

interests of Ceylon Tamil, Indian Tamil, Muslim, Coloured and European groups. The Sinhalese are in a numerical majority as the following table shows:-

	<u>8</u>	<u>2</u>	<u>5</u>	<u>1</u>	<u>3</u>	<u>1</u>
Europeans	6,000					
Burgers and Eurasians	48,000					
Sinhalese	5,236,000					
Ceylon Tamils	831,000					
Indian Tamils	885,000					
Ceylon Moors	423,000					
Indian Moors	40,000					
Malays	25,000					
Veddas	3,000					
Others	47,000					

The Donoughmore Report (1926), dealing with the operation of the communal system in Ceylon, states, "Communal representation was devised with a view to assisting the development of democratic institutions in countries with different races and religions and in the hope of eliminating the clash of these varying interests during elections. It was expected to provide peacefully an effective legislative assembly which would give a fair representation of the different elements in the population and would also promote unity. Unfortunately, the experiment has not given the desired results, but has had, if anything, the opposite effect. The representatives of the various communities do not trust one another, and communal representation has not helped to develop a uniting bond or link. The minority communities are fearful that any preponderance of governmental power held by another community will eventually be used against them. Communal representation in Ceylon has no great antiquity to commend it, and its introduction into the constitution with good intention has had unfortunate results." The Donoughmore Commission recommended territorial representation and on that recommendation the constitution of Ceylon was based until 1950.

The 1945 Boulbury Commission after an examination of the working of the constitution over the previous 15 years recommended the scheme at present in operation. In arriving at its recommendations/.....

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Commenting on this recommendation on the delimitation of constituencies, the Commission said (page 72) "Its object is to give additional weightage to the minority communities, which it is claimed can be attained by giving weightage to area as well as population. The scheme..... provides for each Province to have one member for every 75,000 inhabitants and an additional member for every 1,000 square miles of area".

A further suggestion is (page 73) "that minority representation would be strengthened by the creation of multi-member constituencies on the ground that the only chance of representation for small minorities depended on their concentrating all their strength on candidates of their own choice in a multi-member constituency."

The Commission points out (page 74) "that this scheme of representation by no means conforms to the strict canons of territorial election, and that it would not be unfair to describe it as a combination of territorial and communal representation. It should, however, be noted that there are precedents in the development of constituencies in the United Kingdom, where the boundaries of many

recommendations it remarks, - "There is, it is true, abundant evidence to show that the hopes of the Donoughmore Commission that communal tension would eventually disappear as a result of territorial representation, have so far not been realised. For instance no Sinhalese has any prospect of election in the Northern and Eastern Provinces where the Ceylon Tamils predominate..... The electors undoubtedly tend to vote on racial and, to some extent, religious grounds." The report later goes on, - "We therefore reject any proposal calculated to reinforce the communal basis of election, and we prefer to develop the territorial method. We think, however, that there is force in the contention of the All-Ceylon Tamil Congress that territorial representation under present conditions tends to become simply numerical representation, and it seems to us that to that extent, and in the light of results, the recommendations of the Donoughmore Commission have pressed too hardly upon the minorities".

constituencies appear to have been determined not only by factors of numerical equality, but by geography, and the common interests and associations of the inhabitants. Indeed, the British House of Commons took its name from the "Communitates", i.e. shires and boroughs, and had no reference to population. At any rate, in the present circumstances of Ceylon we see no satisfactory way of securing a reasonable proportion of seats for the minorities, except by a method which combines territorial and communal elements....The weightage proposed.....does not guarantee the return of a candidate belonging to a particular community, and the electorate is free to exercise its own judgment and choose the best candidate irrespective of his race or religion. Yet without doubt it gives the minorities a better chance of representation than they would be entitled to on a strict basis of population".

In India, a quasi-federal republic, there is one citizenship for the whole country, certain fundamental rights are entrenched, educational and cultural rights are guaranteed to minorities, and there is full suffrage for all, men and women, over the age of 21 years. The House of the People (the Lower House) consists of 489 members directly elected, plus 10 members appointed to represent special constituencies. For a period of 10 years, seats in the House are reserved for scheduled castes and scheduled tribes in proportion to their numbers. At present there are 66 seats reserved for scheduled castes and 27 for scheduled tribes. A special officer is appointed by the President to investigate and report on all matters relating to the effectiveness of the provisions in the constitution aimed at improving the condition of the more backward sections of the population. The 10 appointed members represent areas such as Kashmir, the tribal areas of Assam, the Nicobar and Andaman Islands where it is not possible to hold elections at present.

