

**Final Report into the Investigation of Employment Practices
at the Guyana Elections Commission
and the Appointment of
Roxanne Myers to the Post of Deputy Chief Election Officer**




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REPORT ON THE INVESTIGATION INTO EMPLOYMENT PRACTICES AT THE GUYANA ELECTIONS COMMISSION AND THE APPOINTMENT OF ROXANNE MYERS TO THE POST OF DEPUTY CHIEF ELECTION OFFICER

Introduction

1. The Ethnic Relations Commission ERC is one of the several Service Commissions created by Title 7 of the Constitution of the Co-operative Republic of Guyana at Articles 212 A, 212 B, 212 C, 212 D, 212 E and 212 F.
2. The framers of our Constitution designed an Elections Commission for Guyana, where for all practical purposes, in the Guyana electoral context; there would be equality of representation between the governing party or coalition and the party or coalition in opposition. In an ideal world, all Commissioners of GECOM would regard themselves as being, primarily, representatives of the Guyanese people and would work together harmoniously to ensure that all electoral processes are conducted freely, fairly, and efficiently so that the outcome of all elections would be acceptable to all Guyanese and also to the international observers who monitor our elections.
3. Article 161 of the Constitution provides for the appointment of a Chairman by the President. The terms of that article clothe the Chairman with a certain degree of independence and require a certain degree of objectivity in the appointed Chairman.
4. Even where persons of goodwill address relevant issues in an objective manner, differences of opinion and perception arise from time to time. These differences are likely to be greater if persons find themselves in an adversarial relationship. The tenor and temper of relationships depend, in considerable measure upon the degree of respect which parties who find themselves on opposite sides of a literal or metaphorical aisle show to one another.
5. It is to the credit of succeeding Chairmen and Commissioners over the years that the work of the GECOM has progressed without major incident or disruptions even though complaints and criticisms have been made from time to time. Former Chairman Dr. Steve Surujbally reported that he actively promoted a consensus and found it necessary to exercise his right to vote on only one occasion in his 17 years as Chairman. Current Chairman Justice Patterson (Ret'd) was content to leave it to the members of the Commission to deal with their portion of the Commission's business without his intervention. This is how he put it before us: "My management style is not intrusive. I let them do their own thing. I speak very little at Commission meetings. I only speak when I have to".
6. It was only in the instant case that Chairman Patterson found it necessary to cast a vote in order to break a deadlock. All other appointments were made with the unanimous agreement of ALL the Commissioners.
7. Judging from their presentations before the Sub-Committee - both written and oral - it became clear that even though Commissioners expressed their opinions vigorously and thoroughly, they did so with a refreshing acceptance that other Commissioners did have

different and differing views, and that they respected the right of other Commissioners to hold different views and opinions. It was in an atmosphere of cooperation that GECOM was able to fulfill its mandate over the years with an acceptable degree of internal discord and that the deadlock which was reached in the Vishnu Persaud matter was such a rare occurrence. It is against this background that the complaining Commissioners took first to the media, and then to the ERC to seek redress of their grievance. The other Commissioners sought to assist the enquiry as best they could having regard to their differing perceptions and opinions. In their appearances before the Sub-Committee, all of the Commissioners revealed a mutuality of respect for and civility toward each other and towards the Sub-Committee.

Functions of the ERC

8. The functions of The Ethnic Relations Commission as set out in article 212 D of the Constitution are to:-
- a. Provide equality of opportunity between persons of different ethnic groups and to promote harmony and good relations between such persons;
 - b. Promote the elimination of all forms of discrimination on the basis of ethnicity;
 - c. Discourage and prohibit persons, institutions, political parties and associations from indulging in, advocating or promoting discrimination or discriminatory practices on the ground of ethnicity;
 - d. Foster a sense of security among all ethnic groups by encouraging and promoting the understanding, acceptance and tolerance of diversity in all aspects of national life and promoting full participation by all ethnic groups in the social, economic, cultural and political life of the people;
 - e. Promote educational and training programmes and research projects which provide for and encourage ethnic peace and harmony;
 - f. Encourage and create respect for religious, cultural and other forms of diversity in a plural society;
 - g. Promote arbitration, conciliation, mediation and like forms of dispute resolution in order to secure ethnic harmony and peace;
 - h. Establish mechanisms and procedures for arbitration, conciliation, mediation and like forms of dispute resolution that would ensure ethnic harmony and peace;
 - i. Recommend to the National Assembly criteria to be considered for the purposes of deciding whether any person has committed acts of discrimination on the ground of ethnicity;
 - j. Investigate complaints of racial discrimination and make recommendations on the measures to be taken if such complaints are valid and where there is justification therefor refer matters to the Human Rights Commission or other relevant authorities for further action to be taken;
 - k. Monitor and review all legislation and all administrative acts or omissions relating to or having implications for ethnic relations and equal opportunities and, from time to time, prepare and submit proposals for revision of such legislation and administrative acts and omissions;
 - l. Immediately report to the National Assembly and to all relevant authorities any proposed

legislation which the Commission thinks may be contrary to the constitutional provisions relating to ethnicity;

- m. Promote equal access by persons of all ethnic groups to all public or other services and facilities provided by the Government or other bodies;
- n. Promote and encourage the acceptance and respect by all segments of the society of the social identity and cultural inheritance of all ethnic groups;
- o. Promote co-operation between all bodies concerned with the fostering of harmonious ethnic relations;
- p. Investigate on its own accord or on request from the National Assembly or any other body any issues affecting ethnic relations;
- q. Identify and analyze factors inhibiting the attainment of harmonious relations between ethnic groups, particularly barriers to the participation of any ethnic group in social, economic, commercial, financial, cultural and political endeavors and recommend to the National Assembly and any other relevant public or private sector bodies how these factor should be overcome;
- r. Monitor and report to the National Assembly on the status and success of implementation of its recommendations;
- s. Study and make recommendations to the National Assembly on any issue relating to ethnic affairs, including conducting studies to determine whether race relations are improving;
- t. Monitor and make recommendations to the National Assembly and other relevant public and private sector bodies on factors inhibiting the development of harmonious relations between ethnic groups and on barriers to the participation of all ethnic groups in the social, economic, commercial, financial, cultural and political life of the people;
- u. Consult with other bodies and persons to determine and specify the perceived needs of various ethnic groups for the fostering of harmonious relations;
- v. Train and enlist the aid of such persons and acquire such facilities as the Commission deems necessary to accomplish its functions;
- w. Make recommendations on penalties, including the prevention of any political party or any person from participating in elections for a specified period, to be imposed for any breach of the provisions of the Constitution or any law dealing with ethnicity;
- x. Do all other acts and things as may be necessary to facilitate the efficient discharge of the functions of the Commission.

Role of the Ethnic Relations Commission

9. In summary, the Commission has been charged to create and establish Harmony & Good Relations among the many ethnic groupings in Guyana. It is a formidable and daunting task, as we have seen from the recent challenges brought before the ERC from GECOM and the IAC. It is not a simple responsibility and the Commission must do its best to address all matters involving questions of ethnicity in as fair, balanced, and objective a manner as humanly possible.

