

# Democracy Redux: Ensuring Good Governance in Guyana's 11<sup>th</sup> Parliament

By Thomas B. Singh  
Dept. of Economics. University of Guyana

January 18, 2015

## A. Status of Guyana's 10<sup>th</sup> Parliament

1. Guyana's 10<sup>th</sup> Parliament was prorogued on Nov. 10, 2014. The proroguing of the Parliament was triggered by an impending motion of no-confidence in the Government,<sup>1</sup> which won the last elections in November 2011 with a plurality of the popular vote in an electoral system that is essentially proportional.

As soon as the Parliament would have been reconvened after a recess, the passage of the no-confidence motion was assured because the combined opposition parties enjoyed a majority<sup>2</sup> in Parliament, and had made credible<sup>3</sup> public commitments to vote in favour of the motion. Proroguing the Parliament was a device used by the President to pre-empt and forestall the no-confidence motion. It also paved the way for elections on the Government's terms as against the opposition's.<sup>4</sup> Hence proroguing the Parliament was a best response to the no-confidence motion, albeit one that had the appearance of being myopic in the sense of considering only the next stage of the game: Parliament will have to be reconvened before it is dissolved, as dissolved it must be when elections are called; but this may give the combined opposition a chance to proceed with the no-confidence motion.

The President will announce the date for elections sometime soon. As soon as that announcement is made, elections will have to be held within 3 months.

---

<sup>1</sup> There are three branches of government: The Executive, the Legislature or Parliament, and the Judiciary. In this brief, Government (with a capital G) will refer to the Executive branch.

<sup>2</sup> Albeit a one seat majority in the 65 seat Parliament! It was this majority that led to the no-confidence motion and everything else that followed there from.

<sup>3</sup> See Section C, below. The credibility of those public commitments was assured because one opposition political party, the AFC, created a public storm by announcing that it had information that the Govt. was going to attempt to 'buy out' some opposition MPs ahead of the reconvening of Parliament. All that was needed was for one opposition MP to vote against the no-confidence motion, given that the combined opposition enjoyed only a one seat majority in Parliament. It would not have cost the Government much to attempt to buy out two or three MPs, to increase its chances of a vote against the no-confidence motion. Government would have probably been willing to take the gamble hadn't the AFC announced that it had information about the scheme. Because of the AFC's announcement, the incentive the individual opposition MPs had to defect if offered a bribe decreased significantly, and so consequently did the incentive the Government had to attempt to bribe individual MPs. The sequence is important as it points to the root reason for the scheme falling apart: Opposition MPs cared about how they would be perceived were they to cooperate with the Government in this matter; Government and the governing party may not have had any such compunction.

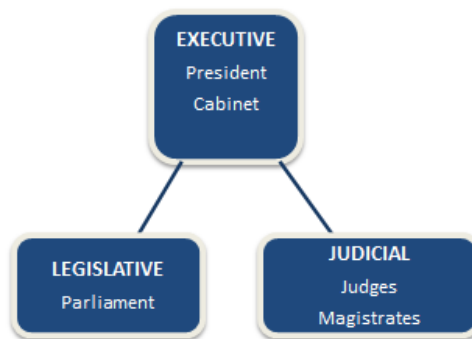
<sup>4</sup> The passage of the no-confidence motion would have also triggered elections, but much earlier perhaps, and on a schedule that had fairly rigid deadlines. The Government now has a lot more scope for determining when elections will be held. It can also use the time, and its upperhand in determining when elections will be held, to pursue all avenues available to it to enhance its prospects at the elections.

2. The current Government can however continue to operate for six months beyond Nov. 10, 2014 without having a Parliament. In this period, there will be only two branches of government, namely the Executive and the Judiciary.

## B. Executive Dominance: The Performance of the 10<sup>th</sup> Parliament

1. Under Guyana's constitutional arrangements, the Executive,<sup>5</sup> the Parliament and the Judiciary are not on par but instead have a power structure that is more consistent with the following representation:

### GUYANA'S CONSTITUTIONAL FRAMEWORK



Even in the 10<sup>th</sup> Parliament, in which the joint opposition enjoyed a majority, this representation of the power structure of the three branches of government remained valid.

