

THE
CARTER CENTER



GUYANA

**NGO Submission to the U. N. Human Rights Committee
Consideration of State Report
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**The Carter Center
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The Carter Center is a not-for-profit, nongovernmental organization that has helped to improve life for people in more than 80 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; and improving mental health care. The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University to advance peace and health worldwide.

The Carter Center's Democracy Program works globally to promote democratic elections and governance consistent with human rights. The Center has monitored more than 110 elections in 39 countries since 1989, forging many of the techniques now common to the field. Recognizing that democratic transitions involve much more than elections, the Center also conducts long-term monitoring of political transitions and works to strengthen civil society organizations to support democratic governance. The Democratic Election Standards (DES) initiative aims to build consensus on standards for democratic elections, based on state obligations under public international law.

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Reporting Organization

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The Carter Center in Guyana

The Carter Center’s first involvement in Guyana came at the invitation of President Desmond Hoyte in 1990, who invited President Carter to Guyana to discuss whether the Center would consider observing the upcoming elections. Since that visit, the Center has maintained an abiding interest in Guyana’s democratic development, and has observed several elections in the country:

- The final observation report from the 1992 elections can be found [here](#).
- The final observation report from the 2001 elections can be found [here](#).
- The final observation report from the 2006 election can be found [here](#).
- The observation report from the 2015 elections can be found [here](#).
- The observation report from the 2020 elections can be found [here](#).

The Carter Center conducted five pre-election assessment visits in the lead up to elections, deployed a core team of international experts and long-term observers in January, and deployed a fifty-member international election observation delegation around elections held on March 2, 2020. The Carter Center’s pre-election statement can be found [here](#), and a preliminary report on the March 2 elections can be found [here](#).

Other Carter Center engagement: Following engagement in the 1990 - 1992 constitutional crisis and subsequent elections, The Carter Center worked for a decade to help strengthen democracy and promote economic development in Guyana. Between 1994 and 2004, the Center supported the development of a comprehensive, long-term National Development Strategy; supported reforms strengthening the judiciary; worked to enhance civil society’s capacity to influence public policy; and assisted civil society’s mediation and conciliation efforts during the “crime wave” of 2002–2004. From 2016 – 2017, The Carter Center supported Guyana in its bid to join the Extractive Industries Transparency Initiative (EITI), a global standard meant to ensure open and accountable management of oil, gas, and mineral resources so that citizens of a country benefit from its natural resources.

The Carter Center Alternative Report

This submission builds on the data collected by The Carter Center’s 2015 and 2020 election observation missions to Guyana. It addresses gaps in the legal framework for elections in Guyana as well as observed issues related to the implementation of elections in 2015 and 2020. This submission provides some key recommendations to ensure that various stages of the electoral process are implemented in accordance with Guyana’s obligations under the ICCPR in the future.

Context

Guyana’s 2020 national election followed a parliamentary vote of no confidence in December 2018. After a protracted, divisive legal battle about the validity of the no-confidence vote and various aspects of the electoral process, the election finally took place on March 2, 2020.

The 2020 election, characterized by delay and extensive legal maneuverings, took place in a largely peaceful atmosphere, with the Guyanese people showing admirable patience as they waited for the process to resolve. An election that should have been held within 90 days of the no confidence vote ultimately took place after 15 months. Results that should have been finalized within a few days took five months. Although election day went smoothly, the following days were marked by a lack of transparency in the ascertainment of results for Region 4, where Guyana’s capital, Georgetown, is located.

The Carter Center joined other international observation delegations in expressing deep concern, noting that the lack of transparency made it impossible to have confidence that the announced results reflected the will of the people as expressed at the ballot box. In the end, a national recount was conducted, with members of the Caribbean Community (CARICOM), political party representatives, and independent national observers watching the process. Five months to the day after people went to the polls, the nation saw a peaceful transition of power as President Irfaan Ali was sworn into office.

Article 25: The Institutions of Elections

Ensure Independence and Impartiality of the Election Management Body: CCPR General Comment 25, paragraph 20 outlines the importance of an independent electoral authority that can “supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant.”¹ The Government of Guyana should provide and promote a transparent electoral process by ensuring an independent and impartial election management body that can foster the participation of citizens in the democratic process.

