

A

الأمم المتحدة

Distr.
GENERAL

الجمعية العامة



A/HRC/10/11/Add.2
27 February 2009

ARABIC
Original: ENGLISH

مجلس حقوق الإنسان
الدورة العاشرة
البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

تقرير الخبرة المستقلة المعنية بقضايا الأقليات*

إضافة

البعثة إلى غيانا**

(٢٨ تموز/يوليه إلى ١ آب/أغسطس ٢٠٠٨)

* تأخر تقديم هذه الوثيقة.

** يعمم الموجز بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيعمم باللغة التي قُدم

بها فقط.

(A) GE.09-11557 060309 120309

موجز

قامت الخبيرة المستقلة المعنية بقضايا الأقليات، السيدة غاي ماكدوغال، بزيارة غيانا في الفترة من ٢٨ تموز/يوليه إلى ١ آب/أغسطس ٢٠٠٨. وسافرت أثناء زيارتها إلى جورجنتاون والمجتمعات المحلية المحيطة بها. وعقدت مشاورات مع رئيس الدولة والوزراء وغيرهم من المسؤولين الحكوميين الرفيعي المستوى، ومع ممثلي المنظمات غير الحكومية وهيئات المجتمع المدني والأحزاب السياسية والزعماء الدينيين والأكاديميين وغيرهم ممن يعمل في ميدان قضايا الأقليات ومناهضة التمييز. وزارت الخبيرة المستقلة مجتمعات محلية من بينها باكستون وتحدثت إلى أفراد هذه المجتمعات عن حياتهم وقضاياهم.

وفي تموز/يوليه ٢٠٠٣، خلص المقرر الخاص المعني بالأشكال المعاصرة للعنصرية والتمييز العنصري وكره الأجناب وما يتصل بذلك من تعصب إلى أن كل مستوى من مستويات المجتمع الغياني يمتلكه شعور عميق بالإغناء المعنوي والعاطفي والسياسي مصدره الآثار الفردية والجماعية للاستقطاب الإثني^(١). وفي عام ٢٠٠٨، لاحظت الخبيرة المستقلة استمرار الضيق المجتمعي الذي تبين في بعض الحالات أنه تعمق وتحول إلى يأس وسخط ومقاومة. ويبرز هذا الأمر بوجه خاص بين الأفراد والجماعات المنحدرين من أصل أفريقي الذين أفادوا أنهم يشعرون بالإقصاء والتمييز والتجريم.

وأفضى تقسيم الهياكل السياسية والإدارية على أساس إثني وإخفاق العمليات السياسية إلى شعور عميق بالإحباط وانعدام الثقة في مؤسسات الحكم. ويسود في غيانا مناخ من الارتياب والشائعات ونظرية المؤامرة أذكته حوادث العنف الشديدة التي ألمت بالبلد في عام ٢٠٠٨. وظهرت لدى الغيانيين المنحدرين من أصل أفريقي ومن أصل هندي روايتان ونظرتان إلى الواقع منفصلتان ومتضاربتان، الأمر الذي يندر بتقويض القيم والأهداف المشتركة التي لا بد منها لوحدة غيانا ورخائها.

وتعترف الخبيرة المستقلة بما بذلته الحكومة حتى الآن من خطوات جديدة بالثناء لمعالجة قضايا التوتر الإثني والتصدي للأنشطة الإجرامية والتخلف الاقتصادي. إلا أنه لا بد من اتخاذ المزيد من الإجراءات الفعالة على وجه السرعة لاستعادة الثقة في الحكم الرشيد وسيادة القانون بين كل الجماعات، والحيلولة دون الانزلاق المحتوم نحو المزيد من الاستقطاب والعنف المحتمل. ولا بد من تدشين حقبة جديدة من الإرادة السياسية والقيادة الرؤيوية القوية من أجل تحقيق التغيير والخلاص من الركود الاقتصادي والاجتماعي الذي بات علامة فارقة في غيانا المنقسمة على نفسها.

ووصف الغيانيون المنحدرين من أصل أفريقي لدى لقائهم بالخبيرة المستقلة شعورهم بالحرمان من التمتع بصوت ونصيب كاملين في السياسة الوطنية ومن التمتع بالحقوق على قدم المساواة في العديد من ميادين الحياة، بما فيها فرص العمل والمشاركة الاقتصادية. وأشاروا إلى الوصم الذي يتعرض له الشبان الغيانيون الذكور المنحدرين من أصل أفريقي والجماعات الأفريقية قاطبةً. وتتلون تصورات المجتمع بوجه عام بقوالب نمطية عن الإجرام تنتقص من قدر الغيانيين المنحدرين من أصل أفريقي أفراداً وجماعات.

(١) E/CN.4/2004/18/Add.1، البعثة إلى غيانا، وترينيداد وتوباغو.

وتواجه نساء الأقليات تحديات خاصة، مثل ندرة فرص العمل المتاحة للنساء من الجماعات الغيانية المنحدرة من أصل أفريقي، وعبء الرعاية الشديد الوطأة الذي تتحمله الأمهات العازبات، ووجود ثقافة مقلقة من العنف المتزلي، يُوجِّهها في كثير من الأحيان انتشار الفقر والبطالة في مجتمعاتهن. وتشعر النساء أن نظام العدالة الجنائية لا يعالج قضايا العنف المتزلي معالجة جادة. وبالإضافة إلى ذلك، لا تزال مشاركة المرأة في العمليات السياسية أقل كثيراً من مستويات المساواة.

وما يوجد حالياً من تشريعات وسياسات مناهضة للتمييز غير كاف للتصدي للتمييز والإقصاء والتحيز القائم على أساس إثني. ولا بد من وضع خطة عمل جديدة ومتينة لمناهضة التمييز وتحقيق المساواة وتطبيقها على جميع قطاعات المجتمع من أجل كسر الحواجز التي باتت متأصلة في غيانا.

لقد تفسى في المجتمع عامةً مناخ سياسي مرير ومدمر خيَّب آمال شعب غيانا. ويجب العمل على إحلال مناخ من الصدق والمصالحة والتوافق محله. ويجب تطبيق إصلاحات بعيدة الأثر بعد إجراء مشاورات واسعة النطاق. ولكن يجب أن تكون عملية التشاور والتنفيذ مقيدة زمنياً وعملية المنحى، ويجب أن تفضي إلى نتائج ملموسة قابلة للتنفيذ تضمن عدم التمييز والمساواة.

ويجب تنفيذ الوعود المقطوعة، بما في ذلك القيام على وجه السرعة بإنشاء خمس لجان لحقوق الإنسان تتحلى بالمصداقية، من أجل إحداث التغيير في حياة الأفراد والأسر والجماعات وإرساء أسس جديدة يُبنى عليها. ويظل الحوار المفتوح والبناء بشأن الحكم بمشاركة الجميع عنصراً أساسياً من عناصر هذه العملية. وتُدعى حكومة غيانا دعوة حثيثة إلى المبادرة إلى فتح هذا الحوار، وإن كان على جميع الأطراف أن تبدي الإرادة السياسية اللازمة لذلك.

Annex

**REPORT OF THE INDEPENDENT EXPERT ON MINORITY ISSUES
MISSION TO GUYANA
(28 July to 1 August 2008)**

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 8	5
I. HISTORICAL CONTEXT	9 - 17	6
II. POLITICAL PARTICIPATION OF MINORITIES	18 - 26	8
III. NON-DISCRIMINATION AND EQUALITY	27 - 63	10
A. Employment and economic activity	35 - 48	11
B. Land and housing	49 - 51	14
C. Access to justice	52 - 58	15
D. Media	59 - 63	16
IV. PROTECTION AGAINST VIOLENCE	64 - 73	17
V. IDENTITY, LANGUAGE, CULTURE AND RELIGION	74 - 79	19
VI. CONCLUSIONS AND RECOMMENDATIONS OF THE INDEPENDENT EXPERT	80 - 97	20

Introduction

1. The independent expert on minority issues visited Guyana between 28 July and 1 August 2008, inter alia to promote implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. She conducted extensive consultations with senior government representatives, including the State President, numerous ministers responsible for issues related to her mandate, and other senior public officials. She consulted civil society organizations, political parties, religious leaders, academics, and media representatives. The independent expert visited Georgetown and its environs, where she consulted community members, and held open forums in order to gain their views and hear their issues. She held a forum for women in order to allow them to speak about their lives and raise issues important to women.

