



ANGLO-INDIAN REPRESENTATION IN THE INDIAN PARLIAMENT

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ABSTRACT

The 104th Constitutional (Amendment) Act, 2019 to the Constitution of India discontinued the nomination of Anglo-Indians in the Indian Parliament by amending Article 334 of the Constitution. The reason for discontinuance of the nomination was that the decreased Anglo-Indian population consisted of only 296 people as per the 2011 Indian Census and that the Anglo-Indian community's socio-economic status had significantly improved. However, the Parliament has turned a blind eye to the legislative intent of the drafters of the Indian Constitution, and Report of the Fact-Finding Team of the Ministry of Minority Affairs (2013). This article explores the efficacy of representation by nomination of the Anglo-Indian community in the Indian Parliament, and the contours of the arguments towards repeal of this reservation. The article further suggests possible alternatives to ensure democratic representation of the community to voice its needs and further development.

Keywords: Anglo-Indian, representation, constitutional amendment, minority, Indian Parliament

INTRODUCTION

“When you find yourself on the side of the majority; it is time to pause and reflect!” Mark Twain

The Parliament passed the 126th Constitutional Amendment Bill (2019) in December 2019, extending the reservation for the Scheduled Castes (SC) and Scheduled Tribes (ST), but ending the provision of nominated representatives for the Anglo-Indian

community in the Lok Sabha and 14 State Assemblies. The said Bill was proposed by the then Law and Justice Minister, Mr. Ravi Shankar Prasad to amend Article 334 of the Indian Constitution. This Bill has now taken form as the 104th Constitutional (Amendment) Act (2019).

Article 334 of the Constitution of India (1949) reads as follows:

*334. Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to—
(a) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States; and
(b) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination, shall cease to have an effect on the expiration of a period of seventy years from the commencement of this Constitution: Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.*

The Act extended SC and ST reservation by another ten years but discontinued the Anglo-Indian nominations. A bare perusal of the then Bill's statement of object and reasons regarding the extension of the reservation policy for SC and ST shows them to be in consonance with the intentions of the founding fathers of the Constitution. But no reason had been provided for doing away with the Anglo-Indian nomination in the Bill. In the Parliament, Minister Ravi Shankar Prasad has stated that the Anglo-Indian community according to the 2011 Census numbers only 296 across India, (Prasad 2019) stating that most of the individuals of this community have assimilated with the other Indian communities (Deshmukh, 2021). Further, to add to his reasoning in the Parliament, he stated that the Anglo-Indian community has been provided a "Nomination Status" and not a reservation through an election, which is contrary to the concept of democracy (Deshmukh, 2020).

In order to understand the importance of the nomination of Anglo-Indian members of Parliament, it is imperative to understand the socio-political events that led to the inclusion of such nominated members. The drafters of the Indian Constitution were persuaded by the Anglo-Indian leader Frank Anthony to reserve seats for Anglo-Indians by nomination, as seen in the Parliamentary debates. Upon independence, the definition of Anglo-Indian in the Government of India Act, 1935 was replicated by Article 334 of the Indian Constitution. Frank Anthony argued for the reservation in

Parliament, with the intent to socially and economically uplift the Anglo-Indian community. However, over the course of time, the reserved seats for nomination of Anglo-Indians emerged as a pawn to serve political party loyalists as has been explained in detail in point 4.3.1 which deals with the criticism of nominations in terms of being counteractive to democratic processes.

This article shall analyse the reservation policy from a positivist perspective. Legal positivism suggests that law is synonymous with norms made by the legislator or considered as case law. Legal positivism when applied to the case of Anglo-Indian reservation enables a socio-historical dimension to be incorporated. A comprehensive understanding of the Anglo-Indian Community and its representation is crucial for a judicial examination of the reservation. The authors shall examine the parliamentary intent behind the erasure of Anglo-Indian representation to ascertain the rationale behind such an action by utilising parliamentary debates and government reports. Lastly, recommendations shall be provided on the measures we recommend be adopted to ensure efficacious representation and development of the Anglo-Indian community.

HISTORICAL CONTEXT OF THE ANGLO-INDIAN COMMUNITY

In order to interpret the constitutional standpoint of Anglo-Indian representation in the Indian context, it is essential to understand the history of the group and the evolution of the term 'Anglo-Indian' and its implications for the community's representation.

The term Anglo-Indian had two meanings: first, the Domiciled Europeans in India; and second, the mixed-race group formed through the union of Europeans and natives. This article examines the latter group, i.e., the mixed-race group. The mixed marriages in this context are restricted to unions between colonizer men (European) and colonized women (natives). This group has also been referred to as 'Eurasians'.