Appointment of the Sub-Committee and Scope of its Mandate

10. By letter dated July 17th, 2018, addressed to the members of the Sub-Committee, the Chairman of ERC indicated that: “The Ethnic Relations Commission of Guyana has been asked by the Opposition Members of the Guyana Elections Commission (GECOM) to: **“Conduct an inquiry into the Employment Practices at GECOM in general and the recent vote by the Chairman of GECOM in favour of a second-ranked candidate in particular.”**”
11. In a swift response to that request, the persons invited to serve as members of a Sub-Committee of the Commission to conduct the enquiry pledged their allegiance. The persons of the Sub-Committee were:-

Mr. Stanley Moore, LL M, Retired Justice of Appeal-Chairman
Mr. Jairam Petam-Human Resources Consultant
Mr. Lloyd Alvin Smith, DSM, Deputy Commissioner of Police (Ret’d) -Investigator

Additionally, Major General (Ret’d) Norman Mc Lean and Mr. Norris Witter also served on the Sub-Committee as representatives of ERC.
12. Optimistically, The Chairman of ERC indicated that: “The Ethnic Relations Commission wishes to execute this Investigation as a matter of urgency and hopes that the Sub-Committee can complete the Investigation within four (4) weeks and submit a Report no later than **16th August, 2018.**”
13. At the first informal meeting between the members of the Commission and the Sub-Committee, the opinion was expressed that whereas it was desirable that the Sub-Committee should report no later than the 16th August, 2018, every care should be taken to ensure the objectivity, accuracy and fairness of the inquiry itself and of the Report. At this preliminary meeting, the following procedures were suggested for the GECOM investigation:-
 - I. Interviews with the Chairman, Commissioners, and the Chief Election Officer.
 - II. Interviews with the Human Resources practitioners of GECOM, to ascertain the employment and Performance Appraisal procedures and practices.
 - III. The availability of copies of the recent advertisements for the position of Deputy Chief Election Officer to ascertain whether the position was advertised internally and subsequently externally to the local Guyanese population as well as overseas applicants.

- IV. Interviewing procedures that were adopted by the interviewing panel for the position of the Deputy Chief Election Officer. Was there a prescribed set of questions with an allotted scale of quantitative scores that were used by the panelists? If so, it needs to be provided.
- V. A copy of the Job Description for the Deputy Chief Election Officer's position.
- VI. The ERC understands that the interviewing panel consisted of the Chairman, four Commissioners, two appointed by the President acting in his own deliberate judgment - the so-called Government Commissioners - two appointed by the President acting in accordance with the advice of the Leader of the Opposition - the so-called Opposition Commissioners - and the Chief Election Officer. We would appreciate if the names of the four Commissioners who sat in the interviewing panel were made available.
- VII. The Commission was advised thru the media that a score sheet was prepared that showed a score of 76 for Mr. Persaud and 72 for Ms. Roxanne Myers. What criteria were used to arrive at these scores? What were the guidelines, if any, that were used to eliminate the presence of subjectivity? Were scores the only considerations taken into account in advising the vote?
- VIII. It is claimed by the Opposition that 90% of the top Management of GECOM can be considered as Afro-Guyanese. Who are considered to be top management, what are those positions, and who are the holders of those positions based on the organizational chart of GECOM?
- IX. What informed the Chairman's decision on the casting vote for Deputy Chief Election Officer?
- X. Copies of the Annual Performance Appraisal reports for Mr. Persaud for the period 2013 to the end of his tenure to be made available.
- XI. The criteria used for casting the vote for Ms. Myers, who was not an employee of GECOM, and not for Mr. Persaud who was given a higher score at the interview.
- XII. Soliciting statements and examination of personnel of GECOM who are considered relevant to this investigation.

14. The following materials were made available to the Sub-Committee at the time of their appointment:-

Letter dated 13th June, 2018 to the Chairman of the ERC from the following Commissioners of the Guyana Elections Commission:-Robeson Benn, Bibi Shadick and Sase Gunraj. The referred letter requested that the "Ethnic Relations Commission (ERC) Conduct an inquiry into the employment practices at GECOM in general, and the recent vote by the Chairman of GECOM in favour of a second ranked candidate in particular."

15. The specific areas of inquiry are thus:

- I. The employment practices of GECOM in General.
- II. The recent vote by the Chairman of GECOM in favor of a second-rated candidate in particular.

16. The issues disclosed from the above areas of inquiry are:

- i. The Fairness and Impartiality of the employment practices existing at the time of the Chairman of GECOM's vote.
- ii. The voting rules and procedures of GECOM at the time when the Chairman cast his vote which broke a voting dead lock.
- iii. The circumstances under which a candidate became a second-ranked candidate.
- iv. The systems and methodology employed for the ranking or rating of candidates.
- v. The rationale of the Chairman in exercising his vote.

The Conduct of the Inquiry

17. In attempting to resolve these issues this Sub-Committee endeavored to discover whether in all of the areas of enquiry, the existing laws, rules, regulations and established practices and procedures were applied in a manner which was fair and just to all parties concerned, to GECOM, and to the public at large. To this end, the Sub-Committee resolved to seek assistance from individuals or organizations which might be helpful, bearing in mind the constraints of time stipulated by our mandate.
18. On the question of time, we think it germane to point out that several of our members were required to travel abroad from time to time because of commitments existing before our appointment. More to the point, the work of this Sub-Committee was severely constrained by the unavailability of several key GECOM personnel at critical stages of our enquiry. The impending Local Government Elections was offered as a reason for the non-appearance of these persons. But even after the elections were over, these persons failed to appear before us even after repeated requests. We shall have more to say about the conduct of these persons later in this Report.
19. By letter dated July 26, 2018, GECOM's Chairman advised that the "information required will be provided as soon as it can be gathered", but cautioned that "the exigencies of the current mode of operations are an impediment to expediency"
20. Retired Justice Moore hopefully expressed his confidence that GECOM would provide the necessary assistance to the Sub-Committee in executing the task assigned to it.
21. Several meetings took place where persons appeared before the Sub-Committee and, in the main, did their best to assist its work as best they could. Brief accounts of those meetings are set out below.