2. The independent expert thanks the Government of Guyana for its cooperation throughout the preparation and conduct of her mission. She thanks the numerous non-governmental organizations and civil society groups that met with her, provided valuable information, and facilitated additional aspects of her visit.

3. The independent expert's evaluation of minority issues in Guyana is based on the 1992 Declaration on Minorities and other relevant international standards, from which she has identified four broad areas of concern relating to minorities globally. These are: (a) the protection of a minority's survival, through combating violence against them and preventing genocide; (b) the protection and promotion of the cultural identity of minority groups and the right of national, ethnic, religious or linguistic groups to enjoy their collective identity and to reject forced assimilation; (c) the guarantee of the rights to non-discrimination and equality, including ending structural or systemic discrimination and the promotion of affirmative action when required; and (d) the guarantee of the right to effective participation of members of minorities in public life, especially with regard to decisions that affect them.

4. According to the 2002 census, Guyana has a population of 751,000 in 182,615 households. Indo-Guyanese make up 43.5 per cent of the population and Afro-Guyanese 30.2 per cent. Some 16.7 per cent of the population identify as being of mixed race. There are nine indigenous peoples in Guyana (known as Amerindians in Guyanese legislation since the 1950s),² and approximately 130 indigenous communities occupying the forests and savannahs of the interior, constituting 9.2 per cent of the population. Whites, Chinese, Portuguese and others make up slightly under 0.5 per cent of the population. Georgetown with a population of 134,231 represents 17.7 per cent of the entire population, and Region 4 within which it is located represents one quarter of the population. The Government officially promotes the multicultural nature of the country and national unity - hence the slogan "Guyana, land of six peoples" and the country's motto "One People, One Nation, One Destiny". A relatively large proportion of the adult population, including large numbers of the skilled workforce, emigrates every year, primarily to the United States, Canada, Britain and the Caribbean.

5. The Co-operative Republic of Guyana is a multi-party democracy. President Bharat Jagdeo, representing the People's Progressive Party Civic (PPP/C), has served as President since 1999 and was re-elected to a second full five year term in August 2006. This election was considered generally free and fair by international observers. The PPP/C has been the majority party in Parliament since 1992. The Prime Minister is appointed by the President, as is the Cabinet. Guyana has a unicameral 65-member National Assembly, of which 40 members are elected directly by proportional representation (PR) at the national level. The other 25 members are elected by proportional representation at the regional level.

² The nine indigenous peoples are: Arecuna, Arawak, Akawaio, Carib, Macushi, Patamona, Warrau, Wapisiana and Wai Wai.

6. Guyana is a party to six of the seven major international human rights instruments (Convention against Torture, International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of All Forms of Discrimination against Women, International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Economic, Social and Cultural Rights and Convention on the Rights of the Child). It has signed but not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Guyana has ratified the first Optional Protocol to ICCPR (accession). Guyana is a member of the Commonwealth of Nations, the Organization of American States (OAS) and the Caribbean Community (CARICOM).

7. In Guyana, the independent expert focused her attention on the relations between, and comparative situations of Afro-Guyanese and Indo-Guyanese. The Government encouraged the independent expert to also consider issues facing indigenous peoples which would highlight recently instituted good practices by the Government. She noted the important efforts made by the Government to improve the situation of indigenous communities in regard to health care and education. Since matters relating to indigenous peoples fall within the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, they will not be covered in this report.

8. The following sections review the relevant history of Guyana and then consider in greater detail the four principal areas of concern of the independent expert in relation to her mandate. Each section begins with a summary of issues raised by civil society actors and community members and then concludes with the responses and views expressed by senior governmental sources on that topic. The report concludes with the analysis and recommendations of the independent expert.

I. HISTORICAL CONTEXT

9. An appreciation of Guyana's history is essential to understand fully the modern country and the relative economic, social and political status of its inhabitants. However, consistent with the ethnic divisions and rivalries which are a feature of Guyanese society, ethnic groups perceive its history and historical events differently and may have distinct readings and interpretations of them. Space does not allow for a sufficiently comprehensive analysis here. However, the following historical overview is based upon historical accounts, including those available on the Government of Guyana website,³ and the websites of the People's Progressive Party (PPP)⁴ and People's National Congress (PNC)⁵ political parties. It is also consistent with personal interviews conducted by the independent expert.

10. Colonization, first by the Dutch (1598-1803) and then by the British (1803-1966), has had a profound influence on modern-day Guyana. Plantation farming of sugar, coffee and cotton was established during the early colonial period and developed into the mainstay of the Guyanese economy. The labour-intensive plantation economy was initially fed by the slave trade, which began in 1640 and introduced a sizeable African population in excess of 80,000 by the time slavery was finally abolished in 1838. "Freed" slaves had to endure an "apprenticeship" period prior to their full emancipation and received no compensation for their years of servitude. When this period ended they began to demand higher wages and better working conditions, demands which were generally not met. Former slaves began to leave the plantations, often pooling their capital to purchase abandoned cotton plantations, and establish villages and small holdings. By 1852, Africans had established 25 villages on lands that they purchased.⁶ The subsequent need for new labour sources by expanding plantations led to the shipment of

³ <http://www.guyana.org/history.html>.

⁴ <http://www.ppp-civic.org/history/historyppp.htm>.

⁵ <http://www.guyanapnc.org/index2.htm>.

⁶ <http://www.guyana.org/features/guyanastory/chapter54.html>.

initially Portuguese labourers and subsequently thousands of “indentured” Indian labourers, often working under slave-like conditions, during the period from 1835 until 1917⁷ when the practice ceased. Labour migration later included significant numbers of West Africans and Chinese. Interviews reveal that the influx of low-paid workers created early tensions between emancipated African communities and indentured communities blamed for reduced employment opportunities for Africans, artificially low plantation wages and increased taxes to fund new shipments of workers.

11. The colonial era thus radically altered the demographic characteristics of pre-independence British Guyana. By structuring society along ethnic lines and employing “divide and rule” policies between Indians and Africans the colonialists sowed the seeds of future ethnic division. Indo-Guyanese sources noted that Indian indentured labourers largely remained in rural areas and closely tied to the estates and plantation economy even after their indenture period had ended. While some Africans remained on sugar estates and in rural areas, many moved to towns where they became the majority of the urban working class. They took on roles as unskilled and semi-skilled workers, teachers, low-level public administrators and in the police service and military, professions in which they remain disproportionately represented today. With the discovery of gold and bauxite, Africans also moved into the growing prospecting and mining sectors in Guyana’s interior, establishing new towns of predominantly African population such as Linden.

12. Indian communities grew quickly and accumulated substantial “primitive” capital, which they used to educate their children in Guyana and abroad, and to acquire land. A new, educated and politically active Indian generation emerged, increasingly in urban areas that had previously been predominantly Afro-Guyanese. Indian capital was also used to buy and establish small businesses and property, while many educated Indo-Guyanese also began to practise law. Approaching the end of the colonial era, Guyana was a multi-ethnic society, albeit one already demonstrating ethnic fault lines based on the divisions of the past and developing inequalities.