The origin of such a mixed group can be traced to the sixteenth century with the arrival of the Portuguese, who colonized the western coast of the Indian sub-continent. The intermarriages between Europeans and local native Christian converts were encouraged by the Portuguese Viceroy and Governor-General, Albuquerque, in order to secure their presence in India (Russell-Wood, 2007). Further, the practice of

intermarriages was continued by other colonizers such as the Dutch, British and French. Thus, the creation of this mixed-race group was propelled by the colonization of India (Jacobson, 2018).

One of the 'mixed race' populations arising from the experience of European colonial empires was a group that came to be known by the early twentieth century as the Anglo-Indians. Through the complicated and long history of mixing in colonial India, this group had developed a distinct identity and became largely endogamous, evoking various pejorative attitudes towards them, and coming to be known as half-castes, East Indians, Indo-Britons, country-born, and Eurasians, among other ascribed and self-asserted designations (Charlton-Stevens, 2018). Even though the community is referred to as 'mixed-race'; the group largely refers to the progeny of unions of European fathers and native mothers. At the beginning of the eighteenth century, these unions were encouraged by the colonial authorities and at times incentivized (Hedin, 1934). However, the attitudes towards such unions changed dramatically in the nineteenth century and caused severe stigmatization to the mixed-race offspring and by extension the community itself (Dalrymple, 2004, p. 380). William Dalrymple (2004, p. 382) describes the stigmatized attitudes drawing on archival sources such as 'wills' from English Officers and even highlights the anxieties which were routed through these attitudes. Colonizers became increasingly concerned about the threat the Eurasians could pose to the racial hierarchies in colonial society. Authorities began to regard racial mixing as more and more problematic (Caplan, 2001, p. 4).

The community was not always referred to as Anglo-Indian. There were terms such as 'Quasi-Europeans', 'Country-Born', 'Half-caste', 'Half-breed', 'Pure Asiatic' and 'Masquerades' (Caplan, 2001, p. 5). In 1826 Major General Sir John Malcolm used the term 'Anglo-Indian' in his book *Political History of India*: "*The descendants of Europeans by native mothers, usually termed half-castes or Anglo-Indians, if they do not form part of the English community in India, are closely allied to it*" (Malcom, 2011). The early understanding of the term 'Anglo-Indian' was used in reference to the British who came and stayed in India as servants of the East India Company and later the British Raj. The evidence of the same is reflected in early writings of the British Indian Historians S.M. Mitra and Dennis Kincaid (Mitra, 1913). In 1870, the Parliamentary Statute referred to the Community as '*Statutory Natives of India*'. Paragraph 346 of

the Montague-Chelmsford report (1918) classified the community as 'Anglo-Indian'. From 1897, there were multiple attempts to provide a definition for 'Anglo-Indian' through a deputation petitioned through the Secretary of State for India and approaching Lord Curzon. However, both the authorities refused to provide a definition.

A significant development in the definition was recorded in 1919 for the purpose of the Census. The definition of 'Anglo-Indian' in the Rules for Madras under The Government of India Act, 1919 (Mitra, H., p. 196) was given under Schedule II as follows:

(1) In this Schedule-

(a) An Anglo-Indian means any person being a British subject and resident in British India:

- i) Of European descent in the male line who is not a European;*
- ii) Of mixed Asiatic and non-Asiatic descent whose father, grandfather or more remote ancestor in the male line was born in the continent of Europe, Canada, Newfoundland, Australia, New Zealand, Union of South Africa or the United States of America and who is not a European.*

The definition was placed under scrutiny in the following years, through the Rules of The Government of India Act, 1935 as a piece of legislation framed by the British Parliament. As well as being accorded certain special, even unique, guarantees in independent India's Constitution, which came into effect on 26th January 1950, the Anglo-Indian community was the only community to be explicitly defined. The definition is given in Article 366(2) of the Constitution (1950). It is in effect a reproduction of the definition set out in the Government of India Act (1935). The redefined term was:

A person whose father or any of whose other male progenitor in the male line is or was of European descent but who is a native of India. A 'Native of India' means one who is born and domiciled in India of parents primarily resident in India and not established here for temporary purposes only.

This accepted legal definition emphasizes two important facts about the Anglo-Indian. First, that the individual is of European descent from the male line and second, that the individual is a native of India by virtue of being born "within the country of India of parents habitually resident therein". The dual heritage of the Anglo-Indians has given them a special position apart from other Indians as recognised in the Constitution of

India. In 1957, Frank Anthony fought for a new definition, so as to include the linguistic aspects of the community (i.e., English as their mother tongue), however the same was rejected (Gaikwad, 1967, pp. 168-169).