Meeting with Dr. Steve Surujbally – former GECOM Chairman

22. The Sub-Committee, in its deliberation, decided, as a prelude to the inquiry, to have an interview with Dr. Steve Surujbally who served as GECOM's Chairman from 2000 – 2017. The members of the Sub-Committee conducted this interview on August 1, 2018 in the Boardroom of the Ethnic Relations Commission.
23. Dr. Surujbally willingly shared his vast experience as the Chairman of GECOM on a wide range of subjects. He focused in general upon the employment and recruitment practices, but placed particular emphasis upon the character traits, work-related performance, and academic qualifications of Mr. Vishnu Persaud. He was given a brief account of the complaint which the Sub-Committee was investigating.
24. The allegation was that Mr. Vishnu Persaud was one of the interviewees for the vacant position of Deputy Chief Elections Officer. He was the principal subject of the complaint by GECOM's Commissioners, Mr. Robeson Benn, Mr. Sase Gunraj and Ms. Bibi Shadick. The case of these Commissioners was that Mr. Persaud was the best qualified candidate based upon his long experience in several positions at GECOM and, more particularly, because he had gained higher marks than any other candidate at the end of the selection procedure. Furthermore, so the complaint went, the current Chairman of GECOM, unfairly and improperly, did not vote in favour of Mr. Persaud to break the deadlock which existed after all six Commissioners had cast their votes. The current Chairman had voted instead for a candidate who had obtained fewer marks, had no previous GECOM experience, and who had no qualifications relating to the Conduct of Elections.
25. Dr. Surujbally stated that as the Chairman he ensured in the interest of prudence, financial transparency and organizational efficiency that the Public Relations Officer, Chief Election Officer and Legal Officer report directly to him. He further stated that Deputy Chief Elections Officer, Head of Human Resources and Information Technology, Head of Audit among other senior managers, reported directly to the Chief Election Officer.
26. On the question of recruitment, Dr. Surujbally was quite emphatic that as the Chairman he has "never hired an Indian or an African". He has hired "Guyanese". On employment, recruitment, and promotion practices, Dr. Surujbally referred to the existence of written policies (rules and practices) that were approved by the Elections Commission to guide management in their deliberations in these critical, non-discriminatory aspects of human resources management.
27. As the Chairman, he knew only of a single instance when he had to cast his vote in an employment-related matter and that was the instance when he voted against the renewal of Gocool Boodhoo's contract as the Chief Election Officer. He cited that work-related

performances and questionable integrity were the critical factors that informed his decision to vote against the renewal of Boodhoo's employment contract.

28. Dr. Surujbally made it clear that the positions of Chief Election Officer (CEO) and Deputy Chief Election Officer (DCEO) have fixed-term contracts; fixed by periods of tenure, and that prior to the expiration of these contracts, the incumbents could express an interest to continue in their respective positions subject to the approval of the Elections Commission.
29. Asked for his assessment, based upon his own personal knowledge of, and interaction with Mr. Vishnu Persaud, of the latter's suitability for appointment to the post of DCEO, Dr. Surujbally was quite vocal. He described Mr. Persaud's performance as the Public Relations Officer and DCEO as very good. Further, that Persaud "held the fort as CEO on several occasions", and was an "excellent scribe for the Commission for 12 years". Further, apart from his very good work-related performances, Persaud was described "as being of good character, who employed tact, prudence, wisdom and honesty" in the discharge of his duties. Apart from these intangible traits, Dr. Surujbally posited that Persaud has "vast institutional knowledge and memory" of the works of the Elections Commission, and could vouch for his academic achievements.
30. When asked why he thought Persaud could have been rejected for the position, he opined that it had to be factors outside of Persaud's qualifications, experience, performance and character traits, which are well known by all Election Commissioners, except the current Chairman.

First Meeting with Vishnu Persaud

31. With reference to the section of the Terms of Reference that refers to “the recent vote by the Chairman of GECOM in favour of a second-ranked candidate, in particular”, the Sub-Committee solicited the presence of Vishnu Persaud, the subject person on the matter. Mr. Persaud readily complied.
32. The Sub-Committee met with Persaud twice: August 14 2018 and subsequently, again at our request, for the purpose of clarification on a range of related matters on August 24 of that year.

The meeting of August 14 with Vishnu Persaud

33. Persaud related that he first knew and encountered Dr. Steve Surujbally when they both worked at the Ministry of Agriculture, and it was primarily out of this relationship when Surujbally was appointed GECOM’s Chairman that he was appointed by Surujbally as the Public Relations Officer at GECOM on November 2, 2001.
34. On this appointment Persaud confirmed that he had no formal education in public relations, but due to Surujbally having worked with him at the Ministry of Agriculture where he functioned in a public relations capacity that his appointment, which was initiated by Surujbally, was approved by GECOM.
35. Persaud added that during his tenure at GECOM as the PRO, he also functioned as the full-time Personal Assistant (PA) to Surujbally. The substantive PA was promoted as Logistics Manager in 2004. Persaud claimed to have performed the full function of the PA, in addition to his full-time role as PRO, from 2004 to 2014, and during this period he received neither additional pay nor allowance for the additional work. He, however, received a stipend of \$5,000 per meeting as scribe to the Commission.
36. Persaud further added that “in the run up to the 2006 General Elections, he was requested by Surujbally . . . to lead the civic and voter education program despite there being a Manager responsible for civic and voter education”. He clarified that he performed all these roles simultaneously – PRO, PA and assisted with the continuous civic and voter education program.
37. The position of Deputy Chief Election Officer (DCEO) became vacant on March 2014 when Calvin Benn demitted office. Persaud claimed to have assisted the acting Chief Election Officer (CEO) in the capacity of DCEO from **March 2014** until **August 2014** when he, Persaud, was substantively appointed as the DCEO.

38. Prior to his appointment as the DCEO, he formally applied for the job which was publicly advertised in the local media. He was shortlisted and interviewed by a panel that comprised of the Chairman Surujbally, Commissioners Bud Mangal, Mahmood Shaw, Vincent Alexander and Sandra Jones. He was duly appointed the DCEO on **August 13, 2014** for a period of three (3) years that is until **August 13, 2017**.
39. In accordance with his employment contract, Persaud stated that he wrote the CEO on May 11, 2017, complying with the provision that required him to indicate his willingness to extend the said contract three (3) months prior to its expiration. In the letter dated May 11, 2014 he requested an extension. He received neither an acknowledgement nor a response to his request.
40. With the passage of time, his contract duly expired. Such was his devotion to duty, coupled with a continuing expectation that his contract would be renewed, that Mr. Persaud faithfully reported to work for an entire week, on his own volition, although his contract had expired, and although he had not yet signed a new contract. He was then instructed by the CEO that the Attorney General had advised that since GECOM was in a state of hiatus due to the resignation of Chairman Surujbally, the request for the renewal of his contract could not be processed. Saddened and disillusioned, he then left the GECOM office, as it turned out, for the last time: reluctantly.
41. Several months later, an advertisement suddenly appeared in the local media for the vacant position for DCEO. Mr. Persaud's hopes brightened. He re-applied at once with mounting expectation. He was shortlisted and subsequently interviewed. The interviewing panel consisted of the CEO, HR Manager, and Commissioners Robeson Benn, Bibi Shadick, Vincent Alexander and Desmond Trotman. His interview, he said, lasted 20-30 minutes. When asked whether he was confident and optimistic after the interview, Mr. Persaud responded in the affirmative since, in his words, "I met all the criteria for the job and I am at a loss as why the job was not offered to me". **When asked whether he believed ethnicity was a factor, his response was "I don't think so"**.
42. On a personal note, Persaud stated that as a consequence of him not having the job, the potential of him sourcing another job has been bleak: and it has been taking a huge toll on him and his family financially. He presently has no source of income.

Meeting with Commissioners Charles Corbin, Vincent Alexander and Desmond Trotman

43. The above named Commissioners are those appointed by the President “acting in his own deliberate judgment”. The Sub-Committee met with Mr. Corbin on August 15 and with Messrs Alexander and Trotman on August 18.

