

powder or poison, with which he may have come provided. These Brahmins, however are frequently obliged to desist and are removed from sitting Dhuma by the officers of the courts of justice, without any ill consequence resulting it, having been found by experience, that they seldom or ever attempt to commit suicide, or to wound themselves or others, after they are taken into the custody of Government. The rules and measures adopted for putting a stop to these abuses, and for preventing the revival of the still more savage custom, which until within these few years, had been generally prevalent amongst the tribe of Rajkoomars inhabiting the borders of the province near Juanpore, of destroying their infant female children, by suffering them to perish for want of sustenance, are hereby enacted, with modifications, into a regulation.

**Brahmins establishing a koorh, or preparing to maim,
wound, or slaughter his women or children**

II. Upon information in writing being preferred to the magistrate of the city or a zillah court, against any Brahmin or Brahmins, for establishing a *koorh*, or for being prepared to maim, wound, or slaughter his women or children, or any, or either of them, in the manner described in the preamble to this regulation, or in any other account or manner substantially similar thereto, on account of any subject of discontent, or any other account whatsoever; in such case, upon oath being made to the truth of the information, the Magistrate is immediately to address to the said Brahmin or Brahmins, a written notice in the Persian language and character, and in the Hindoostanee language and Nagree character, and under his official seal, which notice is to be served on him or them, by such relations, friends, or connections of the said Brahmin or Brahmins, as the magistrate may think fit, and have an opportunity of employing for the purposes and in default of such relations, friends, or connections of the said Brahmin or Brahmins, the magistrate is to cause the notice to be served by a single peon of the same religion ; and the notice shall require the said Brahmin or Brahmins to remove the *koorh*, and the women and people that may be placed in it; or to desist from any preparation towards wounding or slaughtering the women or children according as either or both of these facts shall be charged in the information. The notice shall also contain a positive and encouraging assurance to the Brahmin or Brahmins in question, that on his or their complying with the principal exigence thereof, by removing the *koorh*, and the person or persons, or by desisting from any preparation to wound or slaughter the women and children, and thereon repairing (as such Brahmin or Brahmins may think fit) in person, or by Vakeel to the city or zillah court, proper enquiry shall be made concerning the dispute that may have given occasion to the act or acts thus prohibited. But if the issuing of the notice shall not have the effect of inducing the said Brahmin or Brahmins to comply with the exigence thereof, a written return to that purpose is to be made and attested by the

party or parties entrusted with the serving of it; and the magistrate is thereon to issue a warrant under his official seal and signature for the apprehension of the said Brahmin or Brahmins specifying the misdemeanor and contumacy with which he or they stand charged; and the execution of the warrant is to be committed to peons of the Mahomedan religion, nor is any Hindoo to be sent on such duty. On the Brahmin or Brahmins against whom the warrant shall have been issued being brought before the magistrate, he or they are to be dealt with, in the mode prescribed in Section 5, Regulation IX, 1793, respecting persons charged with crimes or misdemeanors; and if it shall appear to the magistrate on the previous enquiry, which by the said section he is himself directed to make, that the misdemeanor or misdemeanors charged, (that is, the constructing of the *koorh*, or being prepared to wound or slay the women or children, according as either or both of these acts shall have been charged) were actually committed, and that there are grounds for suspecting the prisoner or the prisoners respectively to have been concerned, either as a principal or an accomplice, in the perpetration of either or both of these acts; the magistrate shall cause him or them to be committed to prison or held to bail, (according as the parties shall appear to have been principals or accomplices) to take his or their trial at the next session of the court or circuit, and shall bind over the informant or complainant, and the witnesses, to appear at the trial, in the manner prescribed in the aforesaid section.

