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Summary record of the 4097th meeting*

Held at the Palais Wilson, Geneva, on Monday, 18 March 2024, at 3 p.m.

Chair: Ms. Abdo Rocholl

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* No summary records were issued for the 4095th and 4096th meetings.

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Third periodic report of Guyana (CCPR/C/GUY/3; CCPR/C/GUY/QPR/3)

1. *At the invitation of the Chair, the delegation of Guyana joined the meeting via video link.*
2. **A representative of Guyana**, introducing her country's third periodic report (CCPR/C/GUY/3), said that the national mechanism for reporting and follow-up had played a critical role in the preparations for the review before the Committee. Since the submission of its periodic report in 2021, Guyana had undergone significant changes and was experiencing rapid economic growth owing to the discovery of oil deposits in 2019. Her country was committed to maximizing the benefits of that growth for all citizens and had prioritized investment in education, health care, infrastructure and housing, all with a view to sustained development. The education budget had been increased by 116 per cent and the health budget by 260 per cent. The national development agenda was focused on diversifying the economy and reducing its dependence on oil; accordingly, only 30 per cent of the 2024 budget was financed by oil and gas revenues. Guyana was one of the few countries in the world with an intact rainforest and zero net carbon emissions. It was also rich in resources and had growing information technology and ecotourism sectors.
3. A range of initiatives focused on inclusion and on leaving no one behind had been launched. The national housing programme had been expanded along with access to potable water. The health and education sectors had been modernized, and social programmes for the poor and vulnerable had been extended. Several training initiatives were in place from which thousands of citizens had benefited, including the Guyana Online Academy of Learning, the Women's Innovation and Investment Network and the Board of Industrial Training. The teacher training college had seen its largest-ever intake of students in 2023.
4. The legislative framework had been updated since the submission of the periodic report with the enactment or amendment of legislation on human rights, the health sector, the judiciary, corruption, oil and gas revenues, and digitalization. Those changes were designed to facilitate the transformation and modernization of Guyanese society. A constitutional reform process would begin in 2024 and would be led by a committee comprised of 10 nominees from political parties and 10 from civil society. Consultations and formal hearings would be undertaken throughout the country.
5. The following oversight bodies had been appointed in 2022 and 2023 to combat corruption and protect human rights: the Police Service Commission, the Public Procurement Commission, the Integrity Commission, the Judicial Service Commission, the Public Service Commission and the Ethnic Relations Commission.
6. Climate change was one of the greatest threats faced by Guyana, which was recognized as a world leader in the forest carbon credit and voluntary carbon markets. In December 2022, Guyana had been the first country to be issued jurisdictional-scale carbon credits, thereby putting its authorities in charge of the related carbon offsetting efforts. It had also been the first country to complete the process for producing high-integrity carbon credits in line with the Paris Agreement. The sale of carbon credits to private sector organizations, including a 10-year agreement covering the sale of at least US\$ 750 million in credits to the Hess Corporation, would be used to protect the country's vast forests and provide capital to improve the lives of Guyanese citizens through government investments to be made under the Low Carbon Development Strategy. The Strategy was aimed at preparing the country for the impact of climate change and ensuring sustainable development.
7. Funds from the sale of carbon credits had been disbursed to Amerindian communities for sustainable development projects, and Guyana was committed to allocating 15 per cent of earnings from the sale of carbon credits to Indigenous communities. The Amerindian Act would undergo a consultative review with all of the Indigenous Amerindian communities and other national stakeholders in 2024. The Indigenous communities of Guyana were the second-largest landowners after the State and held almost 16 per cent of the national territory.

8. The claims of the Bolivarian Republic of Venezuela to two thirds of the territory of Guyana posed a threat. Guyana had approached the International Court of Justice to settle that dispute. Some 40,000 Venezuelans were living in Guyana and had access to free education, health care and employment.

9. **Ms. Tigroudja**, noting that the State party had been transparent in acknowledging that civil society had not been sufficiently involved in the preparation of the periodic report, said that she would appreciate learning what obstacles had prevented broader consultations from being held.

10. She wished to know whether issues related to access to nationality without discrimination for foreigners married to Guyanese citizens had been resolved. In the light of the Committee's Views regarding *González v. The Republic of Guyana*, which had dealt with that issue, it would be useful to learn whether there was a legal mechanism for the implementation of the Committee's decisions concerning individual communications and what legal value those decisions held in the State party. She wondered what measures had been taken to raise awareness of the individual communications mechanism and what the reasons might be for the fact that so few complaints of that kind concerning Guyana had been filed with the Committee. She wished to know whether the State party intended to withdraw the reservation it had entered upon re-acceding to the first Optional Protocol to the Covenant in 1999, which limited the State party's international obligations towards persons under a death sentence. Several other States had objected to that reservation and to the procedure used for entering it, and she wondered whether the State party had taken those objections into account.

