



**University of Oklahoma College of Law  
International Human Rights Clinic  
The United States of America**

---

Shadow Report on the Republic of Guyana  
for the Eighth Session of the UPR Working  
Group of the Human Rights Council,  
3 - 14 May 2010

**ANNEX**

Prepared by  
University of Oklahoma College of Law  
International Human Rights Clinic

November 2009

# ANNEX

1. Guyana is a South American country bordering the Atlantic Ocean to the north, Venezuela to the west, Brazil to the south and southwest, and Suriname to the east. A 2007 United Nations estimate placed Guyana's population at approximately 738,000, with 133,00 living in the capital and largest city, Georgetown. The country has a surface area of approximately 215,000 sq. km.<sup>1</sup> The country is divided into ten Administrative Regions, with Regions 1-5 located on the Atlantic coast, Region 6 comprising the eastern border of the country, and Regions 7-10 constituting the interior of the country.<sup>2</sup>

2. Around ninety percent of Guyanese people live along the Caribbean coastline.<sup>3</sup> There are about 60,000 Amerindians in Guyana who make up seven percent of the population, and largely live in the interior parts of the country where small and medium scale mining takes place.<sup>4</sup> The term "Amerindians" broadly includes the nine specific indigenous tribes in the interior of Guyana: the Warrau, Carib, Arawak, Akawaio, Patamona, Arekuna, Makushi, Wapishana, and Wai Wai peoples. The term also includes the remnants of other tribes found only in small numbers such as the Trio, Taruma, and Atorad peoples.<sup>5</sup>

---

<sup>1</sup> United Nations Statistics Division (2009). "Guyana," UNData, *available at* <http://data.un.org/CountryProfile.aspx?crName=Guyana>.

<sup>2</sup> Guyana Government Information Agency (2009). "National Profile," *available at* <http://gina.gov.gy/natprofile/gnprof.html>. The specific names of the Regions are: Region One- Barima/ Waini ; Region Two- Pomeroon/Supenaam; Region Three-Essequibo Islands/ West Demerara ; Region Four- Demerara/Mahaica ; Region Five- Mahaica/Berbice ; Region Six- East Berbice/Corentyne ; Region Seven- Cuyuni/ Mazaruni ; Region Eight-Potaro/runi ; Region Nine- Upper Takatu/ Upper Essequibo; Region Ten-Upper Demerara/ Berbice. *Id.*

<sup>3</sup> Marcus Colchester, *Mining and Amerindians in Guyana*. The North-South Institute. p. 1 (2002).

<sup>4</sup> *Id.* at 6.

<sup>5</sup> *Id.* at 5.

3. Guyana is party to several treaties that inform the analysis of Guyana's human rights obligations and commitments. These treaties include the United Nations Charter, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on Biological Diversity, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (UN Protocol). Additional obligations arise under Customary International Law, including that evinced by the Universal Declaration of Human Rights (UDHR) and the Declaration on the Rights of Indigenous Peoples, to which Guyana is a signatory. While these international obligations are generally applicable to the overall population of Guyana, they apply particularly to the indigenous people in Guyana because they contain rights that often go unrealized within minority populations.

4. The Constitution of Guyana was adopted February 20, 1980 and includes provisions covering health, education, land and the general well-being of the populations.<sup>6</sup> The Legislative Branch is a unicameral National Assembly with 65 seats. Members are elected by popular vote, with no more than four non-elected non-voting ministers and two non-elected non-voting parliamentary secretaries appointed by the president. The last election was held on August 28, 2006 with the next election to be held in August 2011.<sup>7</sup> The 1976 Amerindian Act is the main law of Guyana that affects Amerindians. The Act explains who is an Amerindian, and grants specific rights and

---

<sup>6</sup> Guyana Const.

<sup>7</sup> United Nations Statistics Division, *supra* note 1.

protections. For example, non-Amerindians may not enter Amerindian land without permission. It also allows for the establishment of local government.<sup>8</sup>

5. The Ministry of Amerindian Affairs was created to provide social, cultural, and economic assistance to Amerindians. The Ministry's goal is to work as a type of liaison between indigenous communities and the Guyanese government so that indigenous voices may be heard when the government is creating new programs and legislation that will affect Amerindians. To date, the Ministry of Amerindians Affairs has mostly focused on cultural activities, such as establishing September as Amerindian Heritage Month.

6. The 1976 Amerindian Act allows for the creation of District and Area Councils, including village councils. The powers of the Village Council include holding land title for the village as a whole, managing and taking care of the titled land, and implementing the rules made under the Amerindian Act. Additionally each council may implement rules providing for food supplies in a village, stopping pollution of streams and rivers, regarding titled land, regulating agricultural and trapping activities and deciding how taxes are to be used.

---

<sup>8</sup> A Plain English Guide to the Amerindian Act: *available at* <http://www.sdn.org.gy/apa/topic7.htm>.

# **I. Environmental Degradation**

## **A. Mining**

### **Guyana's Domestic Mining Law is Unenforced**

7. Section 111 of the Mining Act, domestic law in Guyana, says that “all land occupied or used by the Amerindian communities” is generally protected from mining as it is, “lawfully occupied by them.”<sup>9</sup> The difficulty in the enforcement of this provision is its narrow interpretation by the government of Guyana which only recognizes titled Amerindian land. Amerindians lay claim to and generally occupy about 43,000 square miles of land.<sup>10</sup> However, there are currently only about 6,000 square miles of titled land.<sup>11</sup> Small and medium scale mining is prohibited in titled lands, but is allowed in untitled lands.<sup>12</sup> Yet because of the lack of enforcement and accessible public land records, mining often takes place in titled lands as well. Fortunately, large scale mining ended in 2005 with the closure of the Omai Gold Mine in central Guyana.<sup>13</sup> Guyana’s Environmental Protection Act, Section 68(1)(z), authorizes the Minister for the Environment to define “principles to facilitate the participation of communities which are likely to be affected by the activities of a developer, taking account of the rights of indigenous communities.”<sup>14</sup> To date, there are no guidelines, and in fact there is no Minister for the Environment.<sup>15</sup>

---

<sup>9</sup> Mining Act of 1989. Laws of Guyana, Chapter 65:01. Section 111. (Guy.)

<sup>10</sup> Colchester, *supra* note 3 at 1.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 19.

<sup>13</sup> *All That Glitters: Gold Mining in Guyana, the Failure of Government Oversight and the Human Rights of Amerindian Communities.* International Human Rights Clinic, Harvard Law School. p.1 (2007)

<sup>14</sup> Environmental Protection Act. Laws of Guyana, Chapter 20:05. Section 68. (Guy.)

<sup>15</sup> Colchester, *supra* note 3 at 20.

## **The Amerindian Act and Land Titles**

8. The original 1976 Amerindian Act in Guyanese law notes an important exception to the usefulness of Amerindian titles to land. It states that title owners should not be construed to have title to “...rivers and all lands sixty-six feet landwards from the man-low water mark; minerals or mining rights in or over any land...”<sup>16</sup> A positive development was the 2006 update of the Amerindian Act, which requires a miner to “obtain permission from two thirds of the residents of an Amerindian community before carrying out mining activities” in that territory.<sup>17</sup> Unfortunately, section 50 of the Act provides an exception to this general rule, granting the Minister of Mines the ability to override any community that has vetoed the proposal.<sup>18</sup>

## **The Limited Abilities Regulatory Agencies**

9. The government agency specifically assigned to handle permits for mining is the Guyana Geology and Mines Commission. Amerindian interests are represented on the board by a nominee of the Ministry of Amerindian affairs, but this individual only has an advisory role, and no vote on the board.<sup>19</sup> The Commission is required by law to publish notice of permit applications in national newspapers and allow 21 days for public comment.<sup>20</sup> Amerindian communities in the interior of the country do not receive newspapers. There are only 20 field officers of the Commission, and monitoring mining activities in remote areas of the country is a “costly and near impossible exercise” with such limited monitoring capacity.<sup>21</sup>

---

<sup>16</sup> Amerindian Act of 1976. Laws of Guyana, Chapter 29:01. Section 22. (Guy.)

