Annex A(7)

Analytical Evidence to Support Guyana's Green State Development Strategy: Vision 2040

Governance and Institutional Foundations

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A 7 Governance and Institutional Assessment

A 7.1 Introduction

According to UNDP, *governance* is "the exercise of economic, political and administrative authority to manage a country's affairs at all levels. It comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences".[1] If governance is the exercise of authority and power, then institutions are the mechanisms and channels through which this takes place. Institutions can be considered in a broad sense as the "humanely devised constraints that structure political, economic and social interaction…consist[ing] of both informal constraints (sanctions, taboos, customs, traditions and codes of conduct), and formal rules (constitutions, laws, property rights)"[2] or in a more narrow sense simply as "formal organisations of government and public service, including government ministries and agencies, sub-national governments and other organisations of states responsible for public services, the design and implementation of policies, and the administration of the state's functions."[3]

The *Framework for the Green State Development Strategy* (2017) articulates through its vision the qualities of governance and institutions it seeks to realise (***emphasis added***):

> *"An **inclusive** and prosperous Guyana that provides a good **quality of life** for all its citizens based on sound education and social protection, low-carbon and resilient development, providing new economic opportunities, **justice**, and **political empowerment**.*

The Green State Development Strategy Framework[4] presents "good governance, decentralisation and participatory processes" as one of the cross-cutting themes of *The Strategy*. It defines this theme as "ensuring transparency and sharing services and decision-making to the population; engaging civil society and creating a space for citizen participation".[5] Elsewhere the framework emphasises accountability, responsiveness and efficiency of political governance and public institutions.

A 7.2 Historical Context

Guyana's history is captured by the struggle of its people to define, create and mold their institutions of governance to fit the unique circumstances and attributes of their diverse, multi-cultural society. In the colonial era, the struggle was for self-determination. This period witnessed the formation of a multi-ethnic national identity captured in the national motto: *One People, One Nation, One Destiny*. Guyana's first mass-based political party, the People's Progressive Party, mobilised and united Guyana's major ethnic groups in a common struggle.

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[1] UNDP 1997

[2] North, Douglass C. "Institutions." Winter 1991. Journal of Economic Perspectives, Vol. 5, No. 1, pp. 97-112.

[3] UNDP. 2011. "Chapter 8 Governance Principles, Institutional Capacity and Quality" in Towards Human Resilience: Sustaining MDG Progress in an Age of Economic Uncertainty. (New York: UNDP), p. 271

[4] UN Environment. 2017. "Framework for the Green State Development Strategy and Financing Mechanisms", p. 6.

[5] GSDS Framework. 2017. p. 6.

External interests and interference exploited local political rivalries and fractured this unity. The two major political parties that resulted now draw and sustain their support from the two major ethnic groups in society. The tragic political rivalry that followed has defined political governance since independence.

The authors of the *National Development Strategy* (2000), a group of civil society leaders from across the political and social spectrum, summed up the situation as follows:

"The major obstacle to Guyana's development is to be found in the divisive nature of its politics. Ever since the years leading up to the country's independence, the nation's every activity has been dominated by two political parties, the main followers of which are drawn from one or other of the two major racial groups....Partly because of the prevalence of fierce racial political rivalries between these two groups, and partly because Guyana's constitution is largely based on the Westminster model which does not embrace inclusivity in governance as one of its main characteristics, there has been little or no meeting of the minds between these powerful political parties on any major political, social or economic issue since Guyana became independent. On the contrary, confrontation of every sort and form has been the norm."

These observations remain relevant today.

Guyana inherited its public institutions at independence in 1966 from the British. They were by design suited for colonial rule and not extensively populated with local talent, especially at the higher levels.[6] In the context of the country's socialist experiment, the public bureaucracy was radically restructured and expanded in the 1970s and deeply penetrated by politics under the party paramountcy doctrine. Public institutions suffered further with the impact of the international oil crisis and overextension of the State into the economy. Painful adjustment followed. This combination of factors devastated Guyana's public sector, from which it has only slowly and partially recovered with the help of political and economic reforms that began in the 1980s and 1990s. Over time, the public sector shed certain responsibilities, passing them over to statutory semi-autonomous agencies which have proliferated creating coordination problems in some areas of public policy. As economic activity expanded rapidly over the ensuing decades, Guyana's public institutions have not kept pace with the demands for effective management and regulation that a modern market economy and a commitment to sustainability require.

There are several recurring themes in the literature on the governance and institutional challenges facing country:

Geography: Governance in Guyana is hampered by the large physical and social distance between the coast, where over 90% of the population resides, and the vast interior of the country, which is populated mostly by indigenous communities in villages and a few townships spread throughout the regions. The presence of the State in some of these areas is minimal. Border security is weak. A history of political centralisation, sparse transport links and weak telecommunications networks limit contact between the citizen and the State and constrains trust building.

[6] Ferguson, Tyrone. 1995. Structural Adjustment and Good Governance: The Case of Guyana. Public Affairs Consulting Enterprise. Georgetown, Guyana.

Emigration: Guyana's high rates of emigration are well known, especially among those with tertiary educations who emigrate at rates nearing ninety percent.[7] Institutions across the public and private spheres feel the impact of the lost generations of Guyanese, especially the young and those with professional and technical skills, who have left their country. It shows itself in undeveloped lands, unfilled jobs, un-enforced laws and low-performing institutions. Stemming this tide and drawing back those from the Diaspora who want to return and contribute to the country's development is a perennial preoccupation of policymakers and patriotic Guyanese.

Crime and Impunity: High crime, perceptions of insecurity and lack of faith in the justice system erode trust in public institutions and the political system itself. It is a disconcerting trend witnessed around the world and in the region.[8] Public polling shows that *perceptions* of insecurity due to crime are doggedly persistent over time, that citizen confidence in their police force is the lowest in the Latin American and Caribbean region,[9] and that almost 50% of Guyanese have little or no confidence that the judiciary would punish the guilty.[10] While there is variation over time in these statistics and relative positives (see below), fear and lack of confidence in institutions is corrosive of social cohesion.

Racial Tensions: Guyana is a diverse, multi-ethnic and multi-religious society where everyday demonstrations of social cohesion are the norm — celebrations in each other's cultural festivals; sharing markets, schools and work spaces; coming together during national disasters; enjoying sports and the company of neighbours.[11] Yet ethnic insecurity driven by fears of political exclusion can colour perceptions of how fairly and in whose interest all manner of institutions function, decreasing social trust and cohesion.

A 7.3 A Snapshot of Citizen Perceptions

The international community has developed a number of different indicators to measure the quality of governance in a country. The World Bank's Worldwide Governance Indicators provide measures of voice and accountability, political stability/absence of violence, government effectiveness, regulatory quality, rule of law, and control of corruption.

Figure 1 summarises Guyana's 2016 rank compared to the Latin American and Caribbean average.

[7] Mishra, Prachi. 2006. Emigration and Brain Drain: Evidence from the Caribbean. IMF Working Paper. Washington, D.C. p. 5

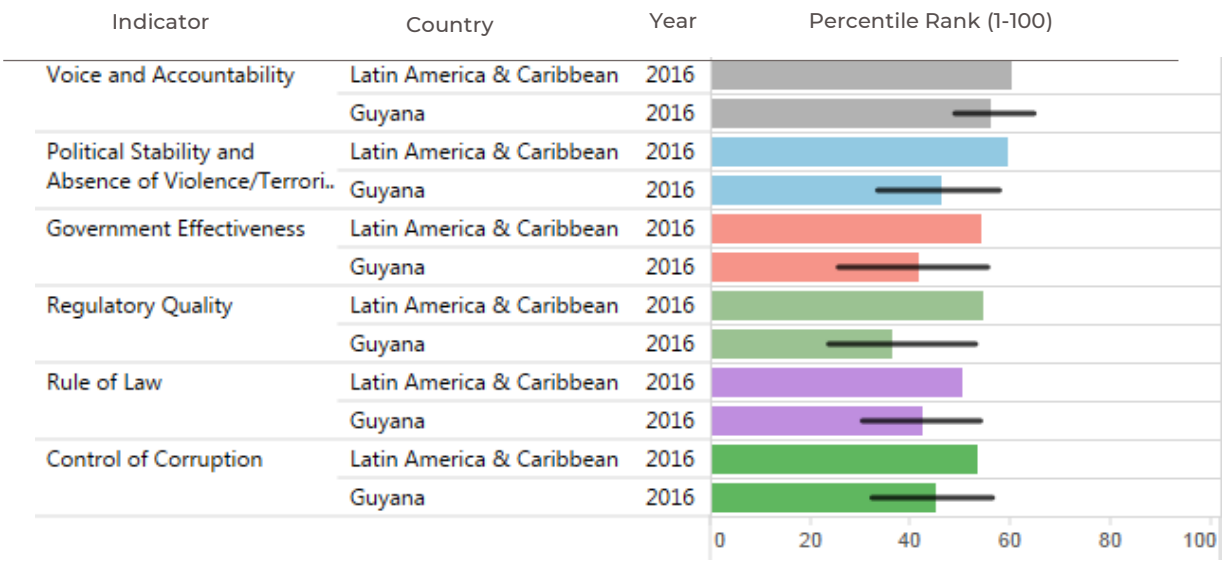
[8] Zechmeister, Elizabeth J., Ed. 2014. The Political Culture of Democracy in the Americas, 2014: Democratic Governance across 10 Years of the AmericasBarometer. LAPOP Project, Vanderbilt University.

[9] Ibid. p. 86.

[10] Cohen, Mollie J., Noam Lupa and Elizabeth J. Zechmeister. 2017. The Political Culture of Democracy in the Americas, 2016/17: A Comparative Study of Democracy and Governance. LAPOP Project, Vanderbilt University.

[11] Myers, Roxanne and Jason Calder. 2011. "Toward Ethnic Conflict Transformation: A Case Study of Citizen Peacebuilding Initiatives on the 2006 Elections" Future Generations. p. 30-33. Accessed at https://www.future.edu/2011/11/toward-ethnic-conflict-transformation-a-case-study-of-citizen-peacebuilding-initiatives-on-the-2006-guyana-elections/

Figure 1: World Bank Worldwide Governance Indicators



Governance - *how* power operates - shapes the average person's perception of the equity and fairness of the system in which she lives. Institutions - the *channels through which* power operates - are where the citizen experiences and sees the results of governance. Although imperfect, citizen attitudinal surveys provide a picture of how people think about the world around them and the LAPOP Americas Barometer surveys since 2004 have provided snapshots in time on a range of governance and institutional outcomes. Two results stand out:

On Responsive Governance. In response to the question of whether those who govern the country are interested in what ordinary people think, Guyanese expressed among the lowest levels of satisfaction (30.7%, down from 47% in 2009) in the Americas region.[12]

On Institutional Performance. Only 53.1% are satisfied with the road system, 57.6% with public schools, and 51.5% with public health services.13 These couple with the aforementioned perception of the police and judiciary show room for improvement.

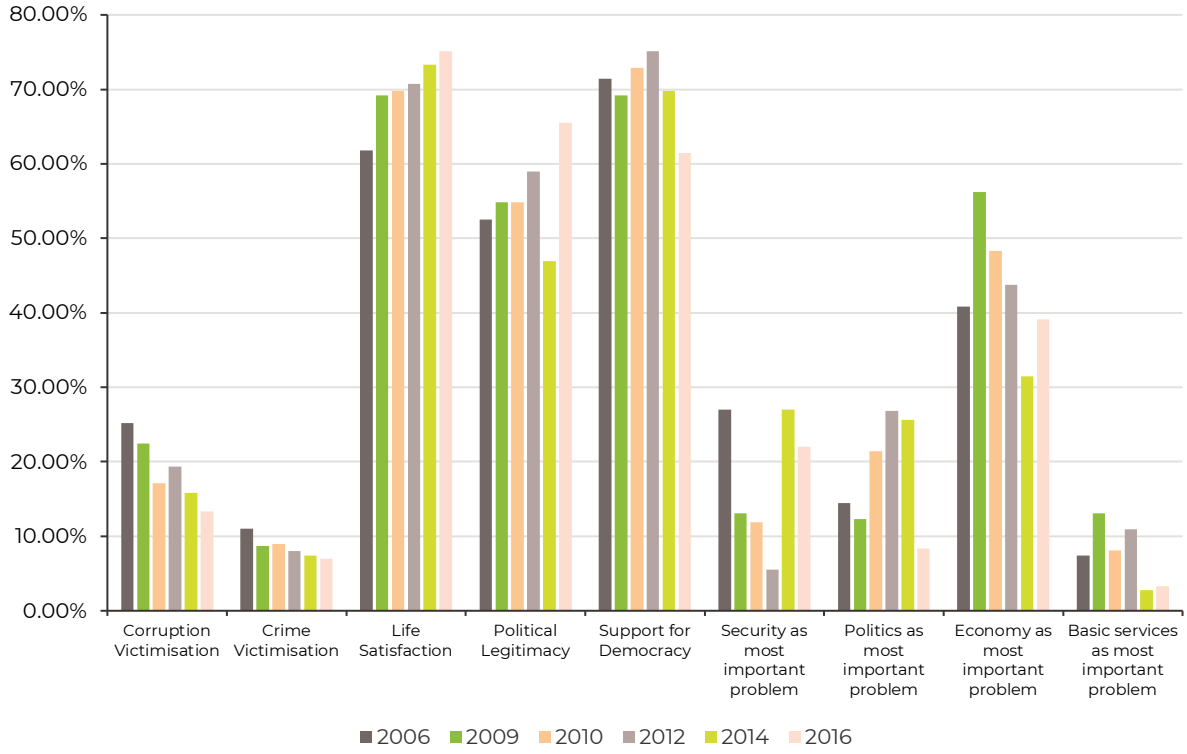
Figure 2 compiles data for Guyana from the AmericasBarometer surveys on various governance and institutional performance indicators. The picture is a mixed one. On many measures Guyanese perceptions of their institutions compare favourably to a wider set of Latin American and Caribbean nations, although the picture is less so when the subset is her Caribbean neighbours. Trends in several governance satisfaction indicators appear to have recently reversed course (political legitimacy, politics as the most important problem), quite possibly as a result of the second peaceful transition of electoral power in over two decades, the return to majority government and promise of local government elections. Corruption and

[12] Zechmeister, Elizabeth J. and Mitchell A. Seligson. 2015. "Advances, Challenges, and Setbacks in Democratic Public Opinion in Guyana: The LAPOP AmericasBarometer." Slide 32.

