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**FINAL REPORT**

**A STRATEGY FOR SUPPORTING  
DEMOCRATIC STABILITY IN  
GUYANA**

under the  
**Institutional Development and Development  
Management**  
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## EXECUTIVE SUMMARY

Guyana's future political development must be understood in the context of the Commonwealth Caribbean's traditional adherence to the democratic institutions and values of the Commonwealth. Although Guyana strayed from the democratic principles of this community, they remain widely accepted throughout Guyanese society. The task of the democracy support program should be to help rebuild the allegiance of the people to the traditions of their democratic neighbors and the wider world of the Commonwealth.

With the successful conclusion of general elections in 1992, and the democratic transfer of political power that followed, Guyana would appear to be firmly back in the democratic column. However, looking more deeply we find certain weaknesses that if not dealt with expeditiously might lead to another setback.

The team identified two areas in which they felt that immediate aid was justified and relatively straight forward.

It recommends limited electoral assistance through those organizations that supported the 1992 elections with A.I.D. assistance. This effort would not require the commitment of extensive new resources, and it need not be a commitment that extends beyond 1994.

Secondly, it recommends extensive support for the rebuilding of the country's judicial system. Although the outlines of the system are well entrenched in the British tradition, the elements of the system have been so seriously underfunded for so many years that much of it appears to barely function. It was particularly noted that library resources have been allowed to deteriorate seriously and the registries have become so inefficient that the successful completion of both civil and criminal cases has become increasingly unlikely. At all levels, low salaries and poor working conditions have made the recruitment and retention of experienced and trained staff next to impossible. Much of the required assistance in this area can be carried out through existing A.I.D. programs such as the Caribbean Justice Improvement Project (CJIP).

In several other areas, the team felt that there were evident needs that A.I.D. and the U.S. Mission in Guyana should urge the Guyanese to address. However, it was felt that in these areas the Guyanese should be encouraged to develop more fully their understanding of what they require and of the processes that they wish to follow before extensive foreign aid programs are undertaken. These development areas are:

- A comprehensive program for addressing race relations
- A widely accepted process for instituting constitutional revision
- The organization of a legal reform commission
- The creation of a long-term, civic education program
- The creation of a stronger, more independent legislature
- Development of capabilities for policy analysis, opinion polling, and the collection of social statistics.

## FOREWORD

The following is the product of an assessment effort by Mr. Dennis Darby, Dr. Raymond Gastil and Mr. William Schoux in March, 1993 (Annex A was written by Mr. Darby and Annex B was written by Mr. Schoux). Mr. Darby is a lawyer attached to RDO/C in Barbados. Dr. Gastil is a social scientist who has participated in a number of democracy strategy development projects for A.I.D., most relevantly the preparation of a draft strategy for the Commonwealth Caribbean with Peter Sellars. Mr. Schoux was in charge of democratic initiative work for A.I.D.'s LAC Bureau until his retirement in late 1992.

The study tour involved about nine days in Guyana and two days in Barbados. Much of this time was spent in interviewing a wide range of people from the political, academic, and nongovernmental realms. Several days were also spent in the United States interviewing or preparing drafts.

The project team cannot thank all of the individuals that helped them in the effort, particularly in Guyana. However, we would like to thank Ambassador George Jones for his unfailing assistance and encouragement. Without his efforts, and those of others at the Embassy, the few days available to the team could not have been as productive as they were.

## I. INTRODUCTION

This strategy should be considered in the context of relevant LAC/DI and Agency-wide democracy initiative strategic work, in particular Raymond Gastil and Peter Sellar, "A Proposed Strategy for Supporting Democratic Stability in the Commonwealth Caribbean", December, 1991. While the Caribbean draft strategy only addressed the situation of Guyana in a short appendix, it explained the unique background of the Caribbean Commonwealth of which Guyana is a part. It is impossible to understand the condition and prospects of democracy in Guyana without understanding the importance of this historical, social, and political connection. However, only those portions of this background that are particularly relevant to Guyana's situation will be repeated here.

At the time of the Caribbean analysis, Guyana had not yet fully emerged from the unfortunate setback in its institutional development that had caused the country to decline since the 1960s in the quality of both its political and economic life.

Unlike the greater part of the Commonwealth Caribbean, over 50% of Guyana's population is of East Indian background (Indo-Guyanese), 30% of African background (Afro-Guyanese), and 5% of Amerindian Indian (Amerindians). The remainder are of English, Chinese, or Portuguese background, or "mixed". The Afro-Guyanese are particularly strong in the cities, the government sector of the economy, and the security services. Indo-Guyanese dominate the agricultural sector and much of private business. While the vast majority of the people live in a small stretch of land close to the coast, and particularly around Guyana's capital, Georgetown, the Amerindians continue to live in widely scattered communities in the almost undeveloped hinterland.

Following the regional pattern, before independence political life in Guyana revolved around the efforts of its labor party to improve the lot of average citizens, attain equality, and achieve independence within the British Commonwealth. In common with the English Labour Party of the time its orientation was socialist, but democratic. Unfortunately, this party, the People's Progressive Party (PPP) led by Cheddi Jagan, split over ideological issues in the 1950s. The resulting split quickly became identified in the popular mind with a split between the Indo-Guyanese community (PPP) and the Afro-Guyanese community (PNC, led by Forbes Burnham). Fear that the PPP was too narrowly ideological subsequently led to the victory of the PNC in the first election after independence in 1964.

The PNC proceeded to maintain itself in power until 1992. It achieved this long period in power through what many believed to have been a series of manipulated elections. (International observation teams generally did not consider elections in Guyana during this period to be "free and fair"). Burnham and the PNC leadership moved more sharply to the left than had been expected, and attempted to adopt many of the economic, social, and political policies of the Soviet Union, Cuba, and North Korea.

The PNC changed the traditional Commonwealth, first-past-the post, system of individual constituencies to one in which most representatives were elected from a nationwide constituency according to proportional representation. In addition, 10 MPs were elected from the regions and two more by regional representatives. Constitutional change also greatly increased the power of the president, who now became the chief executive; in this system the prime minister became an appointive position under the president. The new constitution defined Guyana as a "Cooperative Republic", a phrase that was meant to denote a socialist state in the Marxist-Leninist sense.

The result was both growing authoritarianism and pervasive discouragement of private industry in favor of state enterprise. Most employees became state employees, whether in the sugar industry, the mines, or the bureaucracy. After the middle of the 1970s, another result was a declining economy, and the erosion of the quality of many services such as education. Many Guyanese left for elsewhere in the Caribbean or North America; those who left were often the best educated and most capable. As a result, the country's population stagnated or even declined. However, it should be noted that the levels of repression of the opposition and the civil society were notably less severe than that in other third-world authoritarian regimes, especially those modeling themselves on the major communist states.

After the death of the president, Forbes Burnham, in 1985, his PNC successor, Desmond Hoyte, moved slowly toward moderating the system both economically and politically. By 1990 he had substantially restored international confidence in Guyana, had abandoned much of the PNC ideology, and had given most citizens renewed confidence in their freedom to believe and speak as they pleased.

The next step in the restoration of democracy was the holding of a fully free and fair election. After many setbacks, a national election was finally held in October, 1992 with international technical assistance and observation. The Agency for International Development played a major role in this effort through supporting the activities in Guyana of the International Foundation for Electoral Systems (IFES), the Carter Center, and the National Democratic Institute (NDI). Additional material and political support was provided by the embassies of the United States, Canada, the U.K., and India. Substantial support was also provided by the United Nations Development Program (UNDP) and the Commonwealth. Former President Carter and the Council of Freely Elected Heads of States (especially President Price of Belize) also played important roles.