13. Opposition to British colonial rule, however, gave them reason to unite politically. Leaders from both Indian and African ethnic groups, including Forbes Burnham and Dr. Cheddi Jagan, aligned to create the People’s Progressive Party (PPP) in January 1950. In 1953, under the leadership of Cheddi Jagan, the PPP claimed power in the first general elections under universal adult suffrage permitted by the colonial British government. However, according to numerous commentators, in the cold war climate Jagan’s Marxist/Leninist views caused suspicion in Britain and Washington.⁸ Five months after it was elected, the British suspended the constitution of Guyana, and deposed the PPP government, enforcing the move with British troops and appointing an interim government.

14. The PPP was denied the opportunity to function as a government of national unity representing working class, urban and rural, Indo- and Afro-Guyanese communities. Influenced and manipulated by internal and external forces and colonial interests, the PPP split along ethnic lines with respective sides each appealing directly to their ethnic support base. Burnham founded what eventually became the People’s National Congress (PNC). Indo- and Afro-Guyanese now became deeply politically divided as the struggle for political power became ever more salient with the prospect of independence. In 1957, the Guyanese Constitution was partially restored. Both pre-independence elections in 1957 and 1961 were won by the PPP under Dr. Jagan.

⁷ It is estimated that approximately 239,000 Indian indentured labourers were transported to British Guyana between 1838 and 1917.

⁸ The PPP’s legislative programme included repeal of the Undesirable Publications Ordinance and passage of a Labour Relations Bill, both seen by the British as part of a wider communist agenda.

15. The early 1960s saw a period of unprecedented social unrest and rioting and the increasing entrenchment of political and ethnic polarization. Amid external manipulation by the United States and Britain, including accusations of CIA activities against the PPP government, in 1963 an 80-day general strike was instigated by the predominantly Afro-Guyanese Trades Union Congress and the PNC. The PPP and PNC largely blame each other for the violence of the time, the PPP noting coordinated agitation and attacks against its supporters, and the PNC describing a PPP sponsored “terror campaign”. Several hundred people are thought to have died during this period of social unrest, one of the darkest periods of modern Guyanese history, in which much of Georgetown’s commercial district was burned. The current Government notes that it is a result of this violence that thousands of people were forced to abandon their homes and possessions and migrated internally, leaving what were ethnically mixed villages, and migrated to those with the majority of their own racial group.

16. In 1964, despite PPP claims of electoral fraud, the PNC under Forbes Burnham joined forces with the Portuguese-led United Force to form a coalition government. Guyana achieved independence on 26 May 1966, and became the Co-operative Republic of Guyana on 23 February 1970. The PNC held power until 1992, amid allegations of vote rigging. Forbes Burnham died in 1985, enabling the accession of Desmond Hoyte to the office of President. International pressure for the re-establishment of free and fair elections increased. In October 1992, in an internationally monitored election again marred by violence, the PPP-Civic alliance was returned to government, with Dr. Jagan as president once again, reversing the long political domination of the Afro-Guyanese PNC party. The PPP-Civic has retained power to the present day despite counter-accusations by the PNC of rigging of elections and subsequent political protests and boycotts. The 2006 election was documented by independent monitors to have been the most peaceful in decades and State and non-State actors were acknowledged for their contribution to its success.

17. The present Government asserts that Guyana emerged from a 28-year dictatorship by the PNC which carried out institutionalized discrimination on the basis of ethnicity and political affiliation. It claims that the PNC government discriminated against all other races, but especially Indo-Guyanese, and all supporters of the then opposition parties.

II. POLITICAL PARTICIPATION OF MINORITIES

18. According to the vast majority of those consulted by the independent expert, political polarization and ethnically based political parties in Guyana are corrosive forces in Guyanese society. Criticism of Guyana’s electoral system and calls for the establishment of a constitutionally based shared government were widely expressed. Since Guyana’s political parties are highly ethnicized, the current proportional representation system inevitably creates government dominated by one ethnic group. Most within the Afro-Guyanese community (around 30.2 per cent) felt that the numerical advantage of the Indo-Guyanese, which represent 43.5 per cent of the population with a favourable demographic trend for the near future, effectively excludes the largely Afro-Guyanese PNC from regaining government through the ballot box.

19. Additionally, women in all parties are grossly underrepresented. Notwithstanding constitutional provisions and legislation setting quotas for the number of women on electoral lists⁹ women’s participation in political processes remains generally well below acceptable levels despite notable senior government appointments of women.

⁹ There is a requirement for 30 per cent of those on electoral lists to be women.

20. Several commentators noted that they have made consistent calls for consideration of shared governance arrangements as an essential component of a more representative government and as an important conflict prevention measure. However, they consider that little progress has been made in this respect and government claims that the Cabinet is multi-ethnic are countered with charges of tokenism in the appointment of Afro- and Indigenous members who lack a political base of support or respect within their own ethnic communities.

21. Five parliamentary commissions with responsibilities in the field of human rights and equality have been authorized in the revised Constitution of Guyana. All communities and political parties agree that the establishment of all five commissions is an essential step towards rebuilding trust among communities.

22. However, to date, only the Ethnic Relations Commission is functioning.¹⁰ The Indigenous Peoples' Commission, the Women's and Gender Equality Commission, the Human Rights Commission, and the Rights of the Child Commission have not yet been created. The National Stakeholder Forum convened by President Jagdeo in February and March 2008 identified the creation of these commissions as a priority for implementation by Parliament by 28 May 2008.

23. A number of reasons have been cited by government and opposition sources as a reason for these delays, including failure to agree on the appointment of membership and charges of bad faith or lack of political will by each party against the other. The Government notes that constitutional and parliamentary provisions, agreed to by all the parliamentary political parties in the 1999-2003 period, require a two-thirds majority to appoint members to the human rights commissions. The constitutionally provided Parliamentary Standing Committee of Appointments of Members to Commissions failed to receive the two-thirds majority in 2005 (8th Parliament) to establish the Women and Gender Equality Commission and in 2007 (9th Parliament) to establish the Ethnic Relations Commission because the PNC withdrew its votes, despite unanimity in the Committee. Civil society commentators, while strongly encouraging the creation of the commissions, have noted a number of problems in their design, strategy, and principle.

24. Each of Guyana's 10 administrative regions is administered by a Regional Democratic Council (RDC) headed by a Chairman.¹¹ Opposition groups emphasized that although all regions theoretically maintain a degree of autonomy and some are under the control of opposition parties, decisions cannot be made without the authorization of the Minister for the Regions who is appointed by the Government. Accusations of discrimination arise when ministerial decisions, particularly regarding resource allocations, are favourable toward regions with ethnic characteristics that match that of the PPP.

25. The Government rejects descriptions of Guyana as "ethnically polarized", and states that this flies in the face of observable and documented occasions such as Guyana's hosting of the ICC WI World Cup Cricket in 2007 and the Caribbean Festival of Arts in 2008. It asserts that from the first free and fair elections in 1992, the Guyana Government has been striving, despite politically motivated violence, to build trust and confidence. One of the approaches has been to create various bilateral forums for dialogue between the two major parties which has been a hallmark of the political environment since 1998 to the present at different levels. The Government highlights that it signed the Herdsmarsten Accord (1998) and CARICOM St. Lucia Accord (1999), effectively giving up two years of government in order to restore peace and normalcy and return the opposition to the discussion table and Parliament.

¹⁰ However, at the time of the independent expert's visit, there were issues about whether the Ethnic Relations Commission was constituted and functioning in compliance with the Constitution.

¹¹ In addition there are Neighbourhood Democratic Councils (NDC) within each region. These operate at the local or village council level.