11. Had the tense political situation between the State party and the Bolivarian Republic of Venezuela had an impact on the applicable constitutional framework? For example, had a state of emergency been declared?

12. **Mr. Carazo** said that, while the provisions of the Covenant had been incorporated into the Constitution, the Committee had been informed that, while the State party's courts were apparently receptive to human rights arguments, they were reluctant to encroach on the legislative autonomy of Parliament. The Committee would therefore like to know whether the Government of Guyana had made an explicit commitment to the realization of Covenant rights. In that connection, he would appreciate hearing the delegation's comments on the recommendations made to the State party during its universal periodic review by the Human Rights Council. Had those recommendations been reviewed and implemented? It would be useful to gain a greater understanding of the broad-based, expansive electoral reform and constitutional reform envisaged by the State party. He wondered how human rights law was covered in the training provided for judges, prosecutors and lawyers in the State party. He also wished to know whether there were plans to establish a constitutional court and to include civil society in the formal institutional structure for the promotion and protection of human rights.

13. He would like to learn what the status was of the review of the Prevention of Discrimination Act. Had a proposed amendment been drafted and, if so, which grounds of discrimination did it include? Was discrimination on the grounds of sexual orientation or sexual identity to be included in the prohibition? It would also be useful to learn which stakeholders would be involved in the amendment process. He wondered whether any instances of indirect discrimination had been identified and, if so, how the State party had dealt with those cases. In the light of recommendations by the Committee on the Elimination of Racial Discrimination, he would like to know what action had been taken to address racial discrimination in the State party.

14. **Mr. Quezada Cabrera** said that he would like to know if the State party had made any progress towards making the Human Rights Commission operational and appointing its chairperson, and he would welcome further information on its assigned functions, composition and competencies. It would also be interesting to learn whether the three commissions devoted to the rights of women and gender equality, Indigenous Peoples and children had been established and whether those bodies were now functional.

15. The Committee would welcome further information on any investigations carried out into allegations of ill-treatment of transgender persons being held in police custody and

prisons. The delegation might also like to comment on the alleged failure by the police to investigate allegations of discrimination and violence against lesbian, gay, bisexual and transgender persons. In that regard, he would appreciate further details on any investigations that had been carried out into the cases concerning such acts that had been reported to the Police Complaints Authority. It would also be useful to know what measures the Government was taking to repeal sections 352 to 354 of the Criminal Law (Offences) Act on sexual relations between consenting adults of the same sex. He wished to know whether the Police Complaints Authority had been granted the power by law to receive and address complaints of discrimination by police officers against lesbian, gay, bisexual, transgender, queer and intersex persons. Lastly, the Committee would welcome further information about any specific steps taken to include sexual orientation, gender identity and gender expression as prohibited grounds of discrimination in the Constitution. Had an amendment to the Constitution explicitly prohibiting discrimination on those grounds been drafted?

16. **Mr. Helfer** said that, in view of the criticism expressed in some quarters regarding the ineffectiveness of the Commissioner of Information and the Public Procurement Commission, he would welcome further information about the recent activities of those bodies and of other anti-corruption institutions such as the Office of the Auditor General and the Integrity Commission. He would also appreciate updated information about the status of the Protected Disclosures Act of 2018 and the Witness Protection Act of 2018, neither of which had apparently been activated yet. In view of the dissolution of the State Assets Recovery Agency in 2020, he wished to know which government agency had been made responsible for recovering stolen State assets and how it fulfilled that mission. The Committee would also welcome further information on the measures taken by the State party to ensure prompt and thorough investigations into all allegations of corruption, as well as the prosecution and punishment of perpetrators. In that regard, the delegation might like to comment on the specific allegations of corruption that had been made against the Guyana Police Force, the judiciary and Vice-President Bharrat Jagdeo.

17. Lastly, the Committee was aware that the governance of the Natural Resource Fund had come under criticism from some quarters, and it had been further disturbed by the news that the State party had been suspended from the Extractive Industries Transparency Initiative. In the light of those concerns, he would welcome further information on the steps that the State party planned to take to strengthen its oversight of the extractive sector.

The meeting was suspended at 3.50 p.m. and resumed at 4.05 p.m.

