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**MISIÓN DE OBSERVACIÓN ELECTORAL
ELECCIONES GENERALES Y REGIONALES
REPÚBLICA COOPERATIVA DE GUYANA**

2 DE MARZO DE 2020

INFORME FINAL

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I. INFORME FINAL ANTE EL CONSEJO PERMANENTE¹

A. INTRODUCCIÓN

El 2 de marzo de 2020, la República Cooperativa de Guyana celebró elecciones generales y regionales para elegir a los sesenta y cinco miembros de la Asamblea Nacional y a los 205 integrantes de los Consejos Democráticos Regionales. La Lista Oficial de Votantes del proceso incluyó 660.998 nombres.

En una carta dirigida al Secretario General de la Organización de los Estados Americanos (OEA), de fecha 20 de noviembre de 2019, la Excelentísima Dra. Karen Cummings, Ministra de Relaciones Exteriores de Guyana, invitó a la OEA a observar las elecciones. El Secretario General aceptó la invitación el 21 de noviembre de 2019 y confirmó que la Organización desplegaría una Misión de Observación Electoral (MOE) para las elecciones generales y regionales, sujeta a la disponibilidad de fondos para hacerlo.

El 13 de febrero de 2020, en Washington D.C., el Gobierno de Guyana y la Secretaría General de la OEA firmaron un Acuerdo sobre Privilegios e Inmunidades de la Misión de Observación Electoral. También se firmó un Acuerdo de Acceso Electoral entre la Misión y la Comisión Electoral de Guyana, en Georgetown, el 26 de febrero de 2020.

Esta fue la sexta ocasión en la que la OEA estuvo presente para un proceso electoral en Guyana. Las misiones de la OEA se desplegaron anteriormente para las elecciones generales y regionales de 1997, 2001, 2006, 2011 y 2015.

– Composición y metodología de la Misión de Observación Electoral

El Secretario General Luis Almagro designó al Excelentísimo Bruce Golding, ex Primer Ministro de Jamaica, como Jefe de Misión. La Misión llegó a Guyana el 20 de febrero y estuvo integrada por 17 expertos y observadores de 13 países, entre ellos especialistas en registro electoral, organización electoral, tecnología electoral, justicia electoral, financiamiento de campañas políticas y participación política de la mujer. Si bien la mayoría de los integrantes de la Misión partió de Guyana el 14 de marzo de 2020, la organización permaneció plenamente comprometida con el proceso poselectoral, incluso durante el recuento nacional de todos los votos emitidos en la votación del 2 de marzo y hasta la declaración de los resultados finales oficiales el 2 de agosto de 2020, cinco meses más tarde. Dos observadores de la OEA estuvieron presentes durante la totalidad del período de recuento que se llevó a cabo del 6 de mayo al 8 de junio de 2020.

Al día siguiente de las elecciones generales y regionales, el martes 3 de marzo de 2020, la Misión de la OEA presentó una Declaración Preliminar en Guyana con sus principales apreciaciones y recomendaciones. El 13 de mayo, luego del inicio del recuento nacional, el Jefe de Misión informó en una sesión ordinaria virtual del Consejo Permanente de la OEA

¹ Presentado ante el Consejo Permanente de la Organización de los Estados Americanos por el Jefe de Misión, Bruce Golding, el 1 de diciembre de 2021.

sobre la continuación del proceso electoral en Guyana. El 21 de julio el Jefe de Misión presentó información nuevamente ante una sesión extraordinaria virtual del Consejo Permanente de la OEA, convocada para considerar la situación del proceso electoral en Guyana.

El presente documento es el informe final de la Misión. Complementa el informe preliminar, aporta más detalles sobre las conclusiones y recomendaciones iniciales de la Misión e incluye análisis y recomendaciones adicionales basadas en los acontecimientos posteriores a las elecciones. La Misión espera que el informe sea de utilidad para las autoridades nacionales y electorales de Guyana, pues aborda las dificultades que se presentaron durante el prolongado proceso electoral de 2020, y espera que se fortalezca el marco electoral general para la celebración de futuras elecciones.

B. ANTECEDENTES

El ambiente imperante en Guyana antes de las elecciones era complejo debido a la moción de censura presentada por el partido opositor, el Partido Progresista Popular/Cívico (*People's Progressive Party/Civic* [PPP/C]), contra el Gobierno de coalición formado por Una Asociación para la Unidad Nacional (*A Partnership for National Unity* [APNU]) y la Alianza para el Cambio (*Alliance for Change* [AFC]) a fines de 2018.

La aprobación de la moción el 21 de diciembre de 2018 activó el artículo 106 (6) y (7) de la Constitución de Guyana,² que estipula que, si el Gobierno pierde un voto de confianza, el gabinete, incluido el Presidente, deberá renunciar, y deberán celebrarse elecciones en el plazo de tres meses o en un plazo más largo que deberá ser aprobado por el voto de al menos dos terceras partes de los miembros electos de la Asamblea Nacional. Sin embargo, en los días posteriores a la aprobación de la moción de censura, el Gobierno no dimitió ni se anunciaron los preparativos para las elecciones. Posteriormente se presentaron tres acciones judiciales ante los tribunales de Guyana.

En primer lugar, en el caso *Charrandas Persaud v Compton Reid y otros*,³ interpuesto el 4 de enero de 2019, un ciudadano particular, el señor Compton Reid, impugnó la validez del voto de censura, al sostener que el miembro de la APNU+AFC que votó con la oposición, el señor Charrandas Persaud, era ciudadano canadiense en el momento de las elecciones de 2015 y de ninguna manera debería haber estado en la Cámara, con lo cual su voto habría quedado invalidado.

En el segundo caso, *Bharrat Jagdeo v el Fiscal General y otros*,⁴ presentado el 7 de enero de 2019, el Fiscal General, Basil Williams, solicitó al tribunal que determinara si la moción de censura fue aprobada válidamente por 33 a 32 votos. Él sostuvo que la fórmula para lograr una "mayoría absoluta" en la Asamblea era al menos la mitad de los miembros más uno.

² Constitución de la Cooperativa República de Guyana, Capítulo 1:01, Ley 2 de 1980 (y sus enmiendas), https://www.gecom.org.gy/assets/docs/laws/Cap_101_Constitution.pdf

³ [2019] CCJ 10 (AJ), <https://ccj.org/wp-content/uploads/2019/06/2019-CCJ-10AJ1.pdf>

⁴ [2019] CCJ 10 (AJ), <https://ccj.org/wp-content/uploads/2019/06/2019-CCJ-10AJ1.pdf>

Como la Asamblea Nacional de Guyana está compuesta por 65 miembros, él razonó que la mitad de todos los miembros electos resultaría matemáticamente en una fracción de 32,5, que tendría que redondearse al siguiente número entero (33) para representar a la mitad de los miembros electos. Por tanto, la mayoría de los miembros debería ser de 33 votos más uno, por una mayoría absoluta de 34.

En tercer lugar, en la acción judicial de *Christopher Ram v el Fiscal General y otros*,⁵ presentada el 8 de enero de 2019, un segundo ciudadano particular, el señor Christopher Ram, solicitó la confirmación del tribunal de que la moción había sido aprobada de manera adecuada y legal, que la aprobación de la moción requería la renuncia del Gabinete, incluido el Presidente y que, de acuerdo con el artículo 106 (7) de la Constitución, las elecciones debían celebrarse a más tardar el 21 de marzo de 2019.

Los casos relacionados con la moción de censura se litigaron en los tribunales de Guyana y se llevaron hasta el tribunal de última instancia en Guyana, la Corte de Justicia del Caribe (CJC). El 18 de junio de 2019 la Corte de Justicia del Caribe declaró válida la moción de censura al Gobierno.

Cuando el asunto de la moción de censura fue presentado ante la CJC, el tribunal ya estaba examinando un caso relacionado con la legalidad del nombramiento en 2017 del entonces Presidente de la Comisión Electoral de Guyana (GECOM, por sus siglas en inglés), el Juez (retirado) James Patterson. Al pronunciarse sobre la validez de la moción de censura, la CCJ también dictaminó que el nombramiento del Juez Patterson no acataba la Constitución y el Juez Patterson posteriormente renunció. Por lo tanto, la necesidad de determinar, acordar e incorporar un nuevo presidente de la Comisión Electoral de Guyana retrasó aún más el proceso electoral. Cuando el presidente David Granger anunció las elecciones el 25 de septiembre de 2019, habían transcurrido nueve meses. La Misión observa que, en ese momento, la Secretaría General de la OEA emitió un comunicado público en el que subrayó la importancia de dejar atrás el período de incertidumbre política en interés del pueblo de Guyana.

C. ETAPA PREELECTORAL

Antes de las elecciones, la Misión examinó la legislación, los reglamentos y los procedimientos vigentes relacionados con el proceso electoral a fin de garantizar el pleno conocimiento del marco regulatorio en el que se llevaría a cabo la votación. Los dirigentes y expertos de la Misión también se reunieron con diversos actores relevantes, como autoridades electorales y gubernamentales, partidos políticos y candidatos, representantes de la sociedad civil, misiones de observación electoral nacionales e internacionales, y otros miembros de la comunidad internacional.

En este sentido, se destaca particularmente la colaboración que existió entre las misiones internacionales de observación electoral presentes en Guyana para la votación del 2 de marzo. Además de la OEA, la Secretaría de CARICOM, la Secretaría del Commonwealth, el

⁵ [2019] CCJ 10 (AJ), <https://ccj.org/wp-content/uploads/2019/06/2019-CCJ-10AJ1.pdf>

Centro Carter y la Unión Europea desplegaron misiones internacionales. Estas misiones se reunieron periódicamente para intercambiar información y, cuando fue posible, coordinaron su participación con la Comisión Electoral para evitar que la autoridad electoral se viera abrumada en un momento crítico.

Las deliberaciones mantenidas por la Misión de la OEA permitieron que sus miembros analizaran los preparativos del proceso, escucharan diferentes perspectivas sobre las elecciones y comprendieran los temas que preocupaban a las partes interesadas. En estas conversaciones, las principales preocupaciones planteadas por actores de todo el espectro político y de los diversos sectores fueron las siguientes:

– ***Polarización étnica y política***

Muchos de los actores con quienes la Misión dialogó, expresaron su preocupación por la pronunciada polarización étnica en las esferas social y política de Guyana, la cual se vio amplificada por la retórica y la pugna de la campaña de 2020.⁶ Estas divisiones se reflejaban en las posturas partidistas de algunos de los medios de comunicación tradicionales. Por ejemplo, los mecanismos de radiodifusión estatales apoyaban típicamente las posiciones del partido gobernante APNU+AFC (cuyos partidarios son principalmente afroguyaneses), mientras que algunos medios de comunicación privados favorecían al PPP/C de la oposición (al que la población indoguyanesa tiende a afiliarse). Aunque la Misión de la OEA no realizó un análisis detallado de los medios sociales durante la campaña electoral, tomó nota de que estas plataformas también se utilizaron para la difusión de material parcial y, a veces, con carga racial.

La polarización es también un elemento definitorio de la Comisión Electoral de Guyana, donde las arraigadas divisiones políticas, resultado de su propia composición, influyen en su labor. La Misión reconoce el trabajo de la Comisión de Relaciones Étnicas (ERC, por sus siglas en inglés) como un importante punto de partida para mitigar la discordia entre los dos grupos étnicos principales. Sin embargo, el fortalecimiento de la ERC, junto con medidas más profundas e institucionalizadas para sancionar la discriminación y los esfuerzos por sanar el evidente distanciamiento entre las dos partes, deben ser una prioridad para la administración recién elegida.

Es fundamental también revisar la composición de la Comisión para transformar este organismo en uno que inspire la confianza del pueblo de Guyana. El enfoque partidista de sus responsabilidades electorales, que quedó ampliamente demostrado en las elecciones de 2020 y especialmente en la etapa poselectoral, socava la credibilidad de la Comisión y disminuye las posibilidades de imparcialidad y transparencia en el proceso electoral.

⁶ La Misión de la OEA tomó nota de que la Comisión de Relaciones Étnicas, el organismo encargado por la Constitución de investigar y mitigar la discordia racial en Guyana, se vio obligada a citar a los dos principales partidos políticos por el uso de una retórica con carga racial durante sus campañas. Véase en Kaieteur News, "ERC implements rapid response unit to tackle elections complaints - as parties sign code of conduct", 14 de febrero de 2020, <https://www.kaieteurnews.com/2020/02/14/erc-implements-rapid-response-unit-to-tackle-elections-complaints-as-parties-sign-code-of-conduct/>

– ***Sustitución de centros de votación***

La Misión tomó nota de los esfuerzos de la Comisión Electoral de Guyana para reducir el uso de residencias privadas como lugares de votación y la preocupación del partido opositor, Partido Progresista del Pueblo-Cívico (PPP/C), de que sus partidarios hubieran sido afectados de manera desigual en este proceso. Si bien el problema se resolvió finalmente de una manera aceptable para ambas partes con la introducción de lugares de votación adicionales en lugares públicos, la Misión tuvo algunas preocupaciones con respecto a la tardanza de la solución, solo dos días antes de las elecciones.

– ***Lista de votantes***

La Lista Oficial de Votantes para las elecciones generales y regionales de 2020, publicada el 1º de febrero de 2020, contenía 660.998 nombres, una cifra relativamente alta en relación con la población estimada de Guyana (aproximadamente 783.000).⁷ Al explicar las razones del aumento de tamaño de la lista, la Comisión Electoral de Guyana señaló que incluía los nombres de personas fallecidas o que ya no residían en el país.

En julio de 2019, la Comisión Electoral de Guyana inició un ejercicio de registro casa por casa para crear una nueva base de datos del Registro Nacional de Base de Datos de Personas Empadronadas (NRRDB) antes de las elecciones de 2020. En el recurso *Christopher Ram v GECOM*, presentado el 22 de julio de 2019, un ciudadano particular, el señor Ram, impugnó la constitucionalidad de este ejercicio. El señor Ram alegó que ello daría lugar a la cancelación ilegal de la inscripción de personas en la lista de votantes vigente y omitiría la inscripción de personas empadronadas que cumplieran con los requisitos, si no se encontraban en su lugar de residencia en el momento del registro. El proceso se interrumpió en agosto de 2019 después de que el Presidente del Tribunal Supremo de Guyana sostuvo que, si bien el ejercicio de registro casa por casa no era inconstitucional, la eliminación de los nombres de las personas registradas de la NRRDB por motivos de no residencia era ilegal, a menos que hubieran fallecido o hubieran estado inhabilitados de conformidad con el artículo 159 de la Constitución (es decir, demencia o condena por un delito tipificado).

La Misión tomó nota de las inquietudes de la Comisión Electoral en ese momento, de que el fallo crearía dificultades para revisar y actualizar la Lista de Votantes, ya que actualmente no tiene medios para limpiar la lista, salvo a través de las limitadas disposiciones constitucionales disponibles para la eliminación de nombres. En los casos en que los votantes ya no residan en Guyana, o donde los certificados de defunción no se hayan registrado (un acto que no es obligatorio), la Comisión Electoral de Guyana no tiene medios para determinar cuándo o cómo se deben eliminar los nombres.

⁷ Índice de datos del Banco Mundial. Disponible en:
<https://datos.bancomundial.org/indicador/SP.POP.TOTL?locations=GY>

– ***Tabulación de resultados***

La mayoría de los actores con quienes la Misión dialogó expresaron preocupación por el tiempo que generalmente se tarda en tabular y determinar los resultados de las elecciones en Guyana. El sistema de tabulación, en su mayor parte manual, sumado a las características geográficas, la infraestructura y la distribución de la población del país, entre otros factores, puede plantear grandes dificultades para organizar las elecciones y presentar los resultados de manera oportuna.

Los problemas surgidos en las elecciones de 2020 dieron lugar a un prolongado proceso poselectoral de cinco meses que eclipsó las preocupaciones sobre los retrasos tradicionales en la tabulación de los resultados. Si bien el artículo 99 de la Ley de Representación del Pueblo⁸ permite un plazo de quince días desde la fecha de las elecciones para el anuncio de los resultados de las elecciones, es necesario poner en práctica una solución que permita que la transmisión de las actas de escrutinio y los resultados cotejados de las elecciones se transmitan sin demora desde los centros regionales a la oficina central de elecciones. Un sistema de tabulación más moderno, que facilite la recepción y publicación oportuna de los resultados oficiales preliminares, agregaría transparencia y credibilidad al sistema electoral, y mitigaría la especulación y la incertidumbre en el período poselectoral.

– ***Acceso para los partidos políticos minoritarios***

Once coaliciones/partidos políticos participaron en las elecciones a nivel nacional y regional. De ese número, solo los dos principales contendientes, APNU+AFC y PPP/C, estuvieron representados en la Comisión Electoral de Guyana. En sus conversaciones con los partidos políticos minoritarios, varios de los cuales eran partidos de formación relativamente reciente, la Misión fue informada de sus dificultades para relacionarse con la Comisión Electoral en igualdad de circunstancias que los dos competidores principales. Algunos partidos menores informaron que no contaron con información oportuna sobre procesos y plazos, la cual había estado fácilmente disponible para los partidos que integraban la Comisión Electoral. Algunos también se quejaron de la falta de información completa sobre el proceso para el día de la nominación.

Para las elecciones de 2020, tres partidos políticos minoritarios - Una Guyana Nueva y Unida (*A New and United Guyana* [ANUG]), el Partido Libertad y Justicia (*Liberty and Justice Party* [LJP]) y El Nuevo Movimiento (*The New Movement* [TNM]) - solicitaron que sus listas se unieran de acuerdo a la sección 22 de la Ley de Representación del Pueblo. Se informó a la Misión que era la primera vez que se aplicaba la sección 22 en un proceso electoral en Guyana. En los días previos a las elecciones, estos partidos comunicaron a la Misión que no tenían la información que necesitaban sobre cómo esa asociación se pondría en funcionamiento.

⁸ Ley de Representación del Pueblo, capítulo 1:03, Act Reg. 24/1964 (y sus enmiendas), https://www.gecom.org.gy/assets/docs/laws/Cap_103_Representation_of_the_People.pdf

D. VOTACIÓN DE LAS FUERZAS DE DEFENSA Y SEGURIDAD

El 21 de febrero, la Misión observó la votación de las fuerzas de defensa y seguridad (*Disciplined Services*) en las regiones 3 y 4, y constató con satisfacción que la misma se realizó de manera ordenada. Según la Comisión Electoral de Guyana, de los 10.226 votantes de las fuerzas de defensa y seguridad que cumplían los requisitos para votar, 8.369, es decir, el 81,8%, emitieron su voto en 82 centros de votación de todo el país ese día. La Misión constató que los centros de votación que visitó abrieron puntualmente y contaron con el personal y los materiales necesarios para el correcto desarrollo de la votación. La Misión también observó con satisfacción la presencia de funcionarios de información de la Comisión Electoral de Guyana en cada uno de los centros de votación visitados, quienes ayudaron a los votantes a verificar el centro de votación que les correspondía y les proporcionaron la orientación que necesitaban.

Permitir a los miembros de las fuerzas de defensa y seguridad votar antes de las elecciones fue importante para facilitar su labor durante la jornada electoral. La Misión observa que hay otras categorías de personas para las que sería muy útil contar con la oportunidad para votar anticipadamente, entre ellos los miembros de mesas, quienes podrían no ser asignados a su lugar de votación el día de las elecciones.

Si bien la votación de las fuerzas de defensa y seguridad fue ampliamente observada por las misiones internacionales de observación electoral presentes en el país, la Misión de la OEA notó que no se permitió la participación de observadores nacionales en el proceso. La Misión reitera que es de elogiar el fuerte deseo de las organizaciones nacionales de la sociedad civil de apoyar el fortalecimiento de la democracia en su propio país, y alienta a las autoridades electorales a que consideren su inclusión en esta etapa en procesos electorales futuros.

E. EL DÍA DE LAS ELECCIONES

El día de las elecciones hubo 660.998 personas que reunieron los requisitos para votar en los 2.339 centros de votación ubicados en las diez regiones/distritos electorales de Guyana. Miembros de la Misión de la OEA estuvieron presentes en cuatro regiones desde la apertura de la votación hasta el conteo y transmisión de resultados, y visitaron 344 centros de votación. La Misión observó que los preparativos y procesos del día de las elecciones estuvieron bien organizados, al igual que los de la votación de las fuerzas de defensa y seguridad. Los integrantes de la Misión informaron que los centros de votación que ellos observaron abrieron puntualmente y contaron con el personal y los materiales necesarios. En general, los locales donde se encontraban las mesas electorales tenían suficiente espacio para la celebración segura de los comicios y el mantenimiento del voto secreto. Sin embargo, la Misión constató que, en algunos casos, las mesas se encontraban en los pisos altos de los centros de votación, incluso en los casos en que parecía haber lugar en pisos bajos, lo cual creó dificultades para adultos mayores y personas con discapacidades.

En las visitas a los centros de votación realizadas poco antes del día de las elecciones, se observó que los votantes no se vieron indebidamente afectados. Los nuevos centros de

votación estaban en funcionamiento y había funcionarios de información de la Comisión Electoral de Guyana para orientar a las personas que necesitaran asistencia.

Aunque los integrantes de la Misión observaron largas filas por la mañana en muchos centros de votación, en la mayoría de los casos la gente esperó pacientemente para emitir su voto y, al mediodía, la mayoría de las filas había desaparecido. La Misión constató con satisfacción la presencia de varios grupos de observadores nacionales, cuyos integrantes desempeñaron sus funciones de manera profesional y respetuosa.

Los miembros de mesa, la mayoría mujeres, desempeñaron sus funciones de manera diligente, con conocimiento de los procedimientos que debían seguirse. Una mayoría importante de los representantes de los partidos también eran mujeres. Esto, en conjunto, destaca el papel de la mujer en garantizar que los ciudadanos pudieran votar de forma libre y justa. La Misión felicita a las autoridades electorales, incluidos los miembros de mesas, los representantes de los partidos, los supervisores y los agentes de seguridad por facilitar la conducción del proceso de votación ambos días. La Misión felicita una vez más al pueblo de Guyana por su firme compromiso democrático, que se refleja en su participación pacífica y entusiasta en las urnas.

F. ETAPA POSELECTORAL

El proceso electoral hasta el cierre de las urnas a las 6:00 pm del día 2 de marzo de 2020, así como el proceso de tabulación de resultados, se desarrolló de acuerdo con la legislación electoral en nueve de las diez regiones de Guyana. Los observadores de la OEA señalaron que los procedimientos de escrutinio en los centros de votación fueron metódicos y transparentes, y se llevaron a cabo de acuerdo con los lineamientos estipulados. El conteo se completó en presencia de los miembros de mesa, los representantes de los partidos y observadores, y el personal de seguridad garantizó la seguridad adecuada durante el proceso de conteo.