<sup>17</sup> Amerindian Act of 2006, § 48 (Guy.).

<sup>18</sup> *Id.* § 50.

<sup>19</sup> Colchester, *supra* note 3 at 10.

<sup>20</sup> *Id.* at 12.

<sup>21</sup> *Stabroek News* 23 February 2000.

## **The Collateral Results of Mining**

**10.** The resulting damage caused by mining in Amerindian lands includes the collapse of fish stocks, pollution of waterways, desecration of sacred sites, invasion of customary Amerindian lands, and mercury pollution that causes poisoning.<sup>22</sup> The economic impact on Amerindian communities has been severe, because the subsistence economy has been disrupted by pollution and dislocation. Amerindian women have become the victims of rape in mining camps, and the prostitution of Amerindian women is common in mining camps.<sup>23</sup>

### **B. Deforestation**

**11.** Forests cover approximately 75% of Guyana's geography.<sup>24</sup> While ninety percent of Guyana's inhabitants lives along or near the coast, the vast majority of the country's indigenous peoples, who make up only seven to eight percent of Guyana's total population, live in and around the forests of the interior of the country.<sup>25</sup> These forests are also home to a multitude of exotic, and endangered, flora and fauna.<sup>26</sup> The forests are also an engine of economic development with "forest-based activities" contributing over three percent of Guyana's GDP and thousands of jobs.<sup>27</sup>

**12.** Deforestation holds a multitude of negative ramifications for indigenous peoples. The destruction of the forests negatively impacts the subsistence needs of indigenous

---

<sup>22</sup> Colchester, *supra* note 3 at 34.

<sup>23</sup> *Id.*

<sup>24</sup> Guyana Forestry Commission, Fact Sheet 2007, *available at* <http://www.forestry.gov.gy/Downloads/Fact%20Sheet%202007.pdf>.

<sup>25</sup> United States Department of State, Background Note: Guyana (2009), *available at* <http://www.state.gov/r/pa/ei/bgn/1984.htm>.

<sup>26</sup> Guyana Forestry Commission, *supra* note 23.

<sup>27</sup> International Tropical Timber Organization. "Status of Tropical Forest Management 2005: Guyana." *Available at* [http://www.itto.int/en/sfm\\_detail/id=12520000](http://www.itto.int/en/sfm_detail/id=12520000).

communities. The loss of forestlands depletes both food and fuel resources.<sup>28</sup> Deforestation contributes to soil erosion, decreasing crop yields.<sup>29</sup> The loss of traditional lands forces many indigenous people to migrate to cities where they face discrimination and are susceptible to exploitive practices like prostitution.<sup>30</sup>

**13.** Removal of Amazonian rainforest is also a “driver of climate change.”<sup>31</sup> Deforestation contributes approximately 20% of anthropogenic greenhouse gas emissions.<sup>32</sup> Because “large-scale forest loss tends to reduce rainfall,”<sup>33</sup> deforestation-induced climate change has an echo effect with lower precipitation totals and climate drying contributing to further deforestation through “drought-induced tree mortality” and fire.<sup>34</sup> “Indigenous peoples are among the first to face the direct consequences of climate change, owing to their dependence upon, and close relationship with the environment and its resources.”<sup>35</sup>

**14.** Guyana is party to treaties that require, and declarations that encourage, the protection of living organisms and the ecosystems in which they reside. Article 10 of the Convention on Biological Diversity requires parties to “[a]dopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity.” Article 10 also directs states to “[s]upport local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced.” Article

---

<sup>28</sup> Kerr, Marla. “Ecotourism: Alleviating the Negative Effects of Deforestation on Indigenous Peoples in Latin America.” 14 COLO. J. INT’L ENVTL. L. & POL’Y 335, 351 (Spring, 2003).

<sup>29</sup> *Id.*

<sup>30</sup> United Nations Permanent Forum on Indigenous Issues, “Climate Change and Indigenous Peoples.” Available at

[http://www.un.org/events/indigenous/2008/pdfs/backgrounder%20climate%20change\\_FINAL.pdf](http://www.un.org/events/indigenous/2008/pdfs/backgrounder%20climate%20change_FINAL.pdf).

<sup>31</sup> Malhi, Yadvinder, et al. Climate Change, Deforestation, and the Fate of the Amazon. *Science* 319 no. 5860 pp. 169-172.

<sup>32</sup> Gullison, Raymond, et al. Tropical Forests and Climate Policy. *Science* 316 no. 5827, pp. 985-986. (2007)

<sup>33</sup> Malhi, *supra* note 31 at 169-172.

<sup>34</sup> Gullison, *supra* note 32.

<sup>35</sup> United Nations Permanent Forum on Indigenous Issues, *supra* note 30.



29 of the Declaration on the Rights of Indigenous Peoples evidences a customary international law norm against environmental degradation by stating that indigenous populations “have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.”

**15.** The Government of Guyana has undertaken a number of strategies to comply with these international instruments. It 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.”<sup>36</sup> Nevertheless, some past decisions regarding natural resources have “favor[ed] . . . transnational corporations . . . at the expense of the excluded social sectors and the environment.”<sup>37</sup> The government has made concessions to logging companies, with nearly 50% of forestlands leased by various corporations.<sup>38</sup> Recently, however, the President of Guyana has offered to pursue a policy of “avoided deforestation” which would preserve rainforests instead of signing logging concessions, in exchange for foreign aid.<sup>39</sup>

**16.** Additionally, shortcomings in environmental protection cannot solely be attributed to the Guyanese government. International efforts to prevent deforestation, like the United Nations Reduced Emissions from Deforestation and Degradation (REDD) program and the Kyoto Protocol’s Clean Development Mechanism (CDM), also fail to adequately address the problem because they do not reward countries for “avoided

---

<sup>36</sup> Guyana Forestry Commission, *supra* note 24.

<sup>37</sup> Biodiversity Action Network, “Addressing the Underlying Causes of Deforestation and Forest Degradation: Case Studies, Analysis and Policy Recommendations,” April 1999, p. 97.

<sup>38</sup> Osborne and Kiker, Carbon Offsets as an Economic Alternative to Large-Scale Logging: a Case Study in Guyana. *Ecological Economics* 52 p. 481, 483.

<sup>39</sup> Knight, Matthew. “Valuing the Rainforests,” CNN.com, 9 April 2008.

deforestation,”<sup>40</sup> a term used to describe the prevention of forest cutting which would otherwise occur, but merely provide incentives to plant new trees to offset ones cut down elsewhere.<sup>41</sup> International strategies focus on remedying existing environmental problems rather than preventing environmental problems in the first place.

**17.** While a number of factors contribute to deforestation, with gold prices topping \$1,000 per ounce<sup>42</sup> and timber prices climbing,<sup>43</sup> the potential is high for further deforestation in Guyana to facilitate the lucrative but destructive mining and logging industries.

