

FINAL REPORT

OF THE

POLITICAL REFORM
COMMISSION

JANUARY 2000

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ACKNOWLEDGEMENTS

Throughout the year of its mandate, the work of the Political Reform Commission has been informed and facilitated by the contributions of numerous individuals and organizations.

As members of the Commission, we take this opportunity to publicly express our appreciation and thanks to all individuals and organizations who presented their ideas on political reform or in any way, large or small, contributed to the process that has resulted in this Final Report.

It has truly been a collective national effort.

CONTENTS

	Pages
Letter of Submission	
Acknowledgements	i
 THE FINAL REPORT	
1 Introduction	1
2 Summary of Findings and Recommendations	11
3 The Preamble	39
4 The State and the Constitution	43
5 Fundamental Rights and Freedoms	45
6 Citizenship	55
7 The Governor-General	61
8 The Executive	65
9 The Legislature	75
10 The Judiciary	89
11 The Public Service	97
12 Finance	105
13 Political Parties and the Electoral System	113
14 Local Government	123
15 Gender and Governance	129
16 Political Education and Culture	135
17 Miscellaneous	139
18 Appendix	143

APPENDICES

- I. List of Constitutional Amendments : 1981 –1999**
- II. Prime Minister’s Speech Launching the Commission**
- III. Copy of Booklet Used to Solicit Views**
- IV. List of Public Consultations**
- V. List of Radio Shows**
- VI. Submissions From Organizations**
- VII. Statements of Dissent from Commissioners**
- VIII. Selected Bibliography**

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CHAPTER 1

INTRODUCTION

The Call for Political Reform:

- 1.1 The Constitution of Belize was made law by the passing of the “*Belize Constitution*” Act No. 14 of 1981. It is declared to be “*A Constitution for the Independent State of Belize.*” The Belize Constitution (hereinafter referred to as “the Constitution”), and by extension Belize’s post-independence system of government, are direct products of the Belize Constitution Conference of 1980 - 1981. However, elements of the system and of Belize’s political culture were evolving well before that when Belize was still a colony. Like most other former colonies of the United Kingdom, Belize adapted the British Westminster Parliamentary model of government as the basis of the new nation’s democracy. It is this model of government that Belize has practiced in its first eighteen years of independence and which has been the subject of much national debate in the 1990s’.
- 1.2 Since independence, 25 amendments have been made to the Constitution through the passing of the Belize Constitution (First Amendment) Act, No.14 of 1985 and Belize Constitution (Second Amendment) Act, No. 26 of 1988. These amendments were all made between 1984 to 1989 when the party in office held more than the 2/3 majority in the House of Representatives required for most amendments, and more than the ¾ required for others. (See Appendix I for list of amendments).
- 1.3 Calls for a national constitutional and political review began early in the 1990’s and intensified gradually throughout the decade. Around the time of Belize’s tenth anniversary of independence, assessments of the first decade of independence included some focus on the political system. In 1991, the Belize Bar Association did a limited review of the Constitution and, while stating that the Constitution had worked remarkably well, introduced a number of proposals for reform. At a 1991 Studies on Belize Conference sponsored by the Society for the Promotion of Education and Research (SPEAR), on the theme, “*Independence: Ten Years After*”, the assessment of the performance of the system of governance was much more critical.
- 1.4 The first comprehensive campaign to engage the nation in a sustained debate on the issue of political reform was launched by SPEAR in March of 1994. A prominent civil society organization, SPEAR noted “*that in the second decade of political independence and after three changes of government, Belizeans are ready to examine how the nation’s political system has been serving the people of Belize.*” SPEAR’s persistent campaign served as a catalyst for other civil society organizations, the media and the political parties to contribute to the political reform debate. Political reform was one of the priority issues identified in the *People’s Manifesto...Century 21* developed by the Belize Civil Society

Assembly (now the Belize Civil Society Movement) to inform the 1998 general elections.

- 1.5 Those who made their views publicly known in the early 1990's expressed varied and wide-ranging concerns about the system of government. Generally there seemed to be a growing lack of trust in governments, a belief that political leaders did not really care and a feeling that governance was becoming detached from people's development. The concerns included but were not limited to low levels of people's participation in decision-making, the centralization of power in the Cabinet, official waste and corruption, ignorance of how the system of government works and deterioration in the independence of the judiciary. At the same time, a significant number of others felt that the system was working well and did not need reviewing or fixing.
- 1.6 One key objective of the SPEAR coordinated civil society effort was to lobby government to establish a broad-based national process, inclusive of civil society representatives, to review the concerns and develop recommendations for reform. In November 1995, the then Prime Minister Manuel Esquivel observing that *"there is a growing sense in the Belizean community that there is need for a constitutional review"* announced the intention of his United Democratic Party (UDP) government to establish a bi-partisan committee on political reform. In mid-1996 such a committee was established with three representatives of the majority party, the UDP, and three representatives of the then Opposition Peoples United Party (PUP). The committee met three times during the following year but made little progress.
- 1.7 In June of 1997, the Government reformed this committee and announced the establishment of a Joint Select Committee on Political Reform that was to include three House of Representative members of the majority party, three House members of the Opposition and three Senators. The then Deputy Prime Minister, the Honourable Dean Barrow, served as the chairperson. This Committee, which was later expanded to include civil society representatives, had two meetings but it too was not productive. Demanding a non-partisan chair, the Opposition party had withdrawn from the Committee in October 1997. With the 1998 elections so near, partisan politics effectively prevented any prospects for progress.
- 1.8 As the 1998 general election drew nearer, it was clear that political reform had gained much importance as a major national issue that both major political parties would address in their campaigns. As far back as 1994 the Opposition PUP had commenced an internal process of studying the political system and developing proposals for reform and in November 1997, the party presented its proposals for political reform. The election year manifestos of both major political parties included proposals and promises on political reform.
- 1.9 In early December 1999 and three months after its victory at the polls of August 1998, the new PUP government announced that it was establishing a broad-based

Political Reform Commission (hereafter referred to as “the Commission”) to review Belize’s system of governance and develop proposals for reform. On January 13, 1999 Prime Minister, the Honorable Said Musa officially launched the Commission in Belize City.

Mandate from the Prime Minister

1.10 The terms of reference received by the Political Reform Commission in the mandate from the Prime Minister were broad in scope. The Commission was mandated to:

- review the system of governance and to make recommendations for its improvement, whether by amendments to the Constitution or laws or otherwise, with a view to achieving greater democracy,
- conduct its work in a manner that allows for the greatest possible public participation,
- take account of all the ideas and proposals made over the past few years by different organizations,
- devise a cost-effective national campaign for soliciting the views of others,
- use the services of public officers to provide the logistical and other support,
- make periodic reports to the Prime Minister in writing,
- regulate its own proceedings and,
- complete its work within one year.

Prime Minister’s Statements at the Launching of the Commission:

1.11 In launching the Commission on January 13, 1999 the Prime Minister urged the Commission to “*carry out fair and fearless consultations and deliberations and to make timely and worthy recommendations that will enhance democracy and give all our people a greater stake in their nation.*” He asked that the Commission ranges as widely as it wished and “*regard no institution, no law, no policy or practice as sacred.*” He specifically suggested that the Commission discuss the “*monarchical system, the question of separation of powers, the ministerial system, campaign financing reform, electoral reform, questions of nationality and citizenship and the rights of citizens, decentralization, the judicial system, and political education in the school system.*” He also asked that the Commission “*be sensitive to gender perspectives as well as to the fact that Belize is a multi-cultural nation with a policy of celebrating and respecting our cultural diversity.*” Finally, he assured the Commission that his Cabinet “*will consider very seriously*” the Commission’s recommendations and where necessary, “*take them to the National Assembly for deliberation and decision.*” (See Appendix II for the full text of the Prime Minister’s statement).

Members of the Commission:

1.12 Membership of the Commission included fourteen persons representing the political parties, the business sector, the Church, the labor movement, women organizations, the public service, the media, the legal profession, and several civil society organizations. The two major political parties had two representatives each and ten organizations had one representative each. All Commissioners were

appointed as representatives of their organizations. The members of the Commission, listed alphabetically, were:

Senator Dickie Bradley, *People's United Party (PUP)*.

Ernest Castro, *National Garifuna Council (NGC)*;

(Replaced Phillip Zuniga in March 1999)

Rev. Moises Chan, *Belize Council of Churches (BCC)*;

Senator Eamon Courtenay, *People's United Party (PUP)*;

Godwin Hulse, *Belize Chamber of Commerce and Industry (BCCI)*;

Melvin Hulse Jr., *United Democratic Party (UDP)*;

Fred Hunter Sr., *Belize Business Bureau (BBB)*;

(Replaced Arturo Matus in April 1999)

Eduardo Melendez, *National Trade Union Congress of Belize (NTUCB)*;

Douglas Singh, *United Democratic Party (UDP)*;

Carolyn Trench-Sandiford, *Association of Senior Public Managers (ASPM)*;

Dylan Vernon, *Association of National Development Agencies (ANDA)*;

Carolyn Williams, *Women's Issues Network (WIN)*;

Silvana Woods, *Media Association*;

Lois Young-Barrow, *Belize Bar Association (BBA)*;

(Replaced Simeon Sampson in April 1999)

Chairperson of the Commission:

- 1.13 The three civil society organizations representing the Civil Society Steering Committee (ANDA, WIN and NGC) were given the right to name the chairperson of the Commission. Dylan Vernon, representing ANDA, was nominated and formally appointed as executive chairperson by Prime Minister Musa in December 1998. In addition to chairing the Commission's meetings, the chairperson also coordinated the various activities of the Commission and prepared the Final Report.

Changes in the Commission:

- 1.14 During the course of the year, three organizations replaced their original representatives. In March, Ernest Castro replaced Phillip Zuniga for the NGC. In April, Lois Young-Barrow replaced Simeon Sampson for the BBA, and Fred Hunter Sr. replaced Arturo Matus for the BBB.

Suspension of Participation of the UDP:

- 1.15 The UDP suspended the participation of its representatives, Douglas Singh and Melvin Hulse Jr., between February 22 and June 30 as a protest against developments in the Supreme Court related to the tenure of the last Chief Justice of the Supreme Court of Belize.

Commissioner Melvin Hulse Jr.

- 1.16 After the UDP lifted its suspension on June 30, Commissioner Melvin Hulse Jr. did not thereafter participate in Commission meetings due to developments of a personal nature. Because of he did not participate in most of the Commission's

deliberations and decision-making, Commissioner Melvin Hulse Jr. did not to sign the letter submitting this Final Report to the Prime Minister.

The Methodology Used:

Secretariat Established:

- 1.17 In the first week of February, a Secretariat for the Commission was established. Office space was provided by the Belize Water and Sewerage Authority (WASA) in its headquarters in Belize City. An Administrative Officer, Nellie Catzim, was hired to staff the Secretariat and to provide general support to the work of the Commission. Furniture for the Commission was provided by WASA. Other office equipment was provided to the Commission by the Government of Belize. The Government also provided a budget for the implementation of the Commission's activities. The Secretariat was accessible to the public through visits, letters, telephone calls, faxes and e-mails.

Commission Working Sessions and Process:

- 1.18 The Commission aimed to have one-day working sessions every first and third Thursday of each month at the WASA Conference room in Belize City. Twenty-six (26) such meetings were held between January and December. Additionally, the Commission held two weekend retreats to ensure timely completion of its mandate. Participation at the working sessions and retreats was high and the debate spirited. Commissioners also shared the work of preparing draft papers and recommendations on selected topics for consideration in the Final Report.
- 1.19 Early in the year, several Commissioners and some in the general public expressed concern over what they perceived as an extremely short time period to effectively carried out such a major task that has far reaching national implications. The Commission noted that a significant amount of work had already been done by several organizations on the issue of political reform, including nation-wide public consultations and that it was not starting from scratch. Additionally, the Commission felt that a longer process could dampen interest in the issue and perpetuate public cynicism about governments' inaction on issues of public concern. Eventually, the Commission agreed to organize itself to complete the mandate in the time requested.
- 1.19 Early in the process, the Commission decided that its mandate did not include making public comments or giving views on existing political reform related initiatives of the Government as they happened. However, the Commission agreed its mandate did allow reviewing and making recommendations on any new political reform legislation, such as the Referendum Act, in the regular course of its work.
- 1.20 In February, the Commission also made a request that, during the life of the Commission, the Government put a moratorium on additional political reform measures outside of the various Bills and initiatives already in the pipeline. In doing so, the Commission sought to avoid any public confusion between the

mandated work of the Commission and political reforms that the government may implement outside of this process. The Government did agree to this request. While there were a few instances where Government did find it necessary to advance political reform initiatives, the Commission communicated its concern and proceeded with the completion of its mandate.

The Three Phases of Work:

- 1.21 At its first meeting on January 13, 1999 the Commission developed a three-phase plan of action to do its work and to produce a comprehensive report with recommendations by the end of 1999. There was, of course, a degree of overlap between the phases.

Phase I: (January – April)

- 1.22 In **Phase I**, the Commission focused on its mandate “*to take into account all the ideas and proposals made over the past few years by different organizations.*” The Commission found that indeed a significant body of material on political reform had been produced by civil society organizations and individuals in Belize. (See some of these in the selected bibliography at Appendix VIII). After reviewing these and after each Commissioner had shared preliminary reactions and ideas, a paper was prepared that outlined the various areas of concerns and possible recommendations for addressing them. The Commission used this paper to help inform its first detailed review of the Constitution and its subsequent deliberations.
- 1.23 In Phase I and throughout the process of developing recommendations, the Commission also carefully reviewed relevant constitutional and political reform documents from nations outside Belize and particularly in the English-speaking Caribbean. Of special mention here are materials on the monarchical debate in Australia, and the reports of the recent constitutional reform processes of Jamaica and Barbados. (See Appendix VIII for selected bibliography).
- 1.24 The Commissioners used the Constitution as a point of departure for approaching the mandate. A detailed review of the Constitution was started in Phase I with a view to familiarize Commissioners with all its contents and to further identify specific areas and questions for reform. This review process carried over into part of Phase II.

Public Information:

- 1.25 It was clear very early in the work of the Commission that lack of public awareness about the Constitution and the political system could limit the effectiveness of the reform process. There was early consensus that political education would be a strong recommendation of the Commission. While public education was not part of the mandate of the Commission, the Commission decided that it could at least contribute to making more information available to the public. In February 1999, the Commission requested that the Government

provide 10,000 copies of the Belize Constitution and 2,000 copies of the booklet *"How We are Governed"* for free nation-wide distribution. The Government quickly agreed to this request and copies were distributed nation-wide through a joint effort of the Commission and the Press Office of the Government. Once these documents were made easily available, public demand was high and the copies went quickly. Consequently, additional copies were requested and distributed to meet public demand.

Phase II: (May – July):

- 1.26 **Phase II** focused on the Commission's mandate to *"conduct its work in a manner that allows for greatest possible public participation."* While the Commission sought and received public input between January and September through mail-ins, faxes, e-mails, visits to the secretariat, and phone calls, it planned a period of intense public consultations to stimulate higher levels of national participation in the process.

Materials Production and Dissemination:

- 1.27 So as to stimulate public debate and input into the reform process, the Commission produced a four-page pamphlet that (a) shared information about the Commission's mandate, (b) outlined the known concerns that had been expressed by various segments in the society, (c) asked twenty selected reform questions, and (d) urged input. Twenty-thousand (20,000) copies of the pamphlet were produced in English and 3,000 in Spanish. They were widely distributed across the nation, and were used by many to organize their responses. (See Appendix III for a copy of the pamphlet).

Nation-wide Public Consultations:

- 1.28 Belizeans nation-wide and in every district had an opportunity to give their views on political reform. In the month of June, the Commission held ten public consultations in urban centers in each district. (See Appendix IV for list of public consultations). Commission members shared the task of hosting the consultations and getting public input. Apart from Belize City and San Pedro, the meetings were generally well attended with an average of 30 people per session. Most participants made concrete recommendations to Commissioners. Public activities of the Commission were well advertised nationally and locally in newspapers, on radio and on television. Some public notices were also done in Spanish.

Call-in Radio Shows:

- 1.29 Between April and July, Belizeans across the nation had the opportunity of participating in one of the Commission's two weekly call-in radio shows on national radio. A total of 24 one-hour shows were produced. Called *"Rock Di System,"* the call-in show was on Love FM on Thursdays from 8:00-9:00 p.m., and on KREM on Sundays from 11:30 am – 12:30 p.m. (See Appendix V for list of radio shows and themes). Commission members shared the responsibility for hosting the shows and the recorded input was transcribed by the Secretariat. Many

Belizeans took advantage of the opportunity and called in their concerns, questions and recommendations.

Other Public Input:

- 1.30 In February, June and August, the Commission wrote a total of over 200 letters to organizations and individuals requesting input on political reform. Most responses came late in the process and just before the deadline for public input. Submissions made after the deadline were reviewed if they arrived before the Commission had developed a final recommendation on the issue addressed. Apart from the public input coming from the radio shows and consultations, the Commission received considerable input from the following sources:

- Written papers from organizations and individuals via the mail and e-mail. (See Appendix VI for list of organizations that made submissions);
- Telephone calls to the Secretariat;
- Oral Presentations to Commission members and the Secretariat;
- Radio and Television talk shows to which the Commission was invited;
- Presentations by Commission Members to Interest-Groups.

Individual submissions from all sources totaled over 475.

September 30 Deadline for Submissions:

- 1.31 In light of the one-year time limit, the Commission found it necessary to set a deadline to allow it time to review all input and complete its mandate. September 30, 1999 was set as the deadline and publicized extensively using the national media, letters and e-mails. The setting of the date resulted in an increase in input. Several submissions were made after the deadline and the Commission did review these if they came before the Commission had made a final decision on the issue in question.
- 1.32 At points throughout the consultation process, the Commission was concerned that certain sectors of the population were not responding enough to the requests for input. However, the Commission notes that written input and visits to the Commission increased as the September 30 deadline drew near. Time and resources prevented the Commission from doing more public activities to get views of people living in rural areas. The radio show did reach some Belizeans in rural areas. And while the Commission did receive a small number of submissions from Belizeans living abroad, it was unable to do consultations targeted at this population. Generally, however, the Commission is satisfied that the input it did received was varied and impressive and certainly enough to inform the work of the Commission.

Phase III: (August -- December):

- 1.33 In **Phase III**, the Commission focused its attention on reviewing all the input and views given by the public and used these to debate and develop a final

comprehensive report with concrete recommendations for improving the system of government. All recommendations and concerns from all sources were compiled in a document entitled, “*Compilation of Recommendations and Concerns*” which the Commissioners used to organize the decision-making process.

The Final Report:

Report Content:

- 1.34 The Commission prepared and submitted two progress reports to the Prime Minister in April and August of 1998. In this Final Report (hereafter referred to as “the Report” or “this Report”) the Commission presents its findings and recommendations. After the introduction in Chapter 1 of this Report and a summary of findings and recommendations in Chapter 2, the Report moves to the detailed presentation of findings and recommendations. The Commission chose to organize the various issues, concerns, questions and recommendations by using the ten broad headings that exist in the current Constitution plus five additional areas. These five other areas cover the issues and aspects of the government system that are not directly addressed in the Constitution. The fifteen political reform areas used are:

Present Areas in the Constitution:

- ***The Preamble***
- ***The State and the Constitution***
- ***Protection of Fundamental Rights and Freedoms***
- ***Citizenship***
- ***The Governor-General***
- ***The Executive***
- ***The Legislature***
- ***The Judiciary***
- ***The Public Service***
- ***Finance***

Other Political Reform Areas:

- ***Political Parties and the Electoral System***
- ***Local Government***
- ***Gender and Governance***
- ***Political Education and Political Culture***
- ***Miscellaneous***

Report Format:

- 1.35 For each political reform area, the Commission presents its findings and recommendations using the following format:
- Summary of background, concerns and arguments for/against various recommendations on the particular issue or proposal;

- Analysis of the issues by the Commission;
- Statement of the Recommendation(s) of the Commission;
- Reference to written statements of dissention by specific Commissioners.

1.36 Throughout the process of making decisions on recommendations to be made to the Government, the Commission aimed for unanimous support for all recommendations. While most of the Commission's recommendations have the unanimous support of all members of the Commission, we have also included those that have the agreement of the majority of Commissioners and allowed dissenting views to be included in writing as part of the report. The dissenting views were limited to five hundred words each and those submitted are attached as Appendix VII of this Report.

Scope of the Report:

1.37 While the Commission cannot claim that it has examined every issue related to the nation's political system and practice, it is satisfied that the findings and recommendations of this Report are generally reflective of the concerns and proposals of the majority of the Belizean society at this point in time. Indeed, political reform is not a product but a continuous process of adapting and enhancing a system to suit the realities of the times and this Report does not pretend to be the last word on political reform for Belize. It should be emphasized however, that not only were the Commissioners themselves representative of a wide cross section of this society, but hundreds of citizens took the opportunity to participate in the process.

1.38 The Commissioners ask that these factors be cause for timely and bold action by Government on the recommendations of this report. Also, the Commissioners urge that, at the earliest possible time, copies of the Final Report be made easily available to the Belizean public for their continued participation in the reform process.

CHAPTER 2

SUMMARY OF FINDINGS AND RECOMMENDATIONS

Summary of Key Concerns about the System of Governance:

2.1 In reviewing and debating the various concerns that Belizeans have expressed about the Belize system of government, the Commission noted that these and the related calls for political reform are not unique to Belize. Large and small nations across the globe have been experiencing a lack of trust in governments, a belief that politicians do not care and a feeling that governance has become detached from people's development. These too seem to be the general feelings of most Belizeans. Their key concerns about the system and practice of government which have been identified by the Commission are listed below. These are presented in no order of priority and are further elaborated in the relevant sections of this Report.

- *Official corruption and lack of accountability of elected and public officials;*
- *Doubts about the independence and effectiveness of the Courts of justice;*
- *Excessive partisan control and division;*
- *Lack of people's participation in the system;*
- *Lack of women in positions of political leadership;;*
- *The system does not work effectively for the poor;*
- *Excessive centralization of powers in the Prime Minister and the Cabinet;*
- *Ineffective separation of powers between the Executive and Legislature and the Judiciary;*
- *The House and Senate are only rubberstamps;*
- *Having a Foreign Monarch as Belize's Head of State;*
- *Lack of regulation of political parties and campaign financing;*
- *A political culture characterized by fear, victimization, passivity, and dependence;*
- *Lack of education about our Constitution and system of governance.*

Models of Government:

- 2.2 During its consultations, the Commission received significant input on what model of government would provide the people of Belize with more effective, participatory and accountable government. It became clear early in the process that the Commission would need to give much thought to the question of whether or not to recommend a model of government other than the existing parliamentary model that Belize has practiced since independence. At the same time, the Commission was aware that a strict model approach brought with it the danger of limiting the creativity of conceptualizing a system for Belize that included aspects of various models.
- 2.3 After reviewing all public input, the Commission observed that most people were focusing the model debate to the merits and demerits of two major systems of government: (1) the existing Parliamentary Executive model, and (2) the Executive Presidential model.
- 2.4 In preparing for the debate on models or mix of models to recommend to government, the Commission engaged in an insightful discussion on key philosophical concepts related to democracy, governance, power, republics and models of representative government. Various articles and texts were used to inform the discussion.

The Parliamentary Executive Model:

- 2.5 The model that Belize has been working since 1981 is a variant of the British Westminster Parliamentary model that is unwritten and has parliament as supreme. The Belize parliamentary model, which operates under a written and supreme Constitution, has the following key characteristics:
- There is a parliamentary executive in that members of the Cabinet come from the National Assembly;
 - The National Assembly, constitutionally charged with making legislation and policy, is made up of an elected House of Representatives with 29 seats and an appointed Senate with 8 seats;
 - The Prime Minister is the member of the House of Representatives who commands the support of the majority of members of the House and is appointed by the Governor-General;
 - In practice, the model provides an Executive that can exercise strong government in that it is easy to translate the political will of the Executive into legislation by having built in majorities in both the House of Representatives and the Senate and in practically every government board or council;
 - The Constitution provides for an independent Judiciary under which the people of Belize ultimately enjoy the protection of the law;
 - The electoral system is a "first past the post" system which has separate elections in each of 29 constituencies. The overall popular vote is irrelevant to the outcome;

- The model assumes a two-party system;
- Opposition parties have no real power outside of making some official appointments and preventing constitutional amendments if the majority party does not have the required 2/3 or ¾ of the seats in the House;
- The Governor-General represents the Queen of England who is Belize's monarchical Head of State.

These characteristics will be further described and examined in the relevant chapters of this report.

Key Concerns About the Belizean Parliamentary Model:

2.6 In reviewing the public input specifically on the failures of the present Parliamentary model as practiced in Belize, the Commission noted the following specific concerns:

- There is no effective separation of the Executive and Legislative branches of government. Since independence, ministers and ministers of state have always been the majority in the House of Representatives;
- The oversight function of the Legislature over the Executive has not been working;
- The House and even more so the Senate serve largely as rubber stamps for Cabinet decisions;
- It is perceived that the Executive has been exercising some control over the Judiciary and so eroding its independence;
- The system is in essence a dictatorship of the Cabinet with little scope for others to participate in decision-making;
- The system encourages political tribalism as parties compete viciously for the power of the Cabinet;
- The electorate has little direct say over who becomes the nation's executive leader;
- The system has not effectively prevented the increase of official waste and corruption;
- Although Belize is a democratic state, it still retains a monarchical Head of State.

Defining Republic:

2.7 Discussing the characteristics and usefulness of the key alternative model, the Commission was careful to agree on the language of defining this model. The Commission noted that the term "*republic*" had varied usage in describing systems of government. It noted that while both the United States of America and Trinidad and Tobago define themselves as republics they have very different models of governance. Trinidad and Tobago, while still using a parliamentary executive model, defines itself as a republic because it no longer has the British monarch as its Head of State. To avoid confusion in use of the term, "*republic*" the Commission chose to use the term "*executive presidential*" to describe the

second major model it examined and focused on the United States experience of this model.

The Executive Presidential Model:

2.8 The key characteristics of this model are:

- It has a president who is elected by the popular vote and who is the Head of State and head of the executive;
- The Cabinet is appointed from the society at large and not from the elected legislative bodies;
- There is provision for an elected unicameral or bicameral legislature which has significant oversight over the Executive branch;
- There is provision for an independent Judiciary with judges who serve for life;
- Separation of powers and checks and balances are key fundamental principles.

Arguments for Moving to an Executive Presidential Model:

2.9 The key arguments of those who advocated consideration of an Executive/Presidential system of government for Belize included the following:

- It would make the House more effective in representing interests of people since the House would not be a mere rubber stamp of Executive decisions;
- It would weaken the power of the Executive and give the House more power and more oversight over the Executive;
- It would relieve members of the House of executive responsibility and so re-focus their function on quality representation and more independent policy and law development;
- There would be no guarantee of a legislative majority of the majority party since the elected representatives do not have to vote with their party;
- It would enable the popularly elected President to select ministers from outside the House and give the President more control over ministers;
- It would increase people's input in choosing both an executive leader and an area representative.

Arguments for Keeping the Parliamentary Executive Model:

2.10 There were also very strong arguments from the public and from some Commissioners for keeping the main elements of the present system of government:

- It allows for strong government and quick decision-making;
- There is no possibility for national paralysis caused by partisan quarrels and spitefulness due to different parties controlling the executive and the legislature;
- The Belizean people are used to it and it fits our political culture;
- While there are problems, we have not yet worked the system enough and taken advantage of all it provides;

- Many Belizeans do not understand the present system enough and a more comprehensive education campaign is needed before considering another system;
- The executive presidential model would not get the bipartisan and national support needed for adapting this new system;
- The present system can be revised and fine-tuned to address some key concerns that many Belizeans have about their system of government.

Commission's Position on System of Government:

- 2.11 ***"Let's rock the boat but not overturn it."*** This summation by a citizen in Corozal accurately captures the views of the majority of those who shared their views during the national consultations. The majority of the Commission also shares this view. **While the Commission finds some merit in elements of the executive presidential system, it is not convinced that a complete move to this system is the best political reform route take at this time in Belize's development.**
- 2.12 **At the same time, the Commission is strongly convinced that Belize's parliamentary system does have some problems and limitations that require urgent attention. It is the view of the Commission that these inadequacies can be best addressed without a complete dumping of the parliamentary model. What is needed is a strategic mix of bold political reforms and creative use of a limited number of elements of other democratic systems that can enhance the performance of Belize's parliamentary model.**
- 2.13 Recommendations 1 and 2 below in the Summary of Recommendations deal directly with the Commission's views on the system of government and the scope of political reform for Belize respectively. The other specific recommendations made by the Commission are also listed below in the Summary of Recommendations in the order that they appear in the various chapters of this Report. Recommendations that have the unanimous support of the Commission have the words *"The Commission recommends..."* Those that have the support of the majority of the Commission have the words *"The majority of the Commission recommends..."*
- 2.14 The recommendations are listed here only for ease of reference and the Commission urges that these recommendations be considered only with the benefit of the context of arguments in which they are made in the relevant chapters of this Report. Also, the Constitution of Belize is a minimum required reference for serious review of this Report.

SUMMARY OF RECOMMENDATIONS

System of Government

Recommendation 1:

The Commission recommends that the system of national government in Belize continue to be based on the parliamentary executive model.

Scope of Political Reform

Recommendation 2:

The Commission recommends that the present political reform effort should focus attention on how to address the inadequacies of the current system and so improve the practice of Belizean democracy. In particular, the Commission urges that the following areas be urgently addressed by the Government and people of Belize:

- (a) Decreasing official waste and corruption;*
- (b) Enhancing opportunities for people's participation in the legislative process;*
- (c) Enhancing opportunities for women in political leadership;*
- (d) Enacting campaign finance regulations;*
- (e) Reviewing the role of the Senate in the legislative process;*
- (f) Restoring faith in the independence of the Judiciary as the ultimate protector of constitutionally guaranteed rights and freedoms;*
- (g) Enhancing the effectiveness and impartiality of the public service in the delivery of services to the Belizean public;*
- (h) Ensuring greater oversight of the Legislature over the Executive branch of government;*
- (i) Ensuring that elected officials and public officers who violate procedures and laws are held accountable;*
- (j) Decreasing the divisiveness of partisan politics in the society;*
- (k) Ensuring that Belizeans become more educated about their rights and about their political system;*
- (l) Assessing if Belizeans want to retain a non-Belizean and monarchical Head of State.*

The Preamble of the Constitution:

Recommendation 3: Format of the Preamble

The Commission recommends that the general format and content of the Preamble of the Constitution remain as is presently.

Recommendation 4: Supremacy of God

The majority of the Commission recommends that the term “supremacy of God” in the Preamble of the Constitution remain unchanged.

Recommendation 5: Ethnicity

The majority of the Commission recommends that the term “ethnicity” be added after the term “race” in Part (e) of the Preamble such that it reads:

(e) “requires policies of state which protect and safeguard the unity, freedom, sovereignty, and territorial integrity of Belize; which eliminate economic and social privilege and disparity among the citizens of Belize whether by race, ethnicity, colour, creed or sex.....”

Recommendation 6: Special References

The majority of the Commission does not recommend that the Preamble or other part of the Constitution be amended to specially acknowledge the presence of any particular ethnic or indigenous group of Belize.

The State and the Constitution:***Recommendation 7: Defining Belize***

The majority of the Commission recommends that section 1(1) of the Constitution which states, “Belize shall be a sovereign democratic State of Central America in the Caribbean region,” remain unchanged.

Recommendation 8: Land and Sea Areas

The Commission is satisfied that section 1(2) and Schedule I of the Constitution accurately describe the land and sea boundaries of Belize and recommends no amendments.

Recommendation 9: Supreme Law Clause

The Commission recommends that section 2 of the Constitution be amended to provide that the Supreme Court of Belize is the original forum for the resolution of all constitutional disputes.

Fundamental Rights and Freedoms:***Recommendation 10: Bill of Rights***

The Commission is satisfied that Chapter II of the Constitution on Fundamental Rights and Freedoms adequately provide the basis for the provision and protection of basic rights for persons in Belize and does not recommend the introduction of a Bill of Rights for Belize.