Sin embargo, en la Región 4, donde se encuentra el mayor número de votantes y centros de votación de Guyana (285.618 votantes/879 centros de votación), se presentaron importantes dificultades en el proceso de tabulación, lo cual, en última instancia, afectó las elecciones en general. A continuación, se describen las dificultades, así como las medidas tomadas para resolverlas y el proceso que condujo a la declaración final oficial de los resultados nacionales.

i. Problemas en la Región Cuatro

Las dificultades en el proceso de tabulación de la Región 4 surgieron por primera vez en el edificio que se utilizó como oficina del escrutador para esa región y como oficina del Responsable Principal de las Elecciones⁹ durante el proceso electoral. Incluyeron los

⁹ Un escrutador administra el proceso electoral y tabula los resultados de la elección para una sola región/distrito electoral, mientras que el Responsable Principal de las Elecciones administra el proceso para todo el país y recopila los resultados de las elecciones en su totalidad.

siguientes hechos:

- A partir de la mañana del 4 de marzo, luego de que se verificaran aproximadamente 300 de las 879 actas de escrutinio para la Región 4, se produjeron retrasos prolongados y repetidas interrupciones en el proceso de tabulación por diversas razones irregulares, entre las que, de acuerdo con funcionarios de la Comisión Electoral, se incluyen la falta de funcionarios disponibles para realizar la verificación y tabulación.
- Repetidas interrupciones en la sala de tabulación y en otros lugares del edificio, generalmente después de anuncios o acciones de funcionarios de la Comisión Electoral, socavaron la transparencia del proceso. El 4 de marzo, aproximadamente a la 1:00 pm, por ejemplo, el Responsable Principal de las Elecciones anunció que, en lugar de verificar los resultados de las actas de escrutinio oficiales en presencia de los representantes autorizados de los partidos, los oficiales electorales usaron una hoja de cálculo que había sido preparada por la Comisión Electoral. Los resultados incluidos en la hoja de cálculo fueron considerablemente diferentes de los resultados que constaban en las actas de escrutinio en posesión de los representantes de los partidos.
- El 5 de marzo, alrededor de las 11:20 am, el personal de la Comisión Electoral debió ser evacuado a causa de una supuesta amenaza de bomba. Si bien los representantes de los partidos políticos y los observadores internacionales permanecieron en el edificio para monitorear el material electoral sensible que se encontraba en ese momento en la sala de tabulación de la Región 4, estos materiales permanecieron fuera de la cadena de custodia de la Comisión Electoral durante varias horas.
- Una declaración de resultados para la Región 4 por parte del escrutador (a la 1:00 pm y nuevamente a las 2:30 pm aproximadamente) el 5 de marzo, mientras el proceso de tabulación estaba paralizado y un considerable número de actas de escrutinio no había sido revisado aún en presencia de los representantes de los partidos, como lo exige la ley. Esa declaración otorgó la victoria a la coalición APNU+AFC ¹⁰ en la Región 4, un resultado que fue fuertemente disputado por los representantes de los otros partidos.
- Desorden y altercados físicos en el edificio entre los servicios de seguridad y representantes de partidos políticos la noche del 5 de marzo. A medida que se intensificaron los acontecimientos, los integrantes de la Misión de la OEA que estaban presentes para observar el proceso se vieron obligados a retirarse. En un comunicado de prensa más tarde esa noche, la Misión de la OEA condenó los hechos de violencia y señaló que como el proceso no llegó a su debido final, los resultados anunciados por el escrutador para la Región 4 no cumplieron con los estándares establecidos. ¹¹

¹⁰ Tomado del formulario 24 – Recuento general y regional de votos, tal como fue publicado en “Commotion at GECOM Command Centre ...as GECOM releases unverified results for Region Four,” Noticias Kaieteur, 6 de marzo de 2020, <https://www.kaieteurnews.com/2020/03/06/commotion-at-gecom-command-centre-as-gecom-releases-unverified-results-for-region-four/> (se accedió a la página el 1 de diciembre de 2020).

¹¹ "Statement of the OAS Electoral Observation Mission in Guyana", comunicado de prensa de la OEA E-015/20, 5 de marzo de 2020, https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-015/20.

Tras los disturbios del 5 de marzo, la oficina del escrutador para la Región 4 fue cerrada, lo cual detuvo el proceso por completo. El proceso permaneció paralizado desde el 5 hasta el 12 de marzo, mientras que el Tribunal Superior de Guyana examinaba los asuntos relacionados con la tabulación. En el caso *Reeaz Holladar v Clairmont Mingo y otros*, presentado el 5 de marzo de 2020, el señor Hollandar, un representante del partido PPP/C, solicitó un requerimiento judicial provisional para impedir que la Comisión Electoral declarara los resultados para la Región 4, hasta que el funcionario escrutador o el funcionario escrutador adjunto cumpliera con el proceso establecido en la sección 84 (1) de la Ley de Representación del Pueblo con respecto a la verificación del cómputo de votos.

El Presidente del Tribunal Supremo falló a favor del señor Hollandar el 11 de marzo y el proceso se reanudó el 13 de marzo. La Misión observó que, con respecto a varios centros de votación, seguían existiendo discrepancias importantes entre las actas de escrutinio presentadas por el escrutador y las actas en posesión de los representantes de los partidos. Se presentó un nuevo recurso ante el Tribunal Supremo después de que el escrutador se negó a cumplir las órdenes del Tribunal sobre los procedimientos de tabulación. Siguiendo nuevas instrucciones del Tribunal Superior, el escrutador completó el proceso de conformidad con la ley electoral. Sin embargo, la Misión constató que el escrutador no revisó las actas de escrutinio que ya se habían procesado utilizando el enfoque defectuoso anterior.

Justo ante de la medianoche del 13 de marzo, el escrutador emitió una segunda declaración de resultados para la Región 4, que también dio como ganador de la elección al partido APNU+AFC en esa Región.¹²

La Misión de la OEA se retiró de Guyana en la madrugada del 14 de marzo, después de emitir una declaración¹³ en la que afirmaba que el proceso realizado por el escrutador de la Región 4 no cumplía con los estándares requeridos de imparcialidad y transparencia, y que era poco probable que produjera un resultado creíble.

ii. Recuento nacional

La preocupación de muchos actores con respecto a que los resultados presentados por la Comisión Electoral estuvieran equivocados dio lugar a que, el 3 de abril, la Comisión Electoral tomara la decisión de proceder con un recuento nacional de todos los votos emitidos el 2 de marzo. El 4 de mayo, la Comisión Electoral publicó la Orden 60 de 2020 sobre el recuento en el Boletín Oficial de Guyana,¹⁴ donde se estableció la base legal y los lineamientos procesales y administrativos para el recuento. La Orden 60 también señaló que

¹² Tomado del formulario 24 – General and Regional Elections Returns [Resultados de las elecciones generales y regionales], como fue publicado en “Region Four vote count completed after suspect process – recount request expected,” Stabroek News, 14 de marzo de 2020, <https://www.stabroeknews.com/2020/03/14/news/guyana/region-four-vote-count-completed-after-suspect-process/> (sitio visitado el 19 de noviembre de 2020).

¹³ “Statement from the OAS Electoral Observation Mission in Guyana”, comunicado de prensa de la OEA E-021/20, 13 de marzo de 2020, https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-021/20

¹⁴ “The Official Gazette (Extraordinary) of Guyana, 60/2020,” 4 de mayo de 2020, https://www.gecom.org.gy/assets/docs/Press_Releases/2020/Gazetted_Order_Recount_5May2020.pdf

los resultados del recuento serían los resultados oficiales y finales del proceso electoral de 2020.

El recuento fue realizado por empleados de la Comisión Electoral bajo la supervisión directa del Director de Elecciones y en presencia de un equipo de escrutinio de tres miembros de CARICOM, de los representantes de partidos políticos, de observadores internacionales y locales acreditados, incluida la Misión de la OEA, de asesores de la Comisión Electoral y de los propios comisionados de la Comisión Electoral.

El proceso comenzó el 6 de mayo de 2020. Se pusieron en funcionamiento simultáneamente diez estaciones de trabajo iniciales, todos los días de 8 am a 7 pm, en el Centro de Recuento para verificar y tabular los resultados en las 2339 urnas. Posteriormente, se agregaron dos estaciones de trabajo adicionales para acelerar el recuento. La Comisión Electoral proporcionó una transmisión de audio diaria de la verificación de las papeletas de voto y transmitió en vivo el proceso de tabulación a través de su página de Facebook. El recuento, el cual se esperaba en principio que durara 25 días, terminó finalmente el 8 de junio, 34 días más tarde.

Dos integrantes de la Misión de la OEA estuvieron presentes durante todo el recuento. Ellos informaron que, a pesar de algunas cuestiones organizativas, el proceso se llevó a cabo de manera profesional, transparente, e imparcial, lo que permitió que la Comisión Electoral, los partidos políticos y otros interesados determinaran con precisión los resultados para cada centro de votación. Las conclusiones de los observadores de la OEA fueron compartidas por el equipo de escrutadores de CARICOM, al cual se le había asignado un papel importante en la Orden 60 respecto a la verificación de los resultados del recuento. Los resultados indicaron que el PPP/C fue el ganador de las elecciones con 233.336 de los 460.352 votos válidos a nivel nacional y 233.661 de los 459.155 votos válidos a nivel regional. APNU+AFC tuvo los segundos totales más altos, con 217.920 votos a nivel nacional y 217.055 votos a nivel regional.¹⁵

Antes de iniciar el recuento, y a raíz de las acciones irregulares cometidas por personal de alto nivel de la GECOM, de las que fueron testigos directos los observadores de la OEA, la Misión de la OEA había recomendado¹⁶ que se excluyera del proceso a cualquier funcionario que hubiera mostrado un comportamiento partidista durante el proceso electoral. En este sentido, la Misión observó que, desde su posición como supervisor del proceso de recuento, y como funcionario encargado de entregar los resultados finales oficiales de las elecciones a la Comisión, el Director de Elecciones realizó nuevas acciones irregulares, unilaterales y perniciosas en la fase posterior al recuento, que parecían dirigidas a evitar el cumplimiento de sus obligaciones y a prolongar aún más el mandato del gobierno de ese entonces.

¹⁵ "The Official Gazette (Extraordinary) of Guyana, 112/20 – Declaration of Results made under the Recount Order 60 of 2020," 20 de agosto de 2020, y "The Official Gazette (Extraordinary) of Guyana, 113/20 – Declaration of Results made under the Recount Order 60 of 2020 - Addendum", 21 de agosto de 2020.

¹⁶ "Statement of the OAS Electoral Observation Mission to the March 2 General and Regional Elections in Guyana", comunicado de prensa de la OEA E-035/20, 15 de abril de 2020, https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-035/20.

En vista de lo anterior, en su declaración del 10 de julio de 2020, la OEA señaló que uno de los principales obstáculos para completar el proceso electoral de Guyana en 2020 era una persona cuyo deber era defender la democracia de Guyana garantizando el respeto de los resultados de las elecciones.¹⁷

iii. Reclamaciones ante los tribunales

Después de los comicios del 2 de marzo, se presentaron cuatro acciones judiciales importantes relacionadas con la tabulación y la determinación de los resultados. La primera acción, *Reeaz Holladar v Clairmont Mingo y otros*, se describió anteriormente en el presente informe. En el segundo caso, el 17 de marzo de 2020, *Urita Grace Moore v Comisión Electoral de Guyana y otros*, la señora Moore, candidata regional de APNU+AFC, solicitó al Tribunal Superior una revisión judicial y un requerimiento contra la decisión de la Comisión Electoral de recomtar los votos emitidos en las diez regiones de Guyana, bajo la supervisión de un equipo de CARICOM. La causa fue vista hasta el nivel del Tribunal de Apelaciones, el cual declaró el 7 de abril sin lugar la solicitud de requerimiento contra la decisión de la Comisión Electoral, pero dictaminó que ninguna parte externa, en este caso CARICOM, podía asumir la supervisión del proceso de recuento.

En el tercer caso, *Eslyn David v Director de Elecciones y otros*, presentado el 18 de junio de 2020, la señora David solicitó una declaración que estableciera que la Comisión Electoral no había actuado de acuerdo con los términos de la Orden de recuento No. 60 de 2020, y la Orden enmendada de fecha 29 de mayo de 2020, y no había podido determinar un resultado final creíble. La demandante solicitó que se impidiera que el Director de Elecciones presentara su informe ante el Presidente de la Comisión Electoral sin haber determinado un recuento final creíble. La causa fue vista a nivel de la Corte de Justicia del Caribe (CCJ). El 8 de julio la CCJ falló por unanimidad en contra de la señora David y recomendó que la Comisión Electoral se asegurara de que el Director de Elecciones de Guyana presentara un informe sobre los comicios en línea con los lineamientos indicados en la Orden de Recuento.

El cuarto caso posterior a las elecciones, *Misenga Jones v la Comisión Electoral de Guyana y otros*, se presentó ante el Tribunal Superior el 14 de julio. La señora Jones, una ciudadana particular, solicitó que los resultados del recuento nacional se consideraran nulos y que obligaran a la Comisión Electoral a seguir el asesoramiento del Director de Elecciones para determinar los resultados de las elecciones utilizando las diez declaraciones del 13 de marzo, que ya habían sido derogadas por el Presidente de la Comisión Electoral el 12 de julio. La causa fue vista a nivel del Tribunal de Apelaciones y fue declarada sin lugar el 30 de julio por una decisión unánime. El Tribunal de Apelaciones acordó que los resultados de las elecciones debían determinarse utilizando los resultados del recuento y que el Responsable Principal de las Elecciones tenía la obligación de acatar las instrucciones de la Presidencia de la Comisión Electoral al respecto.

¹⁷ “OAS Statement on the Electoral Process in Guyana”, comunicado de prensa de la OEA E-076/20, 10 de julio de 2020, https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-076/20

iv. Resultados de las elecciones generales y regionales

Las elecciones generales y regionales del 2 de marzo de 2020 se disputaron entre once partidos políticos. Al final de un prolongado proceso poselectoral, los resultados oficiales, basados en el recuento nacional, indicaron que se habían emitido 460.352 votos válidos en las Elecciones Generales. De este número, 233.336 votos fueron otorgados al Partido Progresista Popular/Cívico (PPP/C), mientras que Una Asociación por la Unidad Nacional + Alianza para el Cambio (APNU + AFC) obtuvo 217.920 votos.

A nivel regional, hubo 459.155 votos válidos, de los cuales el PPP/C obtuvo 233.661 votos y APNU + AFC 217.055 votos.¹⁸

El 2 de agosto de 2020, la Comisión Electoral de Guyana declaró al Dr. Mohamed Irfaan Ali Presidente de Guyana.

De los 65 escaños en la Asamblea Nacional, el PPP/C obtuvo 21 escaños de la Lista Nacional “top-up” [lista de candidatos a nivel nacional, con representación proporcional] y 12 escaños de los distritos electorales geográficos, con un total de 33 escaños. La coalición APNU+AFC obtuvo 18 escaños de la Lista Nacional de escaños “top-up” y 13 escaños de distritos electorales geográficos, con un total de 31 escaños. Las listas que se unieron, a saber: Una Guyana Nueva y Unida (*A New & United Guyana* [ANUG]), el Partido Libertad y Justicia (*Liberty and Justice Party* [LJP]) y El Nuevo Movimiento (*The New Movement* [TNM]) obtuvieron un escaño en la Lista Nacional de escaños “top-up” [lista de candidatos a nivel nacional, con representación proporcional].

De los 205 escaños en los Consejos Democráticos Regionales, el PPP/C ganó 109 escaños, APNU+AFC ganó 93 escaños, el Partido de Libertad y Justicia (LJP, *Liberty and Justice Party*) obtuvo dos escaños y *Change Guyana* obtuvo un escaño.

En los siguientes cuadros 1 y 2 se presenta la distribución de los escaños a nivel nacional y regional:

Cuadro 1: Asignación de escaños – Elecciones generales

Partido político	Lista nacional de escaños “top-up”	Distritos electorales geográficos	Total de escaños asignados
<i>A Partnership for National Unity + Alliance For Change</i> (APNU+AFC)	18	13	31
<i>People’s Progressive Party / Civic</i> (PPP/C)	21	12	33

¹⁸ “The Official Gazette (Extraordinary) of Guyana, 112/20 – Declaration of Results made under the Recount Order 60 of 2020,” 20 agosto de 2020 y “The Official Gazette (Extraordinary) of Guyana, 113/20 – Declaration of Results made under the Recount Order 60 of 2020 - Addendum”, 21 de agosto de 2020.

Partido político	Lista nacional de escaños "top-up"	Distritos electorales geográficos	Total de escaños asignados
Listas unidas: (<i>A New & United Guyana; Liberty & Justice Party; The New Movement</i>)	1	-	1
TOTAL DE ESCAÑOS	40	25	65

Fuente: Comisión Electoral de Guyana, *Official Gazettes* 112/20 y 113/2020

Cuadro 2: Asignación de escaños – Consejos Democráticos Regionales

Región	# Escaños por región	APNU+AFC	Change Guyana	LJP	PPP/C
1	15	5	-	-	10
2	17	5	-	-	12
3	27	9	-	-	18
4	35	20	1	-	14
5	18	8	-	-	10
6	30	10	-	-	20
7	15	8	-	1	6
8	15	7	-	1	7
9	15	6	-	-	9
10	18	15	-	-	3
TOTAL	205	93	1	2	109

Fuente: Comisión Electoral de Guyana, *Official Gazettes* 112/20 y 113/2020

G. CONCLUSIONES Y RECOMENDACIONES

Sobre la base de su análisis del sistema electoral, de la información obtenida en conversaciones con autoridades nacionales y electorales, partidos políticos, la sociedad civil y la comunidad internacional antes de las elecciones, así como a través de las observaciones efectuadas el día de la votación y durante el proceso poselectoral, la Misión de la OEA presenta las siguientes conclusiones y recomendaciones:

i. Estructura de la autoridad electoral

La Misión observó una profunda polarización entre los miembros de la Comisión Electoral de Guyana y las dificultades que esto creó para llegar a un consenso sobre la mayoría de los asuntos, especialmente la resolución de las incertidumbres electorales en la compleja etapa poselectoral. Las divisiones parecen crear una presión indebida para el Presidente de la

Comisión, que lo obliga a recurrir al voto de desempate a fin de resolver las cuestiones planteadas ante ella.

Por lo tanto, la Misión recomienda lo siguiente:

- Que Guyana entable un diálogo con los múltiples actores que participan en el proceso sobre la estructura de la autoridad electoral, a fin de mejorar la índole deliberativa y las decisiones de la Comisión, y de dotar de mayor imparcialidad y credibilidad a esta importante institución.

ii. Organización de las elecciones

Si bien las dificultades ocurridas en la Región 4 con respecto a la tabulación y declaración de resultados ensombreció el proceso electoral en general, la labor de la Comisión Electoral de Guyana en la organización de las elecciones demostró un fuerte compromiso de llevar a cabo un proceso que cumpliera con las disposiciones de la legislación electoral vigente. Además, las actividades y los procesos observados por la Misión antes del día de las elecciones, incluidas las sesiones de capacitación para los miembros de mesas y el buen desempeño constante de dichos funcionarios de mesas el día de las elecciones, son dignos de elogio. Sin embargo, la Misión observó varios aspectos en los que el proceso y el sistema de elecciones podrían mejorar gracias a una mayor agilidad y seguridad, en particular para garantizar que la voluntad de los votantes, expresada en las urnas, se refleje en los resultados finales de cualquier elección.

Por lo tanto, la Misión recomienda lo siguiente:

Integridad del proceso electoral

- Que las correspondientes autoridades nacionales, incluida la Comisión Electoral de Guyana, realicen un análisis exhaustivo de los eventos posteriores al cierre de los comicios el día 2 de marzo de 2020, especialmente los hechos sucedidos en la Región 4, que dieron lugar a una considerable desconfianza en los resultados iniciales de la elección y socavaron la confianza en el sistema y proceso electoral.
- Que las conclusiones del presente análisis se apliquen a una evaluación del marco electoral de Guyana, que incluya la legislación, las normas, los procedimientos y las prácticas electorales, así como las disposiciones relativas a las infracciones y delitos electorales, a fin de reconocer y remediar áreas en las que se observan aspectos más frágiles y que podrían haber permitido que se presentaran los problemas observados durante el proceso electoral de 2020.
- Dado el papel que desempeñaron los altos funcionarios electorales en los problemas que surgieron en el proceso de elecciones de 2020, se sugiere que la evaluación incluya una valoración del papel, las responsabilidades y la autoridad, así como del proceso de contratación de los funcionarios electorales en todos los niveles, para garantizar que

existan suficientes controles y contrapesos, y que se aclare la autoridad general de la Comisión Electoral de Guyana.

Acceso al voto

- Considerar la posibilidad de que se extiendan las categorías de personas que tienen derecho a votar anticipadamente, a fin de incluir a los miembros de mesas.

Procedimientos de votación

- Como se señaló en la Misión de Observación Electoral de 2015, con el objetivo de evitar largas filas de votantes a la espera de emitir sus votos, se recomienda que la Comisión Electoral considere la posibilidad de introducir un proceso estandarizado que permita la verificación de más de un votante mientras otro votante está emitiendo su voto.
- Examinar y resolver con mucha antelación a las próximas elecciones la cuestión de la utilización de residencias privadas como lugares de votación, para garantizar que no se repita la incertidumbre que generó este tema antes de las elecciones de 2020.

Procedimientos de tabulación

- Revisar, actualizar y estandarizar los manuales de instrucciones vigentes para que los funcionarios electorales puedan resolver la información contradictoria, brindar orientación más completa y explícita, y garantizar que el personal de los centros de votación disponga de información de referencia actualizada.

Líneas divisorias

- Considerar el establecimiento de una Comisión de Límites imparcial e independiente, cuyo mandato sea analizar y recomendar enmiendas adecuadas al mapa electoral a fin de abordar las importantes disparidades en el número de votantes por región. En este sentido, las autoridades podrían considerar la posibilidad de revisar la distribución de los escaños geográficos después de cada censo, de conformidad con los cambios demográficos, a fin de asegurar una representación más equilibrada.

iii. Tecnología electoral

El sistema electoral de Guyana, que es en su mayor parte manual, requiere el transporte por tierra, agua y aire de material electoral, incluidas las actas de escrutinio, a los escrutadores situados en cada una de las diez regiones y al Responsable Principal de las Elecciones en Georgetown, para facilitar la tabulación, verificación y declaración de resultados. La única área automatizada del recuento se encuentra en la Oficina del Responsable Principal de las Elecciones, donde hay una aplicación informática diseñada específicamente por la Comisión Electoral de Guyana con este fin, que facilita la tabulación de los resultados.

Con el desarrollo de una solución tecnológica que permita recopilar y transmitir imágenes de las actas de escrutinio y los resultados compilados de sitios regionales a un servidor central en Georgetown, Guyana podría implantar un sistema de tabulación moderno que facilite la publicación de resultados preliminares.

Por lo tanto, la Misión recomienda lo siguiente:

- Considerar la posibilidad de establecer un sistema que anuncie los resultados preliminares de las elecciones nacionales el día de las elecciones o la mañana siguiente. Para eso habría que instalar un centro de recepción de resultados computarizado al cual se envíen resúmenes de los resultados desde cada una de las diez regiones del país al Responsable Principal de las Elecciones por vía electrónica. Al mismo tiempo, se podrían enviar las actas de escrutinio escaneadas al Responsable Principal de las Elecciones para que las publique junto con los resultados digitalizados.
- Desarrollar una solución tecnológica para el sistema electoral que posibilite la tabulación final de los resultados de la elección.
- Publicar los resultados oficiales tabulados en el sitio web oficial de la Comisión Electoral, para asegurar su transmisión rápida y simultánea a un público más amplio que abarque partidos políticos, periodistas y ciudadanos.
- Establecer un sistema de servicio de atención para administrar y controlar la entrega de materiales electorales, monitorear y controlar la apertura y el cierre de los comicios, y administrar el suministro de información y apoyo al personal electoral, y a otros.

iv. Registros electorales

La Misión constató que los administradores electorales eran competentes y profesionales, y que cumplieron con las leyes y procedimientos vigentes para inscribir a los ciudadanos que cumplieran con los requisitos para votar. Sin embargo, la Misión identificó varios aspectos en los que una revisión de los enfoques utilizados mejoraría la eficiencia del proceso, así como la credibilidad y aceptación de la Lista Oficial de Votantes.

Por lo tanto, la Misión recomienda lo siguiente:

Inscripción de votantes

- Implementar una solución tecnológica que mejore la precisión, transparencia y eficiencia del sistema de inscripción de votantes. La captura de los datos biométricos de los electores también permitiría identificarlos de un manera más fácil y eficiente.

