

BRITISH GOVERNORS GENERAL: PROPOSED CONSTITUTION

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FINAL PROPOSAL FOR THE CONSTITUTION AND GOVERNMENT OF INDIA

*Presented by Lords and Lord Stevenson, Governors General
On Behalf of His Majesty, King George VI*

This proposal contains our final recommendations for the future Constitution and Government of the undivided nation of India in the Subcontinent, as set out under the following:

- I. Method and Scope
- II. Ideology
- III. The National Constitution of India
 - Article I: The National Government of India
 - Article II: Enumerated Powers within the National System
 - Article III: Provincial Borders within the National System
 - Article IV: Indian Code of Civil Rights and Liberties
- IV. Regarding the Partition of Independent States

We have attempted to take all concerns expressed at the Simla conference into account and sincerely hope that the compromises presented herein will be accepted by the conference and enacted upon the British departure from India. We thank you for your respectful co-operation at this conference and look forward to watching you lead your nation to success on the international scene.

I. METHOD AND SCOPE

The recommendations contained within this proposal have been made based on the effectiveness and persuasiveness of the arguments presented in class. We recognize that certain aspects of our “game” are not reflective of historical fact, but we feel that the purpose of these sessions was to interpret history based on the personalities and work of people in the class rather than to recreate what actually took place in India, 1945-47.

Based on Muslim assurances of their willingness to protect minorities and Hindu dedication to the guarantee of civil liberties for all citizens, we have set out the following proposal for a unified nation of India with a three-tiered government designed to give individual provinces as

much influence as possible over the specificity of their own administration. We have been inclined to adhere most closely to proposals made by the Muslim and Sikh groups because they were the most vocal in class.

We have also given positive consideration to the requests of the Depressed Classes, because we feel that their concerns are parallel to those of other minority groups, and can be addressed by our distinction between secular and religious authority. In the public, secular sphere, Untouchability will be officially abolished.

Although our proposal does satisfy the requests of the Hindus and the Indian National Congress, we do not feel that these groups have convinced us of their ability to alter the current system of injustices perpetuated against minority groups as their claim of an endemic quality of "Indian-ness" was not echoed by all members of the conference. We therefore propose a Code of Civil Liberties, modeled on both Honora and Isolde's suggestions, as a check to Hindu abuse of majority power. We also entertain the possibility of the eventual establishment of the independent states of Pakistan and Kalistan. This will be discussed in Section V.

A final note regarding our consistency with history: The entrenched hatred between different religious and cultural groups has been difficult to take into account in our deliberations because students were willing to compromise and recognize each other's rights. Our proposal may not have worked at all in India in 1947 given the incessant massacres of Sikhs and Muslims and Hindus by each other, and cycle of hatred and revenge established for decades. It is, however, reflective of the personalities and compromises of the students in our class.

II. IDEOLOGY

It has been our desire from the start to facilitate the creation of a united nation called India. We have hoped for this for several reasons. For the British, India is a beautiful and exotic land, whose very variety of social and ethnic diversities makes it one of the most remarkable and special places in all of our Empire, in the entire world. We have feared the effect of drastic changes to the map, as we feel that majority and minority communities in this land are equally important and integral to the overall character of India, and that their separation or fragmentation would have a devastating effect on the Indian spirit. It is our hope that the government structure and the code of human rights set out in this document will be sufficient to ensure the success of such a nation.

III. THE NATIONAL CONSTITUTION OF INDIA

The National Government of India shall serve to establish, uphold, and protect the rights of citizens. Under this National Government of the people, equality before the law and universal suffrage are recognized as the highest rights of the Indian people. In order to protect these rights, the National Government shall be composed of a unique federal system, incorporating a strict enumeration of powers between national and local authorities and within the three branches of the National Government. The precedent of the National Government shall be the supreme authority in India and its provinces.

ARTICLE I. THE NATIONAL GOVERNMENT OF INDIA

SECTION A: THE NATIONAL LEGISLATURE

The national legislature shall be a bicameral parliament composed of an upper house and a lower house in order to ensure the sanctity of any such legislation set forth to govern the citizens of the entire Indian nation. All legislation imposed upon the nation of India shall be passed by both houses concurrently and approved by the Executive Officer. The laws of the National Parliament shall be the supreme law of the land.