2. In any system of government, and especially in those where the de facto Government is large and dominant, as it is in Guyana, a powerful Executive that operates without checks and balances imposed on it by the other branches of government, will generally be able to repeat policy errors, and even scandalous behaviour, without having to give account or to bear the cost of those mistakes and scandals.

3. This reality of Executive dominance was starkly evident in the tendency under the 10<sup>th</sup> Parliament for the Executive to challenge in court, any decision that was contrary to its wishes; and the attempts by the Judiciary to instruct the Parliament in accordance with the wishes of the Executive. The Executive was able to stymie the functioning of the Parliament even though its MPs were in the minority.<sup>6</sup> This sort of relentless gridlock was the chief characteristic of the 10<sup>th</sup>

---

<sup>5</sup> i.e., the upper tiers of the Executive such as the President; Cabinet Ministers, and by extension, Permanent Secretaries; senior officials of Public Sector Agencies, especially those in the Office of the President; the Guyana Revenue Authority; the top brass in the Police & the Army, etc.

<sup>6</sup> As pointed out by Nigel Hughes, the Parliament of Guyana consists of the Executive President, in whom is vested 'supreme executive authority' and who is not elected independently but is simply the head of the party list in the extant closed list PR system and the National Assembly (the other MPs); the Cabinet Ministers are appointed by the President; and the President enjoys several immunities even after demitting office. These provisions of the constitution guarantee that the Executive in general, and the Executive President in particular, dominate the Parliament and the Judiciary.

Parliament prior to its proroguing. Even those Bills that had the support of the majority of MPs did not become law because the President refused to give his mandatory assent to them, citing their purported unconstitutionality.

4. More disturbingly, the social anomie that is now so apparent in Guyana can be attributed to poor governance, which in turn could only be divorced from “Executive dominance” if it can be somehow established that the Executive was a benevolent one that acted always in the interests of the society at large. Specifically, the extreme inequality of incomes and opportunities, unemployment, crime, violence, child abuse, alcoholism, suicide, narco-trafficking, corruption, institutional failures, homicides, maternal deaths in hospital, migration, and many of the other extreme social pathologies that characterise life in Guyana – can in most cases be directly or indirectly attributed to governance failures, i.e., the failure of the ‘rules of the game’ to produce good behaviour in society.

To argue, as many have done, that these social pathologies arise because of a failure of ‘enforcement’ is itself naïve; but it is also a clear acknowledgement that the Executive that sits atop Parliament and the Judiciary cannot possibly be construed as a benevolent one!

The Guyana Human Rights Association has put out several insightful Press Releases about this.

### **C. Strategic Lessons from Recent Political Developments**

1. As Guyana heads into general elections at some unknown date in the near future, the natural and most immediate concern is therefore to ensure that the Executive would be not be able to dominate the Legislature and the Judiciary in the period after elections. Steps must be taken to ensure parity in the three branches of government, so that good governance would no longer depend on the discretion of the Executive in exercising its enormous powers.

In a sense, the electorate will enjoy a lot more freedom in exercising their franchise in the upcoming elections, knowing that their rights as citizens cannot be abrogated by an Executive, or its opportunities subjected to, and hence constrained by, the discretion of the Executive.

2. Success in ensuring that Executive dominance does not continue in the 11<sup>th</sup> Parliament will not happen however just because the Opposition or even the Incumbent might want to effect the necessary changes. In a multi-party context, there are strategic elements to be considered:

- There is more than one player or decision maker.
- As players make their decisions ‘today,’ their evaluation of the future possible moves by others must consider the credibility of any promise by those other players, say to take a particular course of action.

These are discussed in turn:

The Number of Players. Because there is more than one player, i.e, the two opposition parties, the incumbent, and the voters, the eventual outcome of a particular decision will not be

determined solely by the choices made by any one player. The players are in a 'strategic situation' because the decisions of each one will affect the other and hence will elicit a response, to which there will be a response, and so forth until the strategic interaction ends. Players will therefore be anticipating and reacting to moves made by other players throughout the course of the 'game.'