[13] Cohen, Mollie J., Noam Lupa and Elizabeth J. Zechmeister. 2017. The Political Culture of Democracy in the Americas, 2016/17: A Comparative Study of Democracy and Governance. LAPOP Project, Vanderbilt University. pp 109-115.

crime victimisation have continued a steady decline although this may be out of line with perception-based indices, while life satisfaction scores have increased.[14]

Figure 2: Citizen Perception of Governance and Institutional Indicators



Source: Americas Barometer Survey

The *Green State Development Strategy: Vision 2040* provides an opportunity for Guyana to rethink institutional configurations, creatively address persistent lacunae, and, perhaps most fundamentally, to consider overarching governance reforms that would engender social cohesion.

A 7.4 Framework for Democratic Governance & Citizen Participation

A 7.4.1 The Constitution and Political Governance

A 7.4.1.1 Legal and Institutional Framework

The Constitution of the Co-Operative Republic of Guyana is the fundamental law of the land and provides the overarching framework for citizen participation in the State. It is a hybrid of the Westminster system bequeathed at independence with elements of the Philadelphia model, notably a strong executive presidency which was introduced with the adoption of a new, post-independence constitution in 1980.

[14] Data compiled from 2014 and 2016/17 LAPOP surveys.

The current constitution is based on the 1980 Constitution and reforms completed in 2000 and enacted in 2001 and 2003. The constitutional reform process of the late 1990s was the result of a political agreement brokered by CARICOM following disputed elections and the resulting public disturbances in 1997, but also had deeper political roots going back several decades. The reforms sought to improve the system of checks and balances, promote political inclusion, enhance geographical representation, strengthen fundamental rights, and empower independent commissions to enhance ethnic relations, strengthen transparency and accountability, and promote human rights. Unfortunately, not all of the reforms proposed by the Constitutional Reform Commission at the time could be implemented due to time constraints imposed by impending elections in 2001. In recognition of this and the ongoing need for constitutional review, Parliament instituted a Standing Committee for Constitutional Reform in the National Assembly with the mandate to continuously review the performance of the constitution and make recommendations for further improvement.

Formal checks and balances in the political system are limited. The Constitution recognises the Parliament, the President and the Cabinet as the supreme institutions of democratic power, with the President and the unicameral National Assembly together comprising the Parliament. The legislature is elected through a party list system based on proportional representation. The leader of the party list is its presidential candidate. The Constitution allows for political parties to form coalitions before the election, but not after. The party list that receives the highest number of votes (a plurality) in national elections forms the government and its leader is elected president with minority parties forming the opposition.

The president appoints the cabinet, which with limited exceptions is composed of members of parliament. Recall legislation - which allows the leader of the party list to remove members at will - enforces party discipline and discourages dissent (e.g. crossing the aisle/votes of conscience) by members of parliament.[15] With most legislation, including the annual budget, requiring a simple majority for passage, the executive branch wields considerable influence over the legislative branch. A recent UN Mission to assess the need for constitutional reform characterised Guyana's presidential system as wielding "unusually significant power for a democratic society."[16]

The Constitution explicitly provides for an independent judiciary (Article 122A), which is funded by a direct grant from the budget and is run autonomously of the executive branch. The recent constitutional reforms require the President to either consult with or get the agreement of the Leader of the Opposition for key appointments in the judiciary. Although this mechanism was intended to reduce conflict and encourage consensus, it has also resulted in cases of long delays in making some substantive appointments to the High Court and Chancellor of the Judiciary. At the level of guiding principles, it also includes a public service free from political interference (Article 38G), although the absence of a public service law weakens this provision in practice.

[15] USAID. 2016. Democracy, Human Rights and Governance Assessment of Guyana: Final Report. Washington, D.C., p. 8.

[16] UNDP-DPA. 6 March 2017. Report of UNDP-DPA Guyana Constitutional Assessment Mission based on the request of UN support by the Government of Guyana. p. 2.

A 7.4.1.2 Elections

Elections are held for the president, national assembly and Regional Democratic Councils (RDCs) at least every five years. The constitution provides for a system of proportional representation for the election of the national assembly. The number of seats in the national assembly is determined by an act of parliament. Currently there are 65 members, 25 of which are elected from geographic constituencies and while the other 40 "top-up" candidates are drawn from party lists and allocated to ensure overall proportionality. Candidates are accountable to their parties, not to constituencies.

Party lists are closed, meaning that the party leader chooses who enters the assembly after elections in comparison to open list systems where candidates are ordered on the list before the election, so voters have a better sense of who they may be electing. The president is the leader of the party list and is elected from the slate receiving a plurality of votes at the election. There are 10 RDCs, each elected on the same party list system of proportional representation in the national elections.

The national election system has been consistently criticised for promoting ethnic polarisation, exclusion of the losing party from any meaningful role in governance, and ethnic insecurity, which undermine confidence in institutions and is a factor in the rates of emigration. Many in civil society as well as political parties have argued that Guyana must move from its current "winner-take-all" system toward one that is less polarising and includes more power sharing elements.

The recent discovery of commercially viable quantities of oil and gas provide an additional argument in favour of political reforms. Political systems influence institutional performance through the formal systems of checks and balances and the rule of law, but also through the incentives that operate on political actors. An academic study[17] that analysed the interaction of alternative election models and constitutional systems found that certain combinations were more highly correlated with corruption than others. Unfortunately, the study found that closed-list proportional representation systems with presidentialism - the very system in Guyana - are more prone to corruption than any other combination. Correlation is not destiny, but on the eve of an oil and gas economy such analysis should ring a cautionary note.

The incumbent coalition government made additional constitutional reform a campaign promise and appointed a Steering Committee on Constitution Reform in 2015. This committee's report formed the basis of legislation presented to the assembly in 2016 for a new constitutional reform commission and process. The legislation currently sits with a parliamentary select committee and there are few indications that the two major political parties feel an urgent need to address this issue prior to the next national elections in 2020.[18]

Guyana's recent elections have been observed by several different international observer groups including the Organisation of American States, The Commonwealth Secretariat, and

[17] Kunicová, Jana and Susan Rose-Ackerman. 2005. "Electoral Rules and Constitutional Structures as Constraints on Corruption" British Journal of Political Science. Cambridge University Press: UK.

[18] See also UNDP-DPA Report, p. 5.

The Carter Center. The observer mission reports[19] have consistently made extensive recommendations on how to improve Guyana's election process, with recommendations on strengthening election management bodies, clarifying the legal framework, reforming dispute resolution systems, and implementing campaign finance laws, among others.

The issue of Campaign Finance Legislation is pertinent in light of recent oil and gas developments and the considerable financial flows Guyana expects to see. Guyana's current campaign finance regulations are based in a 1964 law which includes spending limits which are out of date. The Carter Center's election report recommended a more comprehensive regulatory framework for parties and candidates requiring disclosures of sources of finance (beyond elections), donation ceilings, regular submission and review of campaign finance reports by an independent body responsible for monitoring campaign financing with powers of enforcement and sanction.[20]

A 7.4.2 Issues and Constraints

- The country's constitution features a strong presidency and limited checks and balances on the executive branch.
- The election system promotes the accountability of politicians to their parties rather than constituents.
- The election system contributes to polarisation, exclusion and ethnic insecurity, which are inimical to social cohesion and national development.
- Campaign finance laws are outdated and require significant strengthening in anticipation of oil revenues.

A 7.5 Decentralisation and Local Government

A 7.5.1 Legal and Institutional Framework

Guyana is a unitary state divided into ten administrative regions. These regions are administered by Regional Democratic Councils (RDCs). Regional governments operate as extensions of central government and do not have revenue raising powers. The central government is represented at the regional level by Regional Executive Officers. RDCs play a potentially important role through development planning at the regional level, but links to national development plans need to be strengthened. With the return of local elections, the upward aggregation of local plans into regional plans is underway.

Local government consists of Municipal Councils and Neighbourhood Democratic Councils which are elected every two years. Indigenous communities are governed by Toshaos (captains) and Village Councils that are elected every three years. There are few empirical reports measuring public interest in local democracy in Guyana. However, one measure of

[19] For one such example, see: The Carter Center. 2017. 2015 General and Regional Elections in Guyana: Final Report. Accessed at https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/guyana-2015-final-statement-051717.pdf

[20] The Carter Center 2015 Election Report,. p. 57.

participation in local governance – the percent who participated in a municipal meeting in the last year – improved slightly in 2016 to 9.6% from 6.7% in 2014.[21]

Local government is governed by Article 71 of the Constitution, which declares that local government is a vital aspect of democracy and shall be organised so as to involve as many people as possible in the task of managing and developing the communities in which they live. The article also states that Parliament shall provide for a country-wide system of local government through the establishment of organs of local democratic power as an integral part of the political organisation of the state. The Local Democratic Organs Act Cap. 28:09 is the vehicle through which Guyana is divided into regions, sub-regions, organisations and people's cooperative units.

There currently exist 71 local authority areas comprising six Municipalities or towns and 65 Neighbourhood Democratic Councils (NDCs). These were elected in 2016 at the first local government elections (LGEs) to be held since 1994. Since then four additional towns have been given township status (Lethem, Mabaruma, Bartica, Mahdia).

Parliament approved the Local Authorities (Elections) (Amendment) Act No. 26 of 2009 with a new, mixed electoral system blending proportional representation and first-past-the-post. Fifty percent of local authority area councillors are elected through party list proportional representation and 50% through the first-past-the-post (constituency) element. Only voluntary groups and political parties can participate in the proportional representation aspect of the election whereas groups, parties and individuals can contest the constituency element. Candidates must reside in the constituencies in which they run.

Municipalities in Guyana function under the Municipal and District Councils Act Cap. 28.01 while NDCs operate under the Local Government Act Cap. 28:02.

The primary objectives of local government are to (a) enable democratic local decision-making and action by, and on behalf of communities; and b) promote the social, economic, environmental, and cultural well-being of communities. Responsibilities include:

- Improving the local environment.
- Providing and developing local open space and recreation facilities.
- Setting strategic policy directions.
- Preparing annual plans, budgets and long-term council community plans.
- Acting on behalf of other principals such as central government e.g. managing local grants.
- Administering responsibilities under laws and regulations e.g., building and sanitation.
- Regulating local nuisances such as animal and pest control
- Providing services relevant to road maintenance, waste disposal, park maintenance, rubbish collection, libraries, etc.

[21] Zechmeister, Elizabeth J., Ed. 2014. pp. 106-107.

- Providing an infrastructural and planning framework in which communities can grow and the economy can flourish.
- Coordinating with other agencies operating locally e.g. police.
- Promoting cultural and sporting events.
- Promoting local visitor and tourism events.
- Consulting with residents towards improving service provision.
- Developing and advancing community viewpoints.
- Defining and enforcing appropriate rights within communities.

The lapse of over two decades since the last local government elections caused a significant deterioration in the quality of local governance, especially among NDCs. Many lost members to death, retirement or emigration and effectively stopped functioning and were replaced by centrally-appointed committees. The capacity of local authorities is being rebuilt by the Ministry of Communities.

In terms of financial resources, both municipalities and NDCs receive subventions from central government to cover capital projects while local rates and taxes support the provision of local services. In the case of NDCs, these include sanitation, garbage disposal, road and dam maintenance, market facilities, burial grounds, abattoirs, and drainage among others.[22]

Local governments collect rates and taxes, with rates set by local councils and municipalities. Many local authorities could improve their tax collection efforts, but this is constrained by outdated property registers. The government has launched a pilot project for a new property valuation system in New Amsterdam which if successful could be replicated on a wider basis.

Local capacity to implement projects and deliver services, especially among NDCs, is very weak as shown in low percentages of annual subventions actually spent. Revenue raising capacity is equally constrained. An objective, incentive-based formula is on the law books to determine central government subventions to local government. The formula operates so that local governments receive larger transfers based on higher fiscal efforts of their own.

However, due to an outdated property valuation system, and low levels of trust in local government, many NDCs and municipalities find it very difficult to increase local resource mobilisation. As a result, the fiscal formula has been sparingly used since first implemented. Although local communities need more funds, they don't have the capacity to spend them and provide better services. This in turn discourages local residents and businesses from investing in the system by paying their taxes.

The Ministry of Communities views building local delivery capacity as key to starting a virtuous circle whereby local authorities deliver better services and local citizens buy into the system, increasing local tax income to government and higher subventions from the national fiscal formula. The Ministry also sees the structural obstacle to greater local fiscal autonomy in the outdated property valuation system and is investing in its modernisation. Other issues emanate from the centre, such as the lack of capacity of the Office of the Auditor General to

[22] See Ministry of Communities, http://moc.gov.gy/neighbourhood-democratic-councils/

reach regional and local government levels in its annual audits. This limits the role of the supreme audit agency in promoting fiscal accountability.

The constitutional reforms of 2001-2003 provided for parliament to establish a Local Government Commission (Article 78(A)) that would address matters related to regulation and staffing of local governments and dispute resolution within and between local government organs and insulate these functions from the executive branch. The Commission was not established until 2017 due to a stalemate between the main political parties in parliament. The Ministry of Communities is currently performing the functions of the Commission and plans to transfer them soon.

Notwithstanding the constitutional reforms to enhance local democracy, little to no changes were made to the regional system to give RDCs greater independence. While RDCs elect their own Chairperson and Vice-Chair, the powerful Regional Executive Officers (REO) which represents central government in the region, is centrally appointed. RDCs are to be guided by central government policy. They may pass no laws and their power to raise and spend their own revenue may be provided for by parliament, which has not seen fit to do so.

The many statutory agencies that regulate and license the use of resources in hinterland regions retain their income for their own operation and remit surpluses to the central government. The purpose of the regional system remains to formulate regional development plans that guide central government activity in the regions, oversee and coordinate with local government authorities and assist the delivery of central government services. Regional development planning is traditionally economic and linked to annual budget process. Land use plans have been prepared in several regions and sub-regions over the years but have not been subject to full buy-in by local communities nor linked to multi-year development plans.

The government has articulated a new vision for decentralisation and regional development. This vision calls for “capital towns” to be established in every region which will drive economic dynamism and regional economic development. Capital towns are expected to provide a fuller range of public services, become fiscally independent, take a greater role in the education system, promote local green economies and ensure that economic dynamism includes the poor and vulnerable.

A 7.5.2 Issues and Constraints

- The regional government system has stronger accountability links to central government than it does to local stakeholders.
- Regional development planning needs to be linked to national spatial and economic planning and aligned with the *Green State Development Strategy: Vision 2040*
- Local government authorities are weak, in terms of financial capacity, program management, and stakeholder engagement, although the Ministry of Communities is investing heavily in capacity building.

