

# Political Safeguards For Minorities In India

## SPECIAL RIGHTS PROPOSED FOR ANGLO-INDIANS

NEW DELHI. August 27.

**ABOLITION** of separate electorates and elections to the Central and provincial legislatures to be held on the basis of joint electorates, and reservation of seats for the different recognised minority communities on the basis of their population, initially for a period of ten years, are the main features of the three reports of the Advisory Committee on Minorities, presented to the Constituent Assembly today.

The reports also mention safeguards for the Anglo-Indian community for a period of ten years and certain non-justiciable principles to be incorporated in the fundamental rights of the subjects.

Sardar Vallabhbhai Patel, Chairman of the Minorities Committee, presenting the reports to the House says that this report should be treated as supplementary to the one forwarded to the President on April 23, 1947, and dealt with by the Assembly during the April session.

The first report deals with what may broadly be described as political safeguards of minorities, the second report deals with the position of Anglo-Indians in certain services and the grant of special educational facilities for them and the third report is a supplementary report on fundamental rights.

That report, Sardar Patel says, dealt with justiciable fundamental rights; these rights, whether applicable to all citizens generally or to members of minority communities, in particular, offer a most valuable safeguard for minorities over a comprehensive field of social life. The present report deals with what may broadly be described as political safeguards of minorities and covers the following points:

(1) Representation in legislatures; joint versus separate electorates; and weightage.

(2) Reservations of seats for minorities in Cabinets.

(3) Reservation for minorities in the public services.

(4) Administrative machinery to ensure protection of minority rights.

"Our recommendations," Sardar Patel declares, "are based on exhaustive discussion both in the Sub-Committee on Minorities as well as in the main Advisory Committee. From the very nature of things, it was difficult to expect complete unanimity on all points. I have pleasure in informing you, however, that our recommendations, where they were not unanimous, were taken by very large majorities composed substantially of members belonging to minority communities themselves.

"The first question we tackled was that of separate electorates. We considered this as being of crucial importance both to the minorities themselves and to the political life of the country as a whole. By an overwhelming majority, we came to the conclusion that the system of separate electorates must be abolished in the new constitution. In our judgment, this system has in the past sharpened communal differences to a dangerous extent and has proved one of the main stumbling blocks to the development of a healthy national life. It seems specially necessary to avoid these dangers in the new political conditions that have developed in the country, and from this point of view the arguments against separate electorates seem to us absolutely decisive.

### ELECTIONS TO UNION LEGISLATURES

#### Seats For Minorities

"We recommend, accordingly, that all elections to the Central and provincial legislatures should be held on the basis of joint electorates. In order that minorities may not feel apprehensive about the effect of a system of unrestricted joint electorates on the quantum of their representation in the legislature, we recommend, as a general rule, that seats for the different recognised minorities shall be reserved in the various legislatures on the basis of their population. This reservation should be initially for a period of ten years, the position to be reconsidered at the end of that period.

"We recommend also that the members of a minority community who have reserved seats shall have the right to contest unreserved seats as well. As a matter of general principle, we are opposed to weightage for any minority community.

#### STATUTORY RESERVATION

"For two reasons the application of the above principles to specific minorities was considered in detail by the Committee. In the first place it was known to us that minorities are by no means unanimous as to the necessity, in their own interests, of statutory reservation of seats in the legislatures. Secondly, the strict application of the above principles to a microscopic minority like the Anglo-Indians seemed to require very careful examination. We accordingly classified minorities into three groups Group A consisting of those with a population of less than 1.2 per cent. in the Indian Dominion, excluding the States; Group B consisting of those with a popu-

lation of more than 1½ per cent, but not exceeding 1-1½ per cent; and Group C consisting of minorities with a population not exceeding 1-1½ per cent.

"These three groups are as follows: Group A—1. Anglo-Indians. 2. Parsees. 3. Plains tribesmen in Assam.

"Group B—4. Indian Christians. 5. Sikhs.

"Group C—6. Muslims. 7. Scheduled Castes.