Actualización del Registro Nacional de Personas Empadronadas

- Revisar y enmendar la legislación electoral a fin de establecer un marco jurídico para la depuración y actualización periódica del Registro Nacional de Personas Empadronadas (NRR, por sus siglas en inglés). Esto debería realizarse tan pronto como sea posible y con suficiente antelación a las próximas elecciones.

Verificación automática de nuevos votantes

- Considerar un proceso mediante el cual los datos de las personas empadronadas que han cumplido 18 años se extraigan mensualmente del NRR, y se envíen a los funcionarios encargados de la inscripción en las respectivas divisiones para la investigación y verificación en el terreno. Esto permitiría que la base de datos sea actualizada periódicamente se reduzca considerablemente el número de personas en esta categoría que es necesario verificar antes de las elecciones.

Lista Oficial de Votantes

- Revisar la estructura de la Lista Oficial de Votantes para facilitar la extracción de datos, indicando el número de votantes al final de las respectivas páginas por subdivisión, división, distritos electorales y la lista en general.

v. Justicia electoral

En Guyana, los dos cargos más importantes en el Poder Judicial son: el Canciller de la Judicatura y el Presidente del Tribunal Supremo. Ambos cargos se desempeñan actualmente en calidad interina, circunstancia que ha sido observada con preocupación por el tribunal de última instancia de Guyana, la Corte de Justicia del Caribe, así como por los órganos jurídicos nacionales y regionales. Al comentar sobre este respecto en 2017, el Juez Dennis Byron, expresidente de la Corte de Justicia del Caribe, señaló que los nombramientos interinos prolongados representan "un verdadero riesgo para la premisa constitucional de contar con un poder judicial independiente e imparcial".¹⁹

Después de las elecciones, las personas pueden presentar en un plazo de 28 días reclamaciones sobre la falta de imparcialidad de las elecciones o la comisión de delitos electorales, a través de una petición electoral ante el Tribunal Superior. Aunque no hay un plazo determinado para emitir un fallo con respecto a una petición electoral, el asunto debería resolverse de manera expedita. Algunas partes se han quejado del tiempo que se tarda en tomar una determinación con respecto a las peticiones electorales. La Misión tuvo conocimiento de que el fallo del Tribunal Superior sobre una petición presentada por el Partido Progresista del Pueblo – Cívico (PPP/C) después de las elecciones de 2015 todavía

¹⁹ Byron, Dennis. "The importance of an Independent and Impartial Judiciary- Placing the Spotlight on Judicial Accountability". 11 de noviembre de 2017, Georgetown, Guyana. <https://ccj.org/wp-content/uploads/2017/11/The-Importance-of-an-Independent-and-Impartial-Judiciary-%E2%80%93-Placing-the-Spotlight-on-Judicial-Accountability.pdf>

estaba pendiente cuando se celebraron las elecciones de 2020.

En este sentido, la Misión recomienda:

- Realizar esfuerzos lo antes posible para confirmar los cargos de Canciller de la Judicatura y Presidente del Tribunal Supremo de Guyana, a fin de evitar percepciones negativas en cuanto a la independencia del Poder Judicial.
- Establecer un plazo adecuado para que el Tribunal Superior resuelva las peticiones electorales, en aras de la justicia y la resolución de una elección. Esto deberá aplicarse también a las apelaciones relacionadas con las elecciones presentadas ante el Tribunal correspondiente.

vi. Financiamiento político

Las disposiciones de la Ley de Representación del Pueblo (ROPA)²⁰ estipulan que los candidatos deben presentar un informe sobre sus gastos a la Comisión Electoral a más tardar 35 días después de la declaración de los resultados de las elecciones. Las disposiciones establecen un límite de GY\$50.000 (US\$240) de gastos por candidato o representante del candidato que figure como mínimo en el puesto 53 en la lista. La Misión tuvo conocimiento de que estos informes no suelen presentarse.

La Ley no regula el financiamiento privado ni las donaciones anónimas. No existe una guía sobre el uso de los recursos estatales y los mecanismos existentes para hacer cumplir las disposiciones son limitados. Sin embargo, en sus conversaciones con los partidos políticos, se le informó a la Misión que existía un amplio consenso entre las partes interesadas para actualizar la legislación sobre financiamiento de campañas.

Por lo tanto, la Misión recomienda:

- Discutir y promulgar leyes y normas integrales que regulen el financiamiento de las campañas y que incluyan la identificación de las fuentes de financiamiento, la prohibición de donaciones anónimas, la limitación de donaciones privadas y en especie para campañas políticas y electorales, la limitación de las contribuciones de individuos y corporaciones, así como información clara sobre los requisitos de los candidatos y partidos políticos, y disposiciones relativas al acceso a la información.
- Contar con la participación de todos los interesados en un proceso nacional que conduzca a la elaboración y aprobación de la legislación y los reglamentos. En este sentido, una Comisión Nacional Independiente, con representación de la Asamblea Nacional, el Ejecutivo, los partidos políticos y la sociedad civil, podría ser un mecanismo útil para examinar modalidades y sugerir proyectos de ley sobre financiamiento de campañas. La legislación modelo de la OEA sobre financiamiento

²⁰ Ley de Representación del Pueblo, Capítulo 1:03, - Part XII – Gastos electorales, https://www.gecom.org.gy/assets/docs/laws/Cap_103_Representation_of_the_People.pdf

de campañas, así como la labor de otros países de CARICOM y/o del Commonwealth que han adoptado legislación sobre financiamiento político, podrían ser un punto de partida útil para estas conversaciones.

vii. Participación Política de la Mujer

Guyana sigue siendo un líder entre los países angloparlantes del Caribe en lo que respecta a la legislación relacionada con la participación política de la mujer. La Ley Electoral (Enmienda) de 2000²¹ establece que los partidos políticos deben incluir un 33% de mujeres en sus listas de candidaturas a la Asamblea Nacional. La cuota de género ha tenido repercusiones positivas en la inclusión de la mujer en el parlamento, cuya presencia pasó de 18,5% en 1999 a 32,3% en 2015.²² Para las elecciones de 2020, 21 mujeres (32,3%) fueron elegidas a la Asamblea Nacional, compuesta por 65 integrantes.²³

Si bien la Comisión Electoral examina las listas de candidaturas para asegurarse de que cumplan con la cuota de género y rechaza las que no lo hacen, no existen cuotas de género exigibles para las personas extraídas de la lista para ingresar al parlamento. Si bien la Ley Electoral (Enmienda) de 2000 estipula que, al extraer los nombres de la lista de candidatos, "se debe tener en cuenta" la cuota del 33%, así como "la proporción de mujeres en el electorado", esto no es un compromiso vinculante que garantice que al menos el 33% de los representantes electos sean mujeres. Además, no se aplican sanciones al incumplimiento de esta disposición.

En Guyana, las mujeres están bien representadas en los partidos políticos, pero, si bien ocupan posiciones en las áreas enfocadas en los temas de género, su representación es menor en los puestos de liderazgo de los partidos. De los nueve partidos o agrupaciones que participaron en las elecciones a la Asamblea Nacional, solo tres de ellos tenían candidatas mujeres a la presidencia y dos partidos presentaron candidatas al cargo de Primer Ministro. Por lo tanto, la Misión recomienda:

- Revisar la legislación vigente para fortalecer la efectividad de la cuota de género existente, y asegurar que las personas extraídas de las listas de candidatos para ingresar al parlamento reflejen la composición de género de esas listas. Asimismo, considerar la inclusión de medidas que incentiven progresivamente la paridad en la extracción de parlamentarios de las listas, a fin de promover la representación equitativa de hombres y mujeres en la Asamblea Nacional.
- Recopilar y publicar datos desglosados por género sobre los distintos procesos electorales, incluidos datos sobre candidatos, electores, votantes y miembros de mesas.

²¹ Ley Electoral (Enmienda) de 2000, Ley No. 15 de 2000, https://www.gecom.org.gy/assets/docs/laws/Local_Authorities_Elections_ACT_NO_15_OF_2000.pdf

²² Datos aportados por la Asamblea Nacional de Guyana.

²³ Datos aportados por la Asamblea Nacional de Guyana.

- Formalizar y hacer cumplir políticas que aceleren el proceso de votación para mujeres embarazadas, mujeres con niños pequeños, discapacitadas y adultas mayores, al tiempo que se eduque a todos los votantes sobre el derecho de estas personas de avanzar rápidamente en el proceso de votación y, cuando sea necesario, con asistencia.
- Proteger a todos los candidatos, especialmente a las mujeres y los jóvenes, de las represalias sociales o económicas si optan por postularse a un cargo. Los aspirantes políticos deben tener garantías de recursos legales si pierden el empleo debido a su participación en la política electoral.
- Los partidos políticos, la sociedad civil y otros actores relevantes deben colaborar para crear programas de capacitación y otras iniciativas que promuevan la participación y el liderazgo de la mujer en la política.

H. AGRADECIMIENTOS

La Misión desea agradecer al Gobierno de la República Cooperativa de Guyana, a la Comisión Electoral de Guyana, a los actores con los que se reunió, y a todos los ciudadanos por su disposición a participar en debates francos y abiertos sobre los temas surgidos en el proceso electoral. Los debates contribuyeron de manera importante para que la labor de la Misión culminara exitosamente.

La Misión agradece también los aportes financieros de los Gobiernos de Bolivia, Brasil, Chile, Estados Unidos, Francia, Guatemala, Corea, México y Panamá que hicieron posible esta Misión.

II. ANEXOS – INFORMES POR ÁREA (disponibles solamente en Inglés)

i. ORGANIZACIÓN Y TECNOLOGÍA ELECTORAL

1. Introduction

The Cooperative Republic of Guyana is a semi-presidential parliamentary republic within the Commonwealth of Nations. Elections to the 65-seat unicameral National Assembly, constitutionally due every five years, are held under a system of proportional representation with an element of geographical and gender representation. Twenty-five members are elected from the 10 geographic constituencies, while the remaining 40 members are drawn from a closed national list (known as the “National Top-Up list”), named by the political parties.

The President is the Head of State and Head of Government. In nominating candidates for general elections each political party must designate a presidential candidate, who is deemed elected if the party wins a majority of votes. The President can only be elected for two terms. The Prime Minister, other ministers of Government, the Attorney General and other high-ranking officials are appointed by the President.

Executive power is exercised by the President, while legislative power rests in the National Assembly. The judiciary exercises its authority independently of both the executive and legislative branches.

General and Regional Elections were held on March 2, 2020, with a Voters’ List comprising 660,998 electors. Eleven political parties contested at the national and regional levels. Following an extended post-electoral process, which included several legal challenges and a national recount of all ballots cast on March 2, the final results of the elections were declared on August 2, 2020.

IMPORTANT DATES	
Passage of No-Confidence Motion	December 21, 2018
CCJ Confirmation of No-Confidence Motion	June 18, 2019
Announcement of Election Date	September 25, 2019
Dissolution of the Parliament and RDCs	December 30, 2019
Nomination Day	January 10, 2020
Disciplined Services Vote	February 21, 2020
Election Day	March 2, 2020
Initiation of National Recount	May 6, 2020
Conclusion of National Recount	June 8, 2020
Declaration of Results	August 2, 2020

2. Legal Framework

The legal framework for elections in Guyana is provided by the Constitution of the Co-operative Republic of Guyana (Chapter 1:01),²⁴ the Representation of the People Act (Chapter 1:03),²⁵ the National Assembly (Validity of Elections) Act (Chapter 1:04),²⁶ the National Registration Act and Regulations (Chapter 19:08),²⁷ the Local Democratic Organs Act (Chapter 28:09)²⁸ and the Local Authorities Elections Act (Chapter 28:03).²⁹

3. Electoral Framework

a. Electoral Commission

Articles 62 and 161-162 of the Constitution establish the Guyana Elections Commission (GECOM). GECOM is a permanent, independent body with responsibility for the organization, administration and conduct of elections in Guyana. It consists of a full-time Chairman and six Commissioners. The Chair is appointed by the President from a list of six candidates, not unacceptable to the President, which is provided by the Leader of the Opposition after meaningful consultation with political parties represented in the National Assembly. The six Commissioners are appointed by the President – three at his own discretion and three on the advice of the Leader of the Opposition, after meaningful consultation with non-governmental parties represented in the National Assembly.

GECOM establishes policy relating to the registration of voters, the maintenance of the Voters' List and the administration of all national, regional and local government elections. GECOM is also tasked with appointing and managing all staff working on elections and ensuring the efficient functioning of the Commission's Secretariat.

The Commission is supported by a Permanent Elections Secretariat headed by the Chief Election Officer (CEO), who is responsible for implementing the policies issued by GECOM relating to preparations for and delivery of elections, including voter registration, training election workers, implementing civic education campaigns, and the reconciliation of Statements of Poll on Election Day. The CEO is responsible for certifying the results of the elections, based on the compilation of the original Statements of Poll from each polling station and after having informed members of the Commission.

²⁴ Constitution of the Cooperative Republic of Guyana, Chapter 1:01, Act 2 of 1980 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_101_Constitution.pdf

²⁵ Representation of the People Act, Chapter 1:03, Act Reg. 24/1964 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_103_Representation_of_the_People.pdf

²⁶ National Assembly (Validity of Elections) Act, Chapter 1:04, Act Reg. 40 of 1964 (and its amendments), <https://mola.gov.gy/information/laws-of-guyana>

²⁷ National Registration Act, Chapter 19:08, Act 24 of 1967 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_19.08_National_Registration_Act.pdf?v=2

²⁸ Local Democratic Organs Act, Chapter 28:09, Act 12 of 1980 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_28.09_Local_Democratic_Organs.pdf

²⁹ Local Authorities (Elections) Act, Chapter 28:03, Act 23 of 1969 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_28.03.pdf

Section 7 of the Representation of the People Act (ROPA) provides that in the delivery of the electoral process, the Chief Elections Officer shall be supported by a Returning Officer and Election Clerk at the District level; a Presiding Officer, Poll Clerk and Counting Assistant at each polling station; and such Deputy Returning Officers, Assistant Presiding Officers and other staff as are required for the implementation of the ROPA.

b. Electoral Divisions

Article 160 (2) of Guyana’s Constitution stipulates that the parliament is responsible for the division of Guyana into geographical constituencies and for the election in each constituency of the number of members that it decides. Section 11A of the Representation of the People Act provides in this regard that Guyana shall be divided into ten electoral/geographical constituencies (Polling Districts), which are the same as its ten administrative regions.³⁰

The ten Polling Districts are further divided into Polling Sub-Districts and Polling Divisions/Sub-Divisions. For elections, the Returning Officer, with the approval of the Chief Election Officer, establishes as many Polling Places and Polling Stations as may be required for each Polling Division or Sub-division. For the March 2, 2020 poll, there were 2,339 polling stations serving 660,998 electors, as shown in Table 1.

Table 1: Polling Stations and Electors by Region

Region	Name	Polling Stations	Electors
Region 1	Barima-Waini	99	18,952
Region 2	Pomeroon - Supenaam	135	37,979
Region 3	Essequibo Islands – West Demerara	355	100,758
Region 4	Demerara – Mahaica	879	285,618
Region 5	Mahaica – Berbice	158	44,663
Region 6	East Berbice – Corentyne	378	99,131
Region 7	Cuyuni - Mazuruni	82	14,887
Region 8	Potaro – Siparuni	55	7,431
Region 9	Upper Takutu – Upper Essequibo	73	17,771
Region 10	Upper Demerara - Berbice	125	33,808
	Total:	2,339	660,998

Source: Official List of Electors 2020, Guyana Elections Commission (GECOM)

Following elections Guyana utilizes the Hare quota/largest remainder method to distribute the seats in the House of Assembly according to the votes cast for the competing parties. While the limited number of seats in most constituencies (five constituencies have 2 seats and two constituencies have 1 seat) could make it challenging to achieve an equal distribution at the geographic level, the application of proportionality in the national “top-up” list helps to adjust for potential distortions.

³⁰ Representation of the People Act, Section 11 (A 2-3)

Table 2: Distribution of Geographic Seats

Region	1	2	3	4	5	6	7	8	9	10	Total
Seats	2	2	3	7	2	3	2	1	1	2	25

Source: Representation of the People Act, Section 11 (A) (4)

Nevertheless, considering the significant disparities that exist between the voting populations of the different Regions of Guyana (the largest constituency, Region 4, had over 285,000 electors, while the smallest, Potaro-Siparuni, had 7,431 voters), a regular review of the distribution of geographic seats, in keeping with population changes, would support efforts to ensure balanced representation.

c. Political Parties

Eleven political parties/coalitions contested the elections at the national and regional level. The two principal contenders, A Partnership for National Unity + Alliance For Change (APNU+AFC) coalition and the People's Progressive Party / Civic (PPP/C) were the only ones to contest both the general and regional elections in all ten regions. Two parties – the Federal United Party (FUP) and the Organisation for the Victory of the People (OVP) – each contested in a single constituency at the regional level only.

Three parties – A New and United Guyana (ANUG), the Liberty and Justice Party (LJP) and The New Movement (TNM) – requested their lists be joined under Section 22 of the Representation of the People Act. The Mission was informed that it was the first time that Section 22 had been applied in an electoral process in Guyana.

The political parties and the regions in which they contested elections are indicated in Table 3.

Table 3: Political Parties and Elections Contested by Region

Political Party	Type of Election	Administrative Regions									
		1	2	3	4	5	6	7	8	9	10
A New & United Guyana (ANUG)	General		✓	✓	✓	✓	✓	✓			✓
	Regional										
A Partnership for National Unity + Alliance For Change (APNU+AFC)	General	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Regional	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Change Guyana (CG)	General		✓	✓	✓	✓	✓	✓			✓
	Regional		✓	✓	✓	✓	✓				✓
Federal United Party (FUP)	General										
	Regional						✓				
	General	✓	✓		✓			✓	✓	✓	

Political Party	Type of Election	Administrative Regions									
		1	2	3	4	5	6	7	8	9	10
Liberty and Justice Party (LJP)	Regional	✓	✓		✓			✓	✓	✓	
Organisation for the Victory of the People (OVP)	General										
	Regional				✓						
People's Progressive Party / Civic (PPP/C)	General	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Regional	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
People's Republic Party (PRP)	General	✓	✓	✓	✓	✓	✓				✓
	Regional			✓	✓	✓	✓				✓
The Citizenship Initiative (TCI)	General		✓	✓	✓	✓	✓				✓
	Regional										
The New Movement (TNM)	General			✓	✓	✓	✓		✓		✓
	Regional										
United Republican Party (URP)	General	✓	✓	✓	✓	✓	✓	✓		✓	✓
	Regional	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Source: Guyana Elections Commission (GECOM)

4. Registration of Electors and the Voters' List

Article 59 of the Constitution of Guyana stipulates that every citizen of Guyana or Commonwealth citizen domiciled and residing in the country, who is eighteen or older, is eligible to vote.³¹ Under Guyana's National Registration Act, three lists of voters are prepared during each electoral process - the Preliminary List of Electors (PLE), the Revised List of Electors (RLE) and the Official List of Electors (OLE).

The Preliminary List of Electors (PLE) is extracted from the central register – the National Register of Registrants (NRR). The Revised List is published following a Claims and Objections process. The Official List is determined following a 21-day period for the incorporation of additional amendments to the RLE.

The Preliminary List of Electors (PLE) was published on September 25, 2019, and contained 646,625 persons. Claims and Objections were processed from October 1 to November 18, 2019 and the Revised List was published on December 31, 2019 with 661,378 names. The Official List of Electors, which as published on February 1, 2020, contained 660,998 electors.

³¹ Article 59, Constitution of Guyana.

5. Electoral Organization

a. Training of the Poll Workers

GECOM implemented a cascade model of training to prepare electoral staff for Election Day. Training sessions were held at the national level, with the core trainers, under the supervision of the Chief Elections Officer. Information was subsequently disseminated downwards to staff at the regional and local levels through briefings, role-playing and mock polls for appointed staff, including Presiding Officers, Assistant Presiding Officers, Poll Clerks and Counting Assistants/Ballot Clerks. The Mission requested, but did not receive, data on the percentage of poll workers trained.

In order to make the training accessible for all poll workers, GECOM conducted sessions both during the day and at night. The material provided and the format of training sessions allowed experienced election workers to review procedures and new members of electoral staff to become familiar with the concepts and procedures of voting.

Information provided by GECOM indicated that electoral staff were trained from February 8 to February 26, 2020.³² Briefings were also provided for Returning Officers and Deputy Returning Officers on the election plan and deployment of support staff. Election staff were provided with the *Official Manual for Returning Officers & Other District Staff* and the *Official Manual for Presiding Officers & Other Polling Day Officials* to guide their work on Election Day. In this regard the Mission identified several deficiencies in the manuals provided which suggested an urgent need for updating and reprinting the existing material.

b. Access to Information

Informative material on the elections was available on GECOM's website, including legislation governing the electoral process, the Official List of Electors and the approved list of political parties and candidates. Videos and infographics on the electoral system and the voting process were also available in GECOM's online Information Hub. Electors were able to use a search engine on GECOM's website to locate their assigned polling stations. During its deployment in Guyana, the Mission also noted the distribution of electoral information and guidelines through the local media.

c. Delivery of Electoral Material

The Mission was informed that the process of preparing and delivering electoral materials commenced on January 31, 2020, with the packing of non-sensitive supplies, and ended on March 1, 2020, when election material was fully distributed to the Presiding Officers in the ten constituencies across the country.

Although there was no electronic tracking system that allowed constant monitoring of the delivery operations, the Mission noted the presence of party agents who monitored the

³² Guyana Elections Commission "Workplan for GRE 2020 (E-31 days).

transportation and distribution of materials at various locations. Members of the OAS Mission also observed the final stages of the distribution process at GECOM's main office and at staging areas in Regions 3 and 4.

d. Voting Procedures

On Election Day in Guyana, electors cast their votes at one of the 2,339 polling stations established across the country. In order to cast a ballot, an eligible elector must be present at his/her designated polling station. Guyanese law currently makes no provisions for overseas or absentee voting by ordinary voters. Certain categories of voters may however cast their vote by proxy or as a non-resident elector.

Section 30 (1) of the Representation of the People Act stipulates that eligible electors are entitled to vote by proxy at an election if they will be engaged in election-related work on Election Day (e.g. as a member of the disciplined services, a rural constable or if they are assigned election duties by a Returning Officer); if they will act as Returning Officer for a district other than the district in which they will vote; if they are employed by the Transport and Harbours Department and will be engaged in piloting a vessel on Election Day; if they are a candidate in the election; or if they are physically incapacitated.

A proxy vote can only be cast by a registered voter who is eligible to vote at the same polling station as the voter he/she is representing and who casts his/her vote at the same time as the proxy vote. An elector cannot be appointed as a proxy for more than two other electors.

Section 44 (1) of the ROPA also provides for overseas voting by an ambassador or High Commissioner representing Guyana abroad, their spouses and children, the staff of embassies and high commissions, and their spouses and children.

For the 2020 elections, the Mission heard concerns from some stakeholders that workers in the relatively new oil sector, who were scheduled to work offshore on Election Day, were provided with no options to cast their vote as they did not qualify for either early or proxy voting.

Poll Staff

On Election Day each polling station is assigned a team of electoral workers including a Presiding Officer, an Assistant Presiding Officer, a Poll Clerk, and a Ballot Clerk/Counting Assistant. In locations with several polling stations, there is also an Information Poll Clerk who is responsible for guiding electors. These election officials report to the Returning Officer and the Deputy Returning Officer of the Region. Members of the disciplined services are present at polling stations for security purposes.

Voting Process

On Election Day, all poll workers are expected to report for duty at 5 am. The Presiding Officer inspects and arranges the premises, ensures that all materials and requirements are

present for the proper conduct of the poll and guarantees that the ballot box is sealed and positioned. In the presence of the poll staff and party agents, the Presiding Officer also determines the unique six-digit number for the stamp – the official mark placed on each ballot. Once all arrangements are complete, the Presiding Officer declares the polling station open.

