
RECOMMENDATIONS TO THE NATIONAL ADVISORY COMMITTEE ON CONSTITUTIONAL REFORM

Inzamam Rahaman
inzamam.rahaman@outlook.com

ABSTRACT

I have organised this document across several headings, each concerning different components of the constitution that I believe warrant amendments. The sections, in order, are: Constitutional Review, Balloting System, Recall of Public Officials, including Parliamentarians, Ministers, and Councillors, Criminal Penalties, Composition of Senate, MP and Cabinet Conduct, Digital Privacy, Gender, Healthcare, Finance, Speaker of the House, Election Frequencies and Dates, Cabinet Advisory Boards, Campaign Finance Reform, Participatory Budgeting, MP Eligibility, A Right to Bear Arms, Local Government, and Bibliography

1 Constitutional Review

Future generations should not suffer from our oversights. We ought to strive for our constitution to codify our wisdom, but we can inadvertently pollute it with our folly. While we should aim to guard against any given age's mercurial impulses and vagaries, this should be counterbalanced by the insight that we cannot prognosticate all that a future generation might require of a constitution nor all that might be made possible by future approaches and methods. For example, liquid democracy (Blum and Zuber 2016, Kahng, Mackenzie, and Procaccia 2021) or solutions originating from mechanism design (Börger 2015) might one day become feasible as the supporting technologies improve and become more secure. The duration between constitutional reform/review should be at most 15 years to allow us to learn from and correct our mistakes and continually refine a more robust and tenable foundation for future generations to build upon.

2 Balloting System

The emerging scientific and engineering literature should inform considerations for voting and electoral systems. In such literature, voting systems are construed as algorithms to capture and process (Brandt et al. 2016). Plurality voting, i.e. First-Past-The-Post voting, is fraught with several deficiencies:

- Single-selection ballots yield a representation of voter preferences that is both incomplete and of low granularity, failing to capture the nuanced spectrum of electoral sentiments.
- The pervasive fear of a spoiler effect and the potential for vote-splitting foster an environment where voters are compelled towards insincere voting practices, thus conveying a distorted reflection of the electorate's true preferences.
- Such a spoiler effect, coupled with the entrenched duopoly it facilitates, deters potential voters from engaging with politics, cultivating a sense of civic apathy. Furthermore, it constrains the diversity of ideological options within the electoral marketplace, limiting the electorate's ability to make fully informed and representative choices. This lack of diversity also serves as a systemic risk (Taleb 2014) to our nation's ability to navigate turbulent and chaotic situations effectively.
- The plurality voting system lacks mechanisms to discourage unnecessary denigration among candidates. Moreover, it incentivises politicians to deliberately polarise the populace, undermining the social fabric and feeding destructive ethno-stratification.

- This system is inherently designed to accentuate a binary distinction between winners and losers rather than foster principled compromises essential for a healthy and robust democratic process.

Consequently, my recommendations are as follows:

- The constitution should explicitly censure First-Past-The-Post, marking a definitive stance against its continued use.
- I propose that First-Past-The-Post be supplanted by alternative voting methodologies such as STAR (Score Then Automatic Run-off)¹ or 3-2-1 voting². Both perform well under a variety of circumstances³ Ranked pairs⁴ (i.e Tideman's method, **not** Ranked Choice/Instant Run-off Voting) would be another sound option, in particular due to the wide gamut of beneficial mathematical properties guaranteed by the method (Tideman 2017); however, Ranked Pairs is very complex to tabulate.