18. **A representative of Guyana** said that, having taken office in August 2020, the current Government had needed to act quickly to avoid missing the deadline for the submission of its third periodic report. Although consultations on the report had been held with new and existing government agencies, it had unfortunately not been possible to organize extensive consultations with civil society given the prevailing time constraints. However, the views of civil society had since been taken into account in the drafting of the reports submitted by Guyana under other international instruments, including the Convention on the Rights of the Child.

19. With respect to the Second Optional Protocol to the Covenant, both the Constitution and other domestic legislation provided for capital punishment, and any proposal to abolish the death penalty would therefore have to be approved by Parliament. However, in 2024 the Government planned to give the people of Guyana the opportunity to express their views on constitutional reform, including the potential abolition of the death penalty. In the meantime, an informal moratorium could be said to be in place, given that no person sentenced to death had been executed since 1997 and there was no public or political clamour to recommence executions. It should further be noted that, in recent years, neither the Government nor the Prison Service had invested any funds in purchasing equipment or training personnel for the purpose of implementing death sentences.

20. Although there had been a heightening of tensions between Guyana and the Bolivarian Republic of Venezuela towards the end of 2023, the Heads of State of the two countries had met on 14 December and had agreed to work towards developing more constructive bilateral relations. The countries had subsequently participated in further talks in Brasilia in February 2024.

21. She failed to understand the reference made by the Committee member to the reluctance of the courts to encroach on legislative autonomy, since the separation of powers between the executive, legislature and judiciary was a fundamental pillar of the Constitution. Both domestic courts and the Caribbean Court of Justice had referred in a number of cases to the constitutional duty of the executive, judiciary, legislature and civil service of Guyana to uphold the international conventions that the country had ratified.

22. Guyana had joined the human rights initiative of the United States Southern Command in 2023. In addition to the United States of America, it was also allied with countries such as Brazil and the other members of the Caribbean Community. Those alliances were important to Guyana, particularly given its fractured relations with its neighbour, the Bolivarian Republic of Venezuela, which was a larger and more populous country with a better-equipped military. However, the Government did not believe that its desire to build strong alliances should be a matter of concern for the Committee. Although the Committee had expressed its concern that, under Guyanese law, the State could limit the extent of its obligations under international treaties, it should be aware that the Constitution established that it could do so only if it had the support of two thirds of the members of the National Assembly.

23. With respect to electoral reform, the National Registration (Amendment) Act of 2022 and the Representation of the People (Amendment) Act of 2022 had been passed following over a year of consultations with political parties, representatives of civil society and other stakeholders. There had been no subsequent complaints concerning the manner in which the local government elections of 2023 had been conducted and no allegations of electoral fraud or illegal activity had been made.

24. The Prevention of Discrimination Act of 1997 was currently being reviewed, and consultations on a new bill would soon be held with relevant government agencies and civil society. Sexual orientation, gender identity and disability had all been included as prohibited grounds for discrimination in amendments to the existing legislation, which had been passed specifically to address discrimination at work sites and in employment. Moreover, the bill contained an expanded definition of sexual harassment and provided for the strengthening of the mechanisms for filing complaints of sexual harassment. On a related note, no complaints of discrimination had been brought before the Ethnic Relations Commission. However, the Government had provided a detailed submission on the complaint against Guyana that had been brought before the Committee on the Elimination of Racial Discrimination and was awaiting a full reply from the Committee.

25. The Constitution provided for the creation of the Human Rights Commission, to be composed of the chairpersons of the Ethnic Relations Commission, the Women and Gender Equality Commission, the Indigenous Peoples' Commission and the Rights of the Child Commission, as well as the chairperson of the Human Rights Commission itself. Unfortunately, the Commission still did not have a chairperson because, for several years, successive leaders of the Opposition had failed to submit a list of possible candidates to the President. However, the current leader of the Opposition had announced three months previously that he would fulfil that duty. The functions of the Human Rights Commission included: monitoring observance of the international instruments to which the Government acceded; monitoring and assessing respect for human rights and reporting on the need for any legislative amendments to the National Assembly; educating the public regarding the nature and content of people's rights; making recommendations to any person or any entity relating to human rights; and investigating complaints or initiating investigations into rights violations. Although the Human Rights Commission addressed all human rights, it focused on those that did not fall under the mandates of any of the four other commissions. The secretariat of the Human Rights Commission was operational. Its annual budget, which had risen from 25.3 million Guyana dollars (G\$) in 2021 to G\$ 33.7 million in 2023, currently stood at G\$ 32.6 million.

