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Guyana: Draconian security legislation threatens fundamental rights

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Criminal legislation recently enacted in Guyana could seriously jeopardize human rights and should be reformed in accordance to the country's international human rights obligations, Amnesty International said in a new report released today.

"The very real threat of violence and crime - which has seen four law enforcement officers killed since the beginning of this year - is one which the Guyanese authorities have the right -- and the duty -- to protect society from. However, fundamental human rights cannot be traded in for increased security," the organization added.

"Protection for the human rights of all is at the heart of the rule of law and eroding basic rights and liberties can only lead to growing levels of insecurity."

Amnesty International is particularly concerned about the broad and vague definition of "terrorist act" adopted in the new legislation, which could be interpreted so as to encompass activities which involve the legitimate exercise of rights guaranteed under international law .

"The scope of the definition of 'terrorist act' is so open that there is a risk it will result in restrictions to the peaceful expression of dissenting opinions and other lawful activities," the organization added, stressing that activities such as striking could be interpreted as "terrorist acts" in breach of international standards recognizing the right to strike.

"Moreover, the severe penalties for committing a "terrorist act" --- which include the mandatory death penalty -- are extended to inciting or advising the commission of such an act, in breach of international law," Amnesty International said.

The imposition of the death penalty as mandatory in all cases in which a death results from a "terrorist act" is also a cause for great concern and runs counter to Guyana's international obligations and recent jurisprudence by international human rights bodies and by the Privy Council, whose judgments have persuasive authority in Guyana.

"Extending the scope of application of capital punishment contradicts existing international standards and the growing worldwide trend towards abolition of the death penalty," Amnesty International said.

The organization also expressed concern at powers afforded to the Minister of National Security which may result in restrictive orders being placed on persons who "may reasonably be regarded as constituting a threat to public order and safety". Such measures could include police supervision and there is a risk that they may be interpreted as allowing for arbitrary arrest and indefinite administrative detention without charge or trial.

"The experience of other countries shows how administrative detention is often accompanied by the creation of a shadow justice system, lacking crucial safeguards and potentially leading to human rights violations including unlawful arrest, torture and ill-treatment, and execution," Amnesty International warned.

The organization is urging the authorities of Guyana to immediately reform the new legislation to bring it into line with international human rights standards and the human rights provisions of the Guyana's constitution. Recommendations include:

Any definition of "terrorism" should ensure: clear definition of the conduct that is proscribed and; should not unduly or inadvertently restrict rights such as those of freedom of association , expression and peaceful assembly;

Abolishing the death penalty for all crimes, including crimes of "terrorism";

Ensuring that detentions are carried out within a strict legal framework and that those detained enjoy the rights and safeguards set forth in international standards, including the right to challenge the lawfulness of their detention, and access to a lawyer;

Upholding international fair trial standards, including by banning the use of secret evidence and anonymous witnesses in criminal trials and proceedings to determine whether a person should be detained on the grounds that they are a "threat to security".

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