

NATIONAL ASSEMBLY OF THE SEVENTH PARLIAMENT OF GUYANA

REPORT

of the

SPECIAL SELECT COMMITTEE

on the

**REPORT OF THE CONSTITUTION REFORM
COMMISSION**

(Resolution No. 28 of 1999)

**Presented to the National Assembly
by the
Chairman of the Committee**

on

1st November, 1999

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REPORT OF SPECIAL SELECT COMMITTEE
ON THE
REPORT OF CONSTITUTION REFORM COMMISSION

The Special Select Committee established by Resolution No. 28 of 1999 to consider the Report to the Constitution Reform Commission, and to report to the National Assembly on its proposals for a reformed Constitution based on its consideration of the said Report, have agreed to the appended Report.

STRUCTURE OF REPORT

The Report is structured in three parts:

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<i>Part I</i> <i>Introduction</i>	<i>1</i>
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PART I ***INTRODUCTION***

Origin of the Report of the Constitution Reform Commission

1. An Act of Parliament, No.1 of 1999, dated 22nd January, 1999, established a Constitution Reform Commission, and provided for its membership and terms of reference in accordance with the CARICOM Agreement dated 17th January, 1998, generally referred to as the Herdmanston Accord, and the St. Lucia Statement dated 2nd July, 1999. One of the terms of reference of this Commission provided for its Report to be presented to the National Assembly not later than 17th July, 1999.

2. The Act also extended the life of the Special Select Committee, which was established by resolution of the National Assembly to determine the terms of reference and composition of the Constitution Reform Commission, specifically to -

- (i) be responsible to facilitate the due and efficient functioning of the Commission, and
- (ii) receive the Report of the Commission for transmission to the National Assembly.

3. On 17th July, 1999 at a meeting of the Special Select Committee Mr. Ralph Ramkarran, S.C., M.P., Chairman of the Commission, presented to the Honourable Reepu Daman Persaud, O.R., J.P., M.P., Minister and Chairman of the Special Select Committee, the Commission's Report for transmission to the National Assembly in accordance with section 6 (6) of the Constitution Reform Commission Act 1999.

4. The Special Select Committee transmitted the Report in accordance with section 15 of the Act to the National Assembly on 22nd July, 1999.

Resolution Establishing A Special Select Committee

5. On 9th August, 1999 the National Assembly passed the following Resolution:

RESOLVED,

That this National Assembly of the Parliament of Guyana -

- express its grateful thanks and appreciation to the Chairman, Members, Secretary, and Staff of the Constitution Reform Commission for the Report on Constitutional Reform which was presented to the Special Select Committee on 17th July, 1999, and transmitted to the National Assembly on 22nd July, 1999,
- refer the Commission's Report to a Special Select Committee for its consideration; and direct the said Committee to report to the National Assembly on its proposals for a reformed Constitution based on its considerations of the Constitution Reform Commission's Report and recommendations contained therein by 31st October, 1999.

Appointment of Members of the Committee

6. To give effect to this Resolution, which became Resolution No. 28 of the National Assembly of the Seventh Parliament, first Session 1998-1999, the Committee of Selection met on 13th August, 1999, and nominated the following Members to compose the Special Select Committee:

Members from the People's Progressive Party/Civic (6)

The Hon. Reepu Daman Persaud, O.R., J.P., M.P.,
Minister of Agriculture

The Hon. J. Ronald Gajraj, M.P.,
Minister of Home Affairs

Mr. S. Feroze Mohamed, M.P.,
Chief Whip

Mr. Bernard C. DeSantos, S.C., M.P.

Mr. Lawrence E. Rodney, M.P.

Mrs. Philomena Sahoye-Shury, C.C.H., J.P., M.P.,
Parliamentary Secretary, Ministry of Local Government

Members from the People's National Congress (3)

Mr. Winston S. Murray, C.C.H., M.P.

Mr. E. Lance Carberry, M.P.

Mr. Raphael G.C. Trotman, M.P.

Member of The United Force (1)

Mr. Manzoor Nadir, M.P.

Member of the Alliance for Guyana (1)

Dr. Rupert Roopnaraine, M.P.

7. During the life of the Committee there was one change in its membership. Mr. Winston S. Murray resigned from the Committee and created a vacancy in the Committee in the representation of the People's National Congress. This vacancy was filled by Mrs. Deborah Backer.

Meetings of the Committee

First Meeting of the Committee - Election of Chairman

8. The first meeting of the Committee was held on 17th August, 1999. At that Meeting the Honourable Reepu Daman Persaud, was unanimously elected Chairman of the Committee.

Other Meetings of the Committee

9. The Committee met on the following other occasions:

List Of Meetings

1st Meeting of the Committee
2nd Meeting of the Committee
3rd Meeting of the Committee
4th Meeting of the Committee
5th Meeting of the Committee
6th Meeting of the Committee
7th Meeting of the Committee
8th Meeting of the Committee
9th Meeting of the Committee
10th Meeting of the Committee
11th Meeting of the Committee

Dates Of Meetings

Tuesday, 17th August, 1999
Friday, 20th August, 1999
Wednesday, 25th August, 1999
Friday, 27th August, 1999
Monday, 30th August, 1999
Wednesday, 1st September, 1999
Monday, 6th September, 1999
Wednesday, 8th September, 1999
Monday, 13th September, 1999
Wednesday, 15th September, 1999
Friday, 17th September, 1999

12 th Meeting of the Committee	Monday, 20 th September, 1999
13 th Meeting of the Committee	Friday, 24 th September, 1999
14 th Meeting of the Committee	Monday, 27 th September, 1999
15 th Meeting of the Committee	Wednesday, 29 th September, 1999
16 th Meeting of the Committee	Monday, 4 th October, 1999
17 th Meeting of the Committee	Wednesday, 6 th October, 1999
18 th Meeting of the Committee	Friday, 8 th October, 1999
19 th Meeting of the Committee	Monday, 11 th October, 1999
20 th Meeting of the Committee	Wednesday, 13 th October, 1999
21 st Meeting of the Committee	Friday, 15 th October, 1999
22 nd Meeting of the Committee	Monday, 18 th October, 1999
23 rd Meeting of the Committee	Wednesday, 20 th October, 1999
24 th Meeting of the Committee	Friday, 22 nd October, 1999
25 th Meeting of the Committee	Monday, 25 th October, 1999
26 th Meeting of the Committee	Wednesday, 27 th October, 1999
27 th Meeting of the Committee	Friday, 29 th October, 1999
28 th Meeting of the Committee	Saturday, 30 th October, 1999
29 th Meeting of the Committee	Monday, 1 st November, 1999

PART II

METHODOLOGY AND PROCEDURE

Task and Methodology of the Committee

10. The Committee, conscious of the constraint of time, moved swiftly to define its tasks and to adopt a methodology that would permit it to attain the deadline of 31st October, 1999. Therefore at its second meeting held on 20th August it defined its task in relation to its mandate as follows:

To bring those recommendations of the Constitution Reform Commission which it proposed for adoption by the National Assembly to the level of implementability and to express them in a language available for constitutional drafting.

11. At that meeting it appointed a Sub-Committee comprising Dr. Rupert Roopnaraine, Mrs. Philomena Sahoye-Shury, Mr. Manzoor Nadir and Mr. Maurice B. Henry, to prepare for its consideration a draft proposal on the Methodology and Time Frames for accomplishing its task.

12. The Sub-Committee submitted the draft proposal at the third meeting held on 25th August when the Committee discussed and approved it.

13. In the draft Methodology and Time Frames the Sub-Committee indicated the following specific proposals

- (i) (a) The Committee should consider the most challenging Recommendations requiring in the first instance the resolution of issues the Commission had failed to resolve.

- (b) The Committee should undertake the considerable work which was required to build specific proposals from principles adumbrated on a number of Recommendations.
- (ii) The Committee would establish working groups which would be assigned responsibility for a cluster of recommendations, thereby enabling the Committee to work simultaneously on different areas.
- (iii) The Committee should engage Legal Experts to advise it on the readiness of the Recommendations for Constitutional drafting and their internal consistency.
- (iv) The Committee should engage a team of writers to render the recommendations, where required in finished form.

14. The Method and Programme of Work is attached to this Report as Appendix I.

15. The Committee approved of proposals (i) and (ii) for immediate implementation and decided to implement (iii) and (iv) after it had considered all the Recommendations of the Constitution Reform Commission.

16. At the fourth meeting held on 27th August, 1999 the Committee, in accordance with the programme of work appointed the following Work Groups:

(a) **Work Group No. 1**

- (i) Hon. J. Ronald Gajraj, M.P. (Convenor) with Mrs. Philomena Sahoye-Shury, M.P. as alternate Member.
- (ii) Mr. Winston Murray, M.P. with Mr. E. Lance Carberry, M.P. as alternate Member.
- (iii) Dr. Rupert Roopnaraine, M.P.

(b) **Work Group No. 2**

- (i) Dr. Rupert Roopnaraine, M.P. (Convenor)
- (ii) Mr. E. Lance Carberry, M.P. with Mr. Winston Murray, M.P. as alternate Member.
- (iii) Mrs. Philomena Sahoye-Shury, M.P. with Mr. Lawrence. E. Rodney, M.P. as alternate Member.

17. Mr. Nadir initially declined membership of the Work Groups, but later joined Work Group No. 1. Mr. Raphael Trotman, replaced Mr. Winston S. Murray on the Work Groups.

18. The Committee had agreed that any Member of the Committee was free to attend meetings of the Work Groups and participate in the discussions on any issue in which he or she had an interest. The following arrangements were also made:

- (1) Each Party was permitted to engage its own advisers to attend meetings of the Committee and to participate in the deliberations thereof but without the power of voting.
- (2) Representatives of the Media and members of the public were permitted to attend the meetings of the Committee.

19. The decision at paragraph (2) was taken in spite of the prescriptions of the following Standing Orders

73.(5) The deliberations of a Select Committee shall be in private .

75. The proceedings of and the evidence taken before any Select Committee and any documents presented to and decisions of such a Committee shall not be published by any member thereof or by any other person before the Committee have presented their report to the Assembly.

20. The Committee, therefore, agreed that it would seek ratification of its decision soon after the Assembly met following its recess.

Time Frame

21. One of the assumptions of the Sub-Committee on the Methodology and Time Frame was that the Committee would be able to meet three times per week from 1st September, 1999 and in that case would only be able to hold twenty-six meetings to consider the Report of the Constitution Reform Commission, but three of these meetings had to be reserved for the preparation of its own Report. The Committee also agreed on an average duration of two and a half hours for each meeting.

Application of Project Management Techniques

22. The Committee considered a proposal for the application of project management techniques to its tasks to ensure that it achieved its mandate by the deadline. It was agreed that the Committee would first pursue its tasks in the frame work of a parliamentary select committee, but later have a look at the project management techniques for any assistance to hasten its tasks.

Administrative Support

23. The work of Select Committees of the National Assembly is normally supported by the staff of Parliament Office. There is, however, a provision in the Standing Orders for a Select Committee to be specifically provided with a Clerk and if required, a shorthand writer. The Special Select Committee of the 6th Parliament on the Review of the Constitution was provided with a Secretariat consisting of the following personnel

- 1 Executive Secretary
- 1 Administrative Assistant
- 2 Word Processor/Typist

- 1 Accounts Clerk
- 1 Office Assistant.

The names of the staff members are listed at Appendix II.

24. This Secretariat was designated the Constitution Review Committee Secretariat. When the Constitution Reform Commission was established and was without the benefit of a Secretariat, the staff of the Constitution Review Committee Secretariat was absorbed as the core of the Constitution Reform Commission interim administrative machinery until it had set up its own Secretariat. All the officers attached to the Constitution Review Committee Secretariat obtained appointments with the Constitution Reform Commission.

25. Following the establishment of this Committee, the Clerk of the National Assembly re-established the Constitution Review Committee Secretariat with its original staff to support the work of the Committee. The Committee, therefore, inherited a staff who were *au fait* with exercises of this nature.

26. Notwithstanding this arrangement concerns were frequently raised about the adequacy of the Secretariat's staff to enable the Committee to meet its deadline.

27. The Chairman after consultation with the Clerk of the National Assembly, assured the Committee that -

- (i) The Secretariat was supported by the other staff of Parliament Office, and
- (ii) Whenever the need for additional staff was established, in particular technical personnel, the Clerk of the National Assembly would see to such appointments.

28. On 6th September Mr. Cecil Dhurjon, S.C., Chief Parliamentary Counsel, with the consent of the Honourable Attorney General, joined the Committee in his capacity as Chief Parliamentary Counsel.

29. On 4th October Ms. Roxane George, Assistant Director of Public Prosecutions, with the consent of the Director of Public Prosecutions, joined the Committee as its Legal Officer.