**18.** Article 10 of the Convention on Biological Diversity directs national governments to support local populations in developing and implementing remedies for biodiversity losses. The President of Guyana has called for “assistance to forest communities to develop village economies that simultaneously improve opportunities for citizens who live there and secure sustainable use of the forest for the very long term . . . [by] expanding our nascent but extremely attractive eco-tourism offering.”<sup>44</sup> Moreover, “[e]cotourism . . . can occur along with avoided deforestation.”<sup>45</sup> While existing industries may be exploitive and destructive, alternative industries like ecotourism will only supplant the existing ones if they offer a competitive source of revenue. Ecotourism provides indigenous peoples with an opportunity to “generate needed revenues to both sustain itself and the local populations.”<sup>46</sup> It may also establish greater local control over

---

<sup>40</sup> Osborne, *supra* note 38 at 481-496.

<sup>41</sup> *Id.* at 481-496. See also REDDY and Waiting; Conserving Forests, *The Economist* June 13, 2009.

<sup>42</sup> Tom Petruno, Gold Prices Surge Near \$1,000-an-Ounce Mark, *Los Angeles Times*, September 3, 2009.

<sup>43</sup> Global Wood Trade Networks. “Guyana: Prices Increase for Popular Log Species.” July 16-31, 2009. Available at [http://www.globalwood.org/market/timber\\_prices\\_2009/aaw20090702.htm](http://www.globalwood.org/market/timber_prices_2009/aaw20090702.htm).

<sup>44</sup> President Bharrat Jagdeo Address to Parliament, 5 December 2008, available at [http://www.minfor.gov.gy/tsite/images/minfor\\_docs/other\\_speeches/deforestation\\_sp.pdf](http://www.minfor.gov.gy/tsite/images/minfor_docs/other_speeches/deforestation_sp.pdf)

<sup>45</sup> Osborne, *supra* note 38 at 490.

<sup>46</sup> Kerr, *supra* note 28 at 364.

indigenous lands because the native inhabitants remain directly involved in the development of the industry rather than ceding their lands rights to multinational logging or mining corporations.

**19.** In promoting ecotourism as an alternative to deforestation-inducing industries, one must take care to recognize and remedy ecotourism's own potential negative side effects. Too often the ecotourism industry is dominated by "multinational hotel chains, city tour operators, and powerful foreign owners [who] often engage in unfair trade practices that allow them to wrest economic control from local communities. . . ." <sup>47</sup> In this way, ecotourism itself can become part of "the wider processes of globalization and cultural upheaval." <sup>48</sup> Ecotourism can operate as an effective alternative to mining and logging only if it "respect[s] . . . the interests of local residents." <sup>49</sup> This form of ecotourism may be appropriately entitled "indigenous tourism." <sup>50</sup>

## **II. SEX WORK AND HUMAN TRAFFICKING**

### **A. The Problem**

**20.** False promises of employment in coastal cities lure Amerindian females away from their homes. Hired to work in guesthouses, restaurants, and shops, these victims learn upon their arrival that they will be required to provide sexual services. The victims include minors and adults. Given the scarce resources and relative lack of employment

---

<sup>47</sup> Lisa Mastny, *Ecotourist Trap*, *Foreign Policy* no. 133 (Nov-Dec 2002), p. 96.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> Donald Sinclair, *Developing Indigenous Tourism: Challenges for the Guianas*, *International Journal of Contemporary Hospitality* 15.3 (2003) p. 140.

or educational opportunities in Guyana's interior, sex work also attracts Amerindian women seeking sufficient income to support families.<sup>51</sup>

**21.** In June 2009, the United States released its annual Trafficking in Persons Report. This report assesses TIP in countries and places them on one of 4 levels: Tier 1, Tier 2, Tier 2 Watch List, and Tier 3.<sup>52</sup> Governments that comply with the U.S. Trafficking Victims Protection Act (TVPA)'s minimum standards are placed on Tier 1.<sup>53</sup> Governments on Tier 3 may be subject to sanctions by the U.S. Government such that they may withhold nonhumanitarian, non-trade-related foreign assistance.<sup>54</sup> In 2009, Guyana was placed on the Tier 2 Watch List (Watch List). The Watch List is for countries where the number of victims is significant or is increasing, there is a failure to provide evidence of efforts to combat trafficking, or the country has committed itself to make significant efforts to comply with the minimum standards imposed in TVPA.<sup>55</sup> According to the U.S. TIP Report in 2009 many trafficking victims along the coast are Amerindian teenagers. Amerindian teenagers are an easy target because of their poor education and low job prospects in their regions.<sup>56</sup>

## **B. Affirmative Obligation to Protect**

**22.** The majority of sex work and Human Trafficking occurs in within the borders of Guyana. Guyana has acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United

---

<sup>51</sup> Kamala Kempadoo, *Sun, Sex, and Gold: Tourism and Sex Work in the Caribbean* 263-290 (Rowman & Littlefield 1999).

<sup>52</sup> *Trafficking in Persons Report* (June 16, 2009), State Dept. No. 11 <http://www.state.gov/g/tip/rls/tiprpt/2009/>.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 13.

<sup>55</sup> *Id.* at 12.

<sup>56</sup> *Id.* at 150.

Nations Convention Against Transnational Organized Crime (UN Protocol).<sup>57</sup> Article 2 in conjunction with Article 3 and Article 5 of the Protocol states that the purpose and application of the Protocol is to prevent, investigate and prosecute “Trafficking in Persons” (TIP).<sup>58</sup> TIP means the

recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.<sup>59</sup>

23. Guyana has ratified the Convention on the Rights of the Child (CRC),<sup>60</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>61</sup> Convention on the Elimination of All forms of Discrimination in Women (CEDAW),<sup>62</sup> and the International Covenant on Civil and Political Rights (ICCPR).<sup>63</sup> CRC, Art. 31(1) of the CRC says that parties must recognize the rights of the child to be free from economic and social exploitation and the right of a child to be free from work that is harmful to the child’s health or physical, mental, spiritual, moral or social exploitation.<sup>64</sup> CRC Art. 31(2) requires State parties to enact legislation, administration, social and

---

<sup>57</sup> *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing The United Nations Convention Against Transnational Organized Crime* (2000) [http://www.uncjin.org/Documents/Conventions/dcatoc/final\\_documents\\_2/convention\\_%20traff\\_eng.pdf](http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf) [hereinafter *Trafficking Protocol*].

<sup>58</sup> *Id.* at art. 2, 3, 5.

<sup>59</sup> *Id.* at art. 5.

<sup>60</sup> *Convention on the Rights of the Child* (Ratified Jan. 14, 1991) [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en) [hereinafter *CRC*.]

<sup>61</sup> *International Covenant on Economic, Social, and Cultural Rights* (Ratified Feb. 15, 1977) <http://www2.ohchr.org/english/law/cescr.htm> [hereinafter *ICESCR*.]

<sup>62</sup> *Covenant on the Elimination of All Forms of Discrimination Against Women* (Ratified Jul. 17, 1980) <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article6> [hereinafter *CEDAW*.]

<sup>63</sup> *International Covenant on Civil and Political Rights* (Ratified Feb. 15, 1977) [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-4&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en) [hereinafter *ICCPR*.]

