steel, glass, paper, and raw sugar. The law does not specifically prohibit the use, procuring, or offering of a child for the production and trafficking of drugs.

The law permits children younger than 15 to be employed only in enterprises in which members of the same family are also employed. The law prohibits children younger than 15 from working in factories and does not provide adequate protections for those younger than 18 to prevent their being engaged in activities hazardous to their health or safety.

The government did not enforce laws effectively, and penalties were commensurate with those for other analogous serious crimes, such as kidnapping. The Ministry of Human Services and Social Security collaborated with the Ministry of Education, Geology and Mines Commission, Guyana Forestry Commission, National Insurance Scheme, and Guyana Police Force to enforce child labor laws. The government infrequently prosecuted employers for violations relating to child labor.

Child labor occurred and was most prevalent in farming, fishing, bars and restaurants, domestic work, and street vending. Small numbers of children also performed hazardous work in the construction, logging, farming, and mining industries. The government reported that incidences of the worst forms of child labor occurred, mainly in gold mining, prostitution (see section 6), and forced labor activities, including domestic servitude. According to local NGOs, children who worked in gold mines operated dangerous mining equipment and were exposed to hazardous chemicals, including mercury.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination with respect to employment and occupation based on race, sex, gender, disability, language, social status, and national origin or citizenship. Penalties were commensurate with laws related to civil rights, such as election interference. The law does not prohibit discrimination based on sexual orientation or gender identity. Discrimination in employment and occupation occurred with respect to women and to persons based on their sexual orientation or gender identity, and workplace access was limited for persons with disabilities (see section 6). Newspapers frequently carried advertisements seeking gender-specific or age-specific applicants to fill positions in the retail, cosmetology, or security sectors.

e. Acceptable Conditions of Work

The law provides for a national minimum wage for private-sector employees. Minimum wages for regular working hours of all full-time, private-sector employees are set nationally for hourly, daily, weekly, and monthly workers. The national minimum wage for regular working hours of full-time, public-sector employees was above the poverty line. A normal workweek is 40 hours, distributed over no more than five days per week. The law prohibits compulsory overtime, and overtime work must be paid according to rates set in the law or according to any collective bargaining agreement in force where workers are unionized. There is provision for overtime pay. Penalties were not commensurate with those for similar crimes, such as fraud.

Occupational safety and health (OSH) standards are not appropriate for the main industries, and government did not effectively enforce OSH laws.

The law provides that some categories of workers have the right to remove themselves from unsafe work environments without jeopardizing their employment, and authorities effectively protected employees in these situations.

The Ministry of Human Services and Social Security is charged with enforcement of the labor law, but the number of inspectors was insufficient to enforce the law effectively. Inspectors have the authority to make unannounced inspections but do not have the authority to initiate sanctions. Labor inspections carried out during the year targeted all sectors, including agriculture, mining, and construction. Ministry follow-up of labor inspection findings varied, and compliance among employers was also inconsistent.

Enforcement of minimum wage legislation was not effective. Although specific data were unavailable, a significant number of workers were employed in the informal economy, and some moved to Brazil. Unorganized workers, particularly women in the informal sector, were often paid less than the minimum wage. Local trade unions and NGOs also reported the Ministry of Social Protection lacked sufficient resources to enforce occupational safety and health laws adequately. The government reported 84 workplace accidents, all of which were investigated. There were 14 fatal workplace accidents reported as of October.

The Guyana Public Service Union condemned actions of public transportation operators who discriminated against health-care workers, mostly nurses, because of the COVID-19 pandemic.