Meeting with Charles Corbin

44. Mr. Corbin stated that he joined the Commission in 2009. On the issue of employment practice in general, he stated that prior to 2009 the rules and procedures on employment allowed the administration to make decision on levels of employment immediately below that of the CEO. These levels were colloquially known as the “yellow men” simply because the organisational structure denotes these levels in yellow colour.
45. However, after 2009 there was a “shift in authority on employment”; the “yellow men” had to be employed by the Commission and that “merit is the basis” that guides and informs employment. On the issue of merit, Corbin clarified that “merit employment” is a combination of qualification and experience. Further on this type of employment practice, an “outsider could out-perform the insider”.
46. Relative to Vishnu Persaud’s case, Corbin stated that he did not look at interview score sheets, since he was not a part of the interviewing panel. Job interviews are done by the Administrative and Finance Sub-Committees. With respect to the interview of Persaud, Corbin stated that the sub-committee reported to the main committee that they could not have made a decision because there was a “deadlock” on the candidacy of Vishnu Persaud and Roxanne Myers.
47. When asked what contributed to the deadlock, Corbin stated that Myers had “superior qualifications and potential to perform”, whereas Persaud had higher score (the score sheet tally was Myers 72 points and Persaud 76 points). When told that Persaud has significant institutional knowledge of GECOM and experience and training in elections-related matters, Corbin stated that the Commission was **“misled by his qualification”** and **“qualification was the over-riding factor”**. Further that Myers had “superior qualifications” which were evidenced by her transcript that “showed better grades”. Corbin confirmed that the Minutes of the Meeting where Persaud admitted that he misled the Commission on his qualification is available and that the Committee should request a copy. No copy was ever made available to us.

Meeting with Vincent Alexander and Desmond Trotman

48. During this meeting, Alexander was more vocal than Trotman on both matters; employment in general and Vishnu Persaud's matter in particular.
49. Alexander affirmed that after the job interviews for the position of DCEO, there was "no second ranked candidate" because there was "no consensus on ranking". Further, that the methodology used in the interviews was based on "numeric" which yielded a higher and lower scores.
50. Alexander further stated that Persaud "in the first place did not have the required qualification for the PRO job", and that "on his MBA that he presented for the DCEO job he had a pass whilst the other candidate has better grades".
51. When put to both Commissioners that Persaud held a number of positions at GECOM and according to the immediate past Chairman he performed all in good measure, Trotman responded that Persaud, who earlier had claimed credit for the success of the Civic and Voter Education project, led a "failed project".
52. When put to both Commissioners that if Persaud did not meet the full requirements when he was offered the position of DCEO, but had met all the requirements (academic, experience and technical training) in the recent interview why was his candidature for the job rejected, Alexander clarified that "he was rejected on the basis of what happened in the first instance when he was appointed DCEO". "That the Chairman at the time would have expressed the view that what the candidate had was a first degree. I never agreed with that but was overruled and he was employed on the basis of being the holder of a first degree."
53. Alexander claimed that there was a "deadlock on his candidacy" by the interviewing panel, as such the panel referred its position to the full Commission and after a prolonged deliberation by the Chairman he, the Chairman, cast his vote in favour of Roxanne Myers to be the chosen candidate for the DCEO's position.
54. Alexander further affirmed that there is a written policy that guides the rules and practice of employment and promotion at GECOM which could be acquired from management. He also made reference to Sandra Jones' report which recommendations have been "selectively applied", and this report could also be acquired from management. Further, that all "yellow men" have "fixed term" contracts and the extension of these contracts is subjected to the approval of the Commission. Mr. Alexander did not provide us with a copy of the Sandra Jones report.

Second Meeting with Vishnu Persaud – August 24, 2018

55. Following the claim by Alexander that “Persaud had claimed to have had an academic degree which he had not acquired at the time” when he was interviewed for the first time as the DCEO, the Committee decided to summon Persaud on August 24 to respond to the claim.
56. At the meeting on August 24, Alexander’s claim was relayed to Persaud, who responded that he had presented in his application for the job the exact academic qualifications and technical training he had at the time. He further stated that he did not submit either in writing or oral presentation at any time anything more than what he had in possession at the time. Further, that it is “impossible for anyone to misconstrue or misrepresent that I had claimed to have qualifications more than I actually have”.
57. Persaud stated that at the interview (that is for the DCEO’s position in the first instance) he was asked whether the Level 5 Certificate from the Institute of Management is equivalent to a degree, to which he responded in the negative. Persaud clarified that when he was appointed the PRO in November 2001, he did not possess the required qualification in public relations. However, he did subsequently pursue studies that led to a Diploma in Public Relations. Further, after he was appointed the PRO he wrote the job description for the PRO’s job.
58. On the note by Trotman that he deliberated in a failed civic and voter education project, Persaud stated that he “functioned effectively in my own area as DCEO, Personal Assistant to the Chairman and assisted in the civic and voter education function and at no time did I receive any adverse report on any of these functions”.
59. When asked whether as the DCEO he ever encountered Myers being involved in election-related matters, Persaud stated the only knowledge he has of her in these matters was her association with the Media Monitoring Unit, and that this experience is of no material significance in election-related matters.

Meeting with Commissioners Bibi Shadick, Robeson Benn and Sase Gunraj

60. The Committee met with Commissioners Bibi Shadick, Robeson Benn and Sase Gunraj on August 29, 2018. Shadick clarified that as a member of the Administrative/Finance sub-committee score sheets are used by each member of the interviewing panel to record his/her scores on each interviewee based on a range of competencies and qualification criteria. Further, that all Commissioners who are involved in job interviews are familiar with the methodology used.
61. Benn stated that for all formal job interviews the ranking method as informed by the score sheets is used to determine the suitability of any interviewee for a job, and that “merit is the basis that should guide employment”.
62. With respect to the existence of a Policy on Employment Practices, Shadick stated that she has requested on several occasions for a copy of this Policy to no avail. She has even made such requests to the CEO. She concluded that GECOM management having failed to provide such a document to her notwithstanding the many requests, no such policy exists. Further, not having such a policy in place, recruitment therefore is being done on an “ad hoc” manner.
63. Benn interjected to add that scores were the only decisive factor in determining the candidates for the positions of Legal Officer, PRO and IT Manager. There were no disagreements when the candidates for these positions were determined from the results of the score sheets. He further added that the sub-committee responsible for employment has been “operating without a policy on employment practices. The several requests for this document could be verified from the Commission’s Minutes”.
64. Benn pointed out that before the placement of the advertisements for the vacant positions of Assistant Chief Election Officer (ACEO), Deputy Chief Election Officer (DCEO) and Logistics Manager (LM), the Commission had recommended that the contracts for these 3 positions should be extended. However, as a result of the Persaud matter, the process of employing an ACEO and LM “has been stalled”.

Meeting with GECOM Chairman

65. The Sub-Committee met with GECOM's Chairman on September 6. Pleas were made to Justice Patterson that he facilitate the production of GECOM documents which had been requested some 4 weeks earlier, and the appearance of key GECOM personnel whose input would greatly assist the conduct of the enquiry. The Chairman promised to assist. Some documents were delivered on October 3, 2018. But when hearings finally closed on November 28, 2018, as per letter dated November 7, 2018.