3 Recall of Public Officials, including Parliamentarians, Ministers, and Councillors

Should the electorate harbour grievances regarding the conduct or efficacy of a particular Member of Parliament or Cabinet member, our constitution should outline a formal procedure to facilitate their removal from office before the advent of a general election. Such a protocol would serve as a deterrent against malfeasance and subpar performance. Specifically:

- In the case of recalling a Member of Parliament, a petition should be initiated and submitted to a designated authority. Upon securing signatures from a minimum of 10% of the electorate who participated in the preceding election within the relevant constituency, the incumbent should be subject to recall, thereby precipitating a by-election to fill the vacated seat.
- Although the populace does not directly elect Cabinet members, the institution of a comparable mechanism for their removal would be advantageous in instances of inadequate performance. Such a mechanism would enhance accountability and maintain the integrity of public service. A petition should be submitted to a formal authority. Upon securing signatures from a minimum of 10% of the electorate who participated in the preceding election, the incumbent should be subject to recall and would be unable to hold any cabinet appointment for at least 2 years.
- A method similar to the one listed above for members of the cabinet should be adopted to recall members of state boards and the commissioner of police.
- When recalling a councillor, a petition should be initiated and submitted to a designated authority. Upon securing signatures from a minimum of 10% of the electorate who participated in the preceding election within the relevant county/district, the incumbent should be subject to recall, thereby precipitating a by-election to fill the vacated council seat.

4 Criminal Penalties

- Day fines constitute a reform for imposing monetary penalties, wherein the amount of the fine is directly correlated to the offender's daily income, ensuring fines are proportionate to an individual's financial capacity (Kantorowicz-Reznichenko and Faure 2021). By adapting penalties to the economic circumstances of each person, this system promotes equity within the legal framework, preventing the disproportionate burden on those of lower socioeconomic status. Such a reform would ensure that financial punishments serve as an effective deterrent.

The constitution should make explicit provisions enabling legislation utilising day fines for various infractions.

- Mandatory labour should be explicitly enabled as a punishment under the constitution.

5 Composition of Senate

The structure of the Senate warrants a strategic reconfiguration to enhance its role as an essential mechanism of checks and balances within our bicameral governance framework. I propose that the composition be recalibrated to ensure that

1. <https://www.starvoting.org/star>

2. https://electowiki.org/wiki/3-2-1_voting

3. <https://electionscience.github.io/vse-sim/>

4. https://electowiki.org/wiki/Ranked_Pairs

independent senators hold a majority over those appointed by both the government and the opposition. Additionally, the introduction of sortition as a method for selecting a portion of the Senate embodies a modern approach to democratic representation, offering a fresh layer of accountability and diversity. The envisaged composition would be as follows:

- 14 members chosen by the President. At least 6 of these members should hail from a scientific, engineering, medicine, or technology related professional background.
- 7 members chosen by the government
- 7 members chosen by the opposition
- 11 members chosen by sortition

The sortition process, inspired by the citizen assembly models employed in Canada and Ireland, would unfold in the following manner:

- Initially, 10,000 income-tax-paying citizens would be randomly selected. These individuals would receive invitations to participate in a secondary selection process.
- Upon receiving the invitation, each citizen would be allotted 30 days to express their willingness to partake. Those citizens affirming interest would then be entered into a secondary lottery, from which ten individuals would be chosen to serve as senators for a two-year term.

6 MP and Cabinet Conduct

- Members of Parliament are to hold town hall and public consultations in their constituencies on the afternoons of the last non-holiday Sunday of every month.
- Failure to conduct these consultations for three months during the term would constitute a dereliction of duty and trigger a by-election for the seat.
- Clauses should be added to the constitution to explicitly ban/punish puerile or churlish behaviour during sittings of Parliament. Virtue is not just philosophical contemplation but those dispositions that empower us to navigate the world reasonably (Baehr 2011) and enhance the well-being of ourselves and others (Wood 2019). We should demand our representatives to be bastions of virtue and expect them to serve as good role models for young people. These clauses should explicitly admonish certain behaviours and should not be subject to the potential bias of the house speaker. Clauses should include:
 - Members must always adhere to the use of parliamentary language during parliamentary sittings. Parliamentary language excludes slanderous, derogatory remarks, offensive language, and personal attacks. This requirement fosters a respectful, professional, and inclusive environment conducive to productive legislative debate.
 - All members of Parliament are required to uphold the highest standards of decorum and civility during parliamentary sittings. This includes refraining from engaging in personal insults, shouting, banging on desks or tables, excessive laughter, disruptive actions, or any form of behaviour deemed unparliamentary. Members shall conduct themselves to reflect respect for the institution, their constituents, and their fellow members. A consistent failure to adhere to these standards will result in the ejection of a Parliamentarian from office and an attendant by-election.
- Corruption from Parliamentarians and Cabinet members should be regarded as acts of treason and be penalised accordingly.
- The hanging of the pictures of government officials is a vestige of archaic and fundamentally undemocratic frameworks how citizens should perceive the government and how the government ought to perceive itself. Such activities of quasi-idolatry of government officials should be constitutionally banned.