HISTORICAL CONTEXT OF ANGLO-INDIAN REPRESENTATION IN THE INDIAN PARLIAMENT

The survival of the Anglo Indians in India was one of their major challenges in the opinion of Arnold J. Toynbee. They faced multiple obstacles; external challenges from their early masters (Younger, 1987) and internal ones from their Indian counterparts (Gist, 1960). At times they successfully undertook these challenges and at times they faced serious setbacks. However, during the early days of the English settlement, they thrived.

Their community developed under favourable European policy and attitude, especially that of the British. The Anglo-Indians are primarily Western in their outlook on life and in their lifestyle (Lyons, 2005). The social functioning of Anglo-Indians where men and women enjoy equal status and choose their own spouse was all quite unusual in the Indian society (Gaikwad, 1967, p. 24).

As the British hold on Indian society strengthened, they were viewed as possible threats. They purportedly resented the growing strength of a parallel ethnic group in the colony and feared a challenge from the Anglo-Indians and thus framed policies for their progressive exclusion from British society and industry in India (Snell, 1944, p. 14). This was evident from three discriminatory orders imposed at the instigation of the Court of Directors of the East India Company within a decade which ultimately led to social and economic impoverishment of the community. The first one was in 1786 which prohibited the wards of mixed-heritage (Anglo-Indians) of the Upper Orphanage School at Calcutta from proceeding to England to complete their education to qualify for the covenanted services. The second order was passed in 1791 by which the Indian-born children of Britishers were prohibited from being employed in the civil, military, and marine services of the company. The third order of 1795 prevented the employment of all persons not descended from European parents on both sides in the army except as fifiers, bandsmen, and drummers. People of mixed race faced several barriers to education and employment, and their legal status as British subjects was

questioned by the East India Company (Otto, 2014, p. 13). John William Ricketts presented a petition on behalf of the mixed-race community to the House of Lords and the House of Commons in London in 1830. The petition from the burgeoning mixed-race community of European and Indian ancestry, was a plea to remedy injustices they faced under the East India Company's authority (Otto, 2014). This petition resulted in strengthened social and political bonds as a community, wrought by the need to contest these restrictions by the state.

After the Indian rebellion of 1857, British colonists again pulled the Anglo-Indians close, relying on them in disproportionate numbers to run the railway, postal and telegraph networks. Active policy organisation began to take shape in the early twentieth century through a long process of amalgamation of pre-existing bodies (mostly philanthropic and social associations) that led to significant integration of the Anglo-Indian voice under the largest of such bodies: the 'All India Anglo-Indian and Domiciled European Association'. Henry Gidney was the President of the Association in 1929 at this time (Charlton-Stevens, 2012).

It was clear in 1942, that the British would have to leave India. As 1947 approached, a deep sense of insecurity settled on the Anglo-Indian Community. It was difficult for them to imagine a country without the English Masters (D'Souza, 1976). But to their great surprise, they received more recognition and elevation than they had in the pre-independence era.

The history of representation of the Anglo-Indian community in the post-colonial Indian Parliament stems in large part from the efforts of Frank Anthony, who was also the leader of the All-India Anglo-Indian Association. He himself was nominated to the Lok Sabha seven times on account of Article 331 of the Indian Constitution (Wright & Wright, 2004). Anthony in his capacity as the President of All-India Anglo-Indian Association represented the community at various forums (Lyons, 2008). He appealed to the Anglo Indians: "let us cling and cling tenaciously to all that we hold dear, our language, our way of life and our distinctive culture. But let's always remember that we are Indians" (D'Cruz, 2006).

To ensure that the problems faced by the Anglo Indians were appropriately addressed, the constitution-makers deliberately created constitutional safeguards under Article 331 (*Representation of the Anglo-Indian Community in the House of the People*) and Article 333 (*Representation of the Anglo-Indian community in the Legislative Assemblies of the States*) which provides that the President or Governor of a State can nominate members of the Anglo-Indian community to Parliament and the Legislative Assembly if they feel the community is not adequately represented. This was in addition to the protections provided by the constitution for religious and linguistic minorities.