<sup>64</sup> *CRC*, *supra* note 60 at art. 31(1).

educational measures to ensure implementation.<sup>65</sup> CRC Art. 34 state parties must undertake to protect children from sexual exploitation and abuse.<sup>66</sup> CEDAW, Art. 6 of CEDAW states that all parties must take appropriate measures, including legislation, to suppress traffic in women and exploitation of prostitution in women.<sup>67</sup> ICESCR, Article 10(2) states that parties must take measures to protect children and young people from economic and social exploitation. State parties are to make it unlawful for employers to engage children and young people in work harmful to their morals and health.<sup>68</sup>

### **C. Legislative Measures Taken**

**24.** The national government has enacted legislation prohibiting prostitution.<sup>69</sup> Guyana's Criminal Law Offences Act Part II, Title 7 addresses Incest, Rape, and Similar Offenses. Section 72 and 73 make procuring defilement of females by threat or fraud, or administering of drug a misdemeanor subject to imprisonment for ten years.<sup>70</sup> Section 69 makes it unlawful for anyone to carnally know a girl between twelve and thirteen years-of-age and section 70 makes it a misdemeanor subject to life imprisonment to carnally know a girl under the age of twelve.<sup>71</sup>

**25.** As Guyana noted in its response to the OHCHR request for information on the implementation of UNHRC Resolution 11/3, it enacted the Combating of Trafficking in Persons Act of 2005 prohibits all forms of Trafficking in Persons in Guyana including

---

<sup>65</sup> *Id* at art. 31(2).

<sup>66</sup> *Id* at art. 34.

<sup>67</sup> CEDAW, *supra* note 62 at art. 6

<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article6>.

<sup>68</sup> ICESCR, *supra* note 61 at 10(3).

<sup>69</sup> Criminal Law Offences Act L.R.O 3/1998, Part II, Tit. 7

[http://www.gina.gov.gy/gina\\_pub/laws/Laws/cap801.pdf](http://www.gina.gov.gy/gina_pub/laws/Laws/cap801.pdf).

<sup>70</sup> *Id* at §72.

<sup>71</sup> *Id* at §§ 69, 70.

internal trafficking, known as sex work.<sup>72</sup> Moreover, the Combating of Trafficking in Persons Act of 2005 section 5(1) criminalizes knowingly transporting or conspiring to transport, or attempting to transport or assisting another person engaged in transporting any person in Guyana or across international borders.<sup>73</sup>

26. Subsequently, in 2007, the government of Guyana created the Inter-Agency National Task Force and developed a National Plan of Action to combat human trafficking.<sup>74</sup> The National Task Force released their first National Report in December 2008.<sup>75</sup> The report concludes that there were eight reports of trafficking in person violations for 2007. All of those reported were trafficked internally.<sup>76</sup> Of the cases reported, 10 victims were involved: three from Region 2, two each were from Regions 1, 9, and 4, and one from Region 3.<sup>77</sup> The report fails to indicate whether any of these were Amerindians and fails to account for the number of unreported cases. Reasons for failure to report and prosecute individuals for human trafficking and sex work operations comes from lack of education on the laws enacted and poor economic resources.

#### **D. Protection of Victims**

27. Title 7 of Guyana's Criminal Offences Act requires assistance and protection for victims of trafficking.<sup>78</sup> The Ministry of Human Services and Social Security and Help

---

<sup>72</sup> *Report of the National Task Force for Combating Trafficking in Persons* (June 2008) <http://www.sdn.org.gy/hands/?q=node/89> [hereinafter *Trafficking Report*]. See Guyana's Response to OHCHR Request for Information on the Implementation of UNHRC Resolution 11/3—Trafficking in Persons, Especially Women and Children (October 16, 2009), available at [http://www.sdn.org.gy/minfor/images/minfor\\_docs/questionnaires/trafficking\\_in\\_persons.pdf](http://www.sdn.org.gy/minfor/images/minfor_docs/questionnaires/trafficking_in_persons.pdf).

<sup>73</sup> Guyana TIP Act 5(1).

<sup>74</sup> Ministry of Labour Human Services and Social Security, "Inter-Agency Task Force launches TIP Report" (9/3/2009) [http://mlhss.gov.gy/index.php?option=com\\_content&task=view&id=71](http://mlhss.gov.gy/index.php?option=com_content&task=view&id=71).

<sup>75</sup> *Id.*

<sup>76</sup> *Report of the National Task Force* at 12.

<sup>77</sup> *Id.* at 13.

<sup>78</sup> Criminal Law Offences Act at Part III.

and Shelter provide accommodations and support for trafficking victims.<sup>79</sup> Help and Shelter is the main agency used to provide information and protection about sex work and human trafficking. The group works with health centers, organizations, NGO's, Amerindian Hostel, and as of 2006, they have launched their campaign to provide information on TIP including leaflets, posters, and public service announcements.<sup>80</sup> In Amerindian communities, however, public educators from Help & Shelter are faced with a language barrier. There is a widespread lack of understanding of even basic English in many of these communities.<sup>81</sup> Therefore, the dissemination of information to the Amerindians is significantly low. Even if the efforts to inform the people of Guyana about trafficking and sex work are increasing, the information is still not reaching the Amerindians. The fact that only 1.6% of the residents at the shelter were of Amerindian ethnicity in 2007 is evidence that information is not reaching the hinterlands.<sup>82</sup>

## **E. Prevention**

**28.** The Inter-Agency Task Force is comprised of Ministries/Agencies to help combat sex work and TIP. One such Ministry is the Ministry of Amerindian Affairs. The Ministry of Amerindian Affairs, in conjunction with the Ministry of Labour, has worked to provide training programs to ensure that personnel working with victims in trafficking has the appropriate skills. Guyana's Report in 2008 states that the programs targeted representatives from hinterland communities and is aimed at increasing their awareness and understanding of trafficking.<sup>83</sup> In 2007, twelve different campaigns were held to raise public awareness of TIP. Of these campaigns, one was held at the Amerindian

---

<sup>79</sup> *Id.* at 24.

<sup>80</sup> USAID/GDCCR Final Report Submitted by Help & Shelter June 2006-August 2006, p. 6.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.* at 10.

<sup>83</sup> *Id.* at 17.



Hostel and the rest were held in major cities or through television broadcast.<sup>84</sup> Amerindian villages are located outside of the cities in the hinterland.<sup>85</sup> These communities cannot easily access the cities and even the regions that do have better city accessibility cannot afford transportation prices.<sup>86</sup> Therefore, although the government of Guyana is making strenuous efforts to prevent trafficking by providing training exercises and disseminating materials to the public, many of these materials are not reaching Amerindian communities.

### **III. Health and Education**

#### **A. Health**

##### **1. Affirmative Obligation to Provide an Adequate Standard of Health**

**29.** The United Nations Declaration on the Rights of Indigenous Peoples acknowledges the individual and collective right of native peoples, including the right to oversee their health and educational needs. Under this Declaration, the Amerindians of Guyana may use traditional remedies in dealing with health issues, but they also have the right to access all social and health services provided to all citizens by the government.<sup>87</sup> Even though the Declaration is non-binding, it is evidence of customary international law.

**30.** Additionally, Guyana is party to several treaties that impose legal obligations on the government concerning health. Among these treaties are the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of

---

<sup>84</sup> *Id.* at 37.

<sup>85</sup> *National Report on Indigenous Peoples and Development*, UN DP, Country Office Guyana (December 1994).

