

Chapter 3

The Electoral Framework and Election Administration

Background and Electoral System

The President of Guyana is Head of State and is the nominated Presidential candidate of the majority party in the National Assembly. The Prime Minister is appointed by the President from among elected members of the Assembly.

The 65-member National Assembly serves for a maximum term of five years. Twenty five members are elected from the country's 10 Regions on a party list system. Each of the ten Regions has between one and seven seats. The distribution of seats per Region is as follows:

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

The number of voters per each seat in each Region is as follows:

Region	Registered Voters	Seats	Voters per Seat
1	9,738	2	4,869 voters / seat
2	27,178	2	13,589
3	69,363	3	23,121
4	213,147	7	30,449
5	32,807	2	16,403
6	75,199	3	25,066
7	9,598	2	4,799
8	4,197	1	4,197
9	10,204	1	10,204
10	24,065	2	12,032

The remaining 40 members are elected from national top-up lists, which are allocated to parties on a proportional basis reflecting their overall share of the vote¹. Party lists are not in any specific order, which means that parties can allocate their allotted seats to whichever candidates they choose.

¹ The proportional allocation of seats at both the constituency and national levels is done using the Method of Largest Remainder and utilising the Hare Quota.

There is also a possibility for “over-hang” seats, whereby to ensure a higher level of proportionality GECOM can allocate additional seats if the distribution after the allocation of seats at the constituency and national levels is not proportional.

International and Regional Commitments and National Legal Framework

Guyana has signed or agreed to a wide range of regional and international commitments and instruments relating to human rights and the conduct of elections. These include:

- Affirmation of Commonwealth Values and Principles (2009)
- Inter-American Democratic Charter (2001)
- Convention on the Elimination of All Forms of Discrimination Against Women (1979)
- International Covenant on Civil and Political Rights (1966)
- International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- Universal Declaration of Human Rights (1948)

The Constitution of Guyana guarantees fundamental rights and freedoms, including freedom of expression, assembly, association and participation in elections.

The key documents providing the legal and regulatory framework for the conduct of the elections are:

- Political Party Code of Conduct (2011)
- Media Code of Conduct (2010)
- The Constitution of Guyana (1996, as amended)
- National Registration Act (1967)
- Representation of the People Act (1964, as amended)

The Guyana Elections Commission (GECOM)

The Guyana Elections Commission (GECOM) is responsible for voter registration, the administration and conduct of elections, and the issuing of instructions to ensure compliance with the Act.

GECOM is headed by a Chairperson and six Commissioners. GECOM is a permanent body and there is no provision for a time limit that Commissioners are to serve. The Chairperson shall be a person who holds, has held or is qualified to hold the office of Judge of the High Court or the Court of Appeal, or any other fit and proper person. The Chairperson is appointed by the President from a list of six persons, who are not unacceptable to the President, submitted by the Leader of the Opposition after consultation with opposition parties represented in the National Assembly.

In addition to the Chairperson, the Constitution also provides for the appointment of six members of the Commission. Three members are appointed by the President, acting in his/her own judgement and a further three are appointed by the President acting on the advice of the Leader of the Opposition after consultation with opposition parties represented in the National Assembly.

In the current Commission Dr Steve Surujbally is the Chairperson. The members are: Mr Moen McDoom, Dr Keshav Mangal, Mr Mohamood Shaw, Mr Vincent Alexander, Mr Charles Corbin and Mr Robert Williams.

GECOM sets policy for voter registration, maintenance of the voters' list and the administration of all national, regional and local government elections within the legislative framework, whilst there is also a permanent Elections Secretariat to implement the policy under the supervision of the Chief Election Officer (CEO). The CEO leads a team comprising a mixture of permanent and temporary staff for the purpose of voter registration and the conduct of elections.

A Returning Officer is appointed by GECOM for each of the ten Regions. Each Returning Officer is supported by a series of Deputy Returning Officers. GECOM appoints Returning Officers from among its experienced staff and other qualified persons. The position is not full-time, with persons appointed to the position for a period of approximately three months. Criteria for selection are qualifications and experience and also geographic proximity.

Neither the Chair nor any of the six Commissioners are women and only one of the ten Returning Officers was a woman. However, the majority of polling station staff was female.

Voter Eligibility and Voter Registration

To be eligible as a voter one must be a citizen of Guyana and at least 18 years of age. Commonwealth citizens resident in Guyana for a period of at least a year are also eligible to vote.