"Anglo-Indians:—The population of the Anglo Indian community excluding the States is just over a lakh, that is .40 per cent. Mr. Anthony, on behalf of the Anglo-Indians, contended that the census figures were inaccurate, but even admitting a larger figure than the one given in the census, this community is microscopic, and to deal with it on a strictly 50-50 basis would mean giving it no representation at all. The representatives of the Anglo-Indians on the Committee asked originally that they should have the following representation in the legislatures: The House of the People 3; West Bengal 3; Bombay 2; Madras 2; the C.P. and Berar 1; Bihar 1 and The U.P. 1.

"Subsequently, they asked that they should be guaranteed two seats in the House of the People and one in each province in which they have representation at present, that is, a total of eight altogether. After very considerable discussion, in the course of which representatives of the Anglo-Indian community gave full expression to their views, the Committee unanimously accepted the following formula, namely, that there shall be no reservation of seats for the Anglo-Indians, but the President of the Union and the Governors of provinces shall have powers to nominate representatives of the Anglo-Indian community to the Lower House in the Centre and in the provinces respectively, if they fail to secure representation in the legislatures as a result of the general election.

### ANGLO-INDIANS' POSITIONS

#### Tribute To Leaders

"We wish to congratulate the representatives of the Anglo-Indian community on the Committee for not pressing their proposals which would not merely have introduced the principle of special weightage which was turned down as a general proposition by an overwhelming majority, but would also have encouraged other small minorities to ask for representation wholly out of proportion to their numbers. We feel sure that by the operation of the formula recommended by us, Anglo-Indians will find themselves given adequate opportunity effectively to represent in the legislatures the special interest of their community.

#### PARSEES' REPRESENTATION

"Parsees:—In the Minorities Sub-Committee, Sir Homi Modi had urged that, in view of the importance of the Parsee community and the contribution it had been making to the political and economic advancement of the country, Parsees should have adequate representation in the Central and Provincial Legislatures. The Sub-Committee were of the opinion that this claim should be conceded. In view, however, of the opinion expressed to him by several members that an advanced community like the Parsees would be adequately represented in any event, and did not need special reservation, Sir Homi had asked for time to consider the matter.

"When the issue came before the Advisory Committee, Sir Homi stated that, though the Committee had already accepted the Parsee community as a recognised minority entitled to special consideration on the same basis as other minorities in Group A, he had decided to follow the traditions which the community had maintained in the past and to withdraw the claim for statutory reservation. He assumed that Parsees would remain on the list of recognised minorities and urged that, if during the period prescribed in the first instance for the special representation of the minorities it was found that the Parsee community had not secured proper representation, its claim would be considered and adequate representation provided, if the separate representation of minorities continued to be a feature of the constitution. The Committee appreciates the stand taken by Sir Homi Modi and agreed to his proposal."

### NO WEIGHTAGE IN GROUPS B & C

#### Indian Christians' Stand

Tribesmen in the Assam plains: The case of these tribesmen will be taken up after the report of the Excluded and Partially Excluded Areas Sub-Committee is received.

"Indian Christians: Representatives of the Indian Christians stated that, so far as their community was concerned, they did not desire to stand in the way of nation-building. They were willing to accept reservation proportionate to their population in the Central Legislature and in the Provincial Legislatures of Madras and Bombay. In the other provinces, they would have the liberty of seeking election from the general seat. They

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# Special Minorities' Officers In Centre & Provinces

## ADVISORY BODY'S SUGGESTION

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were against any weightage being given to any community, but made it plain that if weightage was given to any minority in Groups B and C, they would demand similar weightage. As weightage is not being conferred to any community, this means that the Indian Christians are prepared to "know" in their lot with the general community, subject only to the reservation of certain seats for them on the population basis in the Central Legislature and in Madras and Bombay.

"Sikhia. In view of the uncertainty of the position of the Sikhs at present, pending the award of the Boundary Commission in the Punjab, the Committee decided that the whole question of the safeguards for the Sikh community should be held over for the present.

### MUSLIMS & SCHEDULED CASTES

"Group C: Muslims and the Scheduled Castes. The Committee came to the conclusion that there were no adequate grounds for departing from the general formula in the case either of Muslims or of the Scheduled Castes. Accordingly, it is recommended that seats be reserved for these communities in proportion to their population, and that these seats shall be contested through joint electorates.