<sup>86</sup> *Id.*

<sup>87</sup> United Nations Declaration on the Rights of Indigenous Peoples, art. 24 (Sept. 13, 2007).

the Child (CRC). The ICESCR requires Guyana to implement certain legislation to incorporate the legal obligations of the treaties into Guyana's domestic law. It also places an obligation on states to take steps, including the adoption of legislative measures, for the full realization of the rights in the Covenant.<sup>88</sup> Additionally, the ICESCR recognizes the right to the highest standard of health.<sup>89</sup> The ICESCR requires states to work to reduce infant mortality and provide a healthy environment for the development of children.<sup>90</sup> Finally, states are required to work to prevent and treat diseases and ensure that all have access to medical service.<sup>91</sup> Though the ICESCR requires governments to give effect to the rights contained in the treaty, it requires them to do so "by all appropriate means" which therefore recognizes that States can do no more than their financial means allow.

**31.** Similar to the ICESCR, the Convention on the Rights of the Child requires states to take "all appropriate legislative, administrative and other measures" for implementation of the rights contained in the Convention.<sup>92</sup> The CRC also recognizes that children have the right "to the enjoyment of the highest attainable standard of health and to the facilities for the treatment of illness and rehabilitation of health."<sup>93</sup>

## **2. Legislative Measures Taken**

**32.** The government of Guyana has different health related legislation covering antibiotics, immunization, and the licensing of private hospitals. However, the legislation lacks plans for a realistic healthcare agenda for the indigenous peoples living within the

---

<sup>88</sup> ICESCR, *supra* note 61 at, art. 2.

<sup>89</sup> *Id.* at art. 12.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> CRC, *supra* note 60 at art. 4.

<sup>93</sup> *Id.* at art. 24.

Interior. The Public Health Immunisation Act aims to protect children from diseases by requiring all students to receive vaccinations prior to entering school.<sup>94</sup> This act is helpful for the indigenous people only if they receive access to the vaccinations.

### **3. Reality of the Situation**

**33.** The hinterlands generally remain isolated from other parts of Guyana; therefore, access to health services is limited. At the lowest level of health care facilities, health huts have been constructed to provide basic access to health services. The health huts are situated as to be accessible to Amerindians from every village. Each indigenous community has trained community health workers who can perform tests for such diseases as malaria, and administer remedies.<sup>95</sup> However, these health care workers generally only receive a six-month course in general health.<sup>96</sup> Nevertheless, there are mid-level Amerindians trained to operate in the capacity as "Medex".<sup>97</sup> They receive training for a few years and are able to treat the more complicated cases.<sup>98</sup> Under the Medex Act, a medex is a person certified by the University of Guyana as having completed an approved programme and may therefore perform specific medical services.<sup>99</sup> These services include advising members of the public on health care and the prevention of diseases; administering pre and post natal care and advising on routine child care; diagnosing common ailments and referring difficult cases to hospitals; and delivering babies.<sup>100</sup> These medex are scattered throughout the regions in major

---

<sup>94</sup> Public Health (School Children) Immunisation Act. Laws of Guyana, Chapter 35:02. Section 3. (Guy.)

<sup>95</sup> Summary Report of the 922nd Meeting: Guyana 22/01/2004 Committee on the Rights of the Child available at <http://www.unhchr.ch/tbs/doc.nsf/0/997bb7ffddde2cf8c1256fa20048083d?Opendocument>.

<sup>96</sup> Electronic Mail Interview with James Ash, Missionary in Guyana (Sept. 26, 2009).

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> Medex Act 2(a)(b). Laws of Guyana, Chapter 32:04. Section 2. (Guy.)

<sup>100</sup> *Id.* at Act 5(1)(a-d).

population centers and field hospitals.<sup>101</sup> Generally, if a Medex is unable to treat a certain illness, the individual is referred to a health clinic in Georgetown. While the individual is receiving care, the person may stay free of charge at the Amerindian Hostel. Further, the Ministry of Amerindian Affairs pays the transportation costs for the referred patients to the communities.<sup>102</sup>

**34.** The Interior lacks medical personnel and resources. In 2007, Region 1 had four doctors, eleven nurses, and fifty-eight hospital beds for a population of 24,692. Region 2 had seven doctors, thirteen nurses and 125 hospital beds for a population of 50,098. Region 7 did not have any doctors, and had only twenty-two nurses and fifty available hospital beds for a population of 17,899. Region 8 had two doctors, six nurses, and thirteen hospital beds for a population of 19,720. Finally, Region 9 had two doctors, five nurses, and thirty-eight hospital beds for a population of 19,720.<sup>103</sup> Additionally the Interior lacks health institutions: As of 2007, Region 1 had forty-one Health Posts, three Health Centers, and four District Hospitals. Region 2 had twenty-one Health Posts, thirteen Health Centers, one District Hospital, and one Regional Hospital. Region 7 had twenty Health Posts, three Health Centers, and two District Hospitals. Region 8 had sixteen Health Posts, five Health Centers, and one District Hospital. Finally, Region 9 had fifty-two Health Posts, three Health Centers, and two District Hospitals.<sup>104</sup> However, apart from the one Regional Hospital in Region 2, there are not any Regional hospitals,

---

<sup>101</sup> Ash, *supra* note 96.

<sup>102</sup> Government of Guyana Focus on Amerindian Development: Government Information Agency, available at [http://www.toodoc.com/p2t\\_85a/85aa611bd904e0cbccd93e5a5e5c3bde.html](http://www.toodoc.com/p2t_85a/85aa611bd904e0cbccd93e5a5e5c3bde.html).

<sup>103</sup> Ministry of Health Statistics Unit: Statistical Unit 2007 p. 73, available at [http://www.health.gov.gy/pub/moh\\_stats\\_bulletin\\_07.pdf](http://www.health.gov.gy/pub/moh_stats_bulletin_07.pdf).

<sup>104</sup> *Id.*

Specialist Hospitals, Private Hospitals National Hospitals, Geriatric Hospitals, or Rehabilitation Centers in Regions 1, 2,7,8, or 9.<sup>105</sup>

**35.** In an effort to improve the general healthcare of Guyana, the government has implemented a Health Sector Program to fund the upgrading of health facilities; however, it is unknown as to whether this will benefit the indigenous communities or if the efforts will be focused on the coastal populations.<sup>106</sup> Additional measures by the government to improve healthcare and combat many treatable health problems include regular vaccination throughout the interior, promotion of a strong HIV awareness programs and implementation of malaria prevention programs.<sup>107</sup> Finally, the government often creates programs focused on specific current concerns such as when the Ministry of Amerindian Affairs in connection with the Ministry of Health launched a Cancer Research Project to accommodate Amerindian women seeking medial treatment for cervical cancer. This project was considered a success with over 1100 women in regions one through nine receiving Pap smears.<sup>108</sup>

**36.** The government greatly relies on assistance from outside organizations to aid in improving healthcare, especially in the Interior. The volunteer organizations, Wings for Humanity and Remote Area Medical, work to expand the medical transportation of people in Regions 1, 7, 8, and 9 to Georgetown.<sup>109</sup> The government is also working with

---

<sup>105</sup> *Id.*

<sup>106</sup> Ministry of Finance Project Cycle Management System *available at* <http://www.finance.gov.gy/pcms/project.php?id=22>.

<sup>107</sup> Ash, *supra* note 96.

<sup>108</sup> Amerindian Development, *supra* note 102.