**Process of trial and the punishment to be inflicted,
for the commission of the aforesaid offences**

III. The court of circuit shall conduct the trial of Brahmin or Brahmins charged with the above offences, in the manner prescribed in Regulation IX, 1793 and XVI, 1795, in respect to the other offences, but as the Mahomedan law cannot adequately apply to offences of this local nature, it is therefore hereby provided and ordered, that where in me opinion of the court of circuit, the charge of being a principal in respect to the constructing of a *koorh*, or to having been prepared to wound or slay the women or children, shall be proved, the said court shall sentence the prisoner to the payment of a fine equal to the amount of his annual income, which is to be estimated according to the best information that they may be able to procure respecting it; and on proof to the court's satisfaction of the prisoner's being guilty only as an accomplice, he shall be sentenced to the payment of a fine equal to one-fourth of his estimated annual income. In all cases of parties being sentenced to the payment of such fines, they are to be committed to, and are to remain in jail until the amount thereof be paid, or until they shall have delivered to the court of circuit, or, after the said court's departure, to the magistrate, full and ample malzamines or security, to pay the same within six months from the date of their release; and such parties, before their enlargement, either in consequence

of their having liquidated, or having entered into security for the payment for the fine imposed on them, shall deliver into the court of circuit, or, in their absence, to the magistrate, *faelzaminee*, or satisfactory security from one or more creditable persons, not to offend in like manner in future.

**Authority reserved to the Nizamut Adawlut to
mitigate such fines**

IV. All sentences passed by the court of circuit under Section 3, without however any intermediate suspension of their execution, are to be transmitted within ten days after their being passed, to the Nizamut Adawlut, which court may order such mitigation and restitution of the fine or fines thereby imposed, as may be thought proper; but until the order be issued by the Nizamut Adawlut, the sentence of the court of circuit is to be considered in full force, and to be carried into effect accordingly.

**Penalty for Brahmins absconding for whose apprehension the
magistrate shall have issued a warrant under Section 2**

V. In case any Brahmin or Brahmins, against whom the city or a Zillah magistrate may issue the warrant prescribed in Section 2, shall refuse to obey, or resist or cause to be resisted, the peons deputed to serve it, or escape after being taken by them into custody, or abscond, or shut himself or themselves up in any house or building, or retire to any place, so that the warrant cannot be served upon him or them, the magistrate shall issue a precept to the Collector, requiring him to cause to the nearest Tehsildar to attach the lands that such Brahmin or Brahmins may possess in property, or in mortgage, or in farm, or *Lakharaje*. The lands shall remain attached until he or they surrender, and the collections made during the attachment, after deducting such revenue as may fall due to Government, shall be accounted for, and paid to, the party against, or on account of, or in resentment to, whom, the *Koorh* was originally established, or the woman or women, or child or children, were to be wounded or slain, and after the surrender or apprehension of the Brahmin or Brahmins who set on the *Koorh*, or was or were prepared to wound or slay his or their women or children, or either of them, his or their lands shall be released; but he or they shall be proceeded against, in respect to his or their lands shall be released; but he or they shall be proceeded against, in respect to his or their trial for the original offence or offences, as prescribed in Sections 3 and 4.

**Collector to apply to the magistrate in case of Brahmins establishing
a Koorh, or being prepared to kill or wound women or children, on
account of any process from the revenue department**

VI. In the event of any Brahmin or Brahmins establishing a *Koorh*, or preparing to wound or slay his or their women or children, or any or either of them, with a view to prevent the serving of any *Dustuck* or writ on him or them, for arrears of revenue by the local Tehsildar, or by the Collector