Recommendation 11: Disability

The Commission recommends that section 3 of the Constitution be amended to include entitlement to fundamental rights and freedoms whatever an individual's disability. In relation to this amendment, the Commission further recommends that supporting ordinary legislation be promptly enacted on the rights of the disabled.

Recommendation 12: Sexual Orientation

The majority of the Commission recommends that section 3 of the Constitution be amended to include entitlement to fundamental rights and freedoms whatever an individual's sexual orientation.

Recommendation 13: Language

The Commission is satisfied that section 3 of the Constitution entitles persons in Belize who speak any language to the fundamental rights and freedoms and does not recommend an amendment in this regard.

However, the Commission does urge Government to involve the nation in a debate on the issue of language with the objective of developing a national policy on language for Belize.

Recommendation 14: Other Entitlements

The Commission is satisfied that existing provisions in section 3 of the Constitution adequately entitles persons in Belize to the fundamental rights and freedoms regardless of nationality, cultural beliefs and practices, birth or family status, and political or other opinion, and does not recommend amendments related to these areas.

Recommendation 15: Basic Education

The Commission recommends that an amendment be made to Chapter II of the Constitution to expand the protected rights enjoyed by persons in Belize to include Protection of the Right Not to be Denied Basic Education.

In relation to this recommendation, the Commission further recommends:

- (a) that the Government of Belize draft a Bill for the constitutional amendment that sets out the extent and limitations to which this right is to be enjoyed;*
- (b) that the Bill go through extensive public discussion before enactment.*

Recommendation 16: Basic Health Care

The Commission recommends that an amendment be made to Chapter II of the Constitution to expand the protected rights enjoyed by persons in Belize to include Protection of the Right Not to be Denied Basic Health Care.

In relation to this recommendation, the Commission further recommends:

- (a) that the Government of Belize draft a Bill for the constitutional amendment that sets out the extent and limitations to which this right is to be enjoyed;*
- (b) that the Bill goes through extensive public discussion before enactment.*

Recommendation 17: Right to Vote:

The Commission recommends that an amendment be made to Chapter II of the Constitution to expand the protected rights to include Protection of the Right to Vote.

Recommendation 18: Land

The Commission is satisfied that the Constitution adequately protects the right to own land and other property in Belize and does not recommend constitutional amendments related to the protection of the right to land for persons in Belize.

However, the Commission recommends that the land laws and the administration of land distribution and management be reformed so as to (a) ensure transparency and fair opportunity of access and use; (b) de-politicize the decision-making process, and (c) address concerns related to lack of timely compensation for the public acquisition of private land.

Recommendation 19: Freedom of the Press

The majority of the Commission is satisfied that existing constitutional provisions adequately protect the rights and freedoms of persons working in the media and does not recommend that freedom of the press be specifically enshrined in the Constitution.

However, the Commission recommends that Government, in consultation with the media in Belize, develop a Freedom of the Press Bill that sets out the extent and limitations of the rights and freedoms exercised by those in the media in Belize.

Recommendation 20: Detained and Arrested Persons

To further protect the rights of detained and arrested persons, the Commission recommends the following:

- (a) amend section 5(2)a of the Constitution to decrease the time period in which detained persons must be informed of the reason for their detention from 48 hours to 24 hours;*
- (b) amend section 5(2)b to now read:
“to communicate with and be visited by a legal practitioner, medical practitioner, and religious counselor of choice; and spouse, family member or guardian without delay;”*
- (c) amend section 5(3) to decrease the time period in which arrested or detained persons must be brought before a court of law from 72 hours to 48 hours;*
- (d) expand the crimes, other than capital murder, under which arrested persons must be provided with free legal assistance;*
- (e) provide more human and financial resources to strengthen the legal aid office to allow for greater access and more effective performance;*
- (f) amend section 6 to add a section 6(3)g to ensure that persons who are tried for offences that carry sentences of more than five years imprisonment have the right to trial by a jury;*
- (g) ensure that section 6(10)a is not abused in the drafting of legislation to shift the burden of proof from the prosecution to the accused;*

- (h) *amend section 19 (1) to ensure that all persons detained under a state of emergency are informed orally and in writing of the charge(s) against them in a language they understand.*

Recommendation 21: Enforcement Provisions

The Commission recommends that section 20 of the Constitution be amended such that:

- (a) *a clause is added to an appropriate part of section 20 to clearly state that constitutional cases related to alleged contravention of the fundamental rights and freedoms of Chapter II be treated as first priority by the Supreme Court of Belize.*
- (b) *the provisos (last paragraphs) in sections 20(2)b and 20(4) be deleted from the Constitution.*

Recommendation 22: Duties and Responsibilities

The Commission does not recommend the inclusion of a section or chapter in the Constitution on duties and responsibilities of citizens.

Citizenship:

Recommendation 23: Citizenship Before Independence Day

The Commission recommends that section 23(5) remain as presently stated in the Constitution.

Recommendation 24: Economic Citizenship

The Commission recommends that:

- (a) *Section 26(1)c of Chapter III of the Constitution be deleted completely to disallow the granting of citizenship to persons “making a substantial contribution to the economy and/or well-being of Belize or who has rendered distinguished service to Belize.”*
- (b) *Any law or policy related to economic citizenship be rescinded or amended to reflect (a),*
- (c) *That a visa process be used to facilitate the movement and work of genuine investors.*

Recommendation 25: Deprivation of Citizenship

The Commission recommends that section 28(b) of the Constitution be amended to read:

“depriving any person who acquired citizenship by registration of such citizenship of Belize.”

Recommendation 26: Persons Born on Belizean Registered Vessels

The Commission recommends that a proviso be added to section 29(1) of the Constitution to read as follows:

“Notwithstanding the provision of section 29(1) of this Chapter and subject to Section 25, a person born aboard a ship or aircraft with Belizean registration will not be deemed to have been born in Belize.”

Recommendation 27: Entitlement for Persons Born Outside Belize

The Commission recommends that the word “not” in line #3 of section 29 (4) of the Constitution be removed.

Recommendation 28: Language and Civic Knowledge as Requirements

The majority of the Commission recommends that:

- (a) The Belizean Nationality Act be amended to make a basic knowledge of the official language(s) of Belize a requirement for the grant of Belizean citizenship by registration to persons who are at the age of understanding;*
- (b) The Belizean Nationality Act be so amended to make a basic level of civic knowledge about Belize a requirement for the grant of Belizean citizenship by registration to persons who are at the age of understanding;*
- (c) A combined simple test be developed to fulfill the requirements of (a) and (b) above;*
- (d) All names of persons obtaining citizenship by registration be published in the Government Gazette on a timely basis.*

Recommendation 29: Mandatory Military Service

The majority of the Commission does not recommend that citizens of Belize of a certain age be constitutionally required to give a period of mandatory service in the Belize Defense Force.

Recommendation 30: Dual Citizenship and Election to the House:

The majority of the Commission does not recommend a constitutional amendment that would require persons with dual citizenship to renounce citizenship to other countries before seeking election to the House of Representatives.

The Governor-General:

The Commission was unable to arrive at a majority recommendation on the issue of replacing the British monarch as the Head of State of Belize with a Belizean citizen. The Commission directs readers to Chapter 7 of this Final Report for a full summary of the Commission’s deliberations on this issue.

The Executive:

Recommendation 31: Method of Appointment of Ministers

The majority of the Commission recommends that the present method of appointment of Ministers from the National Assembly to the Cabinet be continued.

Recommendation 32: Size of Cabinet

The Commission recommends that Section 40 of the Constitution be amended to limit the number of members of the National Assembly who can be appointed to the Cabinet to be:

- (a) no more than 40% of the total number of members of the National Assembly, and shall be*
- (b) less than 50% of the members of each House.*

Recommendation 33: Qualifications of Ministers

The majority of the Commission does not recommend a constitutional amendment to further specify basic or specialized qualifications for Cabinet appointees.

Recommendation 34: Ministers of State

The majority of the Commission recommends that provision for Ministers of State remain in the Constitution.

The Commission further recommends that a Constitutional amendment be made at Section 45 to clearly state that Ministers of State are not members of the Cabinet and have no vote in Cabinet, but can be invited to make presentations to Cabinet and participate in Cabinet discussions.

Recommendation 35: Appointment of the Prime Minister

The Commission recommends that section 37(2) be amended to now read:

“Whenever the Governor-General has occasion to appoint a Prime Minister, the Governor-General shall appoint the member of the House of Representatives who appears to the Governor-General most likely to command the support of a majority of the members of the House.”

Recommendation 36: Process for Selecting Prime Minister

The majority of the Commission does not recommend that the present process for choosing the Prime Minister of Belize be changed to a direct popular election model.

Recommendation 37: Term Limits for the Prime Minister

The majority of Commissioners recommends that term limits for the office of the Prime Minister of Belize be not adopted at this time.

Recommendation 38: Provision for Resignation

The Commission recommends that:

- (a) section 37(5) of the Constitution be amended to add a new section 37(5)d to provide for the Office of the Prime Minister to become vacant through resignation, and*
- (b) relevant sections of the Constitution on the vacation of office of Representatives, Senators, and Ministers be amended to provide for resignation.*

Recommendation 39: Statutory Instruments

The Commission recommends that the use of the Statutory Instrument mechanism be further regulated by:

- (a) curtailing the enabling power of Ministers to legislate by reducing legislation that gives this power;*
- (b) making it mandatory for all statutory instruments to go to the House of Representatives for ratification at the next sitting of the House.*

Recommendation 40: Leader of the Opposition

The Commission recommends that the Standing Orders of the House of Representatives be amended to establish the Office of the Leader of the Opposition and that the holder of this office be provided with transportation and operational expenses to facilitate the exercise of the duties of this office.

Recommendation 41: Belize Advisory Council

The Commission recommends that Section 54 of the Constitution be amended to:

- (a) fix the number of members of the Belize Advisory Council to six members plus a chairperson;*
- (b) have the Head of State appoint two members on the advice of the Prime Minister, two members on the advice of the Leader of the Opposition, and two members in his/her own deliberate and independent judgement;*
- (c) have the Head of State appoint the chairperson with the concurrence of both the Prime Minister and the Leader of the Opposition;*
- (d) have the term of office for all members be a minimum of ten (10) years.*

The Commission further recommends that:

- (e) a permanent and staffed secretariat of the Belize Advisory Council be established within the Executive with the functions of providing support to the work of the Council and a permanent point for communication with the Council,*
- (f) educational material about the make-up and role of the Council be developed and made easily available to the public.*

The Legislature:

Recommendation 42: Unicameral Assembly

The Commission recommends that the Chapter VI of the Constitution be amended to replace Belize's bicameral model of legislative assembly with a unicameral model in which:

- (a) The House of Representatives and the Senate sit in joint sessions in a National Assembly;*
- (b) Members of the House of Representatives and the Senate jointly elect the Speaker by simple majority;*
- (c) Members of the House of Representatives and the Senate have voice and can participate in all debates;*
- (d) Senators have voting rights only on special areas as specified in Recommendation 44 of this Report;*
- (e) Committees of the House may include members of the Senate.*

Recommendation 43: Election of the Senate

The Commission recommends that Chapter VI of the Constitution be amended to allow for the proportional election of the Senate such that:

- (a) the Senate will compose of thirteen (13) seats;*
- (b) one (1) Senator will be appointed by the Governor-General representing interests outside the major political parties based on the recommendation of the Belize Advisory Council;*
- (c) twelve Senators (12) will be appointed by the Governor-General based on the proportion of the popular vote received by political parties in national elections;*
- (d) the mechanism of the process be as described in section 9.9 of this Report.*

Recommendation 44: Powers of the Senate

The Commission recommends that Chapter VI of the Constitution be amended such that:

- (a) Bills on selected topics listed in (b) below, require the 2/3 support of the Senate for passage and that lack of Senate consent would either result in the withdrawal of the Bill or a decision of the National Assembly to take the issue to the electorate in a referendum for approval;*
- (b) The consent of the Senate in (a) above be required for the Bills that deal with:*
 - (i) Amendments to the Constitution of Belize,*
 - (ii) Issues of National Security,*
 - (iii) Issues of Territorial Boundaries,*
 - (iv) Treaties related to the Belize/Guatemala territorial dispute.*

Recommendation 45: Right of Recall

The majority of the Commission does not recommend the introduction of a mechanism to recall elected representatives for Belize at this time.

Recommendation 46: Anti-Defection in the House

The Commission recommends that the Government of Belize, after public consultation, develops and enacts anti-defection legislation for members of the House of Representatives.

The Commission further recommends that in developing the Anti-Defection Act that:

- (a) crossing-the-floor to join another political party in the House, and resignation from a political party in the House are included as part of the definition of defection;*
- (b) it be further debated if members voting against their political party's position in the House, or abstaining from voting in the House should constitute defection;*
- (c) the mechanism for removing members who defect include the following process:*
 - The leader of the party from which a member has defected informs the Speaker of the House;*
 - The Speaker declares the seat vacant;*
 - The member affected has 21 days to take the matter to the Supreme Court which would decide if there is cause for removal.*
- (d) If the removal of the member is not contested or is sustained by the Supreme Court, there is a by-election in the constituency in which there is a vacant seat.*

Recommendation 47: Prevention of Corruption:

The Commission recommends that Government, with the input of the public, reviews and strengthens the Prevention of Corruption in Public Life Act (No.24 of 1994) with the objective of enhancing its effectiveness in the prevention and punishment of corruption of elected and public officials.

The Commission further recommends that the revised Act do at least the following:

- (a) reform the appointment process and composition of the Integrity Commission such that the Governor-General appoints two members with the concurrence of the Prime Minister, two members with the concurrence of the Leader of the Opposition, one on the advice of the Belize Council of Churches, one on the advice of the Belize Bar Association, and one on the advice of the Institute of Chartered Accountants of Belize;*
- (b) have the chairperson be elected by the three non-partisan appointments from among themselves;*
- (c) extend the tenure of office of members of the Integrity Commission from three to seven years;*
- (d) use the provision of section 10 of the Act to have the National Assembly expand the definition of 'public life' to include senior public officials to require them to make annual financial disclosures;*

- (e) review the offences listed under Part IV of the Act (Code of Conduct) with the objective of assessing whether an expansion is required;*
- (f) amend section 36(1) of the Act to replace the Solicitor General as the Integrity Commission's legal advisor with a private legal counsel of the Commission's choosing.*

Recommendation 48: Residency Criteria

The majority of the Commission recommends that the one-year residency criteria for those seeking to be candidates for the House of Representatives be maintained.

Recommendation 49: Parliamentary Counsel

The Commission recommends that the office of Parliamentary Counsel be established to facilitate the members of the National Assembly with the drafting and interpretation of legislation.

Recommendation 50: People's Participation

The Commission recommends that the following measures be adopted to facilitate public awareness and participation in the legislative process:

- (a) make the office of the Parliamentary Counsel accessible to citizens and citizen groups who want to propose legislation.*
- (b) establish the office of the Public Relations Officer for the National Assembly who will be responsible for ensuring that the public (i) is kept informed of all Bills, (ii) has easy, free and timely access to Bills, (iii) is informed of the times of the sitting of House Committees, and (iv) has easy and free access to all Acts signed by the Head of State.*
- (c) increase the time between the first reading of a Bill to the first review by the House Committee from twelve to thirty days to allow more time for distribution and review.*

Recommendation 51: Compensation for House Members

The Commission recommends that government commission a comprehensive review of the salaries and benefits of members of the House of Representatives, Senators and Ministers with the objective of assessing the feasibility and the extent of increases in compensation.

Recommendation 52: Oath of Office

The Commission recommends that the oath of office in Schedule 3 to the Constitution be amended to delete the words, "Her Majesty Queen Elizabeth the Second and Her Heirs and Successors."

Recommendation 53: Party to Contracts

The Commission recommends that section 59(2)d of the Constitution be so amended to add the words: “directly or indirectly” as to now read:

“if the member shall, directly or indirectly, become a party to any contract with the Government”

Recommendation 54: Fee for Sitting in House when Unqualified

The Commission recommends that section 87 of the Constitution be amended to increase the penalty for knowingly sitting in the House when unqualified from \$100 to \$500.

Recommendation 55: Resources for House Members

The Commission recommends that the current practice of providing elected representatives with resources to allow easy access to them by the people in their constituencies continues and becomes enacted.

The Judiciary:***Recommendation 56: The Magistracy***

The Commission recommends that:

- (a) the Magistracy be duly recognized in the Constitution as a part of the judicial system of Belize;*
- (b) magistrates be appointed directly by the reformed Judicial and Legal Services Commission, (See Recommendation 60);*
- (c) magistrates not be public officers during their time of service;*
- (d) magistrates be given security of tenure that is longer than five years;*
- (e) minimum legal qualifications for magistrates be developed;*
- (f) Government undertakes an urgent study of the terms and conditions of service of magistrates, methods of recruitment and training, and the role of the Chief Magistrate in relation to the management of the magistracy and the scope of constitutional protection that should be accorded to magistrates.*

Recommendation 57: Appointment of Judges

The Commission recommends that section 97 of the Constitution of Belize be amended to provide for:

- (a) the appointment of the Chief Justice of the Supreme Court by the Head of State on the joint recommendation of the Prime Minister and the Leader of the Opposition from a list of nominees made by the reformed Judicial and Legal Services Commission. If a joint recommendation cannot be made within a given time, the Head of State, in his/her own deliberate judgement, shall appoint the Chief Justice from among the nominees of the Judicial and Legal Services Commission;*

- (b) the appointment of the Puisne judges by the Head of State acting on the recommendation of a reformed Judicial and Legal Services Commission after the Commission has consulted with both the Prime Minister and the Leader of the Opposition;*
- (c) increasing the age to which a person may act as a Supreme Court judge from 62 years to 75 years;*
- (d) the addition of a sub-section 97(3)c which adds another criteria for appointment of judges to state the following:
“he/she is a person of good character and integrity”*

Recommendation 58: Removal of Judges

The Commission recommends that section 98 of the Constitution be amended to reflect the following process for actions related to the removal of Justices of the Supreme Court:

- (a) written complaints relating to section 98(3) of the Constitution are to be sent to the reformed Judicial and Legal Services Commission;*
- (b) the Judicial and Legal Service Commission reviews the complaint for validity and writes a reasoned recommendation which is sent to the Belize Advisory Council;*
- (c) the Belize Advisory Council reviews the recommendation of the Commission, requests clarifications if necessary, and then makes a decision, in its own deliberate judgement, for forwarding to the Governor-General;*
- (d) the Governor-General acts on the advice of the Belize Advisory Council and informs, in writing, the judge in question and the complainant, of the decision.*

Recommendation 59: Court of Appeal

The Commission recommends that section 101 of the Constitution be amended to allow for the Justices of Appeal of the Court of Appeal to be appointed in the same manner as the appointment process recommended for the Chief Justice at Recommendation 57 (a) of this Final Report.

Recommendation 60: Judicial and Legal Services Commission

The Commission recommends that constitutional amendments be made related to the Judicial and Legal Services Commission such that:

- (a) The number of members of the Commission is increased to five (5);*
- (b) The composition of the Commission is as follows:*
 - The President of the Bar Association of Belize*
 - Chair of the Public Services Commission*
 - A nominee of the Bar Association who is a Senior Counsel*
 - A nominee of the National Trade Union Congress of Belize*
 - A nominee of the Belize Chamber of Commerce and Industry;*
- (c) The Commission be removed from Chapter VIII on the Public Service through the deletion of section 105(11)b and placed in Chapter VII on the*

Judiciary;

- (d) *The Commission so constituted be responsible for matters related to the administration of the Magistrates Courts, the Supreme Court, and the Court of Appeal.*

Recommendation 61: Privy Council

The Commission recommends that, until a suitable replacement final court of appeal is identified, that the Privy Council remain as Belize's final court of appeal.

Recommendation 62: Limitation of Applications and Motions

The Commission recommends that the Supreme Court of Judicature Act and the Constitution, if necessary, be amended to limit the time to twelve (12) months within which criminal applications and constitutional motions arising from murder convictions may be brought before the Supreme Court so that sufficient time is left within which the law of the land can be carried out.

Recommendation 63: Director of Public Prosecutions

The Commission recommends that section 50(2) of the Constitution be amended to replace the words "in any case in which he considers it desirable to do so" with "with good and sufficient reason" so that it reads:

"The Director of Public Prosecution shall have power, with good and sufficient reason, to (a) institute and undertake criminal proceedings against any person before any court of law ..."

Recommendation 64: Legal Aid

The Commission recommends that Government provide more human and financial resources to strengthen the legal aid office to allow for greater access and more effective performance.

Recommendation 65: Compensation for Judges

The Commission recommends that the Government commission a review of the terms of service of all judges in Belize with the objective of increasing compensation packages and attracting quality judges willing to serve for long periods of time.

The Public Service:**Recommendation 66: Function of Public Service Commission**

The majority of the Commission recommends that the Public Service Commission maintain its functions of recruitment, confirming employment, removal and disciplining of public officers.

Recommendation 67: Reforms to the Public Service Commission

The Commission recommends the following reforms of the Public Service Commission:

- (a) section 105 of the Constitution be amended to re-structure the present Public Services Commission into three separate and independent Commissions: the Public Services Commission, the Security Services Commission, and the Judicial and Legal Services Commission;*
- (b) the Judicial and Legal Services Commission be moved to now fall under Chapter VII of the Constitution as described in Recommendation 59 of this Report;*
- (c) the Security Services Commission be responsible for the Police Force, the Belize Defense Force, the Fire Department, and the Prison Department;*
- (d) the reformed Public Services Commission be responsible for all departments in the Public Service not covered by either the Security Services Commission and the Judicial and Legal Services Commission;*
- (e) the reformed Public Service Commission be comprised of seven members appointed by the Governor-General in the following manner:*
 - Two members on the advice of the Prime Minister*
 - Two members on the advice of the Leader of the Opposition*
 - One member on the advice of the Belize National Trade Union Congress*
 - One member on the advice of the business sector*
 - The chairperson on the advice of the Belize Bar Association with the concurrence of the Prime Minister and the Leader of the Opposition;*
- (f) the Security Services Commission be comprised of seven members appointed by the Governor-General in the following manner:*
 - One member on the advice of the Prime Minister*
 - One member on the advice of the Leader of the Opposition*
 - Four members from persons who are former members of the Belize Defense Force, Police Force, Prison Department and Fire Department and above the rank of non-commissioned officers in the case of the Belize Defense Force and the Police Force, and above the rank of Captain in the case of Prison Department and the Fire Department and in any case not currently employed by the Government of Belize;*
- (g) full-time secretariats be established for both the Public Services Commission and the Security Services Commission with the responsibility of administering the day-to-day communication and work of the Commissions.*

Recommendation 68: Senior Public Officers

The Commission recommends that:

- (a) Permanent Secretaries no longer be the most senior permanent position in the public service but instead be political appointees of the government in*

office with responsibilities to coordinate the implementation of the government's policies in the ministry;

- (b) the term "permanent secretary" not be used to describe the holder of the positions cited in (a);*
- (c) the Head of Department be made the most senior permanent public officer;*
- (d) the Head of Department assumes most of the administrative, accounting and reporting functions now exercised by the permanent secretaries and staff of the ministries;*
- (e) Heads of Departments be moved from section 107 to section 106 of the Constitution.*

Recommendation 69: Open Vote Workers

The Commission recommends that Government, with the involvement of the Public Service Commission, conduct a comprehensive evaluation and review of the open vote system that results in recommendations for its future role and use in the Public Service.

Recommendation 70: Area Representatives and Public Officers

The Commission recommends that provision be made to:

- (a) prevent area representatives of the House of Representatives to involve public officers in the execution of political activities of their constituencies;*
- (b) provide for the operation of constituency offices separate from the offices of the minister and of the public service.*

Finance:

Recommendation 71: Districts and National Revenue

The Commission does not recommend that districts receive funds in the annual budget in proportion to amounts they contribute to the national revenue.

Recommendation 72: Priority Calls on the Budget

The Commission recommends that an amendment be made to Chapter IX of the Constitution to guarantee that the budget requests of the offices of the Ombudsman, the Contractor-General, the Auditor-General, the Elections and Boundaries Commission, the Integrity Commission, the Director of Public Prosecution, and the Supreme Court and the Court of Appeal be given first priority calls on the Consolidated Revenue Fund.

Recommendation 73: Public Debt

The Commission recommends that:

- (a) provision be made for all details of all loans made to the Government of Belize to be published in the Government Gazette;*

- (b) the Government take measures to ensure that public debt as a proportion of national income is kept at a prudent level.*

Recommendation 74: Government Contracts

The Commission recommends that the following measures be taken with regards to the process of awarding government contracts:

- (a) that the Constitution and relevant laws be amended to require the House of Representatives to ratify the awarding of all contracts over \$100,000, or to any one entity whose aggregate contract exceeds \$100,000;*
- (b) that internationally recognized standards for competitive public contracting be adapted by the Government through legislation such that there be public bidding process that is opened to the general public.*

Recommendation 75: Social Security

The Commission recommends that the Social Security Act (No.22, 1987) be so amended as to:

- (a) make it mandatory for the Social Security Board to publish in at least two consecutive issues of the Government Gazette, its intentions to lend out or invest its money, or make donations, giving all pertinent details;*
- (b) reform the composition of the Social Security Investment Committee so that it is composed as follows:*
 - a Chairperson nominated by the Minister of Finance,*
 - a person who in the opinion of the Minister is experienced in the investment of moneys,*
 - the Manager, and*
 - two members of the Board nominated by the National Trade Union Congress of Belize and one by the Belize Chamber of Commerce;*
- (c) provide that the quorum for any meeting of the Social Security Investment Committee shall be the Chairperson and two other members neither of whom shall be the Manager.*

Recommendation 76: Auditor-General

To enhance the effectiveness and independence of the Office of the Auditor-General, the Commission recommends that:

- (a) the Constitution be amended at section 109 of the Constitution to reform the appointment process so that the Auditor-General is appointed by the Governor-General acting on recommendation of the National Assembly contained in a resolution passed on that behalf;*
- (b) the Auditor-General be required to have specific qualifications equivalent to that of a certified public accountant, and be a member of the Institute of Certified Public Accountants;*
- (c) Chapter IX, section 120 be so amended as to ensure that the budget for the Office of the Auditor-General is submitted directly to the House of Representatives and be given priority call on the Consolidated Revenue Fund;*

- (d) *the Public Accounts Committee of the House be the medium through which the Auditor-General communicates with the House;*
- (e) *the Finance and Audit Act be so reviewed with the aim of making amendments that increase, establish, and ensure the execution of penalties for (i) government auditors who disclose information on audit inquiries without proper authorization, and (ii) public officers and others who refuse to cooperate with the requests of the Auditor-General during annual audits;*
- (f) *the Public Services Commission delegate, as allowed by the Constitution, its authority of employment, promotion, and removal of staff of the Office of the Auditor-General Department to the Auditor-General;*
- (g) *provision be made for the development and implementation of penalties for failure to present audited national accounts to the House;*
- (h) *provision be made and resources be provided to allow the Auditor-General to contract the services of auditors outside of the public service to assist in the execution of the duties of the office;*
- (i) *amend section 120(b) of the Constitution to state that a report be submitted to the House by the Auditor-General whether or not the report is complete and, if not completed, the reasons why;*
- (j) *starting with the financial year 1997-1998 of the backlog, that audited annual reports be prepared and presented to the House in due time by the Auditor-General;*
- (k) *provision be made for the revision of the Finance and Audit Act to ensure compatibility with the Constitution;*
- (l) *revise and consolidate the Financial Orders, Store Orders and Control of Public Expenditure regulations into one document.*

Recommendation 77: Waiver of Fees

The Commission recommends that provision be made to:

- (a) *require that all waivers suspending the legal requirement of any persons or organization to the payment of a particular fee or charge be done only by permission of a statutory instrument and that no waivers be allowed until such statutory instrument is passed by the House;*
- (b) *ensure that all waivers of fees are published in the government gazette.*

Political Parties and the Electoral System:

Recommendation 78: Registration of Political Parties

The majority of the Commission does not recommend that legislation be enacted to either register political parties or regulate the activities of political parties in Belize.

Recommendation 79: Campaign Finance Regulation

The Commission recommends that that campaign finance regulation be developed as a matter of urgent priority for implementation before the next national elections. In this regard the Commission recommends that government, without delay,

commission an independent body of the public sector, the private sector and civil society with the mandate to:

- (a) develop campaign finance regulation legislation for Belize;*
- (b) consult the relevant interest groups on the matter;*
- (c) examine the approaches used by other nations with similar political systems;*
- (d) give special attention to the approaches of limiting of spending by political parties and candidates and of limiting of the time in which campaigning is allowed.*

Recommendation 80: Elections and Boundaries Commission

The Commission recommends that section 88 of the Constitution be amended such that the appointment process, composition and functioning of the Elections and Boundaries Commission be reformed to provide for the following:

- (a) that the Commission be made up of five members, including a chairperson;*
- (b) that the members are appointed by the Governor-General such that*
 - one is on the advice of the Prime Minister,*
 - one is on the advice of the Leader of the Opposition,*
 - two on the advice of the Belize Advisory Council with the concurrence of both the Prime Minister and the Leader of the Opposition;*
 - the chairperson on the advice of the Belize Advisory Council with the concurrence of both the Prime Minister and the Leader of the Opposition;*
- (c) that the tenure of members of the reformed Belize Elections and Boundaries Commission be for seven years;*
- (d) that the appointed tenures for the first new Commission be such that a rotation effect is achieved by having the three members appointed on the advice of the Belize Advisory Council be appointed for three, five and seven years respectively in the first instance only;*
- (e) that the Commission be made to approve appointment of the Chief Elections Officer.*

Recommendation 81: Electoral Divisions

The Commission recommends that the Election and Boundaries Commission and the House of Representatives of Belize urgently carry out a comprehensive review of the present electoral divisions as required by sections 90 and 91 of the Constitution in time for the next general elections.

Recommendation 82: Voting by Proxy

The majority of the Commission recommends that voting by proxy in elections in Belize should not be extended to any other individual or group for whatever reason.

Recommendation 83: Belizeans Abroad

The Commission does not recommend that special measures be enacted to facilitate Belizeans living abroad voting in elections in Belize.

Recommendation 84: Fixed Election Dates

The majority of the Commission does not recommend that there be fixed dates for national elections in Belize in the context of the parliamentary executive model of government practiced in Belize.

Recommendation 85: Referendum Act

The majority of the Commission recommends that the Referendum Act be amended to make provisions for the electorate to introduce a referendum petition to the House of Representatives once the signatures of 15% of the registered electorate have been received and verified by the Election and Boundaries Commission, notwithstanding that the decision to proceed or not proceed with a referendum shall rest with the House of Representatives.

Local Government:***Recommendation 86: Municipalities***

The majority of the Commission recommends that:

- (a) the Government commission a task force to review the powers and responsibilities of city councils and town boards in relation to those of central government with the objectives of further clarifying and rationalizing these, and identifying what additional responsibilities can be assumed by these bodies to make them more autonomous;*
- (b) provisions be made for city councils and town boards to further publicize their operations and issues;*
- (c) the government, after some consultation, develop clear guidelines and criteria and processes for the establishment of cities and towns.*

Recommendation 87: Village Councils

The Commission recommends that the Village Council Act be so amended as to provide for the establishment and roles of District Councils representative of elected village leaders, and of a National District Council representative of each District Council.

Recommendation 88: Alcalde System

The Commission recommends that any decision to transform the Alcalde System of local government be made by the Maya villages presently using this system.

Recommendation 89: Local Government and the Constitution

The Commission recommends that:

- (a) local government be enshrined in the Belize Constitution such that a Chapter be added to the Constitution to be entitled, "Local Government"*

and that the said chapter include statements on the existence of a local government system, of the various levels of the system, of the terms of elections, and of the power to hold and raise revenue;

- (b) the definition of the specific powers and duties continue to be situated in ordinary law.*

Gender and Governance:

Recommendation 90: Gender Equality

The Commission recommends that Part (e) of the Preamble of the Constitution be amended to add the words, “which ensures gender equality” after the word “sex” so that it reads:

“requires policies of state which protect and safeguard the unity, freedom, sovereignty, and territorial integrity of Belize; which eliminate economic and social privilege and disparity among the citizens of Belize whether by race, colour, creed or sex; which ensures gender equality, which protects the rights of the individual...”

