

ARTICLE FOR THE CITIZEN

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THE NEW CONSTITUTION - HOW CAN IT WORK ?

Quite apart from moral or philosophical objections to the proposed new constitution from the "right" or "left", there are a host of questions which at this late stage remain unanswered as to how this new constitution is going to work in practice. These are simple practical questions and have nothing to do with whether or not it is "a step in the right direction", "a breakthrough for reform", etc.

What do we know about how it is likely to work in practice?

We know that :

- There will be three racially segregated Houses in one Parliament (clause 37).
- The members have to be classified as White, Coloured or Indian in terms of the Population Registration Act of 1950 (clauses 41 and 100).
- The three Houses will only have joint sittings on exceptional or ceremonial occasions and will conduct their affairs separately most of the time (clause 67).

- There will be standing committees of Parliament where members of the three Houses may have joint sittings. Standing committees may deliberate on matters before them, but can take no binding decisions (clause 64).
- There will be "own affairs" for each House to consider as well as "general affairs" which they can consider separately (clause 14)
- The executive president alone has the right to interpret and decide what the "own affairs" are for each House and his decisions cannot be challenged by a court of law (clauses 16-18)
- The President will effectively be elected by 50 members of the majority party in the White House (clause 7)
- Whenever there is a dispute or difference of opinion concerning a Bill between the three Houses, the President has the discretion to refer the matter to the President's Council for advice and recommendations. He also has the discretion to withdraw the matter from the President's Council before it has reached a decision on the matter of dispute (clause 32)
- The budget (or budgets ?) can be passed if only one of the three Houses agrees to it. The only way it can be voted down is if all three Houses oppose it (clause 39)
- The President and Cabinet can govern with Parliament if only one House is present and accounted for (clause 37)

- The quorum of the separate Houses is 50 Whites, 25 Coloureds and 13 Indians. Technically speaking, therefore, the President can carry on governing either with 50 Whites in the White House or 25 Coloureds in the Coloured House or 13 Indians in the Indian House (clause 61)

- All three Houses must approve a motion of no-confidence in the Cabinet within 14 days in order for Parliament to be dissolved (clause 39)

- There are 60 members on the President's Council of which 35 are indirectly elected or appointed by either the dominant party in the White House or the State President elected by that party (clause 70)

- The President's Council no longer is an advisory body but plays a strategic legislative and executive role with the new State President (clause 32)

So much for what we know - but what do we not know about the workings of the new constitution?

We do not know :

- Whether the majority of Coloureds or Indians approve of this new constitution;

- When and how the Government intends finding out whether or not they do;

- When elections for the Coloured and Indian Houses will be held and whether such elections will be held without first testing the degree of support for the new constitution;
- Where the three Houses will be physically located. It does not seem feasible at this stage that all three will be in the same building.
- What the cost will be to triplicate the facilities of the present Parliament, for example, Hansard, Press, Parliamentary personnel, dining rooms, rest rooms, etc., etc. Whatever the cost, the taxpayer will have to pay.
- Whether Coloureds and Indians will be allowed to eat in the White House's dining room. At present this is not allowed.
- Whether there will be six budget debates, three for "own affairs" and another three for "general affairs"
- Whether the White House simply carries on with a Coloured or Indian "own affairs" budget even though the Coloured or Indian House rejects it.
- What will happen if the Coloured and Indian Houses oppose measures moved by the White House on Black Affairs which will be a general matter between Whites, Coloureds and Indians. It seems that this will depend on the inclination and attitude of the State President.

- What will happen if the Coloured and Indian Houses wish to get rid of a racially discriminatory law and the White House refuses, or if the White House wishes to introduce a new discriminatory measure and the Coloured and Indian Houses refuse. Again, it seems to depend on the inclination and attitude of the State President.

- What the representation of opposition parties will be on the standing committees of Parliament. Will all or only some opposition parties be represented?

- Whether the new State President will attend the caucus meetings of the governing party. Will he remain leader of the caucus or be just an ordinary member?

- What the relationship will be between the State President who will be elected by the governing party in the White House, and the leader of the governing party in the White House.

- How an Executive State President who is the creature of 50 members of a political party, is going to play a non-partisan and conciliatory role between three racially segregated Houses of Parliament.

- Whether and to what extent a Coloured, Indian or White Cabinet Minister will be able to present legislation in those Houses of Parliament whose members belong to a race different to his own.

Finally, should a "yes"-vote be successful on November 2nd, we will be spending the next three to four years laboriously getting answers to these questions. Questions which arise out of the practical workings of a constitution which, in the eyes of some of its more able and well-intentioned supporters, is an "abortion", "has calamitous shortcomings" and has the questionable distinction that its overriding merit may lie in the fact that "it cannot work". Are we in the grip of some mood of collective insanity? Surely our country deserves better than this.

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