Polling stations are opened from 6 am to 6 pm. Each elector approaches the polling station and presents an identification card. The Official List of Electors (OLE) is checked and once the identity of the elector is validated, a confirmation mark is placed against the number of the elector. The Presiding Officer then checks the voter's right index finger, writes the serial number on the counterfoil of a ballot, stamps it with the six digit official mark and gives it to the elector. The voter proceeds to the voting compartment, marks the ballot and returns to the Presiding Officer's table with the ballot folded. The elector deposits the ballot in the box and dips his/her finger in the electoral ink.

Electors who are physically incapable of casting their ballot may direct the Presiding Officer, in the presence of Poll Clerks and party agents, to cast their vote according to their instructions. Registered voters who do not have their ID cards may be allowed to vote after swearing their identity through Form 19 - Oath of Identity. Members of the Mission noted multiple instances of the use of Form 19 during the course of Election Day.

Closing of the Poll and Counting of Votes

Polls close at 6 pm. If there are electors standing in line at that time, they are allowed to vote. Thereafter, in the presence of the poll workers and the candidates or their agents, the Presiding Officer counts the spoiled and unused ballots, checks this total against the number of ballots supplied, opens the ballot boxes and proceeds to the counting of votes.

Upon the conclusion of the count, the Presiding Officer seals the counted and rejected ballots papers in separate packet and completes the Statement of Poll, Form 23A, which is signed by the polling (party) agents present for the count. A copy of Statement of Poll is posted outside of the polling station and the ballot box and all electoral materials delivered to the Returning Officer/Deputy Returning Officer.

Upon receipt of the Statements of Poll from polling stations under their supervision, the Deputy Returning Officers for each region (polling district) verify and collate the preliminary results. The Mission noted that 10 polling stations on average are assigned to each of these officials. The Deputy Returning Officers then submit a signed copy of the collated results for their assigned areas to the Returning Officer who compiles all of the data for the region and communicates it to the Chief Elections Officer by the quickest means available.

Thereafter, the Returning Officer, in the presence of such persons who are entitled to be present, ascertains the total votes cast in favor of each list and publicly declares the results of the election in the region (polling district) using Form 24 (Election Return). These results are final unless the assigned Counting Agent for the region requests a recount of the votes cast before noon of the day after the results are declared. For the March 2020 poll, the

Mission noted there were several requests for recounts at the regional level. While some recounts proceeded, others were denied on the basis that the requesting Counting Agents had not been duly appointed.

6. Electoral Technology

a. Transmission of Results

Guyana's electoral process does not include the use of a data communication infrastructure. After the ballots are counted at the polling station, the Statements of Poll and other electoral materials are manually transported by land, water and air to the Returning Officers of each of the 10 Regions and thereafter to the Chief Election Officer in Georgetown.

b. Tabulation Process and Counting Process

Results are primarily tabulated manually at the various stages of the process. At the main GECOM Office however, once the Statements of Poll are received, the results data is tabulated using a computer application specifically designed for the purpose by GECOM's Information Technology staff. Data Entry Clerks are responsible for inserting the information from the original Statements of Poll into a central database. Tabulated results are then collected from the database to prepare the official declaration of elections results at a regional and national level.

7. Observations on Election Day and in the Post-Electoral Period

The Mission observed that the election material was received on time and there were no significant delays in the opening of the polls. Presiding Officers and other members of the poll staff, along with party agents, followed procedures professionally and in accordance with electoral laws. While the Mission saw long lines in the morning at many polling stations people waited patiently, in most instances, to cast their vote and by midday most lines had disappeared. Although observers noted that the atmosphere in some polling division was tense, there were no visible signs of intimidation or violence. Police officers were present at all polling sites in order to maintain security and order.

In general the polls closed at 6 pm, or as soon as the last electors in line at that time had voted. The vote count at the polling stations observed proceeded carefully and efficiently, although the Mission detected occasional difficulties in counting the ballots, primarily as two counts – General and Regional elections – were happening simultaneously. From the Mission's observations, the overall tabulation of results, proceeded in accordance with the electoral law in nine of the ten regions of Guyana.

a. Issues in Region 4

In Region 4, however, which contains the largest number of electors and polling stations in Guyana, there were significant challenges in the tabulation process. These challenges, which developed initially in the building which served as both the Office of the Returning Officer

for Region 4 and the Office of the Chief Elections Officer during the electoral process, included the following:

- Beginning on the morning of March 4, after approximately 300 of the 879 Statements of Poll for Region 4 had been verified, extended delays and repeated interruptions in the tabulation process for various irregular reasons, including, according to GECOM officials, the unavailability of electoral workers to conduct the verification and tabulation.
- Repeated disruptions in the tabulation room and in other areas of building, typically following announcements or actions by GECOM officials that undermined the transparency of the process. On March 4 at approximately 1:00 pm, for example, the Chief Elections Officer announced that instead of verifying the results from the official Statements of Poll in the presence of the authorized party representatives, the election clerks would instead use a spreadsheet that had been prepared by GECOM. The results included on the spreadsheet were significantly different from the results on the Statements of Poll held by the party representatives.
- On March 5, at around 11:20 am, evacuation of the building by all GECOM staff following an alleged bomb threat. While political party representatives and international observers remained in the building to monitor the sensitive electoral materials present in the Region 4 tabulation room during this time, these materials remained outside GECOM's chain of custody for several hours.
- A declaration of results for Region 4 on March 5 by the Returning Officer (at 1:00 pm and again at 2:20 pm approximately), while the tabulation process was at a standstill and while a significant number of Statements of Poll had not yet been reviewed in the presence of party representatives, as required by law. That declaration awarded the win in Region 4 to the APNU+AFC coalition;³³ an outcome that was strongly disputed by other party representatives.
- Disorder and physical altercations at the building on the evening of March 5, between the security services and political party representatives. As events escalated, members of the OAS Mission who were present to observe the process were obliged to withdraw.

Following the disturbances of March 5, the Office of the Returning Officer for Region 4 was closed, effectively halting the process entirely. The process remained at a standstill from March 5 through March 12, while matters concerning the tabulation were addressed by Guyana's High Court - specifically, an injunction blocking the declaration of the results for Region 4, until the Returning Officer complied with the electoral law in determining the votes cast for each list of candidates.

³³ Taken from Form 24 – General and Regional Elections Returns, as published in “Commotion at GECOM Command Centre ...as GECOM releases unverified results for Region Four,” Kaieteur News, March 6, 2020, <https://www.kaieteurnews.com/2020/03/06/commotion-at-gecom-command-centre-as-gecom-releases-unverified-results-for-region-four/> (accessed December 1, 2020).

The building was re-opened and the process resumed on the morning of March 13. The Mission noted that in respect of several polling stations there continued to be significant discrepancies between the Statements of Poll presented by the Returning Officer and those in the possession of party representatives. A further resort to the High Court ensued after the Returning Officer refused to comply with the court's orders regarding the tabulation procedures. Following further direction from the High Court, the Returning Officer completed the process in keeping with the electoral law – though the Mission noted that he did not review the Statements of Poll that had already been processed using the earlier flawed approach.

A second declaration of the results issued by the Returning Officer for Region 4, just before midnight on March 13, also found APNU+AFC to be the winner of the Region 4 election.³⁴

b. National Recount

Concerns by multiple stakeholders that the results provided by the Elections Commission were flawed, resulted in a decision by GECOM on April 3, to proceed with a national recount of all ballots cast in the March 2 poll. On May 4, GECOM published Order 60 of 2020 in the Official Gazette of Guyana,³⁵ which established the legal basis as well as the procedural and administrative guidelines for the recount. Order 60 also signaled that the results of the recount would be the official, final results of the 2020 process.

The recount was conducted by GECOM employees under the direct supervision of the Chief Elections Officer and in the presence of a 3-member CARICOM Scrutinizing Team, political party representatives, accredited international and local observers, including the OAS Mission, advisors to GECOM and GECOM Commissioners themselves.

The process commenced on May 6, 2020. An initial ten workstations operated simultaneously, from 8 am to 7 pm daily at the Recount Centre to verify and tabulate the results in the 2339 ballot boxes. Two additional workstations were later added to improve the speed of the recount. GECOM provided a daily audio feed of the verification of the ballots and livestreamed the tabulation process through its Facebook page. Originally projected to last 25 days, the recount eventually ended on June 8, 34 days later.

Two members of the OAS Mission were present for the entirety of the recount. They reported that despite some organizational issues, the process was conducted in a professional, transparent and impartial fashion, which allowed GECOM, political parties and other stakeholders to accurately determine the results for each polling station. The findings of the OAS Observers were shared by the CARICOM Team of Scrutineers, who had been assigned a key role in Order 60 in verifying the recount results.

³⁴ Taken from Form 24 – General and Regional Elections Returns, as published in “Region Four vote count completed after suspect process – recount request expected,” Stabroek News, March 14, 2020, <https://www.stabroeknews.com/2020/03/14/news/guyana/region-four-vote-count-completed-after-suspect-process/> (accessed November 19, 2020).

³⁵ “The Official Gazette (Extraordinary) of Guyana, 60/2020,” 4 May 2020, https://www.gecom.org.gy/assets/docs/Press_Releases/2020/Gazetted_Order_Recount_5May2020.pdf

The official results of the recount found 460,352 valid votes in the General Elections. Of this number, the largest share, 233,336 votes, was awarded to the People's Progressive Party/Civic (PPP/C), while A Partnership for National Unity + Alliance For Change (APNU+AFC) garnered 217,920 votes. At the Regional level, there were 459,155 valid votes, of which the PPP/C won 233,661 votes and APNU+AFC 217,055 votes.³⁶

The National Recount figures are shown in Tables 4 and 5 below.

The results of the national recount were disputed by the Chief Elections Officer. In his official report on the recount, submitted on June 13, he advised that he had invalidated 275,092 of the 460,352 votes verified by the recount due to alleged anomalies and irregularities. Members of the Mission present at the recount advised that the allegations described in the CEO's report were presented primarily by one political party during the recount process, and included a significant number of unsubstantiated claims of voter impersonation. Neither the OAS Mission nor any of the other accredited observers who were present in Guyana for the March 2 poll had reported any significant instances of objections based on impersonation.

The invalidations resulting from the allegations of irregularities placed the APNU+AFC coalition in the lead once more with 125,010 votes over the PPP/C's 56,627 votes.³⁷

A further resort to the courts regarding the validity of the recount results, which was appealed to Guyana's final appellate court, the Caribbean Court of Justice, resulted in a determination on July 8, 2020, that the recount results were valid. Subsequent efforts at the lower courts to overturn this decision ended unsuccessfully on July 30, 2020.

On August 2, 2020, the Guyana Elections Commission received the report of the Chief Elections Officer, prepared pursuant to Section 96 of the Representation of the People Act, and in keeping with Order No. 60 of 2020. The report, which utilized results of the recount (see Tables 4 and 5), confirmed that the People's Progressive Party/Civic had earned the majority of the valid votes cast in the General and Regional elections. On the basis of these results GECOM declared Dr. Mohamed Irfaan Ali the President of Guyana.

Of the 65 seats in the National Assembly, the PPP/C earned 21 seats from the National Top-Up List and 12 seats from geographical constituencies, for a total of 33 seats. The APNU+AFC coalition earned 18 seats from the Top-Up List and 13 seats from geographical constituencies, for a total of 31 seats. The Joined Lists of the ANUG, LJP and TNM parties earned one seat from the National Top-Up List.

Of the 205 seats on Regional Democratic Councils, the PPP/C won 109 seats, APNU+AFC won 93 seats, the Liberty and Justice Party took two seats and Change Guyana, one seat.

³⁶ "The Official Gazette (Extraordinary) of Guyana, 112/20 – Declaration of Results made under the Recount Order 60 of 2020," 20 August 2020, and "The Official Gazette (Extraordinary) of Guyana, 113/20 – Declaration of Results made under the Recount Order 60 of 2020 - Addendum", 21 August 2020.

³⁷ Report of the Chief Elections Officer on the National Recount, June 13, 2020

Table 4: Final Results of the General Elections (National Recount)

Political Party	Administrative Regions										Total
	1	2	3	4	5	6	7	8	9	10	
A New & United Guyana		85	302	1,426	88	164	77			171	2,313
A Partnership for National Unity + Alliance For Change	3,909	7,340	23,808	116,941	14,502	20,399	4,813	2,152	4,887	19,169	217,920
Change Guyana		151	319	935	100	272	67			109	1,953
Federal United Party											
Liberty and Justice Party	170	121		755			884	450	277		2,657
Organisation for the Victory of the People											
People's Progressive Party / Civic	8,002	18,785	47,851	80,920	18,326	43,440	3,728	2,052	7,070	3,162	233,336
People's Republic Party	24	57	136	401	52	172				47	889
The Citizenship Initiative		18	77	466	22	60				37	680
The New Movement			56	135	10	16		11		16	244
United Republican Party	6	64	43	98	19	44	23		27	36	360
TOTAL VALID VOTES	12,111	26,621	72,592	202,077	33,119	64,567	9,592	4,665	12,261	22,747	460,352

Source: Guyana Elections Commission, Official Gazettes 112/20 and 113/2020

Table 5: Final Results of the Regional Elections (National Recount)

Political Party	Administrative Regions										Total
	1	2	3	4	5	6	7	8	9	10	
A Partnership for National Unity + Alliance For Change	3,843	7,290	23,833	116,403	14,472	20,313	4,839	2,091	4,824	19,147	217,055
Change Guyana		216	390	1,442	127	245				187	2,607
Federal United Party						153					153
Liberty and Justice Party	144	135		985			925	464	282		2,935
Organisation for the Victory of the People				448							448
People's Progressive Party / Civic	7,996	18,755	47,900	81,279	18,286	43,418	3,703	2,050	7,066	3,208	233,661
People's Republic Party			157	466	59	178				67	927
United Republican Party	77	95	177	552	60	127	62	39	56	124	1,369
TOTAL VALID VOTES	12,060	26,491	72,457	201,575	33,004	64,434	9,529	4,644	12,228	22,733	459,155

Source: Guyana Elections Commission, Official Gazettes 112/20 and 113/2020

The distribution of seats at the national and regional levels are shown in Tables 6 and 7.

Table 6: Allocation of Seats - General Elections

Political Party	National Top-Up List	Geographical Constituencies	Total Seats Allocated
A Partnership for National Unity + Alliance For Change	18	13	31
People's Progressive Party / Civic	21	12	33
Joined Lists (A New & United Guyana; Liberty & Justice Party; The New Movement)	1	-	1
TOTAL SEATS	40	25	65

Source: Guyana Elections Commission, Official Gazettes 112/20 and 113/2020

Table 7: Allocation of Seats – Regional Democratic Councils

Region	# Seats per Region	APNU+AFC	Change Guyana	LJP	PPP/C
1	15	5	-	-	10
2	17	5	-	-	12
3	27	9	-	-	18
4	35	20	1	-	14
5	18	8	-	-	10
6	30	10	-	-	20
7	15	8	-	1	6
8	15	7	-	1	7
9	15	6	-	-	9
10	18	15	-	-	3
TOTAL	205	93	1	2	109

Source: Guyana Elections Commission, Official Gazettes 112/20 and 113/2020

8. Recommendations

While the challenges in Region Four regarding the tabulation and declaration of results cast a shadow over the overall electoral process, the work of the Guyana Elections Commission in organizing the elections themselves demonstrated a strong commitment to delivering a process that complied with the provisions of the prevailing electoral legislation. Also, the activities and processes observed by the Mission prior to Election Day, including training sessions for poll workers, and the consistently strong performance of those poll workers on Election Day, are to be commended. The Mission however noted several areas in which the

electoral process and system could benefit from greater agility and certainty – particularly in ensuring that the will of voters, as expressed at the ballot box, is reflected in the final results of any election

Integrity of the Electoral Process

- The pertinent national authorities, including the Guyana Elections Commission, should undertake a comprehensive analysis of the events following the close of the polls on March 2, 2020, particularly the occurrences in Region Four, which gave rise to significant distrust in the initial election results and eroded confidence in the electoral system and process.
- The findings of this analysis should be applied to an evaluation of Guyana’s electoral framework, including electoral legislation, regulations, procedures and practices, as well as any provisions related to electoral offences and crimes, in order to identify and remedy any areas in which weaknesses currently exist, and which may have enabled the challenges witnessed in the 2020 electoral process.
- Given the role played by senior election officials in the 2020 challenges, the evaluation should include an assessment of the role, responsibilities and authority as well as the recruitment process of election officials at all levels, to ensure that sufficient checks and balances exist and that the overall authority of the Guyana Elections Commission is clarified.

Access to the Vote

- Consider extending the categories of persons who are entitled to vote early to poll workers.

Voting Procedures

- As noted by the 2015 EOM, and in order to avoid long lines of voters waiting to cast their ballots, GECOM should consider introducing a standardized process that will allow the verification of more than one voter while one voter is casting his/her ballot.
- Review and resolve the question of utilizing private residences as polling places well ahead of the next elections, to ensure that the uncertainty this issue generated prior to the 2020 elections does not reoccur.

Tabulation Procedures

- The Mission noted several variations in the completion of tabulation procedures and the transmission of results at the regional level. More precise guidelines and protocols, and clearer counting procedures will reduce the potential for

misinterpretation by electoral officials and promote certainty and transparency in the electoral results.

- In this regard, the Mission noted the need to review, update and standardize the existing instruction manuals, in particular the *Official Manual for Returning Officers & Other District Staff*, to resolve conflicting information, provide more comprehensive and explicit guidance and ensure that updated reference information is available to staff at polling stations.

Transmission of Results

- The Elections Commission should consider implementing a system to issue preliminary results for national elections, in order to make this information available on Election Day or on the morning thereafter. This would include establishment of a central computerized results receiving center, where election results summaries are periodically sent via secure telecommunication lines from each of the ten (10) Regions across the country to the Chief Elections Officer. Scanned Statements of Poll can be sent to the CEO simultaneously to be published alongside the digitized electoral results.
- GECOM should also consider including a technology solution in the electoral system which supports the final tabulation of the results of the election.
- Official tabulated elections results should be available online, through the Electoral Office's official web site, to ensure faster and simultaneous transmission to a wider audience, including political parties, journalists and citizens. This would promote the transparency of the election results.
- The authorities should consider establishing a help desk management system to effectively manage and control the delivery of electoral material; monitor and control the opening and closing of the polls; and manage the delivery of information and support to electoral workers, and others.

ii. REGISTROS ELECTORALES

1. Introduction

The registration of voters is one of the main pillars of an electoral process. The preparation of a Voters' List that is free of political influence, up-to-date and inclusive of all eligible persons is a fundamental aspect of fair and transparent elections. It is also important in ensuring that the Voters' List is accepted by political stakeholders, and is seen as equitable, transparent, comprehensive and accurate.

Guyana's legal framework provides for the publication of three lists of voters in the course of an electoral process: the Preliminary List of Electors (PLE), the Revised List of Electors (RLE) and the Official List of Electors (OLE). For the March 2, 2020 General and Regional Elections, the OLE was a source of some concern among stakeholders. While the 2019 population of Guyana was estimated to be just under 783,000 persons,³⁸ the elections were held with an OLE comprising 660,998 electors.

This Electoral Registries report analyzes the procedures outlined in Guyana's electoral laws for the registration of voters and evaluates the mechanisms employed to prepare the Official List of Electors (OLE). The report seeks to determine whether these procedures meet required technical and electoral standards and offers recommendations to optimize the registration of new electors, update the Voters' List and strengthen this aspect of the country's electoral process.

2. Political and Legal Framework

The Cooperative Republic of Guyana is a semi-presidential parliamentary republic within the Commonwealth of Nations. The President is the Head of State and Head of Government³⁹ and can only be elected for two terms. The Prime Minister, other ministers of Government, the Attorney General and other high-ranking officials are appointed by the President.

Elections to the 65-seat unicameral National Assembly are constitutionally due every five years, and are held under a system of proportional representation with an element of geographical and gender representation. Forty members of the National Assembly are drawn from a closed national list (known as the "National Top-Up list"), named by the political parties, while twenty-five members are elected from the 10 geographic constituencies as shown in Table 1.

³⁸ World Bank Population Indicator. Available on: <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=GY>

³⁹ Article 177 of the Constitution stipulates that each party submitting a list of candidates for election must designate one presidential candidate. A Presidential candidate is deemed elected if he/she is the only Presidential candidate in the election, or if more votes are cast in favour of the list in which he/she is designated as Presidential candidate, than for any other list.

Table 1: Distribution of Geographic Seats

Region	1	2	3	4	5	6	7	8	9	10	Total
Seats	2	2	3	7	2	3	2	1	1	2	25

Source: Representation of the People Act, Section 11 (A) (4)

The legal framework for elections in Guyana is provided by the Constitution of the Co-operative Republic of Guyana (Chapter 1:01),⁴⁰ which is the supreme law of the country, the Representation of the People Act (Chapter 1:03),⁴¹ the National Assembly (Validity of Elections) Act (Chapter 1:04),⁴² the National Registration Act and its Regulations (Chapter 19:08),⁴³ the Local Democratic Organs Act (Chapter 28:09)⁴⁴ and the Local Authorities Elections Act (Chapter 28:03).⁴⁵

3. Electoral Framework

a. Authorities

Article 161 of Guyana's Constitution provides for the Guyana Elections Commission (GECOM), a permanent, independent body with responsibility for the organization, administration and conduct of elections in Guyana. GECOM consists of a full-time Chairman and six Commissioners. The Chair is appointed by the President from a list of six candidates, not unacceptable to the President, which is provided by the Leader of the Opposition after meaningful consultation with political parties represented in the National Assembly. The six Commissioners are appointed by the President – three at his own discretion and three on the advice of the Leader of the Opposition, after meaningful consultation with non-governmental parties represented in the National Assembly.

GECOM settles policy for and supervises the registration of voters, the maintenance of the Voters' List and the administration of all national, regional and local government elections. The Commission is supported by a Permanent Elections Secretariat, headed by the Chief Election Officer (CEO), who is responsible for implementing the policies issued by GECOM relating to preparations for and delivery of elections, including voter registration.

⁴⁰ Constitution of the Cooperative Republic of Guyana, Chapter 1:01, Act 2 of 1980 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_101_Constitution.pdf

⁴¹ Representation of the People Act, Chapter 1:03, Act Reg. 24/1964 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_103_Representation_of_the_People.pdf

⁴² National Assembly (Validity of Elections) Act, Chapter 1:04, Act Reg. 40 of 1964 (and its amendments), <https://mola.gov.gy/information/laws-of-guyana>

⁴³ National Registration Act, Chapter 19:08, Act 24 of 1967 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_19.08_National_Registration_Act.pdf?v=2

⁴⁴ Local Democratic Organs Act, Chapter 28:09, Act 12 of 1980 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_28.09_Local_Democratic_Organs.pdf

⁴⁵ Local Authorities (Elections) Act, Chapter 28:03, Act 23 of 1969 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_28.03.pdf

Section 3 of the National Registration Act stipulates that there shall be a Commissioner of Registration, as well as a Deputy Commissioner and an Assistant Commissioner. The Commissioner is responsible for the compilation and maintenance of the central and divisional registers and all matters pertaining thereto and is assisted in this regard by the Deputy and Assistant Commissioners. Guyana's Elections Secretariat also carries out the tasks of the National Registration Centre under the National Registration Act. The Chief Elections Officer is the Commissioner of Registration.