In the event, the election was successful. Some PNC supporters felt that they had been unfairly excluded from the electoral rolls and serious riots occurred in Georgetown at the closing of the polls. However, in the rest of the country the people generally accepted the process. The final result was a parliament controlled by the PPP that had been out of power since independence. Fighting the election in association with a few non-party persons, the PPP/Civic attained 42 seats, the PNC 29 seats, the Working People's Alliance 2 seats, and the United Force 1 seat. The leader of the PPP, Cheddi Jagan, automatically became president; he subsequently chose the prime minister, the speaker of the National Assembly, and the cabinet. The former president, Desmond Hoyte, became the leader of the opposition.

The first change of government under Independence had been achieved; and the process of democratic development appeared to be back on track. Yet the new government and the people of Guyana will have to make a consistent and long-term effort to assure that progress continues and the democratic gains become permanent.

As late as January, 1993, Freedom House continued to show Guyana as "partly free"; for the period since October, 1992, a rating of "free" (2,2) would seem more appropriate.

## II. Summary Subsector Analyses

In making its assessment, the team examined in the time available many aspects of the democratic condition of Guyana. Guidance in selecting the areas examined was found in many A.I.D. documents, but in particular the draft LAC/DI assessments handbook. Short summaries of subsector findings follow.

### A. Effectiveness of the Administration of Justice

While it was impossible to gauge accurately the quality of judicial decisions, it was possible to note several key themes. First, the British system of common law and the organization of judicial process is fully accepted. Second, those involved in the system are painfully aware that they are not able to make it function as they would like for lack of resources. Magistrates are paid very poorly; as a result persons with adequate experience or training are both hard to hire and retain. The institutions of the courts are supported by pitiful libraries, court registries, staffs, and deteriorating physical facilities. Judges no longer have available to them printed copies of the laws of Guyana or of the decisions of its courts; libraries are years behind in obtaining records of decisions in other Commonwealth countries on the basis of which judgments are formulated. Informants were agreed that many laws need to be updated to accord with the changes that have occurred in the society, political system, and the outside world. Finally, access to justice is severely limited by the absence of a legal aid system. (See Annex A)

### B. Human rights: political rights and civil liberties

By standard measures of human rights performance, Guyana scores well. The deficiencies singled out in the State Department's "Country Reports on Human Rights Practices" are police brutality, limitations on worker's rights and societal violence against women and children. The first and third are common even in many first-world societies. They appear to be problems the government is cognizant of and moving to address. The traditional strength of trade unions suggest that the rights of workers are better protected in Guyana than in most third-world societies. At present, the people enjoy a system that guarantees them a choice of political parties, that allows open discussion of issues, and free assembly and organization. People are not in prison for their beliefs, nor does torture occur. Indeed, discussion with the Guyana Human Rights Association suggests that this traditionally highly critical organization now advocates emphasis on the United Nations Covenant on Social and Economic rights because "we now have the political and civil rights". Thus, conditions appear to be much improved over those reported in the latest Freedom House annual.

### **C. Ability to administer free and fair elections**

The latest election demonstrates this potential ability. However, it should be remembered that the success of this election was due, in part, to extensive international aid, and that it was conducted in the glare of international attention. Separate systems for voter registration and national identity cards combined in the run-up to the election to create confusion and suspicion in the electorate. It is also important to note that the special regulations developed for the 1992 election have now lapsed. The international groups that assisted in the October, 1992 election process are agreed that a more orderly and permanent electoral process must be developed. However, both government and opposition seem to feel that the upcoming local and municipal elections can be held fairly under the regulations that remain in place. The government has suggested that the process of electoral reform should proceed in parallel with preparation for these elections. However, some international groups place reform as a condition for further electoral assistance. (See Annex B)

### **D. Accountability**

Fundamentally, the surest protection of the public from the ravages of corruption and misuse of governmental position is free discussion in the media, including investigative journalism, and periodic change in government. At the same time, competent administrative machinery is needed to investigate and remedy wrongdoing. The major formal institution established as a check on the government is the constitutionally independent office of the Auditor General. In addition, an active legislature and substantial NGOs may play a critical monitoring role. During the last twenty years all these institutions weakened; some even failed. However, they operate with steadily increasing vigor today, and it is likely that this trend will accelerate. The Auditor General, in particular, appears competent and respected, even though in the recent past he suffered from lack of government cooperation with his work.

### **E. Local and municipal government**

Although it has a small population, Guyana has been consistently concerned with developing local governmental institutions. These exist at a variety of levels, from the village through the district to the region, with special arrangements for Amerindians. There are elected councils at all levels; however, most councils are relatively ineffective due to a very limited ability to raise funds. Those larger municipalities and traditional villages that effectively raise funds locally take upon themselves the provision of services such as garbage collection or irrigation ditches. The openness of elections at subnational levels declined in the recent past, but this should improve under the new government. The current administration appears interested in increasing the strength of local institutions and in creating new ones.

## **F. Civilian control of the military and police**

The military, police, and prison systems are organized as relatively autonomous institutions. Once appointed, the heads of these institutions serve until retirement. Although in the last election, there was concern that the police did not protect the process adequately, there has been no record of interference by the security systems in the political process. It remains a concern that the overwhelming majority of persons in these services are from the Afro-Guyanese community that is popularly identified with the PNC. Given this perception of the relation of race and party, this imbalance could at some future date lead to the subverting of the democratic process by the "disciplined forces". This concern remains theoretical.

## **G. Effectiveness of the legislative branch**

The unicameral legislature is a well-established branch of government. The new government promises that the legislature will be the preeminent institution. However, the present constitution concentrates power in the president, and the legislature has played a weak and almost ceremonial role in recent years. (In contrast to most proportional representation systems, after an election the leader of a party need not choose as members of parliament those who were high on the party "list" for the election. This further reinforces the relative passivity of "backbenchers" characteristic of the parliamentary system.) Parliament meets about thirty days a year; its members generally continue to have full-time jobs outside parliament. There are no substantive committees and no research staff. The opposition has no capacity to seriously examine the bills that are brought by the government. An intention to change this situation is suggested by the recent turning over of the parliamentary building to the parliament by removing the offices of the president and the foreign ministry. However, the new government appears to continue the tendency to ignore the views of the opposition in the development of legislation.

## **H. Political party system**

Parties have long been well organized and well established at both local and national levels. Even during the worst days of authoritarianism, opposition parties continued to exist with relatively little interference. As in much of the Caribbean, their strength has rested on close alignment with particular labor unions. Minor parties such as the United Force have taken on themselves special causes, such as that of the Amerindians, which is a legitimate function of the party system. However, the two major parties exhibit deficiencies. They have been led by dominant individuals over long periods (in Latin America we would call them Caudillos) that brook little opposition. They have also reached a point where there appears to be remarkably little policy difference between them. This reinforces the popular tendency to see the PPP as "Indian" and the PNC as "African". Again, this situation raises the concern that future political leaders might exploit this situation with disastrous consequences.

## **I. Alternative sources of information: the media and social analysis**

Although some of the print media are owned by the government or political parties, and their quality could be improved, Guyana's newspapers and journals offer a broad spectrum of information. The leading private paper has become the standard source of information for public and parliamentary discussion by all parties. Even during the worst repression, an investigative Catholic weekly continued publication, and it continues to play a critical role today. Many other organizations publish their points of view through leaflets and meetings.

Although partially government owned, television offers a wide variety of programming, if somewhat too heavily slanted toward the reception of foreign stations. The two radio stations are government owned, but they appear to be operating in a manner little different from private stations. A recent government report suggesting the licensing of private radio stations and government regulation of the chaotic television sector is now being widely discussed. Some of its recommendations are expected to be implemented.