Recommendation 91: Gender Neutrality

The Commission recommends that:

- (a) the Constitution of Belize, all new amendments to it, and all new legislation be written or re-written, as the case may be, in language that is gender neutral;*
- (b) in the execution of this exercise that government consults with relevant civil society organizations.*

Recommendation 92: Quota System for Appointment of Women

The majority of the Commission does not recommend that a quota system for the appointment of women to public bodies be enacted for Belize.

Recommendation 93: Child Care

The Commission recommends that:

- (a) provision be made for the protection of the right not to be denied access to basic childcare for working parents;*
- (b) a special commission be established to develop a Belize Childcare Security mechanism after consultations with the private sector and civil society and especially women’s organizations;*
- (c) the special commission develop a mechanism based on the principle of a joint private sector and public sector responsibility for contributing to a childcare fund for working parents.*

Recommendation 94: Gender Awareness

The Commission recommends that gender awareness education be included in the curricula of all levels of education in Belize

Recommendation 95: International Agreements

The Commission recommends that commitments made by Government in international conventions be well publicized, enacted into law where necessary, and regularly reported on.

Recommendation 96: Publicly Funded Institutions

The majority of the Commission recommends that Government review the personnel practices of institutions that receive public funds to (a) ensure that the rights of women are not being abused, and to (b) assess the need for the development of guidelines for all such institutions that accept public funds.

Political Education and Culture:***Recommendation 97: Formal Education***

The Commission recommends that:

- (a) Government takes immediate action to lead a national and collective process to review and revise educational curricula at all levels of schooling in Belize to ensure that students receive adequate education about the nation's constitution, rights and freedoms, political system and political practice;*
- (b) in undertaking this process that government consults with all relevant stakeholders.*

Recommendation 98: Public Education

The Commission recommends that government collaborate with the media and civil society organizations in the development and the implementation of regular public educational programmes aimed at increasing public access to political education and information.

Recommendation 99: Freedom of Information

The Commission recommends that Government reviews and amends the Freedom of Information Act with the objective of narrowing the scope of the Act's definition of documents exempted from public access.

The Commission further recommends that the Act be amended to provide for the automatic release of all government documents after fifteen years have passed.

Miscellaneous:

Recommendation 100: Ombudsman

The Commission recommends that in three years, Government conduct a review of the implementation of the Ombudsman Act so as to assess its effectiveness and need for revision.

The Commission further recommends that there be more public education on the role of the ombudsman.

Recommendation 101: National Symbols

The Commission recommends that government design and execute a consultative national process to review the national symbols of Belize that results in recommendations on this matter to be made to the National Assembly.

Recommendation 102: Civil Society and Governance

The Commission recommends that Government work with civil society organizations to establish more formal mechanisms for collaboration in national development and governance, and give urgent attention to the review and enactment of the “Non-Government Organizations Act.”

Recommendation 103: Penalties

The Commission recommends that Government conduct a review of relevant legislation with a view to:

- (a) assess the effectiveness of penalties for abuse of constitutional rights and for failure to abide by legally established regulations;*
- (b) revise them where necessary and;*
- (c) better ensure that they are carried out where applicable.*

CHAPTER 3

THE PREAMBLE

Introduction:

- 3.1 Unlike the constitutions of some nations, the Belize Constitution has a Preamble. It outlines the basic principles and beliefs upon which the nation is based, and states the basic development needs of Belizeans that the Constitution and nation should strive to provide. In effect, the Preamble gives us the fundamental reason for this political reform exercise: to examine the system of governance and assess if it is effectively achieving the objectives set out in the Preamble.
- 3.2 The Commission received very few concerns or proposals about the Preamble, but examined it nevertheless in its review of the Constitution. After the reviewing and comparing to Preambles of other nations in the Caribbean, the Commission felt that the general format and content of the Belize Preamble were adequate and that it should remain as is in the Constitution.

Recommendation 3:

The Commission recommends that the general format and content of the Preamble of the Constitution remain as is presently.

Supremacy of God:

- 3.3 The Commission examined the statement in Part (a) of the Preamble that stated that “*the Nation of Belize shall be founded on principles which acknowledged the supremacy of God.*” Several Commissioners were in agreement with a proposal received by the Commission to replace “*supremacy of God*” with wording that was more inclusive of all religious and spiritual beliefs. Some had argued that the term “*God*” was not used by some religions and that some citizens are atheists. Suggestions for re-wording included “*acknowledged a Supreme Being,*” and “*acknowledged moral and spiritual values.*”
- 3.4 Some Commissioners agreed with the position that most people in Belize and most religious denominations were comfortable with the inclusiveness of the word “*God*” and that there would be much public opposition to change it. Other Commissioners who understood the arguments to have a more inclusive term feared that changing the wording could distract from other key aspects of political reform.

Recommendation 4:

The majority of the Commission recommends that the term “supremacy of God” in Part (a) of the Preamble of the Constitution remain unchanged.

Multi-Ethnicity and Indigenous Issues

- 3.5 Another issue of concern for some about the Preamble was whether it adequately reflected Belize’s historical origins, multi-culturalism and national commitment to respecting our cultural diversity. Additionally, several indigenous groups had petitioned the Commission to recommend that the presence of the indigenous peoples of Belize be duly recognized and acknowledged in the Constitution.
- 3.6 The Commission discussed these issues several times at separate meetings and sought further input to clarify what exactly was being requested of the Commission. The majority of the Commission felt that the principles outlined in the Preamble adequately covered and protected Belizeans of whatever ethnic group. However, to further reflect the importance of Belize’s multi-cultural identity as part of its national identity, the Commission considered adding the term, “*ethnicity*” after the term “*race*” in part (e) of the Preamble. The majority of the Commission agreed to make this recommendation.

Recommendation 5:

The majority of the Commission recommends that the term “ethnicity” be added after the term “race” in Part (e) of the Preamble of the Constitution such that it reads:

(e) “requires policies of state which protect and safeguard the unity, freedom, sovereignty, and territorial integrity of Belize; which eliminate economic and social privilege and disparity among the citizens of Belize whether by race, ethnicity, colour, creed or sex.....”

- 3.7 However, the majority of the Commission expressed concern about the inclusion of a statement in the Preamble or other part of the Constitution specifically acknowledging the presence of indigenous peoples. In a pluralistic society that celebrates its multi-ethnicity, the majority of the Commission is of the view that such a statement would imply special treatment for particular ethnic groups and could have a divisive effect in the society. It is also likely that other ethnic groups would feel slighted by such a selective inclusion or demand similar special acknowledgement. Additionally, the majority of the Commission believes that such a statement in the Constitution raises the complex question as to what special rights or treatment would be implied for the selected ethnic groups.

Recommendation 6:

The majority of the Commission does not recommend that the Preamble or other part of the Constitution be amended to specially acknowledge the presence of any particular ethnic or indigenous group of Belize.

- 3.8 Commissioner Ernest Castro expressed a dissenting view in writing from Recommendation 6. This can be found in Appendix VII.

CHAPTER 4

THE STATE AND THE CONSTITUTION

Introduction:

- 4.1 Chapter I of the Constitution describes the State of Belize (section 1) and contains the all-important Supreme Law clause (section 2) that makes the Constitution the supreme law of the Belize. In effect this means that no ordinary legislation can be inconsistent with the Constitution. The Commission received no proposals for amending this Chapter but examined it in the process of its constitutional review.

The State of Belize

- 4.2 Several Commissioners raised the question of whether section 1 should be more comprehensive in its description of the State of Belize. The Commission did not feel that an expansion was necessary and agreed not to make such a recommendation.
- 4.3 There was also some debate about removing the word “sovereign” from section 1(1) of the Constitution which states, “*Belize shall be a sovereign democratic State of Central America in the Caribbean region.*” It was pointed out by some that the term “sovereignty” can have connotations of monarchy. The Commission felt that the term, in this context, was used in its primary meaning to refer to the independence of the State of Belize and that this interpretation was widely understood and accepted.

Recommendation 7:

The majority of the Commission recommends that section 1(1) of the Constitution which states, “Belize shall be a sovereign democratic State of Central America in the Caribbean region,” remain unchanged.

The Land and Seas of Belize:

- 4.4 Section 1(2) of the Constitution refers readers to the description of the land and sea areas of Belize to Schedule I of the Constitution. The question was raised as to whether this description of the land and sea areas of Belize as defined in Schedule I accurately reflected the changes made in the laws of Belize with the passage of the Maritime Areas Act in 1992. The Commission sought and received the advice of the Solicitor General on this issue. The Solicitor General noted that paragraph 1 (c) of Schedule I of the Constitution provides for legislation by the National Assembly to amend the sea areas of Belize. The relevant section of the Schedule reads:

“(c) the outer limit of the territorial sea of Belize is the limit provided by law measured from such baselines as may have been prescribed before Independence Day by law or otherwise, as may be so prescribed thereafter.....”

- 4.5 The Commission accepts the advice of the Solicitor-General that no amendment is necessary for Schedule 1. It is satisfied that the Constitution allowed for the passage of the Maritime Areas Act by the National Assembly and that no constitutional amendment is required to reflect the sea boundary changes brought about by the Act.

Recommendation 8:

The Commission is satisfied that section 1(2) and Schedule I of the Constitution accurately describe the land and sea boundaries of Belize and recommends no amendments.

The Supreme Law Clause:

- 4.6 The Supreme Law Clause is perhaps the most important clause in the Constitution since it elevates the entire Constitution to a preeminent status. A proposal was received by Commission to strengthen section 2 of Chapter I by including a clause that clearly specified that the Supreme Court is the body that shall have original jurisdiction to consider all constitutional cases, and to determine whether any law is inconsistent with the Constitution. The Commission debated this issue and agreed that such an addition would strengthen the section. However, the Commission agreed that it also had to be made clear that in performing this function, the Supreme Court's power is to judge and not to legislate.

Recommendation 9:

The Commission recommends that section 2 of the Constitution be amended to provide that the Supreme Court of Belize is the original forum for the resolution of all constitutional disputes.

CHAPTER 5

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS

Introduction:

- 5.1 Throughout its consultations with the Belizean people, the Commission received a notable number of submissions on Chapter II of the Constitution on Fundamental Rights and Freedoms guaranteed to every person in Belize. These submissions and the deliberations of the Commission centered around the following issues and questions:
- Should a Bill of Rights be enacted?
 - Should the Protected Rights and Freedoms be Expanded?
 - Is there Sufficient Recourse for Citizens whose Rights are Violated?
 - What can be done about Lack of Awareness about Rights and Freedoms?
 - Is there a Need for the Duties and Responsibilities of Citizens to be spelled out in the Constitution?

Bill of Rights

- 5.2 The Commission discussed the issue of Belize adopting a Bill of rights at several meetings. Several nations, including the United States, have such a legal document. Those who call for a Bill of rights for Belize argue that placing the fundamental rights in the context of ordinary law could (a) make citizens' rights clearer and easier to understand, (b) contribute to increasing awareness about citizens' rights and (c), allow citizens more direct access to the Courts when rights are violated.
- 5.3 A contending view in the Commission's discussion was that a Bill of rights was not necessary for Belize because (a) Chapter II of the Constitution was in effect already such a 'Bill of rights', (b) section 20(2) of the Constitution adequately provided citizens with recourse to the Supreme Court if they feel that their fundamental rights and freedoms are violated, and (c) unlike some other nations, Belize's Constitution, which enshrines these rights and freedoms, has been passed into law. It was also argued that the right of the citizen to seek recourse under the Constitution itself could be strengthened and that the need to increase public awareness could be addressed without introducing a Bill of rights. The Commission agrees with these arguments and does not recommend the introduction of a Bill of rights for Belize. Other recommendations in this Chapter will address some of the concerns cited in section 5.2 of this Report.

Recommendation 10:

The Commission is satisfied that Chapter II of the Constitution on Fundamental Rights and Freedoms adequately provides the basis for the provision and protection of basic rights for persons in Belize and does not recommend the introduction of a Bill of Rights for Belize.

Entitlement to Fundamental Rights and Freedoms:

- 5.4 The Commission reviewed the various suggestions it had received to revise or expand section 3 of Chapter II that entitles every person in Belize basic fundamental rights and freedoms. Section states: “*Whereas every person in Belize is entitled to the fundamental rights and freedoms of the individual, that is to say, the right whatever his race, place of origin, political opinions, colour, creed or sex....*” It then goes on to list the fundamental rights and freedoms.

Disability:

- 5.5 Several requests were made for the Commission to specifically include entitlement to rights and freedoms regardless of one’s physical or mental disability. It was argued that such disability has been the cause of much discrimination in Belize. The Commission shares the point of view that many people with physical and mental disabilities in Belize cannot easily enjoy fundamental rights and freedoms afforded to persons in Belize. After careful examination, the Commission concluded that there is a need for a Constitutional amendment to strengthen the entitlement of persons with disabilities to fundamental rights and freedoms. The Commission agreed to recommend that the more general term “*disability*” be used in the recommendation instead of the more specific term “*physical or mental disability*.” The Commission is aware that there will be a need to carefully develop ordinary legislation to support this amendment and urges that this be done promptly.

Recommendation 11:

The Commission recommends that section 3 of the Constitution be amended to include entitlement to fundamental rights and freedoms whatever an individual’s disability.

In relation to this amendment, the Commission further recommends that supporting ordinary legislation be promptly enacted on the rights of the disabled.

Sexual Orientation:

- 5.6 The Commission received several suggestions to add “*sexual orientation*” to section 3. The main argument was that sexual orientation has been a basis for discrimination in Belize and that including it in section 3 would enhance the

protection of fundamental rights and freedoms of persons in Belize. Notwithstanding some reservations, the majority of the Commission agreed that it should be included. However, in response to concerns that some people may use this inclusion to engage in abusive practices, the Commission agreed that in making the amendment it be made clear in the appropriate legislation what is the definition of “sexual orientation.” Some Commissioners proposed that it be defined as heterosexuality, homosexuality and bisexuality between consenting adults.

Recommendation 12:

The majority of the Commission recommends that section 3 of the Constitution be amended to include entitlement to fundamental rights and freedoms whatever an individual’s sexual orientation.

Language:

- 5.7 An argument was also made to amend section 3 to prevent discrimination in the enjoyment of rights and freedoms based on one’s language. After some discussion, the Commission realized that, in the context of a multi-lingual reality, the issue of language was a complex and emotional one that requires much more analysis and much national debate. Some members contended that such an addition could have significant ramifications for other sections of the Constitution and needed closer study.
- 5.8 The discussion also raised the issue of whether the Constitution should state what is the official language of Belize. It is the considered view of the Commission that section 3 of the Constitution entitles persons who speak any language to the fundamental rights and freedoms and that no amendment is needed in this regard. However, the Commission does urge Government to involve the nation in a debate on the issue with the objective of developing a national policy on language.

Recommendation 13:

The Commission is satisfied that section 3 of the Constitution entitles persons in Belize who speak any language to the fundamental rights and freedoms and does not recommend an amendment in this regard.

However, the Commission does urge Government to involve the nation in a debate on the issue of language with the objective of developing a national policy on language for Belize.

Other Suggestions:

- 5.9 Arguments were also made to amend section 3 to protect rights and freedoms regardless of one’s nationality. The Commission felt that the existing term “place

- of origin*” in section 3 adequately protects persons of any nationality. The Commission does not recommend the inclusion of the term “nationality” in section 3. Additionally, the Commission noted that in section 3 it is clear that the rights and freedoms are enjoyed by “*every person in Belize*” including non-Belizeans.
- 5.10 There was also a suggestion to include the term “*cultural beliefs and practices*” in section 3 to further protect rights and freedoms in the context of a multi-cultural and multi-ethnic national reality. The Commission felt that such rights and freedoms for persons with whatever cultural beliefs and practices were already adequately protected and that convincing enough arguments had not been made to warrant a recommendation for amendment.
- 5.11 The Commission also reviewed suggestions to include the terms “*birth or family status*,” “*political and other opinion*,” and “*property*” in section 3. However, the Commission felt that existing Constitutional provisions adequately covered the concerns expressed and that the arguments presented were not convincing enough to warrant additional amendments. In the case of property, Commissioners noted that section 17 adequately covered the concerns expressed.

Recommendation 14:

The Commission is satisfied that existing provisions in section 3 of the Constitution adequately entitles persons in Belize to the fundamental rights and freedoms regardless of nationality, cultural beliefs and practices, birth or family status, and political or other opinion, and does not recommend amendments related to these areas.

Expanding Protection of Fundamental Rights:***Protection of the Right to Education:***

- 5.12 Strong arguments were made to the Commission to add the protection of the right to education in Chapter II of the Constitution. It was pointed out to the Commission that equal right of access to education is enshrined in the Universal Declaration of Human Rights and should be explicitly included in the Belize Constitution. The Commission examined the issue and agreed there were compelling arguments for the protection of access to at least a basic education for all in Belize. The Commission is of the view that education is an indispensable ingredient for meaningful participation in Belize’s democracy and economy and some basic level should be constitutionally guaranteed. Most Commissioners are of the opinion that basic should mean at least a primary school education. Notwithstanding the need to clearly define the extent and limitations of this right, the Commission concluded that the addition of the right not to be denied basic education would strengthen the protective rights enjoyed by persons in Belize.

Recommendation 15:

The Commission recommends that an amendment be made to Chapter II of the Constitution to expand the protected rights enjoyed by persons in Belize to include Protection of the Right Not to be Denied Basic Education.

In relation to this recommendation, the Commission further recommends:

- (a) that the Government of Belize draft a Bill for the Constitutional amendment that sets out the extent and limitations to which this right is to be enjoyed;*
- (b) that the Bill goes through extensive public discussion before enactment.*

Protection of the Right to Health Care:

- 5.13 Compelling arguments were also made to add the protection of right to health care to Chapter II of the Constitution. This right is also enshrined in the Universal Declaration of Human Rights. While some Commissioners were concerned about what obligations the addition of the right would mean for the State, the Commission concluded that an amendment to add the protection of the right to basic health care would assist in providing health care for those who cannot afford it. Notwithstanding the need to clearly define the extent and limitations of this right, the Commission concluded that the addition of the right not to be denied basic health care would strengthen the protective rights enjoyed by persons in Belize.

Recommendation 16:

The Commission recommends that an amendment be made to Chapter II of the Constitution to expand the protected rights enjoyed by persons in Belize to include Protection of the Right Not to be Denied Basic Health Care.

In relation to this recommendation, the Commission further recommends:

- (a) that the Government of Belize draft a Bill for the Constitutional amendment that sets out the extent and limitations to which this right is to be enjoyed;*
- (b) that the Bill goes through extensive public discussion before enactment.*

Protection of the Right to Vote:

- 5.14 The Commission noted that while the right to vote was assumed in the Constitution, it was not spelled out clearly as a right that is constitutionally protected. In section 92 of Chapter VI of the Constitution, there is a description of who has the right to vote in general elections, but this right is not a protected right in Chapter II. Additionally, section 92 refers only to general elections and does not take municipal elections, village council elections and referenda into consideration. The Commission concluded that the addition of right to vote would strengthen the protective rights enjoyed by persons in Belize.

Recommendation 17:

The Commission recommends that an amendment be made to Chapter II of the Constitution to expand the protected rights to include Protection of the Right to Vote.

Protection of the Right to Land:

- 5.15 The Commission received many expressions of concern related to the distribution, use and management of land in Belize. In particular, proposals were made to the Commission to enshrine the protection of the (a) the right to land for every Belizean, and (2) the right to access, own and use land. The Commission is of the opinion that there are indeed many problems associated with land relations in Belize but is unanimous in its agreement that Constitution should not guarantee the right for every Belizean to be given land by government based solely on nationality and without realistic plans for land development.
- 5.16 Additionally, the Commission is of the view that right of access to land does not need to be constitutionally enshrined. This right is adequately covered by other protected rights and the Constitution, in section 17, protects persons from the deprivation of property without compensation. However, the Commission understands the legitimate concerns that many Belizeans have related to the lack of transparency and fair opportunity in acquiring, using and losing national lands. The Commission is aware that several land reform efforts are underway and in particular urges that reforms to the relevant national laws and policies be made to de-politicize the administration of land distribution and use.
- 5.17 On the related issue of the acquisition of private land for public purpose, the Commission received complaints about abuse of this provision by governments and in particular of the large backlog of persons not yet compensated by governments. The Commission is of the view that while section 17(b) ii of the Constitution does not need amendment in light of these concerns, the relevant ordinary land laws need to be reviewed with the objective of addressing these valid concerns.

Recommendation 18:

The Commission is satisfied that the Constitution adequately protects the right to own land and other property in Belize and does not recommend constitutional amendments related to the protection of the right to land for persons in Belize.

However, the Commission recommends that the land laws and the administration of land distribution and management be reformed to (a) ensure transparency and fair opportunity of access and use; (b) de-politicize the decision-making process, and (c) address concerns related to lack of timely compensation for the public acquisition of private land.

Protection of Freedom of the Press:

- 5.18 Representation on this subject came largely from those working in the media in Belize. The Commission considered a proposal to recommend that the protection of freedom of the press be enshrined in Chapter II of the Constitution. Those making the proposal contend that the media plays a critical role in democracy by providing information on issues of national interest to the public and by providing spaces for persons in Belize to share their views on issues. It was argued that these roles for the media could be enhanced by specifically recognizing the freedom of the press in the Constitution and by development of supporting legislation thereafter.
- 5.19 While the Commission acknowledges the important role for the media in a healthy democracy, the majority of the Commission is not convinced that a constitutional amendment is required. The Commission notes that Section 12 in the Constitution on the Protection of the Freedom of Expression already protects the rights of individuals, including media personnel, in Belize to “*not be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference (whether communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.*” The Commission also notes that a Freedom of Information Act was enacted in 1994. It makes a recommendation on this Act in Chapter 16 of this Report.
- 5.20 Furthermore, the Commission observes that the rights and freedoms protected in Chapter II of the Constitution are enjoyed by individual persons in Belize and not by organizations or sectors in the society. Freedom of the Press does not fit into the category of individual rights and freedoms described in Chapter II or in the Preamble. While the majority of the Commission is satisfied that existing constitutional provisions adequately protect the rights and freedoms of persons working in the media, the Commission does agree that development of a Freedom of the Press Act that sets out the extent and limitations of these rights and freedoms is desirable.

Recommendation 19:

The majority of the Commission is satisfied that existing constitutional provisions adequately protect the rights and freedoms of persons working in the media and does not recommend that freedom of the press be specifically enshrined in the Constitution.

However, the Commission recommends that Government, in consultation with the media in Belize, develop a Freedom of the Press Act that sets out the extent and limitations of the rights and freedoms exercised by those in the media in Belize.

Rights of Detained and Arrested Persons:

- 5.21 Many representations were made to the Commission regarding alleged abuse of the rights of detained and arrested persons by the authorities particularly by the police. The concerns include (a) lack of communication of rights, (b) not being allowed to contact lawyers or parents and guardians for minors, (c) not being informed of reasons for arrest in the required forty-eight hours, (d) not being taken before a court of law in the required seventy-two hours, (e) the erosion of the presumption of innocence, and (f) lack of adequate access to legal assistance for those unable to afford a private lawyer. The latter concern is addressed in Chapter 10 on the Judiciary of this Report.
- 5.22 The Commission is of the view that many of these concerns are valid and therefore carefully considered the many and various suggestions it received to (a) further protect the rights of detained and accused persons and to (b) further ensure that there is re-dress for the violation of these rights. The Commission recommends a set of amendments and measures below aimed to meet these objectives. One of these (e) is made to address the concern that the right to trial by jury is not constitutionally enshrined and that the magistrates courts, where there are no juries, have been judging cases dealing with very serious offences.

Recommendation 20:

To further protect the rights of detained and arrested persons, the Commission recommends the following:

- (a) Amend section 5(2)a of the Constitution to decrease the time period in which detained persons must be informed of the reason for their detention from 48 hours to 24 hours;*
- (b) Amend section 5(2)b to now read:*
“to communicate with and be visited by a legal practitioner, medical practitioner, and religious counsellor of choice; and spouse, family member or guardian without delay;”
- (c) Amend section 5(3) to decrease the time period in which arrested or detained persons must be brought before a court of law from 72 hours to 48 hours;*
- (d) Expand the crimes, other than capital murder, under which arrested persons must be provided with free legal assistance;*
- (e) Amend section 6 to add a section 6(3)g to ensure that persons who are tried for offences that carry sentences of more than five years imprisonment have the right to trial by a jury;*
- (f) Ensure that section 6 (10)a is not abused in the drafting of legislation to shift the burden of proof from the prosecution to the accused;*
- (g) Amend section 19 (1) to ensure that all persons detained under a state of emergency are informed orally and in writing of the charge(s) against them in a language they understand.*

Enforcement of Protective Provisions:

- 5.23 The Commission noted the high importance of section 20 of the Constitution. This section provides persons who believe that their fundamental rights and freedoms have been contravened or likely to be contravened to apply to the Supreme Court for redress. The Commission was also made aware of the fact that such constitutional cases can have a lengthy waiting period before being brought to trial and that this delay of justice needed to be addressed. After discussing ways to address this concern, the Commission concluded that one way to decrease the time within which trials occur is to constitutionally require that constitutional cases that deal directly with Chapter II of the Constitution be given priority over other cases before the Supreme Court.
- 5.24 Serious concern was expressed by some Commissioners that the provisos in both section 20 (2) b (last paragraph) and section 20 (4) (last paragraph) were presently being abused to throw out what could be legitimate cases. These provisos give Supreme Court judges power to decide the worth and legitimacy of a case before it has a chance to be argued in the Supreme Court. To eliminate the arbitrary or misuse of these provisos, the Commission concluded that the best course of action is to remove them completely from the Constitution.

Recommendation 21:

The Commission recommends that section 20 be amended such that:

- (a) a clause is added to an appropriate part of section 20 of the Constitution to clearly state that constitutional cases related to alleged contravention of the fundamental rights and freedoms of Chapter II be treated as first priority by the Supreme Court of Belize;*
- (b) the provisos (last paragraphs) in sections 20 (2) b and 20 (4) be deleted from the Constitution.*

Lack of Public Awareness of Rights and Freedoms:

- 5.25 The Commission is in unanimous agreement with the large number of Belizeans who contend that there is not enough public awareness of fundamental rights and freedoms in the society. Such lack of awareness contributes to abuse of rights by others and to insufficient use of the right to redress that the Constitution provides. Chapter 16 of this Report on political education makes concrete recommendations to address this valid concern.

Duties and Responsibilities of Citizens:

- 5.26 The Commission notes that the constitutions of several nations include a list of fundamental duties and responsibilities of citizens. The general argument for inclusion of such duties is that great importance is usually placed on the rights and freedoms of citizens but very little attention is given to the responsibilities and duties of citizens in the society.
- 5.27 While some Commissioners believe that the concept of enshrining responsibilities and duties of citizens of Belize in some legal document is a sound one, others see dangers in including these in the Constitution. One view is that the Constitution, as law, is a mandate of the citizens that spells out the responsibilities of the Government, but not those of citizens. Another is that the wording of such responsibilities can open the door to the denial of rights to citizens. Additionally, enshrining such responsibilities in the Constitution raises the question as to what should be done when citizens do not carry out their responsibilities. There are also other complex questions related to rights and duties of citizens in a multi-ethnic society in which some groups are requesting special rights. The deliberations on this issue indicated to the Commission that the Belizean people need to have a national discussion on the issue of citizenship especially as it relates to rights enjoyed and responsibilities assumed.

Recommendation 22:

The Commission does not recommend the inclusion of a section or chapter in the Constitution on duties and responsibilities of citizens.

CHAPTER 6

CITIZENSHIP

Introduction:

- 6.1 Chapter III of the Constitution defines who are citizens of Belize, who can become citizens, and how citizenship may be lost. The Commission noted that issues related to Belizean citizenship have long been in the public debate and received many submissions on a variety of related issues. Generally, public input indicated that Belizeans see citizenship as a highly important aspect of their identity as Belizeans and that this issue should not be taken lightly. In its review of the public concerns and proposals, the Commission attempted to reflect this level of importance.

Persons who become Citizens on Independence Day:

- 6.2 The Commission discussed the long-standing concern that section 23 (5), which deals with rights to Belizean citizenship through marriages that took place before independence, discriminates against women. The contention is that the woman's right to Belizean citizenship through marriage under this sub-section is based on the presumption that citizenship only devolves from men to women and not from women to men. The proposal is to change "*every woman*" to "*every person*" to remove gender discrimination that is itself prohibited by section 3 of the Constitution. Some Commissioners argued that this change should be made to remove any existence of gender discrimination in the Constitution and in any related ordinary law. Others viewed the proposed change as merely cosmetic and not relevant for present day experiences since it dealt with a pre-independence situation. Others proposed deleting the sub-section entirely.
- 6.3 However, the decisive arguments were that (a) some persons may still be able to seek Belizean citizenship under this provision and it should remain, and (b) that a change to "*every person*" would in effect expand rights intended for a pre-independence situation. Consequently, the majority of the Commission agreed to recommend that section 23 (5) remain as presently stated in the Constitution.

Recommendation 23:

The Commission recommends that section 23 (5) remain as presently stated in the Constitution.

Economic Citizenship:

- 6.4 Numerous and strong representations were made to the Commission regarding section 26(1)c of the Constitution, that allows the grant of citizenship by registration to "*any person making a substantial contribution to the economy*

and/or well-being of Belize or who has rendered distinguished service to Belize.”

This 1985 constitutional amendment made it possible for the establishment of the much debated Economic Citizenship Investment Programme (ECIP) in 1985. The public view of the ECIP is decidedly negative and there have been many calls for discontinuing the programme. Others proposed a complete deletion of the enabling section in the Constitution. The issue generated dynamic debate in the Commission.

6.5 Arguments reviewed by the Commission for keeping the ECIP and the constitutional provision in section 26(1)c included:

- (a) Belize needs the income and investment generated;
- (b) Belize needs to compete with investment incentives like these offered by other developing nations;
- (c) If there are problems with the programme these can be fixed through reform of the policy;
- (d) Relatively few of the beneficiaries ever come to, or settle in Belize;
- (e) As a principle, granting of citizenship is one way of rewarding substantial investors to Belize.

6.6 Arguments reviewed by the Commission for discontinuing the programme included:

- (a) As a principle, citizenship should never be given as a reward for financial contribution. There should be no price on citizenship;
- (b) There has not been enough transparency and accountability in the operation of the programme. The programme is open to abuse and has been managed recklessly;
- (c) Proceeds from the programme have not made significant contributions to Belize's development;
- (d) There is little convincing evidence that the programme has significantly increased investment in Belize's economy;
- (e) Belizean passports sold under the scheme have been used for illicit purposes and have tarnished the name of Belize internationally;
- (f) Those granted citizenship under the programme automatically acquire all the rights of Belizeans and most have more influence because of their financial assets;
- (g) Citizenship does not have to be granted to investors to encourage investment.

6.7 While Commissioners had varying views on the issue the Commission eventually found the arguments for discontinuing the programme to be more convincing. In particular, the Commissioners were of the view that if the key objective of the programme is investment, this can be encouraged using other incentives and mechanisms apart from the sale of passports. The Commission believes that the existing or a revised visa mechanism can be used to effectively facilitate the travel and work of genuine investors. Additionally, the Commission noted that the

public had little faith in the programme ever being managed in a fair and transparent manner.

Recommendation 24:

The Commission recommends that:

- (a) Section 26(1)c of Chapter III of the Constitution be deleted completely to disallow the granting of citizenship to persons “making a substantial contribution to the economy and/or well-being of Belize or who has rendered distinguished service to Belize.”;***
- (b) Any law or policy related to economic citizenship be rescinded or amended to reflect (a);***
- (c) That a visa process be used to facilitate the movement and work of genuine investors.***

Deprivation of Citizenship:

- 6.8 The Commission noted that section 28(b) allows the National Assembly to make provisions, not inconsistent with Chapter 2, for “*depriving any person of his citizenship of Belize.*” Concern was expressed over the possible abuse of this provision including the possible result of a government rendering a person stateless. In reviewing the relevant provisions in the Nationality Act, the Commission understood the intent of the provision to refer specifically to those persons who acquired their citizenship by registration. The Commission agreed that there could be cases in which citizenship by registration was acquired in some illegal or inappropriate manner and that merited deprivation. However, the Commission concluded that so as to have a more accurate reflection of the intent, that the sub-section be amended to say that it refers specifically to citizenship by registration.

