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International Human Rights Clinic
The United States of America**

Shadow Report on the Republic of Guyana
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Executive Summary

The International Human Rights Clinic of the University of Oklahoma College of Law submits the following shadow report to the Eighth Periodic Review of the United Nations Human Rights Council. Specifically, the report concerns the indigenous peoples of Guyana, and surveys Guyana's compliance with certain human rights obligations. The report focuses on the selected areas of environmental degradation (mining and deforestation), sex work and human trafficking, and the rights to health and education.

In the area of environmental degradation, domestic law addresses, but does not completely prevent negative environmental effects associated with the two major industries located in the interior of the country where indigenous people live—mining and logging. The byproducts of these industries include pollution, the loss of Amerindian land rights, and the destruction of native species. Deforestation also contributes to climate change, which further exacerbates negative environmental effects.

The mining and logging industries also contribute to the already existing problems of prostitution and human trafficking. People associated with these industries create a market for prostitution near work sites and towns, in addition to a lack of economic opportunity. Migration away from these industries and their environmental degradation increases the likelihood of human trafficking.

The negative ramifications of environmental degradation, prostitution and human trafficking all exacerbate existing health disparities between indigenous people and other Guyanese. Amerindians tend to lag behind in leading health indicators such as infant mortality. Low levels of educational attainment limit employment opportunities for Amerindians, preventing the attainment of an adequate standard of living, further contributing to poverty and health problems.

Guyana has taken measures to increase its compliance with its international obligations in each of these identified areas. Guyana has strengthened indigenous land claims by requiring the approval of mining projects by indigenous groups. Forest policies minimize logging concessions. Guyana has addressed human exploitation by enacting legislation to combat sexual exploitation and human trafficking. Additionally, the National Task Force is dedicated to preventing trafficking and protecting its victims. Guyana has also taken great strides in improving the health and educational opportunities for indigenous communities. The government has taken a proactive approach to combating disease. There have been improvements in the number of educational programs offered in the interior. Further, there are several educational scholarships available to indigenous students.

Each section includes a series of recommendations for continuing Guyana's domestic accomplishments and maintaining fidelity to its international commitments and obligations.

I. ENVIRONMENTAL DEGRADATION

A. MINING

Normative and Institutional Frameworks

International Provisions: Article 8, Section 2 of the Declaration on the Rights of Indigenous Peoples encourages states to “provide effective mechanisms for the prevention of and redress for...any action which has the aim or effect of dispossessing them of their lands, territories, or resources.” Furthermore, Article 1 of the International Covenant on Economic, Social and Cultural Rights establishes that “all peoples have the right of self-determination.” Additionally it grants that all may “freely pursue their economic, social and cultural development.”

Domestic Undertakings: By its terms, the domestic law of Guyana protects from mining “all lands occupied or used by Amerindian communities”; however, the government narrowly construes that protection as relating only to land with government-issued title, leaving other indigenous lands subject to mining.¹ Additionally, some types of mining are even allowed in titled land. Indigenous peoples in Guyana lay claim to vast tracts of land in the interior of the country. Only a very small portion of this land has official title issued by the government, with the rest remaining vulnerable to myriad commercial mining interests. This has the effect, in some cases, of allowing the dispossession of indigenous land, territory, and resources. Domestic law in Guyana requires miners to obtain a two-thirds vote of indigenous communities before proceeding with mining, but even where this might be done, the Minister of Mines reserves the ability to disregard it.²

Human Rights on the Ground

Domestic law that protects indigenous land is generally unenforced, and injunctive relief in Guyanese courts is difficult. This allows for mining interests to swarm across much of the interior of the country with minimal regulation. The resulting damage to Amerindian lands includes the collapse of fish stocks, pollution of useful waterways, desecration of sacred or religious sites, and mercury pollution that causes poisoning to animals and indigenous peoples. The economic impact on Amerindian communities has been notable, because the subsistence economy has been disrupted by pollution and dislocation. Guyana does not currently provide the free assistance of counsel to indigent persons, and court systems are not available in the interior areas of the country where many of these illegal acts take place. It is impractical to expect travel to the coastal cities to adjudicate each and every legal claim. Guyana is not currently a party to the American Convention on Human Rights, which could help alleviate some of the problems with judicial redress for Indigenous peoples in Guyana

Recommendations

- Invest further resources into the enforcement of domestic mining laws, including an increase in the number of paid field officers.