In spite of the variety of media, the country has failed to develop a modern ability to analyze or understand social conditions, or to consider alternative approaches to their resolution. Social statistics are generally unavailable. A local public opinion polling capability does not exist. Policy analysis is not undertaken within or outside the university. With these deficiencies, the government is unable to adequately understand the dimensions of the problems it faces or to develop effective programs that will receive public support.

## **J. The strength of civil society**

Labor unions have long been established: a very high proportion of workers, including those in agriculture, are organized. From the North American viewpoint, unions tend to be too closely aligned with particular political parties, yet their record of strikes suggests that this is not a tight relationship. There are a wide variety of flourishing religious organizations meeting the needs of every community. In addition there are human rights organizations, including those concerned with the special problems of women and, recently, of elections. This appears to be a fairly vibrant subsector. The partially locally funded Beacon Foundation promotes self-help projects throughout the country.

## **K. Civic education and leadership training in democratic values**

Specific civic education programs do not appear to be highly developed in the schools. The past attempt to do so for the special purposes of the recent authoritarian state is likely to have given many Guyanese a distaste for indoctrination of any kind. In any event, study in the schools of the previous history of Guyana and of other Commonwealth states should indirectly offer considerable understanding of liberal democracy and its development. At the time of the 1992 election, at least some schools conducted special programs to inform their students about the electoral process, as did the Electoral Assistance Bureau (EAB -- a local NGO) through its many volunteers. The

Guyana Human Rights Association puts out a series of publications on many issues of civic concern, as do women's organizations. We are aware of little explicit leadership training in democratic values. However, many organizations told us that in their training programs they attempted to get across the democratic message.

### III. A Democratic Strategy for Guyana: Basic Considerations

The United States has made a decision to support the Guyanese people in their effort to stabilize democracy. However, since funds are limited, and the political and bureaucratic capabilities of the Guyanese to effectively use foreign political aid are limited, A.I.D. needs to consider the timing and staging of its assistance. In making this determination, it should observe the following principles:

- 1) Emphasize assistance in those areas where *both* Guyanese leaders and the U. S. government find the greatest need, (See Annex B)
- 2) Avoid efforts that would overburden the system by attempting to do too much at once, and (See Annex A)
- 3) Avoid getting out ahead of the Guyanese in areas that A.I.D. judges important, but in which Guyanese leaders have either not yet made a decision to act or appear to have not yet formulated a coherent and effective approach.

Democracies are most secure when they are able to participate fully in a subworld of stable democracies with which they have close historical ties. Within such a supportive network, nondemocratic practices become increasingly unthinkable, and nondemocratic tendencies will be countered by the public opinion of both the country's citizens and its neighbors. For this reason, the following additional principle is stressed:

- 4) Emphasize those efforts that will at the same time both directly help democracy in Guyana and strengthen the connections of the Guyanese people to the strong democratic traditions of their Caribbean neighbors and the larger Commonwealth.

It is particularly important to note the close social and political connection between the Guyanese and the other states of the Commonwealth Caribbean, and beyond that to the United Kingdom and other Commonwealth countries. The post-independence innovations of the PNC frayed this connection through the establishment of a different set of international connections (Cuba, USSR, North Korea) and the models that went with them, and through modifying the political system in ways that diverged from both the forms and the liberal democratic tenets of the country's Caribbean neighbors or the United Kingdom.

At the same time, Guyana's connections to their democratic neighbors were never broken; its lawyers, police, educators, businesspersons, and many others continued to emphasize their connection to the U.K. and to close neighbors in the Caribbean. Thus, when the time has come to build democracy anew, it is these models and these connections that Guyana looks to. Realizing that many Guyanese also wish to profit from the democratic experience of the United States and their Latin neighbors, and that our aid will play a part in fulfilling these needs, A.I.D. should, nevertheless, take every opportunity to reestablish the full participation of Guyana in the subworld of Caribbean democracy.

#### IV. A Democratic Assistance Program for Guyana: Priorities and Phasing

Two areas demand immediate attention: the electoral system and the justice system. Both were high on the list of programs that Guyanese informants wished to have supported and for both A.I.D. has active programs in the LAC region that are already organized to provide this support, or at least portions of it.

The Carter Center, IFES, and the UNDP are ready to provide assistance to Guyana in the process of reorganizing its electoral system and in holding upcoming municipal and local elections. It is our feeling that we should encourage the efforts of these organizations through the period in which these elections are held provided certain conditions are met. Some funding for this effort is already available from carry-over monies originally obligated for the October, 1992 election; more is probably justified. The effort should continue to be supported until a reformulation of the electoral system has been achieved or until the Guyanese have shown that they are not willing or able to move further in this direction. Thus, funding should not be contemplated in this area beyond the middle of 1994.

All informants were agreed that the justice system had fallen into serious decline and that infusions of help on many levels should be contemplated. This could begin quickly through adding Guyana to A.I.D. supported programs already in place for the Caribbean. Inclusion in these programs would serve the further purpose of relating the justice system in yet another way to those of Caribbean neighbors. However, additional programs will be needed. In particular, the law libraries lack many essential volumes and have become unable to meet the needs of either lawyers or judges. Legal reform should also be contemplated. Neither the general public, the lawyers, nor the legislators can readily find out what laws exist, and many of the laws that exist need urgent and largely uncontroversial revision. There is also a broad consensus on the need for legal aid for the poor; a pilot program is already being organized with the help of PL 480 local currency funding, but more assistance is likely to be required.

The legislature needs to be strengthened if it is to play a constructive or critical role in the system. The new president has suggested that a committee structure be developed to examine legislation, particularly through the holding of public hearings. It is also felt that the new parliament needs a library that would be a basis for more informed consideration of legislation. We also feel that some research staff should be contemplated, at least for the committees when and if they are formed. However, we found that the persons directly concerned had not yet clearly formulated their needs.

It is widely felt that the critical challenge to the stability of democracy in Guyana will be the amelioration of its racial relations, particularly the relationship of its dominant Indo-Guyanese community and the Afro-Guyanese. The domination of the latter in the capital and in the security forces, combined with the many years in which "their party", the PNC, was in charge of the country has led to the fear that new and less scrupulous leaders than are now in control of both parties could instigate a struggle for power that would no longer be decided at the ballot box. The government is currently in the process of establishing a Race Relations Commission, but the directions this effort will take, and the

ultimate likelihood of its success remains uncertain. The UNDP has offered to assist this Commission once its mandate is defined. A.I.D. should be prepared to offer some assistance (for example, local currency support, specialized technical assistance) if the Commission moves in directions that promise to produce effective results. However, A.I.D. should wait until Guyanese intentions are clearer.

Constitutional revision is high on the list of needs and was contemplated by all parties in the recent election. Certainly, many issues in this area should be addressed, particularly those that have tended to separate Guyana from its historic democratic traditions. This situation is further complicated by the renewed interest of all parties in closer ties with other Caribbean states, an interest fanned by the recent initiative of Prime Minister Manning of Trinidad and Tobago looking toward a closer association of Guyana, Trinidad and Tobago, and Barbados.