30. On 6th October Miss Debra Cadogan was appointed Administrative Assistant with special responsibility for the secretariat functions of the Work Groups.

Consideration of Constitution Reform Commission's Recommendations

31. The Constitution Reform Commission made 182 Specific Recommendations on 23 issues. One hundred and sixty-five of these Recommendations were made by consensual agreement and the remaining 17 by majority vote.

32. The Committee began consideration of the Recommendations on 31st August and concluded on 27th October. The Committee's considerations took into account submissions on the reports of the Work Groups on the Recommendations assigned to them in accordance with the work programme.

Proposals and Other Difficulties

33. In its proposals of August 24 on the Method and Programme of work, the Sub-committee had formulated the Objective of the Select Committee as follows: **“To submit to the National Assembly, by October 31, 1999, a Report consisting of the Select Committee's proposals for constitutional reform, based on its consideration of the Constitution Reform Commission Report and its Recommendations, presented in a manner and language to enable the drafting of the new constitution.”**

34. The records of the Committee reveal that up to the very end Members were not of one mind in their interpretation of the task imposed by the mandate from the National Assembly. While there was general agreement that Consensus and Majority decisions of the Constitution Reform Commission would not be re-opened for further debate, there were varied understandings of the latitude of the Committee to re-cast the Constitution Reform Commission Recommendations in “a manner and language to enable the drafting” of the reformed constitution. At times the line between re-casting the recommendations and altering them proved to be very thin indeed. Considering that several of the Constitution Reform Commission Recommendations, including those agreed to by consensus and majority, were required to be brought to the point of implementability, there were many areas of contention. Notwithstanding the working agreement not to go beyond or to fall short of the Constitution Reform Commission Recommendations, the Committee found it necessary, at moments of irreconcilable difference, to restrict itself to the Constitution Reform Commission formulations, even when these appeared to necessitate greater clarity.

35. The Work Programme Sub-committee had allocated the most challenging recommendations to the Select Committee as a whole, leaving to the Working Groups those recommendations on most of which the Constitution Reform Commission had succeeded in reaching implementable and relatively clear decisions. Those key issues which had been left unresolved by the Constitution Reform Commission included the Elections Commission, the Electoral System, the Presidency, Parliament and Local Government. With the assistance of the Legal Officers attached to the Committee, agreement was eventually reached on the Elections Commission (save the question of the final composition of the permanent Secretariat and its functions), the Presidency, and the Parliament, this last proving the least contentious. Like the Constitution Reform Commission, the Committee failed to resolve the differences surrounding the Electoral System and Local Government, insofar as the recommendations on the latter impinged on the electoral system.

36. These were the areas which the informal inter-party meetings that preceded the Select Committee had agreed to fast-track, in keeping with the priorities of the Herdmanston Accord and St Lucia Agreement. Many hours of debate failed to yield agreement. The Committee resorted to sending these recommendations back to the National Assembly for resolution.

37. These unresolved matters as well as formulations inadequately expressed for the purposes of drafting will need to be settled. A team of drafts-persons will have to be appointed to produce the draft reformed Constitution. The National Assembly should consider the appointment of a Parliamentary Team to work along with the drafting team.

38. The Committee's proposals for a reformed Constitution, based on its consideration of the Constitution Reform Commission's Report and Recommendations, are set out in Part III of this Report.

PART III
The Special Select Committee's
Proposals In Relation to the
Constitution Reform Commission's Recommendations

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

**9.1 PREAMBLE TO THE
CONSTITUTION**

9.1.3 Specific recommendations

9.1.3.1 The writer of the Preamble shall

9.1.3.1 (1)

Extract the ideas contained in the Working People's Alliance's draft Preamble submitted to the Special Select Committee on Constitutional Review on May 7, 1997. (See Appendix XVI).

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly. (See Appendix II).

9.1.3.1 (2)

Take into account the fact that Guyana is a plural society, surviving and progressing in a world of globalisation dominated by information technology.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.1.3.1 (3)

Provide for the inclusion of the idea of cooperation.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.1.3.1 (4)

Include reference to the Indigenous Peoples.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.1.3.1 (5)

Include the protection of the environment.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

9.1.3.1 (6)

Include the rule of law.

9.1.3.1 (7)

Include the words "May God Protect our People".

9.1.3.1 (8)

Include unchanged the following words, endorsed by more than 7500 youth in a signed petition entitled "Youth Campaign for Constitutional Reform: Statement by Young People for inclusion in the Preamble to Constitution," which was formally presented to the Commission on June 16, 1999:

"The future of Guyana belongs to its young people who aspire to live in a safe society which respects their dignity, protects their rights, recognises their potential, listens to their voices, provides opportunities, ensures a healthy environment, and encourages people of all races to live together in harmony and peace."

9.1.3.2 The inflated language of the Preamble shall be replaced by simple, unpretentious language that is in harmony with the tone and style of the above words of the young people.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

**9.2 FUNDAMENTAL RIGHTS AND
FREEDOMS OF THE
INDIVIDUAL**

9.2.3 Specific recommendations

9.2.3.1 (1)

All Courts in Guyana are enjoined to pay due regard to international law and to international Conventions and Charters to which Guyana has acceded when dealing with matters involving alleged violations of the Fundamental Rights enshrined in the Constitution.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.2.3.1 (2)

Any State action intended to ameliorate the condition and status of disadvantaged or historically disadvantaged groups in a society shall not be considered in derogation of the non-discrimination provisions of the Constitution.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

**9.2.3.2 The following shall be provided for in
the Fundamental Rights section:**

9.2.3.2 (1)

The right to protection against discrimination on the grounds of sexual orientation, race, sex, religion, gender, ethnicity, marital status, physical and/or mental disability political opinion, colour and age.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly with the following amendment:

The rights stated in the recommendation should be placed in alphabetical order.

***Constitution Reform Commission's
Specific Recommendations***

9.2.3.2 (2)

The right to protection for arrested and detained persons.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee also agreed that when the Recommendation is being drafted it could be strengthened having regard to the provisions of the Trinidad and Tobago and other Constitutions in relation to the right to be informed of the right to counsel and by consideration of the possibility of stipulating a maximum period by which a suspect must be brought before the Court.

The Committee agreed that the National Assembly consider whether the Constitution should stipulate that a suspect be taken before a Court within 72 hours of arrest but that the Police should be allowed to apply for extensions of time.

The Committee agreed that the National Assembly also consider that a definition of what would constitute a reasonably practical period in the context of Article 139(4) should be left for the interpretation of the Court in the circumstances each case bearing in mind e.g. logistical problems of distance and infrequent Court sittings of interior Courts.

The decisions and considerations surrounding this Recommendation had their bases in the necessity to ensure the liberty of citizens and protection from excessive and or arbitrary police action.

***Constitution Reform Commission's
Specific Recommendations***

9.2.3.2 (3)

The right to just administrative action.

9.2.3.2 (4)

The right to protection of Indigenous culture and way of life, which should include language.

9.2.3.2 (5)

The right of citizens to an environment that is not harmful to their health or well-being; and to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that:

- prevent pollution and ecological degradation;
- promote conservation;
- secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

9.2.3.2 (6)

The right of citizens to participate through their co-operatives, trade unions and socio-economic organisations in the State's management and decision-making processes.

9.2.3.2 (7)

The right to inheritance.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly subject to the following amendments:

- (i) Deletion of "reasonable" in line 6;
- (ii) Insertion of "seek to" after "measures that" in line 7;
- (iii) Reformulation of the third bullet to read "secure sustainable development including the sustainable use of natural resources while promoting justifiable economic and social development".

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly subject to the following amendment:

Deletion of "their" before "co-operatives" in line 2.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

9.2.3.2 (8)

The right to work.

9.2.3.2 (9)

Equality of rights and status of children born out of wedlock.

9.2.3.2 (10)

The inalienable rights of children, such as the right to life, equal treatment before the law, freedom of expression and protection from all forms of discrimination, as proposed in the Convention on the Rights of the Child; these shall be included in the Equality provisions.

9.2.3.2 (11)

The entitlement of all children to parental financial maintenance, and shelter. In the event that this cannot be provided by parents or guardians, this support should be provided by the State.

9.2.3.2 (12)

The entitlement of all children to compulsory free primary education and thereafter, to free education up to and including the secondary level.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly subject to the following amendment:

Deletion of "semi-colon" and "these" in line 7.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee, however, recommended that education should be free and compulsory up to age 15.

***Constitution Reform Commission's
Specific Recommendations***

9.2.3.2 (13)

The entitlement of all children to free primary health care.

9.2.3.2 (14)

The right of all children to be protected from exploitative labour practices, punishment and abusive practices (including sexually abusive practices, which would be hazardous to or interfere with their physical, mental, moral or emotional health).

In addition:

9.2.3.2 (15)

The provisions for women's equality contained in Article 29 should be retained, but be made justiciable fundamental rights. Article 29 states:

Women and men have equal rights and the same legal status in all spheres of political, economic and social life. All forms of discrimination against women on the basis of their sex are illegal.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly with the following amendments:

- (i) Insertion of the closing bracket after "practices" in line 5;
- (ii) Substitution of "that" for "which" in line 5;
- (iii) Removal of closing bracket after "health" and the substitution of "well-being" for "health" in line 7.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

2. *The exercise of women's rights is ensured by according women equal access with men to academic, vocational and professional training, equal opportunities in employment, remuneration and promotion, and in social, political and cultural activity, by special labour and health protection measures for women, by providing conditions enabling mothers to work and by legal protection and material and moral support for mothers and children, including paid leave and other benefits for mothers and expectant mothers."*

These principles should be reformulated to ensure that the provisions enshrine women's rights to full and equal protection of, benefit from and treatment before, the law.

9.2.3.2 (16)

Article 142 which provides protection from deprivation of property should be amended to include the words "prompt and adequate compensation" in the appropriate clause.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.2.3.2 (17)

Article 145 which provides for protection of the freedom of conscience should be amended to include protection against vilification of one's religion.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

9.2.3.2 (18)

Article 146 which provides for protection of the freedom of expression should be amended to exclude hate speech from such protection.

9.2.3.2 (19)

Article 147 which provides for protection of the right to assembly and association should be amended to include the right to demonstrate lawfully.

9.2.3.2 (20)

Trade Unions and employers shall have the right to conclude the collective labour agreements that shall be legally binding.

9.2.3.2 (21)

The right to strike shall be enshrined, subject to reasonable limitations of the law.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly with the following amendment:

Substitution of "in accordance with the law" for lawfully".

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly with the following amendments:

- (i) Deletion of "the" before "collective" in line 2.
- (ii) Insertion of a full-stop after "agreements" and deletion of "that shall be legally binding".

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

**Constitution Reform Commission's
Specific Recommendations**

**Special Select Committee's
Proposals and Decisions**

9.2.3.3 Article 153 (1) of the 1980 Constitution reads as follows:

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

“Subject to the provisions of paragraph (6), if any person alleges that any of the provisions of Articles 138 to 151 (inclusive) has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the High Court for redress.”

Provision should be made for the removal of the impediments to access to the Court on Constitutional matters by

9.2.3.3 (1)

adding the following after the words “in relation to the detained person”:

anyone acting on behalf of another person who cannot act in his/her own name; anyone acting as a member of, or in the interest of, a group or class of persons; an association acting in the interest of its members.

**Constitution Reform Commission's
Specific Recommendations**

9.2.3.3 (2)

amending 153 (2) by deleting the proviso:

Providing that the High Court shall not exercise its powers under this paragraph if it is satisfied that adequate means of redress are or have been available to the persons concerned under any other law.

9.2.3.4 It shall require a vote of two-thirds of the members of the National Assembly to add a fundamental right, and a majority vote in a referendum to remove a fundamental right.

9.2.3.5 It is recommended that:

9.2.3.5 (1)

The limitations to Fundamental Rights enshrined in the 1980 Constitution should be retained.

9.2.3.5 (2)

Limitations which may be imposed on the Fundamental Rights recommended by the Commission should take account of the relative and progressive nature of such rights, including their affordability and their relevance to the socio-cultural and economic level of development of the society.

9.2.3.5 (3)

The section on Fundamental Rights in the Constitution should be set out in language which is easily comprehensible to all citizens as far as this is possible.

**Special Select Committee's
Proposals and Decisions**

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly

*Constitution Reform Commission's
Specific Recommendations*

9.3 INDIGENOUS RIGHTS
9.3.3 Specific recommendations

9.3.3 (1)

That there should be reference to the Indigenous Peoples in the Preamble of the Constitution.

9.3.3 (2)

That the rights of the Indigenous Peoples should be placed under Fundamental Rights and provision made in the Fundamental Rights section for the protection of Indigenous culture and way of life, which should include language.