Section 4 (1) of the National Registration Act provides for the appointment of such numbers of District Supervisors, Registration Officers, Assistant Registration Officers and other personnel, as may be required to carry out the provisions of the Act. Section 4 (3-4) also provides for a Registrar for each district and a Divisional Registrar for one or more registration divisions, as well as Deputy Registrars.

b. Electoral Divisions

Article 160 (2) of Guyana's Constitution stipulates that the parliament is responsible for the division of Guyana into geographical constituencies and for the election in each constituency of the number of members that it decides. Section 11A of the Representation of the People Act provides in this regard that Guyana shall be divided into ten electoral/geographical constituencies (Polling Districts), which are the same as its ten administrative regions.⁴⁶ For the purposes of registration, Section 5 of the National Registration Act stipulates that Guyana shall be divided into registration districts, which are subdivided into registration areas and registration divisions as approved by the Commissioner of Registration, with the approval of the Elections Commission.

4. Registration of Voters

a. Qualifications to be Registered as an Elector

Article 159 (2) of the Constitution of Guyana outlines the requirements to be registered and to vote at any election in Guyana. To qualify, a person must be:

- i. eighteen years or older;
- ii. a citizen of Guyana or;
- iii. a Commonwealth citizen domiciled and resident in Guyana for a period of one year immediately preceding the qualifying date; and
- iv. satisfy such other qualifications as may be prescribed by or under any law.

b. Registration of Electors

In order to be placed on the electoral list, a person must first be registered and included in the central register - the National Register of Registrants (NRR). Under Section 6 of the

⁴⁶ Representation of the People Act, Section 11 (A 2-3)

National Registration Act all persons 14 years and older must be registered. Guyana has a continuous voter registration system, whereby new applications for registration are received twice per year at offices established by the Commissioner of Registration in each division. The National Registration Act also provides for house-to-house registration. Commencing on a specific date set by the Commissioner, a Registrar may visit each household within the registration division assigned to him/her and obtain the application for registration from all persons who are eligible at the qualifying date in that division, as well as all other persons 14 years and older.⁴⁷

Persons 14 years and older who are registered automatically qualify for inclusion in the voters' list if they will be 18 years or older at the qualifying date when an election is called. They may also update their information after reaching the age of 18 during the continuous registration periods or during the Claims and Objections period after a Preliminary List has been published.

In submitting an application to be registered, an applicant must present documentation verifying his/her name and date of birth. Where an applicant is not a citizen of Guyana, official documentation must be presented confirming their residential status, such as a valid passport or a marriage certificate.

The registration officials who process the applications must verify the documentation presented by the applicant for authenticity; check the Preliminary List of Electors (PLE) to confirm that the person was not previously registered and prepare the Registration Record (Form R 01) which must include the applicant's data and signature. Thereafter, the official collects a photograph and the fingerprints of the applicant and secures directions for locating the applicant's residential address.

A name is only confirmed in the NRR when the applicant has been identified and located. When the accuracy of Form R 01 is verified by the Assistant Registration Officer (ARO) and the Registration Officer (RO), the application is introduced in the electors' ledger along with the Residence Verification Form (Form R 02).

c. Field Investigations

Field investigations are conducted to verify the residence and identity of an applicant for registration. The field investigation comprises a maximum of three (3) visits to the residential address provided by the applicant. The first visit is conducted as soon as practicable following an application, on an agreed date stated on R 01. If the potential voter or the residence are not located during these visits, a "Notification of Visit" form is completed and either left at the residence (if found) or mailed to the address provided. If the applicant or residence are not located on the third visit, the electoral authority sends a written notification requesting the applicant to attend an appointment at the Registration Office at a specific time. If the petitioner does not respond, the application is cancelled.

⁴⁷ National Registration Act, Section 6

If the applicant is located and his/her identity verified, their information is entered into the NRR database and an identification number and national identification card generated.

The field investigation forms an integral part of the registration process as this can determine if and where an applicant may be registered in the NRR. The investigation is led by the Registration Officer or the Assistant Registration Officer. Section 8 of the Election Laws (Amendment) Act 2000 also provides for the appointment of scrutineers to monitor the registration process by each organization or group of persons proposing to submit a list of candidates for the elections. Under Section 8, each group or organization may appoint a Chief Scrutineer for the whole of Guyana, a Deputy Chief Scrutineer and an Assistant Chief Scrutineer for each registration district or part thereof and one scrutineer for each registration division or subdivision.

Scrutineers may examine any application for registration of persons, registration cards and notices issued to applicants disallowing their application for registration. They may also accompany enumerators or Registration Officers when confirming the residency of an applicant and may submit to the Registration Officer claims for persons registered for that division.

While the work of the scrutineers had already been completed when the OAS Mission arrived in Guyana, the Mission was informed by GECOM that scrutineers were present during the different stages of the registration process, including the Claims and Objection period.

d. Identification Cards

Section 12 of the National Registration Act and Section 9 of the Elections Laws (Amendment) Act 2000 provide for the issuance of identification cards to persons whose names are included in the Official List of Electors. As noted above, the data, photograph and signature for the ID cards are collected during the registration process when applications are submitted by potential electors. Eligible electors collect their cards from the registration centers where their applications were submitted. Prior to Election Day, the Mission observed significant levels of activity at some registration centers as electors collected their ID cards. The Mission also observed the preparation of folios with copies of electors' registration information and photographs to assist in the identification of electors who did not have an ID card on arrival at a polling station.

On Election Day, the Mission noted the regular use of the identification card for the verification of persons presenting themselves at polling stations. The Mission also observed a number of instances where Presiding Officers effectively utilized their folios to assist in identifying electors.

In general, the registration system utilized in Guyana was comprehensive and complied with the electoral laws. The Mission noted however that it is primarily manual, requiring the

preparation, retention and management of paper records. A manual system reduces efficiency in the registration process and creates opportunities for human error.

5. House-to-House Registration

On July 20 20, 2019, the Guyana Elections Commission (GECOM) embarked on a house-to-house registration process, in keeping with its Order No. 25 of 2019, dated June 11, 2019. The Commission advised that the objective of the exercise was create a new National Register of Registrants Database (NRRDB) which reflected the actual Guyanese population and which would subsequently be used to extract the Official List of Electors for the General and Regional Elections.⁴⁸

The exercise was severely criticized by stakeholders. On July 22, 2019 a private citizen, Mr. Christopher Ram, filed a motion before the High Court, *Christopher Ram v GECOM*, challenging the constitutionality of the house-to-house exercise. Mr. Ram argued that the exercise would result in the unlawful deregistration of persons on the existing Voters' List and prevent the registration of qualified registrants, if they were not at their place of residence at the time of registration.

On August 14, 2019 the Chief Justice ruled that the house-to-house registration exercise was not unconstitutional, but the removal of the names of registered persons from the NRR on the grounds of non-residency was unlawful, unless they were deceased or disqualified under Article 159 of the Constitution – that is, for insanity or conviction of a qualifying offence. GECOM subsequently agreed, on August 27, 2019, to terminate the house-to-house registration exercise and to merge the data already gathered in that process with the existing National Register of Registrants Database (NRRDB), prior to extracting and publishing the Preliminary List of Electors (PLE).

The Mission noted GECOM's concerns at the time, that the ruling would create challenges in reviewing and updating the Voters' List, as it currently has no means of cleansing the list, save through the limited constitutional provisions for removal. In cases where electors no longer reside in Guyana, or where death certificates have not been registered (an act that is not mandatory) GECOM has no means to determine when or how names should be removed.

6. The Voters' List

Guyana's National Registration Act provides for the publication of three lists before the electoral process, the Preliminary List of Electors (PLE), the Revised List of Electors (RLE) and the Official List of Electors (OLE).

⁴⁸ GECOM Press Release of July 19, 2019.

https://www.gecom.org.gy/assets/docs/Press_Releases/2019/Press%20Release_GECOM%20_HousetoHouse%20Registration_19July2019.pdf

The Preliminary List of Electors (PLE) was published on September 25, 2019 and contained the full name, address, occupation and the serial number of the registration card of all persons qualified to be registered. Section 15 (1) of the National Registration Act, requires that the PLE be affixed to at least two buildings in each registration division, along with information on the prescribed times for the presentation of claims and objections.

a. Claims and Objections

Any person whose name appears on the Preliminary List of Electors (PLE), or the scrutineer for the relevant division/sub-division, or the Chief, Deputy Chief or Assistant Chief Scrutineers may object to the inclusion of an elector's name on the Preliminary List or Electors (PLE). The objection is made through Form R 09. The Registration Officer will note the particulars in the list of objections and give public notice of the enquiries on Form R 10. He/she also gives notice of hearing of the objection to the parties concerned on Form R 11.

Section 15 of the National Registration Act states that at the hearing of an objection, a Registration Officer shall regulate his/her own procedure in determining Objections. The Mission notes this means there is no formal structure or procedure for the hearing of Objections and that the Registration Officer exercises his/her own discretion in allowing the parties to be heard.

The Claims and Objection period took place from October 1 to November 18, 2019. Investigations were conducted to verify registrants at their addresses in the presence of scrutineers from the political parties. Alterations were then made to the central and divisional registers as required, according to the decisions taken on the claims and objections in keeping with Section 15(6) of the National Registration Act.

The Mission was advised that 6,994 names of deceased persons were removed from the NRR database covering the period July 2018 to October 2019. This was based on information received from the General Registration Office (GRO), which sent information to the Voters' Registry on a monthly basis.

During the curtailed house-to-house registration exercise 365,000 persons were registered. GECOM subsequently determined that 305,000 of those persons were already included in the National Register of Registrants. During the Claims and Objections period four thousand (4,000) new registrants were added to the register.

The Mission enquired about the status of those records in the database that had not been verified during the house-to-house registration, and was advised that the names of those persons were sent to the registration divisions where the respective Registration Officers conducted investigations. Any changes were made on an Administrative Change Form and submitted to the Voters' Registry where they were encoded and the database updated.

b. Revised and Official Lists of Electors

Following the updating of the National Register of Registrants database, the Revised List of Electors (RLE) was published on December 31, 2019. This date was also the qualifying date for persons 18 years and over to be eligible to vote in the March 2 poll. Section 37 of the National Registration (Residents) Regulations Act gives the Commissioner of Registration legal authority to make changes to the Revised List of Electors within 21 days after its certification, once he is satisfied that the omission is through inadvertence. The Mission was advised that upon publication of the RLE, GECOM found that it had not included the addresses and other information of eligible electors that had been updated during the house-to-house exercise. GECOM therefore relied on Regulation 37 to make the relevant changes to the RLE.

The Official List of Electors (OLE) was published by GECOM on February 1, 2020, with 660,998 registered voters across the ten regions of Guyana. Once the OLE is published, no further amendments can be made.

Table 2: Number of Persons Included in the Voters' Lists

List Type and Details	# of Persons
NRR prior Claims and Objections	663,365
Preliminary List of Electors	646,625
Revised List of Electors	661,378
Official List of Electors	660,998

Source: Data obtained from the Guyana Elections Commission (GECOM)

The OLE contained all of the required information on electors, such as their names, ID numbers and addresses, however the Mission noted that its format made it difficult to acquire certain information, including ascertaining the number of electors on the OLE for the ten regions. On Election Day, members of the Mission observed that some Presiding Officers were unable to determine the number of persons on their respective lists unless they reviewed all of the pages to the end of the List. Section 35 of the ROPA gives the Returning Officer the authority to subdivide the OLE if more than one polling place has to be used in a particular division. The OLE should therefore facilitate an easier calculation of the total electors in the polling districts and their subdivisions.

c. Voters' List for Disciplined Services Vote

The Disciplined Services of Guyana, including the Guyana Police Force, the Guyana Defense Force and the Guyana Prison Service voted on February 21, 2020 at eighty-two (82) polling stations throughout the territory of Guyana. A special Voters' List generated from the NRR, with only the names of officers eligible to vote on that day, contained 10,226 electors.

The Mission noted that at the conclusion of the voting all materials used, including the Lists, were returned to the GECOM for safe-keeping. The names from the special Voters' List were then incorporated into the OLE for Election Day, but with the names of officers who had already voted marked to indicate they had already cast their ballot. This method ensured

that persons who missed the opportunity to vote on February 21, had a second opportunity to cast their ballot - an opportunity that is not available to any other elector.

In this regard, the Mission was informed by GECOM that some 86 members of the Disciplined Services were unable to vote on February 21, due to logistical difficulties experienced in transporting the voting materials to their location. These persons were however provided the opportunity to cast their ballots on Election Day itself.

7. Findings and Recommendations

For the March 2020 General and Regional elections, the Mission found that electoral administrators were competent and professional and complied with the existing laws and procedures in the registration of eligible electors. The Mission however identified several areas which would benefit from revised approaches and therefore offers the following recommendations which can enhance the efficiency of the process as well as the credibility and acceptance of the Official List of Electors.

Registration of Electors

- While Guyana’s registration process is comprehensive and complies with the law, the introduction of technology would facilitate greater accuracy and efficiency in this critical area of Guyana’s electoral process. The digital capture and management of registrants’ data would allow GECOM to hold, transmit and track records more easily, facilitate the update of the National Register of Registrants and accelerate the issuance of identification cards. It would also reduce the incidence of human error and provide greater transparency and efficiency in the electoral process.

Update of the National Register of Registrants

- The Official List of Electors for the 2020 elections contained 660,998 electors, a figure that stakeholders agreed suggested a significantly bloated List. The Mission suggests that the authorities review and amend the electoral laws to establish a legal framework for the periodic cleansing and updating of the National Register of Registrants.
- The process of cleansing and updating the National Register should be undertaken as soon as practicable and well in advance of the next election.

Automatic Verification of New Electors

- Guyana’s electoral law allows all persons 14 years and older to be registered and included in the National Register of Registrants. The Mission recommends that GECOM consider a process whereby the data of registrants who have reached the age of 18 is extracted from the NRR on a monthly basis and sent to the Registration

Officers of the respective divisions for investigation. This will allow the database to be regularly updated, with the automatic addition of new registrants.

Official List of Electors (OLE)

- While the Official List of Electors included all required data, its format made it difficult to extract certain information, particularly the number of electors for each of the ten regions. The Mission recommends that the Elections Commission revise the structure of the OLE, providing the total number of electors at the end of the respective pages for subdivisions, divisions, polling districts and the overall OLE.

iii. JUSTICIA ELECTORAL

1. Introduction

Electoral Justice may be defined as a series of protective means and mechanisms designed to uphold the principles of free, fair and legitimate elections, as well as safeguard the political-electoral rights of all people.⁴⁹ It consists of two broad components: (1) guaranteeing that the electoral process operates in accordance with law, including international standards; and (2) ensuring that there are fair mechanisms for restoring electoral rights when they may have been violated.

Electoral justice is more than the general legalities in the country; it provides citizens with an environment in which they are not only able to exercise their electoral rights, but also believe and feel that they are able to do so. It offers guarantees to all actors involved in the electoral process, ensuring adherence to the principles of constitutionality and legality, that is - respect for the norms established in the constitutional and legal frameworks of the country.

In Guyana, as in other democracies, electoral justice plays an important role in ensuring the stability of the political system and adherence to the legal framework, and thus also contributes to the consolidation of democratic governance. The Constitution of Guyana,⁵⁰ the Representation of the People Act, Chapter 1:03,⁵¹ the National Assembly (Validity of Elections) Act, Chapter 1:04,⁵² and the National Registration Act, Chapter 19:08,⁵³ are the bedrock of the constitutional and statutory framework which governs the holding of elections in Guyana and provide the basis of electoral justice.

This report analyzes the system for electoral dispute resolution in Guyana, which includes the processes for filing complaints, providing evidence and ensuring resolution by the competent judicial organs. These processes are evaluated to determine whether they function in accordance with all technical-judicial requirements. The report also presents several recommendations that will help to enhance the country's electoral dispute resolution mechanisms.

⁴⁹Jesús Orozco-Henríquez, José de Jesús. (2013). Electoral Justice: IDEA International Manual, ed. IDEA International, et al

⁵⁰ Constitution of the Cooperative Republic of Guyana, Chapter 1:01, Act 2 of 1980 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_101_Constitution.pdf

⁵¹ Representation of the People Act, Chapter 1:03, Act Reg. 24/1964 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_103_Representation_of_the_People.pdf

⁵² National Assembly (Validity of Elections) Act, Chapter 1:04, Act Reg. 40 of 1964 (and its amendments), <https://mola.gov.gy/information/laws-of-guyana>

⁵³ National Registration Act, Chapter 19:08, Act 24 of 1967 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_19.08_National_Registration_Act.pdf?v=2

2. Legal Framework for Electoral Justice in Guyana

Several international legal treaties to which Guyana is a party guarantee the full exercise of political rights and provide legal and technical guarantees for their adequate protection. These include:

- The Universal Declaration of Human Rights (Article 8);
- The American Declaration of the Rights and Duties of Man (Article XVIII);
- The International Covenant on Civil and Political Rights (Article 3);
- General Comment 25 adopted by the Human Rights Committee of the United Nations (UN), the Right to Participate in Public Affairs, Voting Rights, and the Right to Equal Access to Public Service (Article 25, ICCPR, 1996); and
- The Inter-American Democratic Charter (Article 8 (1)).

In Guyana, electoral rights are enshrined in the country's supreme law, the Constitution, which provides the framework for democracy and the practice of its principles, including the right to freedom of assembly and freedom of expression. The Constitution of Guyana also provides the right to a fair hearing, the right against non-discrimination on the basis of political affiliation and protection of the law, which are the bases of electoral justice. Some of the electoral justice principles in the Caribbean also stem from case law. The Courts of the Eastern Caribbean have identified the right to vote and the ability to stand for election as part of the very fabric of the parliamentary system of democracy and a constitutional right.⁵⁴

Other fundamental legal instruments guiding Guyana's electoral system are the National Assembly (Validity of Elections) Act, the Representation of the People Act and the National Registration (Residents) Act and Regulations, as indicated earlier.

Article 64 of the Constitution states that all questions regarding membership of the National Assembly shall be determined by the High Court in accordance with the provisions of Article 163. Article 163 assigns exclusive jurisdiction to the High Court in determining such questions and outlines a specific scheme for doing so. The jurisdiction exercised by the Court in this area is however applied within a framework laid down by Parliament. Article 163 (4) (a – c) authorizes Parliament to decide the circumstances and consequences for the determination of any question arising under the Article and to lay down the practice and procedure in relation to the jurisdiction and powers conferred upon the High Court by the Constitution. These provisions are contained in the National Assembly (Validity of Elections) Act; Section 3 of that Act reinforces Article 163 of the Constitution.

Section 163(3) of the Constitution also provides for an appeal from a final decision of the High Court sitting in an election petition. An appeal lies as of right to the Court of Appeal of Guyana (a) from the decision of a Judge of the High Court granting or refusing leave to institute proceedings for an election petition or (b) from the determination by the High Court

⁵⁴ Quinn-Leandro v Jonas (2010) 78 WIR 216

of any such question, or against any order of the High Court made in consequence of such determination.

In some cases, a person can seek judicial review, or file a constitutional motion, either before, during or after the election, depending on the wrong done and the relief sought. The Courts have held that “the Supreme Court is the guardian of the Constitution, consequently it is not only within its competence but also its right and duty to make binding declarations, if and whenever warranted, that an enactment or actions of the state are *ultra vires* and therefore void.”⁵⁵ The Caribbean Court of Justice (CCJ), Guyana’s final appellate court, authoritatively held that in relation to Guyana, unless specifically ousted or constrained, the court has an inherent and unfettered jurisdiction in matters relating to the interpretation of the Constitution. It is the court that authoritatively settles what the Constitution means and whether some action that is taken by a constitutional actor is within or outside that actor’s constitutional remit.⁵⁶

There is however a clear distinction between the election jurisdiction of the court, created by parliament by a law intended to determine election matters, and the jurisdiction of the court under the Constitution to determine constitutional issues. Very different rules apply in the election jurisdiction than do within the constitutional or ordinary civil jurisdiction of the court. Election petitions are considered of a special nature and so where the challenge relates to the outcome of the election then the Court tends to hold that the applicant should file an election petition to challenge his opponent’s election.

In legal challenges filed before the courts of Guyana prior to the March 2020 elections, *Christopher Ram v the Attorney General et al*, *Bharrat Jagdeo v the Attorney General et al* and *Charrandas Persaud v Compton Reid et al*⁵⁷ the Caribbean Court of Justice held, as the National Assembly (Validity of Elections) Rules indicate, that the Court has no jurisdiction to determine matters which must be raised by way of an election petition filed otherwise than as prescribed by Parliament. They held that an assumption by the courts of an “inherent power” to interrogate qualifying and disqualifying criteria in relation to election to the National Assembly will constitute overreach on the part of the judiciary. They went on to state that such an assumption will evince a trespass by the courts on the affairs of Parliament by disregarding the method and manner by which the Constitution specifically requires the courts to determine such questions.

There are limits to the use of judicial review and constitutional motions. Judicial review is a procedure by which a person who has been affected by a particular decision, action or failure to act of a public authority may make an application to the High Court, which may provide a remedy if it decides that the authority has acted unlawfully. Judicial review is concerned not with the merits of the decision, but whether the public body has acted lawfully. The Court does not have the right to replace its own decision for that of the public authority. If a judicial

⁵⁵ *Collymore v Attorney-General of Trinidad and Tobago* (1969) 15 WIR 229

⁵⁶ *Mustapha v AG & Chairman of GECOM* [2019] CCJ 9 (AJ)

⁵⁷ [2019] CCJ 10 (AJ), <https://ccj.org/wp-content/uploads/2019/06/2019-CCJ-10AJ1.pdf>

review claim is successful the usual result is that the decision is "quashed" or nullified. In turn this usually means that the decision has to be taken again not that the Court makes the decision for the public authority. This was seen in the post-electoral case of *Reeaz Holladar v Clairmont Mingo et al*, as the order of the court was to quash the decision of the Chief Elections Officer and order that he comply with the section under the law. First, this was the order that was sought by the applicant and further action by the Court could possibly amount to a breach of separation of powers.

In constitutional law matters the courts have themselves imposed certain constraints on the exercise of their jurisdiction to ensure that the jurisdiction is not abused. The intention behind this self-imposed rule is that if the High Courts were to exercise their constitutional jurisdiction so widely as to regularly override statutory procedures, they would themselves become inundated with a vast number of cases to the detriment of the litigants in those cases. Therefore, the court in constitutional cases will only grant remedies where there is no adequate alternative remedy.⁵⁸

A plethora of cases decided over the years in the courts in Guyana, as in other parts of the Commonwealth, have consistently held that the legal framework for challenging an election provides a comprehensive and exclusive statutory scheme, with mandatory procedural rules for challenging the validity of an election or the return of a candidate as the elected representative in an election.

It has been made clear in cases such as the Guyanese High Court decision of *Gladys Petrie v The Attorney General et al*,⁵⁹ that the Court's jurisdiction in this regard is not at large and not "inherent." The jurisdiction is derived from the Constitution and the Constitution specifies that this jurisdiction is as mandated by Parliament. What is prescribed by parliament in this regard must strictly be followed by the courts. This means that, for example, the time limitations set out in legislation governing the presentation and progression of an election petition are construed as condition precedents to the validity of the petition.⁶⁰

3. Pre-Electoral Legal Context in Guyana

General Elections were last held in Guyana on May 11, 2015. At that time the list of candidates for the A Partnership for National Unity + Alliance For Change (APNU+AFC) coalition, headed by Mr. David Granger, won 33 of the 65 seats in the National Assembly, and took office. The list of candidates for the People's Progressive Party/Civic (PPP/C), led by Mr. Bharrat Jagdeo, secured the remaining 32 seats and moved into opposition.

