

Religion and Human Rights

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Guyana

- Guyana is located on the north eastern should of the South American continent.
- It is the only English speaking country in South America and has a population of 750000.
- Guyana was a former British colony which gained independence in 1966.
- In 1970 Guyana became a Republic with a non executive head of State, the President.
- In 1980 the country changed its constitution to permit the Head of state to be an executive President.
- Guyana is a common law county with the High Court of the Supreme court of Judicature enjoying original jurisdiction to enforce fundamental rights.

Article 145 of the Constitution of the Co-operative Republic of Guyana

- 145(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this article the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

Article 145 continued.

- (2) No religious community shall be prevented from providing religious instruction for persons of that community.
- (3) Except with his own consent (or , if he is a person who has not attained the age of eighteen years, the consent of his guardian), no person attending any place of education shall be required to receive religious instructions or take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion which is not his own.
- (4) No person shall be compelled to take any oath which is contrary to his religion or belief or take any oath in a manner which is contrary to his religion or belief.

Article 145 limitations

- Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision-
- (a) which is reasonably required
- (i) in the interest of defence, public safety, public order, public morality or public health; or
- (ii) for the purposes of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without unsolicited intervention of members of any other religion; or

Article 145 (iii)

Or

(iii) With respect to standards or qualifications to be required in relation to places of education including any instruction (not being religious instruction) given at such places.

Article 145 (6)

- References in this article to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

How is the protection of the right to freedom of conscience enforced

- Article 153 of the Constitution specifically empowers the High Court of the Supreme Court of Judicature to make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of articles 138 to 151.

How have the courts enforced and or protected this right.

- (a) There are no reported cases where the protection of this right has been deliberated upon.

Has the right been threatened

- In 2009, 50 missionaries from the Church of Jesus Christ of Latter Day Saints were detained on the ground of alleged immigration violations.
- In fact no immigration law or regulation had been violated but the Minister of Home Affairs had determined that he wanted to restrict the number of missionaries in the country.
- The legal proceedings for the issuance of writs of habeas corpus were applied for and granted and the missionaries were released but subsequently departed Guyana within the following month
- The Minister subsequently imposed an arbitrary limit of 20 overseas missionaries

Has the right been threatened.

Cont.

- Prior to 1974, several religious denominations had established schools throughout the country. There were private schools
- In 1974 all schools were taken over by the state when education was made free by the then Government.
- The compulsory acquisition of the schools resulted in religious instruction being removed from the curriculum.
- It was not until 1990 that private schools were again permitted and schools operated by religious bodies re emerged.
- The return of private schools has seen an improvement in the standard and quality of education.

Has the right been threatened.

- The challenge which the protection of the right to freedom of conscience in Guyana faces is not a threat to the right to exercise freedom of religion but the indirect restrictions on the effective propagation of one's religion whether by the restriction of the number of missionaries permitted in the country.
- This indirect restriction for the immediate future will continue to be cast as an immigration issue rather than its true context as an indirect restriction on the right to propagate one's religion.