1. The **Lower House** shall be composed of representative elected by majority vote in popular elections held in their respective provinces. The number of representatives allotted to each province shall be proportionate to the number of citizens permanently residing in the individual province. The term of each representative in the National Parliament shall be limited to two years, although there shall be no limit to the number of terms one representative may serve. All legislation that passes through the Lower House must be approved by two-thirds of the representatives in the house.

2. The **Upper House** shall be composed of four equal blocks of representatives, each block on behalf of the four major cultural, religious, or ethnic groups existing among the Indian citizens at the time of the adoption of this Constitution. These groups include: one block designated for Hindu representatives; one block designated for Muslim representatives; one block designated for representatives of the Depressed classes; and one block designated for Sikh representatives. Additional blocks shall be added to the Upper House through petition to the National Parliament; these groups must demonstrate the following criteria:
 - a) Function as a *distinct* cultural, religious, or ethnic entity among the Indian populace, exclusive from all other blocks represented in the Upper House.
 - b) Constitute a minimum two percent of the total citizenry of India, excluding those represented in other blocks. Minority groups constituting less than two percent of the populace may attain a representative block in the Upper House through coalitions with other minority groups to reach the minimum two percent.Each block of the Upper House shall consist of five representatives. To ensure that each block is representing the universal interests of respective minorities throughout the nation of India, no fewer than three representatives in each block must be from and nominated by different provinces. The representatives of each block shall only be elected by separate elections permitting the exclusive participation of voters associated with the block's designated group. No citizen shall vote in elections of representatives for more than one block.

The terms of representatives in the Upper House shall be six years, although there shall be no limit to the number of terms one representative may serve through reelection.

Elections shall occur every two years through rotation of elections; one-third of the seats in the Upper House shall come up for election every two years.

All legislation to pass through the Upper House shall be approved by three-fifths majority vote within all five blocks of the Upper House. No legislation shall become National law if it is not approved by all five blocks individually.

SECTION B: THE NATIONAL EXECUTIVE

1. The National Executive shall establish executive power in the hands of an Executive Officer elected by popular vote in national elections. The Executive Officer shall hold office for a term of two years. No individual shall serve more than three terms as executive officer. No person except a natural-born citizen of the nation of India, including all provinces of the subcontinent, shall be eligible for the office.
2. The National Executive shall serve to uphold the standards set forth in the Constitution of India and execute all legislation set forth by the National Parliament.
3. The National Executive shall be in command of the national armed forces and defense systems.
4. The National Executive shall serve as the representative of the Indian nation in foreign affairs.
5. The National Executive shall establish agencies as necessary to manage particular aspects of the National Government system, which shall collaborate to benefit the people of India.

SECTION C: THE NATIONAL JUDICIARY

1. The National Judiciary shall serve to uniformly protect the rights of Indian citizens as enumerated in this Constitution and the Indian Code of Civil Rights and Liberties.
2. The National Judiciary system shall exist on both local and national levels. The national, provincial, and municipal courts shall be bound equally to uphold the Indian Code of Civil Rights and Liberties in all proceedings, guaranteeing quality before the law and freedom of religious, cultural, and ethnic affiliations for all Indian citizens.
3. The highest court in the National Judiciary shall be composed of a set number justices affiliated with Hindus, Sikhs, Muslims, the Depressed classes, and other minority groups according to the population of all India. In provincial courts, the juries shall be based upon identical schema as on the national level, with jury members representative of the population of all India, not based upon the population of the province where the jury sits.

4. Juries shall be required for all cases involving the breach of federal law or infringement upon the rights of another citizen, as set forth in the Indian Code of Civil Rights and Liberties.