Guyana Elections Commission (GECOM) and its secretariat have acquired sufficient knowledge and expertise during the last few years to allow it to conduct well-managed electoral operations. Nevertheless, there have been some problem areas in the past, some significant, related to the tabulation and announcement of results.

The structure of the GECOM replicates political divisions and has proved over time to inhibit the effective and transparent administration of elections.

The method of appointment of GECOM commissioners, as provided by the Guyanese laws, is based on a recommendation of former U.S. President Jimmy Carter around the specific context of the 1990- 1992 constitutional crisis and subsequent elections. According to the “Carter Formula,” three commissioners are to be appointed by the president, at his/her discretion, and three appointed by the president on advice from the leader of the opposition. The chairperson is to be an independent person appointed by the president from a list of six candidates put forward by the opposition that are “not unacceptable” to the president. The leader of the opposition provides that candidate list after meaningful consultation with political parties represented in the National Assembly.

In practice, the six members of the commission are representatives of the ruling party and the opposition party. This partisan structure has resulted in a highly polarized and sometimes ineffective board of commissioners – and excludes newer parties. Guyana should consider adjusting the structure of the commission to enhance its independence, effectiveness, and professionalism. The Carter Center has advocated that the Carter formula be changed to ensure

¹ UN Human Rights Committee (HRC), *CCPR General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote)*, *The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service*, 12 July 1996, CCPR/C/21/Rev.1/Add.7, available at: <https://www.refworld.org/docid/453883fc22.html> [accessed 4 May 2020]

that GECOM is not divided solely along political lines. Instead, GECOM should be composed of individuals who are solely committed to carrying out a successful and transparent election process and who have the confidence of political parties but can also maintain independence.

Reform the Electoral System: The Carter Center observed that Guyana has experienced a fierce political rivalry between two main ethnically-based parties since their independence from the United Kingdom in 1966. Heightened ethnic rhetoric and the inability to bridge differences continue to leave the government in a political quagmire. Efforts must be renewed to ensure the democratic standards that the Guyanese government has promised through its Constitution and international commitments.

One factor that contributes to the polarization in Guyana is the electoral system. As The Carter Center noted in a statement following the 2020 elections, “Guyana’s electoral system is a complex system of proportional representation, where the seats for both the National Assembly and the regional democratic councils (RDCs) are allocated through the largest remainder method (using the “Hare quota”). As a result, the election included a general ballot for the national election and a regional ballot for the RDCs. Of the 65 members of Parliament, 40 are elected through a national “top-up” list, while the remaining 25 are elected through district lists in each of the country’s ten regions. In order to contest the general election, a party has to present a national “top-up” list as well as at least six geographical lists. The president is elected from the same ballot used to fill the general election as the head of the list. The result of the electoral system is a complicated ballot, with parties on ballots in some regions and not others. Although nine political parties presented lists for the general election at the national level, only two parties (APNU+AFC and PPP/C) appeared on the general ballot in all ten regions.”²

In addition, the electoral system uses neither a “closed list” nor an “open list” system. The lists as presented by parties have an order, but the final selection of candidates to fill seats takes place after the election, with the result that voters do not know which candidates will be granted a seat. There is a need for the Guyanese government to consider electoral reform to move away from the “winner-takes-all” system currently in use, and towards a system that would promote support across ethnic lines and inter-ethnic cooperation between parties.

Overhaul and Modernize Campaign Finance Laws. To ensure the realization of the right and opportunity to be elected, legal reform is necessary to improve campaign finance laws. Legislation should be strengthened to routinely require disclosure of contributions and expenditures. Consideration also should be given to establishing reasonable limits on donations and expenditures to ensure that the free choice of voters is not undermined, or the democratic process distorted by disproportionate expenditures on behalf of any candidate or party. A monitoring and enforcement body with oversight authority of compliance with campaign finance regulations would also be a positive contribution to the right to participate in public affairs in Guyana.

² The Carter Center, Guyana General Election Preliminary Statement, March 4 2020: https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/guyana-preliminary-statement-021420.pdf

Articles 3 and 25: Equality between Men and Women

The equitable participation of women in politics and government is essential to building and sustaining democracy. Democracy cannot truly deliver for all its citizens if half of the population remains underrepresented in the political arena.