A 7.6 Transparency and Accountability

A 7.6.1 Overview

Guyana has undertaken several initiatives at the global and regional levels to signal its commitment to fighting corruption. It is a signatory to the 1997 Inter-American Convention Against Corruption and in 2008 signed the United Nations Convention Against Corruption, binding the country to obligations to prevent and eliminate all forms of corruption. Article 32 of the Constitution calls on every Guyanese to combat and prevent crime and other violations of the law and to take care of and protect public property. This could be broadly interpreted as a call on citizens to ensure transparent and responsible management of public resources.

Concern over public corruption at all levels of government has been a consistent theme in public policy for some time in Guyana. Recent years have witnessed an improvement in Guyana's ranking in Transparency International's Corruption Perception Index placing it at 91 out of 176 countries, which is a gain of 27 spots since 2015. A recent random survey undertaken by the Transparency Institute of Guyana, Inc. (TIGI) in Essequibo Islands-West Demerara, Demerara-Mahaica, East Berbice-Corentyne and Upper Demerara-Berbice showed that local residents perceived slight progress in the fight against corruption in the two years since 2015.[23]

People's experiences with petty corruption in Guyana have been steadily decreasing since 2006 (Table 1), according to the Americas Barometer's corruption victimisation index, which measures the number of times in the last year a person has been asked to pay a bribe to a police officer, government employee, court, etc. This ranking places Guyana in the mid-range of countries in the region. However, Guyana ranks among the highest in the region in perceptions of public corruption among government officials (referred to as 'grand corruption').[24] Regardless of recent trends, the issue has become more salient in light of the impending oil and gas industry.

Guyana does not possess an overarching anti-corruption agency or anti-corruption law. Its anti-corruption architecture is dispersed across several laws and institutions, some of which are based in the Constitution. Key laws include the Criminal Law (Offences) Act. Cap. 8:01, the Financial Management and Accountability Act (with Amendments), the Procurement Act 2003, the Audit Act 2004, and the Integrity Commission Act 1997 (with Amendments). Key institutions of government include the Ministry of Finance, the Ministry of Legal Affairs, the Office of the Auditor General, the Public Procurement Commission, the State Assets Recovery Agency, the State Organised Crime Unit of the Guyana Police Force, and the Financial Intelligence Unit.

The anti-corruption agenda encompasses several key areas of action:

- Reducing corruption in the public sector;
- Tackling money laundering and other financial crimes;
- Strengthening the judiciary and law enforcement;
- Empowering citizens, civil society and the media as watchdogs.

[23] TIGI. 18 May 2018. "Conception, Perception and the Corruption Perception Index 2017" *Stabroek News*.

[24] Zechmeister, Elizabeth J., Ed. 2014. p. 151-152.

A 7.6.2 Corruption in the Public Sector

A 7.6.2.1 Legal and Institutional Framework

Public Officials: The Criminal Law (Offences) Act Cap 8:01 provides the legal framework for several areas of public corruption: larceny by a public officer (Section 186); embezzlement by a public officer (Section 192); frauds relating to companies, including public corporations (Section 203-204); and bribery and corruption (Section 333-338). One shortcoming of these areas of the law appears to be the varied definitions of who constitutes a public officer or public servant. The definition of a public officer for larceny or embezzlement is based on the Interpretation and General Clauses Act Cap 2:01 and the Constitution (Article 232). This definition makes several exclusions, including the Office of the President, Ministers and other senior officials. This is contrasted with the bribery laws and the Integrity Commission Act (see below) which include a broader definition of persons in public service that do not have such exclusions.

The Integrity Commission Act 1997 is intended to promote integrity, prevent conflicts of interest, and provide a code of conduct for public officials. The Commission is established to receive annual declarations of income, assets and liabilities from all officials in public life, which include assets held in the name of spouse and children or on their behalf. It is a requirement to publish in the Gazette and a daily newspaper anyone who does not file such a declaration. The Commission has the power to conduct an inquiry to verify any declaration so filed and can levy penalties for non-declaration.

The Act also contains a Code of Conduct for officials in public life. Any person in public life who is in breach of the Code of Conduct shall be liable on summary conviction to a fine and imprisonment. Any person may also write to the Commission if s/he has grounds to believe a person in public life has committed a breach of the Code. The commission may decide to investigate any such accusation and sittings of the inquiry are to be held in public. If it considers it necessary, the Commission may refer the results of its inquiry to the Director of Public Prosecutions.

The Commission functioned between 1999 until 2006 when its commissioner resigned, but a replacement was not appointed. The Commission was only recently reappointed after a hiatus, so it remains to be seen whether it will function as intended under the law. However, the body would be much more effective if it had stronger powers of enforcement and sanction.

Public Accounts: The accountability cycle for government accounts is a process that involves the country's independent supreme audit agency, legislative branch oversight mechanisms and the executive. The supreme audit agency of Guyana is the Office of the Auditor General, which is provided for in the constitution. The Auditor General audits and reports to parliament, through the Public Accounts Committee (PAC) of the National Assembly, all public accounts of the government, constitutional commissions, and the national assembly. The Office is independent of the direction or control of any person or authority, although its administration may be overseen by the PAC.

The PAC is a sub-committee of the National Assembly established to examine the accounts of funds appropriated by the Assembly and the Auditor General's reports on them. The PAC

executes the legislature's oversight function. It consists of nine members drawn from both majority and opposition MPs in proportion to their representation. By tradition, the PAC is chaired by a member from the Opposition. The Auditor General, Finance Secretary and the Accountant General advise the PAC.

The PAC receives the annual reports of the Auditor General and calls budget agency heads to meetings to discuss findings and receive clarifications or explanations. The formal process by which the executive branch answers the findings of the PAC is through Treasury Memoranda which explain actions to be taken.

According to a former Auditor General of Guyana, there are several weaknesses in the accountability cycle; a process that ideally should take one year to complete actually averages four.[25] The quality of financial reporting by budget agencies is weak, as attested to by successive annual reports of the Auditor General. The PAC is not always timely in reviewing the Auditor General's reports. A backlog from 2012-2015 was only recently cleared. The government failed to issue Treasury Memoranda for the years 2012-2014, which represent the government's response to the findings and recommendations of the PAC. The effectiveness of government actions is also questionable as certain practices repeat year after year (e.g. overpayment to contractors/suppliers) without apparent remedy or consequence.[26]

The Ministry of Finance produced a Budget Transparency Action Plan (BTAP) in 2015 to improve Guyana's national budget process by making it more open, transparent and results-oriented and therefore more accountable. The BTAP covers public procurement, the annual budget process and auditing and review of the public accounts. The goal is to improve the execution of all aspects of the accountability cycle so that is it completed within one year of the fiscal year close. This requires that the Accountant General submits draft public ac-counts to the Auditor General by the end of February and that the Auditor General reports to Parliament by the end of June. The expectation is that under this timeline, the PAC could complete its examination and reporting by the end of September so that Treasury Memoranda could be issued a month later. This would ensure that the public account oversight process is completed before consideration of the next year's budget.

The BTAP also lays out a timeline for producing the mid-year budget execution report in time for the annual parliamentary recess in August. These reports will explain any variances, risks and plans to mitigate risks. The mid-year report will be consistent with the format of the End of Year Budget Outcome and Reconciliation Report, both of which are required under the Financial Management and Accountability Act. As programme budgeting continues to be implemented across Budget Agencies, results reporting (outputs, out-comes, impacts and achievement indicators) will become stronger. In the area of public procurement, the BTAP calls for preparation and publication of a comprehensive procurement plans across all Budget Agencies.

Public Procurement: The legal framework for the public procurement system of Guyana resides in the Constitution, the Financial Management and Accountability Act (with Amendments), the Procurement Act 2003 and the Audit Act 2004. The Procurement Act

[25] Goolsaran, Anand. 7 May 2018. "Accountability Watch: Procurement Planning in Government" Sta-broek News. Accessed at https://www.stabroeknews.com/2018/features/accountability-watch/05/07/procurement-planning-in-government/

[26] Goolsaran, Anand. Accountability Watch: Procurement Planning in Government. Stabroek News. May 7, 2018.

established the National Procurement and Tender Administration (NPTA) to facilitate a regulatory environment for public procurement that is transparent, economical, efficient, open, fair and accountable. The NPTA reviews and approves tenders that are then advertised by entities such as ministries, regions or public corporations. The NPTA Board handles tenders over certain thresholds while a spending ministry or other entity will make decisions below that value.[27] The NPTA Board is appointed by the Minister of Finance and this fact has opened the NPTA to accusations of bias and influence.

Independent analysts highlight 15 different ways in which leakage (which is not synonymous with corruption) occurs in the procurement system and estimate that this amounts to 20% of procurement. Many of the identified practices stem from capacity deficits across agencies, but also include collusion between suppliers/contractors to inflate bids/tenders, leaking of the Engineer's Estimates to favoured suppliers/contractors, sub-division of con-tracts to avoid adjudication by higher authority levels, absence of performance bonds to guard against unsatisfactory performance and over-payments to suppliers and contractors.

In response to concerns over the vulnerability of the tendering process to political bias, the Constitution was reformed in 2001 to establish an independent and impartial Public Procurement Commission (Article 212W), the purpose of which is to monitor public procurement processes in order to ensure that the procurement of goods, services and execution of works are conducted in a fair, equitable, transparent, competitive and cost effective manner according to law and policy guidelines as determined by the National Assembly. The Commission can investigate complaints, cases of irregularities, and can propose remedies. Article 212DD allows it to request and be provided information from any person or entity, including a government ministry or department, in pursuit of an investigation or to determine compliance with a past decision of the Commission.

The president appoints the Commission after receiving nominations from the Public Accounts Committee of Parliament, which must be approved by at least a two-thirds vote of the assembly. The appointees should be independent and technically competent in relevant professional areas. The Commission serves three-year terms. Decisions of the Commission are subject to appeal to a tribunal that parliament may establish and decisions of any such a tribunal may be appealed to the Court of Appeal.

The Public Procurement Commission was only established in October 2016 due to political disagreements lasting over a decade and is required to take over certain responsibilities of the NPTA Board and Cabinet's role in the procurement process. Section 54(1) of the Procurement Act gives Cabinet the right to review all contracts that exceed G$15m. However, this clause states that Cabinet and the PPC will review annually Cabinet's threshold for review of procurements with the goal of progressively phasing out Cabinet's involvement. Section 54(6) further states that Cabinet's involvement shall cease upon constitution of the PPC except for certain pending matters in subsection (1). This ambiguity has been a cause for public concern, while no action has been taken to either remove or phase out Cabinet's role.

As already noted, the BTAP calls for Budget Agencies to publish public procurement plans on their websites. This not only provides an opportunity for the public to scrutinise and judge the

[27] See *Regulations made under the Procurement Act 2003 (No. 8 of 2003)*, Schedule 1 at http://www.npta.gov.gy/docs/Procurement%20Regulations%202004.pdf

appropriateness of planned public procurement, but also helps suppliers and con-tractors to undertake advance preparation for public bidding. The BTAP also calls for the NPTAB to review the Procurement Act and Regulations and to make recommendations for revision to the National Assembly as well as to establish a complaints mechanism and debarment procedures.

The government produced a five-year Public Financial Management Action Plan (PFMAP) in 2013 that is based on a Public Expenditure and Financial Accountability (PEFA) assessment. Many aspects of the plan remain incomplete or in partial stages of implementation, including the establishment of internal audit systems within major ministries; the conduct of regular performance audits; improving the Medium-Term Expenditure Framework (MTEF), which lacks analytical detail; and fully adopting information technology systems for public financial management.[28] A new PEFA is expected to take place in 2018, which can become the basis for follow through on past recommendations and needed additional reforms.

A 7.6.3 Issues and Constraints

- The Integrity Commission has recently been re-established and its ability to enforce its mandate for compliance is yet to be tested.
- There are long delays between the auditing of public accounts and actions being taken (if at all) by executive branch agencies, suggesting inefficiencies.
- Financial accountability and reporting by budget agencies are still weak.
- The PAC has fallen behind on reviewing the reports of the Auditor General.
- Many of the issues cited in the Auditor General's reports recur year after year, suggesting ineffective enforcement and sanction for repeat offenses.
- Like the Integrity Commission, the Public Procurement Commission only recently came into operation and is yet to prove its effectiveness.
- The Cabinet's role in the public procurement process remains in contradiction to the Public Procurement Act.
- Several aspects of the Budget Transparency Action Plan for improving the accountability cycle are behind schedule, including the review of the Procurement Act and its regulations.
- The Public Financial Management Action Plan highlights many reforms that have not yet been implemented and, as a whole, the plan needs to be updated based on a new Public Expenditure and Financial Accountability assessment.

[28] See Goolsaran, Anand. 14 May 2018. "Accountability Watch: Guyana's Public Financial Management Action Plan (Part I)" Stabroek News and Goolsaran, Anand. 23 May 2018. "Ac-countability Watch: Guyana's Public Financial Management Action Plan (Part II). Stabroek News.

A 7.7 Financial Crimes and Money Laundering

A 7.7.1 Legal and Institutional Framework

Money laundering and related financial crimes (corruption, tax evasion, fraud, trafficking, smuggling, etc.) became major problems for Guyana, particularly as regional drug networks took advantage of Guyana's vast, unregulated borders and weak institutions to transship drugs from the continent to the North American and European consumer markets. However, drug trafficking was not the driver of money laundering. Recent reporting also has pointed to large amounts of gold exiting the country through illegal channels.[29]

In light of these developments and in the context of the U.N. Convention Against Corruption and global anti-money laundering efforts, Guyana has passed several laws and rapidly established a number of new institutions and redirected others in the effort to stem financial crimes and recover stolen assets. They include:

- *Anti-Money Laundering and Countering the Financing of Terrorism Act (AML/CFT):* The AML/CFT Act 2009 (with amendments) was passed for Guyana to comply with global efforts to stem money laundering, the financing of terrorism and other related threats to the integrity of the international financial system as led by the Financial Action Task Force (FATF). The Act provides for the establishment of an Authority to implement the law and regulates the Financial Intelligence Unit. FATF ensures that Guyana fully implements the AML/CFT Act through a peer review and monitoring process at the regional (Caribbean) level.
- *Financial Intelligence Unit (FIU):* The FIU, an office of the Ministry of Finance, was established under the AML/CFT Act and is responsible for detecting and deterring financial crimes, including money laundering and terrorist financing. In this context, it is authorized under the Act to request and receive information from supervisory, law enforcement or other authorities on suspected illicit activity and overrides secrecy laws, protecting those who report under the act.
- *State Organised Crime Unit (SOCU):* SOCU is the "white collar" crime unit of the Guyana Police Force and conducts investigations for the FIU. SARA and SOCU coordinate when targeting the same asset to determine whether criminal (SOCU) or civil (SARA) proceedings are the most appropriate.
- *State Assets Recovery Agency (SARA):* The State Assets Recovery Act was passed in 2017 to facilitate the recovery of unlawfully acquired state assets from public officials or any other person through civil forfeiture proceedings. The Act establishes the SARA and empowers it to investigate cases and apply to the High Court to initiate recovery proceedings. It also provides a framework for international cooperation in the recovery of stolen assets. SARA is established as a corporation sole (no board of directors) with a Director and Deputy Director appointed by a simple majority of the National Assembly on the recommendation of the Parliamentary Committee on Appointments. The Director and members of staff when so appointed may exercise the powers of police,

[29] U.S. Department of State. 2017. International Narcotics Control Strategy Report (INCSR). Washington, D.C.

customs and immigration officers if designated by the relevant Minister responsible for legal affairs. The Act also establishes a Recovery of State Assets Fund.

