

THE NATIONAL ASSEMBLY OF THE FIRST SESSION OF THE
NINTH PARLIAMENT OF GUYANA (2006-2008)

INTERIM REPORT

OF THE

COMMITTEE ON APPOINTMENTS

IN RELATION TO THE APPOINTMENT OF MEMBERS OF THE
ETHNIC RELATIONS COMMISSION

COMMITTEES DIVISION
PARLIAMENT OFFICE
PUBLIC BUILDINGS
GEORGETOWN

8th May, 2008

Introduction

1. The Standing Committee established under the Constitution to address matters relating to the appointment of Members of Commissions, pursuant to Article 119C of the Constitution and under the provisions of Standing Order No. 84, has agreed to the following as its Interim Report -

Members of the Committee

2. At a meeting of the Committee of Selection held on 14th December, 2006, the following Members were nominated to the Committee on Appointments to address matters relating to the appointment of Members of the Commission:

Members from the People's Progressive Party/Civic:

- (i) The Hon. Dr. Leslie S. Ramsammy, M.P
- (ii) The Hon. Robert M. Persaud, M.P
- (iii) The Hon. Brindley H.R. Benn, M.P
- (iv) The Hon. Priya D. Manickchand, M.P
- (v) The Hon. Jennifer I. Webster, M.P
- (vi) Ms. Gail Teixeira, M.P.

Members from the People's National Congress/Reform - 1 Guyana:

- (i) Mrs. Deborah Backer, M.P
- (ii) Dr. George A. Norton, M.P
- (iii) Ms. Amna Ally, M.P

Member from the Alliance For Change:

- Mrs. Sheila Holder, M.P

Election of Chairman

3. The Committee, at its first meeting held on 21st December, 2006 unanimously elected Ms. Gail Teixeira, M.P. as its Chairperson.

Terms of Reference

4. The Committee, by Resolution No. 17 passed on 8th May, 2003, by the National Assembly was entrusted to discharge the following functions in relation to the appointment of a member of the Commission established under the Constitution -

- “(a) identify appropriate bodies for consultation in the appointment of the relevant members of the Commission, conduct the necessary consultations with them and, where necessary, receive nominations from appropriate bodies;
- (b) make recommendations to the National Assembly
 - (i) for a consensual mechanism for the Ethnic Relations Commission, the Women and Gender Equality Commission, the Indigenous People’s Commission and the Rights of the Child Commission;
 - (ii) for the appointment of members of the Commissions with the exception of the Public Procurement Commission; and
 - (iii) in connection with any other matter referred to it by the National Assembly from time to time.
- (c) report to the National Assembly in relation to each Commission as soon as possible upon the discharge of its function in relation thereto.”

Mandate

5. The Committee was mandated by Article 212 B (1) (a) of the Constitution in relation to the Ethnic Relations Commission, to nominate for appointment by the President:

“not less than five nor more than fifteen members nominated by entities, by a consensual mechanism determined by the National Assembly, including entities, representative of religious bodies, the labour movement, the private business sector, youth and women after the entities are determined by the votes not less than two-thirds of all elected members of the National Assembly.”

Meetings of the Committee

6. The Committee held a total of twenty-three(23) meetings(21 statutory and 2 special meetings).

Ethnic Relations Commission

7. At its 3rd meeting held on 27th February, 2007 the Committee proceeded to consider the mechanism to be adopted relating to the process of appointments to the Commission. It, therefore, discussed

- (i) Schedule 1 (which listed entities to be consulted) of Resolution 62 and proposed that the list be revised to include other groups; and
- (ii) the youth component of the list of categories should be revised to include the sports and cultural groups.

8. A proposal was made by the PNC/R-IG representative Mrs. Backer for the inclusion of professional bodies as a new category.

9. The Committee continued discussion on this Commission at the 5th meeting held on 27th March, 2007. It noted that the ERC, under Resolution 62, had preceded the constitutional reform which provided for a Standing Parliamentary Committee and Resolution 17 which established the Committee of Appointments in the 8th Parliament and therefore a motion would have to be brought to include a new or revised list of entities.