The Sapru Committee

The partition of British India into the nation states of India and Pakistan on the basis of religious grounds led to communal tensions for the minorities in these states. In the early 1940s, the political situation in India was mired by the communal question created by the conflict between the Muslim League and the Indian Congress Party over the constitutional future of Muslims upon independence (Sapru, et al, 1945). In 1944, the Non-Party Conference formed a committee and named Tej Bahadur Sapru its Chairman, questioning the capacity and willingness of major political parties to make headway on the sectarian issue, the 'future of minorities' (1945, Recommendation 1). The Committee was convened on the following topics:

...to examine the whole communal and minorities question from a constitutional and political point of view, put itself in touch with the different parties and their leaders, including the minorities interested in the question, and present a solution... (1945, Recommendation 2)

The Constitutional Proposals of the Sapru Committee, often known as the Sapru Committee Report, were presented in 1945 to address minority concerns that have plagued Indian political and constitutional discourse (1945, Recommendation 3). In November 1944, the Non-Party Conference created a committee to draft it. Tej Bahadur Sapru, a well-known lawyer, hosted the inaugural Non-Party Conference in 1941. Individuals in this group represented a wide range of interests, with the exception of those of the leading political parties, which were the Indian National Congress, the Muslim League, and the Communist Party (1945, Recommendation 9). As per the Sapru Committee Report, Anglo-Indians were categorized as a minority in British India (1945, Recommendation 9). The Committee proposed that Anglo-Indians

should be given two seats in the Constitution-making body (1945, Recommendation 9). Subsequently, it mentioned that the Union Legislature must have representation of the Anglo-Indian minority along the others (1945, Recommendation 20, 23).

Constituent Assembly Debates

The Draft Constitution of India provided for 'Representation of the Anglo-Indian Community in the House of the People' under Draft Article 293:

Draft Article 293, Draft Constitution of India (1948):

Notwithstanding anything contained in article 67 of this Constitution, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of the community to the House of the People.

Hukam Singh, a member of Shiromani Akali Dal from East Punjab, expressed opposition to this draft article on account of the number of minority communities that existed in India (1949, p. 9). Hukam Singh proposed an amendment that would empower the President to appoint 'an acceptable number' of members to any minority committee to the Lok Sabha without regard to number or community. Mr. R. K. Sidhva, Member of the Parliament, was concerned that the change would establish a dangerous precedent, especially since article 81 of the Draft Constitution (providing for the nomination of Anglo-Indian parliamentarians) addressed the issue of minority community representation (1949, pp. 9, 123, 144). M. Ananthasayanam Ayyangar said that Draft Article 293 was an exception to the previous article, and that it was required since the Anglo-Indian population was exceedingly tiny and needed to be represented in the Lok Sabha (1949, pp. 9, 123, 150). The Assembly rejected the modification, and the Draft Article was accepted unchanged.

ANALYSIS OF THE REPEAL OF ANGLO-INDIAN REPRESENTATION

2011 Indian Census

The foundational argument put forward by the 126th Constitutional Amendment Bill, 2019, with regard to terminating the representation of Anglo-Indians in the Parliament, focused on their numerical minority. The data relied upon the premise that only 296 Anglo-Indians were identified according to the 2011 Indian Census (Prasad, 2019). However, this data was contested by many in India, including the Anglo-Indian nominated member of Parliament, Shri Hibi Eden, during the Lok Sabha assembly

debates on the 126th Constitutional Amendment Bill, 2016. He quoted the distinct population numbers of the Anglo-Indian community living in various constituencies (2019). Further, data presented by non-political international groups such as 'Minority rights group international' suggest the population in India of approximately 125,000-150,000 Anglo-Indians (n.d.). In order to understand the difference behind this varying numerical data, the 2011 Census Questionnaire, which is primarily used to gather data for the Census, must be taken into consideration.

The 2011 Indian Census posed a distinct set of 29 questions spanning a wide array of sociological, anthropological, economical, biological and religious themes. Of the total of 29 questions on the census, the 10 questions of pertinence to the paper are listed below:

1. *Name of person*
2. *Relationship to head*
3. *Sex*
4. *Date of Birth and Age*
5. *Current Marital Status*
6. *Age at marriage*
7. *Religion*
8. *Scheduled Caste (SC)/Scheduled Tribe (ST)*
9. *Disability*
10. *Mother Tongue*

Question 8 refers to the SC/ST status which is included in the reservation policy under Article 334 of the Indian Constitution. Since the SC/ST status includes people belonging to three separate religious identities (Constitution Order, 1950, s. 3), it becomes necessary to provide a question to further identify people belonging to SC/ST minority. It is pertinent to note that since there is no question for the Anglo-Indian Community to mark their identity, it becomes exceedingly difficult to count their numbers precisely. Even though a majority of the Anglo-Indians are Christians, a separate sub-category is needed to account for their identity as Anglo-Indians. Hence it can be deduced that the 2011 census only recorded those Anglo-Indians who stated their religion to be 'Christian Anglo-Indian', which led to drastically low numbers.