¹ See Amerindian Act of 1976. Laws of Guyana, Chapter 29:01. Section 22. (Guy.) See also, Mining Act of 1989. Laws of Guyana, Chapter 65:01. Section 111. (Guy.).

² Amerindian Act of 2006, §§ 48, 50 (Guy.).

- Cooperate with indigenous leaders and honor legal title to indigenous land.
- Strengthen court systems in the interior areas of the state, and make efforts to provide counsel to indigenous persons in order to protect their land.
- Amend the Amerindian Act to revoke the veto power of the Minister of Mines.

B. DEFORESTATION

Normative and Institutional Frameworks

International Provisions: The Convention on Biological Diversity requires parties to “adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity,” including the “ecological complexes” in which living organisms reside. Article 29 of the Declaration on the Rights on Indigenous Peoples suggests evidence of a customary international law obligation when it states that indigenous peoples should “have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.” Furthermore, Article 1 of the International Covenant on Economic, Social and Cultural Rights provides that all peoples have the right to self-determination.

Domestic Undertakings: The Government of Guyana promulgated its National Forestry Policy (NFP) in 1997. The NFP seeks to promote the “conservation, protection, management and utilization of the nation’s forest resources, while ensuring that the productive capacity of the forests for both goods and services is maintained or enhanced.” Nevertheless, some past decisions regarding natural resources have favored transnational corporations at the expense of forest protection. The government has recently promoted a policy of “avoided deforestation” which rejects logging concessions in favor of forest preservation in exchange for foreign aid. Avoided deforestation is not rewarded by current international environmental regulatory schemes which attempt to remedy deforestation that has already occurred rather than providing incentives not to cut down forests in the first place. The government also has sought more support for its nascent ecotourism industry, which could potentially strengthen indigenous autonomy and provide employment opportunities for indigenous peoples.

Human Rights on the Ground

While deforestation rates remain low, deforestation holds a multitude of negative ramifications for indigenous peoples. The destruction of the forests negatively impacts the subsistence needs of indigenous communities. The loss of forestlands depletes both food and fuel resources. Deforestation contributes to soil erosion, decreasing crop yields. The loss of traditional lands forces many indigenous people to migrate to cities where they face discrimination and are susceptible to exploitive practices such as human trafficking. Deforestation also contributes to climate change, with lower precipitation totals and climate drying contributing to further deforestation through drought-induced tree mortality and fire. Indigenous peoples bear the brunt of the consequences of climate change because of their dependence upon, and close relationship with the environment and its resources.

Recommendations

- Strengthen Amerindian land rights to facilitate indigenous community forest management.
- Encourage the further development of alternative industries to exploitive ones, such as eco-tourism, that strengthen tribal land bases and maximize indigenous autonomy and decision-making.

II. SEX WORK AND HUMAN TRAFFICKING

Normative and Institutional Frameworks

International Provisions: Guyana has ratified the CRC, ICCPR, ICESCR, CEDAW and has acceded to the Human Trafficking Protocol. As a party to these treaties Guyana must undertake preventative, protective, legislative, and administrative measures to ensure that adults and minors are not subject to exploitation.

Domestic Undertakings: Guyana enacted The Combating of Trafficking in Persons Act of 2005 which prohibits all forms of Trafficking in Persons in Guyana, created an Inter-Agency National Task Force and developed a National Plan of Action to combat human trafficking. The government has also enacted legislation through the Criminal Offences Act criminalizing economic and social exploitation of adults and minors. Preventive measures have been taken in the establishment of shelters for victims of trafficking and sexual exploitation. The Guyanese government has also offered workshops and a campaign against sexual exploitation and trafficking.

