Reducing Ethnic Conflict in Guyana through Political Reform

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Abstract

This article discusses using constitutional reform to reduce ethnic conflict in Guyana. I start by exploring the determinants of ethnic conflict. I next examine Guyana's ethnopolitical history to determine what factors led to political alignment on ethnic lines and then evaluate the effect of the existing political institutions on ethnic conflict. I close with a discussion on constitutional reform in which I consider a mix of consociationalist, integrative, and power-constraining mechanisms that may be effective in reducing ethnic conflict in Guyana's ethnopolitical circumstances.

Keywords: Guyana, race, ethnic conflict, political power, constitutional reform.

A The Ethnopolitical Landscape

Every legitimate election in Guyana since 1957 has been an ethnic census. Six were accompanied by violent protests and ethnic tension. In a population of less than 800,000, more than 300 people have been killed and 15,000 displaced[1] in politically driven ethnic clashes within the last 60 years. The Constitution states that the objective of the political system is to establish an inclusionary democracy.[2] There is a disconnect between that objective and reality. Politics in Guyana is "a zero-sum ethnic struggle"[3] between two political parties for power.

Does that struggle between two race-based political parties indicate that ethnic conflict in Guyana is exacerbated by the political system? And if so, can political reform reduce the conflict? This article assesses the impact of the existing political structure on ethnic conflict and considers reforms to the political system that may help remove ethnicity from the centre of national politics. While there is much talk of power-sharing as a panacea, there has not been any assessment of the relative suitability of consociationalist power-sharing, integrative majoritarian power-sharing, or power-constraining mechanisms, in the context of Guyana's prior and current ethnopolitical circumstances. This is a

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1 Odeen Ishmael, *The Guyana Story: From Earliest Times to Independence* (Xlibris 2013) Ch 169-170.

2 Constitution of the Co-operative Republic of Guyana 1:01, Art. 13.

3 Ken Danns, 'The Evolution of National Identity and Development in Guyana' *Guyana Chronicle* (Georgetown 15 May 2017) 3.

crucial step in any effective constitutional reform aimed at reducing ethnic conflict.

B Determinants of Ethnic Conflict

Since World War II there have been 240 civil conflicts, half of which were ethnic, as compared to 22 inter-state conflicts.[4] Ethnic wars are those involving conflicts where challengers seek a change in their status,[5] fighting for "ethnonational self-determination, a more favourable ethnic balance of power in government, ethno-regional autonomy, the end of ethnic and racial discrimination, language and other cultural rights".[6] Theories of ethnic conflict examine the role of ethnicity in the origins, persistence and course of conflict. They ask whether ethnic groups form because of a natural impulse to favour kin over stranger, or whether they form merely because it is easier to identify, trust, and reward people who look and sound like us. They ask whether tension stems from different ethnic groups inhabiting one space, or whether ethnic groups form to mobilize in response to tension.

Primordialism conceives of ethnicity as ascribed, inherited, or assigned by birth and therefore fixed. Group members share biological and cultural commonalities.[7] That common kinship or culture persists across generations, and memories and myths of ancient conflict between the groups become internalized in the culture, and leads to an 'us versus them' mindset. In Guyana, Blacks and Indians do not have ancient fights, and there are commonalities in language, dress, occupations, celebrations, and cuisine; so why is it 'us versus them' at elections?

Instrumentalists say that ethnicity has little value except as a strategic tool for gaining resources.[8] Ambitious political leaders use it as a device to unify and mobilize populations to reach political goals – autonomy, socio-economic resources, power. All humans have the same wants (security, money, jobs, scholarships, prestige), and the elites, in the fight amongst themselves for those allegedly scarce resources, mobilize their foot-soldier masses by telling them that physical and cultural features (skin colour, religion, language) determine who has access to those resources. But why would the permanently and universally poor masses of all ethnicities fight for gains for elites? Constructivists explain.

Constructivists view ethnicity as a socially constructed or created identity. Ethnicity emerges in response to structural conditions in society. The conditions

4 Joan Esteban, Debraj Ray and Laura Mayoral, 'Ethnicity and Conflict: Theory and Facts' (2012) 336 Science 858.

5 Nicholas Sambanis, 'Do Ethnic and Nonethnic Civil Wars have the Same Causes? A Theoretical and Empirical Enquiry (Part 1)' (2001) 45(3) Journal of Conflict Resolution 259.

6 Andreas Wimmer, Lars-Erik Cederman and Brian Min, 'Ethnic Politics and Armed Conflict. A Configurational Analysis of a New Global Dataset' (2009) 74(2) American Sociological Review 316-337.

7 Philip Q. Yang, *Ethnic Studies: Issues and Approaches* (State University of New York Press 2000) 42-43.

8 *Ibid.*, 46.

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in which we live give rise to our culture, and eventually, to a cultural or ethnic group – like the 'Dalits' or oppressed Hindus, a banding together of various low castes in response to systemic discrimination. Another view is that ethnicity is foisted upon us by ascription (other groups and institutions assigning us to a particular ethnic group) and our shared adversity (discrimination, hostility and hardship) unites us in creating a group identity and solidarity. Structural forces create and sustain ethnicity.[9] Some groups gain a head start competing for rewards, and perceived unfairness makes the cultural differences between haves and have-nots starker. Some may be envied, resented, and feared by others, and both the haves and have-nots can be mobilized to protect their interests, perhaps more easily and more violently when they look and act differently.[10]

Individually none of these concepts of identity explain how we come to be in an ethnic group, but collectively they suggest that in identifying oneself as a member of a particular group, birth is a factor, as is ascription and adversity, and the question of what group one belongs to is important mainly in a political context, one of rights and access. Modern definitions of 'ethnic groups' recognize and convey this complexity – an ethnic unit has "common provenance, recruitment primarily through kinship, and a notion of distinctiveness" and "embraces groups differentiated by colour, language, and religion; it covers 'tribes', 'races', 'nationalities', and 'castes'".[11]

From a primordial perspective, ethnic conflict may be the result of persisting ancient enmities,[12] old events informing an intense fear of domination, expulsion, or extinction by another group. From an instrumentalist perspective, ethnic conflict may be manufactured by political elites for political ends – whether self-governance, respect for the group's identity and culture, or to gain access or restrict others' access to economic or political power. From a constructivist perspective, ethnic conflict may arise because of socio-political discrimination disenfranchising a segment of society, which highlights their commonalities and unites them in grievances. Because ascription foists ethnicity upon them, everyone sharing those commonalities becomes involved in the conflict whether they wish it or not.

Although they are all pertinent, no single perspective explains why ethnic conflict occurs in some heterogenous societies and not others, or at one time but not another, or why some groups but not others are motivated to commit atrocities like genocide or mass rape. Collectively they suggest that fears of domination, expulsion, or extinction may be exacerbated by structural conditions in the society and those fears may be encouraged so as to mobilize groups to fight for political power, and in some conditions, commit atrocities in that fight. How do we forecast where, when, and in what form ethnic conflict will arise?

9 *Ibid.*, 44-45.

10 Donald L. Horowitz, *The Dimensions of Ethnic Conflict* (2nd ed, University of California Press 2000) 102.

11 *Ibid.*, 53.

12 *Ibid.*, 98.

Quantitative research to date has used the Ethnolinguistic Fractionalization (ELF)[13] dataset to examine whether countries with many ethnic groups are more prone to conflict, the Minorities at Risk (MAR)[14] dataset to see in what economic, social, and political conditions minority groups are likely to rebel, and the Ethnic Power Relations (EPR)[15] dataset to see how the balance of political power between ethnic groups in a country affects the likelihood of conflict. None of those datasets is exhaustive. ELF's data is from 1964 and may be misleading because it measures diversity on the basis of language only. MAR's data focuses on the grievances and conditions of minority groups, and excludes majority groups subject to minority rule.[16] EPR measures the political access of all groups, but may lump groups together on the basis of political coalitions even though coalitions may be temporary and discriminate against each other.[17] Each dataset, however, provides another category of information, and collectively help explain what triggers ethnic conflict and causes it to persist. The research across decades using those datasets highlights common factors in ethnic conflict. It confirms primordial, structural and instrumental factors at work in ethnic conflict and identifies circumstances in which ethnic conflict is likely to be severe.

Heterogeneity is a factor, but a high level of heterogeneity does not mean a higher chance of conflict or more serious conflict. In fact multiple cleavages may keep the conflict low or at least less centralized. Research in highly fractionalized India suggests that multiple ethnic cleavages can reduce ethnic conflict because it forces political parties to embrace moderate policies to appeal to multiple ethnic groups.[18] High heterogeneity and low democracy, where one of many groups dominate, indicate an identity war where a group may fight the government seeking a change in status.[19] But in societies with many small groups, none may have enough of a support base to field a large rebel group capable of challenging a government.

Low fractionalization may be more dangerous – "a system with only two ethnic parties, one per group, is especially conflict prone"[20] – because then the fight for power is often at the centre of politics and the "the position of one party is the negation of the other".[21] A completely polarized society, divided into two

13 Philip G. Roeder, 'Ethnolinguistic Fractionalization (ELF) Indices, 1961 and 1985' (2001) http://pages.ucsd.edu/~proeder/elf.htm (accessed 25 May 2020).

14 Minorities at Risk Project, 'Minorities at Risk Dataset' (2009) www.mar.umd.edu/ (accessed 27 July 2020).

15 Manuel Vogt, Nils-Christian Bormann, Seraina Rüegger, Lars-Erik Cederman, Philipp Hunziker and Luc Girardin, 'Integrating Data on Ethnicity, Geography, and Conflict: The Ethnic Power Relations Data Set Family' (2015) 59(7) Journal of Conflict Resolution 1327.

16 *Ibid.*, 4.

17 Brenton D Peterson, 'The Ethnic Power Relations Data: A Critique' (2016) www.researchgate.net/publication/315705392_The_Ethnic_Power_Relations_Data_A_Critique (accessed 27 July 2020).

18 Kanchan Chandra, 'Ethnic Parties and Democratic Stability' (2005) 3(2) Perspectives on Politics 235.

19 Sambanis (note 5).

20 Horowitz (note 10) 360.

21 *Ibid.*, 348.