7 Digital Privacy

- Every individual should have the right to privacy of their digital communications and data. This right should include privacy of correspondence, telephone conversations, and digital communications, including but not limited to emails, chats, and other forms of online communication.
- All persons have the right to control the dissemination of their personal data stored or transmitted by electronic means. This right includes the ability to access, modify, and delete personal data, except as restricted by law.

- The collection, use, and disclosure of personal digital data by any entity—public or private—requires the explicit consent of the individual, except where authorized by law for the protection of national security, public safety, or the economic well-being of the country, and then only in a manner proportionate to the need.
- Every individual shall have the right to be informed promptly if their digital data has been accessed or processed by governmental authorities, except in cases where such notification would impede the investigation of crimes or protection of national security as specified by law.
- There shall be an independent authority tasked with monitoring, regulating, and enforcing digital privacy laws. This authority shall have the power to issue guidelines, hear complaints, impose sanctions, and require audits to ensure compliance with digital privacy standards.

8 Gender

- Gender neutral language should be used in creating legislation. In addition, setting penalties based on the genders of the perpetrators or victims should be explicitly prohibited.
- The constitution should explicitly prohibit discrimination by gender.

9 Healthcare

- All private hospitals within the jurisdiction of this Constitution shall operate on a non-profit basis. This means that such hospitals shall be organized and operated exclusively for health service delivery and related educational and research purposes, and not for the generation of profit.
- Each private hospital shall maintain transparent accounting and reporting procedures to ensure that all financial operations adhere to the non-profit mandate. These reports shall be audited annually by an independent, certified public accountant and submitted to the appropriate regulatory authority.
- Private hospitals must reinvest all financial surpluses generated into the facility's infrastructure, medical equipment, staff training, research, and improvement of patient care services, rather than distributing these surpluses as profit or dividends.
- The governance of private hospitals shall be vested in a board of trustees or an equivalent body, which operates without the influence of profit-oriented shareholders. Members of this governance body shall have demonstrated commitment to healthcare improvement and possess relevant expertise.
- Non-compliance with any provisions of this Article shall result in penalties, including potential revocation of operating licenses, financial fines, and other legal actions as deemed appropriate by judicial authorities.
- Private hospitals must adhere to pricing regulations established by the relevant health authority to ensure that medical fees remain reasonable and accessible to all segments of the population. These regulations shall aim to prevent any form of financial exploitation of patients.

10 Finance

- The government should be prohibited from entering non-disclosure agreements that would prevent disclosure of associated activities to the public.
- KPIs should be defined to monitor the financial performance of the government and these KPIs should be publicly lodged and made publicly accessible.
- The revenues from property taxes should only be used in the constituency from which they were collected.
- National public pension funds shall be managed with the highest standards of fiduciary responsibility and financial prudence to ensure their long-term sustainability and to protect them from practices akin to those found in Ponzi schemes. Moreover, any notion of said funds acting as a form of income re-distribution should be explicitly regarded as an act of theft in the constitution.
- The management of national public pension funds shall be overseen by an independent regulatory body composed of members with proven expertise in finance, economics, and pension management. This body is tasked with ensuring compliance with legal and operational standards and safeguarding the interests of beneficiaries.
- Penalties for mismanagement, misuse, or diversion of pension fund assets include criminal charges and civil liabilities for individuals and entities found responsible, ensuring that malfeasance and misfeasance are met with stringent punitive measures.