These efforts are relatively new, and agencies have focused on joint risk assessments, training and capacity building, developing inter-agency memoranda of understanding, operational protocols, and conducting investigations. These investigations have raised issues of privacy rights and the trade-offs inherent in monitoring and investigating suspicious financial flows in the economy.

A 7.8 Empowering Citizens, Civil Society and the Media as Watchdogs

An informed and active citizenry is critical to the fight against corruption. Watchdog organizations are required to be tenacious advocates for public integrity. The media must investigate and expose issues of public concern. Of fundamental importance to these endeavours are public education, access to information and the legal framework for a thriving civil society. The recent passage of a whistleblower protection law is a welcome step in this direction as is Guyana's recent acceptance into the global Extractive Industries Transparency Initiative (EITI).

A 7.8.1 Civil Society

Article 13 of the Guyana Constitution states, "The principal objective of the political system of the State is 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, with particular emphasis on those areas of decision-making that directly affect their well-being." This principle of the constitution is a result of the recent reforms and is championed by civil society as the basis for its inclusion in all aspects of national governance.

Data on the number and extent of civil society organisations are scant, but their presence has deep historic roots and can be seen and felt at community and national levels. Guyana possesses a diversity of civil society organisations that organise community self-help, deliver services, assist the destitute, promote environmental conservation, undertake research, conduct advocacy and promote the public good. Some are rooted in religious organisations while others emerge from business, social and labour activities.

Guyana also has many prominent elites who regularly engage in and in-form public opinion on a variety of issues, often through regular and widely-read columns in the print media. The reach and influence of civil society is supported by a generally open and free media, although state media is the only one with national coverage. Civil society is a source of social vibrancy, innovation and social capital. Their existence helps to promote greater transparency and responsiveness of government institutions at all levels as well as strengthening the links between the citizen and the State. They play a critical role in a vibrant democracy.

The civil society sector in Guyana faces considerable constraints to their sustainability and effective functioning. According to anecdotal evidence, many organisations would not meet standards for proper oversight and governance, notwithstanding intermittent capacity building programs implemented by international donors over the years. The availability of

adequate levels of financial support is a major constraint. Guyana has a relatively small private sector, although many larger businesses engage in charitable giving. Many civil society organisations have traditionally relied upon international donor support for their activities, a source of funding that has been declining.

Guyana lacks a modern legal framework that recognises the role of not-for-profit or non-governmental organisations in society, makes provision for their independence and regulation, and encourages their financial support from individuals and the private sector. Under current laws, individuals receive no tax advantage (deduction) for charitable giving, which is typical in many countries with modern charities laws. Non-Governmental Organisations in Guyana typically operate under the Friendly Societies Act or the Companies Act. The former limits activity to specific purposes under the law and comes with greater restrictions. However, if registered as a company, the organisation must pay taxes on their business "profits" just like any for-profit entity.[30] Providing for a modern civic sector in terms of the legal framework and financial resources should be met under the *Green State Development Strategy: Vision 2040*.

A 7.8.2 Extractive Industries Transparency Initiative (EITI)

EITI is a global, multi-stakeholder partnership between government, civil society and companies to promote transparency around mining, petroleum and other extractive industries. Countries that are accepted into EITI agree to publish annually a report of all revenues (taxes, royalties, fees) paid by extractive sector companies to the government and all receipts by government from extractive sector companies. The EITI Report is published and disseminated widely for public scrutiny and debate for the purpose of promoting understanding of resource flows and how they are being utilised to benefit the country. Guyana was accepted as an EITI candidate country in 2017 and will produce its first EITI Report in 2019. EITI will provide a framework for increased transparency within the extractive sectors of the economy, which may also influence practices in other sectors.

Guyana's EITI process is led by a multi-stakeholder group involving relevant government agencies, civil society organisations and private sector companies and organizations from the mining, forestry and oil and gas sectors. These are the preliminary sectors to be covered in the first EITI Report. In addition to publishing annual reports on resource flows, EITI compliance will require Guyana to increase transparency policy and procedures in several other areas. One is in public contracts with extractive industries, where the government recently took the step of publishing the Production Sharing Agreement with ExxonMobil in the offshore Stabroek Block and subsequently the exploratory agreements with several other oil companies. Guyana will eventually have to make publicly accessible (preferably electronically) information about different permits for mining, forestry and oil/gas exploration and production. Finally, EITI encourages countries to make information on beneficial ownership of companies more transparent and accessible as well. This ties in with the country's obligations

[30] Ram, Christopher. 6 January 2008. "Wanted: Charities and NGO Legislation" Blog post at http://www.chrisram.net/?tag=friendly-societies

under the Anti-Money Laundering and Countering the Financing of Terrorism Act No. 13 of 2009 (AML-CFT Act)[31].

A 7.8.3 Access to Information Act, 2011

While the EITI initiative will provide structured access to certain types of information about economic activities in Guyana, the overall regime for providing the public with access to government-held information has proven ineffective in practice and needs to be revised. The Access to Information Act 2011 establishes a general right to information and determines how individuals may apply to access information held by public authorities. It created the Commissioner of Information to serve as a clearing house for information requests. The Act requires public authorities to develop systems for storing and accessing documentary information on hand. It also creates a five-tier classification system to be used for classifying types of documents.

The Act is contradictory and vague in several areas and has been ineffective in practice. Complaints from civil society organizations which have tried to utilise the Act point to the fact that the classification of information is not defined so that each public authority can at its own discretion, decide how to classify documents. Complaints also suggest that the Commissioner has frustrated attempts to access documents under the law.[32]

A strengthened framework for civil society organisations, increased access to publicly-held information in the extractive sectors (including on corporate beneficial ownership and the role of politically-exposed persons) and a functional Access to Information Act would greatly strengthen the ability of civil society organisations and the media in their watchdog function.

A 7.8.4 Issues and Constraints

- Civil society organisations operate under an outdated legal framework that does not provide incentives for charitable contributions.
- Civil society organisations operate on a narrow and unpredictable financial base (often donor funded), which constrains their ability to execute programs but also to operate in a more professional and accountable manner.
- The absence of statutory comment periods limits the opportunity for citizens to exercise their right under Article 13 of the Constitution.
- Systems for digitising and publicising state held information is rudimentary across ministries and public agencies. The Government's e-participation infrastructure needs to be strengthened to comply with the requirements of the EITI.
- Guyana's Access to Information law has proven ineffective in practice and thus far the State has not implemented a classification system that would facilitate implementation of the law.

[31] Assented to 22 August 2017.

[32] 2 January 2017. "Scrap or at least amend Access to Information Act - TIGI" *Stabroek News*.

A 7.9 Strengthening the Rule of Law

A 7.9.1 Legal and Institutional Framework

The deficiencies in the rule of law, particularly the administration of justice and law enforcement in Guyana, have been noted for decades as key obstacles to development.[33] These shortcomings increase the cost and uncertainty of doing business, weaken the promise of fundamental rights guaranteed by the constitution and erode social cohesion with the perception that unequal justice prevails. As noted previously, almost 50% of Guyanese have little or no confidence that the judiciary will punish the guilty.[34]

The effectiveness of the judiciary and law enforcement was first dealt a blow with the collapse of the economy in the 1970s. The impact of the narco-trafficking economy starting in the 1990s introduced new challenges and strains on an already overburdened system. Successive governments have invested in rehabilitating the justice sector and recognise that its success also depends not just on capacity, but on coordination among a host of institutions charged with enforcing and administering the law (e.g. courts, enforcement agencies, prisons, mediation centres).[35]

The independence of the judiciary is established in the Constitution. The Chancellor is the head of the judiciary. Both the Chancellor and the Chief Justice of the High Court are appointed by the President with the agreement of the Leader of the Opposition. The requirement of agreement is the strongest consultative provision contained in the constitution, reflecting the importance placed on promoting political consensus around these important appointments and the judiciary itself.

However, there have been on occasion long delays in reaching political consensus on these appointments, which compromises the judiciary as senior positions are held in acting status for years at a time. The Judicial Service Commission is responsible for appointment of judges, magistrates and most legal officers. The Commission consists of the Chancellor, the Chief Justice, the Chairman of the Public Service Commission and several other members appointed by the President after consultation with the Leader of the Opposition and the National Assembly. The budget of the judiciary is directly charged to the Consolidated Account and is not subject to amendment by the executive, giving the judiciary broad financial autonomy.

A 7.9.2 Protection of Human Rights

The constitutional reforms of the early 2000s elevated the protection of fundamental rights, although (controversially) failed to reserve explicit protection for the rights of individuals based on sexual orientation. This is a problem which civil society is assiduously working to reverse. Several new national human rights institutions were created, included four rights

[33] NDS Committee. 2000. "Chapter 3: Governance" in National Development Strategy: 2001-2010 A Policy Framework.

[34] Cohen, Mollie J., Noam Lupa and Elizabeth J. Zechmeister. 2017. The Political Culture of Democracy in the Americas, 2016/17: A Comparative Study of Democracy and Governance. LAPOP Project, Vanderbilt University.

[35] Government of Guyana. 2006. Guyana Justice Sector Reform Strategy 2006-2010.

commissions[36] and an Ethnic Relations Commission (ERC) intended to protect civil rights. These commissions are largely advisory in nature and have mostly focused on the public education, research and advisory aspects of their mandate, but they also may investigate complaints into violation of the rights under their purview and intervene to resolve disputes. The performance of these commissions has been variable, with some never being constituted (the overarching Human Rights Commission) and others like the ERC being dormant for years (until recently) due to disagreements on their appointment between parliamentary political parties. A recent assessment noted that in addition to these problems the commissions' impact is further limited by partisan intrusion ("real and perceived"), their advisory nature, the absence of implementing legislation, limited resources, and the short terms of office for commissioners.[37]

The Guyana Human Rights Association has also maintained that the Human Rights Commission, as written into the Constitution, lacks any of the powers its original drafters intended, is effectively inoperable and must be completely reformed before being brought into existence.[38] It is worth noting their critique that without a properly-empowered and constituted Commission, there is no institution "…*whose members are specifically charged* with protection and promotion of civil rights and freedoms. This means no effective redress for some of the more volatile issues confronting the society, including extra-judicial killings, delayed trials, infringement of trade union rights, freedom of expression, abuse of consumer rights, land and and housing rights, and the protection of the rights of vulnerable populations."

Access to justice and rights protections are also constrained by lack of services available to the poor and disadvantaged. Guyana's legal aid programme is small and in need of significant expansion, especially with regard to its accessibility by indigenous peoples in the interior. On a positive noted, the country recently enacted a Judicial Review Act, which will make it easier for ordinary citizens to challenge public officials or statutory authorities in court.

A 7.9.3 Administration of Justice

The problems in the judiciary are most visible in the length of time it takes for the courts to process cases. According to one observer, in the early 1970s a civil case or a serious indictable criminal case took 18 months to come before the court. At its nadir, it would take seven to eight years for civil cases and five or more for criminal cases to come to trial.[39] Insufficient resources, low remuneration, poor working conditions and morale, and high tertiary emigration rates contributed to human resource deficits across the judiciary. These factors along with antiquated systems lead to chronic delays, case backlogs, and limited access. These problems plagued the entire justice system but were felt most acutely in hinterland areas

[36] Human Rights Commission, Indigenous People's Commission, Women and Gender Equality Commission, and a Rights of the Child Commission.

[37] USAID. 2016. Democracy, Human Rights and Governance Assessment of Guyana: Final Report. Washington, D.C. (pp 21-22)

[38] McCormack, Michael. December 2002. "Human Rights Commission: An Elaborate Façade" *The Guyana Law Review*. Vol. 3, No. 2. Georgetown Guyana. (pp 261-265).

[39] Ramkarran, Ralph. 26 March 2017. "Improving the administration of justice." *Stabroek News*. Accessed at: https://www.stabroeknews.com/2017/features/03/26/improving-access-justice/

where court infrastructure is minimal, and magistrates hold session in regional capitals only every three months.[40]

Over the years the court system has recovered and gradually expanded. The High Court instituted specialised branches, including Land Courts, Family Court and a Commercial Court. These initiatives helped to reduce pressure on the court system and provide more focused attention to the matters that came before them, reducing the time it took to process cases. An alternative dispute resolution system consisting of mediation centres was established to help relieve court backlogs and provide an alternative, less-costly avenue to settle disputes. The private sector has advocated for evaluating the benefits of establishing a mandatory alternative dispute resolution system to improve resolution of disputes.[41]

More recent progress was recorded under an internationally-supported Justice Sector Reform Strategy (2006-2010), which aimed at strengthening the judiciary and law enforcement agencies as well as promoting citizen security programmes. Court facilities were refurbished; case backlogs reduced; law reports, two decades overdue, were published, new case management systems instituted, and court and law enforcement personnel were trained.42 Building on this work, revised rules of civil procedure have recently been implemented and a Judicial Education Institute established for the ongoing training of judges and officers of the judiciary. The government recently established a Law Reform Commission that will continuously review Guyana's laws, many of which are outdated and in need of reform and modernisation.