Pakistan has just (1953 Nov) formulated a constitution about which the Institute has ^{little} information. Its constituent assembly, however, had special provision for the representation of women. The population/.....

population of Pakistan is 85% Moslem, 12.9% Hindu and 7% Christian.

(see appendix)

→ other territories

Information about Burma, Malaya, Singapore is contained in appendices.....

With regard to territories in Africa south of the Sahara, the attention of the Commission is drawn to the attached booklets, "Political Status of Non-Europeans in Southern Africa" by Mariel Horrell, "Democracy in Multi-Racial Societies" by L.E. Thompson. Of particular interest is the new approach to racial problems contained in the Report published by the Tanganyika Government and the British Colonial Office in April 1953. Tanganyika is a dependent territory, has an African population of 7 million, an Asian community of 60,000, and a white settler community of 20,000. Under the proposals now being considered, the introduction of a common roll with a limited franchise for all voters is suggested. The franchise would be based on an educational qualification (a knowledge of English being required) to ensure that all the electors were of about the same educational standard and capable of grasping general political issues in the same way, and through the same media of political communication. Under these proposals, each of the groups would be entitled to seven representatives in the Legislative Councils but the Government would still maintain an official majority. As an experiment, each constituency in the larger urban areas would elect one European, one Asian, and one African. Candidates would have to be accredited members of the appropriate race, each backed by a strong list of nominators from his own racial group. Electors would vote in the usual way, but each voter would have three votes, only one of which could be cast for a candidate of his own race. This would mean that members of the three groups would all have a share in deciding who should be the representatives of each constituency. It should be noted in relation to Tanganyika that the proposals are a step towards democratic self-government.

CONCLUSIONS

In drawing the attention of the Commission to practice and experiment/....

experiment in other countries the Institute does not wish to pronounce in favour of any one of them as suitable for South Africa. The Institute's present general attitude towards the franchise for Non-Europeans is contained in the booklet "Go Forward In Faith" (attached). It is, however, anxious to draw attention to the methods which have been, and are being, used to limit the power of elected representatives over minority or culturally backward groups, e.g. the powers of an Upper House, the limitation involved in constitutions, e.g. in the Netherlands, Eire, and United States of America, the institution of federal systems, modifications to secure minority representation, e.g. Ceylon, educational qualifications as in Brazil, Tanganyika, etc. At the same time it wishes to demonstrate something of the processes by which backward peoples are being introduced to and trained in democratic methods.

It is after a review of such democratic procedures, a study of the history of the Cape Coloured franchise and its working, and bearing in mind the necessity to safeguard and extend Western civilization and at the same time secure happier race relations that the Institute has come to the considered conclusion that outright forms of communal representation are harmful to the state and that, in particular, the maintenance and indeed the extension of the present Cape Coloured franchise to the Northern Provinces and to the Cape Coloured women is essential.

In further support of this contention, the Institute puts forward the following propositions:-

(a) That "white" civilization does not depend on skin-colour and that a realistic explanation of the phrase "a white man's country" reveals it as literally meaningless. (See booklet attached "White Civilization" by E.E. Harris).

(b) That as a 20th century sovereign state with its "colonial" or undeveloped peoples within its own borders, it is the bounden duty of the white ruling group in South Africa to

extend/....

extend Christian and democratic values as rapidly as possible to such dependent peoples.

(c) That the safety of South Africa in war and its prosperity in peace, and indeed its safety in peace, depend upon harmonious race relations.

(d) That communal franchises differentially and discriminatingly enforced to ensure white domination make for racial antagonism, hinder peaceful progress for all in all spheres, material and spiritual, and lead to insecurity in time of war and give rise to internal dangers.

(e) That common interests as South Africans are a greater bond for the greater good of South Africa than apparent sectional colour interests.

(f) That it is the part of statesmanship in any democratic state to foster common interests and minimise differences.

(g) That a policy morally wrong cannot be politically right.

(h) That the democratic convention of the rule of the majority and the acceptance by the minority of majority decisions is essential to democratic procedures in a democratic country.