9.3.3 (3)

That self-determination should be recommended on the basis of the concept of devolution of power to institutions within the local government system.

9.3.3 (4)

That an Indigenous Peoples' Commission be established to look into and make recommendations for specific issues including: land rights; improvements in legislation affecting Amerindians; the Amerindian Act; the scope and authority of the Council of Touseh; empowerment with regards to local government and the Amerindian village council system; economic and education policy; and cultural protection and preservation.

*Special Select Committee's
Proposals and Decisions*

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly as reformulated below:

“That self-determination should be within the framework of the state and should be recommended on the basis of the concept of devolution of power to institutions within the local governmental system.”

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly subject to the following amendments:

- (a) Insertion of “to the National Assembly” after “recommendations in line 3.
- (b) Substitution of “protection, preservation and promotion of cultural heritage” for “cultural protection and preservation” after “and” in line 12.

***Constitution Reform Commission
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

- (c) Listing of the specific issues as follows:
- (i) land rights;
 - (ii) improvements in legislation affecting Amerindians;
 - (iii) the Amerindian Act;
 - (iv) the scope and authority of the Council of Tousehaus;
 - (v) empowerment with regards to local government and the Amerindian village council system;
 - (vi) economic and education policy; and
 - (vii) protection, preservation and promotion of cultural heritage.

9.4 RIGHTS OF THE CHILD

9.4.3 Specific recommendations

9.4.3 (1)

Enforceable provisions for rights of children should be included in the reformed Constitution.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

9.4.3 (2)

The inalienable rights of children, such as the right to life, equal treatment before the law, freedom of expression and protection from all forms of discrimination, as proposed by the Convention on the Rights of the Child, shall in principle be included in the Equality provisions to be contained in the Fundamental Rights section.

9.4.3 (3)

All children born in Guyana to Guyanese parents are entitled to a name, and shall be entitled to citizenship of the Republic of Guyana.

9.4.3 (4)

All children shall be entitled to parental financial maintenance, and shelter. In the event that this cannot be provided for by parents or guardians, this support should be provided by the State.

9.4.3 (5)

All children are entitled to compulsory free primary education and thereafter to full education up to and including the secondary level.

9.4.3 (6)

All children are entitled to free primary health care.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee, however, recommended that education should be free and compulsory up to age 15.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

9.4.3 (7)

All children shall be protected from exploitative labour practices, punishment and abusive practices (including sexually abusive practices), which would be hazardous to or interfere with their physical, mental, moral or emotional health.

9.4.3 (8)

There shall be a Constitutional Commission for the Promotion and Protection of the Rights of the Child.

9.4.3 (9)

Measures should be taken to protect children from the illicit use of narcotic drugs and psychotropic substances.

9.4.3 (10)

For the purpose of the above mentioned provisions, a child shall be defined as any person below the age specified by national legislation dealing with the matter, but in no case shall a person of above the age of 18 years be defined as a child.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly subject to the following amendments:

- (i) Substitution of "that" for "which" in line 5;
- (ii) Substitution of "well-being" for "health" in line 7.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.5. GENDER RIGHTS

9.5.3 Specific recommendations

9.5.3 (1)

The provisions for women's equality contained in Article 29 should be retained, but be made justiciable, fundamental rights (Sec 9.2.3.2 (15) for Article 29). The principles should be reformulated to ensure that the provisions enshrine women's rights to full and equal protection, benefit and treatment before the law. Further, there should be principles to ensure that women are not discriminated against on the grounds of their sex and that legislation address societal practices which are discriminatory to women, including: sexual abuse, harassment, violence, and the non-payment of equal pay for work of equal value to women and men.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.5.3 (2)

The language of the Constitution must be gender-neutral.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.5.3 (3)

There should be an enshrined general principle which encourages women's participation in public decision-making so that national decisions which affect women significantly can be informed by them. Parliament should be required to take measures

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee agreed to recommend to the National Assembly that the first sentence of the recommendation should be transferred to Chapter II.

***Constitution Reform Commission's
Specific Recommendations***

designed to increase women's participation in the various processes and fora of decision-making in society, including the National Assembly itself, to a level that takes into account the proportion that women form of the society.

9.5.3 (4)

The Constitutional provisions on the electoral systems, including electoral lists, should be informed by the inclusion of requirements for gender, as well as geographical, representativeness.

9.5.3 (5)

There should be a Constitutional Commission for Women and Gender Equality.

9.6 THE PRESIDENCY

9.6.3 Specific recommendations

9.6.3.1 Article 90 - Qualifications for Election

9.6.3.1 (1)

A person shall hold the office of President for a maximum of two (2) terms and those two terms shall be consecutive.

***Spectal Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly subject to the following amendment:

Deletion of "comma" after "gender" in line 4 and after "geographical" in line 5.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

In arriving at its decision on this recommendation the Committee consulted the verbatim record of the Constitution Reform Commission.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

The Committee also addressed its mind to the following issues:

- (i) the period that should constitute a term;
- (ii) the accession of a Prime Minister to the Presidency in the context of the recommendation as stated.

The Committee also agreed, as an adjunct to this recommendation, that the word "hold" in line 1 contemplates a term, whether or not a person acceded to or was elected to the Office of President and that the legal experts should be required to craft a provision accordingly.

The Committee also considered and agreed to submit for approval by the National Assembly that a person who had served two consecutive terms as President should be debarred from being appointed Prime Minister.

The Committee agreed that the formula in relation to the terms of the Presidency as agreed by the Constitution Reform Commission should be for the consideration of the National Assembly as follows:

- (i) If a person wins two consecutive terms he/she cannot run for office again;
- (ii) If a person wins a term and then loses he/she cannot run for office again;
- (iii) If a person loses a term and then wins he/she can run for office again.
- (iv) If a person loses two consecutive terms he/she can run for office again

The Committee agreed to recommend that this formula be included in legislation.

***Constitution Reform Commission's
Specific Recommendations***

9.6.3.1 (2)

The President should be a Guyanese by birth (soil or blood) and should be continuously residing in Guyana for a specified period before elections.

9.6.3.2 Article 106 - The Cabinet

The following should be included in Article 106: "the Cabinet shall be collectively responsible to Parliament for the control of the Government of Guyana. It shall be provided that the Cabinet, including the President, who is part and parcel of the Cabinet as provided for in article 106, must resign if the government is defeated by a majority of all the members of the National Assembly on a vote of confidence".

***Special Select Committee's
Proposals and Decisions***

The Committee after discussing the two concepts of "continuously resident" and "ordinarily resident" and after considering the number of years for the qualification for either, agreed to submit the following proposals to the National Assembly for approval:

- (a) "Continuously resident for seven (7) years" as the specified period in the recommendation;
- (b) The word "continuously resident" to be defined for application to (a).

The Committee addressed its mind to the issue of whether provision was required to be made to debar a Prime Minister from acceding to the Presidency if that person's residency status had disqualified him/her from election as President.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee also agreed that it should express its concern to the National Assembly over the problems that would arise as a consequence of the simultaneous resignations of the President and Cabinet.

*Constitution Reform Commission's
Specific Recommendations*

*Special Select Committee's
Proposals and Decisions*

**9.6.3.3 Article 107 - Allocation of
portfolios**

This article should be amended to read as follows: "The President, who shall have Ministerial responsibility for subjects and departments not assigned to Ministries shall be accountable to the National Assembly for the subjects and departments so retained. The President shall assign or appoint a Minister or Parliamentary Secretary to be answerable to the National Assembly for such matters not so assigned."

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.6.3.4 Article 120 - Constitution of Offices

Provision should be made to add the following words to article 120 immediately after the word "appointment": "Save that where such offices involve expenditure chargeable to the Consolidated Fund such expenditure shall be subject to the approval of the National Assembly".

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

9.6.3.5 Article 128 - Appointment of Justices of Appeal and Puisne Judges

The appointment of all Judges by the President shall be on the basis of the advice of the Judicial Service Commission.

9.6.3.6 Article 170 - Mode of Legislation

With reference to paragraph (5) of Article 170, the power of the President to dissolve Parliament under this article should be removed. Further, where the President refuses to give his/her assent to a Bill in accordance with paragraph (5), the Bill shall stand assented after a specified period of time.

9.6.3.7 Article 179, 180 - Removal of President for violation of Constitution or gross misconduct and Removal of the President on the grounds of incapacity.

These Articles establish a mechanism designed to put the President out of reach of removal. They are over-protective. It is recommended that although the procedures should ensure that a substantial majority of the National Assembly should be required to impeach the President on the findings of an independent Tribunal, they should not require such extremely weighted majorities as to make the prospect of impeachment unattainable.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

It also agreed that Article 170(5) should be amended as follows to satisfy the intention of the Recommendation:

- (i) Substitution of "three-months" for "twenty-one days".
- (ii) Deletion of the words "unless he sooner dissolves Parliament."

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee also agreed to recommend the following amendments to Article 180 (5) for approval by the National Assembly:

- (i) A two-thirds majority as the substantial majority required to impeach the President;

***Constitution Reform Commission's
Specific Recommendations***

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Proposals and Decisions***

- (ii) Deletion of the words "unless he sooner dissolves Parliament".

9.6.3.8 Article 197 - Tenure of Office of Judges

The extension of the tenure of a judge shall be done only on the basis of the advice tendered by the Judicial Service Commission.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.6.3.9 Article 225 - Removal from office of certain persons

The appointment of a Tribunal under Article 225 dealing with removal from office of certain persons shall be done on the basis of the advice tendered by the Judicial Service Commission.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.6.3.10 Article 231 - Certain questions not to be enquired into in any court

Article 231 provides that where the President or any other person or authority is required to perform any function in accordance with the advice or recommendation of, or after consultation with or concurrence with another person or authority, the fact of whether such advice or recommendation was received, whether such consultation or concurrence has taken place, shall not be enquired into in any court of law. Delete Article 231 from the Constitution.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

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9.6.3.11 Article 232 (7) - Interpretation

This provision confers on the President the power to abolish any public office, and the power to remove any public officer in the public interest. Delete Article 232 (7) from the Constitution.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.6.3.12 All Articles

Wherever the word "consultation" is used in relation to of decision making by the President, that word should be replaced by the phrase "meaningful consultation."

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.7 PARLIAMENT

9.7.3.1 Specific recommendations

9.7.3.1 (1)

There shall be established Sector Standing Committees of the National Assembly which will have responsibility for the scrutiny of all areas of Government policy and administration. These responsibilities can be allocated among the following Standing Committees:

- (i) Natural Resources
- (ii) Economic Services
- (iii) Foreign Relations
- (iv) Social Services

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

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9.7.3.1 (2)

The Chairperson and Deputy Chairperson shall come from opposite sides of the House.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.7.3.2 It is recommended that Parliament should consider the option of establishing an Upper House consisting of representatives of each Region and civil society. Such a second chamber should have its power carefully defined so that it would not be able to frustrate the will of the elected Lower House, and would be prevented from initiating money Bills or Bills aimed at altering the Constitution.

The Committee considered this recommendation and agreed to submit it for discussion by the National Assembly.

9.8 LOCAL GOVERNMENT

9.8.3 Specific recommendations

9.8.3 (1)

Rewrite Articles 71-78 to remove the reference to Socialism.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.8.3 (2)

Revise the text to fit in with the content of the recommended new Chapter II as it relates to the principles of local government, and with the local government structure being recommended.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

9.8.3 (3)

Abolish the NCLDO and the Supreme Congress of the People.

9.8.3 (4)

The Constitution should enunciate on the autonomy of local government bodies.

9.8.3 (5)

The Constitution shall specify that RDCs, NDCs, and municipalities are mandatory local government organs, and shall provide for their creation. It should also specify that Parliament should provide for the establishment of village/community councils, which would be activated as quasi local government bodies if the people of those communities so request.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee recorded its concern that the issue of the abolition of the two seats gained through the NCLDO and the Supreme Congress of the People should be addressed if Parliament wished to retain sixty-five seats.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

It was also agreed that the Committee should express to the National Assembly its concern over the likely discriminatory nature of the second paragraph of the Recommendation which, as it stood, could enable areas with the advantage of resources, including population, to attain the status of village/community councils.

***Constitution Reform Commission's
Specific Recommendations***

9.8.3 (6)

The Constitution should provide for Parliament to establish a Local Government Commission which should be empowered with staffing, regulatory and dispute resolution functions.

9.8.3 (7)

The Constitution should provide for legislation which would allow for the lower tier of local government to be represented at the tier immediately above.

9.8.3 (8)

The Constitution should provide for the electoral system at the levels of local government below the regions to be built upon the pillars of representativeness, proportionality and accountability to the electorate. (There might be need for this provision to be dated, in terms of its implementation, because of the preparatory work which is required).