10. Some Members were of the opinion that since professional bodies did not form part of the cluster/categories of Article 212 B (1)(a) it could not be included in the First Schedule as it would require a constitutional amendment. Some Members did not agree with that interpretation.

11. At its 6th meeting on 17th April, 2007 in relation to the consensual mechanism, the Committee agreed to amend the original Second Schedule and asked the Clerk of the Committee to seek guidance from the Speaker and the Clerk of the National Assembly on this matter and whether it could amend a Resolution of the Parliament and the modalities of doing so.

12. A Minute dated 2nd May, 2007 from the Clerk of the National Assembly was presented to the Committee with the following information:

- (i) Only the National Assembly has the power to change a Resolution made by it;
- (ii) A new motion would have to be prepared by the Committee to be moved in the Assembly by a Member of the Committee;

- (iii) The matter was also referred to the Speaker of the National Assembly.

13. The Speaker's letter dated May 2, 2007 to the Clerk of the National Assembly indicated:

- (i) The mechanism specified by the Second Schedule was implemented in the past by the Clerk's Office by inviting entities to submit a nominee and advising them of the procedure to be adopted for doing so;
- (ii) The decision of the Committee alters the procedure set out by the Resolution of the National Assembly in the Second Schedule. Only the National Assembly can make such alteration by passing another Resolution.
- (iii) The Committee would be required to present the "Redraft" of the Second Schedule as a motion to the National Assembly. Once approved the Clerk would be required to act accordingly.

14. At the 7th Meeting held on 24th April, 2007 the Committee agreed that it would not include the category "professional bodies". The Committee's Division was asked to prepare the draft motion for its consideration.

15. Hence, another motion with the First Schedule of the revised list of entities and the Second Schedule with the new consensual mechanism was therefore re-drafted by the Committee to allow the Committee to play a role in relation to overseeing and managing the process of nominations by the various entities.

16. This was prepared and approved at a Special Meeting held on 2nd May, 2007 for transmission to the National Assembly.

17. The motion was presented and debated on 10th May, 2007 in the National Assembly. An amendment was proposed by the PNC/R-IG to remove the last sentence in the Second Schedule which was put to the vote and approved. The motion was then put to the vote and received 40 votes in favour and 19 declined to vote. As a result, the motion failed to receive the required two-thirds majority.

18. At the following meeting of the Committee on 22nd May, 2007 the PNC-R-IG was requested to inform the Committee on how the motion could be amended to move the process forward.

19. The Committee was also advised that this matter had been raised at the Parliamentary Management Committee in light of Standing Order 25(3) and the Speaker indicated his willingness to suspend that Standing Order to allow the Committee to proceed with the motion on the Ethnic Relations Commission once agreement had been reached.

20. Discussions on the way forward remained inconclusive up to the last meeting prior to the recess. At the Special Meeting of the Committee on 7th August, 2007, the Government representatives on the Committee gave notice that it would be tabling a motion indicating the failure of the Committee of Appointments to bring closure to this issue and to advise the National Assembly and the President accordingly, and to call on the President to take whatever administrative measures available to allow the ERC to continue functioning in the interim. This motion was tabled and carried in the National Assembly.

21. The Committee continued consideration on the way forward at its 14th meeting held on 20th November, 2007. It was informed by the Members of the PNCR-1G that they were prepared to accept the categories/clusters in Article 212B (1)(a) of the Constitution, although they felt that the Committee was not limited to the named categories/clusters.

22. The Committee re-affirmed its agreement with the 10th May, 2007 version of the Second Schedule as amended by the National Assembly. It also agreed to review the list of entities in the First Schedule of May, 2007 and to make a comparison with the original First Schedule of Resolution 62 to see which entities were added and which were deleted.

23. At the 15th meeting on 4th December, 2007 the Committees Division was asked to prepare a draft report for discussion at the following meeting. In the interim, the Members would scrutinize the list of entities and come prepared to bring this matter to closure at the meeting of 11th December, 2007. The Committee re-affirmed that the original motion and the second schedule as amended were non-contentious.

