

government of guyana responses

ministry of parliamentary affairs and governance

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Expert Mechanism on the rights of indigenous people

establishing effective monitoring mechanisms at the national and regional levels for the implementation of the undrip

# Monitoring mechanisms for the UN Declaration on the Rights of Indigenous People

1. **Introduction**
2. The Government of Guyana is pleased to update the UN Expert Mechanism on the Rights of Indigenous People on the steps taken to implement the UN Declaration on the Rights of Indigenous People. As a State Party to the International Convention on the Elimination of all Forms of Racial Discrimination, the Government of Guyana has taken progressive steps toward recognising, articulating, and protecting the rights provided in the Convention, the Constitution, and the suite of legislation designed to prohibit any expression of racial discrimination or disharmony within the state party.
3. This report brings attention to the range of legislative and policy measures implemented by the Government of Guyana to ensure the equitable access, availability and coverage of public goods and services aimed at improving the livelihoods of all Guyanese, including the growing Amerindian population.
4. Guyana is a multi-ethnic, multi-cultural society consisting of six main ethnic groups. In addition, there is a growing number of migrants from Venezuela seeking refuge in Guyana, and the Government has expended significant resources to provide for the economic and social needs of all persons residing within the State Party.
5. The report prioritizes the monitoring mechanisms identified in the Concept Note provided by the Expert Mechanism.

## Priorities for the monitoring mechanism relative to Indigenous People’s Rights:

### Self-determination and self-governance

#### Amerindian Village Councils

1. The right to self-determination of the Amerindian ( indigenous) people in Guyana is continuously being implemented and respected by the Government of Guyana in numerous ways, especially in comparison with our counterparts across the world. The Amerindian peoples of Guyana are encouraged to determine freely their political status and freely pursue their economic, social, and cultural development.
2. The affairs of Amerindian Villages are managed by Village Councils, which are body corporates, statutorily established by Section 10 of the **Amerindian Act (2006), Cap 29:01, Laws of Guyana**. Section 11 provides that the Village Council shall be led by a Toshao ( chief of the Amerindian Village Council) elected by the community very three years. It also establishes a numeric formula for determining the maximum number of Councillors commensurate to the population of the Village. The functions of the Village Council are elaborated in Section 13 of the Act, while Section 14 empowers the Council to make rules to govern a range of aspects of village life, including the occupation and use of village lands, protection and preservation of wildlife, infrastructural development, and regulating the conduct of non-residents within village lands.
3. The functions and powers of the Toshao are elaborated at Section 20, and Section 21 establishes that the Toshao shall serve as an ex-officio Justice of the Peace for the Village and shall take the required oath before performing such functions.
4. Village Elections are governed by Part IV of the Act. Section 65 provides that each Toshao and Councillor shall be elected by secret ballot, and that elections are to be held within three-year intervals. With the support of the Ministry of Amerindian Affairs, village elections are conducted, in accordance with the Act, at the specified intervals.
5. Under the ambit of the Amerindian Act, the Village Council is also required to keep a village register which is essential to providing information on residents in the Village. There are school and health centers in these communities. The National Toshoas Council’s annual reports also provide useful relevant information on indigenous peoples.

#### National Toshaos’ Council

1. The National Toshaos Council is statutorily established by the Amerindian Act and consists of all Toshaos as well as a core executive body which is elected by the 220 plus Amerindian communities throughout Guyana..A key policy decision that is unique to Guyana is the Government’s support to the National Toshaos Council (NTC) Conference, as required by law, which takes place annually and is funded by the Government of Guyana. It is the gathering of all indigenous leaders from 220 villages, satellites and communities across all 10 Administrative Regions of Guyana
2. In 2023, the NTC will receive its very own headquarters for its rsecretariat funded by the Government of Guyana to assist the NTC to promote its work in the continued advancement of indigenous rights.

#### Participation in National Elections

1. Significantly, Amerindian people exercise their democratic right to freely participate in national elections not solely as voters but also as candidates in the elections without any limitation or discrimination based on ethnicity. Although the Amerindian population is approximately 11% of the Guyanese population, there are 13 Amerindian Members of Parliament representing 12.3 % of the National Assembly. The the current Parliament took the historic step of electing the first indigenous Deputy Speaker of the House.
2. Even further to this, there has been representation of indigenous peoples at the United Nations Permanent Forum on Indigenous Issues and the Broader Market Recognition Policy Forum.