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equal groups, has a risk of civil war around six times higher than a homogenous society.[22]

Grievances are a major factor. Poverty is strongly associated with civil war.[23] The lower the level of per capita income,[24] and the higher the infant mortality level,[25] the more likely is civil war, irrespective of the level of heterogeneity. The richest countries are very unlikely to have civil war.

Hardship alone does not motivate protest – frustrated expectations and horizontal inequality do. Civil war is more likely in a country where a particular group is economically, politically, or culturally disadvantaged relative to other groups. Horizontal inequality – whether political (limited access to central decision-making in the state) or economic (unequal distribution of jobs, contracts, scholarships, wealth among households), or cultural (language rights, holidays) – creates grievances when the distribution is viewed through the lens of group comparison. This makes it easy to mobilize groups into collective action.[26] High levels of state-led discrimination triples the chance of civil war.[27]

The opportunity to act on grievances is also a factor. Civil unrest is more likely where aggrieved groups have the opportunity and capacity to wage war. It is more likely where the disaffected are a large group (can recruit fighters), concentrated in a geographical area they control (have a safe haven), in remote and rough terrain distant from the capital (can evade capture and engage in guerrilla warfare), where they have access to funding from the country's natural resources (like oil and diamonds in their territory) or from ethnic kin in neighbouring countries. It is more likely in places where the central government's reach is weak and it cannot successfully oppress groups in remote areas, or where the government relies mainly on resource income and does not maintain a bureaucratic tax base that facilitates tracing rebel funding. It is more likely where the country is in a 'bad neighbourhood' – where there is ethnic kin just across the border to offer local rebels support, where there is civil conflict next door and their refugees and fighters spill over, or where neighbouring governments fund and provoke civil conflict in a weak state for their own political, economic, or ideological gain.[28]

22 Paul Collier, V. L. Elliott, Håvard Hegre, Anke Hoeffler, Marta Reynal-Querol and Nicholas Sambanis, *Breaking the Conflict Trap: Civil War and Development Policy* (World Bank and Oxford University Press 2003) 58.

23 *Ibid.*, 40, 123.

24 James D. Faeron and David D. Laitin, 'Ethnicity, Insurgency and Civil War' (2003) 97(1) American Political Science Review 75, 82.

25 Jack A. Goldstone, Robert H. Bates, David L. Epstein, Ted Robert Gurr, Michael B. Lustik, Monty G. Marshall, Jay Ulfelder and Mark Woodward, 'A Global Model for Forecasting Political Instability' (2010) 54(1) American Journal of Political Science 190, 197.

26 Lars-Erik Cederman, Nils B. Weidmann and Kristian Skrede Gleditsch, 'Horizontal Inequalities and Ethno-nationalist Civil War' (2011) 105(3) American Political Science Review 478, 481.

27 Goldstone *et al.* (note 25) 190-208.

28 Elaine K. Denny and Barbara F. Walter, 'Ethnicity and Civil War' (2014) 51(2) Journal of Peace Research 199, Faeron (note 24), Goldstone *et al.* (note 25), Collier *et al.* (note 22).

Another major factor is power relations between ethnic groups. All of the 21st-century quantitative studies identify political structure as a determinant of ethnic civil unrest. Ethnic conflict is often about who has access to and controls state power. Armed rebellions are more likely in states which exclude ethnic groups that are a large portion of the population; secessions are more likely in newer and less cohesive states; and violent infighting arises in segmented states where a large number of competing elites share power.[29]

An important predictor in the severity of conflict is the role of the state. Does the state stand above conflicts and mediate them, or does one group own the state and use its powers to the detriment of other groups?[30] There are political grievance wars where there is a lack of democracy – high heterogeneity and low democracy indicates civil war onset.[31] Political institutions are predictors of likely conflict.

> Full democracies and autocracies are not associated with instability. Partial autocracies and partial democracies without factionalism somewhat prone to instability and partial democracies with factionalism (polarised politics) are exceptionally prone to instability. Polarized politics coupled with a weak democracy results in instability.[32]

Weak democracies are more unstable because they are not autocratic enough to suppress rebellion nor democratic enough to prevent grievance. Autocratic states use state machinery to repress dissent. In strong democracies, grievances can be addressed peacefully through democratic institutions so there is less support for rebellion in the masses, and political elites will support regular elections that give them a voice in the political institutions. In weak democracies, the institutions do not address grievances, predatory elites capture resources, and the party in power may use the government to discriminate against non-supporting groups, but unlike autocrats, they generally do not use the security forces to suppress dissent.[33]

As income levels rise, conflict is more dependent on political structure than on poverty, and even moderate political change can cause conflict. Political conflict is likely to be mere protest in a democracy but rise up to rebellion in a state moving from democracy to autocracy or vice versa.[34] To avoid conflict, political institutions must be stable and ensure "a wide distribution of power and no permanent exclusions of actors from the political system".[35]

29 Wimmer *et al.* (note 6).
30 Timothy Sisk, *Power Sharing and International Mediation in Ethnic Conflicts* (Carnegie Corporation of New York 1996).
31 Sambanis (note 5).
32 Goldstone *et al.* (note 25) 198.
33 Madeleine Albright and Medhi Jomaa, 'Liberal Democracy and the Path to Peace and Security' Community of Democracies Report (Brookings 2017) 4-5.
34 Goldstone *et al.* (note 25).
35 Collier *et al.* (note 22) 123.

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In summary, the literature reveals that there is likely a mix of primordial, constructivist and instrumental factors at work in ethnic conflict. Structural conditions in a society that appear to favour one group above another may exacerbate fears of domination, expulsion, or extinction and those fears may be encouraged so as to mobilize groups to fight for, or to keep, political power, and in some conditions, commit atrocities in that fight. The fight for political power may become an armed struggle depending on the human resources, economic and geographic opportunities of the rebelling group, and their status in the political structure of the country. Ethnic conflict that engulfs the whole country is more likely where the society is heterogenous, the ethnic groups are few, of equal size, and polarized, there is horizontal inequality, a weak democracy, and the country is in a 'bad neighbourhood'. Inequality and democracy are two factors that may be addressed through constitutional reform. The current democratic ideal is that

> every person is entitled to live their life in dignity and free from fear, with a fair share in their country's resources and an equal say in how they are governed brought about through peaceful dialogue ... and to bring about political and social renewal without convulsions[36]

What makes a strong democracy? The idea of the mechanics of a democracy – 'rule by the people' – has changed over time. In 5th century BC Athens, it was rule by some of the people – the adult male citizens (not the women and slaves) voting by a show of hands at the assembly. In the 1960s, it was even more restricted. There was not universal suffrage and none of the masses were in the assembly.

> The role of the people is to produce a government ... The democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the peoples vote.[37]

In the 1970s, the idea still was that officials make policies without citizen input, but there was universal suffrage and citizens chose the officials in a competitive process. Robert Dahl's immensely authoritative treatise said that for a democracy to exist there must be: 1) government policy made by elected officials; 2) frequent free and fair elections; 3) universal adult suffrage; 4) universal right to stand as a candidate; 5) freedom of speech; 6) guaranteed access to alternative sources of information; 7) freedom of association.[38]

In the 21st century, mere competition to be elected through informed and universal voting is not enough. A rule by the people – a democracy – exists where there is freedom, the rule of law, vertical accountability, responsiveness, equality,

36 David Beetham, Edzia Carvalho, Todd Landman and Stuart Weir, *Assessing the Quality of Democracy: A Practical Guide* (International IDEA 2008) 17.

37 Joseph Schumpeter, *Capitalism, Socialism and Democracy* (New York: Harper Torchbooks 1962) 269.

38 Robert A. Dahl, *Polyarchy: Participation and Opposition* (Yale University Press, 1971) 8.

participation, competition and horizontal accountability.[39] There are projects that measure the levels of democracy in political regimes. They measure on a sliding scale from closed autocracy (where a ruler is not accountable to the people through free elections or otherwise) through electoral autocracy, electoral democracy, and the highest, liberal democracy.[40] The Polity 5[41] dataset categorizes regimes as autocracies, anocracies (mixed regimes), and democracies. The Freedom in the World[42] project categorizes countries as free, partly free and not free. They measure this based on the extent of political rights, civil liberties and constraints on the executive.

An electoral democracy satisfies Dahl's criteria – it exists if there is universal suffrage, elected officials, clean elections, freedom of association, freedom of expression, and alternative sources of information. A liberal democracy requires those base standards and also guards against a 'tyranny of the majority'. It requires equality before the law and individual liberty (fundamental rights and access to justice), judicial constraints on the executive (executive respects constitution, compliance with judiciary, compliance with High Court, High Court independence, lower court independence), legislative constraints on the executive (legislature questions officials in practice, executive oversight, legislature investigates in practice, legislature includes opposition parties).[43]

Guyana, in 2013, was ranked a basic democracy by Polity 5. Freedom House ranked Guyana as 'free' and high in civil liberties, but low in political rights. The Economist Intelligence Unit in 2019 ranks Guyana as a 'flawed democracy' high on civil liberties, but low on political culture and governance.[44] For democracy, there must not only be a statement that people are free, but the means of realizing and protecting that freedom through a functioning government subject to a separation of powers. How best to grow a quality democracy in a heterogenous polarized society? One approach is to reduce political inequality.

In heterogenous societies where ethnic tensions exist, the aim is to limit conflict to protest. This requires a democratic system where:

> (1) electoral winners must not have incentives (and opportunities) to abuse their power; (2) electoral losers must not have incentives to renege on their democratic commitments; and (3) third parties must not suffer

39 Larry Diamond and Leonardo Morlino, 'The Quality of Democracy: An Overview' (2004) 15(4) Journal of Democracy 20.

40 Ann Luhrman, Marcus Tanenburg, Staffan Lindberg, 'Regimes of the World (RoW): Opening New Avenues for the Comparative Study of Political Regimes' (2018) 6(1) 60-77, 61 Politics and Governance.

41 Monty Marshal and Ted Gurr, 'Polity IV Project, Political Regime Characteristics and Transitions, 1800-2013' www.systemicpeace.org/polity/polity4x.htm (accessed 27 July 2020).

42 Freedom House, 'Freedom in the World Report 2020' https://freedomhouse.org/countries/freedom-world/scores (accessed 7 July 2020).

43 Varieties of Democracy Institute, 'Democracy Report 2020' 32-34 https://www.v-dem.net/media/filer_public/de/39/de39af54-0bc5-4421-89ae-fb20dcc53dba/democracy_report.pdf) (accessed 11 March 2021).