24. At the 16th meeting on 11th December, 2007, Members of the PNCR-1 raised their objections to the inclusion of the Inter-Religious Organisation (IRO) among the list of entities to be consulted to nominate persons to the Ethnic Relations Commission. Their objection was made on the basis that, in their view, the IRO was being run by one person and, therefore, was not considered to be a functional organization. The Government and AFC representatives did not share this view.

25. At the 17th meeting held on 15th January, 2008, the PNCR-1G reiterated its non-support for the IRO since in their view, it was an umbrella body which represented other religious bodies, some of which were already listed in the First Schedule.

26. This position was further reiterated at the 18th meeting held on 12th February, 2008. However the PNCR-1G committed to entertain the inclusion of any group of the IRO that was not previously listed in the First Schedule of the original ERC motion once it was felt that that group merited such inclusion.

27. Continued discussions on the issue of finalizing the list for the ERC's nominations in relation to the inclusion of the IRO, failed to arrive at a consensus although copies of the IRO's Constitution, the list of entities which belong to it and their membership were circulated. The Committee in interim tried to focus on the other pending Commissions.

28. At the March 18th meeting, the Committee Members were reminded of the five-point Joint Agreement of the National Stakeholders Forum on March 12th, 2008 whereby five (5) of the six (6) constitutional human rights commissions, (which are part of the mandate of the Committee to Appoint Members of Constitutional Bodies), were to be appointed within 90 days. In light of upholding this agreement, another attempt to reach a consensus was made and which also failed.

29. Thus, at the 19th meeting of the Committee, a motion was tabled by the PPP/C membership which expressed concern that the matter, despite being discussed at every meeting, was not arriving at a conclusion. It was, therefore, proposed that the Committee, having agreed that it was at a gridlock, should refer the matter to the National Assembly for its intervention and guidance with

regard to the way forward on whether to include the IRO among the list of entities to be consulted on the appointment of members of the Ethnic Relations Commission. This proposal was seconded by the Member of the Alliance for Change.

30. In addition to acting upon the aforesaid proposal, whereby the draft report was examined and approved with one amendment, the Committee still made efforts to reach consensus again at its 20th meeting on March 25, 2008.

31. At the 21st meeting held on 1st April, 2008, in an attempt to move the process forward, the Chairperson asked the Committee to consider the creation of a new grouping of "Other Religious Bodies" in the May 2007 motion which would facilitate the inclusion of the IRO and the five religious bodies which do not fall into the three official religions; Christian, Hindu, and Muslim. The amended motion was shared with committee members. The PNCR-IG, in response, proposed that the matter be dealt with holistically and thus the number of groupings for religious entities should not be increased without giving consideration to increasing the number of representatives for the non-religious groupings. This, they felt would lead to further delays and therefore they proposed that the formulation of the original motion of May, 2007, should be maintained with the three religious groupings for Christian, Hindu and Muslim. They further suggested that as a result the IRO and the five organizations of other religious persuasion be deleted from the list of entities under consideration.


32. The AFC representative proposed, in order to move the process forward, the removal of the new grouping of "*Other Religious Bodies*" and the IRO and those entities which would fall into that grouping.

33. The PPP/C members did not agree to this latest proposal. Their Members objected to the notion of exclusion and argued for the inclusion of the new grouping as proposed and the inclusion of the IRO and the five entities which did not fall into the three official religions.

34. Whilst the Committee agreed that it would continue in its efforts to reach consensus, it was unanimously decided that at this stage the Committee was at a stalemate. The decision was taken that it should proceed to present an interim report on the status of its deliberations on the Ethnic Relations Commission to the National Assembly.

35. On 22nd April, 2008, the Committee on Appointments examined and agreed that this Interim Report on the status of its deliberations on entities to be consulted with for nominations to the Ethnic Relations Commission should be presented to the National Assembly.

36. The Report is accordingly hereby submitted.


Gail Teixeira, M.P.
Chairperson
Committee on Appointments

22nd April, 2008