Taking these needs seriously we propose:

- 1) Continued electoral assistance support for a limited period.
- 2) The inclusion of Guyana in RDO/C programs in support of the system of justice.
- 3) Assistance in the establishment of more adequate library facilities for the courts and the establishment of a parliamentary library to be open to the general public. For this purpose, an expert should be engaged to survey current library holdings, including those of the university and the national library, with special attention to the needs of the legal community. He or she should develop a plan that would avoid duplication and promote multiple use. Subsequently, assistance should include limited provision of necessary books and technical assistance necessary to train local staff. (See Annex A)
- 4) The offering of very limited aid to a variety of Guyanese institutions, in so far as A.I.D. programs already exist to provide aid in this hemisphere. These would include, for example, the support of attendance at seminars or other training exercises by members of the police or army, the staff of the auditor general, members of the trade unions, or persons involved in the media, particularly radio.
- 5) The establishment of stand-by programs in critical areas of concern. These would be programs that would in the initial stage consist primarily in the encouragement of Guyanese attempts to define their needs and intentions. When and if these become defined, and the definitions seem promising, then A.I.D. should stand ready to provide assistance to the processes the Guyanese wish to pursue. Carrying out such programs, once initiated, should be expected to take place over a period of years. The stand-by programs would be in six areas:
  - a. Race relations.
  - b. Constitutional revision.
  - c. Legal revision.
  - d. Strengthening of the legislature.
  - e. Developing social statistics, opinion polling, and policy analysis.
  - f. Civic education

To track and develop the approaches suggested here, particularly those listed under (5), will require that one individual (resident in Barbados or Guyana) take responsibility for the substantive development of the program. This person should monitor and encourage progress in the areas indicated, exploiting opportunities and redefining missions as the situation evolves. Suggested activities for this person under (5) are as follows:

*In the area of race*, the commission that is now forming should be encouraged. The Guyana Human Rights Association has developed programs, such as organizational self-analysis, that the commission might be urged to consider. If outside advice is desired, the US Mission might offer to help obtain such advice. But it is important that such assistance be both politically noncontentious and related to experiences that have shown demonstrable benefits in other countries.

*In the area of constitutional revision*, we should encourage the government to begin the process of rethinking the constitution. Many Guyanese praise the constitutional review process undertaken in the 1970s in Trinidad and Tobago. This was characterized by extensive public hearings throughout the country on the nature of the political system and suggested changes. The model is particularly desirable since for Trinidad and Tobago it served the additional purpose of raising the level of popular understanding of the political system.

*In the area of legal revision*, the government should be encouraged to initiate the process. Special attention should be given to the economic or commercial benefits of updating the law. The effort should be presented as parallel to the effort the Mission will already be undertaking in the strengthening of the legal system and the rule of law.

*In the area of strengthening the legislature*, the suggestion has been made above that library facilities should be developed in the parliament building. The Prime Minister has shown interest in developing legislative committees on the American model, particularly as they involve public hearings on current problems of pending legislation. This effort should be encouraged as Guyanese leaders come to see the need for additional capabilities. In our support we should, however, continue to be cognizant of the differences between the American Congress and the parliamentary system that Guyana has inherited.

*In the area of social statistics, polling, and policy analysis*, the social science professors at the university might be encouraged to propose programs that might be given outside funding. One expects that assistance in developing these fields could be obtained from more developed societies in the region, such as Jamaica or the Commonwealth more generally.

*In the area of civic education*, the usefulness of a constitutional revision process has already been mentioned. In addition, some local NGOs, such as the women's groups, the Guyana Human Rights Association, and the Electoral Assistance Bureau have already done useful work. It would be productive to discuss with them additional efforts that they would like to undertake were funds available.

## ANNEX A

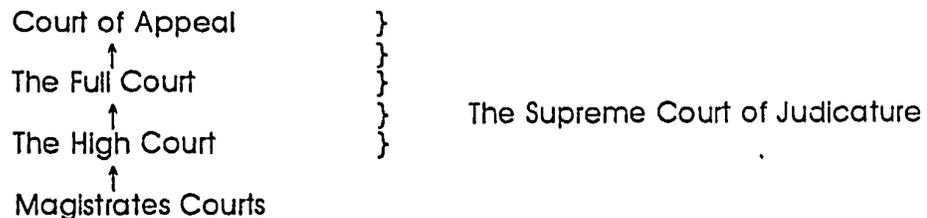
### The Legal System: Assessment and Proposals

#### I. LEGAL SYSTEM ASSESSMENT

The legal system in Guyana is presently under severe stress as a result of over two decades of governmental neglect and interference, and consequent financial starvation. The key elements in the system and the difficulties they face are as follows:

##### A. Courts

The courts of Guyana are arranged in a hierarchical relationship to each other. As the following diagram suggests, the Court of Appeal has the highest level of authority.



*Magistrates Courts.* The 37 Magistrates Courts handle small criminal and civil matters such as minor assault, petty theft, abusive language, landlord and tenants claims and claims for debts under G \$1,500. There are Magistrates Courts in every region and 80% of the cases brought by the police and individuals are heard in them. The jurisdiction of the Magistrates Courts has been extended to narcotics offenses.

Magistrates are Attorneys-at-Law and some deal exclusively with certain kinds of cases, such as claims for possession by landlords and fraud. They are selected by the Judicial Service Commission, an executive body whose composition is decided under the High Court. At this time, there are 3 women magistrates. This number is expected to increase, since more women are now entering the legal profession in Guyana than men. In 1992, of the 9 graduates of the University of the West Indies (UWI) from Guyana, 6 were women.

*Problems of the Magistrates Courts.* All courts suffer from the migration of legal personnel from the legal system as a result of poor remuneration. Today, only 60% of the 22 Magistrate positions are filled; the result is lengthy delays in the disposition of cases.

The shortage of magistrates particularly affects the administration of justice in Guyana's interior areas, because they are able to visit many areas no more than once every three

months -- in some areas, no more than once a year. Since bail is not available for cases that involve murder, treason, or some narcotics offenses, many accused persons have to wait in jail for long periods before their case is heard. This situation exists in spite of the fact that magistrates are legally required to live in the jurisdictions in which they have responsibility.

Another consequence of the migration of legal personnel from the magistracy is that these courts have had to utilize relatively inexperienced graduates to fill vacant positions. On the average, magistrates have 1 - 4 years experience. Shortage of magistrates coupled with their limited experience has resulted in lengthy delays in the disposal of cases. It is estimated that only 30% of the 1,100 civil cases handled by the Magistrates Court system every year are successfully disposed of.

Of the 21 Magistrate Courts in the country, many have leaking roofs, inadequate office space, and poor external appearance. All evidence must be taken down in longhand, because transcription services are not available. This mode of transcribing information further delays the disposition of cases.

Another serious limitation on the efficiency of the Magistrate Courts is that criminal prosecutions at the Magistrates Court level are performed by Police Prosecutors who are not Attorneys-at-Law. These officers are frequently transferred to other police functions before they acquire enough prosecution experience to make them effective in their jobs. As Magistrates Courts have jurisdiction over narcotics offenses, and as many narcotics offenders are in a position to hire experienced defense lawyers, it can be seen that having an untrained cadre of police prosecutors arrayed against trained defense lawyers may tip the scales, unjustifiably, in favor of narcotics offenders.

Magistrates throughout Guyana have no access to Law Library facilities that could enhance their ability to determine the applicable law in the cases before them. (See Section B below.) In addition, photocopying facilities are almost non-existent. Paper for photocopying machines is often unavailable and the antiquated machines are frequently not operational.

*High Court.* The High Court has a Chief Justice of the High Court and ten other judges. To be considered for appointment as a judge, 7 years of experience as an attorney is required.

Overall responsibility for the Court lies with the Chief Justice. Serious criminal cases such as murder and rape are heard in the High Court, as well as civil claims for amounts over G \$1,500, cases including trespass to land and claims for damages for injuries as a result of traffic accidents. The High Court also deals with the custody and adoption of children, divorce, injunctions, applications for probate and letters of administration and mortgages. There is one High Court, but cases are also heard at the High Court buildings in Georgetown, New Amsterdam and Suddie.

The Chancellor is the Head of the Judiciary. Both the Chancellor and the Chief Justice are appointed by the President of Guyana after the President has consulted with the leader of the opposition. Consultation does not require agreement between the parties.