44 The Economist Intelligence Unit, 'Democracy Index 2019' www.eiu.com/topic/democracy-index (accessed 6 May 2020).

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discrimination or exclusion, denial of basic rights, or other deprivations that undermine their regime support.[45]

The idea is to encourage elite players to buy into, and stay in, the political structure, by having majorities and minorities share state power. The two main power-sharing formulas are consociationalism and integrative majoritarianism.

Consociationalism, espoused by Arend Lipjhart, sees democracy not as government by and for the majority of the people, but government by and for as many people as possible. Instead of concentrating power in a plurality, or a bare majority, consociationalism suggests making it consensus based on four basic mechanisms – grand coalitions, mutual veto, proportionality and segmented authority. In a grand coalition, political leaders from all ethnic units jointly govern the country through a joint cabinet or advisory council, and segmented authority is achieved by giving groups as much autonomy over their internal affairs as possible. All groups have security by way of a minority veto to prevent decisions that hurt them, and wide participation is ensured by mandating proportionality in political representation, civil service appointments and resource allocation.[46]

A less ethnic approach is integrative majoritarianism, recommended by Donald L. Horowitz. This encourages ethnic elites to appeal to the broader electorate, seeking political integration, rather than power-sharing at the executive level. He suggests that ethnic conflict may be reduced by (1) dispersing points of power – at the regional level or among institutions at the centre so that the capture of a single office will not suffice to gain complete power for any ethnic group; (2) emphasizing intra-ethnic conflict itself to reduce inter-ethnic conflict by creating reserved offices or dispersing of power to regions so the fight becomes less centralized and less ethnic; (3) creating incentives for inter-ethnic cooperation through preferential voting or list system PR in heterogenous multi-member constituencies;[47] (4) encouraging alignments based on non-ethnic interests like class or territory; and (5) reducing disparities among groups so dissatisfaction declines.[48]

Both of those approaches advocate dispersal of power, but differ in how they create incentives for inter-ethnic cooperation. Consociationalism ensures every ethnic group is represented. Integrated majoritarianism seeks to have all ethnic groups represented without recourse to ethnic quotas. One is ethnic power-sharing, one is non-ethnic power-sharing.

The drawback of segmented authority, and of proportional representation in jobs and spending, is that it entrenches ethnic divisions, and by 'rewarding' contentious groups with guaranteed resources, it may encourage elite leaders to

45 Benjamin A.T. Graham, Michael Miller and Kaare Strom, 'Safeguarding Democracy: Powersharing and Democratic Survival' (2017) 111(4) American Political Science Review 686.

46 Arend Lijphart, 'Consociation and Federation: Conceptual and Empirical Links' (1979) 12(3) Canadian Journal of Political Science 499, 500.

47 Horowitz (note 10) 647.

48 *Ibid.*, 598-599.

foment trouble to bolster their own power in the coalition. Another criticism is that it may not work in countries with groups that are markedly different and intensely hostile. Horowitz suggests that the reason consociationalism works in Switzerland, Belgium, Austria, and the Netherlands may be that those countries have groups with moderate cleavages and leaders, as opposed to the formula creating moderate relationships. On the other hand, the integrative approach may not work where ethnic enmity is entrenched. It also requires decent leaders who agree to decentralize power, inspire moderation and can represent across groups, and are willing to work to court votes outside their ethnic group.

A recent quantitative study analysed the efficacy of these two models in limiting ethnic conflict. Graham, Miller, and Strøm (2017) examined 180 countries, both autocracies and democracies, with and without recent civil conflict, and found that countries with power-constraining mechanisms – including independent judiciaries, civilian control of the armed forces, and strong protections of civil rights and liberties – were the most peaceful democracies; that countries recovering from civil war may benefit from inclusive power-sharing; and that there was no evidence that dispersive power-sharing benefitted democracy, but that it was disadvantageous in states recovering from civil war.[49] They defined inclusive power-sharing like consociationalism – inclusive coalitions, inclusiveness in executive, civil service, and armed forces appointments, and minority veto; dispersive power-sharing as decentralization where the regional authority is accountable to its constituency with subnational elections and controls its security forces and education; and constraining institutions as guaranteeing religious freedom, civilian control of the armed forces, and independent and non-partisan judiciaries, elections commissions, and regulatory agencies.

There is no one-size-fits-all solution to avoid ethnic conflict. Whether inclusive (consociational) or dispersive (integrative majoritarian) mechanisms will be helpful depends on the nature of prior and existing ethnic conflict in the country. Above all, ethnic violence in a democratic society is least likely where rulers are effectively constrained in the use of their powers.

C Guyana's Ethnopolitical Circumstances

The literature reveals that the political, economic and social conditions in a heterogeneous society dictate whether there is ethnic conflict and whether that conflict will be limited to protest or become an armed struggle that engulfs the entire country. Ethnic conflict that engulfs the whole country is more likely where the society is heterogenous, the ethnic groups are few, of equal size, and polarized, there is poverty and horizontal inequality, there is a weak democracy, and the country is in a bad neighbourhood.

Measured within that framework, Guyana's existing political system within its ethnopolitical circumstances, is not conducive to ethnic harmony. Guyana is

49 Graham *et al.* (note 45).

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heterogeneous and politically polarized on ethnic lines. The populace is relatively poor and its ethnic groups have grievances. It is a weak democracy, with a constitution that does not limit executive power. Electoral losers do not trust or support the winner's regime within that system and this leads to ethnic conflict at elections. Guyana's population of 746,955 people by race is 39.8% Indian, 29.2% Black, 19.9% mixed, 10.5% Amerindian, 0.06% white, 0.18% Chinese, and 0.26% Portuguese. By religion, 24.8% of these people are Hindu, 6.77% percent Muslim and 37% Christian.[50] Religious affiliations cut across race. The ethnic groups mingle, have adopted each other's cuisine and celebrate each other's holidays. "There is overlap between ethnic and cultural identities of the Guyanese people ... and considerable assimilation and sharing among the various cultures."[51]

Voting at elections tells a different story. "In Guyana ... the most salient dimension of political cleavage is race."[52] It is "seemingly locked in the throes of zero sum ethnic struggle ... historically fuelled by the two major political parties".[53] In the 1953 elections, the first of universal suffrage and elected representatives, the People's Progressive Party (PPP) won with 51% of the vote.[54] It was a multi-ethnic working class party. That party then split into two ethnically aligned factions, the Indian-supported 'Jaganites' (which became the PPP/C), and the Black-supported 'Burnhamites' (which became the People's National Congress (PNC), and later A Partnership for National Unity (APNU)). Since 1957, elections have been a battle between the successors of those two factions for government, and every legitimate election mimicked the ethnic census.

In 1960, the Indians were 47.8% of the population, Blacks 32.8% and mixed people 12%.[55] In the elections from 1957 through 1964, the Indian-supported PPP (Jaganites) got 47.50%, 43% and 45.8% of the vote. The percentage of votes it received was always within 5% of the size of the Indian population.

The 2002 census measured the population as 43.5% Indian, 30.2% Black, 16.7% mixed and 9.2% Amerindian.[56] In the elections from 1992 through to 2020, the Indian-supported PPP/Civic coalition got between 48% and 54% of the vote. The Black-supported PNC, and its successor APNU, got between 34% and 50% of the vote.[57] It is believed that the majority of the Indians and Amerindians

50 Bureau of Statistics Guyana, *2012 Census* (2016) 5.

51 Ken Danns, 'The Impact of Identity, Ethnicity and Class on Guyana's Strategic Culture' (2014) 4(111) American International Journal of Contemporary Research 1.

52 Percy C. Hintzen, *The Costs of Regime Survival, Racial Mobilization, Elite Domination and Control of the State in Guyana and Trinidad* (University Press Cambridge 1989) 20-21.

53 Danns, 'Evolution' (note 3) 3.

54 Caribbean Elections, 'Guyana Election Centre' www.caribbeanelections.com/elections/gy_elections.asp (accessed 28 July 2020).

55 Peter Newman, *British Guiana Problems of Cohesion in an Immigrant Society* (Oxford University Press, 1964) 45.

56 Bureau of Statistics of Guyana, 2002 Census (2007).

57 Caribbean Elections (note 54).

habitually voted for PPP and that the majority of the Blacks and many of the mixed population voted for, PNC.[58]

Percentage-wise, the voting patterns for each of the ethnically associated parties closely mimics the ethnic census. The inference is that the population is politically polarized on ethnic lines. The structure of the society – including the ethnic composition of the population, the distribution of the groups across constituencies and occupations, and the narrow margins of political victory – together with the actions of the political elites in government and in opposition have led to political polarization.

Guyana was a Dutch, then a British colony with a sugar economy. The indigenous peoples (the Amerindians) proved unsuited for enslaved labour in the cane fields, so the colonizers imported enslaved Africans for the task. When slavery was abolished in the 1880s, the colonizers tried using Portuguese and Chinese imported labour, before settling on importing East Indian labour on indentureship. Importing labour for the sugar plantations created a heterogeneous society, which in 1952 numbered an estimated 450,000 persons, of whom 4% were the indigenous peoples (the Amerindians), and 45% were Indian, 36% Black, 11% mixed, and 4% European and Chinese.[59] It was a colonially ranked society with whites at the apex with all the political and economic power, the Portuguese and Chinese in commerce, educated Blacks filling the lower civil service, less-educated Blacks the urban labour force, the Indians engaged in agriculture, and the Amerindians in the hinterlands outside of the formal economy.

Conquest and colonial subjugation lasted from 1600 to 1953. The first political fight for local representation was led by the PPP a multi-ethnic coalition of political elites, leadership of which was a constant contest between an Indian dentist, Cheddi Jagan, and a Black lawyer, Forbes Burnham. It was a fight against the British colonizers for representation and independence. It was not a middle-class fight; the "urban light-skinned middle class" was in favour of the status quo.[60] Those PPP leaders relied on support from the unionized masses in the Guyana Industrial Workers Union (GIWU), comprising rural Indian sugar workers and the British Guiana Labour Union (BGLU), comprising mainly Black urban labourers and dockworkers of whom Burnham was president.