Notwithstanding this progress, there is significant room for improvement in the administration of justice. One notable area is the need to reduce the delay between oral and written decisions delivered by magistrates and judges. Also, court cases could be accelerated if modern evidence recording and transcription systems, recently installed in some of the higher-level and specialised courts, were extended throughout the judiciary. In addition, many of the accused in criminal cases spend years languishing in pre-trial detention waiting for their cases to be heard. Guyana also relies on custodial and suspended sentences, probation, community service orders or parole due to chronic weaknesses in the system.[43]

Guyana's performance on the World Bank's Doing Business Index slipped from a country ranking of 105 in 2009 to 137 in 2016, before improving in 2017 and 2018 to 126.[44] Improvements in the court system including the enforcement of contracts, resolution of insolvency, protection of minority investors, registering of businesses and processing of property transfers could improve this ranking. The recent reform of civil procedure should improve the enforcement of contracts by establishing strict timelines for the various stages of resolving cases.

[40] USAID. p. vii.

[41] Private Sector Commission of Guyana. 2018. *Action Plan for the Sustainable Development of Guyana*. Georgetown, Guyana.

[42] 29 October 2013. "Modernisations of the Justice System ends." *Kaieteur News*. See https://www.kaieteurnewsonline.com/2013/10/29/modernization-of-the-justice-administration-system-ends/

[43] Wenner, Mark D. and Elton Bollers. March 2018. In "Institutions and Trust: A Caribbean Perspective," Guyana chapter. Vol. 7, Issue I. pp. 17-20.

[44] See World Bank Doing Business Index at www.doingbusiness.org

A 7.9.4 Police Force and Prison System

High crime rates have been a drag on the economy in recent decades and a major impediment to investment. The rule of law and citizen security depend on a capable and competent police force to enforce the law and prevent crime, but recent public opinion polling reflect several obstacles. In 2016, 14% of Guyanese reported that they felt insecure in their community, compared to 8.3% average between 2006-14.[45] Guyana also reports among the lowest police response times by citizens polled in the region.[46] Corruption in the police force also is a drag on citizen security with 9.5% of the population surveyed willing to admit that the police asked them for a bribe, although this was a lower rate than the 13.3% average response over the 2006-14 period.[47]

Low remuneration, insufficient equipment and vehicles, low use of data systems for analysis, and the absence of a working forensics lab result in low response times to crime, difficulties in recruitment, a reactive (not proactive) police culture, and a high rate of court dismissals when cases are brought to trial.[48] As a result, citizen trust in the Guyana Police Force (GPF) is amongst the lowest in the region.[49] The Ministry of Public Security reports the police force is understaffed by 2,000 officers and that it loses 300-400 employees a year due to migration and better remuneration elsewhere, particularly in the private security sector.[50] Guyana's recent efforts, with international assistance, to improve the operational capacity of the GPF and to enhance criminal investigation and prosecution skills are critical to stemming these shortcomings.

From a human rights and governance perspective, it is also worthwhile noting the conditions that characterise Guyana's prison system. Guyana's prison population is large relative to the country's size, with 256 prisoners per 100,000 population, which is well above the world average of 146.[51] Guyana's prison system is overcrowded with an overall overcrowding rate of 118%[52] while, prior to being gutted by fire, the Camp Street Prison in Georgetown housed 1,018 inmates in a prison meant for 550 leading to regular international reports of inhumane conditions.[53] Much of the overcrowding is due to a backlot of pre-trial detainees, who constitute 30% of the prison population.[54] Prison conditions argue for public investment to improve security and sanitation levels, as well as better health services to which prisoners are entitled. Further examination of criminal sentencing is warranted given the persistent overcrowding problem.

[45] Cohen, Mollie et al. 2017. p. 79.

[46] Cohen, Mollie et al. 2017. p. 83.

[47] Cohen, Mollie et al. 2017. p. 87.

[48] Wenner and Bollers. 2018. p. 19.

[49] Zechmeister, Elizabeth J., Ed. 2014. The Political Culture of Democracy in the Americas, 2014: Democratic Governance across 10 Years of the AmericasBarometer. LAPOP Project, Vanderbilt University. p. 86.

[50] USAID. 2016. p. 12.

[51] Wenner and Bollers. 2018. p. 19.

[52] Ibid. p. 19.

[53] United States Department of State. 2018. *Guyana 2017 Human Rights Report.* Washington, D.C. p. 2.

[54] Ibid. p. 2.

A 7.9.5 Issues and Constraints

- A number of constitutional commissions (Indigenous Peoples, rights of the child, ethnic relations, and women and gender equality) are not playing as strong of a role as envisaged in their founding, especially in terms of investigating rights violations within their mandates;
- Guyana lacks a functioning Human Rights Commission that is specifically empowered to promote and protect the fundamental rights and freedoms of the Guyanese citizenry;
- Access to justice remains unequal and those resident in the hinterland areas or who are poor and marginalised suffer the most deprivation;
- Despite recent progress, caseloads remain high and the time to adjudicate cases remains too long, delaying and denying justice and remaining a bottleneck to a more efficient business environment. A holistic approach is required to address this problem encompassing, human resources, systems and physical infrastructure;
- The courts rely too much on pre-trial detention, which is inefficient, expensive and a violation of an individual's right to a speedy trial;
- High crime rates remain a major problem for society and the capacity and competence of the Guyana Police Force and Department of Public Prosecution to investigate and successfully prosecute crimes needs to be improved by overcoming deficits in remuneration, recruitment, equipment, training and skills;
- The inhumane and overcrowded conditions of Guyana's prison system violate the human rights of prisoners and are a threat to public health and safety as demonstrated by a history of escapes, prison riots and recent fires.

A 7.10 Guyana's Institutional Architecture

A 7.10.1 Overview

Public sector institutions will play a critical role in the realisation of the vision and objectives of the *Green State Development Strategy: Vision 2040*. They interface with democratically-elected political leaders to formulate and implement public policy, regulate and encourage the activities of the private sector, and deliver a range of public goods and services to the citizenry. They will play an increasingly important role in modelling the green transition expected in the economy and society at large.

The public sector in Guyana consists of the Public Service, which comprises ministries and their associated departments, the regional administration and independent constitutional bodies. The nationalisation of the economy in the 1970s saw a proliferation of public corporations, many of which have been privatised or closed since, but those that remain play a role in both production and the delivery of social services. The institutions with the highest rates of proliferation were the semi-autonomous agencies (SAAs), which grew considerably

starting in the late 1970s in response to deficiencies in the public service[55] and the benefits expected from de-linking from the constraints of the public service, including the flexibility of offering more competitive remuneration packages.

While this section will focus mostly on those institutions that are central to the regulation and management of core 'Green State' considerations of land, natural resources and the environment and those entities that will be responsible for overseeing the delivery and monitoring of the *Green State Development Strategy: Vision 2040*, it is important to provide some basic context on the role of the public sector in general.

A 7.10.2 The Guyana Public Service

Guyana's Public Service is rooted in the Westminster tradition that draws a distinct line between elected leaders in the executive branch and independent professionals of the public administration, but actual practices have fallen short of this ideal. The system has evolved over time in response to the needs of a newly-independent nation and subsequent periods of radical change, crisis, reform and evolution. Since these times, the question of the degree to which the public service should reflect the wider demographic characteristics of the country has remained a subject of national concern and shaped the practices of various political administrations. A recent Commission of Inquiry into the Public Service of Guyana also noted that the long periods of single-party dominance of government that Guyana experienced over the last 50 years are incompatible with the Westminster model because they distort the incentives for public servants and citizens to expect a politically-independent public service (Lutchman, pp. 12-13).[56]

At the level of the Constitution, Guyana remains committed to an independent, non-partisan public service as articulated in Article 38G. The Constitution guarantees the integrity of the public service and that no public officer shall be required to condone irregular acts on the basis of higher orders. It protects the freedom of public officers to perform their duties and responsibilities, guarantees due process and requires the execution of lawful government policies. The Constitution also insulates the employment function of several types of public employees from direct executive responsibility through the Service Commissions (Public Service, Teacher Service, Police Service, Judicial Service).

The Public Service Commission is responsible for recruiting and appointing public officers based on professional qualifications and merit and removing and exercising disciplinary control over persons holding or acting in such offices. It acts as a horizontal check on the influence of the political executive and, like other constitutional commissions, is classified as a budgetary agency, so it is directly charged to the Consolidated Fund.

Aspects of public administration other than employment are managed by the Department of Public service based at the Ministry of the Presidency. It is headed by its own Permanent Secretary. The Department assists ministries, departments and regional administrations in the efficient and effective development and utilisation of their human resources in order to

[55] National Development Strategy, NDS 1996, Ch. 13.

[56] Lutchman, Harold A. 2016. The Commission of Inquiry into the Public Service of Guyana.

implement the government's policies.[57] The main functions of the department are centred around staff development and training across the public service and range from formulating policy, advising ministries, and administering awards and scholarships funded by the government and donor agencies.

The Public Service has had difficulty attracting qualified personnel at the higher-level technical positions. Emigration of recent university graduates and skilled professionals constrains the supply of talent while the low remuneration levels compared to the private sector and elsewhere reduces demand.

The hiring of contract employees into public service positions at all levels of the public administration has become a significant concern because of its impact on the morale of traditional public servants, its negative influence on interest representation, and its impact on the putative independence and neutrality of the public service as a whole. These contract employees are not recruited through the Public Service Commission and are paid at levels above those of traditional public servants. This "parallel public service" is estimated to be as large as 20-27% of the traditional Public Service with some ministries reaching near total employment of contract employees in 2016 (e.g. Ministry of the Presidency, 88%; Ministry of Natural Resources, 97%).[58] One of the principal recommendations of the Commission of Inquiry into the Guyana Public Service is that contract employees holding public service positions be absorbed into the Service, assuming they hold suitable qualifications for those positions, and that contract employment in the future be limited to high-level professional skills not available in the Public Service and recruited through open competition.[59]

A 7.10.3 Semi-Autonomous Agencies

The proliferation of semi-autonomous agencies in Guyana began in the late 1970s due to the difficulties experienced in the public service. The spin-off of public functions was also encouraged by international donor agencies during the era of economic reform starting in the 1980s. The objectives behind these reforms fell into several categories: establishment of a new public function, the need for more "technocratic" governance, greater flexibility and efficiency to achieve a mission, and the freedom to attract and compensate personnel at rates outside the public service system. An attractive feature in some instances was the potential for more "business-like" operations among public entities, where revenues collected covered operations and reduced or eliminated the need for subventions from the public purse.

While semi-autonomous agencies in Guyana do not reflect a standard configuration, they arise from legislation and have their own oversight boards appointed by and accountable to a minister. It is not uncommon for several agencies to be overseen and coordinated by a single ministry. The functions of such semi-autonomous agencies include sectoral development, policy formulation/guidance, regulation and oversight, revenue collection, service delivery, research and data collection, and public education/communication.

[57] See http://scholarships.dps.gov.gy/index.php/our-responsibilities

[58] Goolsaran, Anand. 10 October 2016. "Salary increases, contract employees and the COI report". Stabroek News (Accountability Watch). Accessed at https://www.stabroeknews.com/2016/features/10/17/report-commission-inquiry-public-service-part/

[59] Lutchman, p. 31

Notwithstanding their advantages, semi-autonomous agencies come with several challenges. Agencies may proliferate over time and take on lives of their own, becoming resistant to change or termination. They are not immune to corruption and capture by private interests either. Conflicts or incompatibilities of competing mandates (e.g. developmental vs. environmental) within the same institution can be a problem. Over time, the creation of new agencies can lead to overlapping of mandates, creating confusion, competition and difficulties ensuring policy coherence. In Guyana's context, the coordination problem can often several dimensions: horizontal (inter-sectoral), vertical (inter-governmental) and spatial (coast vs hinterland). Another common concern in the public administration literature is the impact of semi-autonomous agencies on political accountability.[60]

The *Green State Development Strategy: Vision 2040* provides an opportunity to rethink the institutional landscape, promote innovations and best practices from within and outside the system, and promote reforms that make institutions more transparent, accountable, responsive and adaptive. The anticipated revenues from oil and gas may should also provide opportunities to invest intelligently in the capacity of public institutions long neglected.

A 7.11 Knowledge Management, Information and Communications

A 7.11.1 Governance and Institutional Framework

A knowledge-based society where citizens have ready access to ICTs is a critical element to achieving the objectives of ***The Strategy***.[61] The focus in this area is concisely defined as improving e-participation, e-administration and e-services to transform Government-to-Citizen (G2C), Government-to-Business (G2B), and Government-to-Government (G2G) interactions.

Following a recent reorganisation effort, the Ministry of Public Telecommunications (MoPT) is now the institutional focal point for Information and Communications Technology (ICT) policy and initiatives. The Policy Document and Strategic plan outlines the MoPT's mission "to apply ICTs to achieve good governance in the public sector, facilitate the creation of an enabling environment for innovation, entrepreneurship and global competitiveness of the private sector and ensure affordable access to technologies for all citizens and residents of Guyana."[62] The strategy addresses five results areas of focus for achieving this mission:

- Strengthening the legal, regulatory and policy environment.
- eGovernment - transforming service delivery and effectiveness
- Universal Access and Connectivity
- ICT business facilitation and development
- Internal organisation and capacity.

[60] Bach, Tobias; Birgitta Niklasson and Martin Painter. 2012. "The Role of Agencies in Policymaking" Policy and Society. Vol. 31, Issue 3, pp. 183-193.

[61] GSDS Framework, p. 43.

[62] Government of Guyana. Ministry of Public Telecommunications Policy Document Strategic Plan, Version: 1.0 Draft. p. 4.

Institutionally, the National Data Management Authority (NDMA) now houses the eGovernment Unit. The NDMA administers critical pillars of ICT strategy,[63] specifically:

- e-Administration: the creation of digital government with the establishment of an integrated framework through which government ministries and agencies can operate.
- the adoption and promotion of environmentally friendly and sustainable ICT practices within the public sector.
- implementing a whole-of-government approach for ICT adoption, capacity development and interoperability among government agencies.
- promote and support the government's ICT initiatives locally, regionally and internationally.
- e-Participation: the empowerment of citizens to access public services and play an integral role in the furtherance of good governance, transparency, democracy and sustainable development. Key initiatives include:
- Reducing digital exclusion between Guyana and other countries and internally within Guyana, especially between coastal, hinterland, and poor and remote communities.
- Increasing citizen participation through a citizen incident reporting system ("Tell Us"), public information notice system to centralise and digitise key government-held information and make it accessible, an eGazette initiative, and digital citizen surveys.
- e-Services: working with government ministries and agencies to improve the delivery of government services to the citizenry in a faster, easier, more convenient manner through and enabling ICT environment. The current focus is on online passport application.
- Cybersecurity: safeguarding the confidentiality, integrity and availability of government ICT infrastructure together with services, applications and data.