To remedy the above lacuna in our census, in 2014 Minister Derek O'Brien addressed a letter to the Chairman of the Indian Census Board which was an appeal to add 'Anglo-Indian' as a separate category (O'Brien, 2014).

The community has made significant contributions in education, railways, nursing, sports and the armed forces. The community, whose mother tongue is English, continues to play a key role in education. However, the population of the community remains uncounted since the 1941 census. The 2011 census only enumerated Christians as a category, and not Anglo-Indians. There are an estimated 500,000 Anglo-Indians throughout the world, of which around 200,000 live in India. It is my appeal to the government to make 'Anglo-Indian' a separate head in the census.

The religious identity of the vast majority of Anglo-Indians has always been 'Christian' (Maher, 2007). But, certainly, the two identities, Anglo-Indian and Christian, are not analogous. Without a header for 'Anglo-Indian' as provided for SC/ST, ascertaining the population of the entire community is impossible to determine accurately. It is paramount that the identity markers for Anglo-Indians are not relegated to being a sub-caste of Christians. This causes confusion amongst the diaspora who mark their religion as 'Christianity' or otherwise when a specific sub-category is not provided, may identify as Anglo-Indian.

Furthermore, enacting a Constitutional Amendment without clear deliberation is unjustified because it severely affects the representation of a community.

SOCIAL STATUS OF THE ANGLO-INDIAN COMMUNITY

The second aspect of the foundational argument instrumental in repealing the reservation policy against Anglo-Indians is the claim that the community has developed over the course of time and does not require the reservation anymore (Prasad, 2019). There are multiple arguments which disprove the claim made by the Centre.

The Ministry of Minority Affairs Reports

The Ministry of Minority Affairs was carved out of the Ministry of Social Justice & Empowerment on 29th January 2006 to ensure a more focused approach towards issues relating to the six notified minority communities namely Muslims, Christians, Buddhists, Sikhs, Parsis and Jains (2019). According to the Second Schedule to the Government of India (Allocation of Business) Rules, (1961) and amendments for The

Ministry of Minority Affairs; the 'Representation of Anglo-Indians' under clause (vii) is one of the allocated subjects to be studied by this Ministry.

A fact-finding team was appointed by the Ministry of Minority Affairs in (2013, p. 7) to identify the pertinent issues of the Anglo-Indian community (Dias, 2020). The team observed and recommended on paragraph VII as follows:

1. The Anglo-Indian community in India is a community with a unique history and culture. The contribution of Anglo-Indians in the past has been significant in the areas of education, post and telegraph, railways, customs as well as in sports. Almost all Anglo-Indians live in state headquarters and cities. Their population is low and largely scattered in different parts of the cities they live in.
2. It is observed that amongst the various challenges and problems being faced by members of the Anglo-Indian community in India, the more significant ones are related to (i) identity crisis (ii) lack of employment, (iii) educational backwardness, (iv) lack of proper housing facilities and (v) cultural erosion.

The Report of the National Commission for Religious and Linguistic Minorities

The Report of the National Commission for Religious and Linguistic Minorities administered by Ministry of Minority Affairs from (2007) highlights the socio-economic stature of the minorities including Anglo-Indians in different states of India. The report includes recommendations to be included for the upliftment of such minorities. A brief overview of the recommendations from NGOs and community representatives over different States/Union Territories (UTs) derived from Annexures of this Report are as follows:

- (i) Anglo-Indians be given preference in certain employment e.g., Railways, Posts and Telegraphs.
- (ii) Need for review of the provision to nominate Anglo-Indians to the Parliament and State Assemblies as they do not represent the Christians.
- (iii) Anglo-Indian community be treated as a backward class and 2 percent job reservation be made in Central Government Services.
- (iv) Anglo-Indians should be considered for BPL (Below Poverty Line) cards.
- (v) Anglo-Indians should be given reservation by fixed numbers including professional colleges.
- (vi) The Catholic Association of India desired that Anglo-Indian community should be given reservation.

The list of these suggestions from the Report concluded in 2007 provides an insight into governmental perspectives of the Anglo-Indian Community and the conditions that persist for them.