In 1953, universal adult suffrage was introduced, with an elected house of Assembly subject to a British governor with veto powers.[61] The multi-ethnic PPP won and formed the government, but complained that their "government was in office, but not in power".[62] To override the governor's veto power, the PPP government mobilized its mass support.[63] Their sugar workers' union, GIWU,

58 Odeen Ishmael, 'PPP Suffers Setback in Guyana Elections' Guyana Stabroek News (8 October 2015).

59 Robertson Commission, 'Report of the British Guiana Constitutional Commission 1954' www.guyana.org/govt/robertson_report.html (accessed 28 July 2020), Para. 22.

60 Newman (note 55) 77.

61 Hintzen (note 52) 31-34.

62 Danns, 'Impact' (note 51) 69.

63 Hintzen (note 52) 36.

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went on strike for 23 days, and the PPP members of the Assembly tried to repeal legislation that prevented strikes in essential services,[64] and to pass labour legislation that would give the government powers in the internal conduct of trade unions.[65] Within six months, the British had suspended the Constitution, and reverted to colonial rule on the grounds that the PPP ministers "fomented strikes to hasten political change of a communist nature"[66] and would have done away with 'democracy'.[67]

The multi-ethnic nationalist movement then fragmented, and in 1955 the PPP split into two factions under Jagan and Burnham. The split may have occurred for constructivist reasons because the PPP was "never a homogenous unit but a coalition ... to spearhead the final attack on imperial power",[68] and imperial power had made it clear no communist party will lead, or for instrumental reasons, if, having lost the fight for leadership of the party to Jagan,[69] Burnham decided his fastest route to personal power was to abandon communism and embrace a welfare state more palatable to the British.[70]

Whatever the driver, the factions became ethnically polarized and in the grassroots campaigns[71] appealed to their respective ethnic groups as a support base. The Black radicals resigned from Jagan's faction in protest of the racial rhetoric.[72] The Black and Indian "relationships are strained; they present an outward appearance which masks feelings of suspicion and distrust".[73]

Limited self-rule was reintroduced in 1957 and internal self-rule in 1961. The elections in 1957, 1961 and 1964 were an ethnic census. Race had become politically salient because of constructive and instrumental factors, and that structure gave birth to what quickly became 'primordial' type enmities.

The society was a new society constructed on the importation of Black and Indian slave labour. It was a ranked society, at the head of which was the white colonizer, whose exit still left a ranked system, and who had made it clear that it would not allow an unranked communist system to be implemented – there would be no independence for communists. The politically assertive Blacks and Indians who relied on a cooperating Black/Indian labour class support with communist leanings were now forcibly confined to fulfilling their ambitions in a ranked system. The most politically assertive individuals were an Indian dentist and a Black lawyer, who were engaged since 1953 in a struggle for leadership of their multi-ethnic party.

The occupations were disproportionately colourized, and because of the location of the jobs, the settlements and therefore constituencies, were

64 Robertson Commission (note 59) Para. 168.
65 *Ibid.*, Para 195; Ishmael (note 1) ch 130.
66 Newman (note 55) 80.
67 Robertson Commission (note 59).
68 Newman (note 55) 82.
69 Robertson Commission (note 59) Para. 113.
70 Hintzen (note 52) 48.
71 Newman (note 55) 85.
72 Hintzen (note 52) 48.
73 Robertson Commission (note 59) Para. 24.

colourized.[74] After emancipation, some Blacks stayed in agriculture but did not succeed in large-scale farming. They did not control the irrigation system which dictates farming success on the coastline.[75] They lived on, or near, the sugar plantations where they continued to work, as was intended by the white planters who controlled irrigation. Many Blacks became skilled and semi-skilled urban labourers. Educated Blacks became teachers, or joined the lower ranks of the public service, the police service, and the military, professions in which they managed to progress socially and economically,[76] and in which they remain disproportionately represented today.[77] They lived in the towns – 70% of the urban population was Black or mixed.[78] Indians, after their indenture period, remained largely in agriculture, some as labourers on the sugar plantation. When sugar prices fell and sugar labour was less needed, many took up rice farming privately in villages away from the plantations. Newly educated Indians (often children of the private rice farmers) engaged in business and independent professions where they were most likely to progress, as opposed to the civil service.[79]

This impacted how the groups associated with each other and their political mobilization. Because occupations were colourized, the trades unions were colourized.[80] The BGLU represented Black urban proletarian labour, and GIWU represented predominantly Indian sugar estate field workers. These disproportionately colourized unions together formed the mass political support of the original PPP, and after the party split, individually for each of the leaders, aligning on the basis of ethnicity.

Rank in the local society was also an issue affected by occupation and settlement. As slaves, Blacks were not allowed to practice their culture. As free people, they were educated by missionaries and sought work in towns. Blacks assimilated European culture and they progressed in the civil service and gained rank in urban society. The more recently imported Indians were not forced to assimilate and when faced with the scorn of the middle-class whites, near-whites, and mixed people for their "coolie culture"[81] they responded by embracing traditional Indian customs.[82]

There was also a perception of scarcity. The population of 297,691, in 1920, had risen to 560,406 by 1960.[83] Occupation lines were blurring and unemployment in the capital city in 1956 was at 11%.[84] Indians were leaving

74 Hintzen (note 52) 38, 85-87.
75 Newman (note 55) ch 2.
76 Hintzen (note 52) 85-87.
77 Gay McDougall, 'Report of the Independent Expert on Minority Issues: Mission to Guyana' (2009) UN Human Rights Council 8 www.refworld.org/docid/49bfa6ec2.html (accessed 27 May 2020).
78 Newman (note 55) 44.
79 Hintzen (note 52) 37.
80 *Ibid.*, 38, 85-87.
81 Newman (note 55) 86.
82 *Ibid.*, 50.
83 *Ibid.*, 40.
84 *Ibid.*, 65.

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agriculture and were now taking up urban and civil service jobs, previously a Black-dominated field,[85] arousing the fears of the Black urban population.[86]

The political elites were instrumental in bringing about polarization. Jagan and Burnham in 1953 had fought for leadership of their joint PPP, and after the split, they fought for leadership of the country. Both needed to expand their trade union working class support base. Jagan needed to attract the rural Indian rice farmer middle class,[87] and Burnham, the urban mixed/Black middle class. To solidify the working class and middle class, a common enemy was needed, which was found in demonizing each other's race, which itself aroused the enmity of the demonized.[88] Changing demographics also impacted elite behaviour. In 1952, the Indian population was growing at a rate of 5% annually and the Blacks at only 2.8%.[89] The increasing Indian population meant that the Indian-backed PPP would soon have a population and electoral majority, which meant the chances of Burnham's party winning would reduce proportionately. The 1957 election showed that Blacks must immediately vote as one block while there was still a chance to win at the polls. The Black segment of the PPP joined with a middle-class Black party and formed the PNC in 1957.[90]

These circumstances and the subsequent actions of political elites led to deep-seated grievances. The pervasive Black perception and grievance is that there was an Indianization[91] of the country by the Jagan PPP while in government from 1957 to 1964. In that period, 53% of the budget went to agricultural schemes in rice areas which therefore benefitted Indians disproportionately, the government built schools mostly in rural areas, and there was "aggressive recruitment" of Indians into teaching and public service posts.[92]

The PPP government rejected the largely Black urban civil servants' calls for higher retroactive wages,[93] and in 1962 proposed to raise import duties and taxes which affected the near-white urban business class.[94] The opposition, funded by Western governments, mobilized and made the country ungovernable.[95] The United Force (UF), a near-white businessman and middle-class party funded by the Americans and British, labelled the budget vindictive and malicious. The civil servants union went on strike; 60,000 people including the PNC and UF leaders demonstrated in the city, and riot, arson, looting, and violence broke out. The British military restored order.[96] In 1963, the opposition trade unions called an

85 McDougal (note 78) Para. 12.
86 Newman (note 55) 52; Hintzen (note 52) 48.
87 *Ibid.*, 78.
88 Hintzen (note 52) 85-87.
89 Robertson Commission (note 59) Para. 22.
90 Newman (note 55) 85-87.
91 Hintzen (note 52) 49.
92 *Ibid.*, 49-50; Ishmael (note 1) ch 146, 150-152; Newman (note 55) 69.
93 Ishmael (note 1) ch 156.
94 Newman (note 55) 72.
95 Hintzen (note 52) 53; Cheddi Jagan, *The West on Trial – My Fight for Guyana's Freedom* (Harpy Canada 2004) 250.
96 Newman (note 55) 93.

80-day strike protesting a proposed change to union recognition law. Again, there were violent protests and British troops intervened.[97]

The PPP government was crippled by the joint opposition mobilization and Jagan was forced to agree to new elections in 1964 under a 'list proportional representational' system instead of the existing 'first past the post' (FPTP).[98] The British Secretary of State for the Colonies said the change in system was to "result in the formation of a coalition government of parties supported by different races, and thus would go in some way towards reducing the present tension"[99] and that "the root of the trouble in British Guiana lies almost entirely in the development of party politics along racial lines".[100] The PPP said it was to "facilitate the development of new parties to splinter our support"[101] and defeat the PPP at elections. Working class socialists must not form a majority.

In the 1964 proportional representation elections, the Indians voted for PPP, the Blacks for PNC, and Amerindians, Portuguese, and mixed-race people for the UF.[102] The PPP had a plurality with 45.85% of the vote, but the PNC and the UF formed a coalition and the government to Indian accusations of "cheated but not defeated".[103] It is a deep-seated Indian grievance that the Americans, the British, the PNC, and the UF conspired to oust the PPP, and therefore Indians, from power.

The PPP opposition mobilized to make the country ungovernable. There were acts of sabotage – bombings, destruction of bridges, buildings, utilities, and burning of cane fields.[104] The Indian sugar workers went on strike and clashed with the Blacks hired as replacement workers, and that violence spread to the communities along ethnic lines. Beatings, rapes, murders and destruction of property and reprisals ensued. 170 people died, 900 were seriously injured, 15,000 were displaced and resettled. Indians charged that the predominantly Black police force did nothing to protect them.[105]

There remains deep-seated ethnic anger from that period in the Black community, of Indians bombing school buses, and in the Indian community of Indian women being raped in the Wismar disturbances. The 1962, 1963 and 1964 disturbances "left a legacy of racial hatred that has permanently scarred the national psyche of the Guyanese population".[106] That ethnic divide was further deepened by "massively rigged 1968 elections (which) marked the beginning of undemocratic electoral rule in Guyana under the PNC for the next 24 years".[107] The PNC instituted an "elaborate and effective system of electoral fraud"[108]

97 *Ibid.*, 95, Ishmael (note 1) ch 162.
98 Newman (note 55) 95-97, Jagan (note 95) 281.
99 Ishmael (note 1) ch 165.
100 Jagan (note 95) 285.
101 *Ibid.*, 281.
102 Danns, 'Impact' (note 51) 70.
103 Ishmael (note 1) ch 165.
104 *Ibid.*, ch 176-178.
105 *Ibid.*, ch 169-170.
106 Hintzen (note 52) 56.
107 Danns, 'Impact' (note 51) 70-71.
108 Hintzen (note 52) 90.