Recommendation 25:

The Commission recommends that section 28(b) of the Constitution be amended to read:

“depriving any person who acquired citizenship by registration of such citizenship of Belize.”

Persons Born on Belizean Registered Vessels:

- 6.9 Section 29(1) of Chapter III refers to citizenship as it relates to being born aboard a ship or aircraft. Such persons “*are deemed to have been born in the place in which the ship or aircraft was registered, or as the case may be in that country.*” In practice this means that persons born to non-Belizean parents on board a ship or aircraft in Belizean territory, can claim Belizean citizenship by virtue of being born in Belize. The Commission is of the view that any interpretation of this

section to mean that people born on ships or aircraft with Belizean registration outside of Belizean waters are in effect born in Belize has to be avoided.

Recommendation 26:

The Commission recommends that a proviso be added to section 29(1) of the Constitution to read as follows:

“Notwithstanding the provision of section 29(1) of this Chapter and subject to section 25, a person born aboard a ship or aircraft with Belizean registration will not be deemed to have been born in Belize.”

Persons Born Outside Belize who are Entitled to Belizean Citizenship:

- 6.10 In reviewing section 29(4) which refers to persons born outside Belize but are entitled to citizenship, the Commission discussed a concern that in such cases it could be interpreted as giving the Minister the power to decide who is to be granted citizenship of Belize for such cases. Some Commissioners felt that it must be made clearer that such persons referred to in this sub-section have a right to citizenship and are not granted such by the Minister. However, it was agreed that while such persons have such rights to citizenship they still must go through a registration process to formally record their status. The Commission then agreed that the central problem with the sub-section was to be found in the phrase, “...*the right to citizenship shall not be deemed to accrue...*,” and that the removal of the word “not” would address the concern.

Recommendation 27:

The Commission recommends that the word “not” in line #3 of section 29 (4) of the Constitution be removed.

Language as a Requirement for Citizenship:

- 6.11 The Commission reviewed a proposal calling for knowledge of the official language to be made a requirement for the grant of Belizean citizenship. It was argued that a basic level of proficiency in the official language was critical for effective participation in the society. Another view indicated that, in a multi-lingual society which still has yet to develop a comprehensive language policy, such a requirement would be premature and divisive. However, the majority of the Commission is of the view that a basic knowledge of the official language(s) of Belize should become a requirement for the grant of citizenship.

Basic Civic Knowledge as a Requirement for Citizenship:

- 6.12 The Commission also reviewed a proposal calling for basic civic knowledge about Belize to be made a requirement for the granting of Belizean citizenship. Basic civic knowledge refers to such things as national symbols, the political system, basic rights and freedoms and basic geography. It was argued that such

knowledge would contribute to effective participation in Belizean society. The majority of the Commission agrees with this proposal and is of the view that a basic language and basic civic knowledge test can be combined in one test for applicants for citizenship.

Recommendation 28:

The majority of the Commission recommends that:

- (a) The Belizean Nationality Act be amended to make a basic knowledge of the official language(s) of Belize a requirement for the grant of Belizean citizenship by registration to persons who are at the age of understanding;***
- (b) The Belizean Nationality Act be so amended to make a basic level of civic knowledge about Belize a requirement for the grant of Belizean citizenship by registration to persons who are at the age of understanding;***
- (c) A combined simple test be developed to fulfill the requirements of (a) and (b) above;***
- (d) All names of persons obtaining citizenship by registration be published in the Government Gazette on a timely basis.***

Service in the Belize Defense Force:

- 6.13 A proposal to recommend that there be mandatory service in the Belize Defense Force as a duty of all citizens between a certain age was reviewed by the Commission. It is argued that such service enhances national discipline and would provide a better defense for the nation in the context of the Guatemalan claim. However, the majority of the Commission does not see the usefulness of such a mandatory military service requirement for Belize at this time.

Recommendation 29:

The majority of the Commission does not recommend that citizens of Belize of a certain age be constitutionally required to give a period of mandatory service in the Belize Defense Force.

- 6.14 Commissioner Carolyn Trench-Sandiford expressed a dissenting view in writing from Recommendation 29. This can be found at Appendix VII.

Dual Citizenship and Elected Officials:

- 6.15 While the Commission received no proposals to remove the dual citizenship provision in Chapter III, it did review a proposal to have persons with dual citizenship renounce their citizenship to the other country before seeking election to the House of Representatives. Those favoring the proposal argue that it would eliminate all possibilities for conflict of interest and allegiance that could be detrimental to Belize. Those against such renouncement argue (a) if people can

vote they should be able to run for office, (b) that it would eliminate potentially good leaders, (c) it did not consider those who gained dual citizenship by birth, and (d) that section 58(1)a of Chapter VI of the Constitution adequately disqualifies those with “*allegiance, obedience or adherence to a foreign power or State*” from seeking office. The majority of the Commission agreed with the arguments against.

Recommendation 30:

The majority of the Commission does not recommend a constitutional amendment that that would require persons with dual citizenship to renounce citizenship to other countries before seeking election to the House of Representatives.

- 6.16 Commissioner Carolyn Trench-Sandiford expressed a dissenting view in writing from Recommendation 30. This can be found in Appendix VII.

Participation and Rights of Belizeans Living Abroad:

- 6.17 Some representations were made on behalf of citizens of Belize living outside Belize with the objective of enhancing their participation in Belize. It was argued that many overseas Belizeans make significant contributions to the nation’s economy through remittances, investments, construction, donations and contributions to political parties, and that their participation in Belizean society should therefore be facilitated in some way. The Commission is of the view that no special constitutional treatment should be afforded Belizean citizens who choose to live abroad. The Commission addresses this issue further in Chapter 13 in the context of discussing voting rights.

CHAPTER 7

THE GOVERNOR-GENERAL

Introduction:

- 7.1 Belize's Constitution states (section 36) that "*the executive authority of Belize is vested in Her Majesty.*" Chapter IV of the Constitution on the Governor-General states that "*there shall be a Governor-General of Belize who shall be a citizen of Belize appointed by Her Majesty and shall hold office at Her Majesty's pleasure and who shall be her Majesty's representative in Belize.*" This appointment is made on the nomination of the government in office in Belize at the time. In practice the Governor-General's role as the Queen's representative is largely ceremonial but there are also important constitutional functions performed by the holder of the office. Based on public representations, the Commission examined three questions related to the Governor-General in Belize:
- (1) Should Belize's substantive Head of State be a Belizean?
 - (2) Should the functions of the Head of State be revised?
 - (3) Should the Head of State be selected in a different manner?

British Monarch or Belizean Head of State:

- 7.2 Representations made on the issue of the Governor-General focused largely on whether or not Belize should replace the British monarch with a citizen of Belize while at the same time keeping the existing functions of the present Head of State. Such a change would effectively mean that Belize would cut its ties to the British monarchy and become a parliamentary republic with its own Head of State. The term "*republic*" in this case would refer simply to the fact that the Head of State is no longer a monarch but selected by Belize.
- 7.3 Before examining the many arguments for and against the proposal, the Commission clarified that if Belize did move to having a Belizean Head of State it would still have (a) full membership in the Commonwealth, and (b) full diplomatic relations with the United Kingdom. The Commission noted that of fifty-two nations in the Commonwealth, thirty are republics, seven are monarchies with their own monarch, and sixteen, including Belize, have the Queen of the United Kingdom as Head of State. Apart from being in the Commonwealth, the republics have formal political and economic relations with the United Kingdom. Of the sixteen that still have the Queen as Head of State, several are moving towards becoming parliamentary republics.

Arguments for Retaining the Present Model:

- 7.4 Arguments for Belize to retain the present Governor-General model include:
- (1) It has served Belize well and without problems since independence and does not need fixing;
 - (2) The Governor-General has not interfered in the governance of the nation. Indeed the Governor-General has been a stabilizing force and can become even more so if a Prime Minister were to become a demagogue;
 - (3) Most Belizeans are familiar with the present arrangement and it has become part of the political culture;
 - (4) We should not consider the Governor-General as a position or a person but rather as an institution that is part of our system of government;
 - (5) Changing from the monarchical system will risk decreasing investor confidence that association with the Crown provides;
 - (6) In the real context of the unsettled Guatemalan dispute, changing from the monarchical system will risk decreasing both the prospects for British support in the event of an invasion from Guatemala and use of the British as a deterrent to such a threat;
 - (7) Changing the present Governor-General system will cause more division than unity.

Arguments to Change to a Belizean Head of State:

- 7.5 Arguments to move to a Belizean Head of State include:
- (1) Eighteen years after independence, it is unacceptable for Belize that is no longer a British colony to have a British monarch and a non-Belizean as Head of State;
 - (2) Chapter I of the Constitution states that Belize is a “*sovereign democratic state*.” Yet we have a Head of State who represents what is just the opposite of democracy: a hereditary monarchy;
 - (3) In the present system, there is the appearance of powers being conferred on the Head of State by the Queen;
 - (4) Moving from the monarchical Head of State would open the possibility for a more democratic method for choosing the Head of State;
 - (5) In oaths for office that have nothing to do with the United Kingdom, we still swear allegiance to “*Her Majesty Queen Elizabeth the Second and Her Heirs and Successors*.”;
 - (6) A Belizean Head of State should increase people’s sense of ownership and identification with the Belizean nation;
 - (7) Having a Belizean Head of State will not jeopardize Belize membership in the Commonwealth or affect our relationship with the United Kingdom.
- 7.6 While the majority of Commissioners were of the view that Belize should move away from the monarchical Head of State as currently practiced and towards a parliamentary republic based on the Trinidad & Tobago experience, there was a

pivotal issue that dominated the final discussions of the Commission. This issue was the security of Belize in relation to the Guatemalan claim to Belize.

The Security Issue:

- 7.7 Throughout the consultations, several people who supported moving away from the monarchical Head of State conditioned their support on assurances that Belize's security would not be in jeopardy in the context of the Guatemalan claim. Commissioners had strong positions on both sides of this issue. Those who believe that Belize's security could be jeopardized argue that having the Queen as Head of State (a) is a deterrent to attacks from Guatemala, (b) increases prospects for help from the British in case of an attack, and (c) gives Belizean negotiators an extra card in talks with Guatemala. They also note that while there have been democratic advances in Guatemala, the possibility for military coups still exists.
- 7.8 Commissioners who did not agree with the security concerns had a variety of arguments: (a) Belize and Guatemala have made great progress in improving relations to the point that Belize's independence has been recognized by Guatemala, (b) like the rest of Central America, Guatemala has moved towards democratically elected governments and away from civil wars, (c) Britain's decision to assist Belize in the very unlikely situation of an invasion would not be based on whether or not the Queen is Head of State, (d) the Queen does not make British military decisions, (e) Belize's membership in the Organization of American States is a deterrent to attacks from Guatemala since non-aggression is part of the collective agreement, (f) in this post-cold war period, the United States and United Nations are effective deterrents to acts of territorial aggression by Guatemala, and (g) the risks of international repercussions are too high for Guatemala to attempt any violation of Belize's territorial integrity.
- 7.9 The majority of the Commission does believe that a replacement of Governor-General with a Belizean Head of State is desirable for Belize at some time, but there was no agreement on the most appropriate timing.
- 7.10 Some Commissioners, but not a majority, are of the view that the security concern is of sufficient consequence to warrant caution in approaching the issue of replacing the British monarch as Head of State of Belize. Their position is that the timing of this move should be delayed on assessment of the risks it may present for Belize's national security in the context of the unresolved Guatemalan claim.
- 7.11 Other Commissioners, but not a majority, believe that the security concern does not warrant postponement of the move to making Belize a parliamentary republic by replacing the British monarch with a Belize citizen.
- 7.12 Also, the Commission is aware that this issue of replacing the British monarch is an emotional and divisive one for many Belizeans and could easily detract attention from more substantial recommendations in this Final Report.

No Recommendation:

- 7.13** After considering all arguments presented, the Commission reached neither consensus nor majority decision on the details of a recommendation on the issue of replacing the British monarch as the Head of State of Belize. There is therefore no recommendation on this issue.

CHAPTER 8

THE EXECUTIVE

Introduction:

- 8.1 Chapter V of the Constitution defines Belize as a constitutional monarchy with executive authority being invested in Her Majesty the Queen of Belize. The Governor-General is empowered by the Constitution to exercise such executive authority on behalf of the Queen. However, “*the principal executive instrument of policy with the direction and control of Government,*” is the Cabinet of Ministers with the Prime Minister at the helm. The Governor-General only exercises minimal executive authority when so authorized by the Constitution.
- 8.2 The major concerns about the executive of most who gave representations to the Commission were the following:
- (1) The concentration of powers in the Prime Minister;
 - (2) The concentration of powers in the Cabinet;
 - (3) Fusion of powers between the Executive and the Legislative branches of government;
 - (4) Lack of direct people’s participation in choosing the nation’s leader;
 - (5) Competence of Ministers;
 - (6) Accountability of Ministers.

Concentration of Powers:

- 8.3 The Commission is aware that the parliamentary system as practiced by Belize is designed to place significant power in the hands of the Prime Minister and Ministers. The argument is that this allows for effective and strong government. The system assures that the government in office will get all its policies and laws passed. Implementation of government policy is facilitated by the Prime Minister appointing persons to almost every position of power and the majority to almost every government body. Additionally, because members of the Cabinet are drawn from the National Assembly, and are collectively responsible to the House, it has become more obvious that legislative power really lies in the Cabinet and not in the Legislature. The Cabinet, which has always been the majority in the House, exercises executive authority and de facto legislative power. Consequently, Ministers are viewed as demi-gods and getting the power attendant to ministerial office is the ultimate goal of most candidates in national elections.
- 8.4 The Commission sought to address the public’s real concerns about the concentration of power in several recommendations throughout this Final Report. These include recommending (a) the sharing of some of the Prime Minister’s powers of appointment, (b) facilitation of people’s participation in the legislative process, (c) limiting use of statutory instruments, (d) limiting the use of the

discretionary powers of ministers, (e) enhancing the effectiveness of local government, and (f) increasing transparency of decision-making.

The Cabinet and Ministers:

Appointment of Ministers:

- 8.5 The Commission received several proposals that advocated reforms in the method of appointing ministers to the Cabinet. The proposals centered on having some or all ministers come from the general public as opposed to only from the House of Representatives and the Senate. Those arguing for appointments from outside the National Assembly contended that the reform would (a) give the Prime Minister more options for choosing capable people as ministers, (b) contribute to the separation of powers of the executive and legislature since none or fewer ministers would come from the National Assembly, (c) allow the legislature to perform its real function of making laws and policy for the nation since the Cabinet ministers would not dominate the legislature, and (d) allow representatives to concentrate on representing their constituencies without the additional responsibilities as ministers.
- 8.6 There were also strong arguments against appointments from the general public. The Commission noted that many Belizeans throughout the consultations equate their voting at national elections with electing a minister. Consequently, these Belizeans are not comfortable with the idea that their elected representatives may not have a chance of becoming a minister. It was also pointed out that ministers appointed from the general public would not be accountable to the voters, as are the elected representatives.
- 8.7 While the Commission understands some of the concerns that the proposal aimed to address, the majority of Commissioners are not convinced that appointment to the Cabinet from the general public is desirable at this time. The Commission notes that the mechanism of allowing non-elected Senators to be appointed ministers already allows for some members of the general public to be ministers. It is the considered view of the majority of the Commission that one way to address some of the concerns is to amplify the mechanism for using an expanded and reformed Senate as a pool for the appointment of ministers. The Commission's position on this issue should therefore be considered in the context of the Commission's recommendation on the Senate as stated in Chapter 9 of this Report. Other recommendations in this Chapter also address other of the arguments cited in section 8.5 of this Report above.

Recommendation 31:

The majority of the Commission recommends that the present method of appointment of Ministers from the National Assembly to the Cabinet be continued.

- 8.8 Commissioner Dylan Vernon and Commissioner Carolyn Trench-Sandiford expressed dissenting views in writing from Recommendation 31. These can be found in Appendix VIII.

Size of the Cabinet:

- 8.9 A significant number of representations were made to the Commission in regards to limiting the size of the Cabinet. For some people making this proposal, the key objective is to decrease waste and to have a more rational distribution of ministries. For others, the key objective is to ensure that the members of the Cabinet are never the majority in the House of Representatives and enhance the separation of powers of the Executive and the Legislature. Others argued that it would give the Prime Minister more options to replace ministers who are not performing.
- 8.10 The major concerns of those who question the wisdom of such limitations of size is that it would make it more difficult for a government to govern and easier for a government to fall. The Commission noted however that having the Cabinet be the majority in the House of Representatives is not a characteristic of the parliamentary model upon which the Belize system is based. This has only occurred in Belize because of the small size of the House of Representatives.
- 8.11 It was also argued that any decision to limit the size of the Cabinet must give consideration to preventing easy “crossing-the-floor” of the House that can lead to a downfall of a government. The small size of Belize’s House and the experience of small majorities leave the door wide open for bribing of House members to “cross-the-floor” to join another political party. The Commission is of the view that this is a valid concern and has made a recommendation in Chapter 9 on anti-defection legislation that would prevent “crossing-the-floor” without resignation or disqualification of the particular representative.
- 8.12 With the introduction of an anti-defection mechanism, the Commission agrees that the size of Cabinet be limited through some rational formula. The Commission examined several approaches to limitation of size of the Cabinet and after careful consideration makes the following recommendation.

Recommendation 32:

The Commission recommends that section 40 of the Constitution be amended to limit the number of members of the National Assembly who can be appointed to the Cabinet to be:

(a) no more than 40% of the total number of members of the National Assembly, and shall be

(b) less than 50% of the members of each House.

8.13 The above formula uses a percentage system to place limitations both on the total number of Cabinet appointees that can come from the National Assembly, and on the maximum number that can come from each House. Part (a) of the recommendation gives what can be the maximum total number of appointees to the Cabinet, and Part (b) gives the maximum that can come from each House. Because Part (a) and (b) of the formula state that it is “*no more than*” or “*less than*” respectively, any fraction of a percentage point must be rounded down to the next whole number. For example, the number 14.6 is rounded off to 14.

8.14 If adopted, the Commission believes that Recommendation 32 will help to address several of the legitimate concerns that Belizeans have about their system of government. The recommendation should:

- (1) Enhance separation of powers between the Executive and the Legislature;
- (2) Restrict domination of National Assembly by Cabinet since less than 50% of the members of the Cabinet would come from the House of Representatives;
- (3) Allow the Prime Minister to retain a larger pool of elected representatives with which he can choose people to replace Ministers;
- (4) Reduce the perception that the Cabinet and the Legislature are not one and the same.

Qualifications of Ministers:

8.15 Representation was also made on the issue of qualifications of those eligible for becoming ministers of government. Several proposals called for all ministers to have some basic qualifications and for specific ministers to have specialized qualifications. Presently, the only member of the Cabinet who is constitutionally required to have minimum qualifications is the Attorney General. The majority of the Commission is of the view that additional qualification provisions are not necessary. The present system places the onus for getting quality ministers both on the electorate who elect representatives and the Prime Minister who appoints. Additionally, many view ministers as executive officials who do not necessarily need to have expertise in the various areas of their ministry(ies). Professional public officers provide the expert support needed by ministers. The Commission also notes that Recommendation 32 for appointment to the Cabinet and

Recommendation 43 for an expanded Senate should give the Prime Minister greater access to quality people.

Recommendation 33:

The majority of the Commission does not recommend a constitutional amendment to further specify basic or specialized qualifications for Cabinet appointees.

Ministers of State:

- 8.16 The Constitution allows for Ministers of State in section 45 of Chapter V. Ministers of State function to “*assist the Minister in the performance of their duties.*” They can be appointed from both the House of Representatives and the Senate. The Commission received a proposal to abolish the posts of Ministers of State based on arguments that it was another wasteful option for the dispensing of partisan favors. There was also the question of whether or not Ministers of State add to the numbers in the Cabinet and have votes in that body. The majority of the Commission is of the view that Ministers of State, in particular circumstances, can serve a useful function in the Executive and that the provision should not be abolished. However, the Commission agrees that the Constitution should clearly state that Ministers of State are not members of the Cabinet and have no vote in Cabinet, but can be invited to make presentations to Cabinet and participate in Cabinet discussions.

Recommendation 34:

The majority of the Commission recommends that provision for Ministers of State remain in the Constitution.

The Commission further recommends that a Constitutional amendment be made at section 45 to clearly state that Ministers of State are not members of the Cabinet and have no vote in Cabinet, but can be invited to make presentations to Cabinet and participate in Cabinet discussions.

- 8.17 Commissioner Carolyn Trench-Sandiford expressed a dissenting view in writing from Recommendation 34. This can be found at Appendix VII.

The Prime Minister:

Appointment of the Prime Minister:

- 8.18 Presently, the Prime Minister is appointed by the Governor-General who selects the member of the House of Representatives “*who is the Leader of the political party which commands the majority of the members of the House.*” The

Commission makes a recommendation to change this wording to reflect the fact that the leaders of political parties can lose their seat in elections.

Recommendation 35:

The Commission recommends that section 37(2) of the Constitution be amended to now read:

“Whenever the Governor-General has occasion to appoint a Prime Minister, the Governor-General shall appoint the member of the House of Representatives who appears to the Governor-General most likely to command the support of a majority of the members of the House.”

Direct Election of the Prime Minister:

- 8.19 The Commission received many proposals related to changing the method of election of the Prime Minister of Belize. Prominent among these was a proposal to directly elect the Prime Minister in separate nationwide elections instead of having this person come from the House of Representatives. This method of election is used by countries that have an executive presidential system such as the United States.

Arguments in Favor:

- 8.20 Arguments made for moving to direct election of the Prime Minister include:
- (1) It would enhance people’s participation in choosing the nation’s leader. Presently, only voters in two divisions vote directly for the Prime Ministerial candidates;
 - (2) It would enhance the separation of the Executive and Legislature since the Prime Minister would no longer come from the legislature;
 - (3) It would allow other quality candidates not attached to a major political party to run for the office;
 - (4) It would enhance the check and balance process between Executive and Legislature.

Arguments Against:

- 8.21 Arguments against moving to direct election of the Prime Minister include:
- (1) It would create gridlock when different political parties control the House and the office of the Prime Minister,
 - (2) It would add the expense of another election,
 - (3) It would create a confusing mix of two distinct systems of government.
- 8.22 Notwithstanding the attractions of the idea of all voters directly electing the nation’s leader, the majority of the Commission is of the view that such a reform should not be made at this time. This position is in line with the Commission’s recommendation on the system of government in Recommendation 1 to continue with the basic parliamentary executive model. Directly electing a Prime Minister or President while at the same time keeping a parliamentary model could create

significant confusion of powers and responsibilities. The majority of the Commission found much merit in the argument that having different parties control the Executive and the Legislature is a high risk for stagnation of governance. However, the Commission believes that the issue of direct election of the nation's leader should remain in the political reform debate for future consideration.

Recommendation 36:

The majority of the Commission does not recommend that the present process for choosing the Prime Minister of Belize be changed to a direct popular election model.

- 8.23 Commissioner Carolyn Trench-Sandiford expressed a dissenting view in writing from Recommendation 36. This can be found at Appendix VII.

Term Limits for the Prime Minister:

- 8.24 The issue of term limits for members of the National Assembly and especially for the Prime Minister was raised several times during public consultations. Some argue that term limits for the Prime Minister would (a) contribute to decreasing official corruption, (b) prevent domination and entrenchment of one leader for too long, and (c) encourage 'new blood' and new ideas. On the matter of corruption, it was pointed out that the experience of some nations is that it increases when there are term limits as people know that there is a limit to the opportunities for corruption. It was also contended that term limits (a) deprived the electorate of the right to choose who it believes is the best person to lead the nation, and (b) can disrupt the flow of good works of a good leader. The majority of the Commission was not convinced that term limits for the Prime Minister would enhance democracy in Belize.

Recommendation 37:

The majority of Commissioners recommends that term limits for the office of the Prime Minister of Belize be not adopted at this time.

Resignation Provision:

- 8.25 In reviewing section 37(5)a of the Constitution that deals with ways the Prime Minister can vacate the office, the Commission noted that provision was not made for the resignation of the Prime Minister. This is also the case for members of the House of Representatives, Senators, and Ministers. For completeness and clarity the Commission recommends that provision be made for resignation in all the relevant sections.

Recommendation 38:***The Commission recommends that:***

- (a) section 37(5) be amended to add a new section 37(5)d of the Constitution that provides for the Office of the Prime Minister to become vacant through resignation, and***
- (b) relevant sections of the Constitution on the vacation of office of Representatives, Senators, and Ministers be amended to provide for resignation.***

Statutory Instruments:***Curtailing Use of Statutory Instruments:***

- 8.26 The ministerial power to use the statutory instrument mechanism to create or amend legislation is of extreme concern to many Belizeans. The much-used mechanism is in essence a delegation of some of legislative powers from the House to ministers. There is wide perception that this power has been open to abuse and that it contributes to the excessive concentration of power in the Executive. The Commission shares the public's concerns about the statutory instrument mechanism's openness to abuse. It urges quick action to curtail the amending of legislation outside of the National Assembly. It is the view of the Commission that a major part of the problem is (a) legislation passed by the National Assembly gives too wide a provision to ministers to amend such by statutory instrument, and (b) insufficient oversight and approval of statutory instruments by the House of Representatives.

Recommendation 39:***The Commission recommends that the use of the Statutory Instrument mechanism be further regulated by:***

- (a) curtailing the enabling power of ministers to legislate by reducing legislation that gives this power;***
- (b) making it mandatory for all statutory instruments to go to the House of Representatives for ratification at the next sitting of the House.***

Leader of the Opposition:***Leader of the Opposition:***

- 8.27 Section 47 of the Constitution situates the office of the Leader of the Opposition in the Executive branch of government. A proposal was made to replace the name "Leader of the Opposition" to "Minority Leader" as a symbolic move to

downplay the opposing nature of the term. The Commission did not view this as a substantive issue. However, the Commission did seriously consider a proposal to facilitate the office of the Leader of the Opposition through the provision of an official office, transportation and an operational budget. The Commission is of the view that the office of the Leader of the Opposition is of high importance in Belize's democracy. In addition to the specific constitutional duties, the Leader of the Opposition holds meetings with various national and international persons and organizations in the capacity of the office.

Recommendation 40:

The Commission recommends that the Standing Orders of the House of Representatives be amended to establish the Office of the Leader of the Opposition and that the holder of this office be provided with transportation and operational expenses to facilitate the exercise of the duties of this office.

The Belize Advisory Council:

- 8.28 Based on proposals from the public, the Commission examined the role and appointment process of the Belize Advisory Council. The Council was originally envisioned as an independent group of wise and experienced persons who would play a key advisory role in governance. Section 54 of the Constitution describes the process of appointment and the functions of the Council. The Council is comprised of a minimum of six members plus a chairperson. Of the six members, two are appointed by the Governor-General on the advice of the Prime Minister after concurrence with the Leader of the Opposition and four plus the chairperson by the Governor-General on the advice of the Prime Minister after consultation with the Leader of the Opposition. No maximum number of other members is set and all others are appointed on the advice of the Prime Minister after consultation with the Leader of the Opposition. The chairperson must be a judge of the Supreme Court or Court of Appeal. Appointments are for a maximum of ten years but there are no minimums. The Council's role is to advise the Governor-General in the exercise of the powers of that office and to perform other such tasks and duties as conferred by the Constitution.
- 8.29 The concerns expressed about the Council included (a) a general lack of awareness about this part of the Executive branch of government in Belize, (b) the power of the Prime Minister to appoint the majority to such a body that is envisioned as independent and that exercises some judicial functions, (c) membership of the Council not being representative of society, (d) lack of effective use by governments of this advisory body.
- 8.30 The Commission identifies with the concerns stated in section 8.37 above and in particular with the concern that the Prime Minister appoints the majority to the Council which has important judicial functions including (a) advising on the

prerogative of mercy, (b) advising on the removal of the Director of Public Prosecutions, and (c) advising on whether a judge of the Supreme Court “*ought to be removed from office for inability or for misbehavior.*” It is the view of the Commission that the Council does have an important role to play in the exercise of Belizean democracy and that reform of the appointment process as well as some extension of its advisory role are desirable. In several of its recommendations, the Commission proposes such an extension of the advisory role.

Recommendation 41:

The Commission recommends that section 54 of the Constitution be amended to:

- (a) fix the number of members of the Belize Advisory Council to six members plus a chairperson’***
- (b) have the Head of State appoint two members on the advice of the Prime Minister, two members on the advice of the Leader of the Opposition, and two members in his/her own deliberate and independent judgement,***
- (c) have the Head of State appoint the chairperson with the concurrence of both the Prime Minister and the Leader of the Opposition,***
- (d) have the term of office for all members be a minimum of ten (10) years.***

The Commission further recommends that:

- (e) A permanent and staffed secretariat of the Belize Advisory Council be established within the Executive with the functions of providing support to the work of the Council and a permanent point for communication with the Council;***
- (f) Educational material about the make-up and role of the Council be developed and made easily available to the public.***

CHAPTER 9

THE LEGISLATURE

Introduction:

- 9.1 The Legislature of Belize is described in Chapter VI of the Constitution as a bicameral legislature comprising an elected House of Representatives and an appointed Senate. The House is presided over by a Speaker who is elected from within or outside the House by the members of the House. The Speaker's role is to ensure the orderly running of meetings of the House by giving all members a fair opportunity to be heard. The Senate is presided over by a President who is elected from within or outside the Senate by its members and whose role is to ensure the orderly running of meetings of the Senate giving all members a fair opportunity to be heard. In reviewing representations made to the Commission, the following core questions about the Legislature arose:
- (1) Should there be a unicameral assembly?
 - (2) Should the Senate be abolished or reformed?
 - (3) Should a mechanism to recall representatives be established in Belize?
 - (4) Should there be legislation to prevent crossing the floor?
 - (5) How should the Speaker of the House and the President of the Senate be chosen?
 - (6) Should there be qualifications for membership in the National Assembly?
 - (7) How can people be afforded more input into the legislative process?

The National Assembly:

A Unicameral Assembly:

- 9.2 Several proposals came before the Commission to make the legislature a unicameral assembly. This could be achieved either by abolishing the Senate or by having both Houses sit together at all times. Later in this Chapter, the Commission argues that the Senate not be abolished but reformed to become more effective. The Commission considered the option of having the reformed Senate and the House make up one unicameral assembly and meet only in joint sessions. Those who argue for this unicameral approach in which the members of the Senate could participate in debates and vote only if constitutionally allowed, contend that it would (a) enrich the legislative debate, (b) shorten the legislative process since the views of the Senate would be heard in the House, (c) make Senators more visible to the public.
- 9.3 The Commission sees much merit in these arguments, and is in favor of having a unicameral assembly. The Commission believes that such a unicameral approach will not negatively impact on the Senate's role but will enhance it. As it is, the

Senate's role of delaying passage of legislation has been largely limited to little more than a weekend since the Senate usually meets the following Monday or Tuesday after a Friday House meeting. In any case, the House will eventually get its way. Senators sitting in the unicameral House will still have the opportunity to give their views on proposed legislation and be able to do so immediately and in a much more public forum. The Senate will have a greater public face and public interface, as the public's attention is highest when their elected representatives meet. Recommendation 42 below on the unicameral assembly must be considered in conjunction with Recommendations 43 and 44 on reforming the Senate.