The Judicial Services Commission that advises the President on the appointment of the other judges consists of the Chancellor (who acts as chairperson), the Chief Justice, the Chairperson of the Public Service Commission, and two or three persons appointed by the President after consultation with the legal profession.

The Chancellor, the Chief Justice and the Justices of Appeal vacate office at the age of sixty-five, other Judges at sixty-two.

*Full Court.* Appeals from the Magistrates Court and from a judge's decision in chambers are heard by the Full Court of the High Court. Sittings of the Full Court are presided over by not less than two judges.

*Court of Appeal.* The final court is the Court of Appeal in Georgetown where both criminal and civil appeals from the High Court, as well as some from the Full Court and Magistrates Courts, are heard.

The Chancellor and four or five other Justices of Appeal comprise the Court of Appeal. The Chief Justice of the High Court is an ex-officio member of the Court of Appeal.

*Problems of the Supreme Court of Judicature* (the 3 foregoing courts). On average, 6,500 civil cases per year are filed in the High Court in a country with only 11 High Court judges. As a result of the caseload of each judge, it is impossible to successfully dispose of all these cases. Plans are currently afoot to increase the jurisdiction of the Magistrates Court from G \$1,500 to G \$50,000 in the hope that this will reduce the burden on High Court judges. Such an enlargement of Magistrates Court jurisdiction, while it may reduce the number of cases to be decided by the High Court judges, will be a temporary solution at best, merely transferring the effects of a poorly staffed and overburdened court system from one part of that system to another.

The judges of the High Court do not participate in any continuing legal education programs, whether nationally, regionally or internationally, and this, coupled with the absence of current books, periodicals or journals in the Law Libraries of the Court of Appeal and the High Court, ensure that the judges of the Supreme Court of Judicature lack the necessary knowledge of the law and opportunity for legal research that is required for the speedy rendering of decisions.

At this time, 3 of the 12 courtrooms in the High Court are closed permanently as they are structurally unfit for occupation. Structural defects range from leaking roofs to floors that have become dangerously weakened. Shelf space for books in the courtrooms of the Supreme Court is extremely limited; there are no provisions for the private deliberations of juries empaneled to consider evidence in cases before the Court. Poorly trained court reporters are unable to keep pace with or understand court proceedings. Throughout the Supreme Court, judges transcribe all evidence by hand during the conduct of a case.

As in the case of magistrates, judges of the Supreme Court of Judicature have no access to Law Libraries with up-to-date legal materials. Neither do they have subscriptions to journals from West Indian or Commonwealth sources.

None of the 11 judges of the Supreme Court has been exposed to continuing legal education courses within the last 5 years. While it can be persuasively argued that judges largely acquire skills through adjudicating cases on the Bench, this learning process needs to be supplemented by formal training in areas of law commonly encountered by judges in the performance of their duties. Such training opportunities do not presently exist for the judges of the Guyana Supreme Court.

The Court of Appeal has many similar problems. However, the Court of Appeal library, while falling far below the acceptable standard for a Law Library, is in better condition than the Law Library at the High Court. On the other hand, while all Courts suffer delays arising from an inefficient Court Registry, the Court of Appeal feels this inefficiency most acutely. Appeals cannot be heard until a Memorandum of Reasons for Appeal is submitted to the judges by the Lower Court. Delays in the Court Registry in the preparation of these memoranda and in the preparation of transcripts certifying the correctness of the trial notes of judges are the major reasons for appeals being outstanding in some cases for periods of over two years.

## **B. Law Libraries**

The three Law Libraries in Guyana are located at the Court of Appeal, the High Court and the Attorney General's Chambers. Small holdings of law books thought to be relevant are to be found in other locations, such as the Caricom Secretariat, the University of Guyana and the Office of the Director of Public Prosecutions.

The three Law Libraries and the small holdings of books found in other locations are an inadequate basis for the practice of law. For example, in the High Court Law Library the latest edition in its set of Modern Law Reports is 1963. There are no holdings of West Indian Reports, Guyana Law Reports or All England Reports. There are no subscriptions to journals or periodicals from any source, and there are no photocopying or stencil machines. In addition, goods seized by Court Marshals under judicial orders are now stored in the law library because of the absence of any other available space. In the Court of Appeal Law Library the latest edition of the Criminal Appeal Reports is 1983; the All England Reports stop at 1989. The last copy of the Guyana Law Reports is dated 1974. The materials in the Attorney General's Law Library have similar inadequacies. These libraries lack trained law librarians.

The Law Library at the High Court is a lending library; its limited holdings are used by judges, magistrates, and students of the University of Guyana who are studying for various non-degree law examinations. It is the only law library generally accessible to the public. The other two law libraries are non-lending libraries that may only be used by senior law practitioners. The Law Library holdings at the Office of the Director of Public Prosecutions are for the sole use of the DPP and his staff; judges can consult only those holdings relevant to cases currently before them. The Caricom Secretariat and University of Guyana law library holdings are also intended to be specialist collections with limited public access, although permission can be sought and obtained to use these holdings.

### C. Court Registries

The Court Registries are the repository for all information relating to the legal system information needs of the Guyana Court system. The Court Registrar is the administrator responsible to the Chancellor and Ministry of Legal Affairs for the efficient administration of Registry functions. These functions range from the management of the Court Reporters who record the details of proceedings in Court to that of Court Marshals who execute the provisions of Court Orders.

The Court Registry is comprised of a Supreme Court Registry and a Deeds Registry. The former is under the control of the Chancellor of the Judiciary and the latter of the Ministry of Legal Affairs (the Attorney General's office).

Although the *Supreme Court Registry* theoretically has a staff of 140, it currently has only 115. Since the shortfall is concentrated in the Registry Clerk and typist areas, the deficiency seriously affects the timeliness of the administration of justice throughout the court system. Information fails to be recorded, and court materials for judges fail to be completed. Staff shortages are exacerbated by the fact that part of the workload must be borne by untrained staff members with little knowledge of court registry operations. The Registry staff is exposed only occasionally to in-house training programs in such areas as the preparation of Court Orders, the filing of documents, Probates and Letters of Administration.

Court Registry staff can advance through success in the Sworn Clerks and Notaries Public Examinations administered by the Guyana Public Service: a test of knowledge of such matters as probates, letters of administration, and powers of attorney. Unfortunately, failure to rotate Registry personnel makes it difficult for employees to become acquainted with the breadth of material that success in the examinations requires. This is a major impediment to the obtaining of more qualified Court Registry personnel in the Court Registries. Allied to the problem of training and advancement is the poor salaries paid to Registry staff. While the precise salaries scales could not be obtained, it was ascertained that a senior Registry Clerk would take home the equivalent of US \$30 per month, which is very little even in the context of the low salaries that exist throughout the legal system.

The low salaries of Registry personnel result in the low educational level of the clerks the Government is able to employ. Clerks now usually have qualifications in 2 Caribbean Examination Council subjects as compared with the 5 or 6 subjects, including Math and English, that have traditionally been required.

It should be noted that neither the Supreme Court Registrar nor the Deputy Registrar are at this time legally qualified. The Registrar has one year's experience.

Similar problems are found in the Deeds Registry, which is responsible for recording all deeds entered into as part of a legal transaction. In both the Deeds Registry and the High Court Registry, a marked lack of automation exists. No word processors are found in either. This factor is much more serious for the Deeds Registry as the deeds date back to the 1930's. About 10 functioning manual typewriters are in the High Court Registry;

there are no electric typewriters.

Since neither Registry has a photocopying machine, important materials discovered in the Registries have to be copied laboriously by hand. Both Registries need additional vault space for the storage of relevant documents, and workable electric fans.