(i) That democracy depends upon majority moderation and minority restraint for effective working, but that a communally elected minority in Parliament as suggested in the Act will place that minority under no moral or democratic obligation to accept majority decisions or to act with restraint.

(j) That democracy depends upon mutual trust and mutual responsibility as between men.

(k) That communal representation as such is the negation of the commonly accepted position of a representative in a national assembly/.....

assembly.

(1) That the communal representation in practice absolves non-communal representatives of responsibility for represented communal interests.

(a) That rigid representation such as suggested for the Cape Coloured, which bears no relation to increase of population or increase in the number of qualified Cape Coloured voters, means in effect an eternity of agitation for the Cape Coloured and the development of a sten gun mind in the European.

(n) That the proposals in the Act create a sense of insecurity and distrust not only in the Cape Coloured, but in all Non-European groups, and that this is the negation of statesmanship and a positive factor contributing towards worsened race relations and civil unrest.

(o) That the tendency will be for extremists to be elected under such a communal system and for political and economic instability in the country to result.

(p) That native policy entered party politics in 1909 and more so in 1935 and that Cape Coloured policy entered party politics in 1953.

(q) That the institution of such a communal franchise as is proposed does not in fact remove European fear.

(r) That though a sovereign independent state, South Africa cannot be immune from developments in the world in the rest of Africa, in the Soviet Union and in the East and that such developments must be taken into account, if the good of the state is to prevail.

While the Institute has directed its attention particularly towards the Cape Coloured franchise, it is naturally concerned with the repercussion of the implementation of the Separate Representation

of Voters Act on other Non-European groups. While it realises that the political representation of all Non-Europeans is outwith the terms of reference of the Commission, it would, nevertheless, respectfully suggest that the Commission recommend the setting up of a Commission to study constitutional developments in other multi-racial ~~countries~~ countries and to travel to such other relevant countries to examine the functioning of such constitutions in situ.

In conclusion the Institute is of the opinion that unless the present status of the Cape Coloured people is maintained racial friction will increase over the next few years, and the highly undesirable position be reached that European and Non-European blocs will face each other in bitter and mutually destructive animosity.

INDIA

(Common Roll)

India is now a Federal Republic within the Commonwealth. Her new constitution came into effect in 1950, and first elections under this constitution were held towards the end of the following year.

Some observers speak of the Constitution as quasi-federal since all the 77 states do not enjoy complete equality. They are divided into Part A States (provinces which until 1947 were directly ruled by Britain through Governors but after that enjoyed a great deal of autonomy), Part B States (which were ruled by Indian princes under the suzerainty of the British Crown), and Part C States (3 of these were Chief Commissioner's provinces which had little of autonomy, and 7 were Indian Princely States taken over by the Indian Government after its accession).

There is only one citizenship for the whole of India (excepting the special position of Jammu and Kashmir), and every citizen of India becomes automatically a citizen of the State in which he resides. The Constitution guarantees to every citizen (and in some cases even to non-citizens living in the country) a number of fundamental rights - e.g. freedom of speech, association, movement, residence, freedom to practice any profession and to hold and dispose of property. Educational and cultural rights are guaranteed to minorities. The Constitution enumerates certain directive principles of policy, such as making provision for free and compulsory education.

Elections, federal as well as State, are arranged by an election commission appointed by the President of the Union. In regard to voting rights, Article 325 of the Constitution reads. "There shall be one general electoral roll for every territorial constituency for election to either House of Parliament, or to the House or either House of the Legislature of a State, and no person shall be ineligible for inclusion in any electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them". There is, then, full suffrag for all over the age of 21 who are citizens of India, men and women. The usual exceptions are of course made in the cases of non-residence, unsoundness of mind, crime, corrupt or illegal practice.

The machinery of government is as follows :

1. The President is elected by an electoral college consisting of the elected members of the Central Legislature and of the Legislative Assemblies of the various states in accordance with the system of proportional representation by means of the single transferable vote. The term of his office is five years and he is eligible for re-election. He may, however, be removed from office by impeachment for violation of the Constitution.

2. The Vice-President is elected by the members of the Central Legislature in accordance with the principle of proportional representation. His term of office is also 5 years. He is ex-officio Chairman of the Upper House.

3. Council of Ministers.

The President is, like the King of England, only the constitutional head. He has to carry on the government with the aid and advice of a Council of Ministers which has a Prime Minister at its head and which is collectively responsible to the Lower House.