Recommendation 42:

The Commission recommends that the Chapter VI of the Constitution be amended to replace Belize's bicameral model of legislative assembly with a unicameral model in which:

- (a) The House of Representatives and the Senate sit in joint sessions in a National Assembly;***
- (b) Members of the House of Representatives and the Senate jointly elect the Speaker by simple majority;***
- (c) Members of the House of Representatives and the Senate have voice and can participate in all debates;***
- (d) Senators have voting rights only on special areas as specified in Recommendation 44 of this Report;***
- (e) Committees of the House may include members of the Senate.***

The Senate:

The Present System:

- 9.4 In reviewing the public's input on the legislature, the Commission found that there is a high level of popular support for abolishing or reforming the Senate. Presently, the Senate is made up of 8 members appointed by the Governor-General. Five are appointed on the advice of the Prime Minister, two on the advice of the Leader of the Opposition, and one after consultation with the Belize Advisory Council. The Senate is presided over by a President who is elected by the members of the House and must be a Belizean, be over 30 years of age and may come from within or outside the Senate. While the Senate can delay legislation, it has no powers to block legislation or amend legislation not agreed to by the House. Overall, the key reason behind having a Senate is to have a more sober debate on bills brought from the House that would hopefully lead to substantive amendments that would improve legislation. The Commission is of the view that this has not worked and it is clear that the Senate is by and large a 'rubberstamp' for the House.

Reform or Abolish:

- 9.5 The Commission is not in agreement with those who call for the abolition of the Senate. It believes that a reformed Senate sitting in a unicameral assembly with the members of the House of Representatives can play a key role in enhancing Belize's governmental process. In deciding what other reforms to recommend for the Senate, the Commission agreed that these reforms at the very minimum result in a Senate that:

- (1) Can effectively delay legislation to allow for further debate and refinements;
- (2) Has a greater public face and more public interface;
- (3) Has more responsibilities to participate in key legislative decisions;
- (4) Becomes a better source for appointments to the Cabinet,;
- (5) Is larger and more representative of the interests of the electorate.

An Elected Senate?

- 9.6 Some have called for an elected Senate with equal numbers of Senators from each district. It is argued that this would increase people's participation in choosing their leaders and also address the concern that some districts are under-represented. The Commission finds the election option attractive but believes that instead of extending the 'first past the post' process, a different election approach should be considered. Having another set of 'first past the post' elections can work out to be very expensive and result in even more divisive party politics. Additionally, the 'first past the post' system used for the House of Representatives does not account for the disparity of numbers of voters in divisions which can be quite large. For these reasons, the Commission gave much thought and favor to integrating the proportional representation approach in electing the Senate.

Proportional Representation for the Senate:

- 9.7 As noted in Chapter 13 of this Report, the Commission received several appeals for consideration to be given to incorporating aspects of proportional representation for Belize's electoral system. After extensive discussions that included the review of the approaches to selection of Senates in other models of government, the Commission is of the view that the approach of selecting a larger number of Senators using the proportional representation concept will help to achieve several of the desired results of section 9.5 of this chapter. It could especially allow for a truer representation of the minority view of the populace and help to compensate for situations in which a political party wins the popular vote but not the majority in the House of Representatives.
- 9.8 In developing its recommendation on this matter, the Commission reviewed the proportional representation experiences of some nations and gave special attention to the German proportional representation model. In this model, the German Bundesrat (Senate) is partially proportionally elected in a process where political groups get the number of seats in proportion to the amount of the popular

votes they receive. These political groups each publicly put up a prioritized list of Senate candidates from which they draw the number of Senate seats they win. The Commission creatively used some of the German approach to proportional representation in developing the following recommendation for election of the Senate.

Recommendation 43:

The Commission recommends that Chapter VI of the Constitution be amended to allow for the proportional election of the Senate such that:

- (a) the Senate will compose of thirteen (13) seats;***
- (b) one (1) Senator will be appointed by the Governor-General representing interests outside the major political parties based on the recommendation of the Belize Advisory Council;***
- (c) twelve Senators (12) will be appointed by the Governor-General based on the proportion of the popular vote received by political parties in national elections;***
- (d) the mechanism of the process be as described in section 9.9 of this Report.***

Mechanism of Electing the Senate:

9.9 The mechanism recommended for the election of the Senate based on proportional representation is as follows:

- The 13 seats will represent 100 points.
- 4 points will be reserved for the Governor-General and the balance of 96 points will represent the total popular votes cast;
- The Governor-General will use the 4 points to appoint one (1) Senator representing interests outside the major parties based on the recommendation of the Belize Advisory Council;
- Each of the remaining twelve (12) seats will be equivalent to eight (8) points and each point will then represent 1.04% of the total votes cast (i.e. $100 \div 96$);
- Parties contesting the election will receive the number of Senate seats in proportion to total votes they receive;
- Fractions of points will be weighed on the side of the majority holder;
- In the event of a tie, the seat will be given to the government side;
- All Senate appointments are to be made by the Governor-General

9.10 For example, if a party won 55.8% of the popular vote that party would have won 53.57 points. This is obtained by dividing 55.8% by 1.04%. Since each seat is worth 8 points, the party would be entitled to 6.6 seats in the Senate. Since fractions of points are weighed on the side of the majority holder, the party would be entitled to 7 seats in the Senate. When, assigning Senator seats to all parties and there is a balance of points that results in a tie (e.g. 4 points each remaining for two parties), the seat goes to the party that is in the office of government and has the majority in the House of Representatives.

Powers of the Senate:

- 9.11 This section assumes a unicameral assembly as recommended in Recommendation 42. There is significant public support for reformation of the Senate to give it more clout in the legislative and decision-making process. The Commission noted that Senates in some nations have the power of consent on very limited types of Bills of extreme national importance. These include Bills that involve such things as amendments to the Constitution, deployment of troops abroad, matters of territory, administrative jurisdiction of states (districts) and state finances.
- 9.12 While that Commission finds some merit in enhancing the Senate's legislative role, it is of the view of the Commission that the Senate should not have the power to block legislation through indefinite delay. The Commission proposes that for a select number of Bills that deal with subjects of major national importance, the Senate's lack of consent would either result in the House withdrawing the Bill or the House deciding to take the issue to the electorate in a referendum. In the recommendation below, the Commission proposes that "national security" matters include, but not necessarily be limited to: the deployment of troops abroad, the deployment of foreign troops on Belizean territory, changes of leadership of the military which would place it in foreign hands, disbanding the military, drastic increases or reductions in military spending, and conscription in the military.

Recommendation 44:

The Commission recommends that Chapter VI of the Constitution be so amended such that:

- (a) Bills on selected topics listed in (b) below, require the 2/3 support of the Senate for passage and that lack of Senate consent would either result in (i) the withdrawal of the Bill or (ii) a decision of the National Assembly to take the issue to the electorate in a referendum for approval;*
- (b) The consent of the Senate in (a) above be required for the Bills that deal with:*
- (i) Amendments to the Constitution of Belize,*
 - (ii) Issues of National Security,*
 - (iii) Issues of Territorial Boundaries,*
 - (iv) Treaties related to the Belize/Guatemala territorial dispute.*

Right of Recall:***Recall of Elected Representatives:***

- 9.13 Presently, the Belize Constitution and electoral laws do not make provision for the recall of elected representatives. Several proposals were received to introduce the right of electors to recall their representatives who abuse their office, change positions on critical issues, or cross the floor. The Commission understands that

the public's support for recall is directly related to public frustrations about the lack of performance and/or perception of corruption of elected representatives. It is also seen by some as one clear way that voters can 'have some say' between national elections. There are several approaches and scenarios for exercise of recall, but they generally entail a specified percentage of voters in a particular division petitioning the election officials for a recall vote of that particular representative.

- 9.14 Even as the concept of recall is democratically sound, the Commission notes that those nations which use it have experienced many difficulties in its practice. One understandable concern in implementing the mechanism in Belize is that it would be the subject of much partisan mischief as parties try to gain the upper hand in the House. This would be especially so when the majority in the House is slim. It must also be noted that existing constitutional provisions and laws already address repercussions for representatives who break the law. One such law is the Prevention of Corruption in Public Life Act (No. 4, 1994) which the Commission also recommends be strengthened. (See Recommendation 47 below).
- 9.15 In the case of representatives who cross the floor, the Commission is of the view that this is best dealt with through separate anti-defection legislation that calls for automatic by-elections for members who do cross the floor to another party. (See Recommendation 46 below). The majority of the Commission believes that the merits of the power of recall are outweighed by the risks for abuse and does not recommend the introduction of such a mechanism for Belize at this time.

Recommendation 45:

The majority of the Commission does not recommend the introduction of a mechanism of recall of elected representatives for Belize at this time.

Crossing the Floor:

An Anti-Defection Law:

- 9.16 In discussions related to the Cabinet and to the power of recall above, the Commission noted its position that anti-defection legislation be considered in Belize. This is in line with public concern over their representatives moving to another party between elections and so nullifying their desired vote. Additionally, the Commission examined the issue from the point of view that crossing the floor can result in a change of government and even result in new elections.
- 9.17 It has always been essential element of democracies that individuals have a right to dissent and to disassociate themselves from an idea or group. Parliaments modeled on the British parliamentary system have always allowed a member, if not part of Cabinet, to vote against a bill put forward by the members' party or to

change parties. On the other hand, some believe that if the right to dissent is used to destabilize government and make it impossible to govern effectively, that right can become a problem for democracy. They argue that anti-defection legislation is needed to ensure that government is based on the consent of the electorate through their elected representatives, and that defections do not cause unstable government.

- 9.18 In examining the issue, the Commission reviewed the anti-defection legislation and experience of other nations in the Commonwealth. In this review, it became clear to the Commission that the most critical aspect of developing a recommendation was to decide what exactly constitutes defection or crossing of the floor. Based on the experience of other nations, the definition could include at least the following four scenarios: Elected representatives in the House of Representatives who:
1. Resign from a political party that has seats in the House;
 2. Cross the floor and joins another political party in the House;
 3. Vote against their political party in the House without party permission;
 4. Abstain from voting with their political party in the House without party permission.
- 9.19 All Commissioners agreed that (1) and (2) above certainly constitute defection or “crossing-the-floor.” Some Commissioners argue for all four to be included in the definition such that “crossing-the-floor” is any method used by members of the House to express dissent in the House with legislation or a position presented by the members’ party. They contend that if a member consistently voted against a party position in the House or abstained from voting, they were in effect violating the tradition of party unity and opening the door for unstable government and even a change of government. They also note that in instances of small majorities in the House, as have existed in Belize several times since independence, “crossing-the-floor” without penalties promotes political horse-trading and bribery in the House.
- 9.20 Other Commissioners did not agree that (3) and (4) should constitute defection or crossing the floor. They contend that democracy is enhanced when representatives have the option of voicing and voting their conscience and that enhancing democracy, not limiting it, is the goal of the entire political reform exercise. They note that the right to dissent is of special importance to promoting the role of back benchers (members of ruling party not in the Cabinet) and also argue that the voters who are represented by the member in the House may themselves want the member to take a position on some issues that are in opposition to the member’s party. However, they do concede that limitations should be placed on the right of dissent through voting in the House such that the result is not to have the government fall.

9.21 The Commission was unable to agree on (3) and (4) as part of the definition of defection, but is unanimous in its view that anti-defection legislation should be developed for Belize and that (1) and (2) be part of the definition. In relation to the process for removing members who defect, the Commission decided on the following mechanism:

- The leader of the party from which a member has defected informs the Speaker of the House;
- The Speaker declares the seat vacant;
- The member affected has 21 days to take the matter to court which would decide if there was indeed cause for removal of said member;
- If the removal is sustained, there is a by-election in the said division.

Recommendation 46:

The Commission recommends that the Government of Belize, after public consultation, develops and enacts anti-defection legislation for members of the House of Representatives.

The Commission further recommends that in developing the Anti-Defection Act that:

- (a) crossing the floor to join another political party in the House, and resignation from a political party in the House are included as part of the definition of defection;*
- (b) it be further debated if members voting against their political party's position in the House, or abstaining from voting in the House should constitute defection;*
- (c) the mechanism for removing members who defect include the following process:*
 - *The leader of the party from which a member has defected informs the Speaker of the House;*
 - *The Speaker declares the seat vacant;*
 - *The member affected has 21 days to take the matter to the Supreme Court which would decide if there is cause for removal.*
- (d) If the removal of the member is not contested or sustained by the Supreme Court, there is a by-election in the constituency in which there is a vacant seat.*

Prevention of Corruption

9.22 The Commission notes that the key reasons for considering a recall mechanism were its popularity with the public and perceptions that it would address widely held concerns about official corruption and abuse of the powers of office by elected officials. It sought alternative ways to address these concerns.

- 9.23 The Commission considered recommending the enactment in Belize of an impeachment mechanism aimed at discouraging corruption and misconduct. Those accused of corruption or misconduct could be investigated, and if found guilty be punished with such measures as censure, disqualification from holding office for a period of time or indefinitely, or removal from office. Enacting an impeachment mechanism would require developing precise definitions of impeachable offences, deciding who should be subject to impeachment and coming up with an acceptable set of procedures.
- 9.24 The Commission noted, however, that the existing Prevention of Corruption in Public Life Act (1994) makes provision for many of the things that an impeachment process would address. It proposes that the preferred approach is to strengthen the Prevention of Corruption in Public Life Act to further address the public's concern about corruption of public officials. The Commission believes that this Act provides the basis for effectively dealing with many of the occurrences of corruption of elected and other public officials and that a revision of this Act can enhance its usefulness.
- 9.25 The Prevention of Corruption in Public Life Act defines those in public life as being members of the House of Representatives including the Speaker, members of the Senate including the President, and members of the local authorities (City Councils and Town Boards). An Integrity Commission is mandated to receive, investigate and report on complaints regarding non-compliance or breach of the Act. The Commission has some authority to impose or recommend punishments for non-compliance or breach of the Act. In short, the Act requires (1) that people in public life annually disclose assets, income and liabilities; and (2) that all elected officials, public officers, and employees of statutory bodies abide by a code of conduct aimed at preventing corruption. The Integrity Commission has seven members including a chairperson. The Governor-General appoints two of these with concurrence of the Leader of the Opposition, and five, including the chairperson, with the concurrence of the Prime Minister. These appointments are for a period not exceeding five years.
- 9.26 The Commission finds the appointment process and the composition of such important a Commission to lack the level of independence and impartiality required for such important a body. In effect, the party in office controls the majority of appointments. Additionally, the Commission is of the view that a three-year tenure of office is much too short for a body of this nature. The Commission proposes that the Prevention of Corruption in Public Life Act and the effectiveness of the Integrity Commission can be improved by addressing these and other concerns about the Act.

Recommendation 47:

The Commission recommends that Government, with the input of the public, reviews and strengthens the Prevention of Corruption in Public Life Act (No.24 of 1994) with the objective of enhancing its effectiveness in the prevention and punishment of corruption of elected and public officials.

The Commission further recommends that the revised Act do at least the following:

- (a) reform the appointment process and composition of the Integrity Commission such that the Governor-General appoints two members with the concurrence of the Prime Minister, two members with the concurrence of the Leader of the Opposition, one on the advice of the Belize Council of Churches, one on the advice of the Belize Bar Association, and one on the advice of the Institute of Chartered Accountants of Belize;*
- (b) have the chairperson be elected by the three non-partisan appointments from among themselves;*
- (c) extend the tenure of office of members of the Integrity Commission from three to seven years;*
- (d) use the provision of section 10 of the Act to have the National Assembly expand the definition of 'public life' to include senior public officials to require them to make annual financial disclosures;*
- (e) review the offences listed under Part IV of the Act (Code of Conduct) with the objective of assessing whether an expansion is required;*
- (f) amend section 36(1) of the Act to replace the Solicitor General as the Integrity Commission's legal advisor with a private legal counsel of the Commission's choosing.*

Qualifications of Candidates for the House:

- 9.27 The arguments made against qualifications for ministers made in section 8.15 of Chapter 8 of this Report also pertain to elected representatives. It is the view of the Commission that it is the electorate and political parties that have the responsibility to select qualified candidates of integrity. The Commission also considered a particular proposal to amend section 57(b) that states that a person must be residing in Belize for one year prior to being nominated for election to the House such that the period of required residency be more. Those arguing for the increase contended that it would discourage those people who were living outside Belize and not familiar with the issues from participating. The majority of the Commission did not agree with this proposal as they felt that there were too many scenarios in which good candidates were away for legitimate reasons and would be prevented from participating.

Recommendation 48:

The majority of the Commission recommends that the one-year residency criteria for those seeking to be candidates for the House of Representatives be maintained.

The Legislative Process:***Office of the Parliamentary Counsel:***

- 9.28 Representation was made to the Commission that a Parliamentary Counsel be established in the National Assembly to facilitate the drafting of Bills by any member of the House of Representatives or the Senate. This proposal attempts to get at the concern that almost all legislation originates in the Cabinet. Also, drafting and interpreting legislation is technical and a specialized skill that should be more widely accessible to members of the National Assembly and the public.

Recommendation 49:

The Commission recommends that the office of Parliamentary Counsel be established to facilitate the members of the National Assembly with the drafting and interpretation of legislation.

People's Participation in the Legislative Process:

- 9.29 Several proposals were received aimed at facilitating people's access and input in the legislative process. The Commission noted that the House Committee process to gather people's input to proposed Bills is not working. There is insufficient publicity, ineffective distribution of Bills and limited debate outside of Belmopan. The Commission makes the following recommendations to help address this critical concern in the legislative process.

Recommendation 50:

The Commission recommends that the following measures be adopted to facilitate public awareness and participation in the legislative process:

- (a) Make the office of the Parliamentary Counsel accessible to citizens and citizen groups who want to propose legislation;*
- (b) Establish the office of the Public Relations Officer for the National Assembly who will be responsible for ensuring that the public (i) is kept informed of all Bills, (ii) has easy, free and timely access to Bills, (iii) is informed of the times of the sitting of House Committees, and (iv) has easy and free access to all Acts signed by the Head of State;*
- (c) Increase the time between the first reading of a Bill to the first review by the House Committee from twelve to thirty days to allow more time for distribution and review.*

Salaries of Elected Representatives:

- 9.30 Several proposals were received relating to increasing the salaries and benefits of members of the House of Representatives and of ministers. Those making the proposal argue that increasing compensation would (a) attract more qualified candidates, and (b) decrease temptations to abuse the powers of office for personal enrichment. The Commission is of the view that the government should seriously consider reviewing and increasing salaries of elected representatives with the condition that simultaneous efforts are made to decrease the abuse of positions of power for personal gain.

Recommendation 51:

The Commission recommends that Government coordinate a comprehensive review of the salaries and benefits of members of the House of Representatives, Senators and Ministers with the objective of assessing the feasibility and the extent of increases in compensation.

Oath of Office:

- 9.31 Several proposals were made to the Commission to review and revise the oath of office taken by members of the National Assembly and other public officials as stated in Schedule 3 to the Constitution. The main concern is that in oaths for office that have nothing to do with the United Kingdom, elected and other public officials still swear allegiance to “*Her Majesty Queen Elizabeth the Second and Her Heirs and Successors.*” The majority of the Commission is of the view that this phrase should be removed such that allegiance is sworn only to Belize.

Recommendation 52:

The Commission recommends that the oath of office in Schedule 3 to the Constitution be amended to delete the words, “Her Majesty Queen Elizabeth the Second and Her Heirs and Successors.”

Conflicts of Interest:

- 9.32 Section 59(2)d of the Constitution gives conditions under which a member of the House of Representatives shall vacate their seat. It basically seeks to prevent conflicts of interest for members of the House of Representatives by prohibiting members becoming a party to contracts with government. The Commission agreed that the section can be strengthened by including the words “*directly or indirectly*” after “*if he shall*”.

Recommendation 53:

The Commission recommends that section 59(2)d of the Constitution be so amended to add the words “directly or indirectly” as to now read:

“if the member shall, directly or indirectly, become a party to any contract with the Government”

Fines for Unqualified Persons Sitting in the House:

- 9.33 A proposal was received for increasing the fine for unqualified persons sitting in the House. Section 87 sets the fine at \$100 “for every day upon which he so sits and votes in the House.” The Commission agrees that this fine is too small and proposes that the rate be increased to \$500.

Recommendation 54:

The Commission recommends that section 87 of the Constitution be amended to increase the penalty for knowingly sitting in the House when unqualified from \$100 to \$500.

Resources for Elected Representatives:

- 9.34 The Commission received several proposals calling for all elected representatives, including those of the opposition party and independents, to be afforded a minimum amount of resources to allow for representation of people in their divisions. Many pointed to the seemingly undemocratic examples of elected representatives having less say in their division than un-elected persons representing a political party. The Commission is aware that the present government has introduced a policy that provides elected representatives with a stipend for the renting and operation of an office. It is the view of the Commission that this is a desirable initiative that should be made permanent and where possible expanded. Easy access to elected representatives by the public is an important characteristic for democracy that should be facilitated by the state.

Recommendation 55:

The Commission recommends that the current practice to provide elected representatives with resources to allow easy access to them by the people in their constituencies continues and becomes enacted.

CHAPTER 10

THE JUDICIARY

Introduction:

- 10.1 The people of Belize should be protected by all branches of government acting in accordance with the laws of Belize and in accordance with the Belize Constitution as the Supreme Law of Belize. However, it is through the judicial system that the people of Belize ultimately enjoy the protection of the law. The judges, the Director of Public Prosecutions and the Governor General acting in accordance with the advice of the Belize Advisory Council make up the judicial system. The four levels of courts are the Magistrates' Courts, the Supreme Court, the Court of Appeal, and Her Majesty in Council (the Privy Council). In Chapter VII, the Constitution envisions the Judiciary as an independent branch of government that should not be influenced by any of the other branches in the execution of its functions.
- 10.2 A significant number of representations to the Commission were directly related to the judiciary. Overwhelmingly, these indicated to the Commission that there has been a growing lack of faith and trust in the independence and capacity of the very branch of government that should most generate faith in Belize's democracy and trust in its institutions. The Commission finds this high level of public mistrust most alarming and dangerous, and views addressing it as one of the top priorities of this reform exercise. The key concerns about the judicial system include critical questions about:
- (1) the independence of the judiciary;
 - (2) the quality and integrity of judges;
 - (3) the transparency of appointment and removal processes;
 - (4) the dispensing of equal justice for all.

The Magistracy:

The Magistrates' Courts:

- 10.3 Section 94 of Chapter VII of the Constitution establishes the Supreme Court and the Court of Appeal. However, it was repeatedly pointed out to the Commission that no mention is made in the Constitution of the Magistrates' Courts although it is a large and integral part of the Court system in Belize with which most people have contact. Concern has also been expressed about the fact that magistrates are very often career public officers and thus subject to the discipline and pressure from the very employer (the Government) who might be a litigant before the magistrate in court. Another concern is that magistrates are often not qualified to handle the major responsibilities they have as judges. The magistrate is after all, a judge, on a level just below that of a Supreme Court judge. The contention of

many is that this state of affairs undermines the appearance of the independence of the Judiciary.

- 10.4 Proposals coming from the public on the subject of the magistracy include calls for the Magistrates' Courts to be included in the Constitution as a part of Chapter VII and that career public officers not be appointed as magistrates. The Commission identifies itself with the views of the public on this issue and endorses these proposals. Furthermore, the Commission is of the view that (a) minimum legal qualification standards need to be set to help address the concern of capacity of magistrates, and (b) further measures need to be taken to ensure the independence of magistrates.

Recommendation 56:

The Commission recommends that:

- (a) the Magistracy be duly recognized in the Constitution as a part of the judicial system of Belize;***
- (b) magistrates be appointed directly by the reformed Judicial and Legal Services Commission, (See Recommendation 60);***
- (c) magistrates not be public officers during their time of service;***
- (d) magistrates be given security of tenure that is longer than five years;***
- (e) minimum legal qualifications for magistrates be developed;***
- (f) Government undertakes an urgent study of the terms and conditions of service of magistrates, methods of recruitment and training, and the role of the Chief Magistrate in relation to the management of the magistracy and the scope of constitutional protection that should be accorded to magistrates.***

Appointment of Judges:

- 10.5 Sections 97, 98, 101 and 102 of the Constitution provide for the appointment and removal of judges of the Supreme Court and Court of Appeal. For the Supreme Court, the Chief Justice is appointed by the Governor-General acting in accordance with the advice of the Prime Minister given after consultation with the Leader of the Opposition. The other judges of the Supreme Court, called Puisne Judges, are appointed by the Governor-General acting in accordance with the advice of the Judicial and Legal Commission and with the concurrence of the Prime Minister given after consultation with the Leader of the Opposition. Judges of the Court of Appeal are appointed by the Governor-General acting in accordance with the advice of the Prime Minister given after consultation with the Leader of the Opposition. It should be noted that 'consultation' as explained in section 129 does not oblige the person doing the consulting to exercise the function in question based on the result of the consultation. 'Concurrence' means that the agreement of the person concurred with must be achieved.

- Supreme Court Judges:***
- 10.6 Representations made to the Commission reveal that the public is very critical of the manner in which judges are appointed and especially so in respect of Supreme Court judges. The manner in which Supreme Court judges are appointed is especially poignant because of the controversy surrounding the appointment and removal of a Chief Justice in Belize in August 1998 and February 1999 respectively. The Commission identifies with the view that reforms can be made to the manner judges are appointed to the superior courts that can contribute both to the reality and the perception of independence of the judiciary. The Commission reviewed the many proposals from the public as well as some of the approaches used by other nations in developing its proposals to improve the appointment process for judges.
 - 10.7 It was clear to the Commission that the various and diverse proposals had the following common objectives: (1) broadening the appointment process such that the Prime Minister has less direct and final say over these members of the Judiciary who should be independent from the Executive, (2) ensuring that only persons of high intellectual quality and well known integrity become judges, and (3) preventing the arbitrary or clandestine appointment and removal of judges.
 - 10.8 Many persons in the consultations had directed the Commission's attention to the on-going but unconstitutional practice of appointing Supreme Court judges on contract. The Commission agrees that this practice contradicts the principle of the independence of the Judiciary from the Executive and is open to much abuse. On the matter of integrity, the Commission noted that while it is important to try to make the appointment process more transparent, the indispensable determinant for quality performance is the integrity of the judge. On the issue of age of tenure of service, the Commission agreed with those calling for the extension of the present age of 62 to take into consideration that present life expectancy and to further promote the concept of non-interference from the Executive.

Recommendation 57:

The Commission recommends that section 97 of the Constitution of Belize be so amended as to provide for:

- (a) the appointment of the Chief Justice of the Supreme Court by the Head of State on the joint recommendation of the Prime Minister and the Leader of the Opposition from a list of nominees made by the reformed Judicial and Legal Services Commission. If a joint recommendation cannot be made within a given time, the Head of State, in his/her own deliberate judgement, shall appoint the Chief Justice from among the nominees of the Judicial and Legal Services Commission;***
- (b) the appointment of the Puisne judges by the Head of State acting on the recommendation of a reformed Judicial and Legal Services Commission after the Commission has consulted with both the Prime Minister and the Leader of the Opposition;***

- (c) increasing the age to which a person may act as a Supreme Court judge from 62 years to 75 years;*
- (d) the addition of a sub-section 97(3)c which adds another criteria for appointment of judges to state the following:
“he/she is a person of good character and integrity”*

Distinctions of the Recommended Appointment Process:

- 10.9 The Commission finds it important to summarize the distinctions between the existing and proposed modes of appointment. These are as follows:
- (1) In the case of the proposed appointment of the Chief Justice, there must be concurrence between the Prime Minister and the Leader of the Opposition; while now, the Prime Minister only needs to consult with the Leader of the Opposition. The two leaders will seek to concur in choosing someone from persons nominated by the Judicial and Legal Services Committee; while now, the Judicial and Legal Services Committee is not involved in the appointment of the Chief Justice.
 - (2) In case of the recommendation on the appointment of Puisne Judges the Judicial and Legal Services Committee consults with the Prime Minister and then independently with the Leader of the Opposition on which person to appoint as a Puisne Judge and then informs the Head of State who acts on its recommendation; while now, the Judicial and Legal Services Committee requires the concurrence of the Prime Minister before advising the Governor General, and the Prime Minister need only consult with the Leader of the Opposition.

Removal of Judges of the Supreme Court:

- 10.10 Section 98 of Chapter VII describes the process for removing judges due to inability to perform the functions of the office or due to misbehavior. The Governor-General can remove a sitting justice for these reasons based on advice that the Governor-General must constitutionally request from the Belize Advisory Council. The Belize Advisory Council investigates the matter and the Governor-General acts on its advice. The Commission is of the view that the removal mechanism needs to be clarified and made more transparent.

Recommendation 58:

The Commission recommends that section 98 of the Constitution be amended to reflect the following process for actions related to the removal of Justices of the Supreme Court:

- (a) written complaints relating to section 98(3) of the Constitution are to be sent to the reformed Judicial and Legal Services Commission;*
- (b) the Judicial and Legal Service Commission reviews the complaint for validity and writes a reasoned recommendation which is sent to the Belize Advisory Council;*

- (c) *the Belize Advisory Council reviews the recommendation of the Commission, requests clarifications if necessary, and then makes a decision, in its own deliberate judgement, for forwarding to the Governor-General;*
- (d) *the Governor-General acts on the advice of the Belize Advisory Council and informs, in writing, the judge in question and the complainant, of the decision.*

The Court of Appeal:

- 10.11 The Commission discussed the process of appointment of the Justices of Appeal of the Court of Appeal. (Section 101 of the Constitution). Presently, the Justices of Appeal are appointed by the Governor-General “*acting in accordance with the advice of the Prime Minister given after consultation with the Leader of the Opposition, for such period as may be specified in such instrument of appointment.*” The Commission is of the view that the Justices of Appeal should be appointed in the same manner as the Chief Justice that is outlined in Recommendation 57(a).

Recommendation 59:

The Commission recommends that section 101 of the Constitution be amended to allow for the Justices of Appeal of the Court of Appeal to be appointed in the same manner as the appointment process recommended for the Chief Justice at Recommendation 57 (a) of this Final Report.

The Judicial and Legal Services Commission:

- 10.12 While the present Judicial and Legal Services Commission comes under the Public Service Commission in Chapter VIII Section 105(11)b of the Constitution on the Public Service, many of its functions are of a judicial nature. Presently, the Commission is made up of the Chief Justice, the Solicitor-General and the chair of the Public Services Commission. It is the view of the Commission that a reformed Judicial and Legal Services Commission can play a much more important role in the judiciary in Belize. Several recommendations have been made in this report detailing the enhanced role of the Commission. To perform its functions effectively, the Commission proposes a re-constituted and more independent Judicial and Legal Services Commission that is fully integrated into the judicial system.

Recommendation 60:

The Commission recommends that constitutional amendments be made related to the Judicial and Legal Services Commission such that:

- (a) The number of members of the Commission is increased to five (5);***
- (b) The composition of the Commission is as follows:***
 - ***The President of the Bar Association of Belize***
 - ***Chair of the Public Services Commission***
 - ***A nominee of the Bar Association who is a Senior Counsel***
 - ***A nominee of the National Trade Union Congress of Belize***
 - ***A nominee of the Belize Chamber of Commerce and Industry;***
- (c) The Commission be removed from Chapter VIII on the Public Service through the deletion of section 105(11)b and placed in Chapter VII on the Judiciary;***
- (d) The Commission so constituted be responsible for matters related to the administration of the Magistrates Courts, the Supreme Court, and the Court of Appeal.***

The Privy Council:

10.13 Section 104 of the Constitution informs that appeals can be made from decisions of the Court of Appeal to “*Her Majesty in Council*” known popularly as the Privy Council. This London based court is therefore Belize’s highest court of appeal. It has recently been the subject of much debate and several proposals related to it were received by the Commission. Some citizens propose that the Privy Council be either abolished or replaced with a Caribbean Court of Appeal. The Commission noted that these views were sparked primarily because of the increased numbers of senseless and violent murders occurring in Belize in the last few years. There is also a popular perception that the Privy Council, far removed from the culture of Belize, is setting convicted murderers free or preventing the penalty of death passed upon them, in accordance with the Laws of Belize, from being carried out.

10.14 In its review of the matter, however, the Commission is of the view that the Privy Council is not a major factor in the preventing of the carrying out of the penalty of death, and that it still has a critical role to play in Belize’s exercise of justice. The Commission noted that the problem with the carrying out of the death penalty lies in the fact that the defense attorneys-at-law in Belize utilize the ruling of the Privy Council in certain Caribbean cases *Pratt & Morgan vs. Attorney General of Jamaica* Vol. 43 – W.I.R. p.340 and *Fisher vs. Minister of Public Safety & Immigration*, Vol. 52 W.I.R. p.1, which effectively say that after five years it is cruel and inhumane treatment for convicted murderers to be hung. Consequently, appeals to the Court of Appeal and constitutional motions are filed one after the other until the five-year period is up. This can effectively frustrate the implementation of the death penalty after five years.