"A proposal was made in the Committee that a member of the minority community contesting a reserved seat should poll a minimum number of votes of his own community before he is declared elected. It was also suggested that cumulative voting should be permitted. The Committee was of the view that a combination of cumulative voting and a minimum percentage of votes to be polled in a community would have all the evil effects of separate electorates, and that neither of these proposals should be accepted.

### SEATS IN CABINETS

"Some members of the Committee proposed that there should be a provision prescribing that minorities shall have reserved for them seats in cabinets in proportion to their population. The Committee came unhesitatingly to the conclusion that a constitutional provision of that character would give rise to serious difficulties. At the same time, the Committee felt that the constitution should specifically draw the attention of the President of the Union and the Governors of Provinces to the desirability of including members of important minority communities in Cabinets as far as practicable. We recommend, accordingly, that a convention shall be provided in a schedule to the constitution on the lines of Paragraph VII of the Instrument of Instructions issued to Governors under the Act of 1935 and reproduced below.

"In making appointments to his Council of Ministers, our Governor shall use his best endeavours to select his Ministers in the following manner, that is to say, to appoint, in consultation with the persons who in his judgment is most likely to command a stable majority in the legislature, those persons (including, so far as practicable, members of important minority communities) who will best be in a position collectively to command the confidence of the legislature. In so acting, he shall bear constantly in mind the need for fostering a sense of joint responsibility among his Ministers."

## REPRESENTATION IN PUBLIC SERVICES

### Anglo-Indians' Plea

"A proposal was made to us that there should be a constitutional guarantee of representation in the public services of the minority communities in proportion to their population. We are not aware of any other constitution in which such a guarantee exists, and, on merits, we consider, as a general proposition that any such guarantee would be a dangerous innovation. At the same time, it is clear to us that consistently with the need of efficiency in administration, it is necessary for the State to pay due regard to the claims of minorities in making appointments to public services. We recommend, therefore, that, as in the case of appointments to Cabinets, there should be in some part of the constitution or the schedule an exhortation to the Central and Provincial Governments to keep in view the claims of all the minorities in making appointments to public services consistently with the efficiency of administration.

"The Anglo-Indian members of our committee have represented to us that owing to the complete dependence of the economy of their community on their position in certain services and their existing educational facilities, their case requires special treatment. We have appointed a sub-committee to investigate this question and to report to us." The following members have been appointed to submit a report: Pandit G. B. Pant, Mr. K. M. Munshi, Mrs. Henna Mehta, Mr. S. H. Prater and Mr. Frank Anthony.

### MINORITIES OFFICER

"The minorities' representatives in the committee naturally attached importance to the provision of administrative machinery for ensuring that the guarantees and safeguards provided for the minorities, both in the constitution and by executive orders, are in fact implemented in practice. After considerable discussion, we have come to the conclusion that the best arrangement would be for the Centre and for each of the provinces to appoint a special Minorities Officer whose duty will be to enquire into cases in which it is alleged that rights and safeguards have been infringed and to submit a report to the appropriate legislature.

"We have felt bound to reject some of the proposals placed before us partly because, as in the case of reservation of seats in Cabinets, we felt that a rigid constitutional provision would have made parliamentary democracy unworkable and partly because, as in the case of the electoral arrangements, we considered it necessary to harmonise the special claims of minorities with the development of a healthy national life. We wish to make it clear, however, that our general approach to the whole problem of minorities is that the State should be so run that they should stop feeling oppressed by the mere fact that they are minorities and that, on the contrary, they should feel that they have as honourable a part to play in the national life as any other section of the community.

"In particular, we think it is a fundamental duty of the State to take special steps to bring up those minorities which are backward to the level of the general community. We recommend, accordingly, that a Statutory Commission should be set up to investigate into the conditions of socially and educationally backward classes, to study the difficulties under which they labour and to recommend to the Union or the unit Government, as the case may be, the steps that should be taken to eliminate their difficulties and suggest the financial grants that should be given and the conditions that

## EDUCATIONAL GRANT TO ANGLO-INDIANS

### Supplementary Report

Sardar Patel then submitted a supplementary report on the position of Anglo-Indians in certain services and the grant of special educational facilities for them and said the report was based on a consideration of the findings of a sub-committee appointed by the committee.