Parliament consists of the President and the two Houses.

4. The Council of States, (the Upper House) consists of not more than 250 members of whom twelve are nominated by the President from among persons who have special knowledge or practical experience of literature, science, art and social service. The other members are allocated among the states roughly on a population basis. The representatives of each state are elected by the elected members of its Legislative Assembly, and in States where there is as yet no such Assembly they are to be chosen in such manner as Parliament may prescribe. Parliament has provided for electoral colleges in such States.

The Council of States is a permanent body not subject to dissolution. One-third of its members retire at the expiration of every second year.

5. The House of the People (the Lower House) consists at present of 489 members directly elected by the adult voters in the states and 10 members nominated to represent special constituencies. The normal term of the

House/...

- 3 -

House is five years, but it may be dissolved sooner.

For a period of ten years, seats in the House of the People are reserved for the scheduled castes and scheduled tribes in proportion to their numbers. At present there are 66 seats reserved for scheduled castes and 27 for scheduled tribes. A special officer is appointed by the President to investigate and report on all matters relating to the effectiveness of the provisions included in the Constitution for improving the conditions of life for these more backward sections of the people.

The 10 nominated members of the House, mentioned above, represent areas such as Kashmir, the tribal areas of Assam, Anamans and Nicobar where it has not yet been feasible to hold elections.

Any bill except a Money Bill may originate in either House of Parliament and has to be passed by both the Houses and receive the assent of the President before it becomes law. Money Bills can become law even without the consent of the Council of States. Differences on other bills may be settled if necessary through a joint sitting of the two Houses.

6. Government in the States.

a) Executive Head.

- (i) Part A States - A Governor appointed by the President for a term normally of five years.
- (ii) Part B States - A Rajpramukh recognised as such by the President.
- (iii) Part C States - Some are under Lieutenant Governors and others under Chief Commissioners.

b) Legislatures.

Governors or Rajpramukhs are only nominal heads of the State. The real executive power in all but the less-highly developed states rests with the Council of Ministers which has a Chief Minister at its head and which is collectively responsible to the Legislative Assembly.

- (i) Six of the states in Part A and one in Part B (Bihar, Bombay, Madras, Punjab, Uttar Pradesh and West Bengal are the Part A one have two Houses of Legislature, the Legislative Assembly (Lower)

and Legislative Council (Upper)

- (ii) Remaining Part A and Part B States and some of the States of Part C have a Legislative Assembly only.
- (iii) Remaining Part C States are at present governed from the Centre.

The Legislative Assembly of a state consists of members elected directly by the adult ~~members~~ ^{population}. There is not more than one member for every 75,000 of the population subject, however, to the condition that no Assembly shall have more than 500 or less than 60 members. The normal term of an Assembly is five years unless it is dissolved sooner.

Again, for a period of 10 years seats in proportion to their numbers are reserved for representatives of the scheduled castes and/or scheduled tribes. In the case of Assam, 18 out of 108 seats are reserved for the autonomous districts of that state.

The total numbers/in the Legislative Council of a state is not to exceed one-fourth of the members of the Assembly subject to the proviso that in no case shall it be less than 40. One-third of the members are elected by an electorate consisting of members of local bodies, one-twelfth by graduates, another twelfth by teachers, a third by members of the Legislative Assembly of the state, and the remainder nominated by the Governor or Rajpramukh. The Council is a permanent body not subject to dissolution. One-third of its members retire at the end of every second year.

In case of differences between the two Houses, the decision of the Lower House is to prevail if it is taken a second time under certain conditions.

NB. Most of the above is quoted directly from an article entitled "Some Recent Developments in Asia" by M. Venkatarangaya in India, Quarterly, No. 3 of 1953, pub. by Indian Council of World Affairs.

Information given tallies exactly with that kindly supplied by U.K. Information Office, obtained for the Institute from their office in India.

PAKISTAN.

The population of Pakistan is :

- 85 per cent Moslem
- 12.9 per cent Hindu
- 0.7 per cent Christian
- 1.4 per cent other

The Dominion of Pakistan was constituted in August, 1947.

It consists of :

- East Pakistan - 1 Province. Over 50 per cent of the population.
- West Pakistan - 4 Provinces. Under 50 per cent of the population.