International and regional obligations protect women's rights and ensure their democratic right to participation. Guyana has ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW, July 1980). In addition, Guyana's Constitution mandates that "Women and men have equal rights and the same status in all spheres of political, economic, and social life," including the right for equal political representation and participation.

The Guyanese Constitution also requires that electoral law must make provision for a minimum proportion of female candidates in party lists. The Representation of the People Act requires two elements of female inclusion within party lists. First, for the party's national top-up lists, the total number of women on each party's list must be at least one-third of the total number of candidates on that list. Secondly, in the geographical constituencies, the total number of women on any party's lists, taken together, must be at least one-third of the total number of candidates on those lists. It also requires that parties must include women in their lists for at least 80 percent of the geographical constituencies they are contesting. There is, however, no requirement that the parties must allocate seats in the National Assembly to any of the female candidates from within their lists. Instead, Section 98 of the Representation of the People Act provides that the Representative of the List (the head of the list) extract names from the list of candidates for the number of seats won, and they shall be declared to be elected by the chief election officer. The section of the law fails to specify what proportion of seats must be assigned to female candidates after voting, making it difficult to enforce.

Since there are no provisions regarding special measures for women when parties choose who should fill the seats won, there is, therefore, failure to reflect the spirit of the Constitution. This is a clear instance of dissonance between Guyana's international obligations, the spirit of the Constitution and the electoral law.

Articles 2 and 25: Universal Suffrage

Universal suffrage requires that the broadest pool of eligible voters have the right and the opportunity to cast their ballots during an election process, free from discrimination. During the 2015 and 2020 elections in Guyana, The Carter Center noted the following issues regarding the participation of persons with disabilities, LGBTI voters and political contestants, and those in detention:

Voting and Persons with Disabilities: States are required to ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, including through voting and that accommodations should be made to ensure they can do so either

independently or with the assistance of a person of their choosing.³ In Guyana, people with visual impairments voted using the services of a companion or a presiding officer. In 2015, the use of tactile ballot guides (“stencils”) was adopted but not very successful, mostly because of a lack of information and awareness. However, in advance of the 2020 elections, the GECOM informed the Guyana Council of Associations of Persons with Disabilities that it would be unable to operationalize any kind of special measures for the 2020 elections. The commission also denied requests from the disability community to facilitate curbside voting.

Participation of LGBTI persons: While lesbian, gay, bisexual, transgender, and intersex (LGBTI) rights advocates in recent years have become more organized and increasingly visible, homosexuality remains illegal in Guyana. At the 2020 election, the rights of the LGBTI community were endorsed by some new parties but not by Guyana’s two major political parties. A history of discrimination and restrictive legislation in Guyana has limited the role of the LGBTI community in public life, including their participation in elections as candidates, political party officials, and election workers.

Voting by persons on detention: Article 159 of the Guyana Constitution, provides that every person who is at least eighteen years of age and is either a citizen of Guyana or a Commonwealth citizen domiciled and resident in Guyana is allowed to vote. Similar to previous elections, during the 2020 elections, universal suffrage was not respected in the case of voters in detention on election day. Roughly one-third of the 1,900 people incarcerated are in pre-trial detention. With delays in judicial proceedings, it is not uncommon for the period of pre-trial detention to last as long as five years. While there is no legal disqualification from voting for those in detention, no arrangements were made to register detained people, nor to allow them to vote, thereby disenfranchising them.

Other issues

The United Nations Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in 1993, endorsed efforts to establish, strengthen and increase the effectiveness of the role played by regional and sub-regional human rights arrangements. It also stresses the importance of their cooperation with the UN human rights system. Guyana is one of the ten OAS member States that has not acceded to the American Convention on Human Rights. The Convention seeks to promote, protect, and ensure the recognition and the full enjoyment and exercise, on an equal basis, of all human rights and fundamental freedoms of older persons, in order to contribute to their full inclusion, integration, and participation in society. The Convention is considered the most important human rights instrument in the inter-American system, and individuals and groups have submitted complaints of human rights violations committed by Guyana to the Inter-American human rights system. By acceding to this international instrument, Guyana will move forward in protecting vulnerable populations within its border.

³ Convention on the Rights of Persons with Disabilities, paragraph 29.