

Originally written in 1953, Dr. I. D. S. Weerawardena's essay, which we reproduce below, on the implications of the Citizenship Act of 1949 for the minorities, represents one of the few seminal interventions made by the Sinhalese intelligentsia in defense of Sri Lanka's minority rights. This essay first appeared in the *CEYLON HISTORICAL JOURNAL*, Vol 9, No 9.

## THE MINORITIES AND THE CITIZENSHIP ACT

I.D.S. Weerawardena

From the point of view of the minorities, the new Constitution of Ceylon was the point of balance among the various conflicting communal claims. Communal representation was first introduced into Ceylon by the British Colonial Government in 1833. But the communal problem developed into serious proportions only with the increasing liberalization of the Constitution. From 1909 to 1923, the minorities asked for weightage as a practical expediency, although the principle of it was considered inimical to political progress by the minority leaders themselves. From 1923-31, they demanded weightage as by right. From 1931-46, they insisted on balanced representation<sup>1</sup> (50% of the seats for minorities including Ceylon Indians).

The increasing tempo of the communal problem was one of the most notable features during the period of constitutional reform. Often enough it was the main issue which reform leaders came up against in their attempts to liberalize the Constitution.

It is common knowledge that the Ceylonese leaders were anxious for a change of the Donoughmore Constitution even from the time of its inauguration in 1931. Mr. E.W. Perera was voicing the views of many when he gave notice of his reform motions in the State Council on the second day of its sitting.

From the very beginning, the Board of Ministers undertook the process of negotiation for constitutional reform.<sup>2</sup> But the Sinhalese Ministers were unable to get the agreement of the "minority" members of the Board for their proposal, especially on those relating to representation. The Secretary of State, who was certainly not anxious to give more power into local hands, found a position of defense in the absence of unanimity in the Board of Ministers on such an important question as the reform of the Constitution. That was why the Board of Ministers thought of the strange plan of getting unanimity by dropping those who disagreed. This was the main reason for the Pan-Sinhalese Ministry of 1936. Such unity as the Board could obtain by means of this disingenuous scheme did not satisfy the Secretary of State. In fact, Sir Baron Jayatilleke's Pan-Sinhalese Ministry was a result of the misunderstanding of colonial politics and of naive credulousness which believed or hoped that even genuine unanimity of the Board would have made the Colonial Secretary grant more powers. The moral of the incident was that the Colonial Secretary was using minority opposition to postpone reforms.

This was the general situation until the nineteen-forties. But the urgency for reforms, however, increased with the entry of Japan into World War II and the fall of Singapore. Trincomalee became the

chief British base for naval operations in the Indian Ocean. To keep hold of Ceylon was therefore very important. The British Government would have done so whether the people of Ceylon were willing or otherwise. But the co-operation of the indigenous population would have made the task easier. The Ceylon politicians too, aware of the situation, asked for a further liberalization of the Constitution on the assumption that more power for the country would mean more power for them. Urged by the local men in office to a further loosening of the inhibiting colonial shackles, and seeing the need for the voluntary co-operation of the indigenous peoples, the British Government issued the 1943 declaration.<sup>3</sup>

Only two points of this declaration need be noted for the purposes of this article. Firstly, that the Constitution, to be framed on the basis of their declaration, should fall within the four corners of its terms, and secondly, that such a Constitution should obtain a three-fourth majority of the State council.<sup>4</sup> This is very significant because a three-fourth majority of the State Council could not have been obtained without the agreement of a good number of the minority members. Thus, in accepting the 1943 declaration, the Board of Ministers gave a pledge to look after the interests of the minorities.

On the basis of this declaration and its interpretation<sup>5</sup> the Board of Ministers proceeded to frame their constitutional proposals.<sup>6</sup> Here again the basis of representations embodied therein is significant. The purely population basis of representation was found to give the Sinhalese even more weightage than their population warranted. That at least was the experience of the Donoughmore Constitution. Open communal representation was thought to be against political progress. Hence a scheme was prepared on the basis of weightage for areas which in the special context of Ceylon would give the minority communities a number of seats slightly more than their population warranted. The method was one seat for every 75,000 of population and one seat for every 1,000 square miles of territory in each province.