<sup>109</sup> The Ministry of Health, Guyana: National Health Sector Strategy 2008-12 26 *available at* <http://www.healthsystemsworkshop.org/The%20Guyana%20National%20Health%20Fund%20-%20annex%20-%20version%204.doc>.

international non-profit organizations to implement medical outreach units to the Hinterlands.<sup>110</sup>

37. Even with the progress by the government of Guyana and the assistance of volunteer organizations, there is still much to be done. There remains a disparity between the indigenous communities and the regular population of Guyana in susceptibility to illnesses. In fact, the general Guyanese population has an estimated life expectancy of 65 years<sup>111</sup>, while the indigenous communities within Guyana have only a life expectancy of 55 years.<sup>112</sup> Specific problems contributing to this disparity include lack of access for people with disabilities, high infant mortality, Malaria, Tuberculosis, and AIDS.

#### 4. Disabilities

38. The United Nations Declaration on the Rights of Indigenous Peoples places a duty on states to be aware of the “special needs of ... persons with disabilities.”<sup>113</sup> Further, the Convention on the Rights of the Child recognizes that disabled children have the right to special care. It continues by stating that assistance... “shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services...”<sup>114</sup> Guyana ratified this treaty in 1991 and is therefore bound by the provisions and is obligated to implement legislation to promote the realization of the treaty.

---

<sup>110</sup> *Id.*

<sup>111</sup> Guyana life expectancy at birth *available at* [http://www.indexmundi.com/guyana/life\\_expectancy\\_at\\_birth.html](http://www.indexmundi.com/guyana/life_expectancy_at_birth.html).

<sup>112</sup> Guyana - HIV/AIDS Prevention and Control Project: indigenous peoples plan *available at* [http://www-wds.worldbank.org/external/default/main?pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64187510&searchMenuPK=64187283&siteName=WDS&entityID=000090341\\_20040303100543](http://www-wds.worldbank.org/external/default/main?pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64187510&searchMenuPK=64187283&siteName=WDS&entityID=000090341_20040303100543).

<sup>113</sup> Declaration on the Rights of Indigenous Peoples, *supra* note 87 at art. 22.

<sup>114</sup> CRC, *supra* note 60 at art. 23.

**39.** Finally, the United Nations Convention on the Rights of Persons with Disabilities (CRPD) is an effort by states to promote and protect the rights of persons living with “long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”<sup>115</sup> Guyana signed this treaty in 2007, but has yet to ratify the treaty.<sup>116</sup> Even though Guyana has not ratified the treaty, it remains a signatory and therefore still has an obligation to refrain from any actions that would defeat the purpose of the treaty.

**40.** In regard to domestic law, the Guyanese constitution recognizes that “[e]very citizen has the right to free medical attention and also to social care in case of old age and disability.”<sup>117</sup> Further, the constitution requires Guyana to “take legislative and other measures designed to protect disadvantaged persons and persons with disabilities.” Nevertheless, there are no laws that allow disabled persons to challenge discriminatory acts or require access for persons with disabilities. The lack of appropriate infrastructure makes it difficult for persons with disabilities to be employed outside their homes. The National Commission on Disabilities has 15 cabinet-appointed members who advise the government on issues affecting persons with disabilities.<sup>118</sup> Unfortunately, access to resources in Georgetown does not always translate to access to resources in the interior.<sup>119</sup>

---

<sup>115</sup> United Nations Convention on the Rights of Persons with Disabilities, art. 1 (Dec. 13, 2006).

<sup>116</sup> Rights and Dignity of Persons with Disabilities *available at* <http://www.un.org/disabilities/countries.asp?navid=12&pid=166#G>.

<sup>117</sup> Guyana Const., *supra* note 6 at Ch. II (24).

<sup>118</sup> US Department of State: 2008 Human Rights Report Guyana *available at* <http://www.state.gov/g/drl/rls/hrrpt/2008/wha/119162.htm>.

<sup>119</sup> Ash, *supra* note 96.

41. Currently, the National Health Sector Strategy of Guyana seeks to reduce physical disabilities by “ensuring a nation-wide network of rehabilitative services and developing a national register.”<sup>120</sup> Amerindians receive free health care through the government, but only through the Public Hospital, and the quality of health care has been called “deplorable” due to the lack of health resources.<sup>121</sup> Amerindians can receive other types of health care including disability rehabilitation, but this is only available in Georgetown, which is problematic due to the difficulties of traveling.

42. Transportation is a major problem for indigenous communities seeking assistance in Guyana.<sup>122</sup> Transportation is always challenging in the interior, especially in Region 7 because there are no roads.<sup>123</sup> Region 9 has a series of roads, but they are unpaved and travel is especially challenging when unpaved roads become mud tracks and the rivers flood.<sup>124</sup>

## 5. Infant Mortality

43. The ICESCR and the CRC require states to work to decrease the Infant Mortality rate. In fact, since becoming parties to both treaties, the Infant Mortality rate has steadily decreased in Guyana with an average of 47 per 1000 live births.<sup>125</sup> However, the infant mortality rate is the highest in the Hinterlands Regions with an average of 68 per 1000

---

<sup>120</sup> National Health Sector Strategy, *supra* note 109 at 15.

<sup>121</sup> Ash, *supra* note 96.

<sup>122</sup> Transport a major hurdle for people with disabilities-survey *available at* <http://www.stabroeknews.com/2008/stories/07/11/transport-a-major-hurdle-for-persons-with-disabilities-%E2%80%93-survey/>.

<sup>123</sup> Ash, *supra* note 96.

<sup>124</sup> *Id.*

<sup>125</sup> UNICEF congratulates the Government and people of Guyana on progress made towards achieving key milestones related to women and children and urges the entire nation to further accelerate the rate of progress. (December 12, 2008) *available at* [http://74.125.95.132/search?q=cache:vmgp\\_wF5xPUJ:www.unicef.org/guyana/Press\\_Release\\_-\\_MICS\\_3\\_Launch\\_input\\_Johannes.doc](http://74.125.95.132/search?q=cache:vmgp_wF5xPUJ:www.unicef.org/guyana/Press_Release_-_MICS_3_Launch_input_Johannes.doc).



live births.<sup>126</sup> For example, in 2007, Region 1 saw 809 live births and 53 deaths resulting in a 2.1 percentage death rate per 1,000 population and Region 2 saw 1,088 live births with 333 deaths resulting in a 6.6 percentage death rate per 1,000 population. Region 7 saw 623 live births and 81 deaths giving a 4.5 percentage death rate per 1,000 population and Region 8 saw a 184 live birth rate with seven deaths seeing a 0.7 death rate per 1,000 population. Finally, Region 9 saw 666 live births with six deaths accounting for a 0.3 percentage death rate for 1,000 population.<sup>127</sup> The rate may be higher in the Hinterlands since many births are often outside of the healthcare system. In Region 1 almost half of the births took place outside of a hospital or health centre. Even though in Region 2 most births were in a hospital, there were still over 100 births that took place at home. Region 7 saw half of the births take place outside of the healthcare system and Region 8 had more births take place at home than in a hospital. Region 9 had less than half of the births take place in a healthcare facility.<sup>128</sup> Nevertheless, an attendant was present for most of the births. The Regions have the services of a mid-wife, with very few births having the supervision of a doctor.<sup>129</sup>

**44.** The Family Health Programme Policy and Procedures Manual (2006) places emphasis on parents bringing their children to the Maternal and Child Health Services for immunization.<sup>130</sup> Outside of the cities, in the main field hospitals, propane refrigerators keep the vaccinations cold. Because there are not refrigerators in the small villages, the medex will pack the vaccines requested by the CHW in a cooler with ice. This insures

---

<sup>126</sup> *Id.*

<sup>127</sup> Ministry of Health Statistics Unit: Statistical Unit 2007 p. 58, *available at* [http://www.health.gov.gy/pub/moh\\_stats\\_bulletin\\_07.pdf](http://www.health.gov.gy/pub/moh_stats_bulletin_07.pdf).