26. The Government notes that Guyana has a decentralized system which gives powers and some administrative autonomy to the 10 regions. It notes progress in regard to ensuring participation of all communities and highlights the multi-ethnic character of the Cabinet, which includes an Afro-Guyanese Prime Minister and Cabinet Secretary, three Amerindian ministers and six female ministers. The Government states that from 1992 it has held democratically recognized and elections accredited by international observer missions, which have resulted in ethnic, gender, geographic and political representation in the 10 regional administrations, the 65 neighbourhood councils, the 6 municipal councils. The 100 Amerindian councils and the National Toshias Council are also elected under the new Amerindian Act and have been democratically run.

III. NON-DISCRIMINATION AND EQUALITY

27. Guyana has constitutional and legislative provisions in place relating to anti-racism and non-discrimination. Article 149 of the Constitution of Guyana establishes that: (a) no law shall make any provision that is discriminatory either of itself or in its effect; and (b) no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority. The Constitution specifically prohibits discrimination based on race, place of origin, political openness, or colour.

28. The Prevention of Discrimination Act (1997) prohibits discrimination in employment, recruitment, training and membership of professional bodies and promotes equal remuneration for men and women in employment. It also applies to the provision of goods and services. The Act establishes the grounds for discrimination, and is applicable to both the public and private sector. It bans discrimination on the grounds of “any characteristic which appertains generally or is in general imputed to persons of a particular race, sex, religion colour, ethnic origin, indigenous population, national extraction, social origin, political opinion ...”. Employers may introduce affirmative action or special measures of a temporary nature to promote equality of opportunity in employment. The Racial Hostility Act prohibits acts which promote hostility or ill-will based on race.

29. The rights provisions of the Constitution and the legislative framework are enforced through the courts, and article 153 empowers the High Court to grant redress of proven allegations of rights denials. The Constitution also establishes an ombudsman office to investigate complaints of discrimination made by individuals. Article 212 of the revised Constitution also establishes five human rights commissions:¹² the Human Rights Commission, Women and Gender Commission, Rights of the Child Commission, Indigenous Peoples Commission and the Ethnic Relations Commission. At the time of the visit of the independent expert, only the Ethnic Relations Commission had been fully established and was functioning.

30. The independent expert met with senior representatives of the Ethnic Relations Commission of Guyana. Under the law, it is to be comprised of seven representatives of religious bodies, labour movement, private business sector, youth and women’s groups, nominated from civil society organizations by a parliamentary consensual mechanism agreed to by the political parties in 2003.¹³ However, at the time of the independent expert’s visit, there were issues about whether the Ethnic

¹² The Human Rights Commissions: “... shall promote the observance and respect for, and protect and investigate violations of the rights recognized in this Constitution and any other law relating to equality of opportunity and treatment.” The National Assembly passed the Rights Commissions Tribunals Act (Act No. 9 of 2004) for the establishment of a corresponding quasi-judicial Tribunal for each of these Rights Commissions to which appeals may be made.

¹³ Whilst they are not selected by civil society based on ethnicity, at present there are three Afro-Guyanese, one person of mixed race, one Portuguese and one Indo-Guyanese.

Relations Commission was constituted and functioning in compliance with the Constitution. Article 212 (D) of the Constitution of Guyana provides the functions of the Ethnic Relations Commission.¹⁴ The Commission is required, inter alia, to promote elimination of racial discrimination and equality of opportunity; promote good relations between people of different racial backgrounds; and monitor the way the race relations law is functioning and make recommendations for its improvements.

31. The Commission can provide legal advice and assistance to people who think they have been the victims of discrimination and can rule on whether or not discrimination has occurred. It can investigate companies and organizations where there is evidence of possible discrimination and encourage them to make changes to their policies and practices. It has primarily functioned by holding public hearings and issuing reports.

32. The Government notes that the Ethnic Relations Commission has submitted numerous special and annual reports to the National Assembly from its establishment in 2003 to date. It also draws attention to numerous peace meetings held by the Commission, with support from the UNDP Social Cohesion Programme. Additionally, there have been a series of cross-country multi-stakeholder forums over a six-week period prior to the 2006 elections. The Ethnic Relations Commission held a special series of public consultations on the perceived needs of the Afro-Guyanese community from 13 to 16 November 2007. The Government notes that, while documenting a number of criticisms and weaknesses, no significant issues of discrimination emerged from such processes.¹⁵ It notes that the Ethnic Relations Commission has investigated claims of discrimination but that none have been substantiated. The Department of Labour also has the authority to investigate such claims and to take corrective actions. There have been no such cases reported in the last five years.

33. The Government emphasizes that the constitutional reform process of 1999 to 2003 engaged thousands of people in cross-country consultations, led by the multiparty parliamentary Constitutional Reform Commission. Guyana prides itself on the process and the comprehensive nature of the constitutional reform as being the most distinct in the Caribbean region. Of note is that the human rights section of the Constitution is entrenched and any person can go to the courts on a constitutional motion on any perceived or real violation of their human rights.

34. However, the independent expert encountered claims of widespread and institutionalized discrimination against members of the Afro-Guyanese community and indigenous peoples. Some described the “victimization” of poor Afro-Guyanese and an informal system of rights and privileges in society to which they lack access. Others believe that long-term and deeply entrenched exclusion has resulted in the significant degeneration of sectors of Afro-Guyanese communities. The manifestations of that exclusion are increasing poverty and the attendant social problems such acts as robberies, assaults and killings, domestic violence, rape and substance abuse.

A. Employment and economic activity

35. Discrimination in employment and economic activities are considered to be endemic problems by numerous Afro-Guyanese who spoke with the independent expert. Public sector employment has historically been predominantly Afro-Guyanese while the private sector is owned by and employs a significantly higher proportion of Indo-Guyanese. Economic reforms since the late 1980s resulted in the

¹⁴ Website of the Ethnic Relations Commission: <http://www.ethnicrelations.org.gy/aboutus.php>.

¹⁵ The Government has attached a list of ERC reports which are publicly available and which also posted on the Ethnic Relations Commission website; <http://www.ethnicrelations.org.gy>; <http://www.ethnicrelations.org.gy/publications.php>; <http://www.ethnicrelations.org.gy/publications.php#reports>; <http://www.ethnicrelations.org.gy/pressr.php>.

privatization of previously public-sector industries, reducing the public-sector workforce,¹⁶ with a disproportionate impact on Afro-Guyanese jobs. Wages in the public sector are low in comparison to the private sector. Interviews reflected a perception that more Indo-Guyanese have been recruited or appointed to senior and influential positions in the public sector, police and military than Africans, fueling perceptions among Afro-Guyanese of Indo-Guyanese control of national public institutions.

36. There is a widely held belief among Afro-Guyanese that a “criminal economy” exists that is manifested in corrupt practices, unregulated activities and collusion with criminal elements. Many consider that economic policies have been formulated to benefit the Indian population at the expense of Afro-Guyanese jobs and income. Union representatives noted a trend of State support for Indian-dominated industries such as the sugar industry, while allowing the predominantly Afro-Guyanese bauxite mining industry to decline and be privatized resulting in the loss of thousands of Afro-Guyanese jobs. One union representative described a “policy to economically destroy the African people”. Another commentator stated: “Now all the public entities are being privatized, such as banks. They are going to PPP people and supporters with ‘sweetheart deals’. Previously they were owned by the people. By and large they don’t employ Afro-Guyanese now.”

37. Afro-Guyanese expressed frustration at being unable to obtain employment in Indian owned or managed firms due to their African names, their colour, or their addresses in Afro-Guyanese villages. Those with Indian surnames might be invited for interview but rejected when they are seen to be African or of mixed heritage. Discrimination is said to be manifested in negative stereotyping of Afro-Guyanese as lazy, dishonest, dirty or criminal. Afro-Guyanese experience difficulty accessing bank loans and credit, due to perceptions that they do not repay loans. Without access to credit they are unable to establish small businesses.