⁵⁸ *Jaroo v AG of T&T* [2002] UKPC 5

⁵⁹ (1968) 14 WIR 292

⁶⁰ See for example *Payne v Hammond* (Guyana HC, 5 June 1986); *Joseph v Codrington* (ANUHCv 2009/0147, 30th June 2009); *AG v David* (GDAHCV 2006/0018, 12th September 2006); *Ezechial Joseph v Alvin Reynolds* HCVAP 2012/ 14, 31st July 2012

In November 2018 the opposition PPP/C filed a motion of no-confidence in the APNU+AFC coalition government. Under Article 106 (6) of the Constitution of Guyana, the opposition required the support of the majority of the elected members of the National Assembly in order to win the no-confidence motion. With the APNU+AFC government holding a one-seat majority, the opposition PPP/C required one cross-over vote in support of the motion, or two abstentions from the ruling coalition, in order to win. The motion was discussed at the National Assembly on December 21, 2018 and passed by one vote (33-32) when one Member of Parliament from the APNU+AFC coalition voted in its favor, along with the 32 members of the opposition. The passage of the motion was confirmed by the Speaker of the National Assembly and the Clerk issued Resolution 101 in affirmation.

The approval of the no-confidence motion triggered Article 106 (6) and (7) of Guyana's Constitution, which stipulate that the President and his Cabinet must resign upon the passage of a duly supported motion of no-confidence and that elections must then be held within three months (in this case, by March 21, 2019) or within a longer period of time approved by a vote of at least two-thirds of the elected members of the National Assembly. In the days following the passage of the no-confidence motion however, the Government did not resign and arrangements for elections were not announced. Three legal challenges were subsequently filed with the courts of Guyana.

In the first instance, *Charrandas Persaud v Compton Reid et al*,⁶¹ filed on January 4, 2019, a private citizen, Compton Reid, challenged the validity of the no-confidence vote, arguing that the member of the APNU+AFC who voted with the opposition, Mr. Persaud, was a Canadian citizen at the time of the 2015 elections and should not have been in the House at all, rendering his vote invalid.

In the second instance, *Bharrat Jagdeo v the Attorney General et al*,⁶² filed on January 7, 2019, the Attorney General, Basil Williams, asked the court to determine whether the no-confidence motion was validly passed by 33 to 32 votes, as the formula for achieving an 'absolute majority' in the Assembly was at least one half of the members plus one. He argued that as the National Assembly of Guyana comprises 65 members, half of all elected members would mathematically result in a fraction of 32.5, which would have to be rounded up to the next whole number (33) to represent half of the elected members. A majority of members should therefore be 33 votes plus one, for an absolute majority of 34.

In the third instance, *Christopher Ram v the Attorney General et al*,⁶³ filed on January 8, 2019, a second private citizen, Christopher Ram, sought the court's confirmation that the motion had been properly and lawfully passed, that the passage of the motion required the resignation of the Cabinet, including the President, and that in accordance with Article 106 (7) of the Constitution, elections should be held no later than March 21, 2019.

⁶¹ [2019] CCJ 10 (AJ), <https://ccj.org/wp-content/uploads/2019/06/2019-CCJ-10AJ1.pdf>

⁶² [2019] CCJ 10 (AJ), <https://ccj.org/wp-content/uploads/2019/06/2019-CCJ-10AJ1.pdf>

⁶³ [2019] CCJ 10 (AJ), <https://ccj.org/wp-content/uploads/2019/06/2019-CCJ-10AJ1.pdf>

On January 31, 2019 the Chief Justice of Guyana ruled that the no-confidence motion had been properly passed in the National Assembly. The decision was appealed to the Court of Appeal, which ruled in a 2-1 majority decision, on March 22, 2019, that the motion was invalid. That decision was appealed to the Caribbean Court of Justice (CCJ), Guyana's final appellate court. The CCJ was already reviewing a case involving the legality of the 2017 appointment of then Chairman of the Guyana Elections Commission (GECOM), Justice (Ret'd) James Patterson, in *Zulfikar Mustapha v the Attorney General and the Chairman of GECOM*⁶⁴ and agreed to combine this matter with those relating to the no-confidence motion.

On June 18, 2019, the CCJ ruled that the no-confidence motion of December 21, 2018 was validly passed by the National Assembly and that the 2017 appointment of Justice Patterson was not in compliance with the Constitution. Justice Patterson subsequently submitted his resignation.

Regarding the no-confidence motion, the CCJ noted in its consequential orders on July 12, 2019, that Article 106 (6) and (7) of the Constitution were clear on the steps flowing from the passage of a no-confidence vote. The CCJ enjoined all relevant bodies and personages to "exercise their responsibilities with integrity and in keeping with the unambiguous provisions of the Constitution bearing in mind that the no confidence motion was validly passed as long ago as 21 December 2018."⁶⁵

A further issue involving a resort to Guyana's courts prior to the 2020 elections concerned the house-to-house registration exercise, which commenced on July 20, 2019 pursuant to Order No. 25 of 2019. It was intended that upon conclusion of this exercise, a new National Register of Registrants (NRR) would be created and would replace the existing NRR. In *Christopher Ram v GECOM*, filed on July 22, 2019, Mr. Ram challenged the constitutionality of the house-to-house registration exercise which he argued would result in the unlawful deregistration of persons on the existing Voters' List and omit the registration of qualified registrants, if they were not at their place of residence at the time of registration.

On August 14, 2019 the Chief Justice ruled that the house-to-house registration exercise was not unconstitutional, but the removal of the names of registered persons from the NRR on the grounds of non-residency was unlawful, unless they were deceased or disqualified pursuant to Article 159 of the Constitution (i.e. insanity or conviction of a qualifying offence). The residency aspect of the ruling was appealed to Guyana's Court of Appeal, and upheld.

4. Post-Electoral Legal Developments in Guyana

There were also four major legal challenges following the March 2 poll, regarding the tabulation and determination of results.

⁶⁴ [2019] CCJ 9 (AJ), <https://ccj.org/wp-content/uploads/2019/06/2019-CCJ-9-AJ1.pdf>

⁶⁵ [2019] CCJ 14 (AJ)

In the first instance, *Reeaz Holladar v Clairmont Mingo et al*, filed on March 5, 2020, Mr. Holladar, a party agent of the PPP/C, sought an interim injunction preventing GECOM from declaring the results for Region 4, until the Returning Officer or the Deputy Returning Officer for that Region complied with the process set out in Section 84 (1) of the Representation of the People's Act regarding the ascertainment of the vote count. The Chief Justice ruled in favor of Holladar on March 11 and declared that the results of the elections could not be declared until the Returning Officer complied with or ensured compliance with Section 84 (1).

In the second case, *Ulita Grace Moore v the Guyana Elections Commission et al*, Ms. Moore, a regional candidate for APNU+AFC, applied to the High Court on March 17, 2020, for judicial review of and injunctions against GECOM's decision to recount the votes cast in the 10 Regions of Guyana, under the supervision of a CARICOM team. The PPP/C challenged the jurisdiction of the High Court to engage in the judicial review and filed an appeal in this regard with the Full Court. On March 31 the Full Court, in a unanimous decision, agreed with the PPP/C, dismissed the request for judicial review and discharged the interim injunctions. The Full Court also ruled that any concerns about the electoral process should be addressed by an elections petition. The decision of the Full Court was appealed to the Court of Appeal. On April 7 the Court ruled that the injunctions should be discharged but held that no outside party, in this case CARICOM, could assume supervision of the recount process. The Court also held that if there was such a breach of GECOM's supervisory powers the High Court could resume its inquiry.

A notice of motion for the third case, *Eslyn David v the Chief Elections Officer et al*, was filed on June 18, 2020 in the Court of Appeal and served on the Chairperson and the Chief Elections Officer of GECOM. The motion was filed after the national recount of all ballots had been completed and instructions issued to the Chief Elections Officer to prepare and submit his report on the results, using the data generated by the recount. In the motion Ms. David, a private citizen, sought a declaration that GECOM had failed to act in accordance with the terms of the Recount Order, No. 60 of 2020, and the amended Order dated May 29, 2020, and had failed to determine a final credible result. She asked that the Chief Elections Officer be prevented from submitting his report to the GECOM Chairman without determining a final credible count.

On June 22 the Court of Appeal, in a majority 2-1 decision, accepted jurisdiction to hear the matter and ruled that GECOM must determine a result based on "more valid votes cast", using quantitative and qualitative data. On June 23 the PPP/C appealed this decision to the Caribbean Court of Justice (CCJ). On July 8, in a unanimous decision, the CCJ ruled that Guyana's Court of Appeal did not have jurisdiction to hear Ms. David's case and set aside that court's ruling. The CCJ also ruled that an elections report submitted by the Chief Elections Officer on June 23, following the ruling of the Court of Appeal, and which invalidated over 115,000 votes, was illicit and of no effect. Advising that the CCJ itself did not have jurisdiction beyond these decisions, the CCJ ruled that GECOM must ensure the CEO submitted a new elections report along the lines indicated in the Recount Order.

The fourth post-election case, *Misenga Jones v Guyana Elections Commission et al*, was filed at the High Court on July 14. Ms. Jones, a private citizen, sought to have the results of the national recount deemed invalid and compel GECOM to follow the advice of the Chief Elections Officer in determining the results of the elections using the ten March 13 declarations, which had already been struck down by the GECOM Chair on July 12. On July 20, 2020 the Chief Justice ruled that Recount Order 60 of 2020 was valid and that the March 13 declarations by the 10 Returning Officers had been overtaken by events and could no longer be utilized. She further ruled that GECOM was not required to act on the advice of the CEO, as he was a functionary and subject to the control of the Commission.

The decision was appealed to the Court of Appeal and, in a unanimous decision, dismissed on July 30. The Court agreed that the results of the elections should be determined using the recount results and that the CEO was bound to abide by the instructions of the GECOM Chair. The Court also advised that the issues raised in the case were matters for an election petition.

5. Independent and Impartial Court

An important criterion for any electoral justice system is the credibility of its judicial system, which is tasked to resolve conflicts. This credibility is based on the impartial nature of the court system, which should be independent of political or partisan interests. The independence of the judiciary underpins the rule of law and is essential to the functioning of democracy and the observance of human rights.

a. The Court System in Guyana

In the early 1970s, following independence from Britain, Guyana enacted Constitutional, judicial and legislative reforms and abolished appeals to the Privy Council in the United Kingdom. The Guyana Court of Appeal then became the final tier in the then three-tier hierarchy, with the Magistrate's Court at the lowest rung and the High Court of the Supreme Court of Judicature following. In early 2005, another legislative amendment was made to allow Guyana's accession to the Caribbean Court of Justice (CCJ), based in Trinidad and Tobago, as its final Appellate Court.

The Supreme Court consists of the Court of Appeal and High Court of Justice. The Court of Appeal is comprised of the Chancellor, who shall be the President of the Court of Appeal, the Chief Justice and such number of Justices of Appeal as may be prescribed by law. The High Court is comprised of the Chief Justice and such number of High Court Judges as provided for by law.⁶⁶ The CCJ was established on 14 February 2001 by the Agreement Establishing the Caribbean Court of Justice. Its functions and judges are appointed pursuant to that Treaty.

⁶⁶ Article 124-125 of the Constitution of Guyana

b. Appointment of Judges

Article 127 of Guyana's Constitution provides that the Chancellor and the Chief Justice are appointed by the President after obtaining the agreement of the Leader of the Opposition. If the office of either the Chancellor or the Chief Justice is vacant or the incumbent is unable to perform his/her duties or, in the case of the Chancellor, if he/she is acting as President, Article 127 (2) stipulates that another judge shall be appointed by the President in the interim, "after meaningful consultation with the Leader of the Opposition". Judges, other than the Chancellor and the Chief Justice, are appointed by the President, who shall act in accordance with the advice of the Judicial Service Commission.⁶⁷

The Chancellor and Chief Justice of Guyana are currently acting in those positions. The last substantive holder of both those posts was Justice Desiree Bernard who served as Chief Justice 1996 - 2001 and as Chancellor 2001- 2005. The country's inability to appoint a Substantive Chancellor and Chief Justice has been noted, with concern, by both the Caribbean Association of Judicial Officers (CAJO)⁶⁸ and the Guyana Bar Association⁶⁹ and has been criticized by the current and former Chief Justices of the Caribbean Court of Justice, Justice Adrian Saunders and Justice Dennis Byron, respectively. Justice Byron noted in 2017 that prolonged acting appointments pose "a genuine risk to the constitutional promise to every citizen of an independent and impartial judiciary",⁷⁰ while Justice Saunders pointed out in 2018 that the country's failure to make substantive judicial appointments "was a significant stain on the rule of law".⁷¹

To qualify for appointment as a High Court Judge, a person must be or have been a Judge of a court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court, or a person who is qualified to practice as an advocate in such a court and has so practiced for a period of 10 years for Court of Appeal and 7 years for High Court.⁷²

The Judicial Services Commission (JSC) which is responsible for the appointment of Judges in Guyana consists of the Chancellor, who shall be Chairman; the Chief Justice; the Chairman of the Public Service Commission and such other members as are appointed. Appointed members may include a Judge or former Judge of a court having unlimited jurisdiction or

⁶⁷ Article 128 of the Constitution of Guyana

⁶⁸ CAJO Media Release 02:2019, <https://ccj.org/wp-content/uploads/2019/11/CAJO-Media-Release-2-2019-1.pdf>

⁶⁹ Bar Association of Guyana Media Release, Feb. 19, 2018, <http://guyanabarassociation.org/release/statement-by-the-bar-council-of-the-bar-association-of-guyana-on-the-appointment-of-the-chancellor-and-chief-justice/>

⁷⁰ Byron, Dennis. "The importance of an Independent and Impartial Judiciary- Placing the Spotlight on Judicial Accountability". November 11, 2017, Georgetown, Guyana. <https://ccj.org/wp-content/uploads/2017/11/The-Importance-of-an-Independent-and-Impartial-Judiciary-%E2%80%93-Placing-the-Spotlight-on-Judicial-Accountability.pdf>

⁷¹ Ongoing lack of substantive Chancellor CJ, significant stain on rule of law. May 26, 2018, Stabroek News, <https://www.stabroeknews.com/2018/05/26/news/guyana/ongoing-lack-of-substantive-chancellor-cj-significant-stain-on-rule-of-law/>

⁷² Article 129 of the Constitution of Guyana; Section 36 Court of Appeal Act Cap 3:01; Section 5 High Court Act Chap 3:02

appeals from such a court, and one or two persons who are not attorneys-at-law in active practice. The former are appointed after the President has consulted with the Leader of the Opposition, and the latter after the National Assembly has consulted with the Law Association of Guyana. Vacancies are normally advertised by the JSC, interviews are conducted and candidates selected.

Appointed members of the JSC serve for a period of three years or the date specified in their instrument of appointment. If those positions are vacant, persons can be appointed to act in those positions. Decisions made by the Commission may be challenged by way of an application for Judicial Review before the Court.⁷³ There is general acceptance that the mere fact that the executive participates in the judicial appointments process is not necessarily inconsistent with judicial independence.⁷⁴ The JSC in Guyana has not been reconstituted since the life of the last body expired on September 30, 2017.

c. Security of Tenure of Judges

Article 197 of the Constitution lays down the provisions related to the tenure and removal of judges. Article 197 (2A) establishes that the Chancellor and a Justice of Appeal hold office until the age of sixty-eight and a High Court judge until the age of sixty-five years. Judges cannot be removed except for good cause; this is defined in Article 197 (3) as the inability to discharge the functions of their office due to infirmity of the body or mind or any other cause or for misbehaviour. The question of removal must be determined by an appropriate independent and impartial tribunal.⁷⁵

The standard for removal of a judge is a high one. The Privy Council has said: 'While the highest standards are expected of a judge, failure to meet those standards will not of itself be enough to justify removal of a judge. So important is judicial independence that removal of a judge can only be justified where the shortcomings of the judge are so serious as to destroy confidence in the judge's ability properly to perform the judicial function.'⁷⁶ In considering the conduct, the Court will consider:

- i. Has the judge's conduct affected directly his ability to carry out the duties and discharge the functions of his office?
- ii. Has that conduct adversely affected the perception of others as to his ability to carry out those duties and discharge those functions?
- iii. Would it be perceived to be inimical to the due administration of justice if the judge remains in office?

⁷³ See *Fraser v Judicial and Legal Services Commission and Another* [2009] 2 LRC 26; *Hugh Wildman v JLSC of the Eastern Caribbean Supreme Court Civil Appeal No.9 of 2006*.

⁷⁴ *Van Rooyen v The State* [2003] 2 L.R.C. 533 (CCSA)

⁷⁵ *Hearing on the Report of the Chief Justice of Gibraltar Referral under Section 4 of the Judicial Committee Act 1833* [2009] UKPC 43 [1]

⁷⁶ *Hearing on the Report of the Chief Justice of Gibraltar Referral under Section 4 of the Judicial Committee Act 1833* [2009] UKPC 43 [31]

- iv. Has the office of the judge been brought into disrepute by the judge's conduct?⁷⁷

Inability to discharge functions was given a wide meaning to include a defect of character and the effects of conduct reflecting that defect.⁷⁸

d. Financial Autonomy

The expenses of the High Court and Court of Appeal, including the remuneration of judges, are borne by the Consolidated Fund.⁷⁹

6. Access to Justice

All activities associated with the administration of elections are subject to judicial review if challenged by a dissatisfied party. The legal framework in Guyana stipulates the means, procedures, and persons authorized to challenge electoral activities, and places limits on the timeframe in which this should be done.

Challenges that affect elections begin even before the election takes place. Complaints against the registration process may not normally be brought in an election petition and decisions of a Registration Officer during the process of the revision of the Voters' Lists are appealable.

a. Constitutional/Judicial Review Proceedings

An effective means of securing electoral justice even before the election is the use of the Constitutional Court. As indicated earlier, the no-confidence motion passed in the National Assembly on December 21, 2018 triggered several legal challenges in the Courts regarding the constitutionality of the motion itself (*Persaud v Compton Reid et al*, *Jagdeo v the Attorney General et al* and *Ram v the Attorney General et al*), the appointment of then Chairman of GECOM Justice Patterson (*Mustapha v the Attorney General et al*), and the house-to-house registration exercise commenced by GECOM in July 2019 (*Ram v GECOM*).

The use of constitutional and judicial review proceedings can also take place during the election period and before the declaration of results. In the cases of *Holladar v Mingo et al*; *Moore v the Guyana Elections Commission et al*; *David v the Chief Elections Officer et al*; and *Jones v Guyana Elections Commission et al*, which all took place following the close of polls and prior to the August 5 declaration of results, constitutional and judicial review proceedings were important tools for securing justice. These types of proceedings should be determined without delay since they involve rights. It is therefore notable that the post-election cases in Guyana were heard and determined within reasonable timeframes.

⁷⁷ *Lawrence v Attorney General of Grenada* [2007] 1 WLR 1474

⁷⁸ *S* Hearing on the Report of the Chief Justice of Gibraltar Referral under Section 4 of the Judicial Committee Act 1833 [2009] UKPC 43 [205]

⁷⁹ Section 223 of the Constitution of Guyana

Holladar v Mingo et al was heard and completed within one week of its filing in the High Court. The *Moore v GECOM, et al* case was heard and determined within two weeks by the High Court, thereafter two days at the Full Court level, and in less than one week determined by the Court of Appeal. This measure was more effective in terms of speed of determination than election petitions which, as noted elsewhere in this report, incur significant delays.

b. Voters' List Challenges

The first step in an election is the Voter's List. Section 9 of the National Registration Act defines the procedures for the registration of eligible electors, the establishment of a central register containing the originals of the registration cards of all registered persons, the maintenance of duplicate registration cards in each registration division for persons registered in those divisions, and the procedures for the preparation of the Preliminary List of Electors (PLE). Section 15 of the same Act establishes the process for claims and objections to the names of persons included on the preliminary List. Such claims and objections are determined by the Deputy Commissioner of Registration or by a registrar and are appealable to the Commissioner of Registration, whose decision shall be final.

Regulations 23 through 36 of the National Registration (Resident) Regulations provide a comprehensive scheme for the filing, hearing and determination of objections to names which have been included in the PLE. An elector may visit the appropriate registration office/sub-office to register objections to an entry or entries in the PLE of a person(s) whom the elector (objector) believes is/are not qualified to be an elector. The objection is documented on Form R09 which is signed by the objector and then submitted to the Registration Officer/Assistant Registration Officer. An investigation of the objection is conducted and a hearing is held by the Registration Officer. The resulting report is submitted to the Secretariat, in order that, if the objection is upheld, all particulars of the objectee are removed from the Preliminary List of Electors. Thereafter a Revised List of Electors (RLE) is published.

The 2019 Claims and Objections period took place from October 1 to November 11, 2019. The Guyana Elections Commission received 17,964 objections to the PLE, of which 13,747 were withdrawn prior to their investigation. Of the remaining number, 395 were upheld and 3,822 were dismissed. There were 609 appeals.⁸⁰

Regulation 37 of the National Registration (Residents) Regulations allows the Commissioner of Registration to make corrections to the Revised List of Electors if, within 21 days after certifying the list, he identifies inadvertent errors or omissions. Upon publication of the 2020 RLE, GECOM determined that it did not include the addresses and other information of eligible electors that had been updated during the house-to-house exercise. GECOM relied on Regulation 37 to make the necessary changes, to correct these anomalies. The RLE is

⁸⁰ Data provided by the Guyana Elections Commission

closed to alterations twenty-one days after it has been certified⁸¹ and thereafter becomes conclusive as to the persons entitled to vote at the next election.

The validity of the Voters' List is a separate issue, and the time to raise that issue is some time before it is certified.⁸² This was further elucidated by the Courts that stated that "Where there is a legislative regime, which provides a detailed procedure for registration and for the hearing of claims and objections in relation to the electoral Register, the procedures set out in the legislation must mean something. Candidates and political parties are expected to be ever vigilant. By acting in accordance with the procedures which the regime provides, this would assist elections officials to provide an accurate Register of the persons who are entitled to vote according to law."⁸³

c. Legitimation

As previously indicated, a challenge may be brought at different stages: before, during, and after the election. A person may bring a challenge to the registration process by filing an appeal to the High Court. Alternatively, they may file a claim, seek judicial review, or file a constitutional motion, either before, during or after the election, depending on the wrong done and the relief sought, as seen in the case of *Ram v GECOM* relative to the house-to-house registration.

In Guyana, the filing of an election petition after the election has concluded is the standard procedure for challenging the candidacy or election of a candidate who it is alleged was wrongfully elected. The jurisdiction to regulate membership in parliament is, in the constitutional theory of the separation of powers, vested in parliament itself. The court has previously held that it has no place in determining the validity of the election of a member of the House, except to the extent that parliament has delegated that power to the court.

In Guyana, the courts regard the election jurisdiction as different from the civil or purely constitutional jurisdiction of the court. The Courts have held, for example, that whereas the constitutional jurisdiction is available to any person with a relevant interest, the parliamentary or election jurisdiction is available only to the Attorney General and candidates and voters. Further, whereas the constitutional jurisdiction is regulated by procedural rules made by the Chief Justice, the parliamentary or election jurisdiction is regulated by laws made by Parliament pursuant to constitutional power. Elections legislation was considered to have been enacted to regulate election litigation proceedings, which legislation brought certain restrictions.

d. Formal Requirements

⁸¹ Regulation 37 of the National Registration Residents Regulations Cap 19:08

⁸² *Radix v Gairy* (1978) 25 WIR 553, per Sir Maurice Davis CJ, delivered 19 September 1978, from Grenada.

⁸³ *Frampton and Others v Pinard and Others* DOMHCV2005/0149, 150, 151, 152 and 154 - (Rawlins J) Judgment 28th October 2005 (unreported)

The Constitution, elections statutes and the applicable case law require an election petition to be presented within a specified time frame, in a particular manner, and to provide specific information. At the conclusion of the trial the judge must determine whether the person elected was in fact duly elected or whether the election is void.