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> National Health Sector Strategy, *supra* note 109 at 13.

that the vaccinations stay cool until they arrive. Soon after they arrive, the new babies are vaccinated.<sup>131</sup>

## **6. Malaria**

**45.** Malaria has been a major health problem since 1986.<sup>132</sup> Today it is firmly established within the hinterland and even though the disease has decreased, it remains a problem.<sup>133</sup> There has been a steady decline in the number of malaria cases reported from 2005-2007.<sup>134</sup> Region 1 saw a 7.5% decline, Region 7 saw a 5.8% decline, Region 8 saw a 20.9% decline, and Region 9 saw a 6.0% decline.<sup>135</sup> However, in 2007, there were still 1,732 cases reported in Region 1, 1,236 cases reported in Region 2, 2,380 cases reported in Region 7, 1,130 cases reported in Region 8 and 1,096 cases reported in Region 9.<sup>136</sup> In Regions 1 and 9, Malaria is the most prevalent disease for males and females ages 5-14 and for males ages 45-64.<sup>137</sup>

**46.** In the April 2008 National Health Sector Strategy report, the Ministry of Health acknowledged the severity of the disease and aimed to “reduc[e] prevalence and mortality rates associated with malaria, and reduc[e] the number of malaria cases to 5,000 by 2012.”<sup>138</sup> The Ministry of Health further stated another goal of providing at least 90% of households within Regions 1, 7, 8, and 9 with at least one insecticide treated bed net.<sup>139</sup> As a response to the Ministry of Health’s goals regarding Malaria, the Regional Health services stock the regional health hospitals with plenty of medication to treat malaria.

---

<sup>131</sup> Ash, *supra* note 96.

<sup>132</sup> National Health Sector Strategy, *supra* note 109 at 17.

<sup>133</sup> *Id.*

<sup>134</sup> Ministry of Health Statistics, *supra* note 127 at 28.

<sup>135</sup> *Id.* at 29.

<sup>136</sup> *Id.* at 72.

<sup>137</sup> *Id.* at 23.

<sup>138</sup> National Health Sector Strategy, *supra* note 109 at 17.

<sup>139</sup> *Id.*

Additionally, the health workers receive training in blood smears and analyzing slides under a microscope to determine which type of malaria a person has.<sup>140</sup>

## 7. HIV/AIDS

47. Guyana has one of the highest rates of AIDS in South America.<sup>141</sup> The Government of Guyana recognized this significant fact in 2004 and implemented a *National Strategic Plan for HIV/AIDS*.<sup>142</sup> This program is ongoing until 2010 and targets populations, including indigenous communities, that are especially vulnerable to sexually transmitted diseases.<sup>143</sup> The *Plan* primarily attempts to provide knowledge about HIV/AIDS and methods of prevention and treatment; strengthen the health care system's ability to conduct tests and strengthen a referral system to potential persons infected by the disease.<sup>144</sup> Current data indicates that the prevalence of HIV/AIDS in indigenous communities is low. However, there is a severe problem of underreporting of the disease and therefore accurate data is unavailable.<sup>145</sup>

48. There have been some successes in Guyana to combat the disease. The Ministry of Education has implemented programs at the secondary level introducing HIV/AIDS

---

<sup>140</sup> Ash, *supra* note 96.

<sup>141</sup> Strengthening in Guyana: HIV/Aids in Guyana *available at* <http://www.csih.org/en/projects/guyana/AIDS.html>

<sup>142</sup> Government of Guyana: National HIV/AIDS Programme *available at* <http://www.hiv.gov.gy/doc.php?id=51>

<sup>143</sup> *Id.*

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

and gender-sensitive education.<sup>146</sup> In November 2008, staff from the Amerindian Affairs Ministry and the Amerindian Hostel submitted to the National Testing for HIV program and had 110 persons tested.<sup>147</sup> There was positive support for the test resulting in over 200 additional locations set up region wide.<sup>148</sup> Nevertheless, reports were unclear as to whether any of the testing sites would be made available in the remote hinterland regions. Additionally anti-retrovirals for adults are manufactured in Guyana and provided free of charge, yet at this time it is unclear whether they are available for children. James Ash, a missionary in Guyana stated that the Regional Executive Officer of Region 9 relayed to him that if an Amerindian publicly admits that they are HIV positive, the community then shuns them. Currently, the government is trying to educate the population and change the opinions of the people. Much of the attempts to change these views are made through the primary and secondary school curriculum.<sup>149</sup>

## 8. Tuberculosis

49. Tuberculosis is the leading cause of death among people who are HIV positive.<sup>150</sup> In 2005, the World Health Organization stated that there are approximately 900 new cases of Tuberculosis per year in Guyana. The Guyanese government recognized the problem and in 2008 delegated 200 million dollars of the budget to fight Tuberculosis.<sup>151</sup> This focus has resulted in much needed Tuberculosis testing sites.

---

<sup>146</sup> Summary Report, *supra* note 95.

<sup>147</sup> Stabroek Staff, Over 110 persons tested for HIV at Amerindian ministry, hostel, *available at* <http://www.stabroeknews.com/2008/news/local/11/22/over-110-persons-tested-for-hiv-at-amerindian-ministry-hostel/>.

<sup>148</sup> *Id.*

<sup>149</sup> Ash, *supra* note 96.

<sup>150</sup> Public Health Strengthening in Guyana: TB in Guyana *available at* <http://www.csih.org/en/projects/guyana/TB.html>.

<sup>151</sup> TB testing site established at Bartica Hospital (March 29, 2008) *available at* <http://www.gina.gov.gy/archive/daily/b080329.html>.

50. Currently there are 15 TB testing sites established in Region one through ten. They are: Mabaruma, Port Moruca, and Port Kaituma in Region One, Suddie and Charity Hospitals in Region Two, the West Demerara Regional Hospital in Region Three, the Georgetown Public Hospital Corporation, the Chest Clinic and Enmore Polyclinic in Region Four, Fort Wellington Hospital in Region Five, the New Amsterdam Hospital in Region Six, Bartica Regional Hospital in Region Seven, Mahdia Hospital in Region Eight, Lethem Hospital in Region Nine and the Linden Hospital in Region Ten.<sup>152</sup>

51. Testing sites in the Interior are particularly important for Amerindians because often when Amerindians leave the area seeking work in mines, they return having contracted the disease causing the disease to spread among the indigenous population.

## **B. EDUCATION**

### **1. Affirmative Obligation to Provide an Adequate Standard of Education**

52. The Guyanese constitution provides that [e]very citizen has the right to a free education from nursery to university as well as at non-formal places where opportunities are provided for education and training.”<sup>153</sup> The Universal Declaration on the Rights of Indigenous Peoples recognize that the Amerindians may establish and control their own educational systems, which may be taught in their own language.<sup>154</sup> In fact, the government is obliged to take “effective measures” to ensure that indigenous children may access an education in their own culture and in their own language.<sup>155</sup> However, the indigenous people also have a right to access all forms of education from the State.<sup>156</sup>

---

<sup>152</sup> *Id.*

<sup>153</sup> Guyana Const. *supra* note 6 at Ch. II (27).

<sup>154</sup> Declaration on the Rights of Indigenous Peoples, *supra* note 87 at art. 14.