The following key GECOM personnel had never appeared in person or submitted any memoranda or written statements. Names of GECOM personnel who failed to appear are:-

- (a) Roxanne Myers - DCEO
- (b) Marcia Crawford – HR Manager
- (c) The reappearance of the Chairman to produce those documents that he promised to submit to corroborate his claim on the “shiftiness” of Vishnu Persaud.

66. As he must have expected, questions were put to the Chairman concerning his vote in favour of Ms. Roxanne Myers and against Mr. Vishnu Persaud for the post of Deputy Chief Election Officer (DCEO).

67. At this meeting, the Chairman stated that:

“I have seen the papers of the candidates, my decision was involved....informed by the documentation of each of them and there was some evidence of one particular candidate lying, not being faithful to the truth, that's what I recall I think he said one thing which wasn't true and he admitted to it and had some excuse for that...”

68. When asked if he had asked the six Commissioners for an account of the processes by which, and the factors which they took into account in arriving at their deadlock, the Chairman responded thus:

“I don't have that, they arrive at their position and I felt that that is their position and I wouldn't intrude or try to bend or twist or anything like that, I am a hands-off type.” “Let me emphasize, I never took no part in deciding anything about the candidate, I wasn't intrusive, I never asked about things. . .

69. Asked what determinants he considered in making his choice between the two candidates, the Chairman replied:

“What I saw in one particular candidate, what I saw was the written evidence; he said he had Y and he didn't, if I can recall some qualifications which were perilous . . .

70. Referring to Ms. Myers, Justice Patterson stated:

“The other Candidate wasn’t so...didn’t have anything to spark my suspicion of lying or anything like that, one candidate if I recall say he had certain degrees which he didn’t, the other candidate did have those degrees, one candidate seems shifty, the other candidate wasn’t, those are the things that” . . .

71. The obvious question then followed: “who was the shifty candidate?” Justice Patterson’s reply was monosyllabic and unequivocal

“Persaud.”

72. It provoked the obvious enquiry.

“How long did you have any kind of interaction with him?”

73. The surprising response was:

“None at all, as we see it, I don’t think if I ever saw him.”

74. Notwithstanding the absence of any face to face contact with Mr. Persaud, Justice Patterson continued:

“the thing with that particular candidate was that he came over to me as shifty and unreliable, that is constant in my mind and I was not going to recommend him in the place of somebody who I think was . . . shall we use the term ‘fit and proper’ for that particular position” “I saw sufficient to raise a red flag or more than one red flag that this gentleman does not come up to basic standards of character and honesty that I like to have working with me”.

75. The Deputy Chairman of the ERC then referred to Mr. Persaud's twelve years of experience and to the failure of Ms. Myers to grace the enquiry with her presence despite several invitations to do so. Justice Paterson conceded:

“that might be so” and then continued: “ but if that man you are talking about comes over to me as a shifty character whom I can’t believe, that would trump what you saying, no pun intended with Trump.”

76. Faced with the searching question: “But did you have any kind of interface with Mr. Persaud, anytime?”

The GECOM Chairman disclosed:

“I didn’t have any interface with any of the applicants... including Mr. Persaud.”

77. Incredulous, one Sub-Committee member, asked: “You didn’t have interface with Mr. Persaud, you didn’t have interface with Ms. Myers?”

“no, neither I saw her for the first time when she turned up.

78. The obvious question was then put by another member of the Sub-Committee: “So how could you determine shiftiness if you haven’t met with him?” The GECOM Chairman’s promising response was:

“On the record, the paper trail so dictated . . . am . . . what we can do is adjourn this and I will bring all the evidence that spoke to me. . . Yes, as a matter of fact I have found him shifty on the paper record, I can produce stuff, if I have the opportunity to come again some other time before you.”

79. Later in his presentation, the GECOM Chairman returned to the subject of Mr. Persaud’s unsuitability:

“I will muster these documents that I have read, I saw sufficient to raise a red flag or more than one red flag that this gentleman does not come up to basic standard of character and honesty that I like to have working with me, what I want to have working with me are people who have the ability, I don’t look at anything else” . . .

80. However, he cautiously stated:

“even the evidence that was presented to me could be subjective”.

81. The Chairman then restated his willingness to make available all documented evidence to support his opinion on Persaud. The Sub-Committee reasoned that the promised documents were of significant importance and should be carefully studied when the chairman produced them.

82. The Chairman when asked about his position on Myers being previously involved in posting political views on her Facebook page in favour of the current government stated quite emphatically that:

“Roxanne Myers involvement in politics has no concern for me. It is her constitutional right to do so – whether overtly or covertly”.

83. A neutral observer might well surmise that an objective Guyanese person would in all probability regard recent partisan political activity as detracting from the apolitical attributes that all GECOM personnel, particularly at senior management levels, should possess.

84. One month went by as the Sub-Committee awaited the return of Justice (Ret'd.) Patterson bearing the documentary evidence on which he claimed to have found that Mr. Persaud was a shifty person who had lied about his qualifications. On November 7th, the Chairman of the Sub-Committee formally reminded Justice (Ret'd.) Patterson, by letter, of his unfulfilled promise to make the documents to which he had referred available. A reminder was also sent to Ms. Roxanne Myers and Ms. Marcia Crawford of their obligation to assist the Sub-Committee in order that it could conclude its investigation by November 28th. That deadline passed with no response from these absentees.
85. Retired Justice Patterson's failure to produce the documentation on which he based his conclusion that Mr. Persaud was an unsatisfactory candidate has grossly discredited his finding concerning Mr. Persaud's shiftiness, unreliability, and dishonesty. To the extent that Justice Patterson's vote against Mr. Persaud was based upon the phantom documents, it was based upon an ephemeral foundation which was never produced before the Sub-Committee. Throughout the course of this investigation the Sub-Committee found no evidence to suggest that Mr. Persaud made any misrepresentation with regard to his qualification to the Commission. What is more, he struck the Sub-Committee as candid and forthright during the course of his two appearances.

Meeting with Keith Lowenfield – Chief Election Officer

86. Mr. Keith Lowenfield, Chief Election Officer of the Guyana Elections Commission, made a most impressive presentation before us. He came across as knowledgeable, efficient, courteous, objective, fair-minded, balanced, and helpful. His sole objective appeared to be to assist the Sub-Committee rather than to take the side of one party or the other.
87. Asked to edify the Sub-Committee on the employment practices of GECOM in general, Mr. Lowenfield made it clear that the institutional arrangements extant at GECOM did not allow for any one man appointments at the upper managerial levels of that entity. This is how he put it in his own words:

“At GECOM, there are two levels of employment where the managerial level speaks to what you reference to as the yellow men and that relates to all the managers, heads of departments, supervisors, for this category of staff the Board is responsible for its employment. Previously, in the case of my own employment the entire Board met (Chairman and all other Commissioners) after advertisements were made for the position and they conducted the interviews, emanating from those interviews, the best qualified in the eyes of the Board the successful candidate will emerge.”