Since the minorities largely inhabited the sparsely populated provinces, large in extent, the minorities were able to be given a limited weightage without recourse to direct communal electorates.<sup>7</sup> In addition to this, six nominated seats were provided for those other interests and communities which might not obtain representation even on this basis. These were the European interests and the Burgher community. In short, the Ministers' draft proposals were prepared to accept the undemocratic means of nomination largely to find representation for European interests.

Before this scheme could be placed before the public, the Colonial Office decided to appoint the Soulbury Commission. It is unnecessary here to delve into the rights and wrongs of this decision. Suffice to note that the Colonial Office decided to consult the people on the spot; and especially the minorities.

The Ministers, however, tried to forestall the Commission by obtaining the agreement of the minorities to a scheme of representation without disclosing their proposals in their own draft. Unofficial conferences of the State Councillors were held at which Mr. S.W.R.D. Bandaranaike offered a scheme of 60:40 as a basis of representation in place of the Ceylon Tamil demand for 50:50. The Sinhalese were to have 60 seats and the minorities were to be given 40 seats, which was more than what their population would have given them on a strictly proportional basis.

The Tamils, under Mr. G.G. Ponnambalam, were not prepared to accept this scheme and preferred to place their own proposals before the Soulbury Commission.

The essential thing about the minority problem in Ceylon during this period was that the various individual minority communities were demanding a scheme of representation basically benefiting all the minorities and not one particular minority only. The minorities thought of themselves as a body as opposed to the majority community. In the various offers the Sinhalese made as well, the minorities were treated as a body. It is noteworthy that the real problem was to fix a ratio between the majority and the minority and not a proportion among the minority communities.

The point, therefore, is that when the Ministers drafted their proposals they pledged to give some weightage to all the minorities. When Mr. S.W.R.D. Bandaranaike offered 60:40 he was offering 40 seats to all the minorities. When Mr. G.G. Ponnambalam demanded 50:50 he was demanding 50 seats for all the minorities.

The minorities included Ceylon Tamils, Ceylon Indians, Muslims, Burghers and Europeans.

The Soulbury Commission accepted the Ministers' draft proposals, because it was thought that the scheme was reasonable from the point of view of the minority problem. When Mr. D.S. Senanayake, as leader of the State Council, asked the legislature to accept the Soulbury Constitution he was pledging himself to this scheme of representation. The probabilities in this arrangement compared with the proportional figure was assessed by the Commission as follows:

	Seats	
	Proportional	Probable
Low-country Sinhalese	41	32
Kandyan Sinhalese	25	36
Ceylon Tamils	12	13 or 14
Ceylon Indians	10	7 or 8
Muslims	6	4

The smaller minorities like Ceylon Indians and Muslims were asked to accept which would in probability give them less seats than what

they should obtain on a proportional basis with the possibility of all the minorities, including the European nominated members, getting some weightage at the expense of the majority community. On the basis of the pledge of the Sinhalese community, the minorities accepted the scheme and voted for it to give the necessary majority for its acceptance.

Almost with the inauguration of the Soulbury Constitution one aspect of the minority problem, viz., the Ceylon Tamil, largely solved itself while the Ceylon Indian question was aggravated.

At first this appears as a contradiction. In fact it is not. It is inherent in the new political developments.

The Ceylon Tamil problem as it developed into the 50:50 demand was essentially a middle-class problem.<sup>8</sup> Its history gives the clue to its source. Till about the first decade of the 20th century, both the Tamil and Sinhalese middle classes were together in the movement for political reform. At least they found no serious cause for disagreement. From 1909 onwards, however, the Tamil middle-classes who were most prominent in the agitation for constitutional reform also began to ask for special weightage. At first they were rather apologetic about their demands. Yet, about from the nineteen-twenties they demanded weightage as by right. And from 1931 onwards they were demanding 50:50. All the evidence points to the conclusion that this demand of the Tamils was an essentially middle-class demand.

What then were the springs of this minority demand? Firstly, there was no development of industries in Ceylon. Private commercial establishments were staffed by Europeans. Hence the chief means of lucrative employment became the public service. In 1948, when comparative figures are available, a public servant of the highest grade drew a salary one hundred times the average national income per head; a clerk on entering the service drew a salary twelve the average national income. The figures for UK are twelve times and twice respectively.<sup>9</sup> Government jobs, therefore, featured very much in politics.