Human Rights on the Ground

The majority of Guyana's sex work and trafficking occurs within Guyana. Lack of adequate education and employment opportunities encourage many Amerindian women to engage in sex work to supplement their income. Sex work and trafficking also develop alongside industries like mining. Many Amerindian women are manipulated and lured into prostitution by false promises of work in guesthouses, restaurants, and shops on the coast. Guyana has taken measures to ensure that information on the dangers of human trafficking and sex work is disseminated to the public. However, the remoteness of the hinterland makes it difficult for information to be transmitted to Amerindians. One such effort by the government was to release a report by the National Task Force in 2008; however, the data collected provided inconclusive information on Amerindians and exploitation.

Recommendations

- Take efforts to ensure that information on sexual exploitation and trafficking is being disseminated to the hinterlands.
- Enforce laws against human trafficking and prostitution by more effectively educating the police force and judicial bodies.
- Educate Amerindians giving them the more employment opportunities to provide for their families.
- Include ample information and data in the next report released by the National Task Force.

III. HEALTH AND EDUCATION

Normative and Institutional Frameworks

International Provisions: Article 25 of the Universal Declaration of Human Rights states that everyone has the right to a standard of living adequate for the health of himself, including medical care and necessary social services. Article 26 states that everyone has the right to an education. Article 21 of the UN Declaration on the Rights of Indigenous Peoples provides that indigenous peoples have the right to improvement in their economic and social conditions including in the areas of education and health. Furthermore, Article 19 of the Convention on the Rights of the Child directs states to take appropriate education reforms to protect children from physical violence, injury or abuse.

Domestic Undertakings: Guyana provides free healthcare to its citizens, although indigenous people tend to receive the lowest level of healthcare, for example, in the form of health huts. The Guyanese government is attempting to improve healthcare and combat many treatable health problems by vaccinating regularly throughout the interior and promoting a strong HIV awareness program that targets populations, including indigenous communities, that are especially vulnerable to sexually transmitted diseases. Guyana provides universal education for all citizens and has implemented various projects to enhance the educational advancement of indigenous people such as the Secondary Schools Reform Project, designed to upgrade education in the first three grades of Amerindian secondary school. Additionally, the government awards scholarships to secondary, vocational and tertiary schools in the cities. All Amerindian communities have access to nursery, primary schools, and residential secondary schools. The Guyanese government has renovated older schools and built new schools. Not all of the schools in the hinterland regions are modernized, however.

Human Rights on the Ground

Health issues affecting Amerindians include disabilities, infant mortality, malaria, HIV/AIDS and tuberculosis. Indigenous people with disabilities encounter many problems while seeking treatment because rehabilitative centers are chiefly in Georgetown and the lack of appropriate infrastructure makes traveling difficult. The infant mortality rate has decreased in Guyana with an average of 47 per 1000 live births. However, the infant mortality rate is the highest in the hinterland regions with an average of 68 per 1000 live births.

Corporal punishment continues in Guyanese schools in violation of provision 19 of the Convention on the Rights of the Child. Furthermore, while the national government has enacted educational reforms, there are not enough adequately trained teachers, especially in the interior of the country, to fully achieve the desired progress.

Recommendations

- Enhance the ascertainment of statistical data measuring the effectiveness of existing health and education programs implemented by the Guyanese government.

- Increase access to medical facilities by constructing more health care centers in the interior of the country and expanding transportation between the interior and the coast.
- Increase the dissemination of information concerning nutrition and disease prevention by expanding access to health care education.
- Modernize future and existing indigenous schools.
- Ban corporal punishment in schools to become compliant with Article 19 of the Convention on the Rights of the Child.
- Expand the availability of teachers in indigenous schools.
- Provide incentives to bring health care workers and educators to the Interior.
- Provide cultural and language education for health care workers and teachers in the Interior.
- Provide bilingual education in indigenous schools.