Mr. Lowenfield described the existing employment arrangements in this way:

“With our new Chairman what we have now, the Board relative to employment practices (there is a Sub-Committee) the Admin and Finance Sub-Committee. They are made up of four members (the Chairmanship of the Sub-Committee is chaired between Commissioners Shadick and Alexander). Those Sub-Committee members will conduct and rank the persons interviewed **and arrive at a score**. Based on that ranking system, there are four of them two and two, they revert to the full Commission if there is a situation of the same score by two Commissioners, the plenary will decide who is the best person identified.”

88. There was much discussion on the matter of scores. On the one hand, it was argued that scores were decisive. On the other hand, those who defended the appointment of Ms. Myers contended that scores were only a single element in a mix of considerations upon which an appointment was based. It is our considered view that the presentation by the professionally neutral Mr. Lowenfield on the question of scores was the most reliable. We accordingly adopt his statements on this topic as reflective of the established practice in GECOM on the matter of scores and of the decisive role played by scores in determining the candidate who should be employed. On the question of whether scores are the only criteria for employment, the CEO clarified that:

“scores provides a premier’, but only “high scores are taken to the plenary”, since “scores provide the guideline to move an applicant from sub-committee to plenary”. **“Scores provide the basic guiding principle as far as selection is concerned”**.

89. The governing principle upon which the role of scores in the employment of managerial candidates was based throughout the history of GECOM was articulated by Mr. Lowenfield thus:

“The score provides the basic guiding principle as far as selection . . . and it’s not written anywhere . . . when the Commission deliberates and decides it’s recorded in those minutes and I as CEO will act on the decision of the Commission.”

It is therefore the Commission, rather the Chairman, which makes an appointment.

90. It was also argued that the previous experience of a candidate was a factor to be considered over and above the score earned by that candidate. That proposition was effectively refuted by Mr. Lowenfield’s statement that:

“If you look at the instrument provided, a subset speaks to experience . . . that is one of the areas you are scored on and therefore the score that emerges would have taken in that work experience.”

91. Commissioner Witter asked perhaps the most pertinent question of this enquiry:

“. . . do you have any knowledge of any incident where the lower ranking person was appointed in preference to the higher ranking person?”

Mr. Lowenfield’s emphatic reply was:

“In my experience based on this year’s interviews **NO!** The issue of scores is specific at GECOM besides the Myers issue . . . This is the only issue where the highest rank was not, this is the only one.

92. The CEO, on the issue of the current employment practice for the category of employees known as the “yellow men” by virtue of being colour-coded yellow on the organisational chart are those personnel at the senior level, clarified that interviews and subsequent selections are done at level of the Commission, under the aegis of the Administrative and Finance Sub-Committee. This Sub-Committee uses the ranking methodology to determine the chosen candidate. However, when there is a tie (a “situation of two and two”), “the plenary will decide who is the best person identified”. “Be it remembered that the plenary is even numbered. In the unlikely event of a tie, the Chairman can then vote to break the tie as happened only once before in the history of GECOM”.

93. The CEO further stated that for technical positions such as that of the DCEO, he will “ask certain questions to bring certain things to the floor” as he is “the most competent person to ask technical questions and based on the questions asked the Commissioners would provide a

grading”. The CEO is “non-voting”; “voting is reserved for the Commissioners”. The “instruments (for the interview) should be agreed upon prior to the interviews by the Commissioners”. If there is “no plurality of the sub-committee the decision is taken to the plenary for deliberation and then a vote is taken”.

94. The CEO stated that he cannot recall prior to the conduct of these interviews if there “was any meeting of the minds between and among the Commissioners with this instrument provided (the score sheet) how the sub-sets will be treated and arrive “. “So as a group or as a panel conducting an interview I don’t know if they are on the same platform, understanding the fundamental HR requirements”.

95. The CEO pointed out that the job description and the advertisement for the DCEO were all familiar to him and the Commissioners, so all were knowledgeable of the fundamental requirements for the job. The job specifications in the job description were in harmony with the job requirements as stated in the advertisement.

96. When asked whether he has any knowledge of a lower ranking person being appointed in preference to a higher ranking person, the CEO stated that:

“based on this year interviews NO”. “The issue of scores is specific at GECOM besides Myers (Roxanne), all the others you would have read the scores which Mr. Petam enunciated from the Minutes that has happened”. This is the only issue where the highest rank was not, this is the only one”.

Myers’ case is the only case in which the lower ranked candidate was appointed over a higher ranked candidate.

97. The CEO affirmed that Vishnu Persaud was “multi-faceted” in that he performed a “range of jobs”. Further, that he “directly prepared his (Persaud) his performance appraisal, and did not find any flaw in his performance”, for had there been a flaw “he would not have been working there”. That his “appraisal was based on criteria established for the office of DCEO specific areas of operation and our laws that speak to the conduct of elections”. The DCEO is required “at the end of the day to ensure that there was efficiency in our deliverable”. Further, that Persaud worked “directly then with Dr. Surujbally even though he was PRO when the scribe /legal officer left he (Persaud) performed those functions, and far as functionality he had an understanding as to all the policies and arrangements that would affect field and headquarters”. He (Persaud) understood HR and so on”. “He has many hats in different times; it’s all part of understanding the totality of the organisation”.

98. The CEO further affirmed that he briefed the current Chairman on Persaud in addition to presenting Persaud’s file to him that contained his performance appraisals. He stated that “when the Chairman asked me I say we had a good working relationship”. “I did go and say

(to the Chairman) that this (Persaud) is a good guy and I am saying to you that this is the man who has to be evaluated he worked with me close to 15 years and we have a very good working relationship” and that “this is the best I could do under the circumstance”. The decision is not mine”. The Chairman asked me if I know this guy and I said yes, as a matter of fact this whole yard I be saying the whole yard for Vish and me (Persaud) are inseparable”. “I provided all the evidence”.

99. The CEO stated that in his opinion if the Chairman were to ask anybody for a view of Vishnu it should be the CEO to start with and then the Commissioners”. “Sometimes Commissioners have their personal views about staff members”. I don’t know if in this case for example somebody personal view would have trump someone’s professional competence”. The “only negative comments will be from the Commissioners. They are the ones who would be making these comments for their own reasons”.

100. In summary, the CEO described Persaud in good terms, good interpersonal relationship, good work performances and job in his capacity as DCEO and undertook varied responsibilities associated with other jobs. Was further clear that he “does not know where the Chairman has his information that would inform him of Persaud’s shiftiness”. The CEO concurred to the expression by the former Chairman that Persaud was “his best man, bright young fellow, best man for the company”, and “yes, for the benefit of the agency”.

101. On Roxanne Myers’s performance to date, the CEO opined that she has been performing well on the job and in time she “will get there” and “getting there is not 6 weeks, it takes time”.

PERFORMANCE APPRAISALS

102. The presentations before us all point to Mr. Persaud having no blemish upon any of his performance appraisals. This is how Mr. Lowenfield put it: “In the case of Vishnu I directly prepared his performance appraisal. I did not find any flaw in his performance. Had that been the case he would not have been working . . . I would have gone through Mr. Persaud’s file over time, his appraisals prior to my writing his last 2015 – 2017 there weren’t any shiftiness they were done by the Chairman himself because he was the Chief of Staff and the Chairman is a kind of individual who would ensure appraisals were done for his office every year.”