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claiming to win more than 70% of the vote in the 1973, 1980, and 1990 elections, which is incredible in relation to voting patterns prior and post. The PNC by 1976, through nationalization, controlled 80% of the economy, secured all the resources to the regime, controlled the bureaucracy, politicized the security forces and could suppress dissent. The regime controlled jobs, promotions, travel and business opportunities, and maintained mass support through patronage, and in 1980 amended the Constitution to institutionalize authoritarian rule.[109]

In 1992, there were legitimate elections and the ethnic balance of power changed. The Indian-supported PPP/Civic won and remained in power for the next 23 years. On election day, there were protests, acts of violence and looting. Two people died.[110] There was protest looting and violence, parliamentary boycotts and two dead after the 1997 elections,[111] and protests, violence, looting, arson and one dead after the 2001 elections.[112] Under the PPP/C's regime from 1992 to 2015, there was again a widespread perception that there was an Indianization of the country and exclusion of the Black populace. Blacks in top positions in the civil service were replaced by Indians,[113] and Blacks were excluded from the economic and social mainstreams. The PPP/C government was accused of supporting a death squad targeting Black youth. No local government elections were held in 20 years and the president suspended parliament on the eve of a no-confidence motion.

In 2015, the largely Black-supported APNU and the Alliance for Change (AFC), a new political party with wide support across the ethnicities, formed a coalition and the government with 50.3% of the vote. There was no electoral violence.[114] Their five years in power were marred by accusations of mismanagement, patronage and corruption. In 2018, the APNU/AFC government fell to a no-confidence vote when one of its few Indian MPs defected and supported the PPP opposition-led no-confidence motion. The coalition unconstitutionally delayed elections until 2 March 2020, and then engaged in "the most transparent attempt to alter the results of an election"[115] amidst universal foreign condemnation. There were massive protests on 6 March, with violence and ethnic attacks, and one person was killed by the police. The Caribbean Community (CARICOM), the regional trade bloc of which Guyana is a member, intervened and brokered a recount of the ballots in June 2020. The election results, declared on 2 August 2020, gave the PPP/C 51% of the vote.

The Guyanese people nurse deep-seated grievances, some quantifiable, some perceived. Guyana, according to the CIA World Fact Book, is GDP-wise the 77th

109 *Ibid.*, 10-12, 56; Danns, 'Evolution' (note 3) 2.
110 Carter Center, 'Observing Guyana's Electoral Process 1990-1992' 40.
111 Carter Center, 'Observing the 2001 Guyana Elections Final Report' 2002.
112 *Ibid.*
113 Danns, 'Impact' (note 51) 65-77.
114 Carter Center, 'Final Report to the Guyana Elections Commission on the 2006 General and Regional Elections'.
115 Bruce Golding, Head of the OAS Observer Mission, reported in 'Mingo Presented Fictitious numbers' *Kaieteur News* (Georgetown 14 May 2020).

poorest country in the world,[116] and has the 63rd-highest infant mortality rate globally.[117] Apart from the poverty, the perceptions of victimization, inequality and state-led discrimination have increased. According to the PPP, the period from 1968 to 1992 was a "28 year dictatorship with institutionalized discrimination" against its supporters.[118] Indians believe that the import restrictions imposed by the PNC Government in the 1980's on wheat flour, split peas and other foodstuffs central to the Indian diet, purportedly because of a lack of foreign exchange, was in fact deliberate discrimination. Even when the PPP/C is in government, Indians believe that they suffer from crime disproportionately and that the largely Black security services do not protect the Indian community from crime and do not bring perpetrators to justice.[119]

Blacks believe that the PPP/C government used the security forces and a death squad for extrajudicial killings of Black youth.[120] They also believe that the PPP/C's 1992-2015 government gave more resources to Indian communities; gave Indians top civil service positions; privatized and sold state industries; and awarded government contracts to Indian-owned companies. By privatizing industries that employed Blacks and patronizing Indians, the regime reduced Black jobs, ended Black industry pension schemes and undermined trade unions.[121]

It is widely believed that the party in government uses state power and resources to benefit its own ethnic group and discriminate against the supporters of the party out of power – It is "Indian for Indian, Black for Black", as one Guyanese told Donald Horowitz. Horowitz says that that suspicion and an "absence of faith in the impartiality of public institutions" makes politics at the centre urgent with the need to capture those institutions to neutralize or re-aim.[122]

Despite the many grievances there has been little opportunity for rebellion. Guyana's population is less than 800,000, at least 600,000 of whom live on the flat north coast in close proximity to the government centre, within reach of the security forces. The small population does not provide a large support base for either group, and the populated area is accessible terrain within physical and administrative sight and reach of the government. It is also not easy for potential rebels to secure an income base from natural resources even though the country's top earners are gold and crude oil.[123] Gold deposits are situated in the sparsely

116 Central Intelligence Agency, 'The World Factbook: Country Comparison GDP Purchasing Power Parity Per Capita' www.cia.gov/library/publications/resources/the-world-factbook/fields/211rank.html (accessed 6 August 2020).

117 *Ibid.*, Country Comparison: Infant Mortality Rate' www.cia.gov/library/publications/resources/the-world-factbook/fields/354rank.html (accessed 6 August 2020).

118 McDougall (note 77) Para. 17.

119 *Ibid.*, Para. 70.

120 *Ibid.*, Para. 65.

121 *Ibid.*, 24, 35, 38, 43-46.

122 Horowitz (note 10) 194.

123 Jan-March 2020 the top exports were Crude oil $ 284M, Gold 241M – Bureau of Statistics Guyana, 'Exports by Item Jan-March 2020 https://statisticsguyana.gov.gy/subjects/external-trade/ (accessed 14 July 2020).

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populated interior regions and the government grants mining licenses and monitors the extractions. Crude oil is controlled by Exxon and its foreign partners, and situated 500 miles out to sea. Also notable is that from 1964 to 1992 there was an autocratic government that could suppress dissent because it had complete control of the armed forces which largely comprised of members of its own ethnic group.

Since independence, there has only been one uprising. In January 1969, within two years of independence and one year of the massively rigged elections, ranchers in the south-west of the country launched the 'Rupununi rebellion' in an effort to secure the county of Essequibo as a free state. The rebels, who were white settlers and Amerindians - UF supporters - may have been seeking "racial independence from the despotic policies of the central government" or may have been afraid that the government intended to force them out and confiscate their lands because the government had refused to grant them 25-year leases of the lands they occupied. The rebellion was put down almost immediately and the leaders escaped to neighbouring states.[124]

In the context of ethnic conflict, Guyana is in a good neighbourhood. The citizens of Guyana and those of its continental neighbours Suriname, Brazil, and Venezuela have little in common. They speak different languages – English, Dutch, Portuguese, Spanish – and do not have any other notable religious or ethnic ties. There is some intermingling of the populations across the fringes of the borders of Constituencies 8 and 9 with neighbouring Venezuela and Brazil, and the rebels in the 1969 Rupununi uprising received a week's arms training in Venezuela.[125] However, the issues with those countries remain largely inter-state, not intra-state. Venezuela on the west claims two-thirds of Guyana's territory and Suriname to the east claims a river and a small portion to the east.[126]

Guyana has closer political ties and commonalities with the English-speaking Caribbean Islands – all former British plantation colonies with similar populations. Guyana and many of the Caribbean islands have formed a regional trade block – the CARICOM – and are good neighbours. CARICOM fields elections observers to Guyana and has thrice brokered agreements ending local ethnic violence and political stalemates: the Herdmanston Accord in 1997, the St. Lucia Accord in 1998,[127] and the ballot recount in 2020.[128]

D Guyana's Political System

There is a high likelihood of ethnic conflict in Guyana because there are deep-seated grievances and ethnopolitical polarization. There has been election

124 David Granger, 'The Rupununi Rebellion, 1969' *Stabroek News* (Georgetown 18 January 2009).

125 *Ibid.*

126 Evan Ellis, 'Security Challenges in Guyana and the Government Response' *Journal of the Americas*, 3rd ed, 205 www.airuniversity.af.edu/Portals/10/JOTA/Journals/Volume%201%20Issue%203/05-Ellis_eng.pdf (accessed 2 August 2020).

127 The Constitution Reform Act 1999.

128 Order 60/2020.

violence along ethnic party lines in 1962, 1963, 1964, 1992, 1997, 2001, 2011 and 2020. The conflict is recurrent, if not severe, and destabilizes society. Civil war has likely been thus far avoided because of a lack of opportunity. The country has a small population, centralized on the coast and very good neighbours.

Today, two new structural conditions drive the stakes higher. The party in power with access to the newly exploited oil resources will have a near-unlimited ability to maintain its regime through patronage. The population demographics of Indians at 40% and Blacks at 30%, and the 2018-2020 no-confidence motion and elections standoff, may again engender Black fears that APNU may not be able to "regain government through the ballot box" and will be perpetually out of power.[129] There has been a resurgence and explosion of ethnic hostility. The events of the 2020 elections have reignited in many old fears of rigging and domination, and in most, fears of systemic exclusion and discrimination against the ethnic group of whichever party loses. As income levels rise, conflict is more dependent on political structure than on poverty, and because even moderate political change can cause conflict, political institutions must be stable and ensure "a wide distribution of power and no permanent exclusions of actors from the political system".[130]

Does the Guyana Constitution create a political structure that discourages exclusion and discrimination, and encourages elite buy-in?