- 10.15 The Commission proposes that if government wishes to address this situation it could best do so by amending the Constitution and the Supreme Court Judicature Act in such a way as to limit the time within which appeals and constitutional motions can be brought before the Court of Appeal and the Supreme Court so that sufficient time is left within which the law of the land can be carried out, if the Government so chooses. However, the Commission is convinced that the Privy Council should not be abolished as Belize's final court of appeal a suitable replacement court is in place in the Caribbean Community (CARICOM). The Privy Council hears appeals in a wide range of civil and criminal cases, and is, by the nature of it being externally appointed, a most independent court that enhances the exercise of justice in Belize.

Recommendation 61:

The majority of the Commission recommends that, until a suitable replacement final court of appeal is identified, that the Privy Council remain as Belize's final court of appeal.

Recommendation 62:

The Commission recommends that the Supreme Court of Judicature Act and the Constitution, if necessary, be amended to limit the time to twelve (12) months within which criminal applications and constitutional motions arising from murder convictions may be brought before the Supreme Court so that sufficient time is left within which the law of the land can be carried out.

Director of Public Prosecution:

- 10.16 Section 50(2) of the Constitution addresses the appointment and role of the Director of Public Prosecution (DPP), which forms a part of the judicial system. The Commission received complaints indicating that some in the public felt that the DPP must in some way be held accountable for any seemingly arbitrary decisions made by the DPP in the administration of justice. It is the view of the Commission that section 50(2) of the Constitution gives the DPP too wide a range of use of the power of that office. The section states that "*the Director of Public Prosecutions shall have power in any case in which he considers it desirable to do so – (a) to institute and undertake criminal proceedings against any person before any court of law....*" The Commission recommends that because the office of the DPP is one of high stature and importance, that section 50(2) be amended to reflect some condition on the power to prosecute.

Recommendation 63:

The Commission recommends that section 50(2) of the Constitution be amended to replace the words “in any case in which he considers it desirable to do so” with “with good and sufficient reason” so that it reads:

“The Director of Public Prosecution shall have power, with good and sufficient reason, to (a) institute and undertake criminal proceedings against any person before any court of law ...”

Legal Aid:

- 10.17 The Commission considered the proposals of some citizens that greater assistance should be afforded them in cases where they cannot afford legal assistance. The Commission noted that some such service is already being provided through the legal aid office. It is the view of the Commission that enhancing the effectiveness and scope of this existing office is the preferred route to assisting the growing number of citizens who cannot afford private legal assistance.

Recommendation 64:

The Commission recommends that Government provide more human and financial resources to strengthen the legal aid office to allow for greater access and more effective performance.

Compensation for Judges:

- 10.18 Some cite non-competitive compensation packages as a major constraint on attracting quality judges in Belize and from the region for long periods of time. It is also argued that a well-compensated judge is less apt to abuse the powers of the office. The Commission is in agreement with proposals for a review of compensation of judges.

Recommendation 65:

The Commission recommends that the Government commission a review of the terms of service of all judges in Belize with the objective of increasing compensation packages and attracting quality judges willing to serve for long periods of time.

CHAPTER 11

THE PUBLIC SERVICE

Introduction:

- 11.1 It is with the Public Service that most Belizeans have direct contact in their relations with government. The operations of the Public Service are guided by Chapter VII of the Constitution. As part of the Executive, the Public Service is the largest part of the government in terms of personnel and infrastructure. It is by all standards a large and complex organization that encompasses many administrative procedures that are exclusive to the service. Presently, there are 16 ministries that are responsible for 44 departments.

- 11.2 The Ministry of the Public Service has responsibility for general administration of the service and the Public Services Commission provides for the regulation of its operations. Overall, the role of the Public Service is to provide the services of the state and implement programmes and projects of the government in a fair, accountable and efficient manner. Two major players impact its operations: the executive branch of government, which is the political directorate, and the general public, which is the political electorate.

- 11.3 Few other branches of government have come under as much criticism as the Public Service from as many quarters including public officers themselves. The public complains of poor service, high levels of corruption and lackadaisical attitudes. The Executive complains of inefficiency, insufficient control, sabotage of programmes, and archaic regulations. Public officers complain of the Service having no direction, of persistent political victimization, and of poor compensation. With such complexity of problems and divergence of views as to causes, it is not surprising that the many attempts at public sector reform have had limited and discouraging results.

The Public Services Commission:

The Present Commission:

- 11.4 The Public Services Commission (PSC) is constitutionally charged with the responsibility of overall coordination of the Public Service. It has wide ranging powers to employ, remove, and discipline public officers who come under section 106 of the Constitution. It also has the responsibility of making regulations for the general management of the public service including matters related to recruitment, code of conduct, salaries, promotions and transfers. The Commission noted that one key responsibility of the PSC is to give some level of independence and protection of public officers. Presently, the PSC consists of a chairperson and eighteen other members, ten of whom are ex-officio. The chairperson and the

non-ex-officio members are appointed by the Governor-General acting in accordance with the advice of the Prime Minister after consultation with the Leader of the Opposition. The PSC has five sub-committees charged with dealing with specific areas of the public service: Police Force, the Military Service, the Prison Service, the Fire Service, and one for the rest of the public service. (Note: A Security and Intelligence sub-committee is now defunct.)

Concerns about the Appointment Process and Composition:

- 11.5 Those making submissions to the Commission raised several criticisms about the independence of the appointment process and of the members of the PSC. These include: (a) the appointment process gives the Prime Minister and the political party in power significant control over the composition and this facilitates “rubberstamping” of the political directorate instructions and encourages political victimization, (b) the composition is not necessarily sympathetic or understanding of particular concerns or features of certain disciplines of the public sector, for example, the military, the police, the prison and fire services, and (c) the composition facilitates partiality and subjectivity in the appeal process of public officers who are of the view that they have been unjustly disciplined or removed from office as it includes as ex-officio officers those who may have recommended the disciplinary measure or removal.
- 11.6 The Commission agrees that the appointment process and the make-up of the PSC is indeed in need of review and reform towards the end of enhancing its independence, impartiality and capacity. It is the view of the Commission that ex-officio members of the public service are not necessary to the effective functioning of the PSC and indeed detract from its objectivity. The Commission examined all criticisms and developed recommendations in the context of other submissions to reform both the functions and the structure of the PSC.

Concerns about the Functions and Powers of the PSC:

- 11.7 Strong arguments were received by the Commission for and against proposals to have the PSC devolve some of its powers to senior public officers. Criticisms of the PSC in this regard included: (a) it is too centralized and impersonal, (b) the mechanism in place by the PSC to address appeals from public officers who believe that they were unfairly disciplined or removed from office is biased against the officer appealing, or against whom disciplinary action is been requested (c) the process of appointments, filling of posts, and implementing disciplinary actions is too time consuming, and (d) the PSC does not respond easily to the ever-changing socio-economic and political environment which requires flexibility and proactive management. Those making these criticisms call for Permanent Secretaries and Heads of Department to have more power to employ, discipline and remove public officers towards the end of greater operational efficiency and human resource management. They also call for the PSC to be basically an appellate body to which public officers can go to seek redress.

- 11.8 Those opposed to having the PSC devolve its powers to employ, discipline and remove public officers argue that doing so would make public officers even more vulnerable to partiality and subjectivity. This is especially so with present moves to make the permanent secretary position a political appointment. Also, it is argued that the fact that the PSC is not objectively and independently performing its duties does not mean that it could not do so after being reformed.
- 11.9 The majority of the Commission agrees that the PSC's role of recruitment, confirming employment, removal and disciplining is essential to the protection of the public officer and does not support the devolution of the PSC powers in these areas. However, the Commission understands the efficiency concerns and will make recommendations to address this including the establishment of full-time secretariat support for the PSC. The Commission also notes that section 106 (5) of the Constitution already gives the PSC the power to delegate its powers to public officers and that the PSC should be encouraged to make greater use of this provision.

Separate Commissions:

- 11.10 Also, the Commission gave consideration to several proposals to divide the PSC into separate and independent Commissions. In Chapter 10, the Commission has already recommended that the Judicial and Legal Services Commission be removed from the Public Service Commission and be placed independently in the Judiciary. The Commission agrees that further decentralizing and separating the various distinct functions of the present PSC would contribute to increasing the effectiveness in the performance of its role.
- 11.11 In addition to a separate Judicial and Legal Services Commission, the Commission considered (a) a Security Commission that would be responsible for the police, the military services, the prison service and the fire service, (b) a Teachers' Services Commission, and (c) a more limited Public Services Commission for the rest of the public service. The Commission unanimously agrees that there should be a separate Security Services Commission to focus on the four departments of government that work on the security issues. While the Commission sees the wisdom of having a separate Teachers Services Commission to focus attention on this large sector in the public service, it is aware that this could conflict with Belize's present church/state education system which gives the managers of non-government schools the authority for personnel management. However, the Commission urges government to consider the eventual establishment of such a Teachers Services Commission.

Recommendation 66:

The majority of the Commission recommends that the Public Service Commission maintain its functions of recruitment, confirming employment, removal and disciplining of public officers.

Recommendation 67:

The Commission recommends the following reforms of the Public Service Commission:

- (a) section 105 of the Constitution be amended to re-structure the present Public Services Commission into three separate and independent Commissions: the Public Services Commission, the Security Services Commission, and the Judicial and Legal Services Commission;***
- (b) the Judicial and Legal Services Commission be moved to now fall under Chapter VII of the Constitution as described in Recommendation 60 of this Report;***
- (c) the Security Services Commission be responsible for the Police Force, the Belize Defense Force, the Fire Department, and the Prison Department;***
- (d) the reformed Public Services Commission be responsible for all departments in the Public Service not covered by either the Security Services Commission and the Judicial and Legal Services Commission;***
- (e) the reformed Public Services Commission be comprised of seven members appointed by the Governor-General in the following manner:***
 - Two members on the advice of the Prime Minister***
 - Two members on the advice of the Leader of the Opposition***
 - One member on the advice of the Belize National Trade Union Congress***
 - One member on the advice of the business sector***
 - The chairperson on the advice of the Belize Bar Association with the concurrence of the Prime Minister and the Leader of the Opposition;***
- (f) the Security Services Commission be comprised of seven members appointed by the Governor-General in the following manner:***
 - One member on the advice of the Prime Minister***
 - One member on the advice of the Leader of the Opposition***
 - Four members from persons who are former members of the Belize Defence Force, Police Force, Prison Department and Fire Department and above the rank of non-commissioned officers in the case of the Belize Defense Force and the Police Force, and above the rank of Captain in the case of Prison Department and the Fire Department and in any case not currently employed by the Government of Belize;***
- (g) full-time secretariats be established for both the Public Services Commission and the Security Services Commission with the responsibility of administering the day-to-day communication and work of the Commissions.***

Senior Public Officers:***Concerns about Section 107:***

- 11.12 Section 107 provides for the appointment, disciplinary control and removal of senior managers of the public service. Criticisms received by the Commission about the operations of this section and its implications to the overall functioning of the public service include the following: (a) appointments are political and the career of senior managers are at the whims of the political directorate, (2) it encourages an environment of fear and a tendency to do as the politicians wish, with no regard for accountability and transparency and the adherence to rules and regulations, (c) there are no guidelines for the appraisal of senior managers as they are outside of the purview of the PSC (d) fear of victimization stifles initiative and creativity in job performance. It is also argued that the political nature of the appointments means that any change of government translates into finger pointing at senior managers as political appointees loyal to the previous government. Removal of such appointees contributes to the brain drain and removal of persons with skill, knowledge and experience vital to the operations of the public services, and discourages other public officers from aspiring for senior management posts or for others to pursue a public service career.

Permanent Secretaries:

- 11.13 The Commission identified with most of the concerns expressed and agrees with the now prevalent view that calls for the clear establishment what is the most senior permanent post in the service that is required for the continued operations through changes in governments. It is the view of the Commission that permanent secretaries should indeed be political appointees who serve for the term of the government appointing them and who have a role of policy coordinator as opposed to administrator.

Heads of Department:

- 11.14 The Commission concluded that the Head of Department is the most important and most connected public officer whose permanence is essential to the effective and continued functioning of government. The Commission not only proposes that the Head of Department be the most senior permanent public officer, but also that the responsibilities of those holding this position be expanded to take on most of the administrative and accounting functions of the present permanent secretary and staff of the ministry. The new role envisioned for the Head of Department is that of a manager with the authority of an accounting officer and the autonomy to manage the human, financial and other resources in a department in conformity with the expectations of the political electorate and the policies of the political directorate. The Commission is also of the view that Heads of Departments should be moved from section 107 to section 106 of the Constitution so that they are appointed and subject to the Public Service Commission.

Recommendation 68:

The Commission recommends that:

- (a) Permanent Secretaries no longer be the most senior permanent position in the public service but instead be political appointees of the government in office with responsibilities to coordinate the implementation of the government's policies in the ministry;*
- (b) the term "permanent secretary" not be used to describe the holder of the positions cited in (a);*
- (c) the Head of Department be made the most senior permanent public officer;*
- (d) the Head of Department assumes most of the administrative, accounting and reporting functions now exercised by the permanent secretaries and staff of the ministries;*
- (e) Heads of Departments be moved from section 107 to section 106 of the Constitution.*

Open Vote Workers:

- 11.15 The Commission discussed the practice of the contracting of open vote workers in the Public Service. Some Commissioners expressed concern that this provision has been subject to abuse by governments in office. Concerns about the open vote system include (1) use of the provision to dispense partisan favors, (2) allegations of nepotism, (3) hiring of unqualified personnel, and (4) lack of limits on the time of service of open vote workers. The Commission is of the view that the concerns are significant enough to warrant a comprehensive review of the open vote system with the participation of the Public Service Commission.

Recommendation 69:

The Commission recommends that Government, with the involvement of the Public Service Commission, conduct a comprehensive evaluation and review of the open vote system that results in recommendations for its future role and use in the Public Service.

Area Representatives and Public Officers:

- 11.16 The Commission received and identified with concerns expressed about area representatives' use of public officers to do political work on their behalf. It is the view of the Commission that there must be a clear separation of the work of an area representative and a minister. Consideration must be given to provisions for the operations of constituency offices as separate from the office of the minister and the office of public service departments. This should reduce significantly the interference of the politicians in the operations and management of departments

and ensure that departments of government concentrate on providing services to the public in general rather than to the constituents of the particular minister.

Recommendation 70:

The Commission recommends that provision be made to:

- (a) prevent area representatives of the House of Representatives to involve public officers in the execution of political activities of their constituencies;***
- (b) provide for the operation of constituency offices separate from the offices of the minister and of the public service.***

CHAPTER 12

FINANCE

Introduction:

- 12.1 Chapter IX of the Constitution entitled “Finance” describes how public funds are to be raised, spent, accounted for, audited and reported on. There is no doubt that the finances of government play an extremely important role in the overall governance of a nation. It is therefore an area that requires the closest scrutiny as it is subject to abuse at all levels of the system. Indeed, the Commission received a large number of submissions directly related to the public’s growing concern about financial abuse, waste and corruption in government and government authorities. The key concerns expressed about the financial system by the Belizean public include:

- (1) Financial corruption of elected and public officials
- (2) Reckless borrowing by governments
- (3) Persistent lack of constitutionally required audits of the nation’s finances
- (4) Lack of transparency and accountability in the rewarding of government contracts
- (5) Perceived abuse of Social Security funds

Government Revenue and Expenditure:

- 12.2 Section 114 (1) of the Constitution instructs that all revenues or other monies raised or received by the government, except for monies otherwise payable to some other constitutionally established fund, shall be paid into and form one Consolidated Revenue Fund. This revenue fund is the source of monies especially appropriated by the Constitution towards a specific purpose and forms the bulk of the funds appropriated to the national budget annually by the National Assembly. Section 115 (1) charges the Minister responsible for finance with preparing and presenting to the House of Representatives in each financial year the estimates of the revenues and expenditures of Belize for the following financial year.
- 12.3 Concerns expressed particularly about the consolidated revenue fund include: (a) the disproportionate relationship between amounts of revenue collected by government from the various districts and the amounts they receive from the consolidated fund, (b) lack of public input in the determining annual budgets, and (c) lack of publicity of public revenue collection, spending and changes in budget spending.

District Revenues and Expenditures:

- 12.4 The Commission considered a proposal voiced by several persons in the district consultations that districts should receive funds in the annual budget in some proportion to amounts they contribute to the national revenue. In particular, there was the perception by many that the Belize District received much more than it contributed. While the Commission shares the view that national funds should be expended in a fair manner that benefits Belizeans across the nation, the Commission agrees with the position that national governments must have the option of deciding how revenues should be spent based on need, proposals from area representatives and on national plans. The Commission does not see merit in a distribution mechanism that ties the hands of government to some strict formula. Additionally, there is no direct relationship between district population size and district needs on the one hand and district revenue on the other; and there are times when particular districts, for a variety of reasons including natural disasters, may not be able to meet their operating expenses.
- 12.5 However, the Commission's opposition to having governments adhere to set distribution formulas does not mean that the Commission does not share some of the concerns related to the collection and distribution of national funds. It is widely acknowledged, for example, that the ability of area representatives to lobby for funds for their areas and districts is very much related to the numbers and the party affiliations of the representatives. The Commission sees merit in a comprehensive review of revenue collection and distribution decision-making processes with the objective of increasing transparency and fairness. In particular, the Commission urges that such a review makes recommendations on what can be done to further the process of decentralization to give towns and cities more control over their financial management. This is further discussed in Chapter 14 on Local Government.

Recommendation 71:

The Commission does not recommend that districts receive funds in the annual budget in proportion to amounts they contribute to the national revenue.

Priority Calls on the Consolidated Revenue Fund:

- 12.6 It is the view of the Commission that certain offices of government that perform key functions requiring some degree of independence from the executive branch of government should have priority access to operational budgets from the consolidated revenue fund. Such priority calls on the fund should be constitutionally guaranteed to protect the independence of these offices. The Commission proposes that these offices include the following: (a) the office of the Ombudsman, (b) the office of the Contractor-General, (c) the office of the Auditor-General, (d) the Election and Boundaries Commission, (e) the Integrity Commission, (f) the office of the Director of Public Prosecutions, and (g) the offices of the Supreme Court and Court of Appeal.

Recommendation 72:

The Commission recommends that an amendment be made to Chapter IX of the Constitution to guarantee that the budget requests of the offices of the Ombudsman, the Contractor-General, the Auditor-General, the Elections and Boundaries Commission, the Integrity Commission, the Director of Public Prosecution, and the Supreme Court and the Court of Appeal be given first priority calls on the Consolidated Revenue Fund.

International Loans:

- 12.7 A significant number of concerns were raised related to perceptions that governments borrow money on behalf and in the name of the people in ways that are sometimes reckless and lacking in transparency. Of special concern were the decision-making process and the general lack of information about the details of loan agreements. A proposal called for giving the House of Representatives more responsibility in approving loans such that all loans, regardless of size, must be passed through the House for ratification. The Commission notes that loan agreements are already required to be tabled as Bills in the House that include details, such as the source, terms, conditions and budget use of the loan. It is the view of the Commission that public access to information about loans could be enhanced by ensuring the publication of these details in the government gazette.
- 12.8 The Commission also considered proposals to have especially large loans be required to have the approval of the electorate in a referendum and to keep the nation's debt servicing below a set percentage of annual national budgets. While the Commission did not have a majority decision on these proposals, it agrees that public debt should be kept at a level that does not overly jeopardize the nation's financial sustainability.

Recommendation 73:

The Commission recommends that:

- (a) provision be made for all details of all loans made by the Government of Belize to be published in the Government Gazette;*
- (b) the Government take measures to ensure that public debt as a proportion of national income is kept at a prudent level.*

Government Contracts:

- 12.9 Several proposals were received by the Commission that aimed to address the many concerns that some Belizeans have about the process of the awarding of government contracts. There are strong perceptions that this process lacks

transparency and has been much abused by corrupt politicians and public officials. Some also make linkages between corruption in the contract process and campaign financing. The Commission shares the public's call for a thorough review of the contract award process and gave consideration to concrete proposals received to address the concerns. In particular, the Commission sought to make recommendations that (a) enhance the transparency of awarding contracts, (b) promote the publicizing of such awards, and (c) address concerns of excessive abuse of the award process in the weeks leading to a national election. With regards to the latter issue, because the awarding of contracts is now an executive function, the pre-election rush of contract awards, while distasteful, is not illegal. The Commission believes that this practice must be curtailed.

Recommendation 74:

The Commission recommends that the following measures be taken with regards to the process of awarding government contracts:

- (a) that the Constitution and relevant laws be amended to require the House of Representatives to ratify the awarding of all contracts over \$100,000, or to any one entity whose aggregate contract exceeds \$100,000;***
- (b) that internationally recognized standards for competitive public contracting be adapted by the Government through legislation such that there be public bidding process that is opened to the general public.***

- 12.10 It should be noted that Recommendation 74 above is intended to address both the concerns of lack of public information about contracts and the abuse of the contract process in the period immediately before national elections. By having the ratification of contracts go to the House, there is both an increase in publicity and scrutiny of contracts, and a prevention of governments handing out contracts after the House of Representatives has been dissolved. Giving the House of Representatives this responsibility does not take away from the important role of the Contractor-General to manage the bidding process, ensure that the agreements are valid, and to approve contracts before their presentation to the House

Social Security Funds:

- 12.11 Notwithstanding the fact that funds of the Belize Social Security Board are not directly mentioned in the Constitution and are not part of the consolidated revenue fund, the Commission received enough expressions of concern about the management of these funds to give the issue some attention. The Belize Social Security Act defines the role and functions of the authority, and the social security funds are managed by a board. An investment committee coordinates the investment of social security reserve funds. Social security funds are literally the people's money that are legally deducted and require the most effective and transparent management. Concerns received about the management of the social

security fund included (a) lack of timely disclosure of use and investment of the funds, (b) perceptions of arbitrary use of funds by governments, (c) perceptions that the loan programmes of the Belize Social Security Board are secretive and selective, and (d) possibility for abuse of loans to individuals.

- 12.12 After reviewing these concerns, the Commission concluded that an assessment of the Social Security Act (No.22, 1987) is warranted in order to ascertain if some of the concerns and perceptions expressed in section 12.11 of this chapter can be addressed. One proposal considered by the Commission but not recommended, is to have all decisions for the use of social security funds be approved by the House of Representatives to add another layer of scrutiny and increase public awareness. The Commission also examined other recommendations to address the concerns expressed that aim to make information on the management of social security funds more publicly available, and increase the perceptions and reality of fairness and transparency.

Recommendation 75:

The Commission recommends that the Social Security Act (No.22, 1987) be amended to:

- (a) make it mandatory for the Social Security Board to publish in at least two consecutive issues of the Government Gazette, its intentions to lend out or invest its money, or make donations, giving all pertinent details;***
- (b) reform the composition of the Social Security Investment Committee so that it is composed as follows:***
 - a Chairperson nominated by the Minister of Finance,***
 - a person who in the opinion of the Minister is experienced in the investment of moneys,***
 - the Manager, and***
 - two members of the Board nominated by the National Trade Union Congress of Belize and one by the Belize Chamber of Commerce;***
- (c) provide that the quorum for any meeting of the Social Security Investment Committee shall be the Chairperson and two other members neither of whom shall be the Manager.***

The Effectiveness and Functioning of the Auditor-General:

- 12.13 Section 120 of Chapter IX of the Constitution establishes the office of the very important post of the Auditor-General of Belize. Section 109 of Chapter VIII describes the appointment and removal processes. The Auditor-General is “appointed by the Governor-General, acting in accordance with the Public Services Commission and with the concurrence of the Prime Minister given after consultation with the Leader of the Opposition” which basically means that the Prime Minister does the appointment. It is the responsibility of the Auditor-

- General to (a) make sure that funds from the Consolidated Revenue Fund are not used except for purposes approved by the Constitution and the National Assembly, and (b) to do annual audits of the financial accounts of all government departments and all designated authorities and constitutionally established Commissions. This office is critical in the assurance of the transparency and the accountability of public funds and was the subject of significant discussion and proposals in the public and private deliberations of the Commission.
- 12.14 In reviewing the concerns and proposals of the office of the Auditor-General, the Commission agrees that the existing provisions governing the functioning of the office can be revised and amended to enhance its effective and independent performance. In particular, the Commission notes that, (a) although constitutionally required, audited financial statements of the government of Belize have not been tabled before the House of Representatives for many years, (b) the office often does not have adequate resources to carry out its responsibilities, (c) some legal entities are not now required to be audited by the Auditor-General, (d) the appointment and functioning of the Auditor-General are not sufficiently independent, (e) the authority of the Auditor-General to administer staff and hire expert assistance is too limited, (f) penalties for lack of cooperation with the Auditor-General and for the disclosure of confidential information are ineffective, and (g) existing financial regulations of the government of Belize are in urgent need of revision and modernizing.
- 12.15 In developing its recommendations on this issue, the Commission acted on the concept that the legislative branch of government, as the arm authorizing expenditures, should hire and appoint the Auditor-General who audits and reports back to it on the financial performance of the government. As the employer, the legislative branch should set remuneration, terms of employment, and performance and evaluation standards. As it is now, the Auditor-General is basically a public officer in the executive branch of government appointed by the Prime Minister. The Commission urges quick action by government to improve the independence and effectiveness of this office that is presently in serious crisis.

Recommendation 76:

To enhance the effectiveness and independence of the Office of the Auditor-General, the Commission recommends that:

- (a) the Constitution be amended at section 109 of the Constitution to reform the appointment process so that the Auditor-General is appointed by the Governor-General acting on recommendation of the National Assembly contained in a resolution passed on that behalf;***
- (b) the Auditor-General be required to have specific qualifications equivalent to that of a certified public accountant, and be a member of the Institute of Certified Public Accountants;***
- (c) Chapter IX, section 120 be so amended as to ensure that the budget for the Office of the Auditor-General is submitted directly to the House of***

Representatives and be given priority call on the Consolidated Revenue Fund;

- (d) the Public Accounts Committee of the House be the medium through which the Auditor-General communicates with the House;*
- (e) the Finance and Audit Act be so reviewed with the aim of making amendments that increase, establish, and ensure the execution of penalties for (i) government auditors who disclose information on audit inquiries without proper authorization, and (ii) public officers and others who refuse to cooperate with the requests of the Auditor-General during annual audits;*
- (f) the Public Services Commission delegate, as provided by the Constitution, its authority of employment, promotion, and removal of staff of the Office of the Auditor-General Department to the Auditor-General;*
- (g) provision be made for the development and implementation of penalties for failure to present audited national accounts to the House;*
- (h) provision be made and resources be allowed for the Auditor-General to contract the services of auditors outside of the public service to assist in the execution of the duties of the office;*
- (i) amend section 120(b) of the Constitution to state that a report be submitted to the House by the Auditor-General whether or not the report is complete and, if not completed, the reasons why;*
- (j) starting with the financial year 1997-1998 of the backlog, that audited annual reports be prepared and presented to the House in due time by the Auditor-General;*
- (k) provision be made for the revision of the Finance and Audit Act to ensure compatibility with the Constitution;*
- (l) revise and consolidate the Financial Orders, Store Orders and the Consolidated Public Expenditure regulations into one document.*

Discretionary Powers of Ministers to Waive Fees:

- 12.16 The Commission is aware that there are some concerns about the use and abuse of the discretionary powers of ministers of governments to waive fees that would otherwise go to the consolidated revenue fund of government. It is the view of the Commission that these waiver powers by ministers are open to arbitrary use, and abuse, and that there are negative effects on government revenue and on the public's perception of fairness.

Recommendation 77:

The Commission recommends that provision be made to:

- (a) require that all waivers suspending the legal requirement of any persons or organization to the payment of a particular fee or charge be done only by permission of a statutory instrument and that no waivers be allowed until such statutory instrument is passed by the House;*
- (b) ensure that all waiver of fees are published in the Government Gazette.*

CHAPTER 13

POLITICAL PARTIES AND THE ELECTORAL SYSTEM

Introduction:

- 13.1 Some aspects of the electoral process for national elections are described in Chapter VI of the Constitution and in the Representation of the People's Act. The process for electing local governments is described in three separate Acts and these are discussed in the Chapter on Local Government of this Report. Apart from descriptions of their role in elections and formation of governments, political parties are hardly mentioned in Belize's Constitution or laws and there is no one body of law that defines or regulates political parties. However, they play a significant role in the practice of democracy in Belize and particularly in the election processes. Throughout its consultations, the Commission received a significant number of submissions that directly relate to the activities of political parties and to the processes of elections in which they participate. It therefore found it necessary and essential to include a chapter in this report on political parties and the electoral system.
- 13.2 The major concerns and questions expressed about political parties and the electoral system included:
- (1) Should political parties be regulated?
 - (2) Should campaign finance be regulated?
 - (3) Should the appointment and composition of the Election and Boundaries Commission be more independent?
 - (4) Should there be a re-distribution of electoral divisions;
 - (5) Should voting by proxy be expanded?;
 - (6) Should election dates be pre-set?
 - (7) Should the electorate have the right to initiate a referendum process?

Registration and Regulation of Political Parties:

- 13.3 It is the view of some that it is now time to register and to regulate the activities of political parties. The argument is that whereas the Laws of Belize make provision for the registration of most organizations including companies, trade unions, and cooperatives and for the licensing of many professionals and businesses, that the organizations seeking to govern the nation, need not be registered. It is also argued that (a) registration of political parties would give the public more access to the internal dynamics and operations of the parties and individuals that seek to lead them, and (b) regulation is needed to curtail corrupt practices of parties when in power.
- 13.4 The main counter view is that political parties do not need to be registered nor regulated except if they are receiving public resources for which they must be

accountable. Some point to the fact that election related activities of political parties are already regulated to some extent by election laws. The Commission notes that political parties, on their own have made both their constitutions and their official leaderships public information. It is the view of majority of the Commission that regulation of political parties is not now necessary and should not be instituted unless political parties at some point receive public resources. Additionally, the majority of the Commission was not convinced by arguments that political parties should be required to register.

Recommendation 78:

The majority of the Commission does not recommend that legislation be enacted to register political parties or regulate the activities of political parties in Belize.

- 13.5 Commissioner Dylan Vernon expressed a dissenting view in writing from Recommendation 78. This can be found in Appendix VIII.