"(A) Position of Anglo-Indians in certain services:

"We find that, as a result of historical circumstances the whole economy of this community is at present dependent on finding employment in certain types of posts in the Railways, Posts and Telegraphs and the Customs

Departments. A recent survey conducted by the Provincial Board for Anglo-Indian Education in Bombay showed that 78 per cent. of the employable section of the community there were dependent for their livelihood on those appointments. We believe that this position is almost the same all over India: the total number of Anglo-Indians at present employed in these three departments being about 15,000. The special reservation given to them in the Government of India Act, 1935, does not, however, extend to all the categories of posts in these departments, but only to those with which they have had long past associations. In view of this we feel that if the existing safeguards in this regard are not continued in some form for some years to come, the community will be subjected to a sudden economic strain which it may not be able to bear. We, therefore, declare that:

### NO CHANGE FOR TWO YEARS

"(i) The present basis of recruitment of Anglo-Indians in the Railways, Posts and Telegraphs and the Customs Departments shall continue unchanged for a period of two years after the coming into operation of the Federal constitution. After that, at intervals of every two years, the reserved vacancies shall be reduced each time by ten per cent. this shall not, however, bar the recruitment of Anglo-Indians in the categories of posts in which, at present, they have reserved places over and above the prescribed quota of reserved appointments. If they are able to secure them on individual merit in open competition with other communities. It shall also in no way prejudice their recruitment on merit to posts in these departments, or any other in which they have not been given a reserved quota.

"(ii) After a period of ten years from the date of the coming into operation of the Federal constitution all such reservations shall cease.

"(iii) In these services there shall be no reservation for any community after the lapse of 10 years.

### EDUCATIONAL FACILITIES

"(B) Special educational facilities for Anglo-Indians.

"There are, at present, about 800 Anglo-Indian schools in India. The total Government grant to these schools is about Rs. 45 lakhs, being approximately 24 per cent. of the expenditure incurred by the schools. We feel that a sudden reduction in the grant will seriously dislocate the economy of these schools: and that it would only be fair to bring them gradually into line with other similar educational institutions after giving them sufficient time and opportunity to adjust themselves to the altered conditions now prevailing in the country. We also feel that in this way these institutions might become a valuable educational asset, which would cater to the growing educational needs of the whole nation and not only to those of the Anglo-Indian community. We accordingly recommend that:

"(i) The present grants to Anglo-Indian education made by the Central and Provincial Governments should be continued unchanged for three years after the coming into operation of the Federal constitution.

"(ii) After the expiry of the first three years, the grants may be reduced by ten per cent. and by a further ten per cent. after the sixth year, and again by a further ten per cent. after the ninth year. At the end of the period of ten years, special concessions to Anglo-Indian schools shall cease.

"(iii) During this ten-year period, 40 per cent. of the vacancies in all such State-aided Anglo-Indian schools shall be made available to members of other communities.

"The term 'Anglo-Indian' used in this report has the meaning given to it in the Government of India Act, 1935.

## FUNDAMENTAL RIGHTS

### Directives Of Policy

Sardar Vallabhbhai Patel, who is also the Chairman of the Advisory Committee on Fundamental Rights, then submitted a supplementary report on the subject. It says:

2. We have come to the conclusion that, in addition to justifiable fundamental rights, the constitution should include certain directives of State policy which, though not cognisable in any court of law, should be regarded as fundamental in the governance of the country. The provisions that we recommend are contained in Appendix A.

3. In para 8 of our previous report we had referred to the recommendation of the Fundamental Rights Sub-Committee that the right of the citizen to have redress against the State in a court of law should not be fettered by undue restrictions. After careful consideration, we have come to the conclusion that it is not necessary to provide in the constitution for any further right in this connection than those already contained in Clause 22 as accepted by the Assembly in the April-May session.