The Anglo-Indian Welfare Bill, 2016

On 5th August 2016, the Anglo-Indian Nominated Member of Parliament Prof. Richard Hay introduced *The Anglo-Indian Welfare Bill (2016)*. The features of this Bill covered a wide array of social issues such as: the right to life and personal liberty, education, social security, rehabilitation, skill development and employment. Since these rights are already guaranteed by the Indian constitution and various other legislation, no ground for this separate legislation was found. This Bill was hence not passed in the Parliament.

These reports and proposed Bills give us an insight into the social stature of the Community in the recent past. Historical accounts of social issues of this community have been made, but in the present, it becomes necessary to discuss the future of the Anglo-Indian Community and whether representation via nomination is necessary in order to set up policies for upliftment of the Anglo-Indian community.

Democracy by Nomination

Elections are at the very core of democracy. In the transition to democracy within regimes the words “free and fair elections” are often invoked to name an integral part of democratic society. It is necessary to have a government of the people, for the people and by the people. The Indian Parliament has two houses; namely the Lok Sabha known as the House of the People and the Rajya Sabha also known as the council of states. The citizens of India elect members who represent their constituencies in the Lok Sabha. Thus, they are the direct and immediate representatives of the people which protects the tenets of a democracy. But when elections do not take place, as in case of the representation by nomination, it risks becoming a tokenistic gesture which serves a political purpose as opposed to helping out an underrepresented minority.

Two members of the Anglo-Indian communities are nominated to the Lok Sabha and thirteen to the legislative State Assemblies. The idea behind the nomination was that

since they did not have their own state, and were too small and geographically dispersed to get elected, Anglo-Indians needed reserved seats in Parliament or state assemblies to adequately represent community interests. Thus, representation was preferable via nomination. Yet this rationale is against the basic tenets of a democracy. It is paradoxical to nominate such representatives from constituencies where Anglo-Indians are sparsely populated or absent. The State of Tamil Nadu, for example, is home to more than 40 per cent of the Anglo-Indian population, but has never figured greatly when it comes to Parliamentary representation (Peppin, 2019). This is just one example of how underrepresented this community is.

Modern Criticism of Parliamentary Nomination

Modern criticism of the Parliamentary Anglo-Indian nomination by the President of India has dual aspects from the perspective of power and politics:

Firstly, there is no standard mechanism with respect to the nomination or a set of rules that would qualify an individual to be nominated. Neither was the All-India Anglo-Indian Association asked to recommend names for the nominated seats. The only qualification being that the Indian individual should have “a patrilineal European ancestor”; this also means that the individuals would not necessarily identify with or play an active role in the community. This vague nomination status paves the way for the party in power to nominate party loyalists who qualify with the singular criteria of a patrilineal European ancestor.

Secondly, there was no accountability with respect to whether or not the nominated individual during their tenure had served the interests of the Anglo-Indian minority. In the case of an elected parliamentarian, the collective interest of people is embodied through democratic channels, with universal adult franchise providing an opportunity to elect. However, in the case of nominated parliamentarians from a minority community, where the only qualification is identity, the democratic essence is lost. It poses the question of accountability and whether a nominated parliamentarian serves the social interest of the minority. This representation may only enable them to have a say in the legislative bodies and maintain a presence in mainstream Indian politics.

Thirdly, there was no criteria established by the Constitution, with respect to who could be nominated by the President of India as an Anglo-Indian Member of Parliament:

whereas as per Article 80 of the India Constitution, the Council of States (Rajya Sabha) is composed of not more than 250 members, of whom 12 are nominated by the President of India from amongst persons who have special knowledge or practical experience in respect of such matters as literature, science, art and social service. By adopting the principle of nomination in the Rajya Sabha, the Constitution has ensured that the nation must also receive services of the most distinguished persons of the country who have earned distinction in their field of activity, many of whom may not like to face the process of the election (Prasad & Mukherjee, 2020). However, there exists a threshold to justify the nomination which is absent for Anglo-Indian nominees to the Parliament. This feature leads to party loyalists being nominated to the seats, and they who may not even be active with respect to the Anglo-Indian community. An example of this would be, George Baker, a film actor, who in 2015, after losing the Parliamentary election from Howrah Constituency as a Bhartiya Janta Party candidate, was nominated to one of the Anglo-Indian seats in the Parliament (Ministry of Home Affairs, 2015).

Further, many scholars have asserted that the nomination process has made these representatives lackadaisical as opposed to those who have to contest elections to assume office (Peppin, 2019). The community has not seen much progress even with the nomination being in place for more than seventy years (Hibi, 2019). Hence it is argued that a nominated member to a legislative assembly is not the best option.

