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National Development Strategy

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Aspects of judicial and police reform

In our last article it was argued that the justice system in Guyana is not especially efficient, and that in the public's perception it is not always impartial. It was also put forward that our law enforcement officers are sometimes unnecessarily violent and seem to find it difficult to solve the simplest of crimes.

Against this background, the authors of the National Development Strategy (NDS) have felt it incumbent upon them to emphasise that what is required in Guyana is an independent and capable judiciary that is dedicated to upholding the Constitution and the rule of law, and to protecting individual and community rights. They have also stressed that for the judiciary to be truly independent it would be necessary to devise a system, which minimises the influence of the executive on the selection of the Judicial Service Commission, the Chancellor and the Chief Justice.

The NDS insists that Guyana's legal environment should comprise competent, ethical, and well-paid professional judges who administer rules that are designed to promote, and not to hamper, economic development. The judges should be advised by competent, ethical and well-paid lawyers. And their decisions should be enforced by ethical and well-paid policemen and bailiffs. Moreover, the judges should operate within a framework of easily ascertainable rules and practices. Most important of all, perhaps, is the requirement of the NDS that judges be insulated from interference by the legislative and executive branches of government.

One of the major problems which exercised the minds of the authors of the NDS was the appointment of the members of the judiciary. In Guyana, these are chosen by a Judicial Service Commission whose members are selected by the President, after consultation with the Leader of the Opposition. As there is widespread belief in the country that there is often political interference in both the appointment and promotion of judges, their integrity and impartiality are frequently challenged. It is therefore necessary, according to the NDS, that this matter of judicial appointment be afforded special attention. The NDS proposes, in this regard, that the President should have the authority to appoint the Judicial Service Commission but only after consulting the leaders of all the parliamentary parties, the Law Faculty of the University of Guyana, and the Guyana Bar Association. It recommends that the Judicial Service Commission should include the Head of the Judiciary, the Attorney General, a representative of the Law Faculty of the

University of Guyana, a representative of the Bar Association, and the Chairman of the Guyana Human Rights Association.

The NDS proposes that the President should have the authority to appoint the Judicial Service Commission but only after consulting the leaders of all the parliamentary parties, the Law Faculty of the University of Guyana, and the Guyana Bar Association. This reformed Judicial Service Commission, the NDS suggests, should be given the sole authority to recommend to the President the person to be nominated to Parliament for its approval as Head of the Judiciary. The NDS urges that the President's nominee should be appointed only if he or she is approved by a two-thirds majority of parliament. The NDS further suggests that appointments to the Court of Appeal and the High Court should also be subjected to the approval of Parliament by a two-thirds majority of parliament.

Because it is possible that, even with these safeguards, the executive might still attempt to influence judgements through its manipulation of budgetary allocations, the NDS strongly recommends that the Judiciary should be financed by a special vote, by way of a specific formula, from the consolidated fund. These resources should be managed by a separate financial administration, which would be responsible to the Head of the Judiciary. This provision of the Judiciary with its own budget not only bolsters its independence, but places it in a position to maximize its efficiency.

The NDS stipulates that the responsibility for court administration, including budgeting and postings, should be placed in the hands of the judges themselves, and should not be left to the government or public service. It urges that the promotion of judges should be based on such criteria as ability, integrity and experience; and, here again, it emphasizes that the selection of judges for promotion should involve the judiciary itself, and not the executive.

It will be recalled that in the last article in this series, the high incidence of delay both in the trying of cases and in the handing down of judgements, in Guyana, was stressed. Accordingly, the NDS recommends that administrative systems and procedures be put in place to permit court records and transcripts to be more readily available, and that modern technology be introduced into Guyana's court system. It is hoped that, through these improvements, the delays in bringing-up cases for trial would at least be minimised. In regard to delayed judgements, the NDS insists that time limits, to be instituted by the judiciary itself after consultation with the Bar Association, be established for the handing-down of judgements by judges and magistrates. Appropriate sanctions should be applied whenever these time limits are not met.

The NDS considers that, in spite of the increases in emoluments which the judiciary and magistracy have received in recent years, there is need for further improvement in their salary structure. It asserts that such improvements are necessary because of the importance of the legal system to the political, social and economic well-being of our country, and because of the imperative of attracting only the brightest and best to the ranks of the judiciary. It therefore recommends that the emoluments of the magistracy

and judiciary be significantly increased over a period of time. It also maintains that minimum qualifications be prescribed and enforced for all levels of court staff.

The authors of the NDS are very disturbed at the lack of qualifications and basic training of many members of the Police Force. It therefore strongly recommends that continuous intensive training courses be conducted for police officers at all levels, and that specially selected policemen should be trained, in Guyana or abroad, in the collection and analysis of intelligence information. Moreover, they urge that the Police Force be provided with modern policing equipment and an adequate number of vehicles.

Because they are convinced that the Police Force, as it is now structured, is inherently incapable of minimizing the incidence of crime in our country, and expeditiously solving those which inevitably occur, the authors of the NDS make proposals for the rationalisation of its organisational structure in order to increase its effectiveness and its responsiveness to appeals for help from the public. In addition, because they recognise that the current alienation of the Force from the ordinary people of Guyana must be reversed, they suggest that new systems to make it more "citizen friendly" should be put in place. They also urge the further establishment of neighbourhood community police forces.

The NDS is adamant that in all its endeavours at police reform, the overarching factor should be the recruitment of personnel with much higher qualifications than the members of the current force now possess. To this end, it recommends that higher educational standards for recruitment and promotion be established and enforced. Moreover, if we are to attract persons of a higher calibre into the Force, it would be necessary, the NDS states, to enhance significantly the emoluments of its members, and to link such increases to achievement targets, and to educational and training qualifications. In addition, it would be necessary to upgrade the physical facilities in which policemen operate. Our Police Force must not be regarded as an employment avenue of last resort. If we are to live in a society in which we are able to feel safe and comfortable, we should establish a Force in which competent citizens of integrity would be proud to serve.

And finally, because the authors of the NDS are aware that the police are bound, from time to time, to infringe the rules and procedures which govern their conduct, they recommend that the internal investigative, judicial and disciplinary systems which are now said to exist in the Force be considerably strengthened, and that policemen found guilty of infractions, particularly those involving bribery and excessive violence, should be severely punished.