38. The scarcity of employment opportunities for women, particularly from Afro-Guyanese and indigenous communities, is a major concern. Women, both young and older, are being forced by poverty into crime, drug use, trafficking, and prostitution. Afro-Guyanese women spoke of the failure of many men within their community to fulfil family responsibilities. High numbers of single mothers subsequently face an extremely heavy burden of care. Child neglect is a problem within Afro-Guyanese communities.

39. Serious allegations were raised of discrimination and corruption in government procurement of goods, services and public works contracts. There is a widely held belief that government contracts are systematically awarded to companies supporting the Government, Indo-Guyanese companies, and those in which government officials have personal interests.¹⁷ In lieu of a functioning and independent public procurement commission, the tender process is the sole responsibility of the Ministry of Finance. Sources indicated to the independent expert that it lacks adequate regulation, accountability and transparency, leaving it open to substantial abuse.

40. A Public Procurement Bill was passed in 2003 establishing a National Procurement and Tender Administration Board and with a view to creating a public procurement commission, as provided in the Constitution. This commission should monitor public procurements and procedures to ensure that the procurement of goods and services and the execution of works (projects) are fair, transparent, competitive

¹⁶ The Economist Country Profile for Guyana in 2007 notes that the number of employees in central government and the State-run enterprises fell from over 55,000 in 1993 to around 35,000 by 1999 and continues to decline.

¹⁷ Transparency International’s 2008 Corruption Perceptions Index (CPI) ranked Guyana 126 out of 180 countries surveyed, assigning the country a score of 2.6 (with 10 being least corrupt and 1 being most corrupt).

and cost-effective. A stakeholder process initiated by the President on 12 March 2008 had additionally agreed that the delayed commission should be expedited within 90 days. To date, no progress has been made resulting in allegations by opposition that the Government is actively delaying the process.

41. Representatives of the Indian community, the Government and PPP party acknowledge that disparities exist between Indian and Afro-Guyanese. However, they reject allegations of discrimination, stating that causes of inequality lie in socio-economic, cultural and historical factors. A history of entrepreneurship within the Indo-Guyanese community and via the exploitation of Indian capital, labour and skills, reflects not discrimination, but relative success. Divisive allegations of discrimination and exclusion are sometimes politically motivated and exploited by the opposition they claim. The Government and the PPP reject allegations of impropriety and discrimination and note their desire for a speedy enactment of legislation and establishment of the commissions. Indo-Guyanese sources point to a lack of Afro-Guyanese firms with the capacity to compete for government contracts.

42. In contradiction to Afro-Guyanese sources, Indo-Guyanese non-governmental sources painted a more positive picture of ethnic relations and social cohesion. They noted that beyond the urban areas where divisions may appear more pronounced, many villages are ethnically mixed and that relations are harmonious, with interracial relationships being “quite common”. Public holidays and celebrations are shared events, they suggest, which all ethnic groups participate in and welcome.

43. Afro-Guyanese trade union sources consider that the Government has been actively pursuing a discriminatory policy and programmes against Afro-Guyanese. They claim that the Government is working to undermine and divide the union movement, with the aim of weakening the primarily African Guyana Trades Union Congress (GTUC). They suggest that the Government orchestrated a split in the union movement by initiating and supporting a parallel union body, the Federation of Independent Trade Unions of Guyana (FITUG). Union representatives believe that government actions are discriminatory, politically and racially motivated and an attempt to curtail the legitimate powers of the unions that have previously led to strike action over labour rights and government activities.

44. Considerable anger was expressed regarding the termination of the annual State subsidy awarded to Critchlow Labor College, which had been in place over the previous four decades. Critchlow Labor College provides “second chance” educational opportunities meeting the needs of predominantly Afro-Guyanese students, and has been seriously restricted in its activities and student intake. The annual subsidy reportedly amounted to some 48 per cent of the College’s operating costs. Its withdrawal has resulted in a dramatic fall in student intake, reportedly from about 2,600 (98 per cent of whom were Afro-Guyanese) to only about 200 students, and a 90 per cent reduction in staffing. Civil society groups expressed the opinion that termination of the grant is politically and racially motivated.

45. Funding for Critchlow Labor College was reportedly approved by the National Assembly but subsequently blocked by the Government, initially on the grounds of failure to submit audited accounts. Reportedly, when accounting issues had been satisfactorily addressed, the continuing refusal to release funds was claimed by the Government to be due to the split in the union movement that it is accused of orchestrating.

46. Union representatives raised further concerns regarding the Government’s alleged misappropriation of the bauxite industry pension fund, considered to be the largest pool of capital owned by Africans in Guyana. They consider the fund to have been “dismantled” to the extent that former workers will not receive an adequate pension. In contrast they point out that the Government injected G\$ 1.1 billion into the Guysuco pension fund to ensure the pensions of predominantly Indo-Guyanese sugar industry workers.

47. The Government refutes any accusation of discrimination in employment practices and economic activity. It asserts that Guyana's challenges relate to it still being a poor country with scarce resources. Guyana's debt in 1992 was over US\$ 2 billion, and it had one of the highest per capita debt ratios in the developing world. The Government says it has advocated and practised a pro-people pro-poor policy and instituted programmes to reflect this policy in health, education, water, housing, social safety nets, etc.

48. The Government affirms that unemployment is not specific to Afro-Guyanese but results from a combination of various factors, such as the state of the economy and investments, continued reliance on primary products for export, educational levels and cultural norms. Labour force participation among the 15- to 64-year-old population is only 60 per cent. One of the reasons contributing to this has been the low participation of women in the formal labour force (only 37 per cent women versus 84 per cent men); however, this has not been found to be specific to any ethnic group. The Government notes that regarding the ethnic composition of the public service, the representation of Afro-Guyanese has reduced from 90 per cent to 70 per cent. In the Disciplined Forces other ethnic groups have always been in a minority, from the 1960s until present. It notes significant investment in education as well as in two major programmes fully financed for second chance opportunities for youth up to the age of 29, run by the Ministry of Culture, Youth and Sport, and the Ministry of Labour as well offers training and job placements for youth and youth at risk.

B. Land and housing

49. Concerns were expressed regarding the issue of ownership of lands by Afro-Guyanese. In the post-slavery era many Africans pooled their capital to collectively buy lands. Issues including lack of title documents, complexities related to shared ownership and lands subsequently leased to others (non-African) have created a complex situation in regard to proving and regaining ownership. Some who have leased lands now claim ownership rights over them. The PNC supported a motion in Parliament to establish a commission to address Afro-Guyanese ancestral land rights, which however was defeated by the PPP Parliamentary majority,¹⁸ and the issue has faced continued neglect.

50. Neighbourhoods and villages such as Lusignan and Buxton are virtually ethnically homogeneous and clearly identified as Afro- or Indo-Guyanese. Commentators noted that historically there had been a greater ethnic mix but that distinct ethnic enclaves had emerged from the social unrest of the 1960s onwards. Visits to Buxton and a tour of the Georgetown area revealed visibly poorer Afro-Guyanese neighbourhoods, some of which lacked basic facilities such as adequate toilet facilities. Allegations persist of discrimination in allocation of housing and the maintenance and provision of infrastructure to African areas vis-à-vis those of Indo-Guyanese. Low wages, high unemployment levels and lack of credit among Afro-Guyanese communities contribute to poor housing quality and maintenance.

51. In response, the Government asserts that no part of Georgetown is ethnically homogenous. Further, it explains that between 2002 and 2008, the Buxton community was occupied by criminal gangs who made it virtually impossible for any government upgrade programmes to be undertaken in the community as the workers were being attacked. Many families abandoned their houses in terror of the gang. It points to a policy of providing housing lots for members of all communities without discrimination under new government housing programmes (commenced in 1994 and continuing to the present) which are multi-ethnic and geographically diverse. It notes that over 80,000 new housing plots have been allocated with 50,000 given to lowest income families from all communities. It reports that the major ethnic groups have received fair proportions on the basis of their respective demographics in each region, as evidenced by housing statistics. It also noted that the housing policy is based on a fundamental

¹⁸ The Government notes that the motion was amended and passed in the National Assembly in July 2007.

aim to provide improved circumstances and better living conditions to those in need irrespective of ethnicity.