26. The Public Procurement Commission, which was an independent body established under the Constitution, had been brought back into operation. Although it was conducting investigations into a number of recent reports, its work was still somewhat delayed because it was overcoming issues that had been faced by its predecessor, which had been underresourced and had lost numerous files or had fallen behind on their follow-up. The

Integrity Commission was also a functioning body, and steps had been taken to strengthen its work and increase its budget. Unfortunately, there were still certain obstacles preventing the Protected Disclosures Act of 2018 and the Witness Protection Act of 2018 from being implemented. In the meantime, the State and the police continued to offer support and protection to witnesses.

27. Although the State Assets Recovery Agency had been dissolved, the powers of the Special Organized Crime Unit, the Customs Anti-Narcotic Unit and the Director of Public Prosecutions had been strengthened under recent amendments to laws on money laundering and the financing of terrorism. The amendments had introduced provisions on civil forfeiture and had established modern asset management and confiscation frameworks, including an asset recovery fund.

28. While it was true that Guyana had been suspended from the Extractive Industries Transparency Initiative, it had been reinstated within six months of that suspension.

29. With regard to the accusations of corruption levelled at the Vice-President in the press, the State was not currently taking any action because no official complaint of corruption had been filed with the police. Nonetheless, the Vice-President had spoken on the issue publicly many times, including in interviews with the media company that had published the accusations.

30. The first Natural Resource Fund Act, which had been passed in 2019, had given the Minister of Finance exclusive powers over disbursements from the Sovereign Welfare Fund. The Natural Resource Fund Act of 2022 had repealed those powers, however, and set limits on how much of the national budget could be channelled into the oil and gas sector annually in order to protect future generations. Under the 2022 Act, revenue from the oil and gas sector must be reported in the Official Gazette on a quarterly basis, and any expenditure in that regard must be approved by Parliament. If the Minister of Finance were to fail to fulfil those obligations, he would be subject to criminal prosecution. The 2022 Act also established the Public Accountability Committee to oversee the use of the Natural Resource Fund. The Committee comprised members of civil society nominated through a parliamentary process. The Opposition was permitted to appoint one member, who must not be a political or partisan figure, to the Natural Resource Fund Board.

31. Regarding the case of *Gonzalez v. The Republic of Guyana*, during the period when the events involved in the case had transpired, the Guyanese court system had been experiencing a serious backlog. In 2016, the State had adopted the Civil Procedure Rules of the Supreme Court, which had resulted in a significant reduction in the backlog of cases and had expedited case processing. Justice Singh had quashed the decision of the Minister of Home Affairs to deny Mr. González his citizenship on the ground that the decision had been unsubstantiated. The laws of Guyana had not been amended in the light of the case; however, under the laws in force, any person who married a Guyanese citizen had the right to apply for Guyanese citizenship from the date of his or her marriage.

32. All members of the judiciary received training on human rights and the international human rights instruments ratified by Guyana. Police officers also received human rights training as part of their induction and throughout their careers. Over 2,000 police officers had received specific training on dealing with cases of sexual and domestic violence, and steps were taken to ensure that there was at least one such officer in every police station. The Government was not aware of any reports of failures to investigate corruption among the judiciary. No such allegations had been made to the Judicial Service Commission or published by any national media company. Expressions of dissatisfaction with the result of a court case by the losing party did not equate to allegations of corruption, which must be properly filed with the competent authority. Since 2020, the Police Complaints Authority had received 845 complaints, some of which had been rejected, while others had led to investigations or been sent to the Police Service Commission or the Office of the Director of Public Prosecutions. A total of 491 complaints had been closed. The Police Complaints Authority was a statutory, rather than constitutional, body. It also was empowered to investigate reports of deaths in police custody.

33. The Government had not received any reports regarding the alleged abuse of members of the lesbian, gay, bisexual, transgender, queer and intersex community. Organizations

representing that community had stated that the number of violations of the rights of its members was relatively small. Unless violations were reported to the police or the human rights commissions, they could not, of course, be investigated. Regarding sections 352 to 354 of the Criminal Code, while the Government was in favour of repealing those provisions, it had been discovered through consultations that the majority of civil society organizations, in particular religious organizations, were adamantly opposed to the idea, which made the passage of the necessary amendments difficult. The attitudes of the public towards lesbian, gay, bisexual, transgender, queer and intersex persons were improving, however, and government officials were prohibited from discriminating against such persons in the provision of services. The Ministry of Labour had received no complaints of discrimination against lesbian, gay, bisexual, transgender, queer or intersex persons in relation to hiring processes.