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

It is also agreed that the National Assembly should be advised that it gives consideration to the engagement of an expert on the Electoral System for the resolution of this Recommendation. However there was a difference of opinion in relation to when the expert should be so engaged.

***Constitution Reform Commission's
Specific Recommendations***

9.8.3 (9)

The Constitution should provide for the electoral system, at the levels of local government below the regions, to provide for the involvement of individuals and voluntary groups in addition to political parties.

9.8.3 (10)

The Constitution should provide for legislation for the formulation and implementation of objective criteria for the purposes of the allocation of resources to, and the garnering of resources by local authorities.

9.8.3 (11)

The Constitution should provide for the functions of the Auditor General to include the auditing of the accounts of local government bodies.

9.9 THE JUDICATURE

9.9.3 Specific recommendations

9.9.3.1 Principles

9.9.3.1 (1)

The Judicial system should be independent and free from official influence and control.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it with the following amendment for approval by the National Assembly.

Substitute "political, executive and other forms of influence and control" for "official influence and control" in lines 2 and 3.

***Constitution Reform Commission's
Specific Recommendations***

9.9.3.1 (2)

The appointment and promotion of Judges should be removed, as far as possible, from all party control.

9.9.3.2 Autonomy of the Judicial System

The Judicial system should be administratively autonomous and should be funded by a block vote out of the Consolidated Fund. The system should be operated in accordance with the practices of sound financial and administrative management by such rules and regulations as approved by Parliament.

9.9.3.3 Appointment of Registrar, Assistant Registrar and Officers of the High Court

Provision must be made for the Judicial Service Commission, in addition to its present responsibilities, and not the Public Service Commission, to be responsible for the appointment of the Registrar and any professional officers of the Supreme Court Staff.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it with the following amendment for approval by the National Assembly:

Substitution of "political" for "party" in line 3.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee noted that the term "block vote" as stated in the Recommendation may be misleading and that what is really meant, having considered a similar provision in the Constitution of India, is that funding for the Judiciary should be a direct charge on the Consolidated Fund.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

9.9.3.4 Appointment of Judges

Appointment of all judges shall be in accordance with the advice of the Judicial Service Commission (JSC) and Article 128 should be strengthened to ensure that the President appoint the person or persons recommended by the JSC. The same rule shall apply in the appointment of a Tribunal under Article 225 and the Article should be amended accordingly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.9.3.5 Appointment of the Chancellor and Chief Justice

The Chancellor and Chief Justice should be appointed through a consensual mechanism.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee also agreed that the legal experts tasked with drafting the Constitution would formulate an appropriate provision to capture this recommendation.

9.9.3.6 Extension of Tenure

The extension of tenure of a judge shall also be done in accordance with the advice tendered by the JSC.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

9.9.3.7 Decision by Judges

Parliament should give consideration to providing for a time within which judges should give their decisions. Persistent failure to do so should constitute misbehaviour for the purpose of Article 197 (3).

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly subject to the following amendment:

Insertion of “and their reasons therefor” after “decisions” in line 3.

9.9.3.8 Caribbean Court of Appeal

Provision should be made for Guyana to accede to the Caribbean Court of Appeal.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.9.3.9 Part-time Judges

Provision should be made for part-time judges.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.9.3.10 Retirement Age

The Constitution should be amended to provide for the retirement of a Puisne Judge at the age of 65 years and Justice of Appeal at the age of 68 years, without an extension of service in both cases. This should apply only to judges appointed after the Constitution is amended.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

9.9.3.11 Misbehaviour

Article 197 (3) should be amended to include a more detailed description of "misbehaviour" but not before the Commission has conferred with the Legal Experts.

The Committee considered this recommendations and agreed to submit it for approval by the National Assembly with a further recommendation that "misbehaviour" should include failure to perform any of the approved duties in a timely manner.

9.9.3.12 Retired Judges Practising at the Bar

It is undesirable for retired judges to practise at the Bar, and consequently due consideration must be given to raising the level of their emoluments and pensions.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.10 ELECTIONS COMMISSION

9.10.3 Specific recommendations

9.10.3 (1)

The Commission recommends that necessary reforms be made to the system to ensure the acceptance of elections results by all concerned.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

**Constitution Reform Commission's
Specific Recommendations**

9.10.3 (2)

To effect such reforms, the Commission recommends that Articles 161 and 162 be re-drafted to ensure that the role of political parties and their nominees in the conduct of elections through the Elections Commission should be limited to policy-making and monitoring, and should exclude active management of the process, (including the appointment of elections officials).

OR

9.10.3 (3)

To effect such reforms, this Commission recommends that Articles 161 and 162 be re-drafted to ensure that the role of political parties and their nominees in the conduct of elections through the Elections Commission should be limited to policy-making and monitoring, and should exclude active management of the process.

Note:

It was decided that the failure of the Commission to arrive at a definitive decision in terms of either Recommendation 9.10.3(2) or Recommendation 9.10.3(3) should be highlighted for the attention of Parliament. The difference between Recommendation (2) and Recommendation (3) is the inclusion in Recommendation (2) of the phrase: "(including the appointment of Elections Officials)".

**Special Select Committee's
Proposals and Decisions**

The Committee considered Recommendations 9.10.3 (2) and 9.10.3 (3) and agreed to submit 9.10.3(3) for approval by the National Assembly.

The Committee considered Recommendations 9.10.3 (2) and 9.10.3 (3) and agreed to submit 9.10.3 (3) for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

9:10:3 (4)

The Chairman of the Commission should be full-time and should be selected by a consensual process as provided for in the Constitution Amendment Act 1995 (No. 15/1995).

9.10.3 (5)

The Commission should assume responsibility for elections and national registration; and also boundary demarcation where this matter is related to the conduct of elections.

9.10.3 (6)

The head and other senior staff of the Secretariat of the Commission should be of specified appropriate professional experience or qualification.

9.10.3 (7)

The Secretariat of the Commission should be permanent to ensure efficiency, continuity and the development of institutional memory and capacity.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered the interpretation of the description "full-time Chairman" and agreed that it meant that the Chairman of the Elections Commission would be prohibited from engaging in any other form of employment.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee agreed that there was need to give meaning to some of the issues on which agreement had been reached by expanding and explaining what was intended, e.g. who would appoint the Secretariat, what would be the extent of the mandate of the Secretariat and what would be the day-to-day relationship between the Commission and Secretariat.

9.11 ELECTORAL SYSTEM

9.11.3 Specific recommendations

9.11.3. (1)

The electoral system for general elections should be a system of proportional representation which ensures that the proportion of seats in Parliament achieved by each party is as close as possible to the proportion of votes it received from the electorate.

9.11.3 (2)

The electoral system should include an element of geographical representation.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee consulted the verbatim record of the Constitution Reform Commission in arriving at its decision on this Recommendation.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The representatives of the PNC while recording their agreement with this Recommendation contended that there is need for the timely engagement of the services of an expert on electoral formulae on this issue and to complete the reformed Constitution in time to permit the holding of elections no later than January, 2001.

The Committee discussed what system of voting was capable of producing at one and the same time "proportionality" and "geographical representativeness". The Committee also considered whether there was the expertise in Guyana to devise such a system that would satisfy Recommendations 9.11.3(1) and 9.11.3(2)

***Constitution Reform Commission's
Specific Recommendations***

9.11.3 (3)

Limits should be placed on the numbers of non-elected Ministers and Parliamentary Secretaries eligible to sit in Parliament.

9.11.3 (4)

Proportional representation lists should be presented to the electorate in a manner that allows voters to be sure which individuals they are electing to the National Assembly. It is the Commission's view that this principle would be breached if lists are presented simply in alphabetical order or if crossing the floor is permitted.

**9.11.3 (5) Article 59 and 159 -
Qualification and disqualifications
for electors**

These articles should remain unchanged.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this Recommendation and agreed to submit it for approval by the National Assembly along with the following proposal:

Not more than four non-elected
and not more than two
Parliamentary Secretaries.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee also discussed the implications of the provisions of this recommendation and agreed that a construction of the recommendation should be crafted in order to capture its spirit.

The Committee also noted, on the advice of the Chief Parliamentary Counsel, that the implementation of this recommendation would require the amendment of section 11 (3) of the Representation of the People Act, Chapter 1:03.

The Committee noted that the recommendation was to retain Articles 59 and 159 (2) and agreed that Article 59 should be reformulated in more constitutional-friendly language as obtained in Article 159 (2).

**Constitution Reform Commission's
Specific Recommendations**

9.11.3 (6)

The words "Leader of the Opposition" should be substituted for the words "Minority Leader" wherever they appear.

9.11.3 (7)

Provision should be made for the appointment of the Minority Leader (to be re-designated Leader of the Opposition) to be made in the following manner:

the Leader of the Opposition shall be elected by and from Members of the National Assembly who do not support the Government at a meeting held under the Chairmanship of the Speaker, who shall not vote.

**Special Select Committee's
Proposals and Decisions**

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit the following amendments for approval of the National Assembly after consultation with the Chief Parliamentary Counsel:

- (i) Insertion of "elected" before "Members" in line 4.
- (ii) Insertion of "of the National Assembly" after "Speaker" in line 10.
- (iii) Insertion of "have the right to" after "not" in line 10.

The Committee agreed to submit the following proposal on the Revocation of the Appointment of the Leader of the Opposition, for approval by the National Assembly, as an adjunct to this Recommendation:

Where one-third of the members of the Opposition represent to the Speaker that the Leader of the Opposition no longer enjoys their confidence, the Speaker shall call a meeting at which the revocation of the appointment of the Leader of the Opposition shall be decided by a majority of the members of the Opposition.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

**9.12 THE CONSTITUTION AS A
DOCUMENT**

9.12.4 Specific recommendations

9.12.4 (1)

The language of the Constitution document shall be rendered gender-neutral.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.12.4 (2)

The language of the Constitution shall be simple and readily accessible to enable citizens to know their rights and obligations.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee noted that the Fundamental Rights section in particular is to be clear and uncluttered, making it really acceptable to ordinary citizens.

9.12.4 (3)

The provisions treating with the disadvantaged and people with disabilities shall be highlighted.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.12.4 (4)

(i) For any addition to the fundamental rights section, a two-thirds majority of the National Assembly shall be required;

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

(ii) For the removal of any fundamental right, a referendum shall be required.

9.13 LAND AND THE ENVIRONMENT

9.13.3 Specific recommendations

9.13.3 (1)

The following text is recommended to be included in the reformed Constitution: "Recognising that the well-being of the nation depends upon preserving clean air, pure waters, fertile soils and a rich diversity of plants, animals and eco-systems."

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.13.3 (2)

The following words should be included in the fundamental rights section: "Every one has the right (a) to an environment that is not harmful to their health or well-being; and (b) to have the environment that is protected, for the benefit of present and future generations, through reasonable legislative and other measures that (i) prevent pollution and ecological degradation; (ii) promote conservation; and (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development."

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly subject to the following amendments:

- (i) Deletion of "reasonable" after "through" in line 8;
- (ii) Insertion of "seek to" after "measures that" in line 9.
- (iii) Reformulation of (iii) to read "secure sustainable development including the sustainable use of natural resources while promoting justifiable economic and social development".

***Constitution Reform Commission's
Specific Recommendations***

9.13.3 (3)

Parliament should recognise the need to examine the issue of Ancestral Rights and Indentureship Rights in relation to land, with a view to putting appropriate mechanisms in place.

9.13.3 (4)

Article 18 should be re-worded along the following lines:

Land use shall as far as possible be encouraged as the basis for productive and beneficial use.

9.14 RIGHT TO EDUCATION

9.14.3 Specific recommendations

9.14.3 (1)

The State must have an obligation in respect of education, and included in that obligation must be the recognition of the cultural diversities of the communities and the need of an appropriate curriculum.

***Special Select Committee's
Proposals and Decisions***

The Committee discussed the following proposal for inclusion as an Article in Chapter II but considered that the question of the declaration in relation to “enslaved and indentured” peoples should be considered at the time when the Preamble came under scrutiny.

The Committee agreed to recommend for the approval of the National Assembly that reference be made to the descendants of enslaved and indentured peoples in the Preamble.

The Committee considered this recommendation and agreed to submit the following reformulation for approval by the National Assembly:

Land should be for productive and beneficial use.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee also agreed to recommend that this recommendation be transferred to Chapter II.

***Constitution Reform Commission's
Specific Recommendations***

9.14.3 (2)

The following must be enshrined in the Constitution as a fundamental right:

any person has a right to establish a private school which must be subject to any regulation by the State.

every private school must provide for minorities, including children with disabilities.

every person shall have a right to access to nursery, primary and secondary education irrespective of their economic status.

9.15 THE ECONOMY

9.15.3 Specific recommendations

9.15.3.1 The following recommendations are stated in the form of first re-drafts of Articles 13 through 17 of Chapter II and were approved by consensus by the Commission.