### RELIGIOUS INSTRUCTION

The Constituent Assembly had referred back to us Clauses 16, 17 and 18 (2) of our previous report. We have re-examined the clauses and our recommendations are as follows:—

Clause 16: "No person attending any school maintained, or receiving aid, out of public funds shall be compelled to take part in the religious instruction that may be given in the school or to attend religious worship held in the school or in the premises attached thereto."

We recommend that this clause be accepted by the Assembly in its present form.

Clause 17: "Conversion from one religion to another brought about by coercion or undue influence shall not be recognised by law."

It seems to us on further consideration that this clause enunciates a rather obvious doctrine which it is unnecessary to include in the constitution and we recommend that it be dropped altogether.

Clause 18 (2): "No minority, whether based on religion, community or language, shall be discriminated against in regard to admission into State educational institutions, nor shall any religious instructions be compulsorily imposed on its members."

We recommend that the latter portion of the clause, namely, "Nor shall any religious instruction be compulsorily imposed on its members," be deleted in view of Clause 16 above, which we have recommended for retention. We recommend that the rest of the clause be adopted by the Assembly.

We have examined the question whether the scope of the clause should be extended to include State-aided educational institutions also, and have come to the conclusion that in the present circumstances we would not be justified in making any such recommendation.

### UNION LANGUAGE

The Fundamental Rights Sub-Committee in their report to us had recommended the adoption of Hindustani, written in Devanagari or the Persian script, as the language of the Union of India, but we had thought fit to postpone consideration of the matter in April. In view of the fact that the Constituent Assembly is already seized of the matter by certain recommendations of the Union Constitution Committee's report, we think it unnecessary to incorporate any provision on the subject in this list of fundamental rights.

We have also examined numerous amendments in the nature of new

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# PRIMARY DUTIES OF

## STATE

### Supplementary Report

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provisions, notice of which had been given by several members during the April-May session of the Assembly, and have not been able to accept any of them. Some of them relate to matters which have already been provided for either in the clauses already accepted by the Assembly or in the new clauses which we have recommended in this report; and the others seem to us unnecessary or inappropriate.

#### APPENDIX (A)

##### Fundamental Principles of Governance:

Preamble: 1. The principles of policy set forth in this part are intended for the guidance of the State. While these principles are not cognisable by any court, they are nevertheless fundamental in the governance of the country and their application in the making of laws shall be the duty of the State.

Principles: 2. The State shall strive to promote the welfare of the whole people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of national life.

3. The State shall, in particular, direct its policy towards securing:

(i) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(ii) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(iii) that the operation of free competition shall not be allowed to result in concentration of the ownership and control of essential commodities in a few individuals to the common detriment;

(iv) that there shall be equal pay for equal work for both men and women;

(v) that the strength and health of workers, men and women, and the tender age of children shall not be abused and that citizens shall not be forced by economic necessity to enter avocations unsuited to their age and strength;

(vi) that childhood and youth are protected against exploitation and against moral and material abandonment.

#### WORK AND EDUCATION

4. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness, disablement, and other cases of underserved want.

5. The State shall make provision for securing just and humane conditions of work and for maternity relief for workers.

6. The State shall endeavour to secure, by suitable legislation, economic organisation and in other ways, to all workers, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

7. The State shall endeavour to secure for the citizens a uniform civil code.

8. Every citizen is entitled to free primary education, and it shall be the duty of the State to provide, within a period of ten years from the commencement of this constitution, free and compulsory primary education for all children until they complete the age of 14 years.

9. The State shall promote with special care the educational and economic interests of the weaker sections of the people; and, in particular, of the Scheduled Castes and aboriginal tribes, and shall protect them from social injustice and all forms of exploitation.

#### PRIMARY DUTIES

10. The State shall regard the raising of the level of nutrition, and the standard of living of its people and improvement of public health as its primary duties.

11. It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by the law of the Union to be of national importance, from spoliation, destruction, removal, dispersal or export, as the case may be, and to preserve and maintain, according to the law of the Union, all such monuments or places or objects.

12. The State shall promote international peace and security by the prescription of just and honourable relations between nations by the firm establishment of the understanding of international law as the actual rule of conduct among governments and by the maintenance of justice and scrupulous respect for treaty obligations in the dealings of organised people with one another.