of Benares, in the manner in which by Regulation VI, 1795, they are respectively authorised to issue such *Dustucks*, if it be the *Dustuck* of the Tehsildar that is thus opposed, he is not, after being informed thereof, to persist in enforcing it, but is to report the case immediately to the Collector, accompanied by the written testimonies of the peon deputed to serve the *Dustuck* ; upon receipt of which information, or in case of his own original process being in like manner resisted, the Collector is to represent, through the Vakeel of Government, the amount of the balance due by such Brahmin or Brahmins, and the circumstances attending the issuing of his own or of his Tehsildar's process for realizing it, to the judge and magistrate of the city or Zillah in whose jurisdiction the lands on account of which the arrears shall be due, may be situated ; and upon the peon deputed with the Tehsildar's or the Collector's) *Dustuck*, or any other creditable person or persons, attending in court, and making oath to the truth of the circumstance stated in the representation of the collector, either as to the constructing of a koorh by such Brahmin or Brahmins, or as to his or their being prepared to wound or slay the women and children, or any of them, (according as one or both of these expedients, shall be stated to have been resorted to by the Brahmin or Brahmins in question) the magistrate is thereon to issue to such Brahmins a written notice under his official seal in the Persian language and character, and in the Hindoostanee language and Nagree character, which is to be served on him or them by such of the relations, friends or connections, of the said Brahmin or Brahmins as the magistrate may think fit, and have an opportunity of employing for the purpose ; and in default of such relations, friends, or connections, of the said Brahmin or Brahmins, the Magistrate is to cause the notice to be served by a single peon of the same religion, and the tenor of it shall require the said Brahmin or Brahmins to remove the koorh, and the women and people that may be placed in it, or to desist from any preparation for wounding or killing the women or children, (according as either or both of these offences may be charged in the information) as likewise, either to discharge the balance of rent or revenue that shall have been demanded from him or them or to appear, and entering security for such part of it as he or they may have pleas against the payment of, to file his or their objections to the payment of such part in the city or Zillah Court, that the merits of the case may be enquired into and decided, according to the principles by which other disputed demands and accounts of revenue are under Regulation VI, 1795, directed to be determined ; and the said notice is also to contain a positive and encouraging assurance to the Brahmin or Brahmins in question, that on his or their employing with the exigence of it, by removing the koorh and the persons therein, or by desisting from any preparation to wound or slay the women and children, and either discharging the balance of revenue in demand, or repairing in person, or deputing a Vakeel, to the city or Zillah Court, and entering security for the amount of it, proper enquiry shall be made into the pleas that he or they may have to state against the justice of the demand. If the

issuing of the notice shall fail to induce the said Brahmin and Brahmins to comply with the requisitions of it, a written return to that effect is to be made and attested by the party or parties entrusted with the serving of it, and the magistrate is immediately to issue a warrant under his official seal and signature for the apprehension of such Brahmin or Brahmins in which shall be specified the misdemeanor, contumacy, and arrear, with which he or they stand charged ; and the warrant shall be executed by peons of the Mahomedan religion, as directed in Section 2 ; and if the Brahmin or Brahmins shall refuse to obey or resist, or cause to be resisted, the peons deputed to serve it, or escape, after being taken by them into custody or abscond, or shut himself or themselves up in any house or building, or retire to any place, so that the warrant cannot be served on him or them ; the magistrate, on information to this effect, shall issue a precept to the collector, to cause the nearest Tehsildar to attach the lands that such Brahmin or Brahmins may possess in property, or in mortgage, or in the farm, or *Lakheraje* ; and the lands shall accordingly remain attached, and the profits of them be appropriated by Government, until the liquidation of the balance shall be effected, either from the produce, or in consequence of the said Brahmin or Brahmins making good the same from his or their other means ; and also, until the said Brahmin or Brahmins shall have been brought, or made his or their appearance before the court, when he or they shall be tried for being concerned either as principles or accomplices in setting up the koorh, or for having been prepared to wound or slay his or their women or children, or any or either of them, in the same manner, and with the same reservation as to the mitigation of the sentence, as is specified in Sections 2, 3 and 4.

Brahmins causing the construction of a koorh, and persons firing it, to be tried on a charge of murder for the loss of the life or lives of any person or persons that may be thereby occasioned

VII. If any Brahmin or Brahmins, on account of any discontent or alarm, well or ill founded, either against Government, or its officers, or servants, shall establish a koorh, in which any person or persons shall, at any period from its construction until its removal, be burnt to death, or otherwise lose their lives, in consequence of such koorh's being set fire to, by any person whomsoever ; the Brahmin or Brahmins who shall have caused the construction thereof, shall be held chargeable with, and made amenable for, the crime of murder ; as well as the party or parties who may have been immediately employed, or aided in setting fire to the pile or combustibles in question ; and upon proof of the fact to the satisfaction of the court of circuit, such Brahmin or Brahmins, and such person or persons, setting fire to the koorh, shall be sentenced on trial before the said court, to suffer the punishment of death, in the same manner as if they had committed and been convicted of *Kutl* and, or premeditated murder, according to the doctrines of the Mahomedan law ; and with a view to render the example as public as possible such sentence (whether consistent with the