9.15.3.1 (1) Article 13

The principal objective of the political system of the State is to establish an inclusionary democracy by providing increasing opportunities for the participation of citizens, and their organisations, in the management and decision-making processes of the State, with particular emphasis on those areas of decision-making that directly affect their well-being.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee, however, noted that a caveat should be entered in relation to "any person" having a right to establish a private school since issues such as integrity and credibility should be considered.

The Committee also agreed to submit for the approval of the National Assembly that the third paragraph of this recommendation be expressed as a separate recommendation.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

9.15.3.1(2) Article 14

The goal of economic development includes the objective of creating an economy capable of achieving and maintaining the status of sustainable competitive advantage in the context of a global competitive environment, by fostering entrepreneurship, individual and group initiative and creativity, and strategic alliances with domestic and global business partners in the private sector.

9.15.3.1 (3) Article 15

The goal of economic development includes also the objective of laying the material basis for the largest possible satisfaction of the people's growing material, cultural, and intellectual requirements, as well as the dynamically stable development of their personality, creativity, entrepreneurial skills, and cooperative relations in a plural society; and the State has the responsibility to intervene to mitigate any deleterious effects of competition on individuals or groups of individuals.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it with the following amendments for approval by the National Assembly:

- (i) Insertion of “, promoting and encouraging” after “creating” in line 2;
- (ii) Substitution of “economic system” for “economy” in line 3;
- (iii) Deletion of “the status of” in line 4.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly, subject to the following amendments:

- (i) Substitution of “greatest” for “largest” in line 3.
- (ii) Substitution of a full stop for the semi-colon after “society” and the substitution of “The” for “and the” in line 10.

***Constitution Reform Commission's
Specific Recommendations***

9.15.3.1(4) Article 16

The State will foster the development of such relevant forms of cooperation and of business entities as are seen to be supportive of the goals of economic development as stated in Articles 14 and 15.

9.15.3.1(5) Article 17

Privately-owned economic enterprises are recognised, and will be facilitated in accord with their conformity with the aims and objectives stated or implied in Articles 13, 14, 15, and 16.

9.16 THE RIGHT AND THE DUTY TO WORK

9.16.3 Specific recommendations

9.16.3 (1)

Paragraph 3 of Article 22 (which sets out seven factors which guarantee the right to work) should be amended by taking into consideration the approval of the recommendations on the issue of the economy, with particular reference to Articles 13, 14, 15, 16 and 17.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit the following reformulation of Article 22 (3) for approval by the National Assembly:

To ensure a healthy economic democracy, the State and succeeding governments shall take steps to -

- (a) ensure that the economy develops in a such a way that ever increasing numbers of persons can become engaged in lawful activity to achieve sustainable livelihoods. Public policy shall progressively remove all barriers that limit human potential for self-sustaining activities such as agriculture, processing, manufacture, artistic and information based livelihoods;

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

9.16.3(2)

The provisions of Chapter II should include a statement on such principles as could influence legislation to:

- (a) protect the public service from political interference.
- (b) bind the public service to loyalty to the lawful policies of the government of the day.

9.16.3 (3)

The right to strike shall be given Constitutional protection

9.16.3 (4)

The right to demonstrate peacefully shall be given Constitutional protection.

- (b) encourage and support the self-mobilisation of persons or groups under the law and under principles of human rights and sustainable human development;
- (c) respond positively to any group, defined by ethnicity, gender, religion or other human factor, which claims that it faces marginalisation, and will be obliged to enter into negotiations with any such group to enable it with training and other resources to avoid feared exclusion.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

9.16.3 (5)

Pension rights should be protected as a right under the Constitution and should not be gratuitous.

9.17 FINANCE

9.17.3 Specific recommendations

9.17.3 (1)

Articles 216 and 217 should be retained as they are.

9.17.3 (2)

In Article 218, substitute the words "Minister of Finance or any other Minister" for "Prime Minister or any other Minister".

9.17.3 (3)

The Constitution should provide that there should be Parliamentary oversight of the functioning of the Office of the Auditor General, including the structure and emoluments of the staff.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it and the following recommendations for approval by the National Assembly:

- (a) That the Public Accounts Committee should have the oversight function as stated in the Recommendation with responsibility *inter alia* for approval of staffing requirements and vacancies;
- (b) The budget for the Office of the Auditor General should be a direct charge on the Consolidated Fund. The budget should be approved by the National Assembly on the recommendation of the Public Accounts Committee as the oversight body.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

- (c) In Article 223 (1) "constitutional office" should be substituted for "public office."
- (d) In Article 223 (2) Public Accounts should be defined as follows:
 - (i) All Central and Local Government agencies and entities;
 - (ii) All entities in which the state has a controlling interest;
 - (iii) All foreign funded projects by loans or grants.

In addition the Committee considered and agreed to recommend to the National Assembly for approval the following guidelines:

- (a) There should be a Rules, Policies and Procedures Manual for the functioning of the Office of the Auditor General. This manual should be approved by the Public Accounts Committee and should be updated from time to time.
- (b) There should be an Annual Systems and Financial Audit of the Auditor General's Office.
- (c) The Auditor General should submit reports on a quarterly basis to the oversight Committee.

9.17.3 (4)

To exempt the Auditor General from inclusion as an adviser to any Cabinet Sub-committee, amend Article 118(2) by deleting the words "including the Auditor General".

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

**Constitution Reform Commission's
Specific Recommendations**

9.17.3 (5)

To have the Auditor General submit his reports directly to Parliament, amend Article 223 (3) by substituting the words "Speaker of the National Assembly" for the words "Minister responsible for Finance".

9.17.3 (6)

To remove any qualification to the Constitutional independence of the Auditor General, amend Article 223 (4) by deleting the words "subject to Article 118".

9.17.3 (7)

Provision shall be made for a Constitutional Public Tender Commission.

**Special Select Committee's
Proposals and Decisions**

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.18 NATIONAL SECURITY

9.18.3 Specific recommendations

9.18.3 (1)

The following general-purpose clause shall be included in the Constitution:

The State's defence and security policy shall seek to defend national independence, preserve the country's sovereignty and integrity, and guarantee the normal functioning of institutions and the security of citizens against any armed aggression.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly with the following amendments:

- (i) Substitution of "be" for "seek to" in line 2;
- (ii) Insertion of "and protect" after "preserve" in line 3;
- (iii) Insertion of ",honour, preserve and uphold" after "respect" in line 15.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

The Defence and Security Forces shall be subordinate to national defence and security policy and owe allegiance to the Constitution and to the Nation. The oath taken by members of the Defence and Security Forces shall establish their duty to respect the Constitution.

9.18.3 (2)

A Commission shall be established with power to examine the structure, procedure and composition of the Disciplined Forces with a view to making recommendations to Parliament which will ensure that they continue to enjoy the confidence of all peoples of Guyana in exercising their Constitutional responsibilities.

9.18.3 (3)

The Commission considered the recommendations of the Guyana Defence Force and decided that the Constitution should enshrine the existence of the Guyana Police Force and the Guyana Defence Force, their further impartial roles and basic functions, taking into account the views of both organisations.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly with the following amendment:

Substitution of “constitutional” for “constitution” in the last line.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

9.19 COMMISSIONS

9.19.3 Specific recommendations

9.19.3.1 The criteria to be used to determine whether a particular Commission merits creation at the level of the constitution should include the following:

9.19.3.1 (1)

The matter to be dealt with must be of national interest.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.19.3.1 (2)

The matter must affect a wide enough cross-section of the populace.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.19.3.1 (3)

There must be concern about the danger of political interference.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.19.3.1 (4)

There must be a judgement that if the matter is not monitored, there could be disastrous consequences to the society and country at large.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

9.19.3.2 Given the problems of human and financial resources that must attend any increase in the number of Commissions at the level of the Constitution, the following administrative principles should be carefully considered for application:

9.19.3.2 (1)

Commissions should be kept small and be staffed by persons of experience.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.19.3.2 (2)

With particular reference to Commissions of a protective nature (as opposed to those of an "appointive" nature, e.g the Judicial Service Commission), common Secretariats for like Commissions should be considered.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.19.3.3 Where Commissions are to be established, operating procedures and mechanism for choosing the Commissions' membership should be carefully designed to minimise undue influence by the Executive and the consequent public perception of partisanship in their functioning.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.19.3.4 The right of appeal on the basis of common law with respect to a Commission's or Tribunal's decision should be expressly stated in the Constitution, as should be the obligation for disclosure of the Tribunal's information with respect to the matter under appeal.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

9.19.3.5 The following Table lists the Commissions proposed in various submissions from the public, and gives this Commission's recommendations with respect to establishment at the level of the Constitution in the "Status" column. The "Remarks" column, together with specific notes related to the various numbered proposals complete the recommendations. All recommendations are by consensus.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

(See Table at Appendix V).

**Specific recommendations on proposed
Commission**

7, Disciplined Services Commission

A Commission should be established with power to examine the structure, procedures and composition of the Disciplined Forces with a view to making recommendations to Parliament which will help ensure that they continue to enjoy the confidence of all the people of Guyana in exercising their Constitutional responsibilities.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

11, Human Rights Commission

Apart from its Constitutional powers, the Human Rights Commission should be vested with power and authority to constitute a subsidiary body for the purpose of monitoring compliance with all domestic laws and regulations relating to equality of opportunity and treatment, and non-discrimination on the grounds of age, colour, creed, disability, ethnicity, sex, gender, political opinion, race, religion or social class, in relation to employment by private persons, groups, companies and all other private entities. This subsidiary body shall also be empowered to educate employers and the general public on desirable employment practices intended to facilitate compliance with the abovementioned laws and regulations, and shall make periodic reports and/or recommendations to Parliament and other appropriate bodies.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit the following for approval by the National Assembly:

“Apart from its Constitutional powers, the Human Rights Commission should be vested with power and authority to constitute a subsidiary body for the purpose of monitoring compliance with all domestic laws and regulations relating to equality of opportunity and treatment, and non-discrimination on the grounds of age, colour, creed, disability, ethnicity, sex, gender, political opinion, race, religion or social class, in relation to employment by private persons, groups, companies and all other private entities. This subsidiary body shall also be empowered to educate employers and the general public on desirable employment practices intended to facilitate compliance with the abovementioned laws and regulations, and shall make periodic reports and/or recommendations to

**Constitution Reform Commission's
Specific Recommendations**

The Commission strongly favour the application of the strong enforcement capability against State action protected under the fundamental rights provisions of the Constitution. The Commission has however been advised by its legal experts that the fundamental rights provisions of the Constitution are essentially intended to be protection for the citizen against State action and most of them do not extend to acts or omissions of private persons or entities. The Commission recognises that the application of the recommendation may be relaxed in the case of a private employer with a small staff, or in the case of a family business or enterprise.

18, Land Distribution & House Lot Allocation

Instead of establishing a Commission at the level of the Constitution, the following steps should be taken:

- (1) *That Government take to the National Assembly a policy paper with respect to land which sets out inter alia clear criteria for the distribution of land and the allocation of house lots.*
- (2) *That a body be set up to monitor the distribution process to ensure compliance with the criteria.*

**Special Select Committee's
Proposals and Decisions**

Parliament and other appropriate bodies.

The Commission strongly favour the application of the strong enforcement capability against State action protected under the fundamental rights provisions of the Constitution.”

The National Assembly should also be advised that the Committee endorsed that approach to the Human Rights Commission.

The Committee considered this recommendation and agreed to submit it and the following proposals for approval by the National Assembly:

- (i) That the policy paper setting out *inter alia* clear criteria for the distribution of land and the allocation of house lots be brought to the National Assembly within three months after approval of the Recommendations by the National Assembly.

However, there is an alternative recommendation that 31st December, 1999 should be the deadline for submission of the policy paper.

***Constitution Reform Commission's
Specific Recommendations***

- (3) *That a mechanism be put in place to investigate claims of discrimination in the distribution process and to provide redress in proven cases.*

33, Ethnic Relations Commission

That in the Terms of Reference of this Commission, matters relating to an educational role with respect to religion and other aspects of culture be included, with a view to supporting the objective of the promotion of harmony in a plural society.