### Free, Prior, and Informed Consent

1. The principle of Free, Prior, and Informed Consent is guaranteed to all Amerindian People, pursuant to the Amerindian Act of 2006. Part V Section 44 of the Act expressly recognizes the inalienability of Village lands. Further to this, Part VI thoroughly provides for the recognition and protection of Amerindian lands by setting out the process through which Amerindians can apply for legally protected grants of land which they have traditionally occupied as well as provision for application for extensions to Village lands. All of these when granted or titled are duly protected by the laws of Guyana.
2. The procedure as set out by the Act stipulates that evidence of a collective decision must be provided to support an application for village lands. Every decision which affects the indigenous peoples within villages is based upon engaging the Village through a Village General Meeting. Such decisions include project proposals which must be decided or approved at such a meeting. The Village General meeting is therefore the most important forum for decision-making within Amerindian Villages.
3. The Amerindian Land Titling Project, which also supports the facilitation of due process for land application within the ambit of the Amerindian Act, has established written guidelines that even further underscore the importance of adherence to FPIC. The Amerindian Act specifically sets out that, save for functions and powers specifically delegated to the Village Council, all decisions are to be made by way of the Village General Meeting. Even those decisions which the council has the delegated power to make must be made collectively by a duly elected council whose functions are specifically laid out in the Amerindian Act.
4. The principle is amplified in various legislation such as the Mining Act and the Forestry Act, which expressly recognize and protect indigenous people’s right to traditional use of their lands. These laws are duly enforced and protected by the Government of Guyana.
5. The Amerindian communities own communal land by title forever representing over 14 % of Guyana’s land mass and are the second largest landowner after the state. Amerindians individually are also entitled to own land on their own volition.

### Equality and non-discrimination

### Constitutional Provisions

1. **Article 149 (2)** of the **Constitution of Guyana, Cap 1:01, Laws of Guyana**, expressly prohibits “race” including gender, marital status, geographic origin, as ground for discrimination.
2. Moreover, Article 149G of the Constitution of Guyana specifies that indigenous peoples shall have the right to the protection, preservation and promulgation of their languages, cultural heritage and way of life.
3. It is also noteworthy that the *International Covenant on the Elimination of Racial Discrimination (ICERD)* in its entirety has been incorporated into Guyana’s legal system by its inclusion in the **Fourth Schedule** of the **Constitution of the Cooperative Republic of Guyana, Chapter 1:01, Laws of Guyana (the Constitution).** This exceptional step not only gives ICERD legal effect by creating rights for citizens and placing obligations upon Guyana, but it also elevates the rights articulated therein to constitutional, supreme law status, requiring that all state actions, including those by its agents, are compliant. It is also worth noting that the Preamble of the Constitution includes a commitment to celebrate racial diversity by “eliminating every form of discrimination.”

### Statutory protection

1. Guyana has enacted the **Racial Hostility Act, Chapter 23:01, Laws of Guyana**. Section 2 of this Act distinctly criminalises acts which incite racial hostility and conduct which can have the effect of causing racial discrimination. Additionally, section 139D of the **Representation of the People Act, Chapter 1:03, Laws of Guyana** criminalises any conduct which results in or can result in racial or ethnic violence or hatred.
2. Racial discrimination is also clearly proscribed by the **Prevention of Discrimination Act, Chapter 99:08, Laws of Guyana**, which was enacted with a view to “provide for the elimination of’ discrimination in employment, training, recruitment, and membership of professional bodies…”.
3. Section 4 of the **Prevention of Discrimination Act (1997)** expressly proscribes persons from making any distinction, exclusion or preference which nullifies or impairs equality, opportunity or treatment in employment or training on the basis of race, among other characteristics which pertain to or are imputed to race. These provisions are in harmony with Articles 1, 2 and 3 of the ICERD.
4. Further, **section 8 of the Termination of Employment and Severance Pay Act, Chapter 96:01, Laws of Guyana (TESPA)** operates to proscribe persons from being dismissed solely, or at all, on the basis of race.