Following the 2006 elections a decision was taken to conduct a brand new voter registration exercise. A door-to-door registration was conducted from January to July 2008, with party scrutineers able to follow GECOM officials. Later, a period of continuous registration was conducted from September to December 2010.

The registration exercises included persons aged 14 and over. For the purpose of identification of voters the key source documents were a birth certificate or a passport. The registration also captured biometric information in the form of fingerprints and a photo. From the registration, a brand new form of National ID Card was produced and later distributed (see below).

From the cumulative results of these two exercises a Preliminary List of Electors was produced and a four week public verification exercise was provided for during which claims and objections against the list could be made. Over 22,000 such adjustments were made and a Revised List of Electors was published. Following claims that some persons were still excluded, a further ten day period of claims and objections was provided for in July-August 2011. Following this, an Official List of Electors was published and all names were kept on a national registration database. The List is also available on the GECOM website.

The total number of registered voters was 475,496. All registered persons received a National ID Card. Up to the time of the election, some 33,000 were uncollected.

Party and Candidate Eligibility and Nomination

In order to be eligible to contest the national election political parties must contest at least 13 of the 25 Regional-level seats and at least six of the ten constituencies. At least one-third

of each party's overall number of candidates must be female. But there is no stipulation on the order of the list. Thus, political parties will decide which candidates will take up the seats **that they win in the election, with no requirement for women's representation or to respect** the list order at all.

Each party has to present a national top-up list, with an identified Presidential candidate, in addition to the Regional-level lists. The number of candidates on each list must be two more than the number of seats available, be it for the national list or Regional lists. Each candidate must be a citizen of Guyana and be at least 18 years of age.

Election Offences and Election Petitions

The Representation of the People Act identifies a series of illegal practices and election offences. These include illegal payments, employment and hiring; illegal practices, such as disorderly behaviour at an election meeting, false statements and illegal expenditure; corrupt practices, such as treating, bribery, personation and undue influence; and election offences, such as illegal voting, intimidation, and causing racial or ethnic violence. Each offence is punishable by a range of fines and/or prison sentences, which are prescribed in the Act.

According to the National Assembly (Validity of Elections) Act, a petition against the results of the election can be filed up to 28 days from the announcement of the final result.

Codes of Conduct for Political Parties and Media

The electoral framework was supplemented by two voluntary codes of conduct: Code of Conduct for Political Parties (2011) and Code of Conduct for the Media (2010).

The parties' Code was, for the first time in Guyana, signed by all of the political parties after being discussed and agreed between them. Among other things, it voluntarily obligates parties to:

- Reject the use of threats or violence during the election
- Avoid all illegal and corrupt practices
- Respect the right of others to express different views
- Avoid personal attacks and slander
- Avoid inciting unrest or hatred
- Respect the role of GECOM and refrain from interfering in the electoral process

The media Code was signed in 2010 by the major media houses (TV, radio and print) in preparation for the later postponed local government elections. It was also intended for the 2011 National and Regional elections. Among other things it voluntarily obligates media to:

- Provide balanced, fair and accurate information
- Provide an equitable share of election coverage to all registered parties
- Refrain from inciting racial hatred
- Ensure accurate reporting
- Be independent of political control, inducement or threats
- Provide equal access to paid political advertising

Key Issues

1 Composition and Role of GECOM

One of the major recommendations of the 2006 Commonwealth Observer Group was that **“the way in which the Elections Commission is constituted should be reconfigured”**. The 2011 Observer Group reiterates this concern and strongly urges reconsideration of the existing formula for constituting the Commission. The current formula of having three Commissioners nominated by the ruling party and three by the opposition is not conducive to a properly functioning and effective election management body, which needs to be independent and more technically oriented. Mechanisms can be built in to ensure political parties maintain confidence in the work of the election management body and also to ensure accountability. **Explicit ‘political membership’ of the Commission** is not required to achieve this.

It is also noted that out of the existing six Commissioners and a Chair, none are women. Further, while women are well represented in the lower echelons of the GECOM structure, notably at the Polling Station level, they are largely absent from the upper echelons and decision-making levels.

2 Voter Registration

Problems with voter registration have created serious problems during previous elections in Guyana, and the 2006 Commonwealth Observer Group made a strong recommendation for a new voter registration process in time for 2011. We are very pleased to acknowledge that such a new registration process was undertaken. It has proven extremely successful and seems to enjoy the confidence of political parties and the public alike. GECOM is to be highly commended for this.