C. Access to justice

52. Articles 123 to 133 and 198 to 199 of the Constitution of Guyana and the Administration of Justice Act provide the legislative basis for Guyana's judicial system. Guyana has a three-tier judicial system consisting of the Magistrates Court, High Court and Court of Appeal. The Caribbean Court of Justice is the final court of appeal.

53. The justice system and security services are considered inefficient and ineffective. Sources described a consistent failure of due process; enquiries not begun or never finished; extreme delays in judicial proceedings leading to long-term detention without trial; cases that do not go to court or that are stymied by lack of evidence; and unwillingness of victims to engage with the legal system out of fear of recriminations.

54. Women spoke of a disturbing culture of domestic violence, often fuelled by poverty and unemployment and exacerbated by alcohol. One woman stated that: "It is simply true that as a society we believe in beating women and children." They called for greater attention to tackling root causes and to long-term initiatives rather than simply devoting funding to policing and a justice sector which they felt consistently fails women. Participants described the courtroom as "a hostile environment for women" in which domestic violence and abuse cases are not treated seriously if they come to court at all. Some women noted a lack of consistency and focus in policies to address access to justice for women generally, in spite of the Domestic Violence Act. The Government notes a number of initiatives taken to reduce violence against women and children. It consulted countrywide and passed the Domestic Violence Act in 1997. A new comprehensive policy document "Stamp it out" on violence against women and children has also been taken throughout the country for examination and improvement.

55. Concerns were raised about appointments to senior judicial posts and regarding alleged discrimination. It was stated that, having failed to reach the required political agreement, the use of a number of "acting" positions effectively enables the Government to appoint its preferred candidates for senior magistrates and judges despite opposition objections. It was also alleged that the Chief Magistrate of Guyana, Afro-Guyanese Juliet Holder-Allen, was removed from office due to ethnic prejudices and her treatment of politically sensitive cases including investigations into police killings and illegal government activities.

56. Court of Appeal Amendment Bill No. 12 of 2008, debated by Guyana's National Assembly during the independent expert's visit,¹⁹ provides the Director of Public Prosecutions with the possibility to appeal an acquittal handed down by a judge and jury of Guyana's High Court. Some expressed the concern that if passed, it would allow a government appeal process to ultimately be taken up to the Caribbean Court of Justice. The accused would be liable to remain in custody despite previous lower court and jury acquittal. Opponents claim a serious attack on the judicial system and civil liberties targeted at Afro-Guyanese and political opposition.

57. The Committee on the Elimination of Racial Discrimination notes that only a few complaints of racial discrimination have been brought before Guyana's Ethnic Relations Commission and none before

¹⁹ The bill in question was in July 2008 sent to a parliamentary special select committee for review prior to its resubmission to the National Assembly where it remains.

the courts. In its concluding observations the Committee (CERD/C/GUY/CO/14) noted the lack of information on the practical application of criminal and other legislation aimed at eliminating racial discrimination.

58. The Government notes that failure to bring discrimination cases before the courts is partly attributed to the high standard of proof required in judicial proceedings and to the difficulties to secure witnesses. It asserts that Guyana's judiciary reflects the ethnic and gender make-up of wider Guyanese society. The Government notes that it has made significant efforts to address ethnic imbalance in the police and security services with limited success, but that there continues to be reluctance on the part of Indo-Guyanese to join such services due to historical issues. Problems in regard to senior appointments are considered to be largely due to the failure of political negotiations with the opposition PNC in regard to appropriate candidates. The Government notes that it has contributed financially to the Guyana Legal Aid Clinic to assist it in expanding the provision of legal services to the poor in 7 of the 10 regions.

D. Media

59. The independent expert was informed of problems in regard of equal access to the media and suppression of media freedoms. Issues raised include that restrictions are imposed on issuing licences for Afro-Guyanese broadcasters; that the Government maintains a monopoly over radio broadcasts; bias in reporting of violent events which has exacerbated ethnic tensions; unequal provision of cultural programming; and that media time allocation for political opposition to raise their issues is restricted, especially prior to elections.

60. The Government owns and operates two radio stations broadcasting on several frequencies, reportedly the only media that reaches the entire country. Criticism is levelled at the Government for its failure to approve longstanding requests for private radio frequency authorizations. The President's dual role as Minister of Communications provides him with ultimate authority over media access and licensing, which is considered inappropriate.

61. A frequently mentioned incident is the suspension of broadcasting of CNS Channel Six television for infringing its licence after an outside caller to the programme "Voice of the People" referred to killing the President. The suspension is considered by many in the Afro-Guyanese community as an example of excessive media censorship. In another incident, a journalist with the privately owned Capitol News was allegedly banned from access to the office of the President following his critical coverage of an event attended by the President. *Stabroek News*, an independent daily newspaper in Guyana, has claimed that the Government Information Agency (GINA) has withdrawn State advertising with the newspaper due to its often critical stance. The PNC has called for the enactment of broadcast legislation to end political control over the media and to establish an independent national broadcasting authority; equitable access by the parliamentary opposition parties to the State-owned media; and an end to the State monopoly on radio broadcasts.

62. The Government asserts that a free and independent media exists and is vocal in its criticism of the Government; 18 privately owned television stations operate across 7 of the 10 administrative regions.²⁰ It states that the majority give no or limited coverage to the ruling parliamentary party, while State-owned media equally does not provide preferential coverage. The Government emphasizes that a number of television stations tailor their programme content to specific ethnic communities, without restriction.

²⁰ Of these the ethnic ownership of 14 are known; 7 are owned by Afro-Guyanese, 5 by Indo-Guyanese and 2 by Portuguese Guyanese.

63. The Government characterizes the media as “a potent source of racial incitement”²¹ and justifies some restrictions to media freedoms on these grounds. The Racial Hostility Act 1997 and its subsequent amendment in 2002 was a direct result of unbridled racial incitements surrounding the 1997 and 2001 national elections. Subsequently this led to the adoption of a Code of Conduct for the media houses and the establishment of the Media Monitoring Unit run by a team of Caribbean media observers leading up to and during the 2006 elections.²² The Government notes that when it attempts to enforce legitimate legal restrictions, it faces racial indignation and charges of discrimination. It rejects allegations that it unfairly allocates access to the media and points instead to the commercial nature of media transactions including coverage of political parties.

IV. PROTECTION AGAINST VIOLENCE

64. In every meeting held by the independent expert with members of the Afro-Guyanese community she was told of a climate of fear based on recent violent events. The distrust of government security forces is palpable and there is what seems to be a fairly consistent narrative of use of excessive force and impunity. The distrust is enhanced by the fact that communities are highly segregated along ethnic lines, economically and socially unequal and politically polarized. Guyana’s history of violent protest, particularly associated with elections, is significant amid claims that current tensions have created a significantly higher risk of ethnically based violence.

65. Concerns were expressed by Afro-Guyanese and others regarding numerous killings of young Afro-Guyanese men from 2002 to the present day, and the existence of what has been described as a “phantom death squad”. A wide array of people within the community put the number of deaths at between 200 and 400. The reports note execution style killings, disappearances and failure to adequately record or investigate the murders. The perception is of a collusion of Government and law enforcement with known criminals to facilitate the targeting and killing of young African males known to the security services. Civil society groups have described a history and culture of violent policing in Guyana and have catalogued fatal police shootings.²³ Between 1980 and 2001, out of a total of 239 fatal shootings, 78 per cent were of Afro-Guyanese individuals.