#### **D. Director of Public Prosecutions (DPP)**

The post of Director of Public Prosecutions is enshrined in the Constitution of Guyana. He or she is appointed by the President of Guyana after consultation with the Prime Minister, and after the Prime Minister has consulted with the Public Service Commission. The DPP cannot be removed unless he or she is incapable of performing the job properly or is guilty of serious misconduct. The Budget of the DPP's Office is controlled by the Ministry of Finance. The budget is determined through a balancing of the DPP's request under various subheadings and the spending amounts determined for the government as a whole. Changing in funding among budget line items must also be approved by the Ministry.

With regard to functions, the DPP can institute, take over, or terminate criminal prosecutions against any entity or individual in the country. In order to carry out this mandate, the DPP's Office has provision for 1 Deputy DPP, 2 Senior Counsel and 8 State Counsels. While the DPP has 15 years experience as an attorney in the Office of the DPP, there is a very large experience gap between himself and the other attorneys in the office who all have less than 5 years experience as attorneys. The shortage of experienced staff is attributable to the poor salaries and conditions of service offered to prospective staff. Precise salary figures are not available, but the salary of a Senior Counsel in the DPP's Office would be roughly equivalent to that of State Counsel (G \$30,000 per month).

The DPP's library holdings fail to meet the wide ranging responsibilities of this office in the criminal law area. Apart from outdated selections of Law Reports, its law library exists in name only. There is no law librarian to oversee the limited collection available to the staff of attorneys. The importance of this deficiency is more apparent when it is realized that the police prosecutors who prosecute all cases in the Magistrate Courts frequently call on the staff attorneys of the DPP's Office for assistance when they think the case requires it. The staff of the Office of the Director of Public Prosecutions does not have access to training courses relating to the prosecution of criminal offenses.

#### **E. Law Reform, Revision and Printing**

Several areas of the law require amendment, supplementation, and revision. In some cases, new laws are required to address social problems that have grown in magnitude. In the near future, Guyana may need the creation of new legislation in areas such as (i) Family law (Family Court); (ii) The capture and sale of wildlife; (iii) Domestic violence; and (iv) Trade union recognition.

Many Acts of Parliament that were obtained from Britain in the early 20th century no longer accord with social realities. For example, the divorce law is still based on the Court being satisfied that one of the parties to the marriage is at fault instead of being able to be obtained with the consent of the two parties as in the case in jurisdictions with modern divorce laws.

In order to create new legislation in a timely fashion, the three legislative draftsmen attached to the Attorney General's Office will need to be supplemented by the addition of possibly two more draftspersons. Law reform and revision of existing laws also presume the availability of efficient printing facilities that Guyana lacks.

#### **F. Legal Aid**

Initiatives are underway that seek to enlarge the access of poor and disadvantaged persons to legal services. The Legal Program in Guyana funded by the Inter-American Foundation was discontinued in 1983 due to lack of governmental support for the lawyers who had established it. There is at present no legal entitlement to legal aid, although the Chief Justice may order that legal aid be provided to an unrepresented defendant in capital cases.

The present Government has agreed to devote G \$6,000,000 of PL 480 counterpart funds for the reestablishment of legal aid, and has promised to provide the services of a full-time attorney-at-law to the program. The private Bar is in the process of incorporating a company to provide the legal framework for disseminating legal aid services. It plans to begin with a pilot legal aid program in Georgetown.

The scope of services to be provided by legal aid has not yet been delineated, but it is thought that fees will not be collected from persons who are shown by the Social Welfare Office to be genuinely unable to afford legal representation. It is envisaged that most users of the clinic will be women seeking legal redress in areas such as domestic violence and divorce. Initial response to the proposal is encouraging. Two private sector female attorneys have volunteered to join the scheme on a part-time basis.

#### **G. General**

The deteriorated physical and human condition of the justice system suggests that governmental contributions have been inadequate. Salaries for legal system personnel are so low that for many years the system has been unable to attract personnel of the caliber required.

The March 12, 1993 budget presentation suggests that the salary for public servants will be raised by 20% beginning on July 1, 1993. The Government is in the process of entering into a Civil Service Reform Program with the IDB that will result in the approval of funds for the topping up of the salaries of public servants. More generally, there is evidence the Government intends to address the problems of the legal system. The March budget envisages the Government increasing its financial contribution to the system from G \$56.4

million 1992 to G \$80 million this year.

## **II. GUYANA LEGAL SYSTEM INTERVENTIONS**

Rapid assistance could be given through RDO/C's already existing Caribbean Justice Improvement Project (CJIP) in selected areas. Since assistance would be channeled through an existing project delivery mechanism, this would avoid devoting time to the design and approval of a new project activity. The following types of assistance should be provided under CJIP:

### **A. Paralegal Training**

The University of Guyana (UG) is presently developing a one-year diploma in legal studies for persons such as clerks-to-lawyers. It will offer training in paralegal areas that will make them more efficient in their jobs. To be instituted by August 1993, this program is similar to the paralegal courses set up in the Eastern Caribbean Region and Belize.

In light of the benefits of having more trained persons operating as paralegals, CJIP should support the establishment of this program for Guyana.

First, it should provide help in purchasing the legal books and materials needed by the students and the university for a one-year period.

Secondly, some contribution is likely to be required to provide adequate salaries for the tutors. The University of Guyana and Government of Guyana would be responsible for employing the tutors. These could conceivably be drawn from the ranks of the 115 strong private Bar which could provide attorneys qualified in the various subject areas to be taught. It is recommended that CJIP supplement, if necessary, the salaries of these tutors if the Government or the University of Guyana are unable to meet the full financial costs. The Guyana Bar Association should, however, be lobbied to encourage their members to contribute their time on a pro bono basis in the national interest as a first course of action under this heading of assistance;

On the assumption that CJIP will be required to contribute to the expense of providing tutors, books and materials for students, the total cost contribution from CJIP for the paralegal program for one year will be in the region of US \$40,000.

### **B. Law Library Development**

Given the condition of the law libraries detailed in Part I above, there is need for immediate assistance.

The first step should be to provide a Law Library Technical Assistance person from the Caribbean for a three-week period to assess the needs of the law libraries, such as those for better storage facilities, subscriptions, and the reconditioning of books. This person

should be asked to provide details on any user fees that could be levied to increase the ability of the law libraries to finance some or all other activities. An assessment should also be made on the practicality of having the holdings of the Law Libraries consolidated into one central Law Library for the Guyana Court system. A.I.D. support for implementation of the recommendations that flow from this assessment should be envisaged.

This person or one with similar qualifications should then be asked to arrange suitable training for a Guyanese Law Librarian that could eventually take over-all charge of the Law Library or Libraries on a permanent basis and who would be paid by the Government of Guyana.

If engaging a person from the region to undertake such extensive training in-country is not affordable, then an acting librarian from the existing law libraries should be selected for training at the University of the West Indies in Barbados under CJIP auspices. As on previous occasions, the 7-week course should include lectures and practical exercises in subject areas such as introduction to computers, legal research techniques and the forms of legal literature, the cataloging and indexing of books, elements of law library management and elements of circulation and reference administration. Such training might also be given to a person responsible for the law library of the office of the Director of Public Prosecutions. This person will collaborate with the other law libraries in the development of the law library of the DPP.

The Technical Assistance, including training aspects, could be provided immediately within the present funding of CJIP. The implementation of recommendations by the outside technician regarding the purchase of law books or other materials for the libraries would necessitate an infusion of additional funds into CJIP.

### **C. Court Registry Improvements**

Registry assistance in the form of technical assistance to assess the problems and make recommendations for their solution, the provision of commodities to streamline Registry operations, and the training of Court Registry personnel in relevant areas relating to the management of the Court Registry is immediately available under CJIP auspices. However, it is recommended that any Registry improvement commitment be firmly attached to an agreement on the part of the Government of Guyana to make working conditions more amenable to the retention of qualified staff in the Registry. By July 1, 1993, Government servants will start receiving more salary according to the March, 1993 budget. Even so, it is believed that further retention inducements such as the provision of improved opportunities to advance to higher levels of the service should be built into the Court Registry management system.