34. **Mr. Carazo** said that he would appreciate further information on the Extractive Industries Transparency Initiative. Given that the Ethnic Relations Commission had had no commissioners in 2021 and 2022, a state of affairs which had allegedly limited its powers, he would also welcome further information on the work undertaken by the Commission during that period.

35. **Mr. Quezada Cabrera** said that he would be grateful for clarification as to whether the Human Rights Commission was currently functional, since the appointment of the chairperson was still pending yet, according to the delegation, the Commission had already been allocated financial and human resources. It would also be useful to learn about the current situation of the other three rights commissions. Lastly, he wished to reiterate his previous question about whether the Police Complaints Authority was competent to receive complaints of discrimination or abuse committed by police officials against lesbian, gay, bisexual, transgender, queer or intersex persons, which had gone unanswered. He also wished to know whether the Authority was fully independent.

36. **Ms. Tigroudja** said that, while she noted the information provided with regard to the case of *González v. The Republic of Guyana*, she would welcome clarification of the legal status of the Covenant, the Views adopted by the Committee and the decisions of other treaty bodies within the State party's domestic legal framework. It would also be interesting to learn whether the State party had a mechanism for centralizing the recommendations and decisions of international human rights bodies to facilitate follow-up.

37. **A representative of Guyana** said that the Ethnic Relations Commission had been established during the constitutional reform process of 1999–2001 following a violent period in the country's history. Its objective was to build ethnic harmony, and it was mandated to receive complaints from persons who believed they had been subjected to discrimination on ethnic grounds and to provide redress to victims of ethnic discrimination. It was not a political body, but rather was composed of members appointed through a process involving consultation with civil society. It was the responsibility of the Government to ensure ethnic harmony. To that end, it had been promoting the "One Guyana" concept, under the banner of which various programmes and activities had been organized to mend fractured social relations. In Guyana, ethnic issues were bound up with politics and partisanship.

38. For all four rights commissions, the Constitution and the parliamentary consensual mechanism required that a list of civil society organizations to be consulted must be submitted to a parliamentary committee. The list must be approved by a two-thirds majority of the National Assembly, which required cross-party agreement. Each approved civil society organization must then appoint a representative. The list of representatives must then be approved by a simple majority in Parliament. The President did not nominate his own candidates to any of the rights commissions or the Police Service Commission. He was permitted only to appoint one member of the Judicial Service Commission, in consultation with the Opposition, and to appoint one member of the Public Service Commission at his own discretion. The human rights and service commissions were thus properly protected from interference by the State.

39. Part of the constitutional mandate of the Human Rights Commission was to serve as the secretariat for certain aspects of the work of the commissions on the rights of women, children and Indigenous Peoples, including accounting and transportation-related matters.

The implementation of the substantive mandates of the commissions was the exclusive responsibility of the relevant commissioners. The Ethnic Relations Commission was now fully operational. In 2021 and 2022, the Commission had been able to receive reports but had been unable to make decisions, since it had no commissioners. The annual reports of the rights commissions were submitted to the National Assembly and were posted publicly on their websites.

40. The Police Complaints Authority, by law, must hear and investigate all claims by all persons regarding abuses by the police and cases of corruption, fraud or murder, among other crimes, involving police officers. Lesbian, gay, bisexual, transgender, queer and intersex persons, like all citizens of Guyana, were free to lodge complaints with the Authority regarding any abuse committed by any police officer in any part of the country. The Authority had to ensure the independence and impartiality of its work. It did not answer to, and was not funded by, the Guyana Police Force, and its Chair, who was appointed by the President, must be a retired judge or have held an equivalent position.

41. Article 39 (2) of the Constitution authorized the High Court to take note of and apply international instruments and decisions, including the Covenant and the Committee's Views. There had been a number of cases in which the courts had had recourse to international instruments, including the case of *Tywon Thomas v. Attorney General*, in which Chief Justice Roxanne George had noted that Guyana was bound by the Covenant in her finding that the rights of the claimant under the Constitution and the Covenant had been violated. In addition, the Chief Justice had referred to Views of the Committee in interpreting and applying the Covenant and its provisions, specifically in the case of *Antti Vuolanne v. Finland* (CCPR/C/35/D/265/1987). The National Mechanism for Reporting and Follow-up, which comprised 16 agencies, was responsible for examining the recommendations and observations of international human rights bodies. Training on the international human rights obligations of Guyana had recently been organized for those agencies with support from the universal periodic review voluntary trust fund. A template for bringing recommendations to the attention of ministers and the President was currently being developed.

The meeting rose at 5 p.m.