***Special Select Committee's
Proposals and Decisions***

- (ii) That the policy paper be underpinned by the following principle: the need for transparency and equity in distribution and allocation in conformity with good land use principles, practices and management;
- (iii) That an independent authority be established and charged with:
- (a) the investigation of complaints, including discrimination in the distribution process; and
 - (b) the providing of redress in proven cases.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

General Proposal - Overarching Clause

The Committee agreed that in relation to all Commissions established under the Constitution that provision should be made in the Constitution for the composition of the commissions, their rules, procedures, powers and functions.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

9.20 RELIGION

9.20.3 Specific recommendations

Provision must be made in the Constitution to have religious beliefs and practices protected against vilification by having this protection as a fundamental right.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.21 RACE RELATIONS

9.21.3 Specific recommendations

9.21.3.1 The Commission agreed to recommend the following constraining measures for inclusion in the Constitution:

9.21.3.1 (1)

There shall be clauses in the Constitution prohibiting all individuals and institutions, and specifically political parties, from indulging in any actions or being proselytisers of any ideas, programs, or employment practices in which there are elements of racial or ethnic divisiveness. The right to freedom of speech, thought or association shall not be used as justification or protection from penalties for so doing.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.21.3.1 (2)

Any political party that breaches this prohibition shall be disbarred from contesting any election, as shall any individual or organisation purporting to so speak or act on behalf of a political party.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

9.21.3.1 (3)

Where any individual or organisation claiming to speak or act on behalf of a political party is found to have breached the prohibition, the political party on whose behalf the action was taken shall be debarred as in (2) above, unless it publicly dissociates itself from the individual or organisation and expressly disassociates from the sentiments he, she, or it has expressed.

9.21.3.2 It also agreed to recommend the following corrective measure

9.21.3.2 (1)

The Constitution shall establish an adequately-funded, suitably broad-based Ethnic Relations Commission comprising representatives of religious bodies, the labour movement, the private business sector, youth, and women with the following responsibilities, authorities and powers:

- (i) To establish and publish criteria to be used for deciding whether any individual or institution is in breach of the prohibitions mentioned in 9.21.3.1 (1) above.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

***Special Select Committee's
Proposals and Decisions***

- (ii) To specify penalties, in addition to disbarment, which various categories of breach of the prohibitions should incur.
- (iii) To commission studies appropriate and adequate for monitoring whether race relations in Guyana are improving.
- (iv) To recommend to the National Assembly such further measures as its experience, deliberations, and monitoring suggest be implemented to achieve the objective of continual improvement of race relations in Guyana.

9.21.3. 2 (2)

The legal framework of the Commission should include adequate procedures for appeal, without incurring the penalty of delay in correction.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

9.22 THE STATE AND THE CONSTITUTION

9.22.3 Specific recommendations

9.22.3 (1)

Amend Article 1 to read as follows: "Guyana is an indivisible, secular, democratic and sovereign state and shall be known as the Republic of Guyana".

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

***Constitution Reform Commission's
Specific Recommendations***

9.22.3(2)

The legal experts should be requested to advise on the inclusion of an Appendix with the description of the Flag and the Coat of Arms.

9.22.3(3)

Provision should be made for a new Article on the Pledge.

9.22.3 (4)

Provision should be made to include the National Pledge in Article 7, "Duty to Respect National Symbols".

9.23 CONSTITUTION REFORM FOR THE FUTURE

9.23.3 Specific recommendations

Provision shall be made for a Parliamentary Standing Committee for Constitutional Reform to be enshrined in the Constitution. While according to the rules of the National Assembly, membership of a Standing Committee is restricted to Members of Parliament, the Committee being recommended shall have the power to co-opt experts onto itself. This Committee will keep the operations of the Constitution under continuous review, and make periodic reports to the National Assembly, including proposals, where appropriate, for reform.

***Special Select Committee's
Proposals and Decisions***

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

The Committee considered this recommendation and agreed to submit it for approval by the National Assembly.

*Special Select Committee's
Proposals and Decisions*

General Proposal - Overarching Clause

The Committee agreed that in relation to Chapter II a general clause should be included stating that the State's ability to make provision for the matters contained therein would depend on the ability of the State to do so in the circumstances of each case or issue.

APPENDIX I
WORK PROGRAMME
Of The
Special Select Committee

Objective:

To submit to the National Assembly, by October 31, 1999, a Report consisting of the Select Committee's proposals for constitutional reform, based on its consideration of the CRC Report and its recommendations, presented in a manner and language to enable the drafting of the new constitution.

Method & Programme of Work

Section 6(5) of the CRC Act mandated the Commission "to prepare a Report inclusive of the proposals of any minority, giving details of the recommendations and the reasons therefor in a clear and comprehensive manner to enable the constitution to be drafted therefrom."

Time did not permit the CRC to bring its Report to that final form required by the Act. The work of the Select Committee is, at a minimum, to bring those recommendations to that state of completion. If we include "the proposals of any minority", as we must, there are 5 categories of recommendations in the Report:

"...the Commission could not take a position of theorising at leisure on the matters before it. Instead, there had to be a stance of pragmatism within the constraint of a time-bound project approach. Accordingly, the Commission's proposals for a redrafting of the Constitution had to conform to a hierarchy of recommendations, perhaps best described as follows:

- (i) Proposals that are complete in the sense of being stated in implementable detail, with implementation being dependent only on final approval by the National Assembly.
- (ii) Proposals that were not ready for implementation in the sense mentioned in (i) above, but for which the principles that should be adhered to were clearly specified as those to which an implementable system had to be made to conform.
- (iii) Proposals that were less complete than those mentioned in (ii) above, but for which the most fundamental criteria to be satisfied had been identified, even though further determinations would be required on both principles and other criteria prior to implementation.
- (iv) Proposals that emanated from the incapacity of the Commission to unravel intractable issues, and that therefore comprised

recommendations about areas of further research to be conducted by appropriate experts." [CRC Report, pp.2-3]

It is important to note that even those recommendations deemed "implementable" require to be brought to a finished state.

If the Select Committee were to meet 3 times a week, it would have 26 days from September 1st to complete its Report. If 3 days are to be set aside for the final consideration of the Report, it will have 23 working days.

Notwithstanding the decision of the Committee to exclude the press and public from "the early stages of the Committee's activities," and "at a later stage" to give consideration "as to when, and in what form, the media and public would be involved," it is strongly recommended that the deliberations of the Select Committee not take place behind the backs of the people whose valued contributions to the process have helped in no small way to advance us to the present point. For meetings of the Select Committee to be opened to the print media and the public, the National Assembly will have to be convened almost immediately and requested to suspend Standing Order 73(5).

It has also been agreed at the preparatory inter-party meetings that the recommendations relating to elections (9.6, 9.7, 9.8, 9.10, 9.11) should be fast-tracked: 9.10 (Elections Commission) and 9.11 (Electoral System) should take priority.

Programme of Work

Immediate Tasks [Aug. 27, 29]

1. Request the convening of the National Assembly to suspend Standing Order 73(5).
2. Invite the opinion of the Legal Experts on the Report's recommendations; in particular, on (i) their readiness for constitutional drafting, and (ii) their internal consistency.
3. Engage a team of writers to render the recommendations, where required, in finished form. (The team of writers should include a legal person).
4. Establish working groups which will be assigned responsibility for a cluster of recommendations, thereby enabling the Committee to work simultaneously on different areas.
5. Determine the capacity of the Secretariat to facilitate the Committee in executing its mandate and make the required adjustments.

Time-table

Weeks One to Five [August 30 – October 1]

Committee

- 9.10: Elections Commission**
- 9.11: Electoral system**
- 9.6: Presidency**
- 9.7: Parliament**
- 9.8: Local Government**

These recommendations are the most challenging, requiring in the first instance the resolution of issues the Commission failed to resolve. Among them are consensus/implementable proposals, principles and criteria to underpin recommendations, as well as minority/rejected proposals. The Committee has the task of (i) bringing them all up to the stage of implementability, and (ii) re-writing them where required in constitution-friendly form and language.

Within the first 2 weeks (6 meetings), the Committee should receive the opinion of the Legal Experts.

Work-groups

I.

- 9.2: Fundamental Rights and Freedoms of the Individual**
- 9.3: Indigenous Rights**
- 9.4: Rights of the Child**
- 9.14: Right to Education**
- 9.5: Gender Rights**
- 9.20: Religion**

II.

- 9.12: The Constitution as a Document**
- 9.13: Land and the Environment**
- 9.15: The Economy**
- 9.16: The Right and the Duty to Work**
- 9.17: Finance**
- 9.18: National Security**

All of these recommendations are by consensus and "implementable". The two work-groups, assisted by the team of writers, should bring them to completion. The groups should report periodically to the Committee as they complete the recommendations.

Weeks Six to Eight [October 4 to 22]

Committee

9.9: Judicature

9.19: Commissions

9.21: Race Relations

Review of submissions from work-groups.

While these recommendations are by consensus, considerable work is required to build specific proposals from the principles adumbrated, for example in those on the Judicature. The Commissions need to be clearly defined in terms of jurisdiction, composition, powers and so on.

Working Groups

I.

9.1: Preamble

9.22: The State and the Constitution

9.23: Constitution Reform for the Future

II.

9.9: Judicature

9.19: Commissions

9.21: Race Relations

Week Nine [October 25 to 29]

Finalisation of Report

**Submitted by Rupert Roopnaraine
August 24, 1999**

APPENDIX II
ADMINISTRATIVE SUPPORT STAFF

Maurice B. Henry	Executive Secretary
Oscar E. Moore	Administrative Assistant
*Alicia T. Cox	Word Processor/Typist
+Fiona Duesbury	Word Processor/Typist
Padwantie Sukhu	Accounts Clerk
Trevor Balgobin	Office Assistant

***Ms Rukhmin Chand replaced Miss Cox who resigned on 1st September, 1999.**

+Ms Deslyn West has acted for Ms Duesbury who proceeded on Maternity Leave with effect from 22nd September 1999.

APPENDIX III

1: THE WORKING PEOPLE'S ALLIANCE

MEMORANDUM

CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA PREAMBLE

WE THE PEOPLE OF THE CO-OPERATIVE REPUBLIC OF GUYANA,
the proud heirs of the indomitable spirit and unconquerable will of our foreparents who by their sacrifices, their blood and their labour made rich and fertile and bequeathed to us as our inalienable patrimony for all time this green land of Guyana,

SALUTING

the epic struggles waged by our foreparents for freedom, justice and human dignity and their relentless hostility to imperialist and colonial domination and all other forms and manifestations of oppression;

ACCLAIMING

the whole communities of those who in various ways resisted one form of bondage after another, their success despite hardships and setbacks in sustaining the human elements suitable for the establishment of a nation; acclaiming also their leaders known and celebrated, as well as those whose guidance is still to be documented; the pioneering spirit, the wide spread of various talents, heroic labour by hand and brain of all those who in myriad ways bequeathed to later generations a human society;

AFFIRMING

the need for historical continuity following the liberating developments of 26th May, 1966, when our people regained independence in the available setting and 23rd February, 1970, when our country fulfilled its historic quest and became a Republic;

PLEDGED

to defend our national sovereignty, our right to self-determination, to respect human dignity among ourselves and everywhere, and while entering into commerce and exchange with a rapidly changing world, to seek strength in upholding the principles of equality, economic and social democracy, equal opportunity and recognition for men and women, recognition of the indigenous peoples and each and every ethnic group as having a right to their identity and inviolable dignity within the national framework and expanding social, economic and human rights;

ACKNOWLEDGING

the reorganisation of the world over the past decade and anticipating the direction in which economic, social and technological changes are taking place; the growing recognition of the importance of the environment to life and survival; noting the new possibilities released by technology for the eradication of poverty and the results of its injudicious use and abuse; noting the historic international recognition of women's unwaged labour as confirmed at Beijing in 1995;

1: THE WORKING PEOPLE'S ALLIANCE

MEMORANDUM

CONVINCED

that in our common quest for economic growth and human development, it is fitting that we the Guyanese people commit ourselves to political, social and economic democracy; the non-exclusion of communities for reasons of political outlook, gender, race, class, creed, region or age from the exercise of due political authority; the support of due rewards to labour and enterprise; the encouragement of sustainable forms and modes of development; major investment in education and training; encouragement of beneficial innovation in the various departments of life; the freedom to establish humanist economic formations, especially those based on belief; freedom of thought and creativity in all disciplines, in the sciences, religion and the arts, commerce and industry, agriculture and the generation and application of energy;

BEING OPPOSED

to all forms of domination and bondage, racial, economic or political;

RELYING

on the belief that we share a common purpose and intent of developing a viable economy and a harmonious national community; based on the imperative to improve national cohesion without offending individual and group uniqueness;

JOINING

in the making of this fundamental law resolve solemnly to approve, in the first instance, through our elected representatives, the following

CONSTITUTION OF THE COOPERATIVE REPUBLIC OF GUYANA

Date received - 25th November, 1996

APPENDIX IV

REPORTS OF WORK GROUPS

- | | |
|----------|-----------------------------------|
| A | Report of Work Group No. 1 |
| B | Report of Work Group No. 1 |
| C | Report of Work Group No. 2 |
| D | Report of Work Group No. 2 |
| E | Report of Work Group No. 2 |

- REPORT OF WORK GROUP NO. 1

SPECIAL SELECT COMMITTEE OF THE
NATIONAL ASSEMBLY OF THE FIRST SESSION (1990-1999) OF THE
SEVENTH PARLIAMENT OF GUYANA ON THE
REPORT OF THE CONSTITUTION REFORM COMMISSION

**DRAFT MINUTES OF THE 1st MEETING OF WORK GROUP NO. 1
HELD IN THE COMMITTEE ROOM,
PUBLIC BUILDINGS, GEORGETOWN
ON WEDNESDAY 20TH OCTOBER 1999**

ATTENDANCE

MEMBERS OF THE COMMITTEE (6)

CONVENOR (1)

The Hon. J. Ronald Gajraj, M.P.,
Minister of Home Affairs

From the People's Progressive Party/Civic (1)

Mrs Philomena Sahoye-Shury, CCH, JP, MP
Parliamentary Secretary, Ministry of Local Government

From the People's National Congress (2)

Mr Raphael G.C. Trotman, M.P.