The rules governing the presenting of an election petition and its trial are onerous and restrictive. The public policy behind this stance is the need to ensure that there is no delay in determining who the persons are who are entitled to form the government immediately after elections have ended. A challenge to an unfair election is permitted, but it must be prosecuted within strict guidelines and timetables.

Election petitions are considered to be of a special nature and so where the challenge relates to the outcome of the election, the Court tends to hold that the applicant should file an election petition to challenge his opponent's election. In *Ram v AG et al*; *Jagdeo v AG et al* and *Persaud v Reid et al* the Caribbean Court of Justice (CCJ) held that the Court has no jurisdiction to determine matters which must be raised by way of an election petition filed otherwise than as prescribed by Parliament. They held that an assumption by the courts of an "inherent power" to interrogate qualifying and disqualifying criteria in relation to election to the National Assembly will constitute overreach on the part of the judiciary.

Section 5 of the National Assembly (Validity of Elections) Act stipulates that an election petition must be presented within 28 days after the results of the election in question are published in the Gazette or, if the petition alleges that a financial reward was used to affect the election, within 28 days of the payment of that reward. Failure to file and serve the petition within the statutory period of twenty-one days is fatal.⁸⁴ The Petition can only be brought by either an elector or by a candidate.⁸⁵

The National Assembly (Validity of Elections) Act and Rules provide a detailed code that guides political candidates and lawyers on filing a petition including, *inter alia*, presentation and service of an election petition, the requirement for the Registrar to publish notice of the petition; how notice of petition is to be served; and in what circumstances a petition may be amended or withdrawn.

The petition shall be set out in the form prescribed and shall be signed by the petitioner(s); state the right of the petitioner to petition; state the date and result of the election to which the petition relates; state the grounds on which relief is sought, setting out with sufficient particularity the facts relied on to sustain the prayer, but not the evidence by which they are to be proved; be divided into consecutively numbered paragraphs, each of which, as much as possible, confined to a distinct portion of the subject; and conclude with a prayer, setting out particulars of the relief sought.

⁸⁴ See for example *Payne v Hammond* (Guyana HC, 5 June 1986); *Joseph v Codrington* (ANUHCv 2009/0147, 30th June 2009); *AG v David* (GDAHCV 2006/0018, 12th September 2006); *Ezechial Joseph v Alvin Reynolds* HCVAP 2012/ 14, 31st July 2012

⁸⁵ Section 4 National Assembly (Validity of Elections) Act

The petition must be filed along with seven copies.⁸⁶ A Notice of the petition would then be placed on the Notice Board in the Registry, and published in the Gazette as well as a newspaper of general circulation, the cost of which is to be borne by the petitioner and paid to the Registrar before publication.⁸⁷

The notice of the presentation of the petition together with a copy of the petition and of the nature of the proposed security must be served on the respondent within five days after the petition is filed. Where the respondent gave an address to the Registrar, the notice can be served via registered mail. If no address for service was provided the notice must be served personally on the respondent. If the respondent seeks to evade service or the petitioner is unable to serve, after five days, the court can order that the notice is deemed to be served if it is placed on the notice board and published in the Gazette and in the newspaper. Once deemed served the respondent must provide within 10 days his address for service and indicate any applications or objections he may wish to file.⁸⁸

e. Economic Requirements

At the time of filing the election petition or within three days of its filing, the petitioner must provide security for all the costs or charges that may be payable by the petitioner in the petition. This security shall not exceed one thousand Guyanese dollars (US\$4.79) and can be made either by cash paid into court, or by filing a recognizance signed by sureties or partly by cash and partly by securities.⁸⁹ The amount of the security (US\$4.79) is however so low that petitioners usually prefer to pay the amount into court rather than bring sureties to sign a recognizance.

The statutory requirements for service of the petition and of the notice of security for costs are generally stringent. A petition may be dismissed or a respondent may be struck out on an interlocutory application if there is any defect in the giving or serving of the Recognizance for Security for Costs.

7. Fair and Effective Process

International and constitutional requirements provide that everyone has the right to an effective remedy that swiftly and effectively protects them against acts that violate their fundamental rights. Likewise, the processing of electoral disputes must be adequate to resolve the case in a timely manner and provide an effective remedy to the affected right.

a. Deadlines

Challenges to Voters' List

⁸⁶ Rule 4 National Assembly (Validity of Elections) Rules

⁸⁷ Rule 7 National Assembly (Validity of Elections) Rules

⁸⁸ Rule 8 National Assembly (Validity of Elections) Rules

⁸⁹ Section 7 National Assembly (Validity of Elections) Act

As indicated earlier, Regulations 23 through 36 of the National Registration (Resident) Regulations provide a comprehensive scheme for the filing, hearing and determination of objections to names which have been included in the Preliminary List of Electors (PLE). For the 2020 elections, GECOM provided a 42-day Claims and Objections period, from October 1 to November 11, 2019. Thereafter, Regulation 37 of the National Registration (Residents) Regulations Act provided a further twenty-one days for the correction of any errors and the publication of the Revised List of Electors (RLE).

Election Petition

As indicated earlier, an election petition must be presented within 28 days after the results of the election in question are published in the Gazette or, if the petition alleges that a financial reward was used to affect the election, within 28 days of the payment of that reward.

The Court of Appeal has held that the requirement that a petition be presented within a particular time is substantive, not procedural, and the time cannot be enlarged in the Court's discretion, making a petition presented out of time liable to be struck out.⁹⁰

Notice of the presentation of the petition, together with a copy of the petition must be served on the respondent personally within five days after filing of the petition. Once deemed served, the respondent has five days to provide his address for service and indicate any applications or objections he may wish to file.⁹¹

The Courts have stated that, as far as practicable, every election petition shall be tried as expeditiously as possible in the interest of justice. Unless statute otherwise provides, an election petition, and any amendments thereto, must be perfected within the time limited for filing the petition. The rationale is that it would otherwise defeat the underlying virtue of the mandatory nature of elections legislation, which is intended to ensure that the validity of the election of a member of the legislature is dealt with expeditiously, in the public interest. The persons who are returned as legislators should know quickly whether they have been lawfully elected and voters need to know who their elected representatives are with certainty.⁹²

This has been challenge in Guyana and the Mission received complaints from some parties about the length of time it takes to determine election related offences. Following the 2015 elections, the People's Progressive Party/Civic challenged the validity of the election outcome claiming the elections were not held in conformity with the Constitution of Guyana. The matter, which was filed in June 2015 in the name of PPP/C parliamentarian Ganga

⁹⁰ Stevens v Walwyn (1967) 12 WIR 51

⁹¹ Rule 10

⁹² These principles were stated, for example, in Ethlyn Smith and others v Delores Christopher and Others, 12 in Ferdinand Frampton v Pinard and Others, 13 and in George Prime v Elvin Nimrod and Others

Persaud, requested, *inter alia*, a recount of all ballots cast in the elections and such redress as the court determined appropriate, including, but not limited to, partial or completely new elections. As of the March 2, 2020 General and Regional elections, the matter remained at the Full Court of the High Court, pending a ruling.

Constitutional and Judicial Review Proceedings

There is no time limit for commencing constitutional or judicial review claims. On an application for judicial review a court, if it thinks fit, may refuse any relief if it considers that there has been "undue delay" in making the application, and that the relief sought would cause substantial hardship to, or would substantially prejudice the rights of any person, or would be detrimental to good administration. Similarly, constitutional claims should be brought within a reasonable time.

In constitutional law matters the courts, as indicated above, have themselves imposed certain constraints on the exercise of their jurisdiction to ensure that the jurisdiction is not abused. The Court will not entertain constitutional law claims where the claimant has adequate alternative remedies.

Appeals

Under Section 79 of the High Court Act,⁹³ a decision of a single judge can first be appealed to the Full Court. The Full Court is a panel of two or three judges of the High Court who hear appeals from a single judge.

Pursuant to the Court of Appeal Rules, an appeal in the case of an interlocutory appeal where leave is not required, must be filed within 14 days of the date the decision appealed against was made; in an interlocutory appeal where leave is required, within 14 days of the date when such leave was granted; and in the case of any other appeal, within six weeks of the date when judgment is delivered or the order is made.⁹⁴ The Court of Appeal may extend any of the time limits on an application made by the applicants.⁹⁵

b. Right to a Defence

A candidate affected by an election petition is allowed to be part of the election petition process. The notice of the presentation of the petition together with a copy of the petition must be served on the respondent personally within ten days after it is filed. Also, any person who was the representative of any list of candidates must, after an election, provide the Office of the Registrar with an address for service within one mile of that office or the address of a solicitor for that person.⁹⁶

⁹³ Cap 3:02

⁹⁴ Rule 3 Court of Appeal Rules Cap 3:01

⁹⁵ Rule 8 Court of Appeal Rules Cap 3:01

⁹⁶ Rule 10 National Assembly (Validity of Elections) Rules

A respondent may request particulars within five days and after that a Court or a judge may, upon application, order such particulars as may be necessary to prevent surprise and unnecessary expense, and to ensure a fair and effectual.⁹⁷ In relation to the security of costs the Rules provide that when the security is given wholly or partly by recognizance, it is lawful for the respondent, within ten days from the date of service, to object to the recognizance.⁹⁸ During the hearing of the election petition, a respondent may present witnesses and can cross examine any witness.⁹⁹

c. Preclusion

The court has no discretion or power to extend the time for service, regardless of the circumstances. If it is not served within the required time, the court will hold that it has no jurisdiction to entertain the petition. The requirement that a petition be presented within a particular time is substantive, not procedural, and the time cannot simply be extended by the Court. Similarly, if the petitioner fails to serve the required notice on the respondent of the amount and nature of the security, the court has no power or discretion to cure the irregularity and extend time for compliance.

d. Proof

The basic principle in an election petition as in civil cases is that he who asserts must prove, unless some other specific principle or circumstance causes the burden of proof to shift to a respondent. Firstly, the petitioners must plead it in the petition.

The basic principles on pleadings in elections cases are uncontroversial. As in civil cases, generally, the purpose of pleadings is to identify the issue or issues that will arise at a trial. This is in order to avoid the opposing parties and the court being taken by surprise. A petitioner must therefore raise an issue for trial in the pleadings so that a respondent is able to prepare to meet those issues by counter-pleading and allow the parties to present evidence and counter-evidence on the issues to be tried.

The pleadings must be precise and disclose a cause or causes of action. The rules of pleading are strictly applied in election cases with respect to the time for filing and perfecting a petition, as well as to precision in pleading. In election petitions, pleadings have to be precise, specific and unambiguous so as to put the respondent on notice. The rule of pleadings, that facts constituting the cause of action must be specifically pleaded, is as fundamental as it is elementary. Any allegation approaching dishonesty in electoral petitions must be clearly and specifically pleaded with a level of precision that is not required in pleading a mere irregularity.¹⁰⁰

⁹⁷ Rule 18 National Assembly (Validity of Elections) Rules

⁹⁸ Rule 9 National Assembly (Validity of Elections) Act

⁹⁹ Section 15 National Assembly (Validity of Elections) Act

¹⁰⁰ Charan Lal Sahu v Giani Zail Singh 1984 (2) SCR 6

Rule 18 of the National Assembly (Validity of Elections) Rules provides that Evidence need not be stated in an election petition, but the Court or a judge may upon application order such particulars as may be necessary to prevent surprise and unnecessary expense, and to ensure a fair and effectual trial. The Court has indicated that where the petition charges specific bribery, treating and undue influence, the petitioner must provide certain particulars including the names and the last known or present street address, and number (if any) on the register of the agents of the respondent who bribed, treated, or unduly influenced. Also, they must provide the dates when, and the places where, each act took place and the nature, character and description of each act.¹⁰¹

e. Notifications

There are ample provisions for the notification of an election petition to a respondent. The National Assembly (Validity of Elections) Rules provide that upon presentation of the petition, the Registrar of the Court shall ensure that it is published in the Gazette and in a newspaper (Rule 8) at the cost of the petitioner. Notice of the presentation of the petition along with a copy of the petition must be served on the respondent personally within five days, after which the respondent has another five days to provide his address for service and indicate any applications or objections he may wish to file (Rule 10). Where a respondent does not give an address for service and is evading personal service the petitioner may apply to the judge for an order deeming notice to constitute posting on a Notice Board in the Office of the Registrar; in the Gazette or a Notice published in one of the newspaper of general circulation (Rule 9).

f. Substantiation

At the end of the petition, a judge must state clearly the reasons for his decisions. The Courts have previously held that a judge must give reasons for his/her decision, although these reasons need not be elaborate and the particularity required will vary according to the circumstances of the case. It is sufficient if what the judge says shows the parties and, if need be, the Court of Appeal, the basis on which he/she has acted.¹⁰² The giving of reasons is considered to be inextricably bound up with natural justice or the right to be fairly heard and is fundamentally important as a public law principle. It has been described as "one of the fundamentals of good administration"¹⁰³ and is regarded as requirement of the 'rule of law'¹⁰⁴ Rule 10 of the Court of Appeal Rules also provides that if no written decision is given by the Judge at the time of giving judgment such Judge shall communicate his reasons for the judgment in writing to the Registrar of the court and such reasons shall be included in the record. There is no history of a failure of the electoral court to give reasons for its decisions in Guyana.

¹⁰¹ John Henry Abraham v Kelter Dwight Darroux et al, DOMHCV2010/0003 (Thomas J) Judgment 25th August 2010 (unreported)

¹⁰² Eagil Trust Co v Pigott-Brown [1985] 3 All ER 119

¹⁰³ Lord Denning MR in Breen v. AEU [1971] 1 All E.R. 1148, 1154

¹⁰⁴ Shane Graham et al v The Police. DOM MCRAP 2010/009

g. Means

Section 163(3) of the Constitution provides for an appeal from a final decision of the High Court sitting in an election petition. An appeal lies as of right to the Court of Appeal of Guyana (a) from the decision of a Judge of the High Court granting or refusing leave to institute proceedings for an election petition or (b) from the determination by the High Court of any such question, or against any order of the High Court made in consequence of such determination. There is also a right to appeal to the Caribbean Court of Justice (CCJ) as seen in several of the pre-electoral legal cases and in the post-electoral case of *David v the Chief Elections Officer et al.*

As indicated earlier, an appeal may be made, in the case of an interlocutory appeal where leave is not required, within 14 days of the date the decision appealed against was made; in an interlocutory appeal where leave is required, within 14 days of the date when such leave was granted; or in the case of any other appeal, within six weeks of the date when judgment is delivered or the order is made.¹⁰⁵ The court of appeal may extend any of the time limits on an application made by the applicants.¹⁰⁶

h. No Discrimination of Actors in the Process

Section 149 of the Constitution of Guyana provides that no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority on the basis of *inter alia* political opinion.

8. Transparency and Culture of Legality

The demand for transparency in the workings of the court is based on the right of each person to seek and receive such information from the government and other authorities under the constitution and international law.

a. Electoral Calendar and Enjoyment of Rights

The statutory time limits provide a rigid timetable to ensure that everything is done in a timely manner, because the public interest requires it. The persons who are returned as legislators should know quickly whether they have been lawfully elected. The country needs to know who the elected representatives are with certainty. Election challenges should be mounted before a new legislature sits and begins its work, or as soon as possible thereafter, in order that the legislature might be definitively lawfully constituted. This goes to the issue of legitimacy. Electoral laws and their interpretation by the courts are intended to facilitate this.¹⁰⁷

¹⁰⁵ Rule 3 Court of Appeal Rules Cap 3:01

¹⁰⁶ Rule 8 Court of Appeal Rules Cap 3:01

¹⁰⁷ *Devan Nair v Yong Kuan Teik* [1967] 2 AC 31

The failure to determine election petitions within a reasonable time has caused a plethora of constitutional law and judicial review proceedings. While Guyana's sole election petition from 2015 was not concluded even after five years, judicial review proceedings were effectively used by the political parties in the 2020 elections to expeditiously determine disputes before the elections were declared. Cases were able to transit the judicial system in a matter of days or weeks, with the courts hearing cases on weekends in some cases.

b. Advertising

All decisions of the High Court and Court of Appeal in Guyana are available to the public. Audio (and video in some instances) of the court proceedings in the judicial review matters were broadcast live by media outlets and on social media. The matters heard at the Caribbean Court of Justice were also broadcast live online.

9. Findings and Recommendations

In conclusion Guyana has reasonable electoral justice efforts. Nevertheless, certain adjustments could be made to the process to further enhance electoral justice. These include:

- The two highest positions in Guyana's judiciary, the Chancellor of the Judiciary and the Chief Justice, are currently acting appointments – a circumstance that has been criticized by the current and former Chief Justices of the Caribbean Court of Justice, Justice Adrian Saunders and Justice Dennis Byron, respectively. Acting appointments for, as well as the non-appointment of members of the Judicial Service Commission (JSC) can impact on the perception of independence of the judiciary. Efforts should be made at the earliest opportunity to have the positions of Chancellor and Chief Justice confirmed and appointments made the JSC.
- There is currently no legislative timeframe or any other provision for the length of time it takes to determine election-related offences and petitions. As far as practicable and in the interest of justice and settling an election, every effort should be made by the High Court to expedite election petitions and complete hearings of all election related offences, within six months from the date on which the election petition is presented for trial. A decision should also be rendered soon thereafter.
- An appeal on an election petition before the Court of Appeal should likewise be expedited and dealt with, as far as possible, within three months.

iv. FINANCIAMIENTO POLÍTICO

1. Introduction

The financing of political parties and campaigns is an important issue in electoral processes. Parties require funds to finance their regular operations and to engage with the electorate, whose support they hope to acquire at elections. Weak or non-existent political finance rules limit the ability of the authorities and other election stakeholders to properly regulate and monitor the sources of party financing, which has the potential to impact the transparency of an electoral process.

The financing of political parties and campaigns in Guyana is guided by the Representation of Peoples Act, Chapter 1:03, Part XII - Election Expenses,¹⁰⁸ which requires candidates and/or their agents to submit a report on their expenses no later than 35 days after the declaration of the results of the elections. There is no regulation of private financing or anonymous donations.

Efforts were made at the National Assembly in 2011, to address the issue of political party financing through a Special Select Committee constituted for that purpose (Resolution 153 of 2011).¹⁰⁹ However the Committee's report,¹¹⁰ which was presented to the National Assembly in September 2011, simply recommended "that any future analysis of political parties campaign financing should be done in the context of the present electoral laws."

The following report reviews the existing political finance provisions in Guyana, and offers recommendations, based on international electoral standards, which may assist the country in developing a more comprehensive and equitable framework for the financing of political campaigns.

2. Legal Framework

The legal framework for elections in Guyana is provided by the Constitution of the Co-operative Republic of Guyana (Chap. 1:01),¹¹¹ the Representation of the People Act (Cap.

¹⁰⁸ Representation of the People Act, Chapter 1:03, Act Reg. 24/1964 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_103_Representation_of_the_People.pdf

¹⁰⁹ National Assembly of Guyana, Ninth Parliament of Guyana, First Session (2006-2011), Resolution No. 153, https://parliament.gov.gy/documents/resolutions/3019-resolution_no._153.pdf

¹¹⁰ National Assembly of Guyana, "Report of the Special Select Committee on the Political Parties Campaign Financing-Resolution No. 153 of 2011", 1 September 2011, <https://parliament.gov.gy/publications/parliamentary-reports/report-of-the-special-select-committee-on-the-political-parties-campaign-financing-resolution-no.-153-of-2011>

¹¹¹ Constitution of the Cooperative Republic of Guyana, Chapter 1:01, Act 2 of 1980 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_101_Constitution.pdf

1:03), the National Assembly (Validity of Elections) Act Cap 1:04,¹¹² and the National Registration (Residents) Act and Regulations (Chap. 19:08).¹¹³

Issues relating to the political financing of parties and/or campaigns are addressed under Part XII - Election Expenses of the Representation of the People Act, which includes, *inter alia*, provisions relating to contracts, allowable expenses, illegal and corrupt practices, the declaration and publication of expenses and the timeframe for reporting expenses.

Part XII, Section 106 (a) of the Representation of the People Act sets a limit on expenses of GY\$50,000 (US\$240) per candidate or agent for candidates not exceeding number 53 on the list of candidates. Section 108 (1) establishes that, no later than the 35th day after the declaration of the results of an election, the election agent of each group of candidates shall forward to the Chief Elections Officer, a report on all payments, personal expenses and claims incurred. A failure or refusal to submit the required reports may be heard by the High Court of Guyana. Section 110 (1) provides that the Court may issue an order allowing an authorized excuse for the non-submission of the required reports or may apply a fine of GY\$32,500 (US\$155).

The Mission was informed by the Guyana Elections Commission that the regulations relating to political finance are not currently being enforced and have not been for the last several election cycles.

3. Equity and Transparency in Financing

There is no public financing of political parties or campaigns in Guyana, although international standards for electoral processes indicate direct public financing is important in ensuring greater competitiveness and accountability in elections.

While neither of the two major political parties contesting the elections – A Partnership for National Unity + Alliance For Change (APNU+AFC) and the People’s Progressive Party/Civic (PPP/C) – provided public information on the sources of their financing, they advised the OAS Mission that funds for their campaigns had been derived in part from party membership dues, but also through party fundraisers and the solicitation of contributions from local businesses and supporters in the diaspora. In this regard the Mission heard complaints from some stakeholders that APNU+AFC had used the advantage of incumbency to boost its chances in the elections by channeling state resources, infrastructural developments and other incentives to voters in the pre-electoral period.

¹¹² National Assembly (Validity of Elections) Act, Chapter 1:04, Act Reg. 40 of 1964 (and its amendments), <https://mola.gov.gy/information/laws-of-guyana>

¹¹³ National Registration Act, Chapter 19:08, Act 24 of 1967 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_19.08_National_Registration_Act.pdf?v=2

Nevertheless, most political parties affirmed their support for the enactment of campaign finance legislation and included this commitment in their official campaign materials. Prior to the elections, one political party, The Citizens Initiative, also published a list of contributions received by the party, along with the names of its donors. That was the first time any political party in the history of Guyana had taken such a step.

4. Findings and Recommendations

- The Parliament of Guyana should, as a priority, discuss and enact comprehensive legislation and regulations to govern campaign financing, including identification of the sources of funding, prevention of anonymous donations, limitation of private and in-kind donations to political and electoral campaigns, limitations on contributions from individuals and corporations, clear reporting requirements of candidates and political parties and provisions regarding access to information. Any new law should be adopted and its regulations and provisions publicized and implemented well before the next electoral process.
- All stakeholders should be engaged in a national process leading to the development and approval of the legislation and regulations. In this regard, an Independent National Commission, with representation from the National Assembly, the Executive, political parties and civil society, could be a useful mechanism to discuss modalities and suggest draft legislation on campaign financing regulations. The OAS model legislation on campaign finance, as well as efforts in other CARICOM and/or Commonwealth countries that have adopted legislation on political financing, might be a useful point of departure for these discussions.
- Consideration should be given to the inclusion in any regulatory framework of state funding for political parties and campaigns.

v. PARTICIPACIÓN POLÍTICA DE MUJERES

1. Introduction

The political participation of women is both legally enshrined and informally instituted in Guyana's political system. Guyana is a regional leader in terms of the political participation of women due to its gender quota¹¹⁴ (the only one of its kind in the English-speaking Caribbean) as well as the participation of women in the broader election process.

Since the introduction of the quota, which was instituted as part of constitutional changes in 2000, women's representation in Guyana has increased from 18.5% of the parliament in 1999, to 32.3% in 2015.¹¹⁵

Because there is no placement mandate, which would ensure women's representation as elected officials, the number of elected women has approached, but never met or exceeded, the candidate gender quota of 33%. Nonetheless, Guyana remains a leader in the Caribbean in the descriptive representation of women,¹¹⁶ As of March 2020, according to the Inter-parliamentary Union (IPU).¹¹⁷ Guyana was ranked 37th based on the percentage of women in the national parliament; a ranking that was lower than only seven other countries in the Americas,¹¹⁸ and the second highest ranking of all OAS member states in the Caribbean.