### Land rights

1. The Government remains committed to ensure absolute ownership of lands by indigenous peoples is guaranteed.
2. The preamble of the Constitution recognizes *“the special place in our nation of the Indigenous Peoples, and recognizes their right as citizens to land, and security and to the promulgation of policies* *for their communities*.” Further, Article 149G of the Constitution stipulates that *“Indigenous Peoples have the right to the protection, preservation and promulgation of their languages, cultural heritage and way of life”.*
3. Article 212S (1) of the Constitution provides for the establishment of the Indigenous Peoples’ Commission, which has a mandate to “*enhance the status of Indigenous Peoples, and to respond to* *their legitimate demands and needs.*”
4. Part V Section 44 Amerindian Act 2006 explicitly recognizes the inalienability of Village lands. Further to this, Part VI thoroughly sets out the process by which Amerindians can apply for legally protected grants of land which they have traditionally occupied as well as provision for application for extensions to Village lands. All of these when granted or titled are duly protected by the laws of Guyana.
5. This principle is amplified in various legislation such as the Mining Act and the Forestry Act, which expressly recognize and protect indigenous people’s right to traditional use of their lands. These laws are duly enforced and protected by the Government and the courts. Persons seeking to engage in mining on Amerindian Village lands, or lands, or sources of water within the boundaries of Amerindian Villages must supply information requested by the Village, attend any consultation requested by the Village, negotiate with the Village, and ultimately obtain the consent of at least two-thirds of the persons present and entitled to vote at a Village general meeting (section 49 (1) (d)(e) and (f)).
6. Through engagement and consultation and based on requests from villages or communities, the Amerindian Land Titling project was designed to enable Amerindian Villages to secure their lands and natural resources for their sustainable, social and economic development. The titling of communities strengthens land tenure security and the expansion of the asset base of Amerindians, enabling improved long-term planning for their future development.
7. Essential to territorial rights is the matter of balancing these rights with that of the extractive industry.
8. The Government of Guyana promotes Free, Prior and Informed Consent relevant to (Article 10 and Art. 11 (2), Art. 19, Art. 32(2) of the Declaration of the Rights of Indigenous Peoples) as such where any matter, whether direct or indirectly, or whether relevant to a Village or Community, affects the rights of indigenous peoples, decisions are guided by FPIC. Further, the Amerindian Act 2006 provides for free, prior, and informed consent of the Villagers on key matters with respect to land, governance, mining, logging and other resource utilization.
9. On major national policy initiatives the Amerindian communities are consulted. The most recent was their inclusion in the draft expanded Low Carbon Development Strategy 2030 which was endorsed at the 2022 National Toshoas Conference in July 2022 and its subsequent approval by the National Assembly in August 2022.

### Culture

1. The Constitution of Guyana recognizes the promulgation and preservation of indigenous culture and way of life. This is materialized in the promotion of cultural activities and inclusion in language revival and preservation of cultural sites.
2. The preservation of the Indigenous languages is critical to the sustenance of the culture and identity of Guyana’s first people, with the appreciation that culture can be a powerful driver for the promotion of sustainable community-wide social, economic and environmental development. The Indigenous Language Revival Project commenced in 2013 and aimed to preserve the Arawak language and the rich heritage of the people. Th*e* Language Revival Programme has been expanded to the current efforts of the Warrau Language Revival programme.
3. The Ministry of Education, with support from the Jesuits in Guyana, is facilitating the ongoing Quality Bilingual Education Program for Wapichan Children (QBEP) which is a grassroots initiative that seeks to provide nursery & primary-aged children quality education with mother tongue (Wapichan) language and English language, culturally appropriate resources and approach to learning. A key aspect of the program is the inclusion of Wapichan language and culture, in that the teachers at the pilot schools are given the freedom to explain concepts bilingually to their students. The programme uses Wapichan storybooks created by local resource team members, and every Friday the children wear their traditional clothing to school as part of building their identity. Another key element of the programme is the inquiry-based learning approach being used in the pilot schools to attain the Ministry of Education’s national nursery standards.
4. It is also noteworthy that Government of Guyana took a significant policy decision to desginate the entire month of September as Amerindian Heritage Month, which provides a useful platform to highlight and encourage indigenous culture in the most inclusive manner.
5. Furthermore, radio stations have been established in Mabaruma Administrative Region 1, Orealla Adminsitrative Region 6, Mahdia Administrative Region 8, and Lethem and Aishalton in Administrative Region 9.These radio stations broadcast programs in the respective indigenous languages, including music and other cultural expressions.