The nominal reservation was not envisioned to permanently exist

The representation given to Anglo-Indians was initially for a period of ten years. In 1959, by the eighth amendment of the constitution, the period was increased to twenty years. Further, it was extended for ten years each by the twenty-third, forty-fifth, sixty-second, seventy-ninth, and ninety-fifth constitution amendments. The drafters of the Indian constitution estimated a time-bound effort on the part of the Government machinery and the general public for the enhancement of special category communities such as Scheduled Caste/Scheduled Tribes and Anglo-Indians (National Committee, 1978). Thus, the nomination of Anglo-Indian parliamentarians was never envisioned to permanently exist and would cease when the legislative intent of the nomination was be fulfilled.

In place of a nominated member to the Lok Sabha, there are two possible alternatives for Anglo-Indians to be able to better represent their community interests and address change in the country:

- a. Nomination to the Rajya Sabha or;
- b. Designation as a 'Minority' by the Central Government and thus be made part of the National Commission for Minorities.

These options may prima facie seem very similar to the nomination to the Lok Sabha, however they are intrinsically different and better suited to ensure democratic representation of Anglo-Indians. They are further elaborated below and reasons are expressed for both options as would be better suited to serve the community's needs.

THE WAY FORWARD

The Anglo-Indian community has a long record of discrimination at the hands of Government, not only by the Republic of India but the British colonial government as well (Kaul, 1996). For the Centre to solely consider numerical statistics of Anglo-Indians provided by the flawed census count, and remove the representation guaranteed to them by the drafters of the Constitution, is unfair towards the community, and shows ignorance of their problems and their need for democratic representation. To ascertain whether there was justification for repealing the representation, the Centre should have focused on creating a detailed report on the Anglo-Indian community and debated the effect of such a major policy change on the community. Further, the numbers as submitted by the Anglo-Indian nominees during the Lok Sabha debate should have been verified and taken into consideration while deciding on the representation (Hibi, 2019).

While the *Statement of Object and Reason* in the 126th Constitutional Amendment Bill, 2019, provides for a clear justification of extension for the SC/STs reservation; it fails to offer any explanation in its reasoning for why the same extension has not been granted to the Anglo-Indian Community (Ministry of Law, 2020). This lacuna in reasoning paves way for superficial legislation which is against the spirit of the Indian Constitution. A clear rationale for such an action is necessary since the reasoning for its repeal is based on inconsistent data.

Immediate Measures to be Taken by the Anglo-Indian Community

In such tumultuous times it is necessary that the Anglo-Indians present a united front to the government and showcase a need for their representation in the Rajya Sabha or any other appropriate governmental policy making body. This may be done by providing verified state-wise statistics of Anglo-Indians residing in India. Furthermore, a consultation with the State Assemblies should be set up to ascertain whether or not the representation of Anglo-Indians in the State Assemblies is valid taking into account the communities in those States. For all States it is imperative to protect all minorities residing within their boundaries, hence clarity must be provided on the status of representation post the Amendment. To pass an amendment which interferes with the State Government's autonomy is contrary to the quasi-federal structure of the Constitution (Sen, 1988).

In addition, a consultation with the representatives of the Anglo-Indian Community is necessary. The Government should establish a consultation process with the All-India Anglo-Indian Association to test the veracity of the data they have based their decisions on. Incorporation of such steps may provide for a factually correct recognition of numbers which paves the way for stronger representation and policies.

Two Alternatives for Ensuring Democratic Representation in the Parliament

No country must ignore its minority's voices, no matter how small a part of the population they form. To ensure that the lawmakers are made aware of the social and economic needs of the Anglo-Indian minority, some form of democratic representation is a must. Before we delve into the alternatives that may be pursued by the Anglo-Indian community, it is imperative to understand that the recommendations suggested by the authors are based on the premise that Anglo-Indians have been thwarted in the past due to improper representation marred by inadequate solutions which have plagued the community and hindered its progress. The most important goal for the Anglo-Indian community, in the authors' opinion, would be to focus on obtaining a legitimate platform whereby their voices are not just heard but respected. After hereby separating the wheat from the chaff, this platform should form the fundamental pillar of creating new policies which directly effected affirmative change. Since representation by nomination to the Lok Sabha has not worked in the past, and it is

extremely difficult for a minority to elect its own representatives, a solution may be found in either of the two alternatives as elaborated below.