In the subgame that has been played up to this point, the combined opposition expected that the no-confidence motion would have taken us to elections on terms that would have given the opposition the initiative. The incumbent however best-responded, choosing to prorogue the Parliament. This will also lead to elections, but this time on terms that would give the incumbent the initiative.

Earlier, it was suggested that the decision to prorogue Parliament might have had the appearance of a *myopic* best response to the impending no-confidence motion. Note however, that players cannot be assumed to be incapable of thinking ahead in the game. Clearly, prorogation is allowing the Executive the opportunity to pursue a number of projects that would create in voters the perception that it was the opposition in Parliament that was standing in the way of 'progress;' and by executing these large public sector projects, the Executive is also creating income and opportunities ahead of the elections in a manner that amounts to its 'buying votes' to enhance its prospects at the general election.

Of course the opposition is not unaware of the potential of this renewed fiscal activity, and therefore has a court case that intends to limit what the Executive can do during the prorogation period. But not only is the opposition one step behind, but it is also discounting the power the Executive has over the Judiciary that significantly reduces the prospects of a decision in its favour.

Considering that 'thinking ahead about what the other player would do' is important and that the incumbent seems more able to think ahead than does the opposition, *what is required at this stage is a careful consideration of the choices available to players at each stage of the game, their motivation in making those choices, and the potential payoffs to or consequences of each set of actions taken by all the players.*

Sequential Rationality. In what has just been described, the combined opposition had made a commitment to follow a particular course of action (the no-confidence motion), but given the incumbent's recognition that that threat was credible, the latter decided to prorogue Parliament. The incumbent has since been engaged in aggressive public spending, reflecting another decision and another action. There has been no corresponding action by the combined opposition, other than the aforementioned court case to attempt to block further spending by the incumbent.

While the pre-emptive prorogation of Parliament made the Executive the first, and arguably the only, mover in the game so far, it was the credibility of the threat by the combined opposition to proceed with the no-confidence motion that led to the decision to prorogue. In other words, the players (AFC, APNU, PPP/C) are actually moving or making decisions sequentially, and not simultaneously. In Game Theory, the ongoing interaction between the three political parties would be characterised as a dynamic or extensive form game of sequential moves. Each player has the ability to observe the choices made by the other players in the past, but does not know

exactly what that player will do in the future.<sup>7</sup> As the ultimate outcome depends on the actions taken by all the players, there is a certain element of uncertainty about the final outcome. A key requirement in choosing future actions is to be able to make predictions about what the other players intend to do, in response to any particular course of action adopted by a player. Some players may try to influence the course of the game by announcing their intentions, as did the combined opposition when they announced their intention (threatened) to proceed with the no-confidence motion. It is therefore essential to adjudge the credibility of any such announcement or commitment to a future course of action. If a future action/threat is judged to lack credibility, or if it is not sequentially rational, a player may readily assume that that action will not be taken.

3. The following ‘tree diagram’<sup>8</sup> is a representation of the actions that appear to have been available at the various stages of the game, with an emphasis on the actions that have been taken so far. It is a highly abstract representation, especially as it treats the opposition parties as being a ‘combined’ party, i.e., as a single player.