66. An extreme climate of suspicion and conspiracy theory persists within the Afro-Guyanese community and threatens to undermine social stability. There is a widespread sense that there is a systematic effort to exclude them as an ethnic group from positions of influence, power or economic status. They described a growing “resistance movement” among Afro-Guyanese in response to exclusion and discrimination, which is labelled by the Government as simply criminal activity. One commentator stated: “Moderate voices are increasingly being drowned out by more radical elements and racially divisive opinions”.

²¹ CERD/C/472/Add.1.

²² The Racial Hostility Act (1997), Chapter 23:01 makes provision for preventing conduct tending to excite hostility or ill-will against persons by reason of their race. The Racial Hostility Amendment Act No. 9 of 2002 provides for increased penalties for the commission of offences and evidential issues. In addition, the Representation of the People (Amendment) Act No. 1 of 2001 also states that it is a criminal offence for any person to make or publish or cause to be made or published any statement or take any action that results in or can result in racial or ethnic violence or hatred among people.

²³ Guyana Human Rights Association. *Ambivalent About Violence: A Report on Fatal Shootings By the Police in Guyana 1980-2001*, February 2002.

67. In January 2008, ethnic tensions were heightened considerably by the massacre of 11 Indo-Guyanese, including several children, in the Indian village of Lusignan. The Lusignan massacre reportedly fuelled anti-African sentiment, as the blame was assigned to Afro-Guyanese gangs. In February 2008, 12 police and community members of various ethnicities were killed in the town of Bartica. The killing of Afro-Guyanese miners at Lindo Creek in June served to further deepen tensions and concerns among all communities regarding security. Lack of adequate and transparent investigation into these atrocities has resulted in a high level of speculation as to the identity of perpetrators and the possible racial motivation for these killings.

68. The joint security services operations in villages such as the predominantly African Buxton have caused anger and resentment among community members who feel targeted and feel that their entire community is treated as a population of criminals. They described being “besieged” by the “joint services” (made up of members of the Guyana Defence Force and the police) during operations such as “Restore Order”. They voiced anger at the ransacking of homes and wholesale destruction of village farmland, which were purportedly sheltering criminals. The joint services are widely blamed within the community for exchanges of gunfire resulting in deaths of innocent civilians.

69. The security services have been severely criticized by all groups. Indo-Guyanese staged protests following the Lusignan massacre, claiming that the predominantly Afro-Guyanese forces were failing in their duty to protect the Indian community or bring perpetrators to justice.

70. NGOs and community members raised concerns regarding serious rights violations against Afro-Guyanese including arbitrary detention without trial, torture, deaths and mistreatment in custody, and killings of innocent civilians during operations by the joint services. Restrictions on media access and freedom of expression were also highlighted. It is claimed that, taken as a whole, these evidence a wider pattern and practice of gross rights violations against Afro-Guyanese and a failure of due process and the rule of law.

71. The Government acknowledges that periods of electoral and criminal violence have terrified people of all ethnic, class, religious and political persuasion. Violent crime and violent gangs which terrorized the country from 2002-2008 were sparked by a 2002 prison break and were the cause of fear and terror.²⁴ Notorious gangs killed and maimed over 500 people within a six-year period. The gangs were to a majority, but not exclusively, Afro-Guyanese,²⁵ and terrorized communities. It notes that an overwhelming and broad-based appeal for the Government to stop the violence, especially after the Lusignan and Bartica massacres, led to the birth of the National Stakeholders Forum in February 2008, led by the President himself.

72. The Government asserts that the Joint Services acted on the urging of the National Stakeholders Forum convened by the President in March 2008, to rout the criminals out from their safe havens. Machines were brought in to legitimately clear land in Buxton used as a refuge for criminals. A farmers’ committee in Buxton was formed which worked with the Ministry of Agriculture where they received compensation, fertilizers and seeds to allow them to return to their farming area.

²⁴ The President through Parliament appointed a special commission of inquiry into the Disciplined Forces in 2003-2004. This Commission met and held hearings and took evidence. Its report tabled in the National Assembly in 2004 was put before a Parliamentary Special Select Committee in the 8th and now the 9th Parliament.

²⁵ The Government notes that it has never referred to gangs as “Afro-Guyanese”.

73. The Government totally rejects all accusations of torture, of operating covert death squads and of collusion with criminal elements to kill Afro-Guyanese individuals. It highlights the legitimate need to conduct security operations against criminal elements such as the “Fineman” gang, believed to be implicated in the Lusignan and Bartica massacres. It emphasizes that certain Afro-Guyanese gangs are embedded in communities such as Buxton, and that this is what necessitates concerted joint services operations in such localities. The Government acknowledges civilian deaths but lays the blame on gang members operating out of civilian areas. It notes that two persons were apprehended in connection with the Lusignan massacre and two in the Bartica massacre. Both are in prison on remand and they are Afro-Guyanese, known criminals with previous convictions. Significantly, on 29 August 2008 the media reported that Rondell “Fineman” Rawlins and key gang members were shot and killed in a joint services operation.

V. IDENTITY, LANGUAGE, CULTURE AND RELIGION

74. Guyana’s different ethnic and religious groups are free to practise, promote and enjoy aspects of their cultural identity and religion. Civil society organizations representing the Afro-Guyanese and Indo-Guyanese communities are extremely active in this respect. They promote cultural activities, inspire youth and community action and engage in a wide range of projects and programmes of a cultural, educational and community development nature.

75. Poverty, unemployment and poor living conditions undoubtedly impact on the full enjoyment of cultural life for some communities from all ethnic groups. However conditions of economic hardship appear to be disproportionately experienced by Afro-Guyanese communities. Inevitably, daily subsistence issues take priority over aspects of cultural life that may require individual, family and community resources. Concerns related to security have also evidently impacted on cultural life. It was noted that the Afro-Guyanese Buxton village did not hold a torchlight parade in the community to celebrate Emancipation Day on 1 August 2008, for the first time in many years. Buxton community members expressed considerable trauma relating to joint services operations, curfews, deaths of some individuals, the ransacking of dwellings, and general fear of further violence.

76. Claims were made that media restrictions exist that limit the amount of African-oriented television and radio programming available and the amount of media coverage available to political opposition groups. It is claimed that this is a deliberate policy on the part of the Government. In some regions, only Government-controlled radio is available.

77. The Constitution provides for freedom of religion, and this is generally considered to be well respected in practice. The Inter-Religious Organization of Guyana including senior representatives of Guyana’s Christian, Hindu, Islamic and Baha’i faith groups, expressed satisfaction with the degree of protection and promotion of religious freedom. Members noted that in Guyana there is a high degree of religious affiliation and that religious institutions and leaders have considerable influence among members of their respective faith groups.

78. The Government highlights that religious festivals and holidays of all main religious groups are recognized. The celebration of Arrival Day in May recognizes all those hundreds of thousands who were brought over the centuries as slaves and as indentured labourers. In October, there is a celebration of Emancipation Day and Amerindian Heritage Month.

79. The Government notes the impact of criminal activity on cultural life and highlights that since the village of Buxton was under siege by the criminal gang (majority not Buxtonians) the traditional August celebrations to mark Emancipation Day had been severely curtailed by this reality. It rejects any accusations of discrimination in relation to the awarding of grants for such things as cultural activities and institutions.

VI. CONCLUSIONS AND RECOMMENDATIONS OF THE INDEPENDENT EXPERT

80. The current Government of Guyana must be commended on the steps it has taken to date to address issues of ethnic tensions, criminal activities and economic underdevelopment. Those efforts, while substantial, have been far from sufficient to generate trust and a sense of cooperation across ethnic groups.