3 Women’s Participation and Representation

Under the current election law, at least one-third of a party’s overall number of candidates must be female. There is no obligation on a party with regard to how many women it nominates to take up seats in the National Assembly. In this context it is pleasing that in practice women, at present, do represent some 30% of the outgoing Assembly. This places **Guyana in a very positive light in terms of women’s representation** compared to other regional and global examples.

However, while it is positive that this is the case, the current system, which does not obligate political parties to allocate seats to women, does not guarantee appropriate levels of representation for women.

4 Regulations on Campaign Expenditure

Under Article 108 of the Representation of the People Act the representative of each party list has to submit a financial declaration to the Chief Election Officer within 35 days of the declaration of results. This declaration must contain, among other things:

- Statements of all payments made by the representative of the list
- The amount of personal expenses paid by each candidate
- All funds received by the representative from the candidates or any other person for the purpose of the campaign

Failure to submit such an account is defined as an “illegal practice” under Article 108.5 of the Act. The Chief Election Officer is required by the Act to publish a summary of the declarations and to keep the documentation for a period of two years for the purpose of inspection by any person for a small fee. However, it was pointed out to the Observer Group in a meeting with GECOM that the requirement to submit such a declaration is not respected nor enforced. GECOM stated that **the laws in this regard are “largely symbolic” and are “respected in the breach”.**

In April 2011, a Bill was tabled in Parliament based upon a motion by the Alliance For Change (AFC), seeking to strengthen the legal framework for political party campaign financing. This was sent to a Special Select Committee but did not proceed.

In Section 1(i) of the Code of Conduct for Political Parties Contesting the 2011 General and **Regional Elections, signatories agreed to “act in accordance with all existing laws, rules and procedures governing the election practices, including the laws pertaining to campaign financing and accountability”.**

Several sources raised the issue of campaign financing with the group, alleging in particular the misuse of State resources for party purposes during the campaign. (This is discussed further in Chapter 4.) At the time of finalising this report it remained to be seen whether any party would adhere to the law by declaring its campaign expenditure after the election.

5 Size of Electoral Regions

The current allocation of seats to the various Regions does not adequately provide for equal suffrage. For instance Region 1 has 9,738 registered voters and has two seats in the Assembly, whereas Region 9 has 10,204 but has just 1 seat.

We also note that there are discrepancies in scale between Regions. For instance, Region 8 has 4,197 registered voters per seat in the Assembly and Region 7 has 4,799 registered voters per seat. But Region 4 has 30,449 registered voters per seat; and Region 6 has 25,066.

6 Election Petitions

It has been reported to us that election petitions are not dealt with in a timely and effective manner, with some petitions taking many years to be heard and resolved. Election-related petitions are extremely time-sensitive and the failure to deal with such matters in a timely manner undermines the right to an effective legal remedy, which is a key benchmark for the process.

RECOMMENDATIONS

- Strong consideration should be given to ending the practice of having political appointees as members of the Elections Commission. Such a formula compromises the effectiveness and integrity of the Commission, which needs to be independent and above politics at all levels. Adequate mechanisms can still be incorporated to ensure the confidence of political parties and accountability, including effective liaison committees.

- The respective roles of Commissioners vis-a-vis the role of the Chief Election Officer should be more clearly defined, ensuring that the CEO has the space and mandate to fully undertake his/her duties in an effective and timely manner.
- Consideration should be given to amending the electoral system to require parties to submit fixed ordinal lists. This will mean that voters know exactly which candidates are most likely to take up the seats in the Assembly, thereby increasing accountability and transparency.
- We welcome the fact that parties have been selecting a reasonable number of women to the seats in the Assembly and we urge that this is continued, and possibly made mandatory.
- There is a need to ensure proper implementation of the laws for declaration and public disclosure of campaign funding and expenditure, in order to ensure transparency and accountability. There may also be a case to strengthen such regulations.
- The existing distribution of seats between regions was agreed as part of the Herdmanston Accord in 2000, which represented a consensus between political parties. Such a consensus is not easy and this is acknowledged. However, as things stand equal suffrage is not adequately provided for, given the discrepancies in the number of voters per seat across the Regions. Consideration might therefore be given to re-evaluating the current distribution to ensure a more equitable allocation of seats.
- Election petitions need to be adjudicated upon in a more timely manner in order to fully provide for a right to an effective legal remedy. Possible solutions could include having special judicial timelines for election-related complaints or even special election courts. But whichever system is felt to be more appropriate it needs to ensure that consideration and decisions of election-related complaints and petitions are dealt with in a more timely manner.