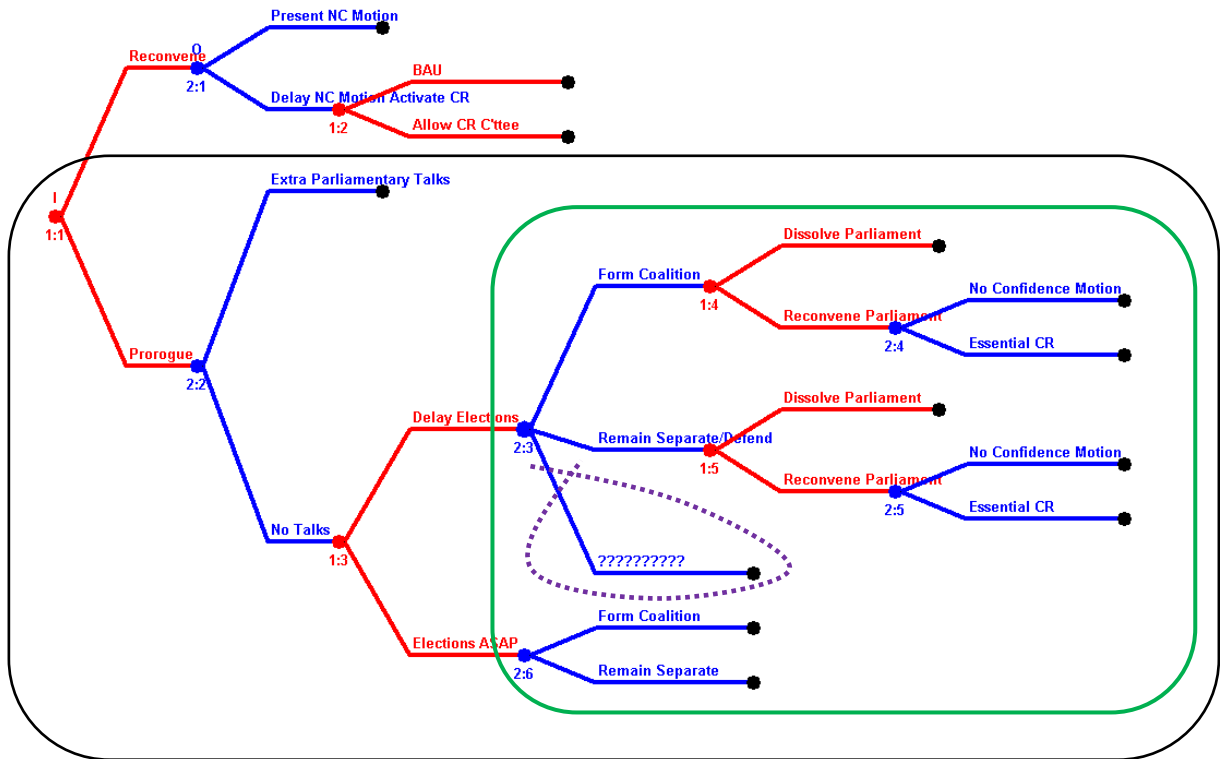
In this tree diagram, the Incumbent and the Opposition are colour coded red and blue respectively. The point of decision is given by the nodes that precede the branches, which are labelled to indicate the actions that could be taken at each stage of the game by the particular player whose turn it is to move next. The ‘first mover’ in the game was the Incumbent who had to choose between reconvening Parliament to face a certain no-confidence vote, and proroguing Parliament. The latter course of action was chosen, so the upper half of the game tree is irrelevant. Only the sub-game indicated by the black rounded rectangle will therefore be discussed.

The Incumbent (in red) having prorogued Parliament, the Opposition (in blue) had the choice of engaging in extra-parliamentary talks with the incumbent, or insisting that it would only have “talks” as part of the Parliamentary process. By choosing latter course of action, it compelled the Government to announce that it would be calling early elections. But in doing so, the incumbent still had the choice of Delaying (the announcement of) Elections for as long as it needed, or calling Elections ASAP. As noted above, it has opted to spend and to make expenditure commitments to large scale projects, leaving as yet open the question of when elections will be held. By Delaying Elections, the incumbent has also wrested the advantage the opposition might have had in holding elections on a schedule that was driven by rigid constitutional deadlines. Finally, the incumbent has been losing no time and sparing no effort in tarnishing the images of the opposition members, and in particular, those who can do most to compromise the incumbent’s electoral prospects. So the choice of Delaying Elections would clearly have been the best-response to the opposition’s decision not to participate in extra-parliamentary talks.

---

<sup>7</sup> The three political parties are fully aware that there is an ultimate game to be played, namely elections, which will involve another set of players, the eligible voters. It is well known that the voters make their decisions on the basis of the perceptions they have of the parties. This is why parties are making decisions (the no-confidence motion, prorogement, aggressive spending, TV talk shows, etc.) that will attempt to influence voter perception. For this reason alone, past actions must be observable.

<sup>8</sup> As no attempt is going to be made to fill in payoffs, this is not a “game tree” but just a “tree” diagram.



It is clear that the relevant part of this tree is the one that is indicated by the green rounded triangle. This will be the focus of the rest of this discussion.