- The state should explicitly prohibited from failing to meet its obligations to state-run companies such as utility companies.

11 Speaker of the House

The speaker of the office should be chosen by the President as opposed to the leader of government to minimize possible sources of bias in how sessions of Parliament are run.

12 Election Frequencies and Dates

- General elections for the parliamentary and presidential (if applicable) offices should be held uniformly on the same day every four years. This date shall be fixed and occur on the first Monday that is not public holiday in November to ensure predictability and consistency in the electoral process.

13 Cabinet Advisory Boards

- Every ministry must establish an advisory board that includes a shadow minister selected by the opposition, alongside six voluntary members who are distinguished experts from industry and academia within the ministry's field. The composition of this advisory panel will be balanced, with three experts nominated by the minister and an equal number nominated by the shadow minister. This board is tasked with convening monthly to compile a comprehensive report detailing recommendations and issues that the minister must address publicly. The expectation is for the minister to offer timely and public responses to these documented concerns. Failure to respond within three months will be interpreted as a dereliction of duty, warranting the minister's removal from their cabinet position.

14 Campaign Finance Reform

Comprehensive campaign finance reform is essential to ensure transparency, accountability, and fairness in the electoral process. Campaign finance reform at the constitutional level is vital given that politicians, in general, are unlikely to implement campaign financing in downstream legislation even though it would improve voter welfare (Daley and Snowberg 2011). The following should be considered to stymie the use of money to influence politicians:

- All political donations from individuals, corporations, or unions shall be subject to strict limits per election cycle. Donations exceeding \$5,000 must be publicly disclosed, including the donor's name, the amount, and the date of the donation. This aims to prevent undue influence on candidates and ensure transparency in political financing.
- Campaign spending for all electoral contests shall be capped at a level proportional to the electorate size. These limits are intended to ensure that financial resources do not unduly influence election outcomes, fostering a more level playing field for all candidates.
- All independent expenditures advocating for the election or defeat of candidates must be fully transparent, with mandatory disclosure of funding sources. Organisations making such expenditures shall register with the EBC and report their donors promptly. This clause targets "dark money" in politics, aiming to unveil the sources of untracked political spending.
- Direct or indirect campaign contributions from foreign nationals, entities, or governments are strictly prohibited. This clause safeguards national sovereignty and prevents foreign interference in the electoral process.
- To enhance transparency, all political contributions above a minimal threshold shall be reported to the EBC in real time or within 48 hours of receipt. This timely reporting facilitates public scrutiny and helps prevent circumvention of campaign finance laws.

15 Participatory Budgeting

Participatory budgeting is a democratic process in which community members directly engage in the allocation of a portion of the public budget (Shah 2007), making collective decisions on the funding of projects and initiatives that affect their lives. This approach not only democratises budgetary decisions, ensuring they reflect the true priorities and needs of the community, but also fosters greater transparency, accountability, and trust between citizens and government.

By incorporating participatory budgeting into the constitution, a state not only affirms its commitment to a genuinely participatory democracy but also institutionalises a mechanism for empowering its citizens, enhancing civic engagement, and ensuring that public spending is aligned with the public good. Therefore, including participatory budgeting in the constitution is a critical step toward redefining the relationship between the state and its citizens, ensuring that governance is more responsive, inclusive, and equitable.