An English education was necessary for employment by the Government. Hence the location of the English schools became important. The Missionaries gave the Tamils a good start. Thus, the Tamils held government posts greater in number than their population warranted.

The Buddhist revival at the turn of the century, however, led to the establishment of Buddhist schools and large numbers of Sinhalese received English education. These English-educated Sinhalese became increasingly severe competitors for government jobs.

While the Tamils were meeting this competition, two other factors emphasized the urgency of the situation. On the one hand, government departments were expanding and the army of public servants was keeping in step. The Tamils felt the competition when the government service was expanding. On the other hand, the competition was felt when the Constitution was being liberalized and the Sinhalese could control the liberalized part of the Constitution in

view of their preponderant numbers. The Tamils feared that the Sinhalese would use their numerical superiority to discriminate against the Tamils in the matter of government posts.

Their fears were given a handle by the provisions in the Donoughmore Constitution which allowed the Executive Committees to make recommendations for government posts. That political influence would be brought to bear on appointments to the public service was viewed with fear and suspicion by the Tamil community. The desire to obtain a share of government expenditure was also a factor among the Tamil middle-class politicians. This was especially urgent because government expenditure was expanding. For instance, in the year 1914-15 the government spent 53.5 million rupees; in 1920-21, it was 77.3 million; in 1927-28, it had reached 125.8 million. The Donoughmore period also saw no departure from this trend.

The fear that the Sinhalese majority would appropriate an unduly large portion of this "pork-barrel" grew among the Tamils with every step towards the liberalization of the Constitution.

It is interesting to note several characteristics of this development. Firstly, the Tamil communal problem arose with the growth of the Tamil middle class. Secondly, it increased its intensity with the growing competition from the Sinhalese middle classes for places in its special sphere of influence—the public service. Thirdly, that competition gave rise to fear of undue influence and political pressure when the Constitution was gradually liberalized, which enabled the Sinhalese representatives in virtue of their large number to control the transferred powers if they wished. Fourthly, the Tamils realized the significance of government expenditure when they interpreted 50:50 to mean not merely 50% of the representatives in Parliament but also 50% of the Cabinet seats.

The middle-class leaders, apprehensive for their own share of the spoils of power, naturally cloaked their fears in the garb of racial appeal. True to nature they equated their own interests with the interests of the total Tamil population. They were convinced that what they demanded was good for Tamils in general, because it was good for themselves.

But with the inauguration of the Soulbury Constitution, what was already brewing during the years 1935 onwards came out into the open. This was the growing importance of the left movement.

It was found that the country was becoming divided not into various communal groups led by middle-class interests but into left and right forces. Many factors were responsible for this. The war acted as a catalyst within Ceylon's social and economic structure. Inflation and the consequent rise in the cost of living impinged too closely on the daily lives of the people to escape their attention. The rich became richer and the poor poorer.

Ideas spread faster. Organizations for agitation for improvement of social conditions were developed by leftist parties. Politics became so closely woven into daily life that self-interest evoked political interest.

In all these developments, the ordinary people, in towns and in the country, were seen to take part in great numbers. The working classes organized themselves increasingly better. The peasant roused himself from his general apathy. The lower-paid public servant (e.g., the clerical class) saw the inflation pulling him down to the working-class level. A good proportion of these groups—workers, peasants, clerical workers—felt disappointed with the status quo and showed that resentment by voting left in the general elections of 1947.

The Tamil middle classes who were in the movement for "50:50" realized that their interests did not lie in weakening the rightist government in power by communal bickerings. If there were any doubts as to the middle-class nature of the Tamil Congress movement, they were dispelled by its decision to join hands with the government rather than with the opposition. It was clear that its class interests were far more important than its communal interests.

The strength of the left movement in the country caused the solving of the Tamil-Sinhalese problem because that problem was on a middle-class level. The joining together of the Sinhalese and Tamil middle classes was only one of the symptoms of the growing fear of the rightist government of the left movement. Its attitude to the Ceylon Indian question was another.