2. Legal and Electoral Framework

The legal framework for elections in Guyana is provided by the Constitution of the Co-operative Republic of Guyana (Chap. 1:01),¹¹⁹ the Representation of the People Act (Cap. 1:03),¹²⁰ the National Assembly (Validity of Elections) Act Cap 1:04,¹²¹ and the National Registration (Residents) Act and Regulations (Chap. 19:08).¹²²

¹¹⁴ The Representation of the People Act, Article 11 (B (4)), items 5 and 6, stipulate that the total number of females on each party's national top-up list and on the lists for geographical constituencies, shall be at least one third of the total number of persons on those lists.

¹¹⁵ Data provided by the National Assembly of Guyana

¹¹⁶ Htun, Mala and Jennifer Piscopo. Women in Politics and Policy in Latin America and the Caribbean. Social Science Research Council Working Papers. August 2014. https://webarchive.ssrc.org/working-papers/CPPF_WomenInPolitics_02_Htun_Piscopo.pdf and UNDP (2015). Where Are The Women? A Study of Women, Politics, Parliaments and Equality in the CARICOM.

https://iknowpolitics.org/sites/default/files/jm_where_are_the_women_caricom.pdf

¹¹⁷ Inter-Parliamentary Union. Monthly Ranking of Women in National Parliaments. <https://data.ipu.org/women-ranking?month=3&year=2020>

¹¹⁸ Bolivia (3), Mexico (5), Nicaragua (6), Grenada (8), Costa Rica (12), Argentina (19), Ecuador (27).

¹¹⁹ Constitution of the Co-operative Republic of Guyana, Chapter 1:01, Act 2 of 1980 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_101_Constitution.pdf

¹²⁰ Representation of the People Act, Chapter 1:03, Act Reg. 24/1964 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_103_Representation_of_the_People.pdf

¹²¹ National Assembly (Validity of Elections) Act, Chapter 1:04, Act Reg. 40 of 1964 (and its amendments), <https://mola.gov.gy/information/laws-of-guyana>

¹²² National Registration Act, Chapter 19:08, Act 24 of 1967 (and its amendments), https://www.gecom.org.gy/assets/docs/laws/Cap_19.08_National_Registration_Act.pdf?v=2

Several international legal treaties to which Guyana is a party also address issues relating to gender equality, including:

- International Covenant on Civil and Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979);
- The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belem do Pará).

Guyana is a semi-presidential parliamentary republic within the Commonwealth of Nations. Elections to the 65-seat unicameral National Assembly, constitutionally due every five years, are held under a system of proportional representation with an element of geographical and gender representation. Twenty-five members are elected from the 10 geographic constituencies, while the remaining 40 members are drawn from a closed national list (known as the “national top-up list”), named by the political parties. The Mission notes that a proportional representation system with multiple seats per district (particularly those with gender quota or affirmative action policies) is the system most conducive to women’s electoral success.¹²³

The President is the Head of State and Head of Government. In nominating candidates for the elections each political party must designate a presidential candidate, who is deemed elected if the party wins a majority of votes. The President can only be elected for two terms. The Prime Minister, other ministers of Government, the Attorney General and other high-ranking officials are appointed by the President.

Guyana is the only country in the English-speaking Caribbean with a gender quota, introduced in the Election Laws (Amendment) Act of 2000 and the Representation of People’s (Amendment) Act of 2000. The gender quota is legislated at the national level for the National Assembly only, and does not apply to the subnational level. It applies only to the candidate lists presented to the Guyana Elections Commission (GECOM) prior to the election.

There are currently no binding laws determining the number or placement of women on ranked lists of elected officials. The Mission notes that the most effective gender quotas and affirmative action policies contain placement mandates for the ranked list of candidates as well as enforced sanctions for noncompliance.¹²⁴

¹²³ King, James. 2002. Single Member Districts and the Representation of Women in American State Legislatures: The Effects of Electoral Systems Change. *State Politics and Policy Quarterly*. 161-175; Golder, S., Stephenson, L., Van der Straeten, K., Blais, A., Bol, D., Harfst, P., & Laslier, J. (2017). Votes for Women: Electoral Systems and Support for Female Candidates. 13(1), 107–131. <https://doi.org/10.1017/S1743923X16000684>; Rule, Wilma. 1987. ‘Electoral Systems, Contextual Factors, and Women’s Opportunity for Election to Parliament in Twenty-Three Democracies.’ *Western Political Quarterly* 40: 477–98.

¹²⁴ UN Women. “Women in Political Leadership in the Caribbean.” November 2018. <https://parlAmericas.org/uploads/documents/WomensPoliticalLeadershipUNWomen.pdf>

The candidate quota has three components: 1) that each political party must have a minimum of 33% women on its national top-up candidate list; 2) each political party must have a minimum of 33% women on all combined national election geographic lists in which the party is contesting;¹²⁵ 3) each political party must field at least one woman on 80% of their combined geographic lists.¹²⁶ If a party's candidate lists do not conform to the gender quota, or the geographic quota¹²⁷ following Nomination Day, GECOM will return the candidate lists to the parties and provide them with a short window to amend their lists in order to contest in the general and/or regional elections.

For the 2020 election, the candidate lists of 11 political parties/groups were accepted by GECOM. Nine of those parties contested the national elections, where the gender quota is applied. Data provided by GECOM indicated that 42.49% of all national top-up list candidates (232 of 546) and 45.93% of all geographic constituency list candidates (158 of 344) were female.¹²⁸

3. Electoral Participation of Women and Men

a. Inclusiveness in Elections from a Gender Perspective

i. Registration Process

There are no formal or informal restrictions on a woman's ability to register to vote. In fact several sections of the Constitution of Guyana safeguard and promote the right of women to participate equally in national elections. Section 29 (1) of the Constitution of Guyana states that women and men have equal rights and the same legal status, including in all spheres of political life. Section 59 guarantees universal suffrage for citizens 18 years of age and older. Section 212 (G(a)) establishes the Women and Gender Equality Commission, which is mandated to promote issues relating to the empowerment and enhancement of the status of women, including their participation in national decision-making.

The Mission was unable to determine whether there were any gender gaps in the March 2020 Voters' List, as GECOM did not disaggregate the List by gender.

ii. Access to the Polling Place

Women have no formal restrictions in their access to polling places. Various electoral stakeholders noted that there are informal norms granting priority to pregnant women and individuals with disabilities when exercising the right to vote. In practice however, this priority was not enforced. Often, the Presiding Officer and other electoral workers

¹²⁵ In order to be eligible to contest in the general election, all parties must contest in a minimum of six regions. The two gender quota provisions that pertain to the regional lists apply to the group of geographical candidate lists, taken together.

¹²⁶ Though the details are not enumerated in the law, if a party is contesting in fewer than ten regional districts, they can only present one geographic candidate list with no female candidates. If the party is contesting in all ten regions, two of their candidate lists can contain no female candidates and the party will still comply with the quota.

¹²⁷ Each party must submit candidate lists in a minimum of six regions.

¹²⁸ Data provided by the Guyana Elections Commission (GECOM)

conducting the voting process could only see the very front of the line of electors. As a result, management of the line of electors, and the assignment of priority access, was largely undertaken by security officials at each polling station or by voters themselves, with differing results across the polling places.

Individuals with young children, a significant number of whom were observed to be young women, were similarly treated in an *ad hoc* and inconsistent manner when accessing the polling place. The Mission also observed inconsistencies in the treatment of parents with children when the time came to actually cast their ballot. In some cases parents were allowed to take their infants and young children into the voting booth. In other cases observed they were denied. This presented a small, if surmountable, obstacle for families.

Civil society actors and representatives from women's party arms noted that women often rotate childcare in a community or neighborhood to allow all adults the opportunity to vote. While laudable, formal arrangements by national and electoral authorities that support the right of all individuals to vote, would ensure more consistency in this area.

iii. Promotion of Voting

Prior to the 2015 election, several organizations, including the Women and Gender Equality Commission, ran radio and television advertisements that specifically promoted women's electoral participation. The Guyana Human Rights Association also produced pamphlets and distributed information about the electoral process. Neither group continued these efforts for the 2020 election. In the former case, the Commission staff and leadership cited a lack of time and resources. They instead chose to focus on publishing their policy priorities on women and gender for the next administration.

Though no agency purposefully and specifically disseminated material that promoted women's voting, materials prepared by GECOM included pronoun references to both his/her right to vote and included images and video of women.

iv. Casting of Ballots

GECOM does not disaggregate data on the number of electors who cast their ballots by sex. The existence of sex-disaggregated data, further disaggregated by geographic region and age, would enable practical analysis of this topic.

b. Cleanliness of Elections from a Gender Perspective

i. Integrity of the Preferences of Women Voters

There were no observed restrictions on the free and secret ballot that disproportionately impacted female voters. There were also no indications of family voting, in which one member of the family (often the family patriarch) determines how the remainder of adults in the family vote; a practice that disproportionately limits the electoral rights of women.

Section 30 of the Representation of the People Act allows proxy voting if a voter meets specific conditions, including he/she has an election-related job on Election Day away from

his/her polling place; he/she is an employee of the Transport and Harbours Department and is operating a vessel on Election Day; he/she is a candidate for the election; or he/she is blind or is physically incapacitated.¹²⁹ Pregnancy and childcare are not listed as potential reasons for proxy voting.

ii. Gender Equity within Electoral Bodies

The involvement of women in electoral institutions can ensure that electoral organizations adopt more gender-sensitive policies and provide an example for the rest of the electoral process.¹³⁰ Guyana's electoral body, GECOM, consists of a chairperson and six commissioners. There are no gender provisions pertaining to the composition of the electoral body or the selection of poll workers.

GECOM's Chairperson for the 2020 General and Regional elections was retired Justice Claudette Singh - the first female chairperson in GECOM's history. The Deputy Chief Elections Officer was Ms. Roxanne Myers. Of the six commissioners, five were male and one was female.

iii. Gender Equity in Polling Stations

There are no formal gender norms governing the hiring and training of poll workers. While data disaggregating election officers by sex was not available, the Mission observed that the vast majority of poll workers for the 2020 elections were female. Women were highly represented among presiding officers, the primary leadership position in each polling station. Men, however, served disproportionately as Returning Officers, the leadership role at the District level. GECOM advised the Mission that it does not prioritize female applicants for Election Day positions, and that it has sought to increase its recruitment of male workers, with little success.

iv. Gender Equity in the Monitoring of Voting

Neither the major parties nor GECOM share sex disaggregated data on party agents, or those who monitor voting. However, based on reports by OAS observers, the majority of party agents were female. Domestic observers were not as widely present in polling stations as party agents, but women were well represented in that group.

c. Competitiveness in Elections from a Gender Perspective

i. Gender Equity in the Electoral System

¹²⁹ Representation of the People Act, Section 30

¹³⁰ Ballington, Julie, Gabrielle Bardall, Sonia Palmieri, and Katie Sullivan (2016). Inclusive Electoral Processes: A Guide for Electoral Management Bodies on Promoting Gender Equality and Women's Participation. United Nations Development Program and UN Women. https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral_systemsandprocesses/guide-for-electoral-management-bodies-on-promoting-gender-equali.html; Bibler, Sarah, Vasu Mohan, and Katie Ryan (2014). Gender Equality & Election Management Bodies: A Best Practices Guide. International Foundation for Electoral Systems. https://www.ifes.org/sites/default/files/gender_equality_and_emb_best_practices_guide_final_2017.pdf

Guyana's gender quota,¹³¹ instituted in 2000/2001, ensures that political parties include at least 33% women as a total number of their candidates. This quota also guarantees geographic diversity for the number of women nominated, ensuring that no more than 20% of geographic constituency lists have no female candidates listed. There have been some efforts by the Women and Gender Equality Commission as well as by political parties to increase the quota to 40% or 50% and to include placement mandates to formalize the number of women in parliament. These efforts have not been successful so far.

Placement mandates ensure that a certain percentage of women are not only *nominated* but *elected*. In other countries, placement mandates such as a 'zipper' system, which alternates men and women on the candidate list, ensure that women are not placed at the bottom of the candidate list.

In Guyana, as a closed-list proportional representation system, the power to determine which individuals move from the large list of nominated candidates, to elected officials, resides with the parties. After the election results are finalized, each party submits a ranked list to GECOM with at least the number of positions the party was granted through the election tabulation.¹³² There are no gender placement mandates at this stage to ensure 33% (or a greater proportion of) women in the final list.

Despite the lack of a placement mandate, the number of women in Guyana's parliament has consistently grown since the introduction of the quota, approaching, but so far not exceeding 33%.

While there are no legal limitations to women standing as candidates or serving as elected officials, stakeholders noted the presence of several sociocultural limitations to women's political participation in this area, including family pressures, employment concerns, childcare responsibilities and the impact of domestic violence.

ii. Nominating Procedures

Guyana's gender quota has three components: at least one-third of the national top-up candidate list for each party must consist of women; at least one-third of all candidates on a party's geographic constituency lists, taken together, must be women; and each party must include at least one woman in 80% of the total geographical constituencies in which they contest.

Data provided by GECOM indicated that all nine parties approved to contest the elections for the National Assembly met the gender quota conditions. Women made up the following percentage of each party list:

¹³¹ Representation of the People Act, Article 11 (B (4)), items 5 and 6.

¹³² Parties often include more candidates on their ranked list in case there are any issues with the candidates listed.

Table 1: Percentage of Women on Party Lists

Party/Coalition	Top Up List (%)	Geographic Constituency Lists (% Taken Together)	Geographic Lists with at least one Woman (%)
A New & United Guyana	40.48	41.94	85.71
A Partnership for National Unity + Alliance For Change	36.05	45.45	100
Change Guyana	40.48	47.06	100
Liberty and Justice Party	45.24	40.74	100
People's Progressive Party Civic	34.48	42.22	100
People's Republic Party	52.27	49.38	85.71
The Citizenship Initiative	64.29	51.72	83.33
The New Movement	51.16	50.00	100
United Republican Party	35.42	39.53	90

Source: Data provided by the Guyana Elections Commission

The Top-Up List percentage corresponds to the first gender quota component, while the Geographic Constituency List percentage corresponds to the second gender quota component. As no party presented a list with less than 33% in either category, all parties complied with the first two conditions of the gender quota. The final column, percentage of geographic lists with women candidates listed, corresponds to the third gender quota condition. As all parties included at least one woman on 80% of their combined geographic lists, all complied with the third condition of the gender quota.

Of the nine parties contesting the general election, four parties had one regional list in which there were no female candidates:

- A New and United Guyana: Region 10 (contested 7 regions)
- People's Republic Party: Region 1 (contested 7 regions)
- The Citizenship Initiative: Region 2 (contested 6 regions)
- United Republican Party: Region 8 (contested in 10 regions)

It is worth noting two caveats in relation to this data. First, the Mission received this data from GECOM on February 28. GECOM advised that it was compiled in January 2020, after Nomination Day, at which point parties had presented their candidate lists to GECOM. Information provided to the Mission by individual parties, particularly smaller parties that provided disaggregated list data, was slightly different from that reported by GECOM, though there was no indication that this affected the requirements of the gender quota.

Second, the national top-up lists submitted by the two principal contenders (APNU+AFC and PPP/C) contained significantly more candidates than the number of spots in the national parliament, 86 and 116 candidates, respectively.¹³³ Article 11 (3) of the Representation of

¹³³ GECOM. "Notice Given Under the Representation of the People Act (Cap. 1:03) General Election National Top-Up Approved Lists of Candidates." Chairman, Guyana Elections Commission, 18 January 2020.

the People Act stipulates that each national top-up list submitted by political parties must include “at least 42 persons qualified to be elected to the National Assembly”. In other words, the number of seats available for election through the national top-up list (40 seats), plus two more.

The Mission notes that lists containing significantly more names than the prescribed number make it possible for parties to comply with the gender quota in candidate lists submitted to GECOM prior to the elections, but subsequently present final ranked lists of elected officials that do not include any women. While this has not happened in practice since the introduction of the quota, the absence of placement mandates means that political parties are not obligated to include 33% of women among their parliamentary representatives, there is nothing preventing them from removing all women from their final, ranked lists altogether, and there are no consequences if they do so.

iii. Gender Equity in Political Parties or Organizations

While political parties did not share hard data on the number of women who make up their membership and leadership, the Mission was informed and observed that they generally had a significant amount of female support, with women particularly well represented amongst the rank-and-file. Both APNU+AFC and PPP/C have substantial women’s arms in their parties (the National Congress of Women and the Women’s Progressive Organization, respectively), with large memberships and a diverse range of programs. Notably, women who are not formal members of the parties can participate in the women’s arms and benefit from their social service programs.

While women hold leadership positions in the women’s arms of the parties, they are less well-represented in leadership positions overall. Guyana has had one female President and Prime Minister, the late Janet Jagan who held both roles under PPP governments. In previous administrations, including the 2015 Cabinet, female ministers were generally given “soft” ministerial portfolios, such as Education and Tourism, while the “hard” ministerial portfolios (i.e. Finance or Security) were reserved for their male counterparts.¹³⁴

Of the nine parties contesting the 2020 general election, six had male presidential candidates and three were female:

- People’s Republic Party: Ms. Phyllis Jordan
- The Citizenship Initiative: Ms. Rhonda Ann Lam
- The New Movement: Dr. Asha Kissoon

Change Guyana and the People’s Republic Party also had female Prime Ministerial candidates. While a groundbreaking achievement, these parties are small and relatively new and had limited electoral success.

¹³⁴ Taylor-Robinson, M., & Gleitz, M. (2018). Women in Presidential Cabinets: Getting into the Elite Club? In Gender and Representation in Latin America. <https://doi.org/10.1093/oso/9780190851224.003.0003>

Because there is no placement mandate in the gender quota, parties have power to determine how and where women are ranked in the final list to serve as elected officials. GECOM does not ask parties to submit a ranked list prior to the election and several parties informed the Mission that they would not rank their list until after electoral results were published.

While several parties, including the Liberty and Justice Party and The Citizenship Initiative, had formal commitments to women's representation in their party constitutions or manifestos, other parties only gave informal commitments to matching the candidate quota in their elected officials. Data from the Guyana National Assembly indicates that after the 2015 election, APNU-AFC selected 12 women out of 33 parliamentarians (36.3%) while PPP/C selected 9 women out of 32 parliamentarians (28.1%).

iv. Political Financing System

Proportional representation (PR) systems, such as Guyana's, may be more beneficial for women candidates as political parties have a vested interest in promoting their collective party lists. In such cases, political finance may be more impactful at the party level than at the individual level. This does not however release parties from the need to allocate resources for women candidates. Even within the PR system, women must have equal opportunities for visibility and to secure the support of voters.

v. Access to the Media

Also as a result of the proportional representation system, media access at the party level is more significant than media access at the individual level. However, because all parties led by female presidential and prime ministerial candidates were 'new' or 'smaller' parties, and none were parties that had won parliamentary seats in the 2015 national elections, female candidates were less well represented in the media. Several smaller parties described incidents in which their social media accounts were taken down or hacked or instances in which their television and radio appearances were not distributed as widely as those by the major parties.

d. Elective Public Offices from a Gender Perspective

i. Analysis of Electoral Results

For the March 2, 2020 elections, 42.49% of all national top-up list candidates (232 of 546 candidates) and 45.93% of all geographic constituency list candidates (158 of 344 candidates) were female.¹³⁵

Of the 65 seats in the National Assembly, 33 seats were awarded to the People's Progressive Party/Civic (PPP/C), while 31 seats went to the A Partnership for National Unity + Alliance For Change coalition. The Joined Lists of A New & United Guyana (ANUG), Liberty and Justice Party (LJP) and The New Movement (TNM) earned one seat in the parliament.

¹³⁵ Data provided by the Guyana Elections Commission (GECOM)

The APNU+AFC coalition selected 13 women to sit in the Assembly, while the PPP/C selected 8 women, providing a total of 21 (32.3%) women elected to the National Assembly. Table 2 shows the distribution of seats among men and women following the elections.

Table 2: Gender Distribution of Seats in the National Assembly

Political Party	Male	Female	Total Seats
A Partnership for National Unity + Alliance For Change	18	13	31
People's Progressive Party / Civic	25	8	33
Joined Lists (A New & United Guyana; Liberty & Justice Party; The New Movement)	1	-	1
TOTAL SEATS	44	21	65

Source: National Assembly of Guyana

The Mission notes that the gender quota has no provisions for the number of women in the final list submitted by parties. The Election Laws (Amendment) Act of 2001 dictates that in extracting names from the candidate list, “account shall be taken” of the 33% quota as well as “the proportion that women are formed of the electorate.” However, these are not binding commitments to ensure that at least 33% of elected officials are women and noncompliance is not sanctioned.

4. Findings and Recommendations

- While the Election Laws (Amendment) Act of 2000 dictates that in extracting names from the candidate list, “account shall be taken” of the 33% quota as well as “the proportion that women are formed of the electorate,” this is not a binding commitment to ensure that at least 33% of elected officials are women. There are no sanctions for non-compliance with this provision. The authorities should revise the legislation to strengthen the effectiveness of the existing gender quota, ensuring that the persons extracted from the candidate lists to enter the parliament reflect the gender composition of those lists. Consideration should also be given to including measures to progressively encourage parity in the extraction of members of parliament from the lists, in order to promote the equal representation of men and women in the National Assembly.
- A lack of official, consistent, and reliable sex-disaggregated data, including on electors, electors who cast ballots, and polling officers, reduces confidence in party compliance with gender quotas and makes it challenging to identify potential gender gaps and women’s equal participation at all levels of the electoral process. GECOM

should compile and publish gender-disaggregated data on the various processes related to elections, including data on candidates, electors, voters, and poll workers.

- Although most stakeholders agree that pregnant women, women with young children, disabled voters, and the elderly should receive priority at their polling stations, there is no official norm to ensure this priority is legally binding and consistently applied. GECOM should formalize and enforce policies to expedite the voting process for these categories of electors, while educating all electors on the right of these persons to move through the voting process quickly and, where needed, with assistance.
- While there are no legal limitations to women standing as candidates or serving as elected officials, social and cultural traditions may limit women's political participation in this area. Efforts should be made to protect all candidates, particularly women and youth, from social or economic retribution if they choose to stand as candidates. Political aspirants should also have guarantees of legal recourse if they lose employment based on participation in electoral politics.
- Political parties, civil society and other relevant stakeholders should collaborate in developing training programs and other initiatives that promote women's participation and leadership in politics.

INTEGRANTES DE LA MISIÓN

NAME	COUNTRY	ROLE	GENDER
Bruce Golding	Jamaica	Chief of Mission	M
Francisco Guerrero	Mexico	Secretary for Strengthening Democracy	M
Brenda Santamaria	Argentina	Chief, Electoral Observation Section	F
Melene Glynn	Trinidad & Tobago	Deputy Chief of Mission	F
Jean Ricot Dormeus	Haiti	OAS Country Representative	M
Martin Huenneke	United States	General and Methodologies Coordinator	M
Cristina Garcia Casado	Spain	Press Officer	F
Esther Rodriguez	United States	Financial Specialist	F
Alex Bravo	Chile	Electoral Organization & Technology Specialist	M
Ian Browne	Barbados	Electoral Registries Specialist	M
Westmin James	Trinidad & Tobago	Electoral Justice Specialist	M
Paul Spencer	Antigua & Barbuda	Political Finance Specialist	M
Rebecca Kuperberg	United States	Political Participation of Women Specialist	F
Denis Antoine	Grenada	Regional Coordinator	M
Ivan Acuña	Costa Rica	Regional Coordinator	M
Marie Caroline Bernard	France	Regional Coordinator	F
Anja Maria Brenes	Costa Rica	International Observer	F