The MoPT notes that the legal and regulatory environment is outdated. Only recently has a modern Telecommunications Act (2016) been passed. The Post and Telegraph Act from the 1940s governs wireless communications. Guyana has no modern copyright legislation. Of key concern to the business community, there is no legislation for electronic commerce, electronic payments, e-transactions or data protection. There is no comprehensive primary legislation on keeping of public records. The MoPT strategy concludes, "Finally, central command and control in public administration is entrenched in legislation preventing much of the delegation and empowerment that is necessary for effective e-Government. The legislative agenda of the Ministry must therefore aim to modernise the regulatory environment as regards ICTs and it is recognised that this extends beyond ICT-specific legislation to other areas that impact the ability to leverage technologies in the implementation whole-of-government systems."[64]

[63] See https://NDMA.gov.gy

[64] MoPT, p. 13-14

A 7.11.2 Issues and Constraints

- The legal and regulatory environment is in critical need of new legislation in the areas of electronic transactions, intellectual property, electronic payments, data protection, public records, e-commerce as well as downstream regulations in the telecommunications sector.
- Efficiency and effectiveness of government to perform in a digital environment must be improved.
- Poor, remote and hinterland communities lack access to the internet, information and government services.

A 7.12 Governance of Land and Natural Resources

The *Framework for the Green State Development Strategy* (2017) identifies the objective for natural resource governance as the Expansion of Environmental Services and the Stewardship of the National Patrimony. This places clear emphasis on inter-generational equity considerations in natural resource extraction and the development of environmental services which require preservation and maintenance of the integrity of ecosystems and landscapes. These considerations, in turn, are intimately linked to national social cohesion, particularly the rights of the indigenous peoples of Guyana who live throughout the hinterland expanse of the country and depend on the health of the forests, rivers and lands for their livelihoods and cultural integrity. In turn, the extractive sectors of mining and forestry play critical roles in the national economy through employment, foreign exchange and economic linkages.

For years the absence of a national land use policy and planning system has been recognised as a major constraint to Guyana's development. The establishment of both was a significant recommendation of the *National Development Strategy* (1996/2001) and only partially realised. Its absence generates conflicts among land uses and causes the inefficient utilisation of resources. These problems are compounded by competition, multiple land uses, overlapping mandates, lack of coordination and poor regulatory enforcement by the institutions involved in natural resource sectors such as agriculture, mining, forestry and environmental protection. The unresolved issues of indigenous lands demarcation and titling and the question of other social groups' ancestral land claims add complexity. Land pressure on the coastal plain are exacerbated by competition between agriculture use and housing and urban expansion. Compounding these problems is the legacy of centralised decision-making on land use and lack of commitment to decentralised regional and local planning.

A 7.12.1 Governance and Institutional Framework

Natural resources (primarily agriculture, forests, water, minerals, fisheries, and land) are governed through a series of laws, regulations, codes of practice and institutional arrangements involving the public, private and civic sector actors. A mapping (not exhaustive) of the key public sector entities consisting of ministries, departments, public corporations, and semi-autonomous agencies currently involved in natural resource management are as follows:

- Ministry of the Presidency (MoTP), including their commissions and agencies:
  - The Guyana Lands and Surveys Commission (GLSC);

  - Office of Climate Change (OCC);
  - Department of the Environment;
  - Environmental Protection Agency (EPA);
  - Protected Areas Commission (PAC);
  - National Wildlife Management Commission (NWMC);
  - Department of Energy (currently focus on oil and gas).
- Ministry of Natural Resource (MNR), and it commissions:
  - Guyana Geology and Mines Commission (GGMC);
  - Guyana Forestry Commission (GFC).
- Ministry of Agriculture and its various specialised agencies:
  - National Drainage and Irrigation Authority (NDIA)
  - National Agricultural Research and Extension Institute (NAREI)
  - Guyana Rice Development Board (GRDB)
  - Guyana Sugar Corporation (GUYSUCO)
  - Mahaica/Mahaicony/Abary - Agricultural Development Authority (MMA-ADA)
  - Pesticides and Toxic Chemicals Control Board (PTTCB)
  - Department of Fisheries
- Ministry of Public Infrastructure and its agencies:
  - Guyana Energy Agency (GEA);
  - Guyana Power and Light (GPL);
  - Hinterland Electrification Company, Inc. (HECI).
- Ministry of Communities and its agencies:
  - Central Housing and Planning Authority (CH&PA)
  - Guyana Water Inc. (GWI)

In addition to these sector-based entities, one would also add the Ministry of Indigenous People's Affairs (MoIPA) which is the executive ministry responsible for the interests of Guyana's indigenous peoples.

Guyana's regional and local governance system consisting of 10 RDCs, 10 municipalities/towns, 65 NDCs, and over 200 Amerindian Villages and Communities is another critical and increasingly important component of natural resource management. RDCs promulgate their Regional Development Plans while NDCs and Amerindian Districts and Villages are responsible for their own local development planning. At community and stakeholder levels, businesses, communities, local organisations, and various types of user associations play a role.

As a practical matter, issues surrounding natural resource planning and management can be divided into interior and coastal as well as rural and urban clusters for consideration. They may also be considered through the integrating lens of "land" as a denominator.

A 7.12.2 Land

A 7.12.2.1 Legal and Institutional Framework

Land is Guyana's most abundant asset and improving its governance represents one of the keys to unlocking the structural transformation envisaged in this Strategy. Two decades of intensifying economic activity have exposed the inadequacy of land governance institutions in Guyana. The National Development Strategy (1996) reported that there was a backlog of 1,062 provisional leases awaiting completion of land surveys. In 2017, the Commissioner of Lands stated that a backlog of over 34,000 land applications existed that the agency was trying to process. This is just one indicator of just how difficult it has been for Guyana's land institutions to keep pace with developments. Another is the explosion of land use conflicts between multiple use licenses (mostly forest and mining) that have been granted over the same piece of land in the hinterland.

The State Lands Act of Guyana (Cap 62:01) covers all State Lands, including land under bodies of water and extending to the limits of Guyana's Exclusive Economic Zone. The Act gives the President power to make absolute or provisional land grants or to issue leases for State Lands. He may also authorise the Commissioner of Lands to issue licenses for the occupation of lands for agriculture or the taking or obtaining of any substance (including water) or thing found in those lands or any other purpose beneficial to the occupier with the exception of cut-outs for forestry and mining licenses that the President may authorise to be given by the commissioners of the forests and mines, respectively.

The Guyana Lands and Surveys Commission is responsible for overall land policy and planning, administering land leases and managing the country's land information systems. In practice it has been unable to effectively perform this function due to competing mandates with other land use agencies, the inability to transition fully from paper-based to digitised land recording systems, outdated maps and inadequate mapping capacity, and inadequate financial, technical and human resources. Much of the system of lease recording is paper-based. A new Lease Approval and Management System has sped up the process of issuing land leases and reduced errors, but there remains a backlog of information that is still not digitised in the system. The system for collecting land rents is weak and backlogged.

Currently the commercial, deeds and land registries are separate legal entities. While it is often argued that this helps prevent duplication and errors in registration, it also reduces information flow, increases the cost of administration and compliance and of settling legal claims. The need to further digitise these systems provides an opportunity to consider consolidation of their functions into a single entity addressing all property rights.

Land valuations for residential, commercial and industrial uses are not updated regularly. As a result, valuations are well below market value and represent lost income for local governments and municipalities to provide public services.

A 7.12.2.2 Issues and Constraints

- There are competing mandates and institutional overlaps with regard to urban planning and the issuance of leases and permits for resource extraction on public lands.

- Many of Guyana's land records are paper based and the process of digitising these systems is backlogged by many years.
- Legal registries (land, commercial, deeds) are separate and are inadequately digitised and coordinated.
- Land valuation systems are out of date, constraining local public revenue systems.
- Guyana lacks a national land use planning system.

A 7.12.3 Energy

A 7.12.3.1 Governance and Institutional Framework

The government recently promulgated a draft National Energy Policy to update the 1994 National Energy Policy. The new policy addresses longstanding concerns relating to foreign oil dependence (source of 80% of domestic energy demand), efficiency and sustainability concerns on both the supply and demand side, climate change, and the discovery of offshore petroleum reserves.[65] A major driver of energy policy is the goal of relying completely on renewable energy by 2025.

The current governance architecture for energy sector involves several ministries, departments, agencies and public corporations. The Ministry of Public Infrastructure oversees entities responsible for policymaking and management of the energy sector such as GEA as well as downstream energy service provision in GPL and HECI. Until recently the Ministry of Natural Resources held the oil and gas portfolio (based in GGMC) as part of its mandate covering the extractives sectors and drafted a bill in 2016 for a Petroleum Commission to regulate and license the exploration, development and production of petroleum in Guyana.

The mandate for oil and gas recently was transferred to a newly-created Department of Energy in the Ministry of the Presidency, which brings this major new sector's management closer to the center of government. The Ministry of the Presidency also plays a role in questions of sustainability, climate change and alternative energy through the Office of Climate Change and the Department of Environment, which oversees the Environmental Protection Agency. Finally, the Ministry of Agriculture also plays role in the energy sector given the use of sugar cane bagasse and firewood in production of 20% of the energy consumed in Guyana.

The institutions with the clear must mandate for development and management of overall policy in the sector is the Guyana Energy Agency. The GEA was established in 1997 and has the statutory authority to develop energy policy and promote its implementation, advise and make recommendations to the Minister on the efficient management of energy resources, promote research and development into alternative and renewable energy sources, regulate the (imported) petroleum and petroleum products sector, and disseminate information on energy management, conservation and alternatives.

Further downstream, the state-owned GPL is the primary national electricity service provider and manages the electric grid infrastructure. GPL operates under the Electricity Sector Reform Act (ESRA). The purpose of the HECI is to expand coastal electricity grids into

[65] Clarke, Roland Ph.D. 2017. Draft National Energy Policy of Guyana - Report 2 - Green Paper. Government of Guyana.

hinterland areas where feasible and to examine ways that hinterland areas could be provided with electricity sustainably and cost effectively.

From a governance and institutional perspective, there are three primary functional areas in which the aforementioned statutory agencies can be grouped:

- technical aspects of policymaking/management (GEA)
- industry licensing and regulation (proposed Petroleum Commission and GEA in the area of imported petroleum and petroleum products), and
- energy production and provision (GPL, HECI).

For purpose of the energy transformation envisaged in this *Green State Development Strategy: Vision 2040*, there is an opportunity to clarify and re-align mandates for a green energy transformation.

A 7.12.3.2 Issues and Constraints

- The scope of the Department of Energy beyond oil and gas is currently unclear, but a broader mandate encompassing renewable energy would have implications for the oversight of the sector.
- A clear lead entity for developing and managing an upstream green energy transition policy should be appointed. The GEA currently has this statutory mandate and competent technical expertise in the alternative energy sector in coordination with other actors.

A 7.12.4 Water

A 7.12.4.1 Governance and Institutional Framework

While Guyana possesses abundant water resources, several water management challenges must be overcome to realise the objectives of this *Green State Development Strategy: Vision 2040*. Climate change threatens the coastal areas of Guyana with rising sea levels that threaten the integrity of sea defences, increased salt-water intrusion of prime agricultural lands, and a growing flood control burden. The management of aquifer recharge also is a growing concern as water consumption intensifies for domestic and industrial use. Pollution in both coastal areas as well as hinterland rivers are other dimensions of the problem.

Like energy, the institutional and governance architecture for water resource management in Guyana is dispersed across an array of ministries, statutory bodies and public corporations. However, a key deficit is the absence of a water policy or an integrated water management plan that covers all the dimensions of water quality and utilisation. The latter was developed several years ago but remains in draft form. A National Water Council is provided for under existing law for the purpose of developing policy and coordinating the efforts of the various entities in the sector, but this has not yet been established.

The Water and Sewerage Act (2002) is the main governing legislation for the use and regulation of water resources. Its purpose is "to provide for the ownership, management, control, protection and conservation of water resources, the provision of safe water, sewerage services and advisory services, the regulation thereof and for matters incidental thereto and connected therewith." The legislation provides for the establishment of a National Water Council to inform policymaking, outlines the role of the Hydrometeorological Department for

monitoring and data collection, but also for administering licensing for surface and ground water; and for domestic water provision by the state water utility, the Guyana Water Incorporated (GWI). The National Water Council is defined in law as a group of experts and not an inter-agency policy, data-gathering and coordination body.

An additional significant piece of legislation relating to the water sector is the Drainage and Irrigation Act, No 10 of 2004. It establishes the Drainage and Irrigation Board which manages drainage, irrigation and flood control of coastal agricultural lands. It provides a framework for encouraging the participation of farmers in water management through water users' associations and the role of towns and municipalities which have responsibility for maintaining local drainage systems.

In addition, at least eight additional acts make reference to water resources, including the Environmental Protection Act (1996) regarding pollution, the State Lands Act, the Guyana Lands & Surveys Act (1999), the Creeks Act, Cap 50:04, the East Demerara Conservancy Act (1935, revised in 1988), the Amerindian Act (2006), the Mining Act (1989) and regulations (particularly the environmental regulations of 2005), the Forestry Act (2009), the Sea Defence Act, and the Central Housing and Planning Authority Act.

A 7.12.4.2Issues and Constraints

- The absence of the long-proposed National Water Council has left a vacuum at the level of policy and inter-institutional coordination. If reformed and established, the Council could address many of horizontal coordination challenges in the sector.
- The draft national integrated water resource management plan needs to be updated.
- Data collection efforts on aquifer recharge rates need to be strengthened to improve management of the nation's water resource.
- Integrated water resource management must be linked to the spatial/physical land use planning system analysed elsewhere in this report.

A 7.12.5 Oil and Gas

A 7.12.5.1 Governance and Institutional Framework

The oil and gas sector presents one of the greatest opportunities for realising Guyana's development aspirations but it also presents challenges that need to be reconciled with the green development agenda. Until recently the oil and gas sector came under the purview of the Ministry of Natural Resources and, specifically, the Petroleum Unit of GGMC. Within the portfolio of MNR it was managed along with the more mature extractive sectors of forestry and mining. Given the considerable policy development agenda in this sector, the government recently transferred the oil and gas portfolio to the Ministry of the Presidency and a new Department of Energy.

Two draft policy documents relevant to the oil and gas sector have been promulgated. The first is the aforementioned draft National Energy Policy (2017) and the second is the draft Guyana National Upstream Oil and Gas Policy (2017) produced by the Ministry of Natural Resources in March 2017. These draft policy documents preceded the recent portfolio reorganisation, which has implications for policy. As the draft Upstream Oil and Gas Policy states, the principal acts in the sector will need to be revised at the most basic level including

to determine the competent authority for the sector (currently Guyana Geology and Mines Commission).