THE IDEAL CANDIDATE

103. Echoing sentiments expressed by Dr. Surujbally, Mr. Lowenfield opined that: “The ideal candidate would have been one who would have had working experience on the ground . . . because in their engagement they are part and parcel of our staff development. They understand the task ahead even though there is specialization involved there so anybody

who is involved there would have an advantage. Asked: More like multi-tasking? Mr. Lowenfield agreed "That's right".

BRIEFING

104. Retired Assistant Commissioner of Police Lloyd Alvin Smith, steeped in the procedures and traditions of that Disciplined Service raised the pertinent question of briefing in this way:

“. . . was he (the GECOM Chairman) briefed as to the candidates with regard to Mr. Persaud's performance prior to the commencing, he is new to the Commission even a briefing in terms of the performance of this candidate, his potential, his ability, and that sort of thing . . ."

Mr. Smith's question was fully answered as the relevant excerpt of the transcript amply illustrates:

Mr. Lowenfield: Right, I did briefing. He knew because Vishnu's file was before him as far as this is the man. He is here to make a decision I am saying this is my appraisal of this officer. What the Chairman asked me, I say we had a good working relationship I mentioned that that I became CEO for the years that I was there in 14 and he was my Deputy notwithstanding when he was appointed later in the same year and we were in 2015 elections and we ran 2016 elections so I if there is any benefit to approve from the Chairman being as you said it a new comer was that this gentleman's bona fide was before him.

Mr. Petam: And that file would have contained his performance appraisal

Mr. Lowenfield: Yes, It says who the man is really from

Mr. Petam: That's why I am saying to go through his file

Mr. Lowenfield: yes, from when he was PR and all the appraisals done by. So if you asking there was a brief. I did not go and say that this is a good guy I am saying to you that this is the man who has to be evaluated he worked with me close to me for 15 years ah we have a very good working relationship ah this is the best I could do under the circumstance the decision is not mine

Deputy Chairman: because when we got your Chairman here said he never spoke to the man he never saw him had any discussion with him they never met

Mr. Lowenfield: Right, all that was before him was Vishnu file and he asked me if I know this guy, I say yes as a matter of fact this whole yard (GECOM) I be saying this whole yard (GECOM) said Vish and I are inseparable

Mr. Moore: And he did say that he had certain materials before him

Mr. Lowenfield: Yes I provided the evidence

ACCESS TO DOCUMENTS

105. There were areas of unanimity between all six of the appointed commissioners. All of them complained bitterly that they were denied access to the Commission's documentary materials. They all reported that this lack of information impeded their ability to come to informed conclusions concerning matters to which the Commission's documents related. Documents concerning important matters such as recruitment and training could not be produced. Mr. Dundas, for example, was described as being a highly experienced and regarded expert in the field of electoral law. Apart from Mr. Alexander, no other Commissioner of GECOM had indicated that they have read the said document.
106. A document of note that did surface is the Report on the Post-Election Retreat in January 9-10, 2012 at the Grant Coastal Inn Hotel. It was noted that page 6 paragraph 3 reads: "Considering some Commissioners' concern that the Commission Policy Decisions were omitted from Operational Manuals, the need for a documentation of standardized procedures in the preparation of Manuals was emphasized."
107. Paragraph 4 Under Recruitment of staff reads: "Several concerns, including the Commission's non-involvement in the training and recruitment of Temporary Staff were raised."
108. It would appear that since the retreat, all the Commissioners were involved in recruiting and employing Senior, Junior and Temporary staff.

RACIAL BIAS

109. On the issue of racial bias there is no evidence of any wide spread complaint of racial bias through the years until the issue involving Mr. Vishnu Persaud and Ms. Roxanne Myers.

NON –APPEARANCES

110. The Sub-Committee was considerably handicapped by the failure of the following person to appear:

- Ms. Roxanne Myers, Deputy Chief Election Officer of GECOM
- Ms. Marcia Crawford, Human Resources Manager, GECOM
- Justice James Patterson (Ret'd) (to produce documents concerning Mr. Persaud's alleged shiftiness).

111. This failure cannot be described as anything other than deliberate and willful. At first the excuse was that elections were pending and that they could not spare the time. After the elections were concluded, Justice Patterson (Ret'd) suggested that "perhaps you all have bring some terror into the lady." Justice Patterson had earlier appeared before the Ethnic Relations Commission. Mr. Lowenfield the Chief Election Officer also appeared before us. No session lasted for more than an hour approximately. The failure of these persons to assist the Sub-Committee in this inquiry is nothing but a clear and inexcusable dereliction of their public duty.

112. Ms. Myers knew that her appointment was one of the principal subjects of the enquiry. She was aware that her qualifications and experiences would be considered by the Sub-Committee. Ms. Marcia Crawford knew that the GECOM Human Resources management protocols and procedures lay at the very heart of the enquiry. Their refusal to assist the enquiry by their presence or by written submissions amounted to a deliberate hobbling of the Sub-Committee in the production of an informed report. It can also be seen as putting their own personal interests above their public duty.

113. The Sub-Committee was left to do its own researches. The table below shows a comparison of the qualifications and experiences of Ms. Myers and Mr. Persaud. It also shows that on paper at least Mr. Persaud was by far the more suitable candidate for appointment to the post of Deputy CEO of GECOM.

114. Nothing has been presented to us which, at least on paper, reveals any attributes in Ms. Myers that were capable of offsetting the clear paper advantage which Mr. Persaud enjoyed over his rival.

115. The failure of Human Resources Manager Ms. Marcia Crawford to assist in this investigation has prevented the Sub-Committee from adequately examining and assessing:

- The allegation of ethnic imbalance that formed part of the complaint concerning employment practices.
- The allegedly discriminatory employment practices prior to and post November 2017.
- The Organisation Chart to determine who should be reporting to whom.
- The methodology used in the selection of a successful candidate for employment at GECOM.

CRITERIA FOR THE SELECTION OF DEPUTY CHIEF ELECTION OFFICER

116. The information for the criteria for the selection of the Deputy Chief Election Officer is extrapolated from the advertisement that was carried in the national newspapers for the Deputy Chief Election Officer. The two candidates whose attributes are examined in the following table are Roxanne Myers and Vishnu Persaud. The information is based on what was presented to the Sub-Committee.

1. Qualifications

Post Graduate Degree in Social Sciences along with four (4) years' experience in Human Resources and Financial Management related to a widely dispersed organization OR Degree in Public Management, or related field along with six (6) years' experience in Human Resources and Financial Management related to a widely dispersed organisation.

2. Other Working Knowledge

Working knowledge of computers and data management would be an asset.

Name of Candidates	Qualifications	Work Experience	Working Knowledge	Special Seminars and Conferences
Roxanne Myers	Masters of Arts in Gender and Peace Building from University of Peace, Costa Rica (September 2003 – June 2004)	The only information available is association with the Media Monitoring Unit, an NGO	No Information	No Information
Vishnu Persaud	Master of Business Administration – Anglia Ruskin University, UK (May 2014 – June 2017) Level 5 Certificate from Institute of Management –UK Diploma in Public Relations from the Institute of Public Relations -UK	Public Relations Officer at GECOM November 2001-August 2014 (13 years) Personal Assistant to the Chairman Assisted with Civic and Voters Education Deputy Chief Elections Officer – August 2014 to August 2017 (3 years)	Has good working knowledge of computers and very familiar with the data requirements at GECOM	Elections related conferences in India and England and was a course lead in the Indian conference.