The Ceylon Indian problem is essentially working class. The preponderant majority of Ceylon Indians are workers on estates. They have lived in Ceylon for one or two generations and sometimes even more.<sup>10</sup> They are poor and mostly illiterate. Their interests are on a par with the other working-class interests of the Ceylonese. Their sympathies are with the left and not with the right. Their representatives in Parliament tended to vote with the opposition rather than with the government. Their votes were permanently anti-government because their interests were those not protected by the government in power. They tended to vote in blocks, not merely because they had a common origin but because they had common interests.

The Citizenship Act of 1948, the Indian and Pakistani residents (Citizenship) Act of 1949, and the Parliamentary Elections (Amendment) Act of 1949 have completely changed the political picture. They have for all practical purposes denied the vote to the preponderant majority of Ceylon Indians. They have had the objective effect of making it most difficult for the working-class estate population among them to obtain citizenship rights.

Their main significance is not merely their discriminatory nature against a minority community. They are pieces of legislation discriminating against a social class. They are, in their effect, more against the working class than against the Indians as such. To that extent the present policy smacks of political discrimination in addition to communal discrimination.

The Acts have taken away the vote from a group of people who already exercised it. In the result, the Ceylon Indians have virtually been denied the parliamentary seats they might have captured. In doing so, the balance of factors on the basis of which these

constituencies were arranged has been disturbed. The constituencies at present represented by Ceylon Indians have been changed into "rotten boroughs." Their voters at present are low-country traders, merchants, and their employees—a good hunting ground for "carpet baggers." In fact, the whole basis of distributing seats on a provincial basis according to *population* and *area* will be misleading if a good portion of the population are denied the right to vote.

The scheme of representation which was accepted by the various minority communities will now appear unfair from two points of view. Firstly, the scheme of representation whereby weightage was given to area as against population has the decided effect of favoring rural in contrast to urban area districts. In effect that has weighted the relatively passive and conservative elements against the more progressive urban elements. The earlier mentioned Acts will have the effect of further emphasizing this disparity. The number of voters in a rural constituency on the average will now be even less than what it was in 1947. The Acts will, to repeat, increase the number of "pocket boroughs" like Buttala.

Apart from that, in denying the seven seats to representatives of the Indian community by political means, the balance of communal claims that was struck by the Ministers' Draft and the Soulbury Constitution has been radically altered.

It is not necessary to canvass the constitutionality or otherwise of these Acts. It is possible to find very cogent reasons to urge that the Acts are unconstitutional as Mr. N. Sivagnanasundaram, D.J. did. It may be that some would be with the Supreme Court in its decision of 28-9-51 that it is otherwise.<sup>11</sup> Even if they were constitutional, on which honest men can disagree, the basic question has not been answered. Is it right that a moral undertaking given to the minority communities be broken soon after constitutional power to break it has been obtained?

The Soulbury Constitution received minority support (without which it could not have been implemented) because it arranged to enable the minorities to win a certain number of seats. The Ceylon Indians were among these minorities. To deny them the vote is to

deny them seats. One moral undertaking has been done away with. To deny the vote to the Ceylon Indian is also to reduce the total number of seats available to all the minorities. That is a broken pledge to all the minorities.

The moral basis of the Soulbury Constitution has been wiped away. To attempt to prove the constitutionality of the position is not to attempt to prove its justice. What happened to the entrenched clauses in the South African Constitution guaranteeing voting rights to the Cape Coloureds is too well known to need repetition. Is the shadow of Malanism confined only to South Africa?

### Notes

1. D. S. Weerawardena: *Government and Politics in Ceylon*, pp. 14-15.
2. I.D. S. Weerawardena: *Government and Politics in Ceylon*, p. 106.
3. Sessional Paper 17 of 1944, p.3.
4. Sessional Paper 17 of 1944, p.4.
5. Sessional Paper 17 of 1944, pp. 4-5.
6. Sessional Paper 14 of 1944.
7. W. I. Jennings: *Constitution of Ceylon*, p. 7.
8. I.D.S. Weerawardena: *Government and Politics in Ceylon*, pp. 15-17.
9. Sessional Paper 5 of 1948, p. 20.
10. Sessional Papers 9-10 of 1941
11. Times of Ceylon of 29-9-51.

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