The Petroleum (Exploration and Production) Act 1986 (with regulations) is the current principal law governing the oil and gas sector, but is under review. In addition, the Ministry of Natural Resources has drafted a Petroleum Commission bill to charge an agency with licensing and regulating exploration, production, development and decommissioning in the sector. The Policy Framework for Local Content and the Green Paper for a Sovereign Wealth Fund are two additional elements of the evolving oil and gas policy architecture.

From a governance perspective, the revision of the Petroleum (Exploration and Production) Act and the proposed Petroleum Commission bill should emphasise transparency and public accessibility in all elements of the regulatory process, consistent with EITI and other government anti-corruption commitments. This is especially the case with the oil and gas licensing and contracting system, where public auctioning and open online licensing systems should be instituted. The governance of the Petroleum Commission should model those of other semi-autonomous agencies (e.g. GGMC, GFC) and include a board of directors that takes general guidance from the Minister.

The recent publication of the SWF Green Paper is another opportunity to consider transparency, governance and accountability issues. The proposed sovereign wealth fund for Guyana has been developed to conform to The Santiago Principles, consisting of 24 generally accepted principles and practices voluntarily endorsed by members of the International Forum of Sovereign Wealth Funds.[66] The SWF Green Paper proposes a single fund (a Natural Resources Fund - NRF) to meet the multiple objectives of intergenerational savings, revenue stabilisation, and investing in development priorities with a proposed fiscal rule known as the Economically and Fiscally Sustainable Amount (EFSA) rule. The NRF will receive petroleum revenues as well as excess revenues from mining and forestry agencies. The NRF is proposed to be held by the Bank of Guyana from which withdrawals from the NRF according to the fiscal rule will be made to the Consolidated Fund. The EFSA rule is determined by a series of formula that are overseen by a Macroeconomic Committee consisting of five members appointed by the Minister of Finance. One of the members is to be nominated by the Leader of the Opposition.

The Parliament would be responsible for passing the NRF Act, approving the annual budget (which includes the annual withdrawal from the NRF) and reviewing the Fund's Annual Report. The Finance Ministry would have overall management of the NRF. It also would draft the Investment Mandate with advice from a seven-member Sovereign Investment Committee appointed by the Finance Minister. The Minister of Finance would be supported by a Senior Investment Advisor and Analyst. The Bank of Guyana would be the operational manager of the fund while private managers would manage the investment portfolio in overseas markets to promote economic stability in Guyana. The NRF would be externally audited by the Auditor General.

The release of the SWF Green Paper will appropriately attract considerable attention and debate in Guyana before it is finalised. Several features of the fund have already attracted

[66] Government of the Co-Operative Republic of Guyana. 8 August 2018. Managing Future Petroleum Revenues and Establishment of a Fiscal Rule and a Sovereign Wealth Fund - Green Paper. p. 31

attention including the role of the Minister of Finance in appointing the Sovereign Investment Committee and the Bank of Guyana taking on the role of operational manager. One element that is not discussed in the Green Paper concerns the voting rule for making changes to the Act. Under normal procedure, the Act would be passed by a simple majority. Consideration should be given to making all efforts to have the original act passed by acclimation of the full House and that any future changes to the act should require passage by a two-thirds majority of the House to maintain national consensus on this critical piece of legislation. This super-majority rule is in place for several important provisions within the Constitution for similar reasons.

A 7.12.6 Resource Governance In the Interior

Resource governance issues in the interior are characterised by competing and unresolved issues of land rights and the uneven enforcement of many existing laws. A recent study of grievances connected to natural resource management in the interior categorised conflicts as either institution-related or land-related, although data were not available to quantify the extent of these conflicts.[67] Those related to land use include overlapping allocations of rights by GLSC, GGMC, GFC for multiple uses; the difficulties encountered in the titling, demarcation and extension of indigenous villages; conflicts among large-scale farmers and shifting cultivators in hinterland areas; the allocation of logging and mining concessions in indigenous villages; the management and use of roads; environmental damage and degradation; threats to wildlife; adverse impacts on the lives of hinterland communities; and infringements of protected areas. Institution-related grievances were related to the absence of integrated land use planning, corruption, lack of coordination, and limited stakeholder engagements.

An examination of the legislation governing resources and institutions illuminates the problems of multiple use, competition, overlap and non-enforcement. The pertinent resource legislation consists of the State Lands Act, the Forests Act of 2009 (and regulations), the Mining Act of 1989 (and regulations, particularly the 2005 environmental regulations), the Wildlife Conservation and Management Act 2016, the Protected Areas Act 2011 and the Environmental Protection Act of 1996. The relevant pieces of institutional legislation are the Guyana Lands and Surveys Commission Act 1999, the Guyana Forest Commission Act 2007, the Guyana Geology and Mines Commission Act 1979, and the Amerindian Act 2006. The aforementioned environmental protection, wildlife conservation, and protected areas legislation each created a corresponding oversight commission or agency.

The State Lands Act of Guyana (Cap 62:01) covers all State Lands, including land under bodies of water and extending to the limits of Guyana's Exclusive Economic Zone. The Act gives the President power to make absolute or provisional land grants or to issue leases for State Lands. He may also authorise the Commissioner of Lands to issue licenses for the occupation of lands for agriculture or the taking or obtaining of any substance (including water) or thing found in those lands or any other purpose beneficial to the occupier with the exception of cut-outs for forestry and mining licenses that the President may authorise to be given by the commissioners of the forests and mines, respectively. Grants of land to Amerindian Village

[67] The Consultancy Group. May 2018. Scoping Study on Grievance Patterns and Existing Redress Mechanisms. Georgetown, Guyana.

Councils are given under the authority of the State Lands Act by GLSC, whereas the process for identifying those lands and making application is covered by the Amerindian Act (No. 6 of 2006). GLSC is responsible for demarcating lands.

The Forests Act (No. 6 of 2009) seeks to promote the sustainable management forests for more than just their timber, specifically also their non-forest products and the role of conservation. The Act regulates use of the forest resource for long-term forestry and restricts use of any kind unless so authorised under the Act or under authorisations conferred under the Petroleum Exploration and Production Act (No. 3 of 1986) and the Mining Act (No. 20 of 1989) or otherwise conferred under written law or held by an Amerindian Village or Community in pursuit of their customs. These exceptions suggest deference of forest utilisation to these other uses and rights holders in the law.

Under the Mining Act, the rights to mineral resources are vested in the State. It has several provisions that essentially give privilege to mining over other land uses. The Act permits the Commissioner of Guyana Geology and Mines Commission (GGMC) to grant the holder of an exploratory permit or mining license the right to enter private lands (including Amerindian Land) and search for, take and appropriate any minerals (Sec 7(1)). The Law contains similar provisions with respect to Government Lands (7(2)) and State Lands (including State Forests 7(3)). Sections 84 (1-2) recognises the rights of a lawful occupier of lands for cultivation or grazing or for erecting a structure, insofar as they do not interfere with prospecting or mining. Section 85 and 86 cover a miner's obligation before commencing operations on any parcel of land to notify any other rights holder of his intentions and to compensate the holder for any damage to his land. The Mining Act also recognises that all land occupied or used by indigenous communities and all land necessary for "the quiet enjoyment" of Amerindians is considered lawfully occupied by them, but this provision is often ignored and not enforced.

The Amerindian Act 2006 re-started the process of demarcating and granting of titles to Amerindian communities, although progress has slowed in the last three years. This process requires the Minister to identify all other rights-holders on lands claimed by Indigenous Peoples and that these lands not be included in land grants. This is a source of considerable distress for indigenous communities as it privileges other claim holders. Under the Amerindian Act 2006, miners are required to seek permission from Amerindian Villages and Communities to undertake any mining activity on village/community lands, to adhere to village rules, and to pay tribute. There have been cases where communities have refused permission to mine, but mining continued anyway. The GGMC has intervened with 'cease work' orders against miners in these instances, but courts have ruled that GGMC cannot use tools provided by the Mining Act to enforce the Amerindian Act. The inability of Indigenous Peoples to enforce their land rights against mining interests remains a pressing concern.

The principal institutional laws for the GGMC and GFC state as their purpose, the development and promotion of mining and forestry, respectively, albeit on a sustainable basis in the case of the GFC. The agencies contribute to policy formulation and are responsible for regulating the commercial exploitation of the resource base, conducting resource inventories, and preparing plans and codes of conduct for operators among other developmental functions. A financial incentive to maximise resource collection could be a contributing factor to resource conflicts. In each case, the agency collects revenue to cover its operations and contributes surpluses to the treasury.

These two agencies conduct certain environmental monitoring functions as part of their mandate. The well-documented environmental problems associated with mining suggest that agencies whose responsibility is to promote the sector may treat environmental enforcement as a secondary function. In 2005, environmental regulations were passed under the Mining Act, but effective implementation hinged on publishing the Codes of Conduct listed in the regulations. To date, these codes exist only in draft. The GGMC has also struggled to police illegal mining of river banks, to enforce and collect environmental bonds, and to ensure proper reclamation of mining land. While deforestation in Guyana is low by international standards, mining is the greatest contributor to deforestation. Guyana's obligations under REDD+ and the primacy within the *Strategy* to maintain low deforestation rates as a priority suggest that the role of the institutional framework for natural resource governance should take this into consideration.

The Guyana Lands and Surveys Commission's principal act[68] references its role as having charge of and acting as the guardian of all public lands, rivers and creeks of Guyana. It also mandates the GLSC to prepare land use plans (except for municipalities), advise government on policy related to public lands, and to administer and enforce all laws related to public lands. While on the surface these pose conflicts with forest and mining acts that permit extractive activity on public lands, a recent legal analysis concluded that the intent of the law is not for GLSC to be the "guardian of all lands" in the strict sense of the term, but to exercise control only over those public lands not already under the authority of other government agencies.[69]

GGMC and GFC have mandates to authorise the collection of a wide range of data for various purposes. The GLSC Act also mandates the commission to compile and maintain an inventory of all the land resources of Guyana. The systems for storing this data are often different and lack of sharing and integration causes duplication of effort and inhibits coordinated planning and contributes to overlapping permitting.

The Environmental Protection Act (No. 11 of 1996) provides for the management, conservation, protection and improvement of the environment, the prevention and control of pollution, the assessment of the impact of economic development on the environment, and the sustainable use of natural resources and related matters. The Act establishes the Environmental Protection Agency, which decides whether to provide environmental authorisation for any activity which might have an impact on the environment and to require an environmental impact assessment prior to permitting any activity. One of its chief functions is to establish, monitor and enforce environmental regulations. The EPA is currently not directly involved in the authorisation or regulation of small- or medium-scale mining at the moment, the damaging effects of which on land, rivers and creeks are a growing concern. GGMC oversees environmental management under the 2005 mining regulations. This division of responsibility is the result of an agreement with GGMC that was put in place during the EPA's early years when it was nascent and lacked capacity.

A 7.12.6.1 Issues and Constraints

Several issues are highlighted from the foregoing discussion:

[68] The Guyana Lands and Surveys Commission Act No. 15 of 1999.

[69] Benn, Joshua, Erica Cappell and Glendon Greenidge. 1 September 2016. Legislative Review Report. GLSC.

- The primacy accorded mining in the Mining Act is a de-facto land use policy decision privileging one use over others without being subject to cost-benefit or other trade-off analysis;
- Institutional mandates to both develop a sector and regulate the environmental impacts of users present a conflict of interest that institutions are coping with to varying degrees of effectiveness and may explain the lack of enforcement of environmental provisions, especially in mining;
- Despite provisions in various laws intended to safeguard the rights of indigenous peoples, they are largely ignored, poorly enforced by other agencies or are unenforceable by the indigenous communities themselves;
- The EPA's authority to regulate environmentally-damaging activities in the hinterland is under-utilised or hindered by its institutional relationships;
- For some agencies, the incentive to develop a sector or industry and to mobilise revenues to cover agency operating costs and contribute to the treasury may clash with mandates to safeguard the environment;
- Geospatial databases exist in various agencies, but are not compatible or used horizontally.
- Indigenous peoples remain dissatisfied with the Amerindian Act 2006, particularly the process for titling lands.

A 7.12.7 Land Use Policy and Planning

Several iterations of a national land use policy were produced under the previous administration, but never adopted by Cabinet. The 2013 *National Land Use Plan* (NLUP) by GLSC built on these previous efforts and remains the most comprehensive policy document on the issue of spatial development planning. The rationale behind the NLUP remains relevant to the *Green State Development Strategy: Vision 2040*:

- Climate change, adaptation, mitigation and a need to develop land away from the coastal plain;
- Land pressure on the coastal plain
- The need for rational land use development
- The need for more effective management of completing land use claims
- The need for linkages between regional development plans and national development
- The desire for infrastructure linkages within the wider northern South America.

It was not a prescriptive document but was instead intended to be utilised as a spatial development planning aid, particularly at the regional level, and to be incorporated into the lease decision process. it provides a picture of current land use, where resources are located, where potential exists and what linkages may be necessary to develop those resources. It did not zone areas for particular use, but it made broad suggestions based on the compiled (and digitised) resource maps and Guyana's policy priorities laid out in the LCDS and as part of its REDD+ obligations. It also proposed remedies to some of the problems of competing land uses. It derives from a policy of multiple land use so that options can be considered by policymakers and attract investment. Notwithstanding these contributions, the NLUP was not

a land use planning system that would continually gather and manage data to guide integrated land and natural resource decision-making.

The government is committed to the need for a clear land use policy and planning system to prevent the degradation of land and meet its international obligations. It recently launched the Sustainable Land Development and Management Programme (SLDMP), executed by the GLSC with the support of FAO,[70] to prevent further land degradation and restore degraded lands through policy, institutional and legislative interventions. One of the project's main objectives is to produce Guyana's first National Land Policy. It also proposes to address outdated geographic information, identify and eliminate conflicting mandates across agencies, streamline data sets across agencies and propose new protocols for inter-agency information sharing and coordination in the context of integrated national land use planning.

The GGMC and GFC both recognise the need to strengthen horizontal coordination and information sharing in the context of an integrated land policy and land use planning. The new National Forest Policy Statement 2018 recognises the problem of overlapping and conflicting laws and institutional mandates, as have many other policy documents including the NDS, PRSP and NLUP. The Policy argues for mechanisms of inter-agency, cross-sector planning and collaboration and calls for integrated land-use planning that indicates where certain extractive activities can and cannot take place or assigns primacy to certain uses. The GGMC is developing a new Mining Policy and is undertaking a restructuring study to better equip it to manage the mining sector. A new mining policy needs to flow from the strategic priorities emanating from the *Green State Development Strategy: Vision 2040*.