## National Human Rights Institutions

#### The Indigenous People’s Commission

1. Indigenous People’s Commission is a Constitutional Rights Commission established during the 1999-2001 Constitutional Reform process. The Commission is established pursuant to **Article 212S of the Constitution,** with its primary purpose being to establish mechanisms to enhance the status of indigenous peoples and to respond to their legitimate demands and needs.
2. **The functions of the Commission, include, inter alia, p**romoting and protecting the rights of indigenous people, raising awareness of the contributions of, and the problems faced by, indigenous people, promoting the empowerment of indigenous people, making recommendations on economic and education policies to advance the interest of indigenous peoples, and promoting consultation and cooperation with indigenous peoples, especially with regard to the their participation in national decision-making and other decisions that affect their lives.
3. The Commission comprises not more than ten members nominated by entities through the Parliamentary Committee on Appointments, three of one must be a woman from the National Toshoas Council, two of which one must be a woman from the four (4) Amerindian Non-government organizations. The nominees must receive the votes of not less than two-thirds of the members of the National Assembly. Its membership shall also include three non-voting members nominated by and from the three other constitutional rights commissions-Women and Gender Equality Commission, the Rights of the Child Commission and the Ethnic Relations.

Participation of Indigenous People in the establishment and implementation of various forms of monitoring mechanisms

### Participation in decision-making

1. In addition to the mechanisms described above, which resulted from extensive consultation and involvement of Indigenous People in their design and development, the Government of Guyana prioritizes the participation of Indigenous in the development and implementation of development policies.
2. Most recently, a Multi-Stakeholder Steering Committee (MSSC) was re-established to oversee the development and implementation of the LCDS 2030, comprising of members of governmental bodies, NGOs, civil society, the private sector, and indigenous communities. Thi mechanism was established in 2010 with the implementation of the first Low carbon Development Strategy.The primary role of the MSSC is to advise on the implementation of LCDS 2030, including supporting the catalyzing of low carbon investments. This role is reflective of the new framework for forest carbon financing, which will see greater national ownership and participation in the process of earning and managing payments. The MSSC also supports work on restoring Guyana’s ambition for the future on the forest, climate, biodiversity protection, and sustainable development.
3. Further, an important guiding principle of the LCDS is the Free, Prior, and Informed Consent (FPIC) process, which is required for guaranteeing indigenous communities’ full and effective participation in REDD+, implementing the opt-in mechanism and Amerindian Land Titling project. The FPIC process aligns with international obligations and national laws. There is also a grievance redress mechanism formulated under the ALT project which addresses grievances related to the land titling process and provides for an alternative course of dispute resolution outside of the legal redress. A robust communications strategy will be rolled out to complement all aspects of the ALT project.

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### Access to the internet in remote communities

1. The government of Guyana has also made continuous strides to increase internet coverage in all regions, particularly the more remote communities. Through the National Data Management Authority (NDMA), the GoG has been working to establish ICT Hubs throughout the country targeting mostly remote areas. The NDMA facilitates the development of communities through access to ICT services, while managing the needs of people to ensure that they have constant access to information.
2. To date, more than 241 ICT Hubs have been activated across the ten Administrative Regions of Guyana, providing citizens with free access to the internet allowing students and community members to complete research in a safe and comfortable space, surf the internet, access news and updates, among other features. The ICT Hubs also serve the important purpose of making government services accessible remotely, reducing the time and cost associated with traveling to a central area to be able to access such services. The Hubs are equipped with internet ready computers, and training is also conducted to ensure the beneficiary communities are able to take full advantage of the services available.
3. In addition to the ICT Hubs, 158 Primary Schools and 105 Secondary schools across the country are also now connected to the internet, particularly in communities where household internet access is low or does not exist. These schools can access the Learning Channel, another initiative to provide better education to children across the interior and the country. This programme is constantly being expanded to reach more schools across the country, but moreso, in the interior regions of the country.