In addition, with larger salary payments to be made to Government servants, every attempt should be made to recruit a more highly trained person to manage the affairs of the Court Registry. Given the management burden of a staff of over 100, serious consideration should be given to the question of employing an administrator and not necessarily a lawyer for this position.

The Court Registries should also be assisted in providing more vault space to enable the storage of important and relevant documents relating to the operations of the Registry. This vault space should be air conditioned to enable the proper temperature to be maintained for the preservation of documents. The Government should also be encouraged to enforce the present law relating to the destruction of certain documents after 10 years. Presently, no destruction of documents is taking place, which accounts in large part for the overcrowded Court Registry. Further Registry space also could be obtained by the microfilming of documents and the provision of the necessary microfilm readers to the Court Registry.

Provision to the Registries of such commodities as electric fans, electric typewriters and word-processors is needed immediately. Over the medium term technical assistance should be provided to create a computerized registry that will have all the individual branches of the court registries linked as one unit. This would make possible access by one or more authorized persons in the system to information in any other area of the Registry. After such a system is set up, the necessary arrangements will have to be made for training staff to operate the system and for regular maintenance to be provided to the equipment by the Government. The provision of such technical assistance can be immediately provided under the auspices of CJIP, but the purchase of commodities such as the computers, typewriters, etc would demand an infusion of additional funds into the project.

#### **D. Other Training Requirements**

Training on a systematic basis should be provided for court reporters to lift their standard of performance. This training should be undertaken through national courses if at all possible. It should be phased in with the summer recess of the Courts when activity is at a minimum.

Court prosecutions in the Magistrate Courts are undertaken by Police Prosecutors who are not legally trained. While this type of prosecution is freely and successfully used in some Caribbean States with established democracies, such as Barbados, Grenada, and Dominica, there is a danger in having such a system in a newly recovered democracy such as Guyana, in which the links to democracy have frayed and ethnic cleavages threaten political stability. To make this system acceptable, a special effort should be made to make clearer the lines of demarcation between a policeman prosecuting cases before the courts and a policeman having made the initial arrest of an alleged criminal offender. The police must not seem to be acting as judges in their own cause or as in unholy alliance with the judges.

To avoid prohibitive costs, the only way to improve the acceptability of the system in the short-run is to have prosecutions conducted by police prosecutors who are sufficiently highly-trained to perform their duties in such a manner that justice is seen by the general population as having been done. CJIP training resources can be brought to bear on this problem in the form of nationally conducted training courses for police prosecutors. These one-week courses would cover such topics as the use of documentary evidence, protection of exhibits and cross-examination. Funding for this type of training initiative in

Guyana would be immediately available from present CJIP resources.

The office of the Director of Public Prosecutions that has overall supervision of all police prosecutors, and is required to conduct all prosecutions in courts above the Magistrate Court level should be provided with a series of training courses in specialized areas relating to criminal prosecutions. Course content should include evidence, presenting a case in court, and cross-examination. These courses should also be conducted nationally to enable more DPP prosecution personnel to benefit from the training initiatives that should be initiated by leading prosecutors in the Caribbean.

No judge or magistrate has received formal refresher courses in the last 5 years. While it can be argued that judges and magistrates largely acquire their skills by actually adjudicating cases on the Bench, there is no doubt that this learning process needs to be supplemented by formal training in many areas of law. Under CJIP, regular conferences for judges have been provided to enable them to obtain that degree of contact and dialogue with their colleagues that is required to facilitate information sharing on issues of common judicial concern.

For these reasons, the system of justice in Guyana can be substantially strengthened by having judges and magistrates participate in the CJIP judges' training conferences that are conducted from time to time. This participation can be implemented immediately - for example, CJIP has a Judges Conference planned for as early as April 1993.

There is a critical training need for legislative draftsmen in the office of the Attorney General. As was pointed out in the assessment portion of this report, it is expected that a significant amount of new legislation in all areas will be required by the Government of Guyana. The drafting of these legislative instruments will be the responsibility of the legal draftsmen. One practical problem which arises is how to train draftsmen while they are so badly needed on a day-to-day basis.

Consideration should be given by the Government to employing two more draftsmen who could possibly be less experienced attorneys-at-law who have recently graduated from law school and who will be returning to the Government to serve their 5 year commitment to working with the Government in exchange for government financing of their law studies. Another alternative would be for the Government to locate attorneys who would be interested in being trained in the one-year Legislative Drafting program at the UWI Faculty of Law and who would serve one or two years in the office of the Attorney General as a legislative draftsman.

#### **E. Legal Aid**

As discussed above, the Government of Guyana and the Private Bar have taken steps to establish a legal aid center. Despite this auspicious start, additional funding will be needed in the medium term. Although present plans call for legal aid services to be given only to those persons unable to pay, technical assistance should be provided to draw up a funding strategy for the legal aid clinic that will ensure its continuance for a reasonable time. Such technical assistance could be provided immediately under the auspices of CJIP.

## **F. Law Reform, Revision and Printing**

The need for law reform, revision and the printing of reformed and revised laws was documented in the assessment part of this report.

For law reform to take place, however, serious consideration has to be given to the establishment of a Law Reform Commission by the Government. This Law Reform Commission should be staffed by retired judges who are paid salaries commensurate with their experience and abilities.

The revision of the statute Law and Subsidiary legislation is also a pressing need for the justice system. Since law revision can be an arduous process, it is recommended that the Government appoint a Law Revision Commissioner for the undertaking of the law revision exercise. As funding for this type of activity will need to go on for at least five years and as the system of law is based on British law, it is recommended that the Government be encouraged to seek the assistance of the British Development Division or the Commonwealth Fund for Technical Cooperation for the provision of a resident Law Revision Commissioner for Guyana.

With respect to both law reform and revision, it will become necessary to have an efficient printing capability in-country to ensure that reformed and revised laws can be disseminated once they have been charged. At this time, the Government Printing Office is unable to expeditiously provide the printing services that law reform and revision will require. Steps should be taken to rectify this insufficiency either through expanding the capability of the Government Printing Office or the development of reliable private printing capabilities in the country.

## **G. General**

The Caribbean Law Institute Project should also be asked to provide assistance to Guyana in the area of Company Law modification and the development of Hire Purchase legislation.

The RDO/C managed Caribbean Law Institute (CLI) has as its mandate the revision of laws relating to Trade, Commerce and Investment in the English-speaking, common-law based Commonwealth Caribbean countries. Guyana was originally designated a beneficiary under this program, but because of political circumstances existing in Guyana it has not been able to participate since the project's inception in 1988.

With the carrying out of free and fair elections in 1992, the way is clear for Guyana to actively participate in the CLI Project. Participation should initially take place by having the Attorney General invited into the Fellows of CLI. The process of supporting Company Law revision could begin with CLI sponsored workshops on Company Law in-country. These could highlight the benefits of CLI Company Law revisions in other Caribbean countries. As pointed out in the preceding discussion, all Guyanese laws, including Company Law, are outdated. Outdated Companies legislation certainly has a negative effect on the investment decisions of foreign and local investors interested in Guyana.

Under the present terms of the CLI Project, Guyana participation can be achieved immediately.