Until recently the government consisted of :

- a) A Governor-General appointed by the British monarch.
- b) Council of Ministers (the Cabinet).
- c) The Pakistan Constituent Assembly.
- d) Governors, Councils of Ministers and Provincial Assemblies in the Provinces.

A Basic Principles Committee was appointed to draft a constitution. Its report was laid before the Constituent Assembly in December, 1952, and following much discussion the following arrangements have been decided upon :

- a) The country is to become "The Islamic Republic of Pakistan", within the Commonwealth.
- b) The President must be a Moslem. He will be elected by members of the two Houses sitting together, and is to be given very extensive powers.
- c) The Prime Minister and Ministers are appointed in the usual way. If the President comes from East Pakistan the Prime Minister must come from West Pakistan, and vice versa.
- d) The House of Units, or Upper House will have 50 members, ten from each of the five units or Provinces. This gives West Pakistan 40 of the seats. Members are elected by Provincial Assemblies.
- e) The House of People, or Lower House. Seats are allocated on a basis of population distribution, and distributed between East Pakistan (where over 50 per cent of the people live) and West Pakistan in such a way that their combined representation in both Houses is equal.

There are reserved seats, in proportion to their numbers in the population/...

population, for caste Hindus, Scheduled Castes and Christians, who vote on separate registers. Hindu members of the Constituent Assembly opposed this suggestion strenuously, on the ground that their rights would not be safeguarded as they would be a perpetual minority group in Parliament. The Assembly had voted that all legislation must be Islamic, and no security had been offered to the personal laws of minorities. They maintained that there should be a common roll for all voters so that those elected would represent all sections of the population.

Powers of two Houses.

The two Houses are to have equal powers. In the event of a dispute between the Houses a joint sitting will be held.

Any vote of no confidence requires at least 30 votes from members from each of the two territories.

(Information from Mr. J.L.Malhautra, Assistant Secretary in the High Commissioner's Office, Johannesburg; from the Statesman's Year Book for 1953; from notes by M. Venkatarangaiya in "India" quarterly, No. 3 of 1953; and obtained for the Institute by the U.K.Information Office from the British Information Service in Karachi).

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CEYLON.

(Common Roll with protection for Minorities)

In 1947, Ceylon was granted Dominion status within the Commonwealth. Full self-government is envisaged: at present Her Majesty's Government retains the right to legislative matters relating to defence and external affairs, and the Governor-General has powers to reserve legislation on six specified classes of subject.

The governmental machinery is as follows:

1. A Governor-General appointed by Her Majesty, as the nominal head of the executive.
2. A Cabinet of Ministers appointed by him but collectively responsible to Parliament.
3. A Senate consisting of 30 members of whom 15 are elected by the House of Representatives and 15 are nominated by the Governor-General on the advice of the Prime Minister. The Senators hold office for 6 years, one-third retiring every second year. The Senate has no power over Money Bills; even over other Bills it has only a suspensory veto.
4. A House of Representatives containing 95 elected and a maximum of 6 nominated members. It holds office for 5 years unless dissolved sooner.

The 95 members are elected by means of universal adult suffrage, Electoral districts are based on the population and area of the provinces; the reference to area is because of the need to give adequate representation to minorities like the Tamils without bringing in the system of separate communal electorates. There is also a proviso which lays down that if in any Province there is a substantial concentration of persons united by a community of interests, whether social, religious or otherwise, but differing in one or more of these respects from the inhabitants of the area, that Province may be delimited into constituencies so as to render possible the representation of that interest.

The Constitution contains a clause which is designed to prevent the enactment of any law which restricts the free exercise of religion, or which discriminates against any person for communal or religious reasons.

The population is as follows :

<u>Race</u>	<u>No. of People.</u>
Europeans	6,000
Burghers and Eurasians	48,000
Sinhalese	5,236,000
Ceylon Tamils	831,000
Indian Tamils	885,000
Ceylon Moors	423,000
Indian Moors	40,000
Malays	25,000
Veddias	3,000
Others	47,000

(Encyclopaedia of Extra-European Countries)

(Information from "Notes on Recent Constitutional Changes in the Colonies" issued by U.K. Information Office in 1947, from "Some Recent Developments in Asia" by M. Venkatarangaiya, "India" quarterly, No. 3 of 1953, and from the Encyclopaedia of Extra-European Countries).

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