Campaign Finance Reform:

- 13.6 Campaign finance reform was a popular theme throughout the public consultations and several calls were made for the Commission to develop recommendations to regulate campaign contributions to political parties and political candidates. The key concerns of those Belizeans making submissions is that (a) there is an undeniable link between campaign contributions and official corruption that should be regulated in the interest of democracy, and (b) there is a growing perception that only those parties and candidates with substantial wealth or access to it are able to successfully compete in elections. The Commission also took note of the fact that campaign finance regulation is now a common feature of the democracies of many nations, including those with similar political systems.
- 13.7 While the Commission did not receive detailed proposals for mechanisms to regulate campaign financing during consultations, it did receive general suggestions that it considered. These include (a) regulation through the limitation of contributions to parties and candidates, (b) regulation through the limitation on spending by political parties and candidates, (c) a total ban on private financial contributions and an introduction of publicly funded campaigns, (d) limitation on the length of the campaigning period, and (e) requiring the media to provide free advertising as a public service.
- 13.8 In discussing these options, the Commission found that the issues related to the regulation of campaign financing are extremely complex and require much more examination than the Commission had time to carry out. A key concern is how to develop a regulatory mechanism that is both fair and foolproof, without at the

- same time, discouraging participation in the democratic process. Many point to the increasing ease of hiding financial contributions in today's global banking system. Nevertheless, the Commission is convinced that Belize should urgently develop campaign finance legislation. It is a campaign promise of both major political parties and is clearly a popular issue with the Belizean people. It will certainly be difficult to develop and agree on the best way to proceed, but such difficulty should not be a barrier to action.
- 13.9 In its limited review of the various campaign financing regulation options available, the Commission was not able to agree on any single mechanism to recommend. However, most Commissioners felt that bans or limitations on contributions, while conceptually attractive, would prove self-defeating, in that innovative ways would always be found to get monies to parties and candidates and this may only result in more corruption. Some, while not supporting limiting contributions, favored the requirement of public disclosures of all contributions while others felt that this would merely drive contributions more under the table. Some argue that public disclosure would also place opposition parties at a disadvantage in Belize's political culture since contributors who fear government reprisals would be less apt to donate to the opposition if it is publicly known.
- 13.10 Most Commissioners also could not conceive of (a) the society agreeing to allow public funds to be used to fund parties campaigns when there is already not enough for social projects, and (b) the private media being forced to give up one of its largest sources of income.
- 13.11 However, most Commissioners were supportive of the approaches of (a) limitations of spending by political parties and candidates, and (b) limitations of the period in which campaigning is allowed. The argument in favor of limiting spending is that it would be easier to regulate and would be an indirect limitation on contributions. While the Commission has not developed the details of how this would work, there are several spending limitation possibilities to consider. These include limitations on such things as the number of hours of advertising, on the quantity and quality of propaganda material, and on handouts.
- 13.12 Limiting the period of campaigning by prohibiting campaigns from commencing before a particular date is itself a way of limiting the cost of campaigns and the need for private contributions. Such limitations would place all parties and candidates on a level playing field as far as the time period is concerned. Political parties and candidates may themselves find this limitation attractive, and many in the public who are repeatedly exposed to campaigners and advertising may welcome it. A penalty process for violation of such campaign period regulation would, of course, need to be developed.

Recommendation 79:

The Commission recommends that that campaign finance regulation be developed as a matter of urgent priority for implementation before the next national elections.

In this regard the Commission recommends that government, without delay, commission an independent body of the public sector, the private sector and civil society with the mandate to:

- (a) develop campaign finance regulation legislation for Belize;*
- (b) consult the relevant interest groups on the matter;*
- (c) examine the approaches used by other nations with similar political systems;*
- (d) give special attention to the approaches of limiting of spending by political parties and candidates and of limiting of the time in which campaigning is allowed.*

The Election and Boundaries Commission:***Appointment and Composition:***

- 13.13 It was suggested in several submissions to the Commission that the appointment process and composition of the Elections and Boundaries Commission (EBC) do not make it sufficiently independent to effectively perform its responsibilities. Presently as stated in section 88 of the Constitution, the EBC has five members. Three, including the chairman, are appointed by the Governor-General on the advice of the Prime Minister, and two on the advice of the Leader of the Opposition. The Chief Elections Officer, who is a hired public officer, sits on the EBC with voice but no vote. In effect, the party in power controls the appointment of the majority of the Commission.
- 13.14 In reviewing the concerns about the independence of the EBC, the Commission took note of the critical importance of this body in the exercise of Belizean democracy through the administration of free and fair elections at both the national and the local levels. The Commission also acknowledged that Belize does have a rich history of free and fair elections and peaceful changes of government, but agreed that this should not prohibit an examination of the EBC.
- 13.15 It is the view of the Commission that this body, more than most others, requires both the reality and the perception of independence and fairness for its effective performance. The Commission concurs with the position that such reality and perception are best achieved by not having the political party in power, that will itself contest the next election, have the majority on the EBC. With this in mind, the Commission concluded that the key principles of neutrality and independence

from the government of the day are essential in establishing membership of such a body.

- 13.16 While the Commission is unanimous in its view that some the majority of members of the EBC should be appointed independently of political parties, it does see the value of having representatives of major political parties on the EBC. Not only are these the interests that have most at stake on this body, but the history of elections have shown that these interests provide an important monitoring role of the other political parties' election related activities. The Commission is aware that the most important characteristic in selection of members of a body such as the EBC is that of integrity.

Period of Appointment:

- 13.17 The Commission took note of the fact that the term of office of members of the EBC is five years, which is not longer than the constitutional limit of the tenure of a government. Presently, while the appointment timetable of members of the Commission is not identical to the election cycle, the government in power has the option of making new appointments before the next election. It is the view of the Commission that a longer tenure of office can enhance the independence of the EBC by preventing governments in power to easily remove or easily appoint new members.

Appointment of the Chief Elections Officer:

- 13.18 It is the view of the Commission that the holder of the position of Chief Election Officer, who performs an extremely important function in the administration of a body of government that requires such independence, should also perform the duties of the office in a most independent manner. The present manner of appointment of the Chief Elections Officer by the Public Services Commission has raised concerns about the extent to which such a public officer can be manipulated by the government in power. The Commission is of the view that a reformed Election and Boundaries Commission should have the right of approval of the holder of this office.

Budget of the EBC:

- 13.19 The Commission noted that independence of bodies such as the EBC is also enhanced when it has a high degree of independence of budget. Presently, the EBC has to compete with all other departments of government and this detracts from the perception of being truly independent. It is the view of the Commission that a budget mechanism be established that assures the independence of the EBC but that maintains a system of proper accountability of funds. For this reason, the Commission recommended at Recommendation 72 that the EBC be one of the offices in the government that has priority call on the consolidated revenue fund.

Recommendation 80:

The Commission recommends that section 88 of the Constitution be amended such that the appointment process, composition and functioning of the Elections and Boundaries Commission be reformed to provide for the following:

- (a) that the Commission be made up of five members, including a chairperson;*
- (b) that the members are appointed by the Governor-General such that*
 - one is on the advice of the Prime Minister,*
 - one is on the advice of the Leader of the Opposition,*
 - two are on the advice of the Belize Advisory Council with the concurrence of both the Prime Minister and the Leader of the Opposition;*
 - the chairperson is on the advice of the Belize Advisory Council with the concurrence of both the Prime Minister and the Leader of the Opposition;*
- (c) that the tenure of members of the reformed Belize Elections and Boundaries Commission be for seven years;*
- (d) that the appointed tenures for the first new Commission be such that a rotation effect is achieved by having the three members appointed on the advice of the Belize Advisory Council be appointed for three, five and seven years respectively in the first instance only;*
- (e) that the Commission, as reformed, be given the right to approve the appointment of the Chief Elections Officer.*

Number and Distribution of Electoral Divisions:

13.20 Section 90 of the Constitution sets out the criteria for the dividing of the nation into electoral divisions. It gives the Election and Boundaries Commission the right to make proposals for divisioning with the objective of having “*as nearly as may be, an equal number of persons eligible to vote*” with the total number of divisions being “*not less than 28.*” Presently there are 29 divisions and this number is subject to change by the National Assembly. As of September, 1999 there was a total of 97,514 registered voters divided as follows:

<i><u>District</u></i>	<i><u>Voters</u></i>	<i><u>Divisions</u></i>
Corozal	14,284	4
Orange Walk	15,051	4
Cayo	18,374	4
Belize	34,602	13
Stann Creek	6,837	2
Toledo	8,366	2

- 13.21 Having received numerous proposals both for there to be an increase in the number of divisions and for re-distribution of divisions, the Commission gave some time to reviewing the matter. The Commission did note that there were obvious discrepancies in the numbers of voters in some divisions and in the number of representatives per district. Besides the clear indications that an additional seat could be created in Cayo, and that the Belize District could lose at least one, the Commission reserves from further comment on the issue. In light of the responsibility of the Election and Boundaries Commission to carry out a review and make recommendations for re-distribution of electoral constituencies, the Commission concluded that this matter best be left to the EBC. However it does urge quick attention to the following recommendation.

Recommendation 81:

The Commission recommends that the Election and Boundaries Commission and the House of Representatives of Belize urgently carry out a comprehensive review of the present electoral divisions as required by sections 90 and 91 of the Constitution in time for the next general elections.

Prevention of Bribery of Voters:

- 13.22 Several requests were made for the Commission to make recommendations to regulate or halt the practice of political parties and candidates giving monies and gifts for votes. It is a well-known fact that the practice, while illegal, is rampant. One proposal is to make persons who have allegations of bribery to publicize their allegations with immunity from prosecution. The Commission noted that there would be a high risk for abuse of such a process. The Commission makes no recommendation on this issue.

Voting by Proxy:

- 13.23 Several submissions were made to the Commission proposing the expansion of the right to vote by proxy. Presently this privilege is reserved for those public officers who, because of working in the implementation of the election, cannot physically vote in their constituency. The Commission is of the view that this privilege must be handled with extreme caution since extensive voting by proxy can open the door for unwanted irregularity and corruption. The Commission took note of the fact that other voters living in Belize do not need this privilege since employers must legally give voters time off to cast their ballots. It is the view of the majority of the Commission that, in light of the risks for irregularities, voting by proxy should not be extended to any other individual or group for whatever reason.

Recommendation 82:

The majority of the Commission recommends that voting by proxy in elections in Belize should not be extended to any other individual or group for whatever reason.

Voting Rights for Belizeans Abroad:

- 13.24 The Commission received a proposal arguing for voting rights for Belizeans living abroad. It contended that many Belizeans leave to make a better life for themselves and many make significant contributions to the nation's economy. It is the considered view of the Commission that voting rights, outside of those presently existing should not be conferred on Belizeans abroad. As it is, Belizeans living abroad can register to vote once they have lived at an address in Belize for over two months.
- 13.25 The Commission also noted that there were many risks that allowing registration outside of the residency requirement or voting by proxy could cause, including the extreme situation of a government that has minority support at home. When elections in Belize are sometimes determined by one vote, the influence of large numbers of Belizeans not living in Belize voting in Belize's elections is extremely significant. Additionally, a basic principle of democracy is that it is government with the consent of the governed, and Belizeans living abroad can no way claim to be governed.

Recommendation 83:

The Commission does not recommend that special measures be enacted to facilitate Belizeans living abroad voting in elections in Belize.

Fixed Dates for National Elections:

- 13.26 A proposal to have set dates for national elections was considered by the Commission. It is argued that this would prevent Prime Ministers from abusing their power to call snap elections for purely political motives and to manipulate election dates to their perceived advantage. The Commission notes that set election dates have been enacted for town boards and city council elections. However, the Commission's majority view is that the setting of fixed election dates for national elections is out of line with the parliamentary executive model of government it has recommended be maintained. One of the basic principles of

this model is that a government must resign if there is a vote of no confidence or if they otherwise lose their majority in the House of Representatives.

Recommendation 84:

The majority of the Commission does not recommend that there be fixed dates for national elections in Belize in the context of the parliamentary executive model of government as practiced by Belize.

The Referendum Act:

- 13.27 The Commission notes that the Referendum Act passed by the National Assembly in 1999 that provides a mechanism for the conduct of referenda has been widely welcomed by Belizeans as another way for their participation in the democratic process. However, several proposals were received for enhancing this Act. The key concerns that are the focus of the proposal is the lack of provision for the electorate to initiate a referendum process, and the limited number of issues that automatically require one. The present Act makes mandatory referendums on issues related to amendments to Chapter II of the Constitution and to any proposed settlement with Guatemala. Decisions for referenda on other issues are decided upon by the National Assembly.
- 13.28 In reviewing the proposal for the electorate to have the right to initiate a referendum, the Commission again noted the strong message received throughout the work of the Commission that people want more say in the decision-making process. The Commission considered and agreed to recommend a petition process in which the signatures of 15% of the electorate could initiate a referendum process. However, there were strong arguments against having such a petition automatically bind the National Assembly to proceeding with a referendum. Those arguing for the House of Representatives to still have the right to decide whether there should be one, contended that (a) allowing the petition process to be binding would result in partisan mischief making and frivolous proposals, and (b) it undermines the right of the government to govern. The majority of the Commission supported this view.

Recommendation 85:

The majority of the Commission recommends that the Referendum Act be amended to make provisions for the electorate to introduce a referendum petition to the House of Representatives once the signatures of 15% of the registered electorate have been received and verified by the Election and Boundaries Commission, notwithstanding that the decision to proceed or not proceed with a referendum shall rest with the House of Representatives.

Proportional Representation:

- 13.29 The Commission received notable appeals for consideration to be given to incorporating aspects of proportional representation for Belize. Proportional representation is not a model of government in itself, but one of several formats used by democracies to elect representatives to legislative bodies. Examples of nations that use some form of proportional representation include Germany, Italy, and Israel. The concept is simply that political groups receive seats or influence in direct proportion to the percentage of the popular vote they win in an election. It is in direct contrast to the election system presently used in Belize that is commonly referred to as “first pass the post” in which the candidate or party winning the largest proportion of the votes win.
- 13.30 While there are several methods or formulas that can be used in proportional representation, the advantages cited include (a) it allows for a more representative government, (b) groups that will never be able to get 50% plus of the popular vote can have a voice, (c) it encourages compromise in the process of governance. Detractors cite the (a) complexity of representation formulas, (b) possibility for the gridlock of coalition governments if one party has a majority, and (c) that it results in weak and unstable governments. The Commission also noted that several democracies use a combination of election systems including a combination of “first pass the post” and proportional representation.
- 13.31 The majority of the Commission believes that there is some merit in considering the use of proportional representation for selected elections in Belize to address some of the concerns about democratic representation. A proposal was made to the Commission to consider proportional representation for local government elections, but no decision was reached. However, the Commission has made a proposal for the Senate to be elected based on proportional representation at Recommendation 43.

CHAPTER 14

LOCAL GOVERNMENT

Introduction:

- 14.1 Apart from the dominant institutions of national government, Belize also has a local government system. Local government basically refers to processes of government that are not national, but 'localized' in smaller parts of the state. Belize's Constitution does not recognize the existence and operational structure of local government, but there has, for long, been a presence of official governing bodies at the local levels. The intended function of these forms of local government is to administer certain aspects of the specified area through the election of local representatives. In Belize, there are four forms of local government: city councils, town boards, village councils, and the alcalde system. In 1999 key amendments were made to the Belize City Council Act and to the Town Board Act that govern these bodies. Also, a Village Council Act was enacted for the first time. The alcalde system in southern Belize is the traditional Mayan equivalent to the village council system
- 14.2 During the consultations the Commission received several concerns about the functioning of local government in Belize. The Commission agreed that issues related to local government are important enough to warrant special attention in a chapter of this report. In a very real sense, democracy has to be strong at the local level for it to be strong at the national level. These key concerns made by those making submissions on the local government system include:
- (1) Local governments have too little power in relation to central government;
 - (2) Parties in power in national government punish local governments of the opposite party and appoint unelected political officers to exercise control;
 - (3) Party politics at the village level is especially divisive;
 - (4) Local government responsibilities and central government responsibilities are sometimes blurred;
 - (5) The electorate has been showing decreasing interest in local governments;
 - (6) Lack of recognition of local government in the Constitution;

City Councils and Town Boards:

- 14.3 Belize City is presently the only city with Belmopan slated to fully become one in March of 2000. There are seven town boards in Corozal Town, Orange Walk Town, San Ignacio Town, Benque Viejo Town, Dangriga Town, Punta Gorda Town and San Pedro Town. Councilors are elected every three years to city

councils (10 councilors and a mayor) and town boards (6 councilors and a mayor) in a highest vote system. Recent amendments made to the Belize City Council and the Town Board Acts now allow for the direct election of mayors. Both cities and towns have very limited legislative powers and operate by receiving subventions from central government and by collecting a limited number of taxes and fees. Historically, the major political parties have competed for control of Belize City and of the towns. Election turnouts for these levels of local government are lower than those for national elections and have been decreasing steadily since independence.

- 14.4 The Commission noted that, until recently, local government has not been given much importance historically. Especially at the town and city level, the political parties have treated local government elections as mere barometers or gear-ups for national elections. More often than not the key issues of the municipal elections are more national than local. It was also pointed out that the centralized nature of the national system of government and the weakness of local government (a) are of special disadvantage to rural people who make up more than half the population, and (b) a disincentive to people's participation because the electorate knows the relative powerlessness of these bodies.

More Autonomy:

- 14.5 Several proposals were made to the Commission to develop recommendations for the further decentralization of the powers of central government to increase the autonomy of city councils and town boards. The Commission notes that the recent amendments in the Acts regulating these bodies and especially the Belize City Council have made some limited moves in this direction. However, the Commission is supportive of the principle that greater autonomy for these bodies would enhance democracy, effective government and people's participation. It urges that the powers and responsibilities of city councils and town boards in relation to those of central government be reviewed with the objective of further clarifying these and identifying what additional responsibilities can be assumed by these bodies.

Public Information and Awareness:

- 14.6 The general lack of people's interest in matters of local government is also due in part to lack of awareness and information about the role, functioning and issues of the city council and the town boards. It is the view of the Commission that more publicity and information sharing efforts should be made along the lines of the newsletter of the Belize City Council. It also urges that (a) proceedings of the meetings of these bodies be made more public and that live broadcasts of selected meetings be seriously considered, and (b) local government education be a part of the political education programme being recommended in Chapter 16 of this report.

Criteria for Defining Cities and Towns:

- 14.7 It was brought to the attention of the Commission that while there are Acts that describe the election, powers and functioning of municipal governments, that there are no clear criteria nor process for deciding which population areas are to become towns or cities. Why for example, is Belmopan to become a city and Orange Walk with a much larger population and greater economic base remain a town? It is the view of the Commission that this situation be quickly remedied to eliminate confusion and arbitrary decision-making processes.

Recommendation 86:

The majority of the Commission recommends that:

- (a) the Government commission a task force to review the powers and responsibilities of city councils and town boards in relation to those of central government with the objectives of further clarifying and rationalizing these, and identifying what additional responsibilities can be assumed by these bodies to make them more autonomous;***
- (b) provisions be made for city councils and town boards to further publicize their operations and issues;***
- (c) the government, after some consultation, develop clear guidelines and criteria and processes for the establishment of cities and towns.***

Village Councils:

- 14.8 Village Councils are the most basic and grassroots level of local government. Belize has over 150 villages across the nation, only some of which have defined boundaries. In a system that began in the 1950's, but was never fully institutionalized, registered villagers elect seven councilors every two years. In 1999, after the intense lobbying of some villages and civil society organizations, the House of Representatives passed an Act to legalize and define the role and powers of village councils in Belize. Unlike the municipalities, village councils have historically received no public funds and have very limited authority to manage village affairs. A minimum population of 200 has been set for villages to qualify to come under the Village Council Act (1998).

Role of Political Parties:

- 14.9 It was brought to the attention of the Commission that political parties have been competing for control of councils in more and more villages and that this has resulted in the further dividing of tiny villages to the detriment of community development. While the Commission does acknowledge that political parties contribute to such divisiveness, it could not agree with the proposal to prohibit political parties from participating in village council elections. Such prohibition goes against basic democratic principles and several constitutionally guaranteed rights.

District and National Councils:

- 14.10 Proposals were also made for the establishment of legally constituted District Councils with representation from all villages in the particular district and for a national village council association. The proposal calls for the District Council to be made up of the chairpersons of the villages in the district and for the National Council to have twelve members, two from each district. The Commission sees much merit in this proposal. It would facilitate collective approaches to common problems across villages and regions, and provide a legitimate mechanism for the consultation of villagers and for their appointment to public bodies.

Recommendation 87:

The Commission recommends that the Village Council Act be so amended as to provide for the establishment and roles of District Councils representative of elected village leaders, and of a National District Council representative of each District Council.

The Alcalde System:

- 14.11 This basically is the equivalent of the village council system in Maya villages in southern Belize. It is the traditional Maya way of administering villages and has been historically acknowledged by governments. The alcalde or mayor, who is elected by the men of the village, has more powers than a chairperson of a village under the Village Council Act. For example, he has the responsibility to decide who resides in a village, to pass judgements on disputes among residents and to hand out punishment for some crimes. While some call for these Maya villages to all now come under the Village Council Act, the Maya and some others feel strongly that this traditional system of governance must be maintained
- 14.12 The Commission discussed this clash of traditional culture and modernization, and concluded that the Maya should not be forced to give up their system of village governance in favor of the system defined in the Village Council Act. This is not to say that such practices as the prohibition of women to vote at alcalde elections and meetings are condoned by the Commission. However, the Commission felt that the decision to become part of the national village council system should be left up to the Mayan villages to decide and that an approach of forced acceptance would be counter productive.

Recommendation 88:

The Commission recommends that any decision to transform the Alcalde System of local government be made by the Maya villages presently using this system.

Local Government and the Constitution:

- 14.13 The Commission reviewed a proposal to enshrine local government in the Constitution while continuing to define the specific powers and duties in ordinary law. It was argued that this important part of Belize's democratic rights and process should be duly recognized in the Constitution of the nation as a separate chapter that (a) states that there is a local government system, (b) briefly describes the various levels of the system, (c) states the terms of elections, and (d) explicitly states the power to raise and hold revenue. Such recognition would give local government the importance it deserves and prevent easy amendments to key parts of the laws of establishment and regulation.
- 14.14 In developing its recommendation on this issue, the Commission noted that the practice of inclusion of local government in constitutions was not an unusual one and that doing so can strengthen the protection of this critical branch of democracy. The Commission identifies itself with the arguments in section 14.13 above.

Recommendation 89:

The Commission recommends that:

- (a) local government be enshrined in the Belize Constitution such that a Chapter be added to the Constitution to be entitled, "Local Government" and that the said chapter include statements of the existence of a local government system, of the various levels of the system, of the terms of elections, and of the power to hold and raise revenue;*
- (b) the definition of the specific powers and duties continue to be situated in ordinary law.*

CHAPTER 15

GENDER AND GOVERNANCE

Introduction:

- 15.1 In his statements launching the Commission in January 1999, the Prime Minister Said Musa asked that the Commission to “*be sensitive to gender perspectives*” in the execution of its work and in its recommendations. Additionally, the Commission received several calls during its consultations for making recommendations related to the relationship of women and governance. The Commission agreed that these issues could best be addressed by having a chapter on women and governance in this report.
- 15.2 The Commission noted that while women make up over 50% of the population, vote in larger numbers than men and are the majority on most campaign teams, that they are grossly under-represented in areas of political and public sector leadership. A recent study on women and political leadership indicated that in the 1990’s Belize has had only one of the 29 members of the House of Representatives being women. In 1998, this increased to two. The Senate has had an average of three women in the 1990’s, placing the percentage of women in the National Assembly in the 1990’s below 5%. The percentage of women of total city council and town board councilors is marginally better in the 1990’s at about 15%. While gains have been made at the level of senior management positions in government, the percentage of women in these positions is still way below their proportion in the population.
- 15.3 The Commission is cognizant of the historical disadvantages and discrimination that women face and recognizes that these contribute to their under-representation in leadership positions in government and political parties. It is also aware that while some gains have been made by women in these areas there is a long way to go to have women’s representation reflect their proportion of the population.

Strengthening the Rights of Women:

- 15.4 In reviewing the protection of the rights of women in the Preamble and the Chapter on Fundamental rights and freedoms, the Commission discussed the need and possibility of constitutionally strengthening the provision for the equality of women. While some felt that the existing provisions adequately protected the rights and equality of women, the majority of the Commission agreed that the disadvantaged position experienced by women in Belize called for more strong language that could be used by women to lobby for more equal treatment in practice. The Commission supports the amendment of the part (e) in the Preamble to include after the word “*sex*” the words, “*which ensures gender equality.*”

Recommendation 90:

The Commission recommends that Part (e) of the Preamble of the Constitution be amended to add the words, “which ensures gender equality” after the word “sex” so that it reads:

“requires policies of state which protect and safeguard the unity, freedom, sovereignty, and territorial integrity of Belize; which eliminate economic and social privilege and disparity among the citizens of Belize whether by race, colour, creed or sex; which ensures gender equality, which protects the rights of the individual...”

Gender Neutrality:

- 15.5 One proposal received by the Commission that has the unanimous support of all Commissioners is that the Constitution, as well as other legislation, should be written in gender neutral language. Much of the attitudes we hold as people, including our biases, are reflected in our written and even official language. The Commission concurs with the point of view that there is no longer any excuse for language in public documents to exclude women when more inclusive language is available. The Commission notes that there are several models that set out guidelines for gender neutralizing documents.
- 15.6 Another proposal called for the national flag and the national anthem to be revised to make them gender neutral. The Commission addresses this and other concerns about the national symbols in Chapter 17 of this report.

Recommendation 91:

The Commission recommends that:

- (a) the Constitution of Belize, all new amendments to it, and all new legislation be written or re-written, as the case may be, in language that is gender neutral;*
- (b) in the execution of this exercise that government consults with relevant civil society organizations.*

Appointment of Women to Government Bodies:

- 15.7 The Commission considered a proposal to recommend to government that it be legally required that a minimum of 1/3 of all new appointments to public bodies be women. Those making this proposal argue that until women are represented in equal numbers at all levels of government, such a provision would help to ensure that there is some balance of gender on public bodies that make major decisions

- for all the society. They also point out that whereas it is difficult to mandate a minimum representation of women in elected positions that this is possible in some appointed bodies.
- 15.8 The discussion on this proposal indicated that there were a variety of divergent views among Commissioners. Those supporting the arguments in 15.7 and the proposal contended that (a) this approach has been shown to positively affect the overall representation of women in other nations, and (b) a major recent study showed that the majority of women support the proposal. They were also willing to concede that the proposal could be revised to call for a 1/3 minimum quota for men also.
- 15.9 Those opposed to the recommendation had a variety of reasons for doing so. Some, while wanting to see more women on public bodies, expressed concerns about (a) the legalization of a quota system for only one sector in the society and the potential for other groups to demand quotas, (b) the constitutionality of such a measure, (c) the use of criteria of physical traits as opposed to only capacity and experience to appoint members. Others felt that women were making significant gains on their own and that no special privileges should be given. Still others felt that the main cause of lack of women's leadership was to be found in the political parties and can be best addressed at that level.
- 15.10 In the end, the majority of the Commission, not all for the same reasons, was not convinced that the legalization of a quota system for women as proposed is desirable for Belize. However, the majority of the Commission is supportive of the general principle that women should be equally represented on public bodies and urges that political parties contesting elections commit themselves to a permanent policy of (a) making more of all their appointments to public bodies be women, and (b) increasing their efforts at getting more women in positions of leadership in the parties.

Recommendation 92:

The majority of the Commission does not recommend that a quota system for the appointment of women to public bodies be enacted for Belize.

Child Care Provision:

- 15.11 It was pointed out to the Commission that lack of access to childcare facilities for women is one of the top three barriers preventing women from attaining positions of political leadership. In relation to this reality, it was proposed that the Commission make a recommendation to government to address this problem and constraint. Some contend that there is a relationship between women's lack of participation and lack of access to childcare. Additionally, the Commission felt

that the provision of basic child care would have other societal benefits such as the enhancing of pre-school education, increase of women able to work or start businesses, and employment for persons operating the childcare facilities. The Commission reviewed two approaches to addressing the concern: (a) requiring that companies provide childcare for employees, (b) developing a state supported and administered childcare system.

- 15.12 After considering the various options, the Commission favored a joint private sector and public sector approach based upon the principle that access to basic childcare for working parents becomes a constitutionally guaranteed right. The Commission envisions a system in which both private employers and the state contribute to a childcare fund that is used to set up standardized childcare facilities accessible to working parents. Such a fund could be administered by the Belize Social Security. The Commission urges quick action by government to develop such a childcare scheme after consultation with the private sector and civil society.

Recommendation 93:

The Commission recommends that:

- (a) provision be made for the protection of the right not to be denied access to basic childcare for working parents;***
- (b) a special commission be established to develop a Belize Childcare Security mechanism after consultations with the private sector and civil society and especially women's organizations;***
- (c) the special commission develop a mechanism based on the principle of a joint private sector and public sector responsibility for contributing to a childcare fund for working parents.***

Gender Awareness Education:

- 15.13 The Commission considered a proposal aimed at ensuring that education on gender awareness be a permanent aspect of the wider civic and political education that is discussed in Chapter 16 of this report. In agreeing with this proposal, the Commission noted that (a) discriminatory attitudes to women contribute to discouraging women's political participation and, (b) there are on-going reforms being made of curricula at the primary school level and that the secondary school level will be addressed next. It urges that all such educational reforms include gender awareness as permanent aspect of all levels of education in Belize.

Recommendation 94:

The Commission recommends that gender awareness education be included in the curricula of all levels of education in Belize.

Other Gender Issues:***International Conventions:***

- 15.14 It was brought to the attention of the Commission that Belize is a signatory to a number of international conventions, including the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). It is pointed out, however, that signing these conventions does not mean that they are implemented. The Commission agreed with a proposal to recommend to government that the commitments made in this and other similar conventions be well publicized, be enacted into law where necessary and their implementation be regularly reported on.

Recommendation 95:

The Commission recommends that commitments made by Government in international conventions be well publicized, be enacted into law where necessary, and be regularly reported on.

Publicly Funded Institutions:

- 15.15 At various points in its deliberations, the Commission heard allegations of discriminatory treatment of women, as opposed to men, by some educational institutions that receive public funds. Examples of such allegations are the practice in some schools of (a) expelling pregnant students and (b) firing of unwed female teachers who become pregnant. Some Commissioners questioned the constitutionality of such actions of institutions that receive public funds. The Commission urges the Government to investigate these allegations, to assess the constitutionality of such practices of institutions that accept public funds and to consider the development of guidelines for such institutions.

Recommendation 96:

The majority of the Commission recommends that Government review the personnel practices of institutions that receive public funds to (a) ensure that the rights of women are not being abused, and to (b) assess the need for the development of guidelines for all such institutions that accept public funds.

CHAPTER 16

POLITICAL EDUCATION AND CULTURE

Introduction:

- 16.1 One specific request made of the Commission by the Prime Minister was that attention be given to the issues of political education and culture. Very early in its deliberations, the Commission was unanimous in its assessment that lack of awareness about Belize's political system and political issues are significant constraints to people's participation in Belize's democracy and to making political reform really work. This assessment was confirmed throughout the consultative process as Belizeans in large numbers expressed concerns about low levels of political education and called for quick action to address the problem. Sentiments in this regard were all but unanimous in all quarters. Political reform without political education will be a tremendously difficult challenge.
- 16.2 In examining the causes of the problem, the Commission noted that one legacy of Belize's colonial history is a political culture that has not encouraged the adoption of critical thinking, and interest and participation in political action. Rather the political culture has become increasing characterized by complacency, fear, and dependency. The Commission contends that the development of such a political culture and the poor levels of political education are at least related to the following:
 - (1) A national educational system that has at all levels failed to adequately prepare Belizeans for informed, critical and effective participation in the political system;
 - (2) A local media that has not done enough to inform and educate the public about Belize's political institutions and national issues;
 - (3) Controlling and secretive attitudes towards the sharing of public information on the part of all, and especially on the part of elected and public officials;
 - (4) Poor levels of political education of elected leaders themselves;
 - (5) The divisive and petty nature of partisan politics that discourage political action for fear of reprisals;
 - (6) The perpetuation of the definition of politics as being limited to partisan politics and reserved for politicians.

Political Education in the Formal School System:

- 16.3 The Commission shares the view that the first line of attacking the problem is at the school system that is charged with the responsibility of producing productive citizens of Belize. There has been much talk of educational reform over the years and both the problems and the solutions are well known. What seems missing is

the sustained political will to lead the reform, and the lack of a collective public sector, private sector, and civil society approach.

- 16.4 The Commission notes that there are current initiatives in place to reform curricula at the primary level and that the secondary level is next in line. It is essential that these processes be reviewed for their treatment in the curricula of political, civic and constitutional education. This should include such areas as education about the rights of persons in Belize, the working of the national and local government systems, the various branches of government, the conduct of elections, standing and general orders, and the role of the citizen in the democratic process. The Commission is also aware that several organizations have been developing educational activities aimed at political education and urge their inclusion in the curricula reform effort.

Recommendation 97:

The Commission recommends that:

- (a) Government takes immediate action to lead a national and collective process to review and revise educational curricula at all levels of schooling in Belize to ensure that students receive adequate education about the nation's Constitution, rights and freedoms, political system and political practice;***
- (b) in undertaking this process that government consults with all relevant stakeholders.***

Public Education:

- 16.5 The Commission also agrees that the problem must also be addressed outside of the formal school system so as to reach the majority of citizens. Public access to information needed for meaningful participation has historically been very poor. The Commission sees the task of educating the public about the constitution, the political system and current issues as being the responsibility of all socializing institutions in society and not only the government. The media, the church, the family, and civil society organizations all have key roles to play.
- 16.6 In particular, the media has a special responsibility in educating and informing citizens for effective democratic participation. The Commission urges the media to work with other sectors in the development and sharing of educational programmes aimed at political education. While the Commission is aware that some percentage of air time for the visual and audio media is already in place as a condition for a broadcasting license, the Commission calls on government and the media to develop policies that would allow non-partisan political education to be made available to the Belizean people as a public service.