The literature suggests that citizens are less likely to rebel in countries where they are "entitled to live their life in dignity and free from fear, with a fair share in their country's resources and an equal say in how they are governed".[131] This may be achieved through a liberal democracy where people are free and equal, have the means of realizing and protecting that freedom and equality through a functioning government (legislature, executive and judiciary) with horizontal accountability, and where there exists an inclusive political culture with room to peacefully redress grievances.

A low level of democracy in a country presages instability. The level is measured based on the extent of universal suffrage, free and fair elections, political rights, civil liberties, and constraints on the executive on a sliding scale from lowest, closed autocracy, through electoral autocracy, electoral democracy/ anocracy, to the highest, liberal democracy.[132] Guyana is ranked in the middle of the spectrum, as a low-level,[133] flawed[134] democracy, because despite recognizing civil rights and liberties there is a low level of rights enforcement, few executive constraints and a political culture of exclusion. For democracy, there must not only be civil rights and liberties, but the means of realizing and protecting freedoms through a functioning government subject to a separation of powers.

The Guyana Constitution says that the purpose of the political system is to establish an inclusionary democracy in which citizens and their organization

129 McDougall (note 77) Para. 18.
130 Collier *et al.* (note 22) 123.
131 Beetham *et al.* (note 36).
132 Luhrman (note 40).
133 Marshal and Gurr (note 41).
134 Economist Intelligence Unit (note 44).

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participate in the management and decision-making processes of the State. Is the political system created by the Constitution merely electoral or is it liberal and participatory?

An electoral democracy has universal suffrage, elected officials, clean elections, freedom of association, freedom of expression, and alternative sources of information. A liberal democracy additionally has entrenched fundamental rights and access to justice, an independent judiciary with power to constrain the executive, and an opposition-inclusive legislature that has oversight of the executive.[135]

The Guyana Constitution protects fundamental rights and freedoms including the right to life, liberty, protection of law, freedom of conscience, expression, assembly, equality of status, and equality before the law.[136] Article 153 gives the High Court power to secure enforcement of the rights, but Article 152 is a savings law clause that prohibits the court from finding an otherwise infringing action to be in contravention of those rights and freedoms, where that action is authorized by any written law which predates the Constitution.

Citizens can be imprisoned for same-sex relations, hanged for murder, and shot and killed by police if escaping arrest for as little as a misdemeanour. In 2013, a man who was standing on a street dressed in women's clothes was convicted of "dressing in female attire for an improper purpose" – clearly in breach of his fundamental rights. The Court of Appeal upheld the conviction because the savings law clause immunizes colonial-era laws from constitutional challenge.[137] The savings law clause erodes freedom of assembly, and eradicates the right to protest peacefully. Pre-existing laws prescribe imprisonment for mundane activities undertaken in pursuit of political participation – assembling in a disorderly manner and refusing to disperse, riotous or indecent behaviour in public, provoking breach of the peace, and vagrancy, and fines for shouting in a public way.[138] Freedom is not only a statement of purpose but a means of protecting it. There is no real civil liberties protection.

Vertical accountability is achieved through electoral democracy – universal suffrage, elected officials, clean elections, freedom of association, freedom of expression, and alternative sources of information.[139] In Guyana there is universal suffrage, officials are elected, and there is freedom of association, assembly and peaceful demonstration. But the imprisonment of a citizen convicted for "disorderly assembly"[140] cannot be deemed a breach of freedom of assembly by the High Court.[141]

The free press is not perceived as neutral and unbiased. It is "a purveyor of misinformation and prejudices" reflecting "the views of ethnic bigots including

135 Varieties of Democracy (note 43) 32-34.
136 Constitution (note 2) Arts. 138-149.
137 Overturned by the CCJ in McEwan v. AG, GY Civil Appeal No. 83 of 2013 [2018] CCJ 30 (AJ).
138 Summary Jurisdiction Offences Act 8:02, ss 12, 127, 137, 141, 143,153.
139 Varieties of Democracy (note 43) 32.
140 Summary Jurisdiction Offences Act 8:02, s153.
141 Constitution (note 2), Art. 152.

the state",[142] and "partisan in their election coverage, with sensationalist coverage reaffirming the narrative of a particular party".[143] Additionally, the government is accused of assaulting press freedom by refusing to place official advertising in free press critical of the government.[144]

Theoretically, clean elections are possible. Elections are to be independently supervised by the Elections Commission[145] which has its own Assembly-approved budget[146] and comprises a board of seven members[147] – three proposed by the president, three by the opposition leader, and a chairman who is appointed by the president from a list of six persons 'not unacceptable' to the president submitted by the opposition leader. There is criticism that an independent electoral process is administered by a board with political party representation[148] but it is arguable that the 3/3 formula provides a layer of transparency and checks and balances in a two-party polarized community that does not trust its institutions.

The constitution demands that officials be elected, professing that sovereignty belongs to the people, who exercise it through their representatives.[149] In Guyana, the president and the 65-member National Assembly are elected for five-year terms. Twenty-five seats in the Assembly are from Guyana's ten geographic constituencies and 40 seats represent the country as a single constituency.[150] Each party puts forward a closed list of parliamentary candidates and names their presidential nominee. Each elector casts one vote for one of the lists. That one vote is counted as a vote for that party, both for the geographic constituency seats and for the national seats, and for the person nominated as president on the list. The president is therefore chosen on a plurality. Assembly seats are allocated using the Hare quota system,[151] each party list getting the seats equal to their votes divided by the quota. Remaining seats are allocated to the party with the largest surplus of votes. This process is first used for the 25 geographic seats, and then at the national level, and requires that seats be allocated from the national constituency list to minimize any disproportionality between percentages of list votes and geographic seat allocations.[152]

One criticism of this system is that votes are of unequal weight because the ratio of representatives to voters is unequal across the constituencies. Constituency 7 has two seats in the Assembly and Constituency 4 has seven seats. In the 2015 election, the voter-to-seat ratio in Constituency 7 was 3,891:2 and in Constituency 4 was 26,400:1.

142 Rudy James, *The Constitution of Guyana – A Study of Its Dysfunctional Application* (Institute of Development Studies, University of Guyana 2006).
143 Carter Center, '2015 General and Regional Elections in Guyana Final Report' 37.
144 Stabroek News, 'DPI Increased State ads to SN in January' 12 February 2020.
145 Constitution (note 2) Arts. 60, 162.
146 Fiscal Management and Accountability Act 4/2015.
147 Constitution (note 2) Art. 162.
148 Carter Center (note 111) 13.
149 Constitution (note 2) Art. 9, 50.
150 Representation of the People Act 1:03, ss 11C, 96; Constitution (note 2) Art. 160.
151 Total number of votes divided by total number of seats.
152 Constitution (note 2) Art. 160.

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The elections often result in a bare majority in parliament. The winning governments in 2015 and 2020 had one-seat majorities. Because the parties align with ethnic groups, the effect was that one ethnic group *lost* to the other. The electoral winners invariably have a majority in parliament and there is no inclusion in, little dispersion of, and few constraints on, executive power.

There is no inclusion under the current constitution, no mandated coalition government, veto powers to minorities, or proportionality in appointments or allocation of resources. Party lists name the presidential candidate, and the president is the candidate named on the winning list. Seats are allocated to the party and the party seats[153] whichever listed candidate they choose and unseats[154] them at will. The president is head of state, supreme executive authority, and commander-in-chief of the armed forces.[155] Executive authority is his or hers to exercise[156] – directly or through subordinates – the prime minister, vice-presidents, ministers, and a cabinet whom s/he chooses from members of the Assembly.[157]

There are no reserved executive positions. The president appoints constitutional office holders. S/he appoints the Chancellor and Chief Justice of the judiciary, "after obtaining the agreement of the opposition leader",[158] as well as the ombudsman[159] and commissioner of police, after "consultation with the opposition leader". Judges are appointed on the advice of the Judicial Service Commission, the members of which (as with all other service commissions) are appointed by the president, which may detract from the mandate that the public service is to be free from political influence. The president acts in accordance with his/her "own deliberate judgment"[160] and may refer the 'advice' to be acted upon for reconsideration. In 'consultation', the president need only afford the opposition leader "a reasonable opportunity to express a considered opinion".[161]

Inclusivity is disregarded even when mandated. For the past 15 years, the substantive posts of Chancellor and Chief Justice have been vacant because the president and opposition leader failed to reach an agreement.[162] In 2019, the president rejected 18 names proposed by the opposition leader and unilaterally appointed[163] the Elections Commission Chairman in breach of the Constitution.

Additionally, resource allocation need not be inclusive or proportional. The budget prepared by the government goes to parliament to be passed by a majority, which the government usually holds. There are no veto powers in the

153 Representation of the People Act 1:03, s.98.
154 Constitution (note 2) Art. 156.
155 *Ibid.*, Art. 89.
156 *Ibid.*, Art. 99.
157 *Ibid.*, 101-107.
158 *Ibid.*, Art. 127.
159 *Ibid.*, Art. 191.
160 *Ibid.*, Art. 11.
161 *Ibid.*, Art. 232.
162 'CCJ President Criticises Decade-Long Failure to Appoint Substantive Chancellor, Chief Justice' *Stabroek News* (Guyana 15 November 2017).
163 Struck down by the CCJ in Zulfikar Mustapha v. the Attorney- General [2019] CCJ 13 (AJ).

minority. The party in government therefore has near-complete control over state appointments and the allocation of state resources.

Guyana is a unitary state with no dispersion of power. There is a country-wide system of local government comprising 10 administrative regions, which are governed by councils elected in a mixed first-past-the post and proportional representation system. Candidates must be resident in the region. Local rates can be levied and used by council, but income taxes, education and the police are controlled by central government. The councils are subject to the control of the Minister of Communities, and are considered 'arms of the ministry'. Guyana's indigenous Amerindian population have their own governing village councils, but the minister[164] may reject any rule the council makes, and there is no mandate to consider their wishes at the central government level. There are few real constraints on the executive. Constraining mechanisms check government power and include religious freedom, civilian control of the armed forces, independent electoral commissions and regulatory agencies, and independent judiciaries with powers of judicial review.[165] Guyana is a secular state with religious freedom where all people are equal and protected against (most) discrimination.