Mrs Deborah Backer, M.P. (Excused)

From The United Force (1)

Mr Manzoor Nadir, M.P.

From the Alliance for Guyana (1)

Dr Rupert Roopnaraine, M.P.

Officers (2)

Mr Maurice B. Henry
Clerk of the Special Select Committee

Ms Debra Cadogan
Administrative Assistant

2.

ITEM 1 CALL TO ORDER

- 1.1 The Convenor called the meeting to order at 7.30 p.m.

ITEM 2 BUSINESS

2.1 Consideration of Recommendations of the Constitution Reform Commission

2.1.1 Specific Recommendations Proposals/Decisions

**9.2 - Fundamental Rights
and Freedoms of the
Individual**

- 9:2:3:1 (1) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.
- 9:2:3:1 (2) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.
- 9:2:3:2 (1) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.
- 9:2:3:2 (2) This Recommendation was accepted in principle. The Work Group however, recommended that when drafting the Recommendation, it be strengthened in terms of the Trinidadian and other Constitutions.
- 9:2:3:2:(3) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.
- 9:2:3:2:(4) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

3.

9:2:3:2(5)

The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption, subject to the following amendments:

- (i) Line 3 - Delete “reasonable” after “through”
- (ii) Line 4 - Insert “seek to” after “measures that.”
- (iii) Correct the third bullet to read “secure sustainable development in the use of natural resources while promoting justifiable economic and social development.”

9:2:3:2(6)

The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption, subject to the following amendment:

Line 1 - Delete “their” before “co-operatives”

9:2:3:2(7)

The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:2:3:2(8)

The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:2:3:2(9)

The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:2:3:2(10)

The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption, subject to the following amendment:

Line 4 - Delete “these”.

4.

- 9:2:3:2(11)** This Recommendation was accepted in principle. The Work Group, however recommended that the Recommendation be governed by the proviso “*To the extent that the State could afford it.*”
- 9:2:3:2(12)** The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.
- The Work Group recommended that compulsory education be extended to the secondary level.
- 9:2:3:2(13)** The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.
- 9:2:3:2(14)** The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption, subject to the following amendments:
- (i) Line 2 - Insert the closing bracket after “practices”,
 - (ii) Line 3 - Substitute “that” for “which”,
 - (iii) Line 4 - Remove the closing bracket after health and substitute “well-being” for “health”.
- 9:2:3:2(15)** The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.
- 9:2:3:2(16)** The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

5:

9:2:3:2(17) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:2:3:2(18) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:2:3:2(19) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption, subject to the following amendment:

Substitute “in accordance with the law.” for “lawfully.”

9:2:3:2(20) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption, subject to the following amendments:

- (i) Line 1 - Delete “the” before “collective”
- (ii) Line 2 - Insert a full-stop after “agreements” and delete “that shall be legally binding.”

9:2:3:2(21) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:2:3:3 The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

The Convenor however, expressed his reservation with this recommendation.

9:2:3:4 The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:2:3:5 The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9.3 - Indigenous People

9:3:3(1) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:3:3(2) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:3:3(3) The Work Group considered this Recommendation and agreed that it be amended as follows:

“The issue of self-determination should be within the framework of the state and should be recommended on the basis of the concept of devolution of power to institutions within the local government system.”

9:3:3(4) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

The Work Group suggested that the specific issues mentioned be listed as follows:

- (i) land rights;
- (ii) improvements in legislation affecting Amerindians;
- (iii) the Amerindian Act;

7.

- (iv) the scope and authority of the Council of Tousehaus;
- (v) empowerment with regards to local government and the Amerindian village council system;
- (vi) economic and education policy; and,
- (vii) cultural protection and preservation.

9.4 - Rights of the Child

9.4.3(1) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:4:3(2) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:4:3(3) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:4:3(4) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:4:3(5) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption, subject to the following amendment:

compulsory education be extended to the secondary level.

9:4:3(6) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

8.

9:4:3(7) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption, subject to the following amendments:

(i) Line 3 - Substitute “that” for “which”

(ii) Line 4 - Substitute “well-being” for “health”.

9:4:3(8) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:4:3(9) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9:4:3(10) The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9.20 - Religion

9.20.3 The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

ADJOURNMENT

At 10.00 p.m. the Meeting was adjourned to 1.30 p.m. on Thursday, 21st October, 1999.

Hon. J. Ronald Gajraj, M.P
Minister of Home Affairs
CONVENOR

REPORT OF WORK GROUP NO. 1

**SPECIAL SELECT COMMITTEE OF THE
NATIONAL ASSEMBLY OF THE FIRST SESSION (1990-1999) OF THE
SEVENTH PARLIAMENT OF GUYANA ON THE
REPORT OF THE CONSTITUTION REFORM COMMISSION**

**DRAFT MINUTES OF THE 2ND MEETING OF WORK GROUP NO. 1
HELD IN THE COMMITTEE ROOM,
PUBLIC BUILDINGS, GEORGETOWN
ON THURSDAY 21ST OCTOBER 1999**

ATTENDANCE

MEMBERS OF THE COMMITTEE (6)

CONVENOR (1)

The Hon. J. Ronald Gajraj, M.P.,
Minister of Home Affairs

From the People's Progressive Party/Civic (1)

Mrs Philomena Sahoye-Shury, CCH, JP, MP (Excused)
Parliamentary Secretary, Ministry of Local Government

From the People's National Congress (2)

Mr Raphael G.C. Trotman, M.P.

Mrs Deborah Backer, M.P.

From The United Force (1)

Mr Manzoor Nadir, M.P. (Absent)

From the Alliance for Guyana (1)

Dr Rupert Roopnaraine, M.P.

Officers (1)

Ms Debra Cadogan
Administrative Assistant

2.

ITEM 1 CALL TO ORDER

- 1.1 The Convenor called the meeting to order at 2.10 p.m.

ITEM 2 BUSINESS

2.1 Consideration of Recommendations of the Constitution Reform Commission

2.1.1 Specific

Recommendations

Proposals/Decisions

9.5 - Gender Rights

9.5.3(1)

The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption, subject to the following amendment:

Line 8 - Insert "of" between " non-payment" and "equal"

9.5.3(2)

The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9.5.3(3)

The Work Group considered this Recommendation and agreed that

(a) the Recommendation be divided into two parts;

(b) the first sentence be numbered (i) and the second sentence be numbered (ii);

The Work Group accepted Recommendation 9.5.3(3) (ii) in principle and recommended that a quota system or any other system that would give meaningful effect to the Recommendation be included.

3.

The Convenor however felt that "a quota system" should not be included. The Recommendation should reflect "such system that would give meaningful effect to the Recommendation."

9.5.3(4)

The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption, subject to the following amendments:

Insert commas after "gender" in line 2, and "geographical" in line 3.

9.5.3(5)

The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

9.14 - Right to Education

9.14.3(1)

The Work Group considered this Recommendation and agreed that it should be removed and placed under Chapter 2.

9.14.3(2)

The Work Group considered this Recommendation and agreed to submit it to the Special Select Committee for adoption.

The Work Group recommended that there must be cognisance to the possibility of undesirables who would seek to open private schools.

ADJOURNMENT

At 3.45 p.m. the Meeting was adjourned.

.....
Hon. J. Ronald Gajraj, M P
Minister of Home Affairs
CONVENOR

APPENDIX IV - C

REPORT OF WORK GROUP NO. 2

1. The Work-Group has held 7 meetings to date.
2. At its first meeting, the WG defined its objective as follows: (a) to provide comprehensive rationales for the recommendations; and (b) to recast the recommendations, wherever necessary, into clear, constitution-friendly form and language.
3. The WG was charged with responsibility for the following recommendations: 9.12 (the Constitution as a document); 9.13 (Land and the Environment); 9.15 (The Economy); 9.16 (The Right and the Duty to Work); 9.17 (Finance); 9.18 (National Security).
4. The WG has completed consideration of 9.12, 9.13, 9.15 and 9.16.

NOTES & AGREEMENTS

9.12: The Constitution as a Document

1. The clear implication of the recommendation is that the entire 1980 constitution will be re-cast in a user-friendly form and re-written in language that is simple. The Fundamental Rights section, in particular, is to be clear and uncluttered, making it readily accessible to ordinary citizens. In addition, the provision treating with the disadvantaged and people with disabilities will be high-lighted.
2. The language will be gender-neutral.

NOTE

1. The WG expects that those responsible for drafting will make use of Simple Language Experts (UN, ND1?) in arriving at the final text.
2. The WG agreed that ideas on the final format of the re-written constitution should be agreed on and put to the National Assembly. The WG undertook to re-visit this issue.
3. Recommendations 3 & 4 (i) and (ii) are to be referred to WG #1 with responsibility for Fundamental Rights.

9.13: Land and the Environment

1. # (2) The text on the environment for the Fundamental Rights section has been slightly amended in the interest of clarity: **“Every one has the right (a) to an environment that is not harmful to their health or well-being; and (b) to have an environment that is [not] protected, for the benefit of present and future generations, through reasonable legislative and other measures that (i) prevent pollution and ecological degradation; (ii) promote conservation; and (iii) secure**

ecologically] sustainable development, including the sustainable [and] use of natural resources while promoting justifiable economic and social development."

(3) The following is recommended for inclusion as an Article in Chapter II: *"In addition to their obligations regarding the indigenous peoples, the State and the government shall provide for investigation and settlement of the century old claims of descendants of enslaved and indentured peoples regarding rights equitably accruing to them in consequence of their sufferings and of their roles in the formation of the Guyana economy."* [Parliament can then establish the necessary mechanism to operationalise the article.]

3. Parliament should establish a body to investigate and pursue the settlement of land claims of descendants of enslaved peoples issuing from various acts of dispossession.
4. (# 4) The following is suggested instead: *"Land shall be for productive and beneficial use."*

NOTE

1. The WG agreed that "beneficial" should include the use of communal open space for recreational purposes and suggests that, if it is felt to be necessary, the text should be amended accordingly.
2. The WG accepted responsibility for #18 Land Distribution and House Lot Allocation and makes the following proposals:
3. (#18, p.232) Given its potential for the exacerbation of ethnic and political tension, the issue of land distribution and house-lot allocation should be addressed forthwith. It is recommended that (i) the policy paper setting out "*inter alia* clear criteria for the distribution of land and the allocation of house lots" be brought to the National Assembly no later than December 31, 1999; (ii) the policy paper be underpinned by the following principles: (a) the need for transparency and equity in the distribution and allocation; (b) in conformity with good land-use principles, practices and management, all land should be zoned and designated for particular usage. The "economic" or "best-use" principle of land utilisation should be applied for agricultural expansion, industrial development and human settlement; (c) the necessity for agrarian reform and the opening of a "second developmental front" in the hinterland; (iii) a Complaints Authority be established by a weighted majority of parliament and charged with (a) the investigation of claims of discrimination in the distribution process; and (b) the providing of redress in proven cases.

9.15: The Economy

1. (#2) Article 14: Suggested amendment: "The goal of economic development includes the objective of [creating] promoting and encouraging an [economy] economic system capable of achieving and maintaining [the status of] sustainable competitive advantage in the context of a global competitive environment, by fostering entrepreneurship, individual and group initiative and creativity, and

strategic alliances with domestic and global business partners in the private sector.”

