

# **A Guide To Constituent Assembly**

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***February 19 To December 6***

**All state documents, Correspondence  
& resolutions of political parties on  
Cabinet Mission's statement**

***Compiled and Edited***

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***Foreword***

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## FOREWORD

I welcome this small volume which brings together in a compact form the relevant and important documents that have emanated from the British Government and the Indian parties relating to the Cabinet Mission.

As the Mission anticipated, the proposals do not completely satisfy all parties and some of its provisions have lent themselves to controversy and to various and conflicting interpretations. Some of these may be mentioned here. The Muslim League is evidently dissatisfied with the declaration to the effect that the establishment of a Sovereign state of Pakistan will not provide any acceptable solution for the communal problem. On the other hand the rest of India is dissatisfied with the provisions relating to what are called sections and groups in the statement of the 16th May, 1946. The Muslim League are of opinion that the basis and the foundation of Pakistan are inherent in the Mission's plan by virtue of the compulsory grouping of the six Muslim Provinces in sections B and C "and hopes that it will ultimately result in the establishment of complete sovereign Pakistan."

The point which is responsible for acute controversy is whether there is "compulsory grouping" in the scheme. It is laid down in paragraph 19 (VIII) of the statement of 16th May that as soon as the new constitutional arrangements have come into operation it shall be open to any Province to elect to come out of any group in which it has been placed." So there can be no question of "compulsory grouping" after the new constitution has come into operation. The question is whether there is such compulsory grouping at any earlier stage. It is laid down that after the preliminary meeting of representatives at which the general order of business will be decided and a chairman and other officers elected the provincial representatives will divide up into

three sections A, B and C," and that "these sections shall proceed to settle the provincial constitution for the Provinces included in each section and shall also decide whether any Group constitution shall be set up for these Provinces and, if so, with what provincial subjects the Group should deal." Apart from all questions of interpretation of the various paragraphs of the Statement which according to all canons of interpretation should be so construed as to give effect to the meaning of words used and to avoid all conflicts which may seemingly appear, anything in the nature of compulsion at any stage to force a Province to join any section or group is repugnant to the basic principle of complete and full freedom to Provinces except in regard to the powers to be vested in the Union Government. The Working Committee of the Congress has taken its stand on this basic principle and on the words used in the statement for the freedom of each Province to join or not to join any of the sections and not to participate in the Constituent Assembly for the purpose mentioned above. The point is bound to be raised at the appropriate time and before the proper authority entitled to deal with it.

Another point which has raised a controversy is whether Europeans are entitled to vote for elections to the Constituent Assembly and participate in its proceedings. Seeing that the Constitution is to be framed by Indians, their participation would appear to be not only undesirable but also illegal in terms of the Statement. Their participation is particularly objectionable in Bengal and Assam where they have such fantastic weightage in the Assembly that they can by their votes at the election and in the proceedings of the Constituent Assembly altogether upset the balance of communal representation by siding with the one community or the other. The objection has therefore been taken both on the basis of legal interpretation and on the substantial ground that their participation in voting for election to no less than in the proceedings of the Constituent Assembly will be highly detrimental and unjust, particularly in Bengal and Assam. The

Europeans of Bengal have expressed their intention in a resolution of their party not to nominate any for election to the Constituent Assembly and not to vote for any European candidate and to use their vote in accordance with any agreement reached between the major parties. They have not said, however, that they will not vote at all if there is no agreement, and the fear has been expressed that they may thus defeat the purpose by voting for and returning Indians who will act according to their directions or wishes in the Constituent Assembly.

As regards the composition of the interim Government it may be noted that there was no Muslim outside the Muslim League in the proposed list. The name of an independent Muslim which had been suggested by the Congress was turned down and replaced by a Muslim of the North Western Frontier Province where the League had been defeated in the last general election and the gentleman nominated had himself lost the election to a non-League Muslim. Amongst the Hindus one of the names suggested by the Congress had without reference to it been substituted by the name of another Congressman. The Parsi happened to be in the employ of the Government of India. These objections were raised on behalf of the Congress Working Committee and the Viceroy could give no satisfaction except on one point, namely, that he agreed to replace the Congress nominee originally proposed for the person substituted by him. On the other hand in response to objections raised by the League the Viceroy practically agreed to treat the Scheduled Castes as separate from the Hindus and as a separate minority and to consult both the main parties before filling any vacancy that might occur amongst the representatives of the minorities including the Scheduled Castes. He thereby also took away the right of the Congress to nominate one of its representatives if a vacancy occurs in the case of the Scheduled Caste representative. The Congress wanted to nominate one Muslim out of the six representatives allotted to it but before the proposition

could formally be made the Viceroy turned it down in advance. The Congress was thus forced to the position of a communal organisation representing not even all the Hindus but only that section of it which comprises the castes other than Scheduled Castes. After this development the Congress had no option but to reject the Statement of June 16th.

Both the Congress Working Committee and the League accepted each in its own way the statement of May 16th. The League accepted the Statement of June 16th supplemented as it was by assurances given in response to League demand and the Congress Working Committee rejected the Statement of June 16th partly on account of some objectionable features in it and partly on account of the assurances sought by and given to the League. The Mission and the Viceroy had after this no option but to proceed with fresh attempts to form an interim Government as representative as possible of those willing to accept the Statement of May 16th, i.e., both the Congress and the League. This attempt they have put off for the time being and set up a care-taker Government composed of officials only to carry on until fresh negotiations with the parties are started.

As the questions dealt with in the two statements emanating from the Cabinet Mission and the Viceroy and the negotiations carried on between them on the one hand and the Indian parties on the other will be coming for constant reference in the future deliberations it would be a great advantage to have the important documents in a handy form. I trust this publication will serve the purpose.

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