ARTICLE II. ENUMERATED POWERS WITHIN THE NATIONAL SYSTEM

SECTION A: POWERS OF THE NATIONAL GOVERNMENT

1. The National Government shall be the sole representative of India in all foreign affairs and diplomatic relations. These relations include international trade, agreements, and treaties. No province shall enter into any form of contract with a foreign entity or other provinces without the consent of the National Government.
2. The National Government shall be the sole authority in matters of national defense, communication, and transportation.
3. The National Government shall set standards for the regulation of natural resources, economic transactions, industry, and environmental concerns.
4. The National Government shall set standards for compulsory eight-year primary education for all Indian citizens. These standards include English as a second language. The National Government shall provide assistance to municipal authorities as necessary to ensure free public education.
5. The National Government shall be the sole arbiter in establishing standards of inter-province commerce and relations.
6. The National Government reserves the power to tax.

SECTION B: POWERS RESERVED TO PROVINCIAL AND MUNICIPAL AUTHORITIES

1. Provincial and municipal authorities shall control the administration of schools, allowing for instruction in local languages and dialects.
2. Provincial and municipal authorities shall develop and maintain the local infrastructure of individual provinces, including transportation, roads, and traffic codes.
3. Provincial and municipal authorities shall develop housing and zoning laws.
4. Provincial and municipal authorities shall develop and maintain communication systems within provinces and municipalities.

5. Provincial and municipal authorities shall provide all social services to its residents.
6. Provincial and municipal authorities shall provide and maintain civil services and public utilities.
7. The governmental structure of individual provinces and municipalities shall be determined independently of the National Government, in accordance with the laws of this Constitution and the Indian Code of Civil Rights and Liberties.

ARTICLE III. PROVINCIAL BORDERS WITHIN THE NATIONAL SYSTEM

SECTION A: THE INCLUSIVITY OF INDIAN PROVINCES WITHIN THE NATION OF INDIA

Each independent province shall be subject to all provisions of this Constitution establishing the Nation of India. Each province shall reserve the power to establish their own form of local government and laws in accordance with the Federal Constitution and Indian Code of Civil Rights and Liberties and may delegate leaders on the provincial level and representatives to the National Parliament, Executive, and Judiciary.

Hyderabad and other princely states extant upon the adoption of this Constitution are here fore and forever not recognized by the people of India as entities distinct from the nation of India. Therefore, all states shall be absorbed as provinces of the Indian nation and subject to all provisions of this Constitution.

SECTION B: PROVINCIAL BOUNDARIES (MAP A)

Upon the adoption of this Constitution, the former princely state of Hyderabad shall be divided along the Godawari River into two separate provinces: South of the river shall be the province of South Hyderabad; north of the river, Northern Hyderabad, and Berar shall form the province of North Hyderabad. (Map B)

The province of Punjab shall be divided along the Chenab River into two separate provinces, East and West Punjab. The city of Lahore shall be located in East Punjab. (Map C)

All other provinces shall maintain their current borders. A committee shall be created in order to examine the status of small former princely states and other provincial frontiers based upon population and other factors for zoning, municipal districts, and election districts.

[Maps removed]

ARTICLE IV. INDIAN CODE OF CIVIL RIGHTS AND LIBERTIES

All members at the Simla conference have expressed interest in a federally regulated code which safeguards the rights and freedoms of all Indian citizens, regardless of religion, race, gender, or caste. The following document is based upon the recommendations of members of the Indian National Congress and the Muslim League, and from general observations made by conference members.

The Indian Code of Civil Rights and Liberties shall apply to all citizens in all provinces, and shall be upheld at all levels of government. A Civil Liberties Bureau shall be established as a branch of the federal executive government to register and arbitrate cases of infringement of the Code. Its decisions shall be legally binding.

1. All citizens shall be guaranteed the right to life and personal liberty.
2. All citizens shall be guaranteed the right to freedom of religion, belief, speech, assembly, and the press.
3. All citizens of India shall be regarded equally in the eyes of the State and under the law.
4. All citizens shall have the right to equal access to employment.
5. All citizens shall have the right to equal access to education.

All citizens shall have the right to education in their own language, and access to non-compulsory secondary language instruction in English or other languages.