The Constitution envisages an independent judiciary[166] with tenure in offices that cannot be abolished, safe until retirement, and exempt from dismissal except for grave cause as determined by a tribunal. Tenure, however, has been circumvented by both PPP/C and APNU/AFC presidents by refusing to appoint a Chancellor, Chief Justice, and several judges to substantive posts, keeping them in perpetually uncertain acting positions, which affects their retirement age, salary and pension rights, and therefore arguably, their independence. The Supreme Court has power of judicial review, legislation is subject to the supreme constitution, and fundamental rights and freedoms are enforceable. The Court is, however, constrained by Article 152 which immunizes unconstitutional laws that predate the Constitution, and by Article 226 which prohibits enquiry into the validity of acts of the service commissions.

There is no judicial power to constrain the president who is immune from civil and criminal suits and not personally answerable to any court for the performance of the functions of the office or for any act done in the performance of those functions. The president is also commander-in-chief of the armed forces and may suspend fundamental rights by proclaiming a state of emergency. There is little legislative constraint on the executive. Parliament makes laws, which the president may not veto but can delay. The president may address parliament at any time, and s/he summons, prorogues, and dissolves parliament.

Cabinet, which includes the president, is in theory answerable to parliament and 'shall resign' on a vote of no confidence from the Assembly. In 2014, the president heading the one-seat minority PPP/C government prorogued parliament in advance of a no-confidence motion by the opposition. In 2018, the APNU/AFC government fell to a no-confidence motion, but refused to dissolve

164 *Ibid.*, s.81.
165 Graham *et al.* (note 45) 691.
166 Constitution (note 2) Art. 122.

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parliament and continued to govern until August 2020. As already noted, it is clear that Guyana is heterogeneous and politically polarized. There are two main political parties supported by the country's two largest and similarly sized ethnic groups. The populace is relatively poor and its ethnic groups have grievances. It is widely believed that any party in government will use state resources to benefit its supporters' ethnic group and discriminate against the supporters of the party out of power. It is a weak democracy because the political system is not inclusive, and the president wields unconstrained executive powers, and the judiciary's guardianship of civil liberties and rights is curtailed. The electoral regime produces bare majority governments. A bare majority is all that is needed to pass a law. This creates a tyranny of the bare majority and excludes almost half of parliament and almost half of the electorate from decision-making. Parliament functions as the legislative arm of the president. There are few constraints on executive power. The party in government has near-complete control over state appointments and the allocation of state resources. The judiciary is constrained by an ouster clause that immunizes the president from censure and a savings law clause that immunizes colonial laws that infringe civil liberties and rights.

This governance structure lends itself to the fears of ethnic hegemony. Because the political parties align with ethnic groups, at elections, the perception is that one ethnic group loses to the other. Politics is therefore a bitter 'us versus them' fight at the centre to capture public institutions and control state resources. The electoral winners have opportunities to abuse their power and the electoral losers consistently feel that they suffer discrimination and exclusion. This undermines the losers' support for both the process and the regime. There has been ethnic conflict following the elections in 1962, 1963, 1964, 1992, 1997, 2001, 2011 and 2020. The violent protests are invariably initiated by the supporters of the losing party. Electoral losers are reneging on their democratic commitments. The recurrent conflict destabilizes the society.

E Reform

In heterogeneous democratic societies, limiting conflict requires a system in which:

> (1) electoral winners must not have incentives (and opportunities) to abuse their power; (2) electoral losers must not have incentives to renege on their democratic commitments; and (3) third parties must not suffer discrimination or exclusion, denial of basic rights, or other deprivations that undermine their regime support.[167]

According to the literature this is best achieved by a combination of inclusive, dispersive and constraining mechanisms, chosen with careful regard to demographics and prior and existing conflict in the country. It is important to

167 Graham *et al.* (note 45).

protect citizens' civil liberties and rights, constrain executive power, and include political and ethnic minorities in the decision-making processes of the state.

The stated purpose of the Guyanese political system aligns with that idea – "to establish an inclusionary democracy by providing increasing opportunities for the participation of citizens, and their organizations in the management and decision-making processes of the State".[168] A good law achieves the reform it intends – it is effective.[169] Effectiveness is tested by assessing a law's systemic capacity to engineer the intended social change, looking for clarity of purpose (what does the law aim to achieve?), appropriate content (how will the law achieve its purpose?), harmonious context (how does the law interact with the legal order?), and anticipated results (has or can the law achieve the stated purpose?).[170]

The purpose of the political system is clear – to achieve an inclusionary democracy – but the Constitution is clearly ineffective in output as it has resulted in the opposite – majoritarian politics and persistent ethnic conflict. There is also disharmony in the legal order. The Constitution is the supreme law and all inconsistent law is void,[171] but Article 152 prohibits the court from deeming some subordinate legislation inconsistent with it. The content of the Constitution when evaluated through ethnic conflict, democracy and power-sharing theory frameworks is clearly not appropriate to achieving inclusion or ethnic harmony.

What then is appropriate content? The discussion in Part B elucidates protecting civil liberties and rights, and the necessity of power-sharing and constraints in the mechanics of achieving both inclusion and ethnic accord. Where there is fear of ethnic hegemony, we can construct trust in and through our institutions. Prior and existing conditions dictate the choice of mechanism.

Inclusive power-sharing may have positive effects in post-conflict situations because mandated coalitions and reserved executive positions protect minority groups, lessen uncertainty, and guarantee individual leaders power, so they are less likely to oppose election results by force.[172] The persistent conflict in Guyana is in opposition to election outcomes, and therefore inclusive mechanisms may be suitable.

Dispersive power-sharing shifts the focus away from national-level politics, but may increase conflict if the regions are homogenous, have fiscal autonomy, and isolate ethnic groups, which may provide local leaders opportunity to challenge the centre. The regions, although heterogeneous, have specific ethnic group majorities and dispersive power-sharing has not proven helpful in post-conflict situations. However, because the politics is polarized at the centre, it may

168 Constitution (note 2) Art. 13.

169 Helen Xanthaki 'Quality of Legislation: An Achievable Universal Concept or an Utopia Pursuit?' in Luzius Mader, Mart Tavres de Almeida (eds), *Quality of Legislation. Principles and Instruments* (Nomos 2011) 80.

170 Maria Mousmouti, 'The "Effectiveness Test" as a Tool for Law Reform' 2(1) (2014) *IALS Student Law Review* 4-8.

171 Constitution (note 2) Art. 8.

172 Graham *et al.* (note 45) 694.

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be helpful to disperse some power to the regions to relieve tensions at the centre. Granting the regions some financial security in the budget and autonomy in spending may help alleviate grievances of unfair distribution of resources and relieve tensions at the centre.

Constraining mechanisms protect civil liberties, limit government abuses and improve mutual security, which produces a population willing to support the regime regardless of ethnicity, and thereby removes the support base of political elites who want to renege on their democratic commitments.[173] Ethnicity in Guyana is more politically than culturally salient, which suggests that the ethnic populations may support leadership of other ethnicities once they believe that leadership cannot abuse political power to disenfranchise them. Constraining executive power may be very useful in allaying the fears of ethnic hegemony.

In light of that analysis, instituting the following constraining, dispersive, inclusive, and electoral reforms may help reduce political polarization and ethnic conflict.

There are several simple ways to constrain the executive. The first and simplest way is to remove from the Constitution the Article 152 savings law clause that erodes the fundamental rights and liberties of citizens.

A second way is to entrench second-generation fundamental rights. Poverty is an indicator of civil instability, as is perceived socio-economic discrimination. Entrench the right to housing, education and health services. The Constitution of Finland guarantees subsistence and care and higher education.[174] The South African Constitution guarantees a right to land, housing, social security and further education.[175] The Constitution of Fiji recognizes a right to further education, housing and sanitation, adequate food and water, social security, and health.[176] These are justiciable in South Africa and Fiji – the bill of rights is supreme and to be interpreted purposively.[177]

A third way to constrain executive power and protect citizens is to improve transparency in executive decisions by mandating access to information. In South Africa, everyone has a right to information held by the state that is required for the exercise or protection of any rights.[178]

An even more direct way of constraining the executive is to remove the immunity of the president. Make the president and civil servants accountable for their official actions, as in Finland where civil servants[179] and the government[180] are responsible for the lawfulness of their official actions and the president may be notified that a decision is unlawful and cannot be implemented.

Curtailing executive power may also be achieved by requiring 60% or higher parliamentary supermajority approval in matters of national importance. A

173 *Ibid.*, 695.
174 Constitution of Finland ss.19, 16.
175 Constitution of the Republic of South Africa ss.25-29.
176 Constitution of Fiji ss 31-38.
177 *Ibid.*, ss. 2,3; South Africa (note 175) s.39.
178 South Africa (note 175) s.32.
179 Finland (note 174) s.118.
180 *Ibid.*, s.112.

parliamentary supermajority may be required to approve contracts to extract natural resources as in Tunisia,[181] to pass the budget as in the US state of Arkansas, for emergency spending like in the state of Illinois,[182] or for extra-budgetary funds as in Finland.[183]

Another way is to mandate that a portion of the budget be allocated based on a deprivation index to ensure citizens in all constituencies have access to a minimum level of shelter, food, education and health services.

Executive power may be dispersed, instead of, or in addition to being constrained. Guyana's geographic constituencies are heterogenous but the ethnic populations are unequal. Constituencies 1, 8 and 9 are more than 70% Amerindian, while Constituencies 3, 5 and 6 are predominantly Indian, and 10 is predominantly Black. In Constituency 4, which has the largest population and the capital city, the races are more evenly represented.[184] A federal system may lead to more ethnic isolation because of the clear majorities in favour of single ethnic groups in most constituencies. But there are means to disperse power without creating homogenous ethnic mini-states.

Disperse power at the centre by having a president and a prime minister instead of an executive president, as exists in Trinidad, Finland, and Fiji. A president who is elected in separate elections, for a separate term, and who does not emanate from a closed party list, may keep some institutions above the political fray, reduce the power of party elites, and encourage the nomination and election of moderate, accountable, and superior candidates.

