
CHAPTER 1

Electoral Reform

We were impressed with the extent of the legal and other reform measures undertaken in Guyana between 1990 and 1992. Over a long period before that, the confidence of opposition parties, the Guyanese public and indeed the international community in the electoral process had suffered considerable erosion. Serious criticisms had been persistently made, specifically alleging lack of transparency and fraud in the organisation and conduct of overseas, proxy and postal voting. The reforms described briefly below were necessary to restore confidence and to ensure the conduct of free and fair elections in the renewed climate of multi-party democracy.

These reforms were far-reaching, though lacking a properly thought-out conceptual framework. Opposition parties, therefore, could see little practical improvement arising from them. The first reform measure was the Electoral Law (Reform) Act of 1990, which restored to the Elections Commission the responsibility for the compiling of the register of voters. It also transferred to the Commission the functions previously performed by the Ministry responsible for electoral matters under the Representation of the People Act and the National Registration Act. This was a step in the right direction as it gave back to the Elections Commission a measure of control over elections personnel and wide powers over the administration of all electoral matters.

A further measure, the Election Law (Amendment) (No 2) Act, 1990, consolidated the powers of control over the registration process by the Elections Commission. It laid down clear procedures to assist qualified persons to register as voters and political parties to scrutinise the transparency of the process. Enumerators would be appointed to conduct a house-to-house registration of eligible voters in each registration division. The Commissioner of Registration was required to act under the control of the Elections Commission in establishing a central register based on the originals of the registration cards of all electors registered. A divisional register was established for each registration division, using the duplicate registration cards of all the electors registered in that registration district.

The preliminary list to be prepared for each district was required to indicate each elector's full name, address, occupation and the serial number of the registration card. Standard safeguards were also provided for. Thus, the procedures allowed for claims and objections to be filed by electors, and for

corrections, revisions and certification to be made before the final list was settled. This enactment further assisted in the confidence-building process by introducing new procedures to govern the compilation of the non-resident (that is, overseas) electors' roll and by placing its preparation under the control of the Elections Commission. A further enactment, the Election Laws (Amendment) Act, 1991, considerably reduced the scope of the overseas non-resident electors' roll by repealing the relevant provisions of the Representation of the People Act. The new procedures which allowed scrutineers of political parties contesting an election to monitor the registration process until the register was settled, further served to enhance the confidence of the political parties in the reform process itself.

Despite the reforms already implemented up to that point, doubts persisted about the repository of ultimate control over the election machinery. With the passing of the Election Laws (Amendment) Act, 1992, however, the process of transferring control over the election machinery to the Elections Commission and its Chairman was completed in a single stroke. This Act amended the Constitution to empower the Chairman of the Elections Commission to appoint the Chief Election Officer, the Commissioner of National Registration and all other officers and staff necessary for the conduct of the elections. At the same time, the Representation of the People Act was amended to make the Chief Election Officer and the Commissioner of Registration subject to the direction and control of the Chairman of the Elections Commission.

The reforming legislation also dealt with the vexed question of ballot counting procedures. In the light of the widespread local perception that this process had been subverted in the past, the treatment of that issue was of particular importance and interest to us. An amendment to the Representation of the People Act in 1990 provided for the ballots to be counted at the polling stations and for that count to be deemed as the final count unless a recount was requested by noon of the day immediately after polling. A similar procedure was used in the counting of non-resident electors' votes at specially designated polling places. Counting had also to take place in the presence of all those persons, including party agents, who were entitled to be present in the polling place. At the close of the count, the Presiding Officer was required to prepare a certified statement of the poll for distribution to stipulated persons, including the Returning Officer, duly appointed agents of political parties and the Chief Election Officer. The counting procedure was thus considerably improved.

In the calculation and allocation of the number of seats to each list of candidates, the Chief Election Officer was required to take account of the votes of the disciplined forces, the non-resident electors and the electors on the official list. In terms of confidence-building measures, we took note of the enactment which permitted international observers to monitor the elections.

The reform process was accompanied throughout 1991-92 by other government measures, such as constitutional amendments, proclamations and a steady stream of election regulations and directives, some of which, we believe, merit a brief mention here. The Constitution was amended in 1991 to extend the life of the Parliament beyond the period of five years in order to facilitate the completion of the official list and the non-resident electors' roll.

A second constitutional amendment that year reconstituted the Elections Commission. Under it, the Chairman of the Commission was appointed by the President and had to be a person who held office as a Judge of a Court having unlimited jurisdiction in civil or criminal matters in some part of the Commonwealth, or a court having jurisdiction in appeals from any such court; or a person who was qualified to be appointed as any such judge, or who was otherwise a fit and proper person. In addition to the Chairman, there were to be six members of the Commission, three of whom were to be appointed by the President, acting in his own deliberate judgment, and three others to be appointed by the President, acting on the advice of the minority leader, tendered after consultation with other opposition parties. The procedure for removal of the Chairman and members of the Commission was provided for in the enactment which was a transitional measure (expiring three months from the date of the election). It also terminated the appointments of the persons who held the offices of Chairman and other members of the Elections Commission immediately before the date on which that enactment took effect.

In 1992, another constitutional amendment was passed to deal with a number of issues arising from the recall of Parliament and to smooth the path of implementing the reform measures. One such issue related to the appointment of all the election officers from the Chief Election Officer to the polling clerks and the conferment solely on the Chairman of the Elections Commission the power to appoint, remove and discipline such officers.

As it turned out, halfway through the programme of electoral reform measures outlined above, the election date was set for 16 December 1991. But the elections had to be postponed because the Elections Commission, as then constituted, was unable to compile a proper register. Parliament, which had already been dissolved, had thus to be recalled in order to approve the postponement of the elections, and once recalled was in a position to further accelerate the process of reform. It passed the Election Laws (Amendment) Act, 1992, requiring the Commissioner of Registration to prepare a new 'preliminary' voters' list and deemed the preliminary list which would have been used for the December 1991 elections to be a 'provisional' preliminary list (see Chapter 4 below).

In discharging our mandate to observe every relevant aspect of the organisation and conduct of the elections in accordance with the laws of Guyana, we were at the same time witnessing the interpretation and application of the recent enactments which created the electoral framework whose purpose was to deliver free and fair elections. We formed the view that the new legislative scheme, as a whole, considerably enhanced the renewal of confidence by injecting a substantial measure of transparency into many of the election processes. Although the law empowered the President, in his own deliberate judgment, to appoint the Chairman of the Elections Commission, it was noted that the present holder of that office, Mr Rudy Collins, was appointed from a list of names submitted to the President by the opposition parties. We formed the view that the new legislative and procedural electoral framework had the potential to deliver free and fair elections in Guyana.