- 16.7 The Commission also notes that some civil society organizations have developed material aimed at political education and urges that consideration be given to make wider use of such materials.

Recommendation 98:

The Commission recommends that Government collaborate with the media and civil society organizations in the development and the implementation of regular public education programmes aimed at increasing public access to political education and information.

Freedom of Information Act:

- 16.8 While there is now a Freedom of Information Act, the Commission is aware that not much use has been made of the Act. While some of this may be related to lack of information about the Act, the Commission's review of the Act also indicated that the Act itself may need revision. The Commission noted that the definition of documents that are exempt from access by the Act is very broad in scope such that almost every document coming out of government ministries can be categorized as exempt. It is the view of the Commission that the Act will be made much more effective in facilitating the public's access to information if the scope of exempted documents is narrowed. Additionally, the Commission proposes that the Act provides for the automatic release of all government documents after fifteen years have passed.

Recommendation 99:

The Commission recommends that Government review and amend the Freedom of Information Act with the objective of narrowing the scope of the Act's definition of documents exempted from public access.

The Commission further recommends that the Act be amended to provide for the automatic release of all government documents after fifteen years have passed.

CHAPTER 17

MISCELLANEOUS

Introduction:

- 17.1 In this chapter, the Commission includes a small number of other political reform related areas that did not fit easily into other Chapters of this report. These issues are:
- (1) The Office of the Ombudsman;
 - (2) The National Symbols
 - (3) Civil Society and Governance
 - (4) Penalties

The Office of the Ombudsman:

- 17.2 Although a recently established office, the Commission did receive a small number of proposals related to the Ombudsman. This office was set up under the Ombudsman Act of 1994 and provides for the investigation of administrative action and complaints of wrongdoing by government bodies and individuals. The key proposals expressed were: (a) to enshrine the Office of the Ombudsman in the Constitution, (b) to establish an ombudsman for each district, (c) to have a more independent appointment process, and (d) to have more public education about the role of the ombudsman.
- 17.3 On the matter of the enshrining of the office of the Ombudsman in the Constitution, it is argued that doing so would further ensure the independence and impartiality of this office. The majority of the Commission was not convinced by this argument.
- 17.4 On the matter of an ombudsman for each district, it is the view of the Commission that it is not now time for such an extension of the role of the ombudsman. Before considering the addition of other ombudsmen, the Commission proposes that the performance of the present office of the ombudsman be comprehensively assessed after several years of operation. Critical to this assessment should be a determination as to the extent and ease of access of the ombudsman to persons not resident in Belize City or Belmopan.
- 17.5 Presently, the Ombudsman is appointed by the “*Governor-General acting on the recommendations of both Houses of the National Assembly contained in resolutions passed in that behalf.*” In effect with Belize’s present system of government, this method gives the power of appointment to the political party in power. There is a proposal to change the appointment process such that the ombudsman is appointed by the Governor-General acting on the advice of the Prime Minister with the concurrence of the Leader of the Opposition and after the

confirmation of the National Assembly. It is argued that in this way, the ombudsman so appointed will be more widely accepted without the perceptions or complaints of partisan biases.

- 17.6 It was pointed out to the Commission that there is much public confusion over the role of the ombudsman. For example, there have been cases of citizens going to the ombudsman to make complaints against other citizens and of the ombudsman receiving complaints that should go to the police or other authority. The Commission supports the proposal for there to be more public education on the role of the ombudsman as it relates to other authorities that function to resolve disputes.

Recommendation 100:

The Commission recommends that in three years, Government conduct a review of the implementation of the Ombudsman Act to assess its effectiveness and need for revision.

The Commission further recommends that there be more public education on the role of the Ombudsman.

Review of the National Symbols:

- 17.7 The Commission received a significant number of submissions calling for revisions in some of Belize's national symbols including the national flag, anthem and motto. It noted that section 122 of the Constitution empowers the National Assembly to decide on or change Belize's national symbols.
- 17.8 Concerns about the national flag included (a) its difficulty of reproduction because of its intricate and cluttered center design, (b) it combines both a flag and a coat of arms in one, (c) the motto cannot be read on the flag, (d) the rushed manner in which it was selected, and (e) the human figures on it are both men.
- 17.9 Concerns about the national anthem were limited to the words and not the music. These included (a) its lack of gender neutrality, (b) its glorification of colonial masters, and (c) its environmental unfriendliness.
- 17.10 Concerns about the motto "*under the shade we flourish*" included (a) it can be perceived as encouraging laziness, (b) it is difficult to explain since no one seems to know what it really means.
- 17.11 The Commission also received suggestions that all national symbols should remain as they are presently. The Commission decided that it was not its role to debate the merits and demerits of the concerns raised about the national symbols. However, the Commission is sufficiently impressed with the number of the calls

for revision to propose a transparent national process to review the national symbols and for recommendations for revision or non-revision to be made to the National Assembly.

Recommendation 101:

The Commission recommends that Government design and executes a consultative national process to review the national symbols of Belize that results in recommendations on this matter to be made to the National Assembly.

Civil Society and Governance:

- 17.12 The Commission notes that civil society organizations (CSOs), have been becoming more accepted in Belize as legitimate and respected players in the process of governance. Today, CSOs in Belize provide needed services, influence the development of public policy, and provide spaces for citizens to further participate in democracy outside of elections. Increasingly, they are represented on many public bodies as they have been on the Political Reform Commission. The Commission acknowledges the contributions that are being made by CSOs and their role in the evolution of the concept of democratic governance in Belize.
- 17.13 Some CSOs have been calling for more formal mechanisms of relations with government to further enhance collaboration and people's input. Presently, representatives of the Belize Civil Society Movement meet with the Prime Minister and other Ministers of Government on a quarterly basis and the Government recently established a Ministry of Civil Society Relations for the first time. The Commission also notes that some CSOs of the Belize Coalition of Networks have themselves drafted legislation called the "Non-Government Organizations Act" aimed at regulating CSOs and formalizing relationships. It is the view of the Commission that this is a positive move and that Government should move quickly to review and enact the legislation.

Recommendation 102:

The Commission recommends that Government work with civil society organizations to establish more formal mechanisms for collaboration in national development and governance, and give urgent attention to the review and enactment of the "Non-Government Organizations Act."

Penalties:

- 17.14 The Commission is aware that while it has made several recommendations aimed at enhancing the rights of persons in Belize and promoting transparency in government, there have been a limited number of proposals for penalties for those who abuse others' rights and those who do not abide by laws and regulations. The Commission is also aware that there are several penalties that already are within our laws but not abided by.
- 17.15 It is the view of the Commission that a situation of having rights and regulations without adequate penalties, or use of penalties, is self-defeating and disillusioning in a democracy. The Commission proposes a review of legislation, including those addressed in this Report with a view to assess the effectiveness of penalties, to revise them where necessary and to ensure that they are carried out.

Recommendation 103:

The Commission recommends that Government conduct a review of relevant legislation with a view to:

- (a) assess the effectiveness of penalties for abuse of constitutional rights and for failure to abide by legally established regulations;***
- (b) revise them where necessary and;***
- (c) better ensure that they are carried out where applicable.***

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APPENDIX

APPENDIX I

LIST OF CONSTITUTIONAL AMENDMENTS: 1981 – 1999

<u>TITLE & REFERENCE NO.</u>	<u>SECTION AMENDED</u>
Belize Constitution (First Amendment) Act, 1985 No. 14 of 1985	Section 23 (Citizenship) Section 25 (Citizenship) Section 26 (Economic Citizenship) Section 27 (Dual Nationality) Section 29 (Citizenship)
Belize Constitution (Second Amendment) Act, 1988 No. 26 of 1988	Section 44 (Ministers of State) Section 45 (Ministers of State) Section 46 (Ministers of State) Section 54 (Belize Advisory Council) Section 67 (Clerks of National Assembly) Section 88 (Elections & Boundaries Commission) Section 90 (Electoral Divisions) Section 92 (Conduct of Voting) Section 98 (Tenure of Office of Supreme Court Judges) Section 102 (Tenure of Office of Appeal Judges) Section 105 (Public Services Commission) Section 106 (Appointment, etc. of Public Officers) Section 107 (Appointment, etc. of Permanent secretaries and certain other officers) Section 108 (Director of Public Prosecutions) Section 109 (Auditor General) Section 110A (Appointment, etc. of Junior SIS officers And employees) Section 110B (Appointment, etc. of Junior Officers of Prison Service) Section 111 (Appeals in Discipline Cases) Section 113 (Grant & withholding of Pensions etc.) Section 131 (Interpretation of terms in Constitution)

APPENDIX II

PRIME MINISTER'S SPEECH LAUNCHING THE COMMISSION

Prime Minister, Hon. Said Musa

Address to the First Session of the Political Reform Commission

13th January, 1999 WASA Conference Room, Belize City

Mr. Chairman and members of the Political Reform Commission:

Thank you all for accepting to serve on this very important Commission, and for the opportunity to address you very briefly on this occasion of your first meeting.

Although I appointed all of you, I chose none of you; all including the Chairperson, were nominated by your organizations, although I would like to think that you all feel a duty not to any individual organization but to the nation as a whole. The people of Belize are depending on you to carry out fair and fearless consultations and deliberations and to make timely and worthy recommendations that will enhance our democracy and give all our people a greater stake in their nation.

In appointing you to the Commission, I was deliberately general in describing your duties and functions: to review the system of governance and make recommendations for its improvement, whether by amendments to the constitution or the laws or otherwise, with a view to achieving greater democracy and justice. This means that you can range as widely as you wish or as your consultations require. Regard no institution, no law, no policy or practice as sacred. The only sacred thing I would ask you to observe is the principle that the will of the people forms the basis of good government, and that therefore we must strive to broaden and deepen our democracy and ensure that people have the greatest possible say in decisions affecting their lives.

The Constitution of Belize was written in 1981 by men – unfortunately, there were no women involved – and men are fallible (as are women of course), so the Constitution is not sacred, and can be changed by women and men. In any case, even if the right and necessary things were done in 1981 given the particular political and geo-strategic situation at the time, things have changed enormously since, both in the world and in Belize. A good Constitution must keep abreast of changes in the political, social and cultural environment and reflect these changes in such a way as to enhance rather than detract from our shared democratic ideas.

Without in any way seeking to suggest your agenda, I want you to know, and I therefore emphasize, that it is open to you to question any existing institution or policy and to make whatever recommendations you feel in your deliberate judgement will fulfill your mandate. You can, for example, discuss our monarchical system, the question of separation of powers and the ministerial system, the role of the Senate, campaign

financing reform, electoral reform, questions of nationality and citizenship and the rights of citizens, decentralization, the judicial system, and political education in the school system. At every stage of your deliberations I will ask you to be sensitive to gender perspectives as well as to the fact that we are a multi-cultural nation with a policy of celebrating and respecting cultural diversity.

How you choose to conduct our proceedings is a matter for you to decide, but I do wish you will do everything possible to afford any Belizean desirous of so doing the opportunity to present her or his views. And I am sure that you will want to review and take into account all the ideas and proposals made over the past few years by different organizations.

The Commission should complete its work within one year, and should make periodic reports to me in writing. It will be serviced by public officers who will provide the logistical and other support required. I have met with your Chairman to work out logistical support for the Commission, and I will of course respond as quickly as possible and within our resources to any reasonable request from the Commission.

Again, I thank you for agreeing to work – and I stress the word work – in this Political Reform Commission, and you can feel assured that my government will consider very seriously whatever proposals you may make as a result of your consultations and deliberations. Wherever action can be taken by the government, I will take your recommendations to Cabinet for consideration, and wherever a change in the laws or in the Constitution are required I will move expeditiously to lay those matters before the National Assembly for deliberation and decision.

I wish you all a Happy New Year of fruitful work. The people of Belize will be eternally grateful to you for a job well done.

APPENDIX III

COPY OF BOOKLET USED TO SOLICIT VIEWS

POLITICAL REFORM NEEDS YOUR INPUT!

THE GOVERNMENT HAS APPOINTED A BROAD-BASED COMMISSION TO EXAMINE OUR SYSTEM OF GOVERNMENT AND TO MAKE PROPOSALS FOR IMPROVING IT!

SOME PEOPLE HAVE ALREADY MADE THEIR CONCERNS KNOWN SUCH AS:

- *Official Corruption and Lack of Accountability of Elected and Public Officials*
- *Doubts about Independence of the Courts*
- *Too Much Partisan Control and Division*
- *Not Enough People's Participation in the System*
- *Lack of Women in positions of political leadership*
- *System does not work for the poor*
- *Centralized Power of Cabinet and Government*
- *House and Senate are Rubberstamps*
- *Having a Foreign Monarch as Head of State*
- *Lack of Regulation of Political Parties*
- *A Political Culture Characterized by fear, victimization, passivity, and dependence.*
- *Lack of Education about our Constitution*

DO YOU AGREE? DISAGREE?

DO YOU HAVE OTHER CONCERNS?

***MANY PROPOSALS HAVE ALREADY BEEN MADE TO
THE COMMISSION.***

***IS THE SYSTEM WORKING FOR YOU? SHOULD IT BE
REVISED? CHANGED? KEPT AS IS?***

What are YOUR proposals?

* * * * *

WHAT DO YOU THINK?

SHOULD WE ...

- 1. Require the Prime Minister to be born in Belize?**
- 2. Limit the Prime Minister to two terms in office?**
- 3. All have the right to vote in all divisions directly for the nation's leader?**
- 4. Allow for the appointment of some or all Ministers to the Cabinet from outside the National Assembly?**
- 5. Decrease the size of Cabinet?**
- 6. Decrease powers of Ministers to sign Statutory Instruments?**
- 7. Replace the Governor-General as our Head of State with a Belizean who has no links to the British Queen?**

SHOULD WE ...

8. **Have the right as voters to recall an elected representative in our area?**
9. **Give elected representatives of all parties resources to serve their areas?**
10. **Give people more opportunities to propose and give input on national legislation?**
11. **Abolish or revise the Senate?**
12. **Change the way we appoint Judges?**
13. **Abolish the Privy Council as Belize's final Court of Appeal?**

SHOULD WE . . .

14. **Stop the practice of hiring Supreme Court Judges on contract?**
15. **Have other fundamental rights such as rights to education, health, and sexual orientation?**
16. **Make knowledge of English mandatory for granting of Belizean citizenship?**
17. **Abolish the Economic Citizenship Programme?**
18. **Regulate financial contributions to political parties and candidates?**
19. **Regulate practice of partisan appointments as governments change?**

20. Give more independence to the City Council, Town Boards and Village Councils?

***DO YOU HAVE ANY OTHER IDEAS ON HOW TO
IMPROVE OUR SYSTEM OF GOVERNING?***

YOU CAN LET US KNOW BY:

- ❖ *Sending written views either by mail, fax, or e-mail*
- ❖ *Visiting the office of the Commission*
- ❖ *Oral Presentations to the Commission*
- ❖ *Participation in Public Consultations*
- ❖ *Participation on Radio Shows*
- ❖ *Requesting a Special meeting with your group*

*Contact the Commission at
First Floor, WASA Building
Near Belcan Bridge on Central American Blvd.
P.O. Box 1774
Phone: 02-25444
Fax: 02-24192
E-mail: bzeprc@btl.net
Belize City, Belize*

**AFTER GETTING YOUR INPUT, THE COMMISSION
WILL MAKE FINAL PROPOSALS TO GOVERNMENT
BY DECEMBER, 1999.**

*** * * * ***

***USE THIS CHANCE TO BE A PART OF
CHANGE***

APPENDIX IV

LIST OF PUBLIC CONSULTATIONS

DATE	VENUE	NO. OF SUBMISSIONS
JUNE 1 ST , 1999	ST. MARY'S HALL – BELIZE CITY	40
JUNE 2 ND , 1999	CAHAL PECH TAVERN – SAN IGNACIO	19
JUNE 8 TH , 1999	BENQUE VIEJO TOWN HALL – BENQUE VIEJO DEL CARMEN	41
JUNE 9 TH , 1999	BELMOPAN CIVIC CENTER – BELMOPAN	49
JUNE 15 TH , 1999	PABLO LAMBEY CENTER – DANGRIGA	38
JUNE 16 TH , 1999	TOLEDO SPORTS AUDITORIUM – PUNTA GORDA	34
JUNE 22 ND , 1999	LA IMMACULADA CONFERENCE ROOM – ORANGE WALK	46
JUNE 23 RD , 1999	COROZAL TOWN HALL – COROZAL	38
JUNE 29 TH , 1999	SAN PEDRO TOWN HALL – SAN PEDRO	30
TOTAL SUBMISSIONS		335

APPENDIX V

LIST OF RADIO SHOWS

TOPIC	DATE – KREM RADIO	DATE – LOVE FM
INTRODUCTION TO THE PRC: GET FEEDBACK ON GENERAL CONCERNS	APRIL 25 TH	APRIL 29 TH
HEAD OF STATE AND THE EXECUTIVE	MAY 2 ND	MAY 6 TH
GENERAL SHOW: TO SHARE FEEDBACK AND GET GENERAL INPUT	MAY 9 TH	MAY 13 TH
THE HOUSE AND THE SENATE	MAY 16 TH	MAY 20 TH
THE JUDICIARY	MAY 23 RD	MAY 27 TH
CITIZENSHIP AND CITIZENS' RIGHTS	MAY 30 TH	
THE PUBLIC SERVICE		JUNE 3 RD
THE JUDICIARY	JUNE 6 TH	JUNE 10 TH
PUBLIC FINANCE	JUNE 13 TH	
GENERAL SHOW: TO SHARE FEEDBACK AND GET GENERAL INPUT		JUNE 17 TH
THE PUBLIC SERVICE	JUNE 20 TH	
CITIZENSHIP AND CITIZENS' RIGHTS		JUNE 24 TH
THE ELECTORAL SYSTEM & POLITICAL PARTIES	JUNE 27 TH	JULY 1 ST
LOCAL GOVERNMENT	JULY 4 TH	JULY 8 TH
WRAP UP SHOW	JULY 11 TH	JULY 15 TH

APPENDIX VI

SUBMISSIONS FROM ORGANIZATIONS

ORGANIZATION	AREA COVERED
Association of National Development Agencies	Political Education; People's participation; accountability by elected officials in government/political parties; decentralization of decision making; limiting powers of elected officials; Separation of powers; Independence of the Judiciary; Gender equity & equality; cultural diversity.
Association of Public Service Senior Managers	The Public Service
Belize Audubon Society	Political Education; System of governance; the Cabinet and elected representatives
Toledo Alcaldes Association	Centralization of political power and public services; recognition of indigenous rights
Belize Women's Political Caucus	Participation of Women in the decision-making process and leadership of Belize; Regulation of Political Parties
The Belize Zoo and Tropical Education Center	General Recommendations
Belize National Indigenous Council	Indigenous peoples in Belize
Civil Society – Cayo	Excessive concentration of power; accountability of elected representatives; the Public Service; Protection of fundamental rights and freedoms; political education
Civil Society – Dangriga	The present system of Public Consultation in the legislative process
Civil Society Steering Committee	General Recommendations
Coastal Zone Management Authority and Institute	System of Governance; Public Sector Reform
Human Rights Commission of Belize	Education and Health; Equal representation; Ethnic and Gender balance; the Judiciary; Worker's rights; Fundamental rights and freedoms; Ratification of International Human rights treaties; the Privy Council
Public Service Union	Public Service Reform
Investment Trust	Citizen's Rights and Responsibilities
United Democratic Party-National Women's Organization	Participation of Women, Women in political leadership, proportional representation
The Muslim Community	The Judiciary; Protection of Fundamental Rights and Freedoms; Proportional representation; the Head of State
The National Spiritual Assembly of the Baha'is of Belize	Justice and Equity; Trustworthiness and Moral Leadership; Gender Equity; Governance and Participation

NAME	AREA COVERED
Society for the Promotion of Education and Research (SPEAR)	Various Recommendations
United Banners Banana Workers' Union	Existing Labours Laws and the Right to Freedom of Association
Women's Issues Network of Belize (WIN Belize)	Gender Issues

APPENDIX VII

STATEMENTS OF DISSENT FROM COMMISSIONERS

DISSENTING VIEWS OF COMMISSIONER DYLAN VERNON

Method of Appointment of Ministers: (Recommendation 31)

I dissent from the majority view that Cabinet appointments continue to be limited to members of the National Assembly. I believe that the fusion of powers of the executive and legislative branches of government that obtains in our present system is one of the main problems with our democracy. The key functions of the legislature are to represent the interests of the electorate, develop laws and policies for the nation, and to have oversight over the executive. It is clear to me that the legislature in Belize, is performing none of these well. It is in effect a rubber stamp that merely gives the façade of power when indeed the Prime Minister and the Cabinet inevitably get their way. More often than not, Cabinet ministers are the majority in the House of Representatives.

Having the Prime Minister appoint all or at least the majority of the Cabinet from outside the National Assembly would contribute greatly to separating the powers of the executive and legislature, to enhancing the role of members of the National Assembly as legislators and not to mention improving the quality of ministers. While the limiting of the number of members of the House who can become ministers is an improvement, (Recommendation 32), it still obtains that the Cabinet still comes totally from the legislature.

Registration of Political Parties: (Recommendation 78)

I strongly disagree with the recommendation that political parties should not be registered and regulated in Belize. Political parties in Belize have evolved to play an extremely dominating role as mediator in Belize's societal relations. They are powerful organizations that affect and infiltrate almost every aspect of national and local life. They have been a part of what is wrong with democracy in Belize. They seek the most important job in the entire nation: to democratically administer the state of Belize. Yet, when most other organizations in Belize are required by law to register and be subject to some regulation as a part of the 'social contract', political parties are completely unregulated by law.

It is my view that the organizations and group of individuals who seek our authority to govern should be required to abide by regulations that help to ensure democratic control, give enforceable rights to members, and promote financial and institutional transparency and disclosure. Registration also will further clarify what is the entity that is legally liable, what is the liability of its members, and what entity is it that seeks legal action when such is required. Related to all this is the urgent need for campaign finance regulation that is at the heart of official corruption in Belize.

DISSENTING VIEWS OF COMMISSIONER CAROLYN TRENCH-SANDIFORD

Mandatory Military Service: (Recommendation 29)

It is enshrined in the Constitution of Belize that each Belizean is entitled to basic and fundamental rights. The political reform commission has seen it fit to add to these by recommending other basic rights such as the right to education and health care. However, noticeable is that while concern has been focused on the rights of the individual, no attention has been given to the rights of the country and what each Belizean can do for their country.

Understandably, it may be difficult for a person to grasp the concept that they owe a duty to their country if they do not appreciate or are cognizant of what all their country has to offer them, or how it sustains them and how they can participate in it's development. Admittedly, many Belizeans are not overly nationalistic and often times make haste to destructively criticize their country, rather than to constructively analyze it's problems and to see how they can be part of the process of positive development. This is often because of a selfish approach to life and a lack of love and commitment to the country of their birth. As a result, it would be presumptuous to expect a citizen to be prepared to lay down their lives for their country if they do not love their country. Notwithstanding, while it is recognized that one cannot legislate nationalism and love of country, the mechanism to encourage it can be put in place and this can lead to an unselfish and nationalistic relationship between the Belizean and their country.

Nationalism and love of country is a process that can be initiated from childbirth into the formative and then adult years. Programs can be developed where each citizen of Belize during their lifetime, give back something to their country and become willing to participate in the defense of their country. This does not mean only in times of war, but in times of disasters and civil unrest.

To prepare for this the Ministry of National Security and the Ministry of Education should combine efforts to facilitate the process of encouraging nationalism and love of country through the education process, thus facilitating the transition from nationalism towards country to the willingness to defend that which they love into a term of service in the Belize Defense Force. This does not necessarily mean that a person who serves their term will do using weaponry. There are various areas of the military that do not involve weapons such as cooks, drivers, mechanics, doctors, lawyers, computer programmers, teachers, secretaries, clerks etc. This will not only mean that the Belizean citizen will be giving back something to their country but it can also reinstate the concept of discipline, respect and tolerance of each other. In addition, it can assist with the training of young people in a skill and reduce the unemployment rate.

I therefore strongly and in no uncertain terms disagree with Recommendation 29 of this Report. It is my belief that each citizen of this country should be constitutionally required to give a period of mandatory service in the Belize Defense Force.

Dual Citizenship and Election to the House: (Recommendation 30)

The simplicity of the statement that one cannot serve too masters is classic and self-explanatory. To be a citizen of a country, one must pledge allegiance to their country otherwise they cannot be considered a citizen. Thus, if an individual is a citizen of two countries, it stands to reason

that they have pledged allegiance to two countries and are serving two masters whose political, cultural and social policies may be in total conflict and undeniably irreconcilable. Undoubtedly, one country will suffer as a consequence.

As a member of either the House of Representatives or the Senate, an individual is a part of the legislative branch of government. They are entrusted with guiding the country along a path which guarantees and recognizes the right of each Belizean to grow and develop in a country free from discrimination and prejudices, and in an environment that is conducive to the fulfillment of their dreams, through the right to access and share in the resources of the country.

For an individual to be able to fulfill this role and truly and wholeheartedly be a representative of the constituency which elected them, they must be absolutely certain as to who they represent and to whom they are responsible. There must be no occasion when this is in doubt and no opportunities should be presented to put this in doubt. To ensure this, an individual should only be allowed to become a member of the National Assembly and participate in the legislative process if their allegiance is to Belize only. They must be prepared to give up the citizenship of any other country which they may possess such that their allegiance to Belize may never be in doubt or be questionable. Thus I strongly disagree with Recommendation 30 of this report.

Appointment of Cabinet:(Recommendation 31)

The Prime Minister as Chief Executive of the country has a right to choose the most qualified and suitable person to advise and execute the policies of their government. If it is the view of the Prime Minister that no member of the National Assembly meets their criteria, then they should not be restricted and confined to making an appointment from the National Assembly, but should have the freedom to choose persons from outside the National Assembly.

It must be noted also, that members of the National Assembly have a legislative role, which if they assume such with the vigor and commitment that it requires, that is, making sure that the legislative branch of government is proactive rather than reactive to the changing social, political, cultural and economic realities, their function would become a full time one which would not leave much time for the functions of a Minister. Furthermore, if the individual is a member of the House of Representatives as against the senate, let it not be forgotten that they are elected firstly a representative of a constituency, and as such, it is clear that the legislative, representative and ministerial functions will not allow them to respond fully to the needs of their constituency. This may be one of the paramount reasons why many constituencies in Belize are dismally characterized by poverty, illiteracy and a deplorable physical environment. This is simply because an area representative, once elected, becomes obsessed with a ministry in Belmopan, rather than dealing in a holistic way with the problems of their constituency.

In addition, if the Prime Minister has a choice of individuals outside the National Assembly as Ministers, it will give credence to the concept of the separation of the executive and the legislative branch of government whilst facilitating the strengthening of the oversight functions of the legislative over the executive. I therefore do not accept or support the arguments for or do I support Recommendation 31 of this report.

Ministers of State (Recommendation 34)

Recommendation 34 effectively neutralizes Recommendation 32 which sought to limit the number of the members of the National Assembly who could become members of the cabinet thus reducing the influence of the Cabinet over the National Assembly. If Ministers of State are appointed from the National Assembly, they in reality and practice, become members of the Cabinet despite any constitutional amendment which may state otherwise, from the mere fact that they attend cabinet meetings and participate in discussions, they take an oath of allegiance, and are obligated to execute the policies of the Minister of whom they are the Minister of State. This effectively and undoubtedly make them part and parcel of the cabinet, increasing the cabinet's influence in the house, which defeats Recommendation 32 and renders it useless. I therefore reject totally Recommendation 34 of this report.

Direct Election of the Prime Minister: (Recommendation 36)

The Prime Minister is the leader of the country and represents all Belizeans. Thus all Belizeans should have a choice of selecting their Prime Minister, and it should not be left to party political conventions which are often manipulated and in which only a few individuals, which is less than one percent of the total electorate, vote in. This does not in any way encourage participatory democracy in the selection of the nation's leader. The Prime Minister has a duty to each and every citizen and that duty should not be compromised by his obligations to a specific constituency, particularly since they are only able to become Prime Minister if firstly elected as an area representative. While it is understood that direct elections of the Prime Minister is not necessarily complimentary to the parliamentary system of democracy, a mechanism can be developed whereby the people are allowed to participate in the selection of their leader. Thus I do not support Recommendation 36 of this report.

DISSENTING VIEWS OF COMMISSIONER ERNEST CASRTO

Exclusion of Reference to Indigenous People in the Constitution: (Recommendation 6)

The view held by the majority of the Commission “*that the principles outlined (in the Preamble of the Constitution) seem to adequately cover and protect Belizeans of whatever ethnic group*” presents a serious difficulty for indigenous people. This view fails to recognize the history of this country and would have the effect of legalizing and, therefore, perpetuating the injustices that have resulted from that history. Furthermore, it wrongly assumes that Belizeans of all ethnic groups started off on the same level playing field, and that, by implication, the most disadvantaged Belizeans are in that situation because of their own fault and the state has no special obligation to any one group.

It is a historical fact that there were people in occupation of parts of the territory that is now Belize before it was settled by the British and before British colonial control was established over the land and sea areas described as comprising Belize in schedule 1 of the Constitution. These people include the Maya and Garifuna Peoples. Colonization and colonial expansion had the effect of the crown appropriating land and sea resources that these people occupied for subsistence, ceremonial and medicinal and other purposes. The Belizean State, as successor to the British colonial authorities, perpetuates this wrong and denies its obligation to correct it by failing to even acknowledge indigenous people in the constitution.

And just who are the people referred to as *indigenous* in the context of Belize? To define the term we would no doubt be on safe ground if we adopt the definition spelled out in ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries. Article 1 of the Convention is reproduced below for easy reference:

Article 1

1. *This Convention applies to:*

a) *tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;*

b) *peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.*

2. *self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this convention apply.*

3. *The use of the term “peoples” in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.*

In relation to the responsibility of Governments to Indigenous and Tribal Peoples, the Convention goes on to state the following:

Article 2

1. Governments shall have the responsibility for developing, with the participation of the peoples concerned, co-ordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity.

It should be pointed out that in all of Central America, Belize and El Salvador are the only two countries that fail to acknowledge indigenous people in their constitutions. The reputation of El Salvador in its treatment of indigenous people is unenviable, to put it mildly, and it is certainly not a credit to Belize that our country should find itself in such company.

It is well known that the Mayas have a land claim based on ancestral rights. The Garifuna people have a similar claim. By refusing to acknowledge indigenous people the Commission may be inadvertently recommending that these claims, although based on historical fact, be ignored because it might then be argued that there is no basis for redress under the constitution. There are international conventions that set out principles that are recognized as giving indigenous and tribal peoples land rights. The International Labour Organization Convention (ILO) 169 also touches on this matter in detailing the rights of Indigenous and Tribal Peoples in Independent Countries. Part 2 Article 13 of that Convention reads as follows:

- 1. In applying the provisions of this part of the convention Governments shall respect the special importance for the cultures and spiritual values of the people concerned, of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise, and in particular the collective aspects of this relationship.*
- 2. The use of the term "lands" shall include the concept of territories, which cover the total environment of the areas which the peoples concerned occupy or otherwise use.*
- 3. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic people and shifting cultivators in this respect.*
- 4. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.*
- 5. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned.*

That the State of Belize has not ratified ILO Convention 169 is irrelevant. The point to be noted here is that the fact that there is an international convention such as ILO Convention 169 to which a number of countries have acceded is clear indication that constitutional recognition of indigenous peoples and their historical rights does not do violence to, or infringe on the rights of, other Belizeans. On the other hand, failure to give the recognition will perpetuate wrongs that can be traced back to the coming of the Europeans.

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