2. **(#3) Article 15: Suggested amendment: “The goal of economic development includes also the objective of laying the material basis for the [largest] greatest possible satisfaction of the people’s growing material, cultural, and intellectual requirements, as well as the dynamically stable development of their personality, creativity, entrepreneurial skills, and cooperative relations in a plural society. [and the] The State also has the responsibility to intervene to mitigate any deleterious effects of competition on individuals or groups of individuals.”**
3. **(#4) Article 16: Suggested amendment: “The State will foster the development of such [relevant] forms of cooperation and of business entities as are seen to be supportive of the goals of economic development as stated in Articles 14 and 15.”**

9.16: The Right and the Duty to Work

1. Recommendation #(2): Suggested text for Chapter II: *The integrity of the public service is guaranteed and public servants shall not be required to execute or condone irregular acts on the basis of higher orders. Public servants shall be protected in their freedom to advise the political (executive) branch and shall not be the subject of sanctions of any kind without due process. In the conduct of their duties public servants shall execute the lawful policies of the government of the day.*
2. Suggested text for a new 22(3):

To ensure a healthy economic democracy, the State and succeeding governments shall

- (a) ensure that the economy develops in such a way that ever increasing numbers of persons become engaged in lawful economic activity to achieve sustainable livelihoods. Public policy shall progressively remove all barriers that limit human potential for self-sustaining activities such as agriculture, processing, manufacture, artistic and information based livelihoods.***
- (b) encourage and support the self-mobilisation of persons or groups under the law and under principles of human rights and sustainable human development.***
- (c) respond positively to any group, defined by ethnicity, gender, religion or other human factor, which claims that it faces marginalisation and will be obliged to enter into negotiations with any such group to enable it with training and other resources to avoid feared exclusion.***

**Submitted by Rupert Roopnarain
Convenor, Work-Group #2,
September 22, 1999**

APPENDIX IV-D

REPORT OF WORK GROUP NO. 2

SPECIAL SELECT COMMITTEE OF THE
NATIONAL ASSEMBLY OF THE FIRST SESSION (1990-1999) OF THE
SEVENTH PARLIAMENT OF GUYANA ON THE
REPORT OF THE CONSTITUTION REFORM COMMISSION

MINUTES OF THE 8TH MEETING OF WORK GROUP NO. 2
HELD IN THE PARLIAMENTARY LIBRARY,
PUBLIC BUILDINGS, GEORGETOWN
ON TUESDAY 12TH OCTOBER 1999

ATTENDANCE

MEMBERS OF THE COMMITTEE (3)

CONVENOR (1)

Dr Rupert Roopnaraine, M.P.

From the People's Progressive Party/Civic (1)

Mrs Philomena Sahoye-Shury, CCH, JP, MP
Parliamentary Secretary, Ministry of Local Government

From the People's National Congress (1)

Mr E. Lance Carberry, M.P.

Officers (2)

Mr Oscar Moore
Administrative Assistant

Ms Debra Cadogan
Administrative Assistant

ITEM 1 CALL TO ORDER

1.1 The Convenor called the meeting to order at 12.30 p.m.

2.

ITEM 2 BUSINESS

- 2.1** The Convenor mentioned that there were two major areas under Recommendation 9:17 - Finance to be completed, namely, the Auditor General's Office and the Public Tender Commission.
- 2.1.1** The Work Group considered the Auditor General's Office and agreed that a Parliamentary Committee or a Commission should be set up to oversee the Auditor General's Office.
- 2.1.2** The Work Group also agreed that the Public Accounts Committee or the Audit Commission as recommended in the Auditor General's submission to the CRC (Draft Audit Act), should be the authority to oversee the Auditor General's Office.
- 2.1.3** The following principles were then established:
- (a) The Auditor General's Office would be a constitutional office.
 - (b) The budget for the Auditor General's office should be a block vote out of the Consolidated Fund and should be approved by the National Assembly on the recommendation of the Parliamentary oversight body, after consideration of the Work Programme and associated resource means submitted by the Auditor General.
 - (c) A Rules and Procedures Manual for the functioning of the Auditor General's office should be produced and agreed by the Committee and reviewed periodically.
 - (d) **Staffing**
 - (i) The establishment of the Auditor General's Office including the organisational chart and manning table will be agreed with the oversight Committee.
 - (ii) The Auditor General would report all vacancies to the Committee.
 - (iii) The Job Description and qualifications for each position should be agreed with the oversight Committee.

3.

- (iv) **Senior Staff positions within the Auditor General's Office would be filled on the advice of the Committee.**
- (v) **Lower staff positions will be filled by the Auditor General, but would be sent to the Committee for review and ratification.**
- (vi) **The workers in the Auditor General's office will enjoy conditions no less favourable than they currently enjoy, including representation by a union of their choice.**

**2.1.4 Specific
Recommendations**

Proposal/Decisions

2.1.5 9:17:3 (3)
The Constitution should provide that there should be Parliamentary oversight of the functioning of the Office of the Auditor General including the structure and emoluments of the staff.

The Work Group considered Article 223 and agreed that

- (a) In Article 223 (1) "constitutional office" should be substituted for "public office".
- (b) In Article 223 (2) Public Accounts should be defined as follows:
 - (i) All Central and Local Government agencies and entities
 - (ii) All entities in which the state has a controlling interest
 - (iii) All foreign funded projects by loans or grants.

2.1.6 9:17:3(5)

The Work Group considered this recommendation and agreed that

- (a) There should be a Policy and Procedures Manual for the Auditor General's Office. This manual should be approved by the Parliamentary Committee and should be updated from time to time.

4.

- (b) There should be an Annual Systems and Financial Audit of the Audit General's Office.
- (c) The Auditor General should submit reports on a quarterly basis to the Committee.

ADJOURNMENT

At 2.00 p.m. the Meeting was adjourned to Tuesday, 19th October, 1999 at 12.00 noon.

.....
Dr Rupert Roopnaraine, M.P.
CONVENOR

APPENDIX IV-E

REPORT OF WORK GROUP NO. 2

**SPECIAL SELECT COMMITTEE OF THE
NATIONAL ASSEMBLY OF THE FIRST SESSION (1990-1999) OF THE
SEVENTH PARLIAMENT OF GUYANA ON THE
REPORT OF THE CONSTITUTION REFORM COMMISSION**

**DRAFT MINUTES OF THE 10TH MEETING OF WORK GROUP NO. 2
HELD IN THE COMMITTEE ROOM,
PUBLIC BUILDINGS, GEORGETOWN
ON THURSDAY 21ST OCTOBER 1999**

ATTENDANCE

MEMBERS OF THE COMMITTEE (3)

CONVENOR (1)

Dr Rupert Roopnaraine, M.P.

From the People's Progressive Party/Civic (1)

Mrs Philomena Sahoye-Shury, CCH, JP, MP (Excused)
Parliamentary Secretary, Ministry of Local Government

From the People's National Congress (1)

Mr E. Lance Carberry, M.P.

Director of Public Prosecutions Chambers

Ms Roxanne George
Assistant DPP (Legal Advisor to the Committee)

Officers (1)

Ms Debra Cadogan
Administrative Assistant

ITEM 1 CALL TO ORDER

1.1 The Convenor called the meeting to order at 1.30 p.m.

2.

ITEM 2 CONFIRMATION OF MINUTES

2.1 Minutes of the 8th Meeting held on Tuesday, 12th October were corrected as follows:

Page 2 2.1.3 (b)

Line 4 - Substitute "needs" for "means"

2.2 Draft Minutes of the 9th Meeting held on Tuesday, 19th October, 1999 were corrected as follows:

Page 2 2.1.3 (c)

Line 2 - Substitute "produced" for "produce"

2.1.3 (d) - Insert commas after "Auditor General's Office" and "manning table"

(iii) Substitute "position" for "positions" and insert inverted commas after "Committee".

2.3 The Minutes of both Meetings were adopted.

ITEM 3 MATTERS ARISING

3.1 The Auditor General

The Work Group noted the presentation on the Auditor-General of India and felt that it can be adopted to the Guyana's situation, as follows:

"The administrative expenses of the office of the Auditor-General, including all salaries, allowances and pensions payable to or in respect of persons serving in that office, shall be charged upon Consolidated Fund."

The Work Group recommended that wherever "Block vote" is used throughout the Report, this should be changed to "Charged from the Consolidated Fund".

The Work Group also recommended to submit to the Special Select Committee the advice from the Auditor General on how the entire question of the so-called "block vote" will be handled.

ITEM 4 BUSINESS

4.1 Consideration of Recommendation 9.17.3 (7) - Provision shall be made for a Constitutional Public Tender Commission

The Work Group considered this Recommendation and agreed that the Public Tender Commission should have

- (a) An appellate and oversight function for all contracts awarded by the Central Tender Board.
- (b) An appellate function for all contracts below the level of those awarded by the Central Board.

4.2 The Work Group is of the view that the Public Tender Commission should be an expert Commission.

4.3 The Work Group identified the following deficiencies of the Central Tender Board:

- (a) Membership of the Central Tender Board is not sufficiently broad-based.
- (b) The tender process is too politicised, in that the Central Tender Board makes its recommendations to the Minister of Finance for approval of contracts up to certain levels and beyond that level for Cabinet's approval.
- (c) Procedures for the Central Tender Board lack transparency because proper Minutes are not kept and no-one can understand the reasons for the awards of contract.
- (d) The present system is one where only the successful tenderer is notified. There is no notification to unsuccessful tenderers and no explanation regarding reasons why they were not granted the contract.
- (e) There is no mechanism in place for appeals.

4.

4.4 The Work Group considered these deficiencies and agreed that:

(a) Membership of the Central Tender Board should comprise the following:

**Secretary to the Treasury - Chairperson;
Representative of Guyana Association of Professional Engineers;
Representative of the Guyana Trade Union Congress;
Representative of the Guyana Consumers Association;
Representative from the University of Guyana, Department of Engineering;
Chief Works Officer;**

Head of the Multilateral Financial Institutions;

- ▶ The Regional Executive Officer of the Region benefitting from the services or supplies to be obtained from the award;**
- ▶ Representative from the Ministry/Department benefitting from the services or supplies to be obtained from the award**

(b) Contracts should be sent to Cabinet for its attention and not approval.

(c) The Minutes of all meetings of the Central Tender Board should capture the full discussions leading to the awards.

(d) Both successful and unsuccessful tenderers should be informed of the results of the bidding process and the basis of the award.

(e) The Appellate Commission should be responsible for monitoring all Tender Board meetings to ensure that the tenders are discharged in accordance with the established systems and procedures.

ADJOURNMENT

The Meeting was adjourned at 2.00 p.m.

**Dr Rupert Roopnaraine, M.P.
CONVENOR**

APPENDIX V

TABLE 1.8 COMMISSIONS

#	Proposed	Status	Remarks
1	Amerindian Land Commission	No	Include concerns in Indigenous Peoples Commission # 12.
2	Audit Office Commission	No	Use Parliamentary Mechanisms of Standing Committee Type
3	Bill of Rights Commission	No	
4	Commission to Prevent Discrimination	No	Matters to be handled in # 11, 33
5	Commission on Public Sector Wages	No	
6	Commission on Past Presidents and Prime Ministers	No	
7	Disciplined Services Commission	Yes	This will not be a commission at Constitution level. It will be of limited duration in accord with the recommendation stated as #7 mentioned after end of this table.
8*	Elections Commission	Yes	Exists. Reformulate as recommended
9	Equal Employment Commission	No	Put as "Equality" under Human Rights #11
10	Equal Opportunity Commission	No	Put as "Equality" under Human Rights #11
11	Human Rights Commission	Yes	Include #9, 10 under this umbrella.
12	Indigenous Peoples Commission	Yes	Include # 1.
13**	Integrity Commission	No	Already exists. Do not elevate to Constitution Status.
14	Interior Development Commission	No	
15	Investigative Commission	No	
16*	Judicial Service Commission	Yes	Exists. Reformulate as Recommended
17	Labour Commission	No	
18	Land Distribution & House Allocation Commission	No	Treat issue by recommendation #18 given at end of this Table.
19	Legislation Commission	No	
20	Livelihood Commission	No	
21	Local Government Service Commission	No	Already dealt with under Local Govt recommendations
22	Media Commission	No	Write strong recommendation to Parliament re need for institution to deal with the onset of the Information Age.
23	National Anti-Corruption Commission	No	
24**	Commission on Women & Gender Equality	Yes	Treat as separate from #27
25	National Commission for Protection of Fundamental Rights	No	
26*	Police Service Commission	Yes	Already exists. Re-look with Presidency re role in choosing Commissions
27**	Commission on the Rights of the Child	Yes	Treat as separate from # 24
28	Public Broadcasting Commission	No	See "Remarks" on #22
29	Public Enquiry Commission	No	
30*	Public Service Commission	Yes	Already exists. Re-look with Presidency re role in choosing commissions.
31	Public Debt Commission	No	
32	Public Tender Commission	Yes	
33	Ethnic Relations Commission	Yes	
34*	Teaching Service Commission	Yes	Already exists. Re-look with Presidency re role in choosing commissions
35	Technical Direction Commission	No	
36	Youth Commission	No	Establish as a Statutory Commission
37	Commission For the Elderly	No	Establish as a Statutory Commission

* Already exists at Constitution Level

** Already exists but not at Constitution Level