future of the Mahomedan law officers, or otherwise) is in this case, to be accordingly formally passed by the court of circuit on the Brahmin or Brahmins thus convicted ; but it is to be at the same time explained to the party or parties thus condemned, as it is also hereby expressly provided, that all such trials, and the sentences passed, are by the court of circuit to be submitted (in like manner as is prescribed in Section 47, Regulation IX, 1793,) to the Nizamut Adawlut, and the party or parties condemned under this section, are to remain in Jail to await the final judgment of that court; and if the Nizamut Adawlut shall approve of the condemnation, it shall order the Brahmin or Brahmins in question to be conveyed to Calcutta, to be thence transported for life, in conformity to Section 23, Regulation XVI, 1795, which establishes this commutation for the legal punishment of murder perpetrated by Brahmins within the province of Benares, or, if the court of Nizariut Adawlut shall see cause for not proceeding pursuant to the sentence passed by the court of circuit either in respect of the Brahmin or Brahmins, who may have caused the construction of the *koorh*, or to the party or parties who may have been employed or aided in firing it, they shall submit the case or cases to the Governor General in Council, and either recommend a pardon, or such other commutation by way of mitigation of the punishment, as to the said court may seem proper.

Punishment for Brahmins wounding women and children

VIII. If any Brahmin or Brahmins, under the circumstances, and in the manner, described in the preamble to, and the following sections of this regulation, or under such circumstances, and in such manner, as shall be substantially similar thereto, with a sword, or other offensive weapon, or otherwise, shall actually wound his or their women or children or other women or children, or any or either of them, on account of, in resentment of any real or supposed injury committed towards him or them, by aumils, tehsildars, or other officers, or servants, employed in the revenue or judicial departments ; or shall so wound any of his or their own women or children, or any other woman or child, on account or in resentment of, his or their differences with any individual; he or they shall for such act or acts, be sentenced by the court of circuit to transportation, subject to the same reference to the Nizamut Adawlut and to the like commutation of the punishment, or pardon, as in the cases referred to in section 7.

Punishment for Brahmins killing women or children

IX. If any Brahmin or Brahmins, under the circumstance and in the manner, described in the preamble to, and subsequent sections of this regulation, or under such circumstances, and in such manner, as shall be substantially similar thereto, with a sword or other offensive weapon, or otherwise, shall actually put to death his or their women or children, or other women or children, or any or either of them, on account or in resentment of any real or supposed injury, committed towards him or them by aumils, tehsildars, or any other officers, or servants, employed in the

revenue or judicial departments ; or shall so put to death any of his or their own women or children, or any other woman or child, on account or in resentment of his or their differences with any individual; he or they shall be tried for such homicide and on proof of the fact or facts, be accordingly sentenced by the court of circuit to capital punishment, subject to the same reference to the Nizamut Adawlut and to the like commutation of the punishment, or pardon, as in the cases referred to in section 7; and the families of any Brahmin or Brahmins found guilty of murder under this section, shall, according to the order of the Governor General in Council under date the 17th of June 1789, and the publication made in conformity to it by the Resident at Benares under date the 7th day of July of the same year, be banished from the province of Benares, and the Company's territories; and his and their estates in land shall be forfeited and disposed of as to Government shall seem proper ;. and accordingly, the court of circuit is required to subjoin this order to all sentences that they may pass, on Brahmins for murder under this section, at the same time reporting such sentence and order to the Nizamut Adawlut, together with as accurate an account as they may be able to procure, of the number, sex, and age, of the persons composing the family of such Brahmin or Brahmins and annexing their opinion how far it may be advisable or otherwise, rigourously to enforce the banishment of the family of such Brahmin or Brahmins, or to confirm, or mitigate or annul, the order for the forfeiture of their real property; and the Nizamut Adawlut, on consideration of this sentence and order and of the opinion of the court of circuit, shall either wholly confirm, or recommend to the Governor General in Council such mitigation of the said sentence and order, as shall appear to them proper ; and in all cases there the forfeiture of the landed property of such Brahmin or Brahmins, and that of his or their family, shall be confirmed by the Nizamut Adawlut, the said Court is to advise the Governor General in Council thereof, nor shall such sentence be carried into execution as far as regards the forfeiture of the landed property, without an order from the Governor General in Council approving such part of the sentence, and directing in what manner the lands thus forfeited shall be disposed of.