### Securing Good Governance and Effectiveness of the 11<sup>th</sup> Parliament: Dynamic Issues

1. There is no shortage of recommendations on the constitutional changes that are warranted. What has not been addressed as yet however is the *dynamic issue* of how the desired changes are to “happen?” Given the “end-state” everyone wishes, namely effective government and good governance, there is urgent need to determine the “path” that take us to that state.

In fact, there may be two dynamic issues. The first is the “impulse” one, to do with how the process is going to be started; and the “propagation” concern that has to do with ensuring that the process, once started, would be completed.

2. In fact, what is needed is a set of actions that will ensure that once started, the process that will with certainty lead to the restoration of parity in the three branches of government in the 11<sup>th</sup> Parliament.

Consider the various actions available at the current stage of the tree diagram, starting to the left of the green rounded rectangle. While it may appear that the next move is the incumbent’s, with choices of either Dissolving parliament now and proceeding with elections or meaningfully

Reconvening parliament without immediately dissolving it, this decision is preceded by the choice by the opposition of either Forming a Coalition, Remaining Separate while Defending or guarding its electoral prospects, or Remaining Separate and just Waiting.<sup>9</sup> If, in the next move the incumbent chooses to Dissolve Parliament, the game would end with elections. The end of the game is indicated by a black ‘terminal node.’ If instead the incumbent chooses to meaningfully Reconvene, then the opposition gets a chance to move again, choosing either to re-introduce the No Confidence motion, *or to press for and pursue Essential Constitutional Reform (CR), if the constitution has provisions that will allow this.*

Note that the only reason for the opposition to form a coalition would be a belief that alone, neither of them can win a majority at the polls. Guyana’s constitution does not allow parties to coalesce after elections, though it would allow the winner of a plurality to ‘invite’ other parties to join it in forming the government.

In other words, a pre-election coalition to win the elections, if successful, will be the post-election coalition that will govern the country; but such a governing coalition will be unstable, as all such coalitions tend to be. Were a coalition to be formed between the AFC and the APNU, and were that coalition to win the elections, maintaining executive dominance after elections would therefore be very attractive to the member that wins the larger number of seats, while the other party would clearly want to continue pressing for constitutional reform to reduce the powers of the executive, after the government is formed. One might therefore conclude that in a pre-election coalition between the AFC and the APNU, a pre-election promise by the larger APNU to engage in constitutional reform after the elections, would not be a fully credible one.

3. At any rate, the opposition parties have already chosen the second course of action (though forming a pre-election coalition still remains an option). In this “Remain Separate/Defend” strategy choice, defending involves taking action that would keep alive the prospects of a fair chance at winning the elections. Hence the APNU has filed a court action<sup>10</sup> to prevent the government from spending in a manner that would constitute ‘buying votes,’ and the AFC has expressed public concerns about this spending.

The rationale behind this strategy choice is, as with the pre-election coalition option, to secure a victory at the polls. The beliefs that would support the choice of one or the other of these two choices are different however: In the case of the Remain Separate/Defend strategy choice, the belief is that one or the other opposition parties will at least win a plurality at the polls. There are several risks with basing a strategy on a belief in electoral victory:

---

<sup>9</sup> It is important to point out that Forming a Coalition is not the only action that is available before the incumbent makes its next move. Political columnist Ralph Ramkarran overlooks this point when he writes in his ‘Conversation Tree’ blog entry ‘Pariah’, “... the Guyanese people who are ... do not want elections. They want a solution. But if hard-headedness on the issue of a coalition government is obstructing a solution and elections are the only way out then they want the prorogation to end and a date for elections to be set.” In other words, he is only considering the top branch of the tree diagram, i.e., the branch labeled “Form Coalition” and is proceeding to urge the incumbent to quickly choose “Dissolve” in its next move.

<sup>10</sup> In doing so, the APNU is assuming, heroically, that the executive dominance of the judiciary will not apply in this case.