## ANNEX B

### The Ability to Administer Free and Fair Elections

#### Background

The October 5, 1992 general elections in Guyana are widely considered the first truly free and fair elections since independence. This result was brought about by a two-year effort by national organizations and international assistance. A.I.D. provided support through the International Foundation for Electoral Systems (IFES), the Carter Center and the National Democratic Institute (NDI). A Commonwealth observation team was present, and the UNDP provided both material and technical assistance. On October 5, the polling process proceeded with only minor problems until late in the day. Then violence broke out, the Elections Commission was attacked, and there were reports of stolen and destroyed ballot boxes. These and other problems indicate the level of emotion present during an election in Guyana; they suggest that the fairness of future elections is not assured.

#### Assessment of the Situation

A summary of laws and regulations concerning elections in Guyana can be found in the October 31, 1990 IFES document entitled "Guyana: Technical Report of a Pre-Election Assessment Team". The level of detail found there need not be repeated here. For our purposes, it is sufficient to note that there remain serious structural problems with regard to 1) the Elections Commission, 2) the voters list and registration, and 3) physical facilities and budgetary resources.

- 1) The present law produces an elections commission that is both politicized and temporary. Most observers and donors, including UNDP, Carter Center, and the Guyana Human Rights Association advocate reform of the law so that a permanent commission, with broader representation, be established to continue operations between elections.
- 2) The preparation of a voter's list was a long and painful process. Differences between the Elections Commission and the Commissioner of Registration and Chief Election Officer continually resulted in draft voters lists with which few could agree. Given the level of emotion surrounding the process, foul play rather than incompetence or simple mistakes was usually suspected. Most international observers recommend that a single national identity card that would also serve for voter registration should be adopted rather than the present two card system.
- 3) The Elections Commission occupied rented space for the 1992 election and utilized primarily donor-provided equipment and supplies. The Commission now occupies only two rooms in the General Post Office Building. The time limitation on the Commission having lapsed, only the Permanent Secretary remains on the staff. There is, in fact, no Commission. However, local elections are due this year and

both facilities and materials will be required. Both the UNDP and the Carter Center have indicated that they are not interested in providing material support for these elections unless the Government enacts meaningful electoral reform.

### Recommendations

The team interviewed a range of people interested in the electoral process and in the upcoming local elections. Interestingly, the leader of the opposition believes that the elections can be held fairly without having to wait for the reform of the process. Further, the director of a local NGO that provided significant support for the 1992 elections also told us that he thought that local elections could be administered fairly under present guidelines.

We believe that reform is so important that it should be started right away. However, this does not necessarily imply that the local elections should be delayed until this process is completed. The reform process and preparations for the local elections can proceed concurrently. A.I.D. should request its grantees involved in the Guyana elections to define specific reform targets that would serve as indicators of progress as election preparations begin. Should serious reform not be clearly underway before the date of these elections, then support for these elections could be suspended.

The essential reforms are:

- Making the Elections Commission a permanent body with a broader based, less political character.
- Utilizing a single document for both identification and voter registration.
- Providing adequate physical space and facilities for the conduct of the upcoming elections.

## ANNEX C

### People Contacted

- \* Barrera, Manuel; DCM, U. S. Embassy.
- \* Benomar, Jamal; Carter Center, resp. for Guyana program (by phone).
- \* Bishop, Aubrey; Chief Justice.
- \* Calres, David de; Editor-In Chief, Stabroek News.
- \* Carroll, David; Member of Carter Center team.
- \* Chang, Ian; Director of Public Prosecutions.
- \* Chase, Ashton; Head of Guyana Bar Association, former Election Commissioner; co-president of GHRA.
- \* Collins, Aubrey; Advisor, United Force.
- \* Collins, Rudy; CARICOM Secretariat; former chairman. Elections Commission.
- \* De Santos, Bernard; Attorney General; Min. of Legal Affairs.
- \* Embrey, Edward; Political Officer, U.S. Embassy.
- \* Ferrelra, Lance; Exec. Sec., Guyana Elections Commission.
- \* Fischer, Jeffrey; IFES (part of Guyana mission).
- \* Fitzpatrick, Miles; former PPP spokesman.
- \* Fraser, Orin; Law Librarian, Guyana High Court Law Library.
- \* Fredericks, Fred; Chairman, TUP.
- \* George, Kenneth; Chancellor of the Judiciary.
- \* George, Bishop Randolph; Anglican Bishop of Guyana.
- \* Goolsarran, Anand; Auditor General, Guyana.
- \* Heath, Michael; Economics Officer, U.S. Embassy.
- \* Hill, Steve; Guyana desk officer, State Department.
- \* Horatio, Edward; Deputy Registrar, Supreme Court Registry.

- \* Hoyte, Desmond; MP; Former President; now leader of opposition.
- \* Isralow, Sharon; A.I.D. LAC/DI democracy officer.
- \* Jackson, Dr. Janice M.; Coordinator, Women's Studies Unit, UG.
- \* Jagan, Derek; Speaker of the National Assembly.
- \* Jekir, Joseph; Chief Local Government Administrator (ret.).
- \* Jones, Ambassador George Fleming-United States Ambassador, Guyana.
- \* Jordan, Mosina; RDO/C Mission Director.
- \* Kennedy, J. Ray; IFES (leader of Guyana team).
- \* King, Dennis; Leader of Carter Center election team (by phone).
- \* Kirton, Mark; Head of department of political science and law, UG.
- \* LaRose, Jean; Guyana Human Rights Association.
- \* Larramore, Juan Luis; UNDP representative in Guyana.
- \* Lewis, Laurie I.; Commissioner of Police, Guyana.
- \* Liverpool, Fairbain; Permanent Secretary, Min. of Home Affairs.
- \* Lye, Clairmont; Businessman, Guyana. Also: Director of the Electoral Assistance Bureau (EAB), and Dir., Beacon Foundation.
- \* McCormack, Merle; Guyana Human Rights Association (GHRA).
- \* McCormack, Mike; Head, Guyana Human Rights Association.
- \* McPhie, Emily; Program Officer, RDO/C.
- \* Marwitz, Harold Program Officer, RDO/C.
- \* Morrison, Father Andrew; Editor of Catholic Standard.
- \* Moreau, Lisa; United Nations Development Program.
- \* Muhammad, Feroze; Minister of Home Affairs.
- \* Nadir, Mansoor; MP, The United Force (TUP); a leader of Caribbean Youth Institute.
- \* Nnebue, Francis; United Nations Development Program (UNDP).

- \* Parris, Malcolm; Chief Executive Officer, PNC.
- \* Plath, Roger; IFES (member of Guyana mission).
- \* Polydore Joseph; General Secretary, Trade Union Congress (TUC).
- \* Pollard, Brynmore; CARICOM Secretariat, legal advisor.
- \* Profit; Permanent Secretary, Min. of Legal Affairs.
- \* Rohee, Clement; Foreign Minister; advisor to Pres. Jagan; former election commissioner.
- \* Ryan, Selwyn; TUC leader.
- \* Selman, Neville; Former Guyana High Commission (Canada, Brazil).
- \* Singh, Rickey; Pres. Carib. Media Workers Assn.; Acting director, Carib. Human Rights Network (Guyanese: expert on situation).
- \* Thompson, D. O.; Deputy Police Commissioner, Guyana.
- \* Thompson, P. A.; Chief Exec. officer, Caribbean Assn. of Industry & Commerce; well-known Guyanese executive.
- \* Thomas, Clive; Dir. Inst. of Development Studies; MP, WPA.
- \* Thomas, Michael; Information Officer, U.S. Embassy (also: acting USIS and Labour representative).
- \* Waihe, Michael; Registrar, Supreme Court Registry.
- \* Wallace, Daniel; local director, PL 480 program in Guyana.
- \* Wheatcroft, Jonathan; Acting High Commissioner, Canada; CIDA representative (with CIDA team).
- \* Whitehead, Josephine; Member, Association of Women Lawyers.
- \* Witter, Norris; Guyana Human Rights Association.

## ANNEX D

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