- a) All citizens shall be required to attend at least eight years of school.
6. No system of Depressed Caste shall be recognized by the State. No citizen shall be denied access to public facilities and institutions, employment or education based on their caste.
7. No royal or religious titles, including those previously guaranteed under the British Raj, shall be recognized by the State. The former possession of a title such as prince, or membership in the Brahman caste, shall not be grounds for different treatment by the State or special exemption from its laws.
8. No citizen shall be detained for any purpose or duration without reasonable cause.
 - a) All citizens shall be presumed innocent until proven guilty.
 - b) All citizens shall have the right to a public trial within a reasonable amount of time.
 - c) All citizens shall have the right to trial in their own language.
 - d) All citizens shall have the right to a lawyer provided by the State.
 - e) The Grandfather clause is in effect.
9. No citizen shall be subjected to cruel and unjust punishment.
10. All citizens shall be allowed to move freely among all provinces.
 - a) All citizens shall be allowed to live in any province they choose.
 - b) All citizens shall be allowed to leave the country and return as they choose.
11. All persons, male and female, born in any of India's provinces shall be guaranteed Indian citizenship.
12. All citizens shall be guaranteed the right to vote in municipal, provincial, and federal elections. This includes the formerly disenfranchised groups of Depressed Classes and women.
13. All non-citizens traveling or residing in India shall be guaranteed the same liberties set out in this code.

IV. REGARDING PARTITION OF INDEPENDENT STATES

The British Governors General have never desired the partition of India into separate national states. Our first proposal reflects this. However, this proposal has been modified to include provisions for the potential establishment of separate national states if the constitution established in this document is not satisfactory.

Although many members of the Simla conference, especially representatives of the

Indian National Congress, have touted an underlying Indian essence which binds all Indians together regardless of religious belief, and although we would like desperately to believe that this essence of "Indian-ness" does exist, we have not been sufficiently convinced. It is unclear whether a united India, run inevitably by a Hindu majority, will in fact be able to enforce in practice its ideology of tolerance.

We have indeed tried to write a proposal which will enable India to become a functional multicultural state. This document contains detailed descriptions of both a three-tiered system of government and a code of human rights which are designed to ensure the protection of all Indian citizens. The boundaries of our proposed provinces have been carefully chosen; we have kept existing boundaries intact wherever possible, but have also made, after careful consideration, significant changes in both the Punjab and Hyderabad which reflect our desire to ensure the protection of large minority groups in those areas.

We sincerely hope that this proposal will enable Muslims in particular and all non-Hindu minorities in general to improve their quality of life and find the political and religious autonomy they are seeking. We assume that this process will take time, that India will take several years to become successful and prosperous, to implement all the suggested infrastructure and live according to its ideology.

However, despite our best intentions, Muslims, Hindus, and Sikhs have such a strong history of hatred and discrimination that it may simply be impossible for them to live peacefully and productively under the same administration. If minority groups have not been able to achieve their goal of religious tolerance and economic, educational, and social parity under the current proposed government after a period of not less than six years, we recommend that a referendum be held to discuss the question of secession.

We do not support or recommend immediate secession for several reasons. With the British withdrawal, India will be in a significantly weakened state; individual provinces will simply not have the economic resources or social infrastructure to establish themselves as independent nations. In addition, the threat posed by the Soviet Union's expansion in Eastern Europe is greater to small, fledgling states than to a large country.

However, six years from now we believe that the provinces will be sufficiently established to create their own independent nation if they so choose. If at that time Muslims vote by referendum to secede, India must accept the decision of the referendum.

We recommend further that an advisory board be created with Indian and Pakistani delegates to facilitate the process of secession. The same procedure will be followed for the secession of the Sikh state of Kalistan, if they so choose.

We recommend that Pakistan be formed out of the following provinces: North-West Frontier Province, Baluchistan, Sind, Jammu and Kashmir, and West Punjab. The secular Sikh state of Kalistan may be formed out of the province of East Punjab. Each of these states would maintain friendly and open relations with India. Freedom of trade and movement must be guaranteed by both nations. Dual citizenship must also be recognized. (*Map D*)

We emphasize that such a separation is not our preference. However, if minorities do not feel that their situation has improved satisfactorily after a six-year trial period, we believe that peaceful partition will be necessary. We also offer our mediation services in the unfortunate event that communications between the two nations becomes difficult.

Map D: Proposed Borders for Pakistan and Kalistan *[removed]*