- The incumbent has been using the Delay Elections strategy to spend large amounts on large scale projects that will most certainly shift voter sentiment in its favour. These include the four lane highways on the EBD and ECD, the Amaila falls Hydro Project, the proposed road link between these two highways, the acquisition of an ocean-going ferry to improve service to the North and North Western regions, the Sheriff St./Mandela Ave. Road Expansion project, the Cheddi Jagan Airport Expansion Project, and the Demerara Harbour Bridge Project – to mention the obvious ones.
- These projects are in fact part of the campaign strategy of the incumbent, but because the spending is occurring before elections are announced, the opposition will be unable to accuse the incumbent of using state funds in its campaign. The state media are giving coverage to all these developments, again before the campaign starts. It will of course choose to announce elections and the date for elections to be perfectly timed to coincide with the completion of the aforementioned projects.
- Being naturally impressed with the ability to whisk along new highways, dazzled by the extensive ‘spanking new infrastructure’ that will appear just before the elections, and along with the spurt in incomes that will attend the increased government spending, which voter will bother with criticisms about the breaches of due process and the violation of laws and decisions that are bound to emanate from the opposition, who anyway would be accused of having obstructed all the ‘progress’ that would be on show just before elections? Voters have notoriously short memories, and would soon forget the scandals, the corruption, the ineffectiveness in addressing our social pathologies, and the abysmally poor performance of the incumbent. Indeed, any attempt to invoke any such criticisms of the incumbent’s performance will be met with the response that it was the opposition that prevented the (dominant!) executive from doing its job, and that it is now crying sour grapes.
- Banking on the fickleness of the average Guyanese voter, the incumbent knew that the Prorogue/Delay Elections strategy would allow it to run a relatively clean campaign,<sup>11</sup> the ‘dirty work’ having been done before elections are announced. Indeed, it was notable, though unnoticed by all the opposition politicians and political commentators, that when the president announced ‘The Way Forward,’ that the incumbent would be going the route of holding elections instead of reconvening Parliament, he announced that he had already written to international observers putting them on notice so that they would come and observe the elections. He was aware that the electoral manipulation would start with the Delay Elections strategy, before the campaigning begins, and therefore the presence of international observers would give credibility to a process that was deeply flawed.<sup>12</sup>

---

<sup>11</sup> Indeed it was for this reason that the former president, Bharrat Jagdeo, in his report as Chairman of the Commonwealth Observer Group for the recently concluded Sri Lankan elections, was able to denounce “The widespread abuse of state resources, including the comprehensive bias of state media against the Common Opposition Candidate and his supporters; the use of military personnel and public officials to support the President’s campaign; the blatant use of Government monies, handouts and gifts to induce voters; and, the extensive use of state-owned public transport for campaigning by the incumbent”!

<sup>12</sup> It is precisely because ‘electoral autocrats’ use international observers to give credibility to electoral processes that are manipulated during the campaign period that there has been a curious empirical link between the presence of international observers and the increased probability of opposition boycotts, as noted by Emily Beaulieu and Susan Hyde (2009) in “In the Shadow of Democracy Promotion: Strategic Manipulation, International Observers, and Election Boycotts,”

<https://www.google.gy/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0CCgQFjAB&url=>



- Finally, for good measure, and knowing that voter perceptions matter, the incumbent has started the process of character assassination, of creating caricatures of opposition leaders that are intended to arouse fear or derision or both, of sending veiled and not-so-veiled messages about improprieties by opposition leaders and so forth. Of course the incumbent has not unleashed all its artillery in this regard, intending to time it so that the opposition will not have an opportunity to rebut or to show that the claims and accusations are contrived.<sup>13</sup>

For these reasons, it would be a risky strategy on taking for granted even a plurality at the upcoming general elections.

Even so however, were there to be victory, below we consider why depending on a New Executive does not guarantee improvements in governance if the constitutional rules, especially those that pertain to executive dominance, do not change.

4. To assume that the replacement of the incumbent by another party would solve the problem of Executive dominance is naïve on three counts, the legal, the strategic, and the behavioural. Legally, there are very specific requirements for changing provisions in the constitution. In some cases, a majority is required, in others a super majority is required, and in yet others, a referendum is required. This is both a constraint to reducing the powers of the executive, but it also presents an opportunity for effecting change before elections if a referendum is required to effect the warranted changes.