The National Policy on Geographic Information (2015) is under review. In its current form it has not established the necessary framework for a shared, interoperable open-source land use information system that operates across all government. Such a system, with strong protocols for information sharing between agencies is necessary.

A 7.12.7.1 Issues and Constraints

Multiple types of resources (soils, water, minerals, forests) exist on the same piece of land, some of which are renewable and others not. The policy of multiple land use attempts to promote the optimal use of resources without hindering other uses.[71]

The absence of a National Land Policy and the overlapping mandates of and competition between land and natural resource agencies has resulted in permits and leases of the same land for multiple uses and users. For example, overlap between forestry and mining (primarily gold) is a major problem with 67% of prospecting leases and 95% of mining leases overlapping with forestry leases.[72]

GGMC, GFC and GLSC each maintain their own geographical and land use information systems and do not adequately share data. These systems must be brought together into a single Integrated Land Use Planning System.

[70] The FAO's pioneering work in the 1960s on Guyana's first soils map for agricultural land capability is the basis upon which subsequent work on the natural resource base was conducted over the past decades.

[71] GLSC. 2013. National Land Use Plan. Georgetown, Guyana. p. 134.

[72] Ibid. 2013. pp. 133 & 154

In the absence of a National Land Policy there is no overall strategic or rational guidance to determine how to resolve existing land use conflicts and avoid future ones consistent with the objectives of the *Green State Development Strategy: Vision 2040*.

The unresolved issue of Indigenous lands and the continued permitting of extractive activities on lands claimed by Indigenous villages and communities is corrosive to social cohesion and requires a decisive solution.

The mechanisms that have existed to coordinate permitting and leasing of extractive activities have not been able to avoid resource conflicts and need to be revisited within the context of a National Land Policy and Integrated Land Use Planning System. New overarching institutional structures and arrangements need to be put in place to avoid the problems of the past and meet the objectives of the *Green State Development Strategy: Vision 2040*.

A 7.13 Delivering the Green State Development Strategy: Vision 2040

Delivering results from the *Strategy* will require a radical change in government-wide systems for implementation, monitoring and evaluation. Such systems require high-level champions and rigorous and systematic interactions among planning, budgeting, statistical and implementation functions across sectors and ministries, at all levels of government, and through engagements with stakeholders from the private sector and civil society.

The delivery systems for previous national strategies were embedded within the Office of the President (now Ministry of the Presidency), the Ministry of Finance and other line ministries, regional governments and the use of project execution units of various types. Previous proposals and experiences in this area are summarised as follows:

- *National Development Strategy* (2001): The NDS called for its overall and sector strategies to be implemented by government after approval by the National Assembly. It recommended the establishment of an independent NDS Commission that would periodically update the National Development Strategy through inclusive processes. The Commission would report to the National Assembly on implementation progress, receiving information from oversight bodies established by the government (NDS 2001). This ambitious external oversight mechanism with a direct link to the National Assembly was never established, although the government did establish oversight mechanisms as part of implementing subsequent Poverty Reduction Strategies (PRS) which implemented elements of the NDS.
- *Poverty Reduction Strategy Papers (2002-2015):* The Government of Guyana implemented three medium-term PRSPs within the overall context of the NDS, the National Competitiveness Strategy and eventually the LCDS. The organisational framework for overseeing and monitoring the implementation of the PRSPs evolved over time and was centred out of the Office of the President as described in greater detail below. The PRSP was financed through debt relief and concessional aid, which attracted the attention of donor agencies which invested in public expenditure management and performance monitoring systems.
- *Low Carbon Development Strategy (2010-2015):* Implementation of the LCDS produced a new set of institutions (described below) tailored to the Guyana-

Norway partnership and the REDD+ initiative in anticipation that the latter would grow as a major driver of development finance for Guyana.

Much of Guyana's experience managing the implementation of national development strategies comes from the PRSP and LCDS experiences.

The structures for developing and implementing Guyana's PRS were centred out of the Office of the President. A PRS Secretariat (PRSS) established in the Executive Implementation Unit of the Office of the President developed Guyana's first PRS (2002-2005). While focused initially on developing and managing strategy preparation, the PRSS was given a subsequent role in monitoring PRS implementation.

In 2003, the PRSS became the Policy Coordination and Programme Management Unit (PCPMU) with the mandate to monitor and evaluate the implementation of the PRS against its goals, objectives and indicator matrices (heavily weighted toward the social sectors). In this role it coordinated programs in support of the PRS across line ministries, civil society and donor agencies; identified bottlenecks and recommended adjustments to the implementation framework as needed; and monitored structural reforms and multilateral support programs. The PCPMU led a five-part structure for implementing the PRS which consisted of a National Steering Committee, a Monitoring and Evaluation (M&E) Unit, Ministry/Agency Focal Points, Thematic Groups, and PRS Regional Committees. The M&E Unit was responsible for facilitating links among the other four structures, but the weaknesses in data and statistical systems as well as lack of full institutionalisation of structures hampered their effectiveness.[73]

With the advent of the LCDS and following an evaluation of its M&E system in 2010, the government dissolved the PCPMU and assigned the function of national-level M&E to the Ministry of Finance. Guided by a conceptual framework of "ministerial delivery and central leadership" the aim was to strengthen and institutionalise M&E across the government with the goal to have a system "capable of producing timely, relevant and credible feedback and analysis on government performance."[74] An M&E Division was established within the MoF and in the context of an M&E Action Plan[75] undertook efforts to build M&E capacity across budget agencies of government, starting with pilots in the health and education ministries with the goal of reaching 28 Budget Agencies by 2016.[76] An IDB analysis in 2014 concluded that plans to institutionalise the new systems were behind schedule, overly ambitious and could be further strengthened at the statutory level.[77]

The LCDS[78] introduced a new set of high-level oversight and implementation structures in 2010 consisting of a) an Office of Climate Change (OCC) with overall coordinating responsibility

[73] Government of Guyana. 2006. Guyana Poverty Reduction Strategy Progress Report 2005. and World Bank. 12 March 2006. Implementation Completion Report…for a Poverty Reduction Support Credit I (PRSC). p. 13.

[74] Government of Guyana. 2011. Poverty Reduction Strategy Paper 2011-2015. p. 101.

[75] Lahey, Robert. 25 February 2011. A Strategy and Action Plan for Institutionalizing Monitoring and Evaluation (M&E) in Guyana prepared for the Ministry of Finance, Government of Guyana. REL Solutions, Inc.

[76] Ibid. p. 102

[77] Cuesta, Juan Pablo and Juan Pablo Martinez Guzman. June 2014. Monitoring and Evaluation Systems in Guyana. IDB.

[78] The roots of the LCDS lie in Chapter 5 - The Environment of the National Development Strategy (2000) which called for the creation of a Guyana Rainforest Foundation (GRFF) in recognition of the role that Guyana's intact forests play in promoting global and regional climate stability and hydrological balance and in preserving biodiversity and indigenous knowledge and

for the government's climate change agenda, b) an LCDS Project Management Office (PMO) to drive key projects, c) the Guyana REDD Investment Fund (GRIF) to manage forest payments and become a fund for other low-carbon investments, d) a strengthened EPA to ensure internationally recognised standards were applied to key REDD investments, and e) a REDD Secretariat at the GFC to develop and manage the technical Monitoring, Reporting and Verification (MRV) system.[79] The main focus of the MRV system is to measure the changes in Guyana's forest carbon stocks and emissions against baseline.

Through the LCDS, Guyana became a pioneer under REDD+, which is an evolving international framework for reducing carbon emissions from deforestation and forest degradation through incentive payments. to participating countries. The REDD+ system is administered by the Forest Carbon Partnership Facility (FCPF), which assists countries to put in place the policy and institutional frameworks and capacities necessary to receive incentive payments through a global Carbon Fund. Guyana is currently undertaking REDD+ readiness activities led by the GFC's REDD+ Secretariat. The future evolution of the GRIF in the context of REDD+ will be an important area of institutional innovation for the *Green State Development Strategy: Vision 2040*.

A 7.13.1 Legal and Institutional Framework

Guyana does not have a fully-developed legal and institutional framework for strategic development planning and results-based delivery. The Constitution establishes the basic framework of public financial management through the Consolidated Fund and the Office of the Auditor General, establishes an independent Public Procurement Commission to oversee public procurement agencies and processes, and in Article 77 states that regional development plans will be integrated into national development plans.

Guyana does not have a process of multi-year development planning. Overarching national strategies (e.g. NDS, NCS, PRS, LCDS) are produced periodically and approved by Cabinet and (in some cases) the National Assembly, but the subsequent process of high-level oversight, sector strategy alignment and linkages to public expenditure management and results-based monitoring systems needs to be strengthened as demonstrated by past efforts at implementing multi-sector strategies such as the PRS.

The major acts relevant to the planning and delivery of public sector development programs are the Financial Management and Accountability Act 2003 (FMAA) with amendments, which modernised the annual budget process, and the Procurement Act 2003.[80] Among the FMAA reforms were a requirement for mid-year reporting by the Minister of Finance, an End of Year Budget Outcome and Reconciliation Report, and Annual Performance Statements (APS) from each Budget Agency, which include performance indicators and targets.

The FMAA requires that medium-term economic prospects be presented as part of the annual budget process. This provides the context for publication of a basic Medium-Term Expenditure Framework (MTEF), although observers note that this aspect of the budget could

cultural systems. The GRFF would finance non-timber uses of the forest and be a framework for receiving financial flows from international carbon offset arrangements.

[79] Government of Guyana. 2010. A Low Carbon Development Strategy for Guyana. p. 39.

[80] Guyana has a State Planning Commission Act (1977) for the purpose of central planning of the economy.

be strengthened.[81] Sector ministries are largely independent in the formulation of sector strategies and associated plans, often as part of donor-supported sectoral programs, and the process of aligning these with overarching national strategies is somewhat ad hoc.

The national planning process consists principally of the annual budget process led by the Ministry of Finance with the Minister's budget speech as the principal overarching planning statement. Over the last two decades, Guyana has introduced program-based budgeting across most ministries and these to varying degrees are vehicles for linking national and sectoral plans. The Ministry of Finance has worked with Budget Agencies across government to build M&E capacity. It encourages the development of outcome indicators for each program through the budget process and these are reported in each budget agency's APS.

The Public Sector Investment Program (PSIP) is the capital budget for Guyana and draws on both national revenues and donor resources. According to the Ministry of Finance, the implementation rate for the PSIP is as low as 20%.[82] A recent analysis attributed the low implementation rate to the lack of definition of government priorities in terms of outcomes and impacts for citizens, complex public procurement processes, serious human capacity constraints at all levels of the PSIP chain, duplication of functions and processes that hinder PSIP implementation, and the lack of accountability mechanisms and formal inter-institutional routines to encourage performance within the system.[83]

Public expenditure tracking is an important part of any system of managing for results. Guyana's Integrated Financial Management and Accounting System (IFMAS) went into operation in 2004 in central ministries and regional administrations,[84] which strengthened the process of monitoring and tracking budget expenditure by making information more accurate and available. This system allowed for tracking "pro-poor" expenditure under Guyana's PRSs and could be similarly utilised for tracking "green" expenditures. The greater challenges are around defining green expenditures and the integrity of theoretical (theory of change) linkages between expenditures and desired outcomes.

Development planning takes place at the regional level and is limited at the local level. RDCs produce regional development plans and there is an ongoing process of dialogue between these and the regional representatives of central government agencies to promote alignment with overarching and sector strategies produced by central government. The PRS and LCDS established coordination and communication structures at the regional level, but these were purpose-built and were not institutionalised. Land use plans were produced in 2013 for several regions and became part of regional development plans. Linkages should be established between regional planning structures and future *Green State Development Strategy: Vision 2040* delivery systems and anticipated Integrated Land Use Planning systems.

The local government system received fresh impetus in 2016 when local government elections were held for the first time in over two decades. The Ministry of Communities supports NDC

[81] Goolsaran, Anand. 11 December 2017. "Assessing Guyana's economic performance in 2-17 and 2018 budget measures (Part I)." in Accountability Watch, Stabroek News.

[82] IDB. 8 November 2017. TC Document: Definition of Government's National Priorities and Delivery Management Model for the Public-Sector Investment Program PSIP.

[83] Delivery Associates. Understanding Guyana's Public-Sector Investment Program (PSIP) diagnostic report.

[84] Statutory agencies and public corporations develop their own systems based on their own statutes.

planning and provides budget support given the limited local financial capacity. Current efforts are aimed at increasing fiscal autonomy by strengthening the local revenue base (land/property valuation and tax collection) and building capacity for local service delivery.

Finally, the systems for involving the private sector and civil society in oversight and implementation of the *Strategy* require development and should be informed by the experiences of past efforts. Structures for consultation with civil society are often established as part of strategic planning initiatives, but these often deteriorate during implementation. Civil society organizations have often complained that their inputs are not taken seriously during consultation processes. Guyana has strong private sector associations at the national, sectoral and regional levels which undertake regular engagements with government on both strategic and short-term policies and practices. Guyana does not possess a framework for public-private partnership, which could be beneficial in improving the efficiency of public-private engagements in the context of implementation of the *Green State Development Strategy: Vision 2040*.

A 7.13.2 Issues and Constraints

The foregoing suggests the following issues and constraints:

- A needed update to the legislative and institutional framework for national development planning and results-based delivery and management;
- A central delivery architecture that provides high-level oversight to articulate investment priorities, promote alignment of policies and outcome measures across government and semi-autonomous agencies, troubleshoot obstacles, and undertake results-reporting and evaluations.
- this should be built upon lessons learned from the PRS/PCPMU and involve careful articulation with and evolution of LCDS structures over time.
- Reinvigorating efforts to strengthen human capacity across ministries and regional administrations for results-based management.
- Strengthening data and statistical systems for measuring progress and long-term impacts.
- an important gap in the context of the SDGs and the *Green State Development Strategy: Vision 2040* institutional reform is the need to regularly survey citizen perceptions of institutional performance.
- Strengthen, simplify and modernise the procurement process.
- Establish a framework for public-private partnership for implementing investment projects for the *Strategy*.
- Integrate national planning, budgeting and M&E processes with those at regional and local levels.
- Stronger commitment to partnership with civil society in the oversight of the *Green State Development Strategy: Vision 2040*.