Nomination to the Rajya Sabha

The Rajya Sabha is the second house of the Parliament. Rajya Sabha being a federal chamber representing States/Union territories, enjoys certain special powers as allocated in the Constitution of India, It empowers the Lok Sabha to make laws in the national interest in respect of creating the All India Services, and approving proclamations (governance orders or announcements of policy issued by the President of India) issued under articles 352 (in cases of national emergency), 356 (in cases of failure of constitutional machinery in the State) or article 360 (in cases of financial emergency) if the Lok Sabha stands dissolved. The Rajya Sabha differs from the Lok Sabha such that the tenure of the Lok Sabha members expires every 5 years after which elections take place, however in the Rajya Sabha, one-third of its members retire every two years. Further, budgetary bills which specifically deal with allocation of taxes, and the revenues and expenditures of the Government can only be introduced in the Lok Sabha, while the powers of the Rajya Sabha regarding them are limited.

The Rajya Sabha currently has 250 seats allotted by the Constitution of which 12 persons are nominated by the President, and 232 are elected representatives of the State and Union territory assemblies. As has been explained earlier in section 4.3.1 of the paper, the Rajya Sabha nominations for 12 members as done by the President of India are reserved for people with accomplishments in the field or special knowledge in respect of such matters as literature, science, art and social service.

As explained earlier, the Lok Sabha reserves seats for those who are directly elected representatives of the people. However, the format of indirect representation to the Rajya Sabha, makes it the perfect solution to garner representation for the community in the Upper House of the Parliament. To reserve a special representative seat for an Anglo-Indian nominee in the Rajya Sabha would tackle problems of nomination in the Lok Sabha and challenges of electoral voting, while ensuring representation for the community in the Parliament. Such a nominee must be qualified and capable of

adequately representing the Anglo-Indian community and making strong cases for policies affecting them.

If this method of nomination were to be adopted, to ensure a transparent nomination process which entails true representation of the Anglo-Indian community, the All-India Anglo-Indian Association or a committee of such associations that can claim a representative voice of the people must be the source of recommendations of potential nominees. This recommendation to the Rajya Sabha would act as the voice of the Anglo-Indian people where nominees will be chosen after due consideration of their skill set, their service to the Anglo-Indian community and potential to effect positive change.

Designation as a Separate Minority and Inclusion in the National Commission for Minorities

The Anglo-Indian Suburban Front (AISF) had submitted a formal memorandum to the Prime Minister in October, 2020 demanding the Anglo-Indian community be given the status of a separate minority (The Hindu, 2020) by amending the National Commission of Minorities Act, 1992, as had been done for the Jain community in 2014 to protect their ethnic, religious and linguistic traditions (Ministry of Minority Affairs, 2014). Designation as a separate minority would allow the inclusion of the Anglo-Indians in the National Commission for Minorities (1992).

The National Commission of Minorities Act, 1992 lists a plethora of functions such as monitoring the development of minorities, conducting studies and making recommendation for implementing safeguards for the minorities, preparing special reports to be presented in the Central and State Governments and looking into complaints regarding the deprivation of rights. This would accord the Anglo-Indian community with a platform to voice their needs, and make a case for legislation affecting reforms.

CONCLUSION

This article delves into the history of the Anglo-Indian community wherein the focus is placed on comprehending the rationale behind granting them the two seats in the Lok

Sabha and eleven state constituencies via nomination. This has been in effect for a minority which otherwise would not have the chance to elect its own people or the opportunity to voice their concerns in parliament. Further, the paper analyses the reasons behind the removal of this right via the 104th Constitutional Amendment Act, 2019 while also providing suggestions to improve the veracity of the statistics. The population of Anglo-Indians is supposed to be greater than 1.5 Lakhs (Minority Rights Group, n.d.) however the speech given by Law Minister Ravi Shankar Prasad in the Lok Sabha indicates that the 2011 census accounts for only 296 Anglo-Indians.

The reason behind their statistical low numbers is that in the 2011 census only those Anglo-Indians who entered their religion as 'Christian Anglo-Indian' have been accounted for. While the vast majority of Anglo-Indians are practicing Christians this census designation is an anachronistic way of naming themselves, not in use among them.

The article also explains why representation by nomination breaches the essence of a democracy. In addition, it may be argued that not much has been achieved for the community by these nominated seats due to separated pockets of population within different constituencies and sometimes lax nominated members who are unable to represent each group's needs individually. Further after consideration of the Parliamentary debates and recommendations given by the Ministry of Minority and Linguistic Affairs the authors provide recommendations in the form of authenticating the exact population of Anglo-Indians, which could then be used to either gain access to a nominated Anglo-Indian member in the Rajya Sabha or to be nominated as a minority and hence become a member of the National Commission of Minorities. Thus, the authors attempt to provide measures to help the community regain a platform to effectuate policies for their progress and upliftment.

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