The strategic and the behavioural constraints that would make it unlikely that a new incumbent committed to constitutional reform before the elections, would pursue constitutional reform after the elections, are both related to the enormous incentives that exist for maintaining the status quo. The strategic question might be put like this: If all the political parties are now going after the Holy Grail of the Executive Presidency, why would any winner of that race immediately and voluntarily renounce the prize, after so much effort and so many resources were spent acquiring it? What is more, governing in a democracy is necessarily going to involve opposition, so the very structure of democratic institutions makes the current executive powers very appealing for any incumbent.

Behaviourally, it would also be inconsistent with the behaviour of the politician-individual to *expect* that another set of executive officers would be more ethical, more restrained and more judicious in the exercise of the currently available executive powers, than has been the incumbent. This is not to say that governance cannot possibly be better, but it is recognition that the incentives will remain for executive dominance to continue, and therefore all the perversities associated with executive dominance should be expected. If a different political party were to be elected and subsequently behaves differently for an entire term in office, it would have occurred

---

[http%3A%2F%2Fhyde.research.yale.edu%2FBeaulieu\\_Hyde.pdf&ei=sp27VPekF4KENq3ngoAC&usg=AFQjCNFrSOqtrq7gf7n49W9Jb11WeolvvQ](http%3A%2F%2Fhyde.research.yale.edu%2FBeaulieu_Hyde.pdf&ei=sp27VPekF4KENq3ngoAC&usg=AFQjCNFrSOqtrq7gf7n49W9Jb11WeolvvQ). The strategy of using the prorogation period to do the manipulation was probably arrived at precisely because the former president had known before-hand that he would lead the Commonwealth observer mission to Sri Lanka.

<sup>13</sup> In particular, it has not gone after AFC leader Moses Nagamootoo as yet. Knowing that he is the only ‘challenge’ in Berbice, the focus has been on spending in Region 4 in particular, while preparing a perfectly timed onslaught on him for later release.

because all individuals in the new executive willingly gave up countless, and often privately appealing and very lucrative, opportunities to exercise executive dominance.

The point of departure in the Public Choice literature is in fact the recognition that people, including presidents, government ministers, regulators and other public sector officials, are all driven by self interest; and this self interest is invariably in conflict with the overall interests of the rest of society in whose interest government is supposed to function. By and large this 'agency' view plays out in all the branches of government, urging the natural prediction that a new set of executive officers would not voluntarily behave in the interests of the larger society when faced with significant private incentives to do otherwise. Leadership, it is true, can attempt to steer a new set of executive officers to exercise voluntary restraint, but there are too many opportunities for the latter to engage in unobserved behaviour that this is not a 'sure bet' but rather a very risky one.

### **Conclusion: A Proposal**

As with most other elections, there is much uncertainty about many things, and in particular with the electoral outcome. Above it has been argued that there is no guarantee that a combined opposition will manage to do better than it did in the 10<sup>th</sup> Parliament, where it enjoyed a majority of the seats but not the plurality of the votes. Moreover it was argued that there is no guarantee that even if it did, it would be able and/or willing to take the steps required for restoring parity in the three branches of government, without which the social anomie and poor governance would continue unabated.

Based on the preceding discussion there would appear to be only one option, and the incumbent has clearly decided to pull out all stops to win the upcoming elections. In other words, the option of having a meaningfully reconvened Parliament no longer seems to be a real one.

Hence, opportunities must be sought to create a new strategy, indicated in the tree diagram by the yet to be determined action (labelled with question marks) enclosed by the purple dotted line. For this to be done, the constitution will have to be scoured to see for example the options that exist for maybe a Referendum to be held at the time of the general elections, or other options explored, to trigger and sustain a move to reduce the powers of the Executive after the elections, whoever it is that finally forms the government.

The paradox of this proposal, that action be taken to ensure that the executive powers are reduced, is that it means that it wouldn't matter as much as it does now, which is the party that wins the elections. Of course this would mean that electoral competition would finally be based on issues, but clearly no party would want to adopt a stance that reduces its claims to being the best option for voters. This however is precisely what is required, especially by citizens.<sup>14</sup>

---

<sup>14</sup> In a recent online survey 81 % of the respondents said they would NOT vote for a political party which rejects a Citizens' Demand for the restoration of parity in the three branches of the State BEFORE elections are held; 9 % said they would, and 9% were undecided.