81. All groups in Guyana, Afro-Guyanese, Indo-Guyanese, indigenous peoples and others, have contributed immensely to the economic development and cultural wealth of Guyana. While the histories of these communities have been different, most have suffered hardships, historical injustices and gross human rights violations that must be acknowledged. All have suffered from the destructive impact and legacy of colonial rule, while contributing their labour and their lives to building the modern Guyana. Additionally, it should be acknowledged that injustices have been done in the post-colonial era, sometimes under short-sighted or misguided leadership and often in the interests of achieving and maintaining power. Ethnicity has been grossly manipulated as a political tool.

82. As identified by the Special Rapporteur on contemporary forms of racism in 2003, the harsh reality is one of ethnic polarization among Guyanese of African, Indian and indigenous descent. This polarization, starkly reflected in the ethnic composition of the political parties, is reproduced in State institutions, particularly in the army and the police. Yet the people of Guyana desire a different future of security, prosperity and shared development. They acknowledge that all communities deserve and must have a stake in that future. For reconciliation to take place, a climate of trust must be established. The challenges that exist, both historic and current, must be confronted collectively.

83. Ethnically based divisions and politics have created two separate and conflicting narratives and perceptions of reality in Guyana. On the part of the Afro-Guyanese, there is a widely held belief that they are discriminated against by an Indian-dominated and supported Government that puts Indian interests to the fore, particularly in resource allocation, government contracts and employment. On the part of the Indian-Guyanese, there is a belief that an Afro-centric political opposition, if in power, would settle political scores and work solely in the interests of Afro-Guyanese. On the basis of recent atrocities and ongoing killings, both ethnic groups currently perceive a heightened threat of violence from the other. Many believe this threat to be sanctioned or supported to some extent by the opposite political party. Rumours and conspiracy theory are rife and are being exploited by those who might seek to fuel ethnic tensions for their own ends.

84. In July 2003, the Special Rapporteur on contemporary forms of racism highlighted that he found that every level of Guyanese society is permeated by a profound moral, emotional and political fatigue, arising out of the individual and collective impact of ethnic polarization. Five years later, the independent expert visited communities that are moving from malaise, in some instances, into despair, anger and resistance. This is particularly evident in Afro-Guyanese communities.

85. The stigmatization of young Afro-Guyanese males and entire African communities is a serious concern. Derogatory stereotypes of criminality colour wider societal perceptions of Afro-Guyanese individuals and communities. Operations such as “Restore Order” focused on Buxton and other Afro-Guyanese communities add to the perception that they constitute a “problem” to be solved by security and law enforcement means. Buxtonians believe there is a presumption of criminality used to justify subsequent excessive force in the conduct of joint services operations in their community and that illegal covert “security” forces have been sanctioned to operate in Guyana.

86. Guyana must take immediate steps towards healing the wounds of history and those inflicted by recent events. It must close the widening fault lines that exist between communities and take all necessary steps to avoid a decline into lawlessness, impunity and ethnically based conflict. Short and long-term strategies, developed in consultation with all communities, must be put in place to address immediate concerns and the root causes of tensions that threaten to break out into violence. It is vital in the current climate of suspicion in Guyana to build trust between communities and faith in public institutions and in government.

87. For Guyana to progress, it cannot be acceptable for there to be an understanding, real or perceived, that the Government is an Indian administration working in the interest of Indians and that the opposition is African; that an Indian employer will recruit only an Indian worker; that public contracts will be granted on the basis of ethnicity; that the police and military are African institutions; that crime is a problem centred in the African community; or that certain villages are exclusively African or Indian.

88. A period of democratic dialogue under which the main political parties had agreed, on the basis of a joint communiqué on 6 May 2003, to work together to find solutions in the interests of all Guyanese people failed to achieve tangible results. Despite the initiation of numerous such political processes, little meaningful impact has been achieved. This has undermined confidence in political processes, particularly among Afro-Guyanese communities that feel politically disenfranchised. Reforms must be far reaching and highly consultative. However processes must be time-bound, action-oriented, and must lead to concrete, achievable outcomes.

89. The independent expert considers that previous conclusions and recommendations, including those of the Special Rapporteur on contemporary forms of racism and the concluding observations of the Committee on the Elimination of Racial Discrimination of April 2006, remain highly relevant and she fully endorses them. However, with few exceptions, they have not been implemented. The Government of Guyana, all political parties, non-governmental organizations, and other stakeholders are urged to fully implement those recommendations as a roadmap for equality, non-discrimination and respect for human rights which these collective recommendations provide.

90. The Government, all political parties, and religious, cultural and civil society groups representing different communities should take responsibility to reach out beyond the ethnic divide and to build bridges between communities. Moderate and conciliatory voices among all communities must come to the fore.

91. The Government should take steps to respond convincingly to perceptions that the Afro-Guyanese community as a whole has been targeted during actions by the joint services resulting in arbitrary detention without trial, torture, deaths and mistreatment in custody, and other extrajudicial killings. Numerous specific cases brought to the attention of the independent expert reveal issues with respect to thorough and transparent conduct of investigations, due process and the rule of law. Urgent independent review of Guyana's security and law enforcement services and justice system is required.

92. The Government and both political parties should take full responsibility to ensure that decisions taken to resolve conflicts are fully implemented. In February and March 2008, the National Stakeholder Forum was convened and brought together all the parliamentary parties and a broad cross-section of civil society organizations. To date, this process and the positive consultation and dialogue that it established, has not materialized into concrete, institutionalized forms of cooperation and conflict resolution. The independent expert recommends that the following decisions of the national stakeholder process be implemented as a matter of urgency:

1. Establish as a matter of urgency a new Parliamentary Standing Committee on National Security with ministerial representation²⁶
2. Expedite the appointment of those constitutional commissions which are key features of the governance framework and still have not been established. Guarantee that those who are appointed as commissioners have credibility with all communities
3. Convene and activate the Parliamentary Constitutional Reform Committee to address issues presently before it and to examine further areas for constitutional reform
4. Ensure the meaningful and effective participation of civil society in these parliamentary processes
5. Explore an agreed mechanism for the continuation of the National Stakeholders' Forum

93. An open and constructive dialogue on inclusive governance, as envisaged in the 6 May 2003 communiqué and the follow-up agreement of 18 June, remains an essential component of a new political climate of cooperation. The Government should demonstrate leadership by meeting the preconditions set in those agreements and initiating such a dialogue with all stakeholders at the earliest opportunity. Included in the agenda should be models used in other countries with deeply divided ethnic communities to encourage the formation of multi-ethnic political parties.

94. The Government should demonstrate support for educational and cultural projects established by institutions and organizations within the Afro-Guyanese community and facilitate funding for those projects.

95. Restrictions on the media and freedom of expression should be lifted and legal definitions of the offences of "treason" should be evaluated as against international standards of freedom of expression. The Government should consider whether having the President also holding the portfolio of Minister of Communication has a chilling effect on freedom of expression in the current highly polarized context of Guyana.

96. A lack of disaggregated statistical data in all sectors hampers detailed and rigorous analysis of the relative situations of different ethnic groups in Guyana. Disaggregated data should be collected on a voluntary and confidential basis, and analysed to reveal the extent of inequality and to enable informed policy decisions. Such data should be used to fashion aggressive targeted affirmative action programmes to address the economic, educational and social inequalities that exist in the Afro-Guyanese communities comparative to those in the Indo-Guyanese communities.

97. There is a lack of information on the impact of the anti-discrimination provisions of the Constitution and legislation. The Government should establish a programme to monitor the extent to which these provisions have been used as the basis for criminal or other legal proceedings and what the outcomes have been. There should also be a data-driven evaluation of the Office of the Ombudsman and the Ethnic Relations Commission. That should lead to a re-evaluation of whether additional, more effective mechanisms should be created to tackle aggressively ethnic discrimination. This should be part of a national plan of action as called for in the Durban Programme of Action.

²⁶ In a memorandum to the independent expert, the Government advises that the National Assembly approved the constitutional amendment required on 29 January 2009 with the Government and two of the three opposition parties (the AFC and GAP).