The constitution should afford mechanisms for implementing participatory budgeting at the general and local government levels. Sample clauses to this effect would include the following:

- Participatory Budgeting (PB) shall be instituted as a democratic process in which community members directly decide how to allocate parts of a public budget at the general and local government levels.
- At the general government level, a specified percentage of the national budget shall be allocated for participatory budgeting processes, focusing on projects of national significance that directly impact citizen welfare.
- An independent Participatory Budgeting Committee (PBC) shall be established to oversee the PB process, including the formulation of guidelines, project submission, deliberation, voting, and implementation oversight.
- Local governments shall allocate a designated portion of their budgets to be determined through participatory budgeting, focusing on community-level projects.
- Local Participatory Budgeting Councils (LPBCs) shall be formed to facilitate the PB process, ensuring local residents have a direct voice in allocating resources for projects within their communities.
- The participatory budgeting process shall involve several key stages: call for proposals, public discussion and deliberation, development of final project proposals, public vote, and project implementation.
- All citizens of voting age within the respective general or local government jurisdictions are eligible to participate in the PB process, ensuring broad and inclusive community engagement.
- Detailed reports on the participatory budgeting process, including project proposals, voting outcomes, and status of project implementation, shall be made publicly available through accessible platforms to ensure transparency.
- The PBC and LPBCs shall establish mechanisms for public feedback and audit trails to ensure accountability in the allocation and use of funds.
- A comprehensive review of the participatory budgeting process shall be conducted annually to assess its effectiveness, identify areas for improvement, and adapt the process to better meet the needs of the community.

16 MP Eligibility

- Individuals vying for the position of Member of Parliament (MP) within a specific constituency ought to maintain their primary residence within that constituency for a minimum duration of five years preceding their candidacy. This criterion aims to ensure that potential MPs possess a deep-seated familiarity with their constituents' unique preferences and requirements, thereby enhancing their effectiveness in representation.
- Prospective candidates desiring to represent a constituency must be at most 65 years old at the point of their candidacy. Such a stipulation is predicated on the belief that a younger age threshold will predispose MPs to adopt a more forward-looking perspective in their policy considerations, thereby prioritising the long-term welfare of their constituents over immediate gains.

17 A Right to Bear Arms

This proposed amendment seeks to enshrine in the Constitution of Trinidad and Tobago the fundamental rights of citizens to protect themselves, their families, and their properties. In recognising the right to bear arms, the amendment acknowledges the importance of self-defence and personal security in a world where threats to safety persist. It aims to empower law-abiding citizens to take responsibility for their protection in a regulated manner, ensuring that firearms are owned and used responsibly and within the framework of the law.

The "Stand Your Ground" provision reflects a commitment to safeguarding individuals' rights to defend themselves without the obligation to retreat in the face of imminent danger. This principle supports the fundamental right to life and security, allowing citizens to protect themselves when retreat may not be safe or feasible.

Together, these clauses are designed to strengthen the rights of citizens within a legal framework that prioritises public safety, responsible gun ownership, and the principles of justice and equity. They affirm the state's recognition of the

intrinsic right to self-defence while ensuring that such rights are exercised within the bounds of the law, contributing to the security and well-being of all citizens of Trinidad and Tobago.

My recommendations are as follows:

- Every citizen of Trinidad and Tobago has the right to own, possess, and carry firearms for self-defence, hunting, sporting activities, and other lawful purposes, subject to such qualifications and regulations as prescribed by law. This right shall not be infringed except in circumstances deemed necessary by law for public safety and national security.
- A citizen of Trinidad and Tobago has the right to stand their ground and use force, including lethal force, in defence of themselves, their family, their home, or in any place where they have a legal right to be, against threats or perceived threats of violence. This right is applicable without the duty to retreat, provided that the use of force is reasonable and proportionate to the threat faced and is in accordance with laws governing self-defence.

18 Local Government

Information tends to degrade as it is aggregated for consumption by centralised authorities (Hayek 2013). Moreover, decision-makers perform best when their welfare depends on the outcome of their decisions (Taleb 2018). Consequently, local government is exceedingly essential, and our constitution should clearly emphasise the importance of local government and delineate specific operations/tasks that fall under the purview of local government.

19 Bibliography

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