<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

Even though the Declaration is non-binding, the government of Guyana has taken strides in attempting to abide by the Declaration on the Rights of Indigenous Peoples. Guyana implemented a new program devised as a means to introduce a style of teaching that is compatible with the indigenous way of life. The “Escuela Nueva” focuses on a child-centered approach wherein community support to education is vital.<sup>157</sup>

53. Additionally, the ICESCR states that everyone has the right to education, therefore primary education must be free and compulsory; secondary education must be generally available and accessible; higher education must be equally accessible; and the development of a system of schools must be pursued with the material conditions of the teaching staff improved.<sup>158</sup> Further, the CRC also recognizes that children have the right to an education.<sup>159</sup> This right goes beyond a mere right to access education, but includes a right to content that will help a child realize their full potential.<sup>160</sup>

## **2. Legislative Measures Taken and the Reality of the Situation**

54. The domestic law of Guyana endeavors to abide by the international agreements: The Amerindian Act provides that the Minister can make regulations and orders for any Amerindian District, Area or Village as he or she sees fit including for the care, custody and education of Amerindian children.<sup>161</sup> Guyana recognizes the significance of quality education and acknowledges that there are large numbers of unqualified teachers in the Hinterland.<sup>162</sup> The Cyril Potter College of Education has the responsibility of training

---

<sup>157</sup> Amerindian Development, *supra* note 102.

<sup>158</sup> ICESCR, *supra* note 61 at art. 13.

<sup>159</sup> CRC, *supra* note 60 at art. 29(1).

<sup>160</sup> The Aims of Education 17/04/2001 CRC/GC/2001/1 (General Comments) *available at* <http://www.unhchr.ch/tbs/doc.nsf/%28symbol%29/CRC.GC.2001.1.En?OpenDocument>.

<sup>161</sup> Guide, *supra* note 8 at Part IX §40(c).

<sup>162</sup> Ministry of Finance Project Cycle Management System *available at* <http://www.finance.gov.gy/pcms/project.php?id=39>.

prospective certified teachers.<sup>163</sup> However, rarely will a highly sought after teacher from Georgetown venture into the Interior to teach due to the poor compensation. Thus, the villages have to many times draw on local resources including secondary school graduates.<sup>164</sup> The Guyana In-Service Distance Education Programme (GUIDE) attempts to further educate current teachers in the Interior so that they can gain entry requirements to attend Cyril Potter College of Education.<sup>165</sup>

**55.** All Amerindian Communities have access to nursery, primary schools, and residential secondary schools.<sup>166</sup> However, the Guyanese government has created the Basic Education Access and Management Project (BEAMS) to renovate older schools and build new schools and to introduce computers and other modern technologies to the Indigenous communities.<sup>167</sup> The secondary schools have dormitories that housed approximately 1,400 students at government expense.<sup>168</sup> Nevertheless, there remains an unfavorable teacher student ratio due to a lack of trained teacher.<sup>169</sup> Additionally, there is problem with poor attendance in schools.<sup>170</sup> Finally, not all of the schools in the Hinterland regions are modern—some of the schools still contain pit latrines. Tragically in 2008, a nine-year child fell into one of the pits and died.<sup>171</sup> The government has recognized the inferior educational opportunities and has attempted to remedy the

---

<sup>163</sup> Four Teachers Graduate from Online Teaching Program July 12, 2009 *available at* <http://www.stabroeknews.com/2009/stories/07/12/four-teachers-graduate-from-online-training-programme/>.

<sup>164</sup> Ash, *supra* note 96.

<sup>165</sup> Amerindian Development, *supra* note 102.

<sup>166</sup> Office of the High Commissioner: Committee on the Rights of the Child *available at* <http://www.unhchr.ch/tbs/doc.nsf/0/997bb7ffddde2cf8c1256fa20048083d?Opendocument>.

<sup>167</sup> Amerindian Development, *supra* note 102.

<sup>168</sup> State, *supra* note 118.

<sup>169</sup> Office of the High Commissioner, *supra* note 166.

<sup>170</sup> *Id.*

<sup>171</sup> Amerindian groups joins calls for outlawing pit latrines in schools Sept 9, 2008 *available at* <http://www.stabroeknews.com/2008/news/local/09/09/amerindian-groups-join-calls-for-outlawing-of-pit-latrines-at-schools/>.

situation by employing a Guyana Basic Education Training project that will utilize distant education techniques in the form of learning modules, local tutorials, and a classroom based summer session.<sup>172</sup> The Education Act of Guyana places a duty on parents to see that their children receive “elementary instruction.”<sup>173</sup> However, this duty has little impact on the indigenous people because “a reasonable excuse” for failure to comply with the requirement is that a school is not located within two miles to the nearest road.<sup>174</sup> With the remote location of the Hinterlands, it is not hard to imagine that many children might fall under the “reasonable excuse” and thus be denied their right to education. Nevertheless, with the Education Act, Guyana has provided free education and a system of schools.

**56.** Guyana has implemented various projects to benefit the educational advancement of the indigenous people. Such as through the Secondary Schools Reform Project designed to upgrade education in the first three grades of Amerindian secondary school.<sup>175</sup> Additionally, the government awards scholarships to secondary, vocational and tertiary schools in the cities.<sup>176</sup> Students who do well on their standardized placement tests receive scholarships to go to Secondary Schools in Georgetown, and those who do well there get scholarships for University of Guyana.<sup>177</sup> Amerindian students have been among the recipients of Cuban scholarships that allow Guyanese students to study for a

---

<sup>172</sup> Ministry of Finance Project Cycle Management System *available at* <http://www.finance.gov.gy/pcms/project.php?id=39>.

<sup>173</sup> Education Act. Laws of Guyana, Chapter 39:01. Section 1(13). (Guy.)

<sup>174</sup> *Id.* at Section 1(14)(2)(a).

<sup>175</sup> Amerindian Development, *supra* note 102.

<sup>176</sup> Office of the High Commissioner, *supra* note 166.

<sup>177</sup> Ash, *supra* note 96.



period in Cuba.<sup>178</sup> In fact, the Guyanese government made a policy decision to include at least ten Amerindian students in each group of Cuban Scholars.<sup>179</sup>

### **3. Recommendations**

**57.** Guyana has taken significant strides to comply with their international obligations through international assistance, legislations, and various projects. However, Guyana has the opportunity to take even more strides for the indigenous populations. One main concern, is the lack of current data concerning the indigenous people. The government of Guyana needs to find a way to collect information on whether the programs aimed at the Interior are working and what changes, if any, need to be made.

**58.** The Health Sector Program needs to extend to the Hinterland to construct and upgrade health facilities. Additionally, focus must be placed on constructing a viable transportation scheme. Even with health projects taken to the Interior, the Indigenous people do not have access to equal healthcare opportunities, especially indigenous people with disabilities. They will not have access until they are able to more easily travel to Georgetown.

**59.** In regards to education, the Guyanese government should outlaw corporal punishment in schools, which is a violation of Article 19 of the CRC. Health care education, including the prevention of diseases and the erroneous stigmas associated with certain diseases should be taught to children. Further the Guyanese government should offer incentives for qualified educators to teach in the Interior. The government should provide these teachers with language and cultural education of the indigenous

---

<sup>178</sup> Cuban Scholarship Awardees Return to Guyana Aug 1, 2009 *available at* [http://www.caribbeannetnews.com/article.php?news\\_id=18023](http://www.caribbeannetnews.com/article.php?news_id=18023).

<sup>179</sup> Amerindian Development, *supra* note 102.

populations. Finally, the government should provide assistance and encouragement for the bilingual instruction of children in indigenous schools.