The president may be elected in separate elections held on a different and longer cycle than parliamentary elections so as to keep the office above the party fray. Allow independents to run, and to ensure suitable candidates, impose minimum age and education requirements, and prohibit religious leaders from running. To narrow the field and ensure wide support, require candidates to procure a minimum number of signatures in support (The Gambia with a population of 1.9 million requires 5,000),[185] and to acquire signatures from each constituency. Candidates may also be required to obtain a minimum number of votes in every constituency, as in the 1989 elections in Nigeria which required a plurality of national votes plus a minimum of one-third of the votes in at least two-thirds of the states.[186]

The president may have functions that place him and certain institutions outside of the polarized party politics. The power to develop and implement national policy, prepare and initiate legislation, implement legislation, administer state departments can reside in the prime minister – the candidate named in the winning party list at the national assembly elections – and their cabinet. The

181 Tunisia Constitution Art. 13 (similarly Bolivia, Egypt, Ghana).

182 Allison Hiltz and Luke Martel, 'Supermajority Vote Requirements to Pass the Budget' (2015) 23(4) *National Conference of State Legislatures*.

183 Finland (note 174) s.97.

184 Bureau of Statistics Guyana, *2012 Census* (2016) 6.

185 Constitution of The Gambia, s.47.

186 Andrew Reynolds, *Electoral Systems and the Protection and Participation of Minorities* (Minority Group Rights International 2006).

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president can have the power to call elections, and summon and dissolve parliament, thereby removing the ability of the current executive president to manipulate parliamentary cycles for party gains. The president may also be vested with the power to appoint the candidate named in the winning list as the prime minister and to appoint cabinet on the advice of the prime minister, and dismiss the prime minister and cabinet if they no longer enjoy the confidence of parliament, as in Finland.[187] S/he may be empowered to appoint constitutional office holders on the advice of parliament or the service commission, to be the commander-in-chief of the military, and make military appointments, declare war with the consent of parliament,[188] mobilize defence forces on a proposal of government.[189] The president may require consultations between the prime minister and leader of the opposition, thereby diffusing stalemates and brokering peace. S/he may represent the country overseas, accept foreign diplomatic credentials, exercise pardon powers and confer national awards. Dispersing executive power between the two offices may prevent deadlock, reduce unconstitutional acts and restore faith in public institutions.

Another way of dispersing power is to have an independent central bank tasked with keeping currency stable in the long term, guarded against partisan political considerations. Guyana's central bank is not independent. The president appoints, dismisses[190] and decides the salary of the governor.

A third way to disperse power is to allow temporary minority vetoes where one-third of parliament can require that a piece of legislation passed by simple majority be deferred until after next election.

Decentralizing local government spending by having local government budgets presented to parliament by the regional councils instead of a minister, and having allocations made directly to the regional government, also limits power at the centre.

Another approach to limiting conflict in heterogenous societies is by inclusive governance. In consociationalism, constituencies are self-governing and representatives of each form the Assembly and choose a grand coalition cabinet from amongst themselves, similar to what occurs in Switzerland. Switzerland comprises 26 self-governing cantons, representatives of which sit in a bicameral assembly, and elect a seven-member collegial board to govern.[191] But federation is not recommended for places with persistent ethnic conflict and constituencies that lean to homogeneity.

An alternative inclusive mechanism is to have reserved executive positions – the president from one party, the prime minister from the other, the ministers chosen in proportion to the votes for the parties, as under the 1960 Cyprus constitution.[192] Proportional representation elections would define the groups to

187 Finland (note 174) ss.60-64.

188 *Ibid.*, s.93.

189 *Ibid.*, s.129.

190 Bank of Guyana Act 85:02 ss.9, 14.

191 Constitution of Switzerland, ch 2.

192 John Bowman, 'Cyprus' Encyclopedia Britannica www.britannica.com/place/Cyprus (accessed 6 August 2020).

share power. In the 2015 elections, APNU/AFC got 33 Assembly seats to PPP/C's 32. In this system, those parties would take parliamentary seats, ministries and board memberships in that 33/32 proportion. The current Constitution does not mandate this but does not forbid it either. The president is the person named in the winning party list and is therefore chosen on a plurality. The Assembly seats are allocated proportionally. The president then chooses the prime minister and cabinet from the members of the Assembly. Nothing prohibits choosing ministers or the cabinet from the minority or inviting any other party with assembly seats to share power.[193] Party leaders can bind their parties and take moderate and inclusive paths, but elites have chosen to sow discord.

Inclusivity is easily achieved by including a larger segment of the Assembly in decision-making by requiring supermajorities for appointments of constitutional office holders. In South Africa, a 60% parliamentary majority is required to choose the auditor general, ombudsman, the head of central bank and the head of the Elections Commission.[194]

Another approach to inclusion is to overhaul the electoral process to reduce polarization. Closed-list proportional representation has not encouraged multi-ethnic parties in Guyana. The demographics and polarized voting creates bare majority governments that answer to no one. Polarization's 'us versus them' means there is no rational debate and no compromise, everything is seen along party lines and taking the middle ground is seen as betrayal. Elected officials are accountable to the party executive and not the constituency. Politics is immoderate because there is no need to attract supporters outside the ethnic group, so campaigning focuses on demonizing opponents instead of debates on policy. Leaders are mediocre because the electorate vote for race and not capable leadership. The government can pass immoderate legislation because it controls parliament. This cycles into extreme polarization. Change this by giving the electorate opportunities to vote for people and not ethnic groups, by making elected officials more accountable to the populace, and by making votes more equal.

A more appropriate system may be the mixed member proportional (MMP) system used in New Zealand and Germany. MMP uses FPTP at the constituency level and list PR at the national level, and national PR seats are allocated to compensate for any disproportionality produced by the constituency seat results by guaranteeing parties a percentage of the Assembly equal to the size of its national vote. This allows votes for an ethnically aligned party at the national level and individuals at the constituency level, thereby offering non-ethnic options.

FPTP in the geographic constituencies will allow the electorate to vote for individuals who reside in the constituency, instead of parties. In closed-list PR, candidates are accountable to the party executive who appoints them to seats and may remove them, so their loyalty is to the party not the constituency. In this

193 Ralph Ramkarran, 'Post-elections Coalitions and the Election of the President' *Stabroek News* (Guyana 4 November 2018).

194 South Africa (note 175) s.193.

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system moderates are suppressed, and mediocrity reigns because potential power rivals are suppressed in intra-party politics. Because there is no engagement and no accountability to the constituency, there is no reason to vote for any candidate except on the basis of race. Independents running on FPTP in constituencies may give the electorate a chance to vote for candidates with ties to the community on the basis of performance, instead of a party on the basis of race. To narrow the field, ensure wide support, and keep politics secular and moderate, set minimum eligibility requirements and minimum support signatures.

To enhance community ties, reduce the size of larger constituencies. Geographic Constituency 4 has a population of 311,563; the next closest is Constituency 3 with 107,785. A candidate can be more accessible to 100,000 than to 300,000 people. Constituencies should be redrawn so there is more equality of votes. In the 2015 election, a seat in parliament was won with 3,891 votes in Constituency 7, as compared to 26,400 votes in Constituency 4. Equality of votes is achieved by eliminating the large differences in the seat/electorate ratio among the constituencies. A way to enable diverse representation and more easily maintain seat-per-person averages is to have multiple seats per district.

F Conclusion

Ethnic conflict that engulfs the whole country is more likely where the society is heterogenous, the ethnic groups are few, of equal size, and polarized, where there is horizontal inequality, there is a weak democracy, and the country is in a bad neighbourhood. Guyana is heterogeneous and politically polarized. There are two main political parties supported by the country's two largest and similarly sized ethnic groups. The populace is relatively poor and its ethnic groups have grievances. It is widely believed that any party in government will use state resources to benefit its supporters' ethnic group and discriminate against the supporters of the party out of power.

The electoral regime produces bare majority governments. A bare majority is all that is needed to pass a law. As a result, almost half of parliament and almost half of the electorate is excluded from decision-making, and parliament functions as the legislative arm of the president. There are few constraints on executive power. The party in government has near-complete control over state appointments and the allocation of state resources. The judiciary is constrained by an ouster clause that immunizes the president from censure and a savings law clause that immunizes colonial laws that infringe civil liberties and rights.

It is clear that ethnic tensions are exacerbated by the existing political structure. The governance structure lends itself to the fears of ethnic hegemony. Because the political parties align with ethnic groups, at elections, one ethnic group loses to the other and politics is a bitter 'us versus them' fight at the centre to capture public institutions and control state resources. The electoral winners have opportunities to abuse their power and the electoral losers consistently feel that they suffer discrimination and exclusion. This undermines the losers' support for both the process and the regime. There has been ethnic conflict

following the elections in 1962, 1963, 1964, 1992, 1997, 2001, 2011 and 2020. Protests were invariably initiated by the supporters of the losing party. Electoral losers are reneging on their democratic commitments. The recurrent conflict destabilizes the society.

In heterogenous societies with ethnic tension, the aim is to limit conflict to protest. This requires a democratic system where

> (1) electoral winners must not have incentives (and opportunities) to abuse their power; (2) electoral losers must not have incentives to renege on their democratic commitments; and (3) third parties must not suffer discrimination or exclusion, denial of basic rights, or other deprivations that undermine their regime support.

The idea is that majorities and minorities sharing state power will encourage elite players to buy into, and stay in, the political structure. Sharing state power can be achieved through consociationalism or integrative majoritarianism. Consociationalism uses inclusive strategies to eliminate bare majority governments and requires leaders of ethnic groups to share power in consensus governance through grand coalitions, mutual veto, proportionality and segmented authority. Integrative majoritarianism uses dispersive strategies and distributes political power among institutions so that the capture of a single office will not give complete power to any ethnic group.

A recent study analysed the efficacy of these two models in limiting ethnic conflict, and found that inclusive power-sharing benefitted countries recovering from civil war, that dispersive power did not benefit states recovering from civil war, and that the most peaceful democracies were countries that had constrained executive power.[195] In a heterogenous society, ethnic conflict may best be avoided by implementing a political system which has a combination of inclusive, dispersive and constraining governance mechanisms. The country's ethnopolitical circumstances dictate the appropriate combination.

In Guyana's ethnopolitical circumstances, ethnic conflict may be reduced by implementing a political system which firstly, disperses political power at the centre between a president and a prime minister elected in separate elections for separate terms; secondly, disperses financial power by making its central bank independent and by guaranteeing each geographic region fair resource allocation and spending autonomy; thirdly, includes the minority by requiring a parliamentary supermajority for appointments to constitutional offices and to pass the budget; and fourthly, constrains the executive by entrenching second-generation fundamental rights, removing the savings law clause, and making executive action reviewable by an independent judiciary.

195 Graham *et al.* (note 45).

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