117. Nothing has been presented to us which reveals, at least on paper, any attributes in Ms. Myers that were capable of offsetting the clear paper advantage which Mr. Persaud enjoyed over his rival.

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CAUSE AND EFFECT

119. The complaint at caption has its genesis not in the issue of ethnicity raised by Mr. Robeson Benn in the media, but in Dr. Surujbally's management of GECOM and the manner in which he burdened Mr. Vishnu Persaud with responsibility to, simultaneously, manage four substantive offices while guiding him from Public Relations Officer in 2001 to Deputy Chief Election Officer in 2014. The issues that led to his elevation were seen as acts of favoritisms that prompted one of the Commissioners to express his deep concern with the question: "What is happening here"? Consequently, 50% of the Commissioners voted, unsuccessfully, against Mr. Persaud's promotion to DCEO in 2014, not on the grounds of ethnicity, but on the absence of merit

120. There can be no doubt that with the arrival of the new Chairman the same Commissioners spoke against Mr. Persaud's appointment on the same grounds. However, the Chairman's mind was so clouded with doubts that he agonized over that issue for three weeks before making a controversial decision that is not supported by the available evidence. As has been pointed out in paragraphs 78 and 79, the documents evidencing Mr. Persaud's shiftiness, upon which the Chairman admittedly relied in casting his decisive vote, were never produced before us, and remain the great unresolved mystery of this enquiry.

CONCLUSION

121. Guyana is one of the multi-cultural and multi ethnic countries of this region. Suriname and Trinidad have similar ethnic mixes. In all of these countries there is a need for ethnic harmony and cohesion if they are to achieve the goals for which they all strive of justice for all in an atmosphere of material prosperity and advancement. In Trinidad there was an entertainment item entitled “Where the Ganges meets the Nile.” Two bands appeared on opposite sides of the stage. One was an Indian band. The other was an African band. For a while each band played different tunes separately from its own side of the stage. After a while they began to play the same tune and moved together towards the center of the stage. Soon, the two bands had merged together and become one band playing the same tune and drumming to the same rhythm. It was a touching exhibition of ethnic harmony and cohesion. We can all drum together to a unique Guyanese rhythm and sing our national songs together with one voice. That should be the vision of us all as we strive towards the ethnic fusion that lies at the heart of our national life.
122. Every citizen is entitled to be treated fairly and justly in all spheres of national life: but more so in the public sectors. The burdens of division which our erstwhile colonial masters deliberately heaped upon us in their insidious policy of “*divide and rule*” still haunt us to this very day. The framers of our Constitution created the Ethnic Relations Commission in a noble effort to address situations of ethnic injustice.
123. Colonial era Primary School children could not understand why there were separate attendance registers for East Indian Boys and Other Boys, and for East Indian Girls and Other Girls. That cruelly divisive policy planted in the minds of innocent children in their most impressionable years the seeds of the notion that they were different from children of other ethnicities. It continued to affect the minds of succeeding generations for many years thereafter.
124. But now we are a developing and maturing Nation. Our destiny is now within our own hands. Our future is now ours to fashion. We must continue to maintain a mutuality of respect for one another. We must focus upon the things that bind us together; our curries and our cookups, our pepperpots and our pholouries, our metems and our metais, our cricket and our bat and ball rather than those things that cause us to drift apart. We must all continue to hold fast to those good things that are peculiarly Guyanese and which distinguish us from the rest of the world. We must together continue to lift up our Nation to which we all and our progeny belong.
125. But even in the most cohesive nation, complaints will be made from time to time. That is why our ERC was created to address complaints such as those made in this case. All of the parties on the two sides of this controversy conducted themselves in a mature and responsible manner. This augers well for the pacific resolution of disputes which might arise in the future. The Sub-Committee got the distinct impression that, notwithstanding

the differences in this case, all parties accepted that they were on the same side of team Guyana. They all wished Guyana well. They all believed that what they were doing was being done for the overall good of Guyana and not only for the parties immediately concerned.

126. In arriving at our conclusions, we strove mightily to be as objective as humanly possible. We sought to support every finding upon the basis of an accepted document or upon the written transcripts of all the proceedings. In the main, we have reproduced a speaker's own words rather than a paraphrase of what we thought the speaker might have said. By this process, we have concluded that:

- By all objective criteria, Mr. Persaud was, on the available evidence, the most qualified candidate for appointment to the position of DCEO.
- By long established practice, the candidate acquiring the highest score secured the appointment.
- Save and except for the case of Mr. Gocool Bodhoo all appointments were made upon the unanimous vote of all of the Commissioners.
- Before the Myers incident, the vote of the Chairman had broken a voting deadlock only once before in GECOM.
- In all other cases, the appointments were made following a consensus between **ALL** of the Commissioners: that is to say the three Commissioners appointed by the President acting in his own deliberate judgment together with the three Commissioners appointed by the President acting in accordance with the advice of the Leader of the Opposition.
- Mr. Persaud was the first candidate in the history of GECOM who had obtained the highest score and had not been appointed.
- Because of the way that our population is distributed over the country, it is inevitable that in some areas where there is a preponderance of Guyanese of a given ethnicity there is likely to be a majority of employees in those areas of the majority ethnicity.
- There are no institutional rules or practices in GECOM which allows for ethnic discrimination in hiring.
- The six Commissioners are all vigilant to ensure that no such discrimination can be practiced without challenge.
- The unavailability of key personnel did not allow for extensive deliberations to arrive at a more informed conclusion. As such, from the material placed before us, it cannot be said that there has been any evidence of deliberate hiring of Guyanese of one ethnicity rather than of another.

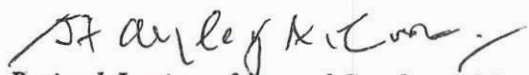
ACKNOWLEDGMENTS

The Sub-Committee wishes to acknowledge the tremendous moral and material support it received from the Chairman and members of the Ethnic Relations Commission. Our work proceed smoothly thanks to the quiet efficiency of our support staff headed by the indefatigable Ms. Oma Sukhu and her team which included Ms. Michelle France and Ms. Vishwa Pooran.

It would remiss of us if we did not express our sincere appreciation of the guidance which we received throughout the entire process of our investigation from the Deputy Chairman of the Ethnic Relations Commission Major General (Retired) Norman McLean and Commissioner Norris Witter.

Ours was a team of mixed ethnicity. We were in full agreement on nearly every point. We worked in ethnic harmony. This report is the cooperative labour of us all. So may it be for all Guyana for now and for all time.

This done at Georgetown on this ^{4th} day of February, 2019



Retired Justice of Appeal Stanley A Moore LL.M (London) – Chairman

Mr. Jairam Petam

Mr. Lloyd Smith

Major General (Ret'd) Norman Mc Lean

Commissioner Norris Witter