Limitation as to the forfeiture of the family lands of the offenders

X. In the exercise of the discretion vested in the Nizamut Adawlut by section 9, of recommending to the Governor General in Council, the mitigation of sentences and orders passed by the Court of Circuit, under the said Section, it shall be a rule that whenever the Governor General in Council shall in consequence deem it proper to limit the banishment either to the party or parties committing the murder, or to a certain number only of his or their family or families ; no confiscation or forfeiture of the landed-property shall in such instances take place, but the same shall be entirely left in the possession, and as the property, of those members of the family who shall be exempted from banishment.

Regulations respecting Brahmins sitting *dhurna*

XI. *First*.— In conformity to the order of the Governor General in Council, of the 2nd of November 1792, and the publication issued in consequence at Benares on the 22nd of December of the same year and the further order of the Governor General in Council under date the 7th November 1794, the following rules are enacted for the preventing of *dhurna* ; and for the trial and punishment of Brahmins committing this offence.

Magistrate to cause Brahmins sitting *dhurna* to be apprehended

Second.—On a complaint in writing being presented to the Magistrate against any Brahmin or Brahmins for sitting *dhurna*, the Magistrate, upon oath being made to the truth of the information, shall issue a warrant under his seal and signature for the apprehension of the person or persons thus complained against, on the prisoner or prisoners being brought before the magistrate, he shall enquire into the circumstances of the charge, and examine the prisoner or prisoners and complainant, and also such other persons (whose depositions are to be taken on oath) as are stated to have any knowledge of the misdemeanor alleged against him or them, and commit their respective depositions to writing ; and after this enquiry, if it shall appear to the magistrate that the misdemeanor charged against the prisoner or prisoners was never committed, or, that there is no ground to suspect him or them to have been concerned in the committing of it, the magistrate shall cause such Brahmin or Brahmins to be forthwith discharged, recording his reasons for the information of the Court of Circuit, in the manner specified in Section 17, Regulation IX, 1793. On the contrary, if it shall appear to the magistrate that the crime or misdemeanor was actually committed, and that there are grounds for suspecting the prisoner or prisoners to have been concerned therein as principals or accomplices, the magistrate shall cause him or them to be committed to prison or held to bail, (according as in his discretion he shall judge proper) to take his or their trial at the next session of the Court of Circuit, and shall bind over the complainant to appear and carry on the prosecution, and the witnesses to attend and give their evidence, in the manner required by Section 5, Regulation IX, 1793. The Trial shall take place before the court of circuit, in the manner prescribed in the said regulation, and in Regulation XVI, 1795 ;. and after the evidence is closed, it shall be referred to the pundit of the court, to deliver in writing the *vyuvustha*, or exposition of the shaster, as to whether the facts contained in the evidence amount to proof of the prisoner or prisoners having committed *dhurna*, and in the event of such *vyuvustha* being in the affirmative, the Court of Circuit is to sentence the prisoner or prisoners to be expelled from the province of Benares, and to forfeit all title to the right or claim for the realizing of which the misdemeanor shall have been committed; but this sentence is not to be carried into execution until it shall have been reported by the

Court of Circuit to the Nizamut Adawlut, and it shall have been either wholly confirmed, or directed to be enforced under such mitigation as to the expulsion from the province, or to the forfeiture of the right or claim of the prisoner or prisoners to the property for which he or they sat *dhurna*, as to the said court shall seem proper.

Court of Circuit how to proceed in case all the legal requisites to constitute *dhurna* shall not be found, although the offence was substantially committed

XII. In the event of the *vyuvustha* which the *pundit* is required to deliver in Section II, not stating the circumstances sworn to in the evidence to amount to the offence of *dhurna*, and the Court of Circuit shall nevertheless be of opinion, from the evidence before them that the prisoner did in fact commit *dhurna*, according to the common construction and 'received meaning of the term, although the act may not have been attended with all the circumstances that may be legally required to constitute *dhurna*, according to the description of it in the books of the Hindoos ; the said court is, under such circumstances, (as directed by the order of the Governor General in Council, under date the 7th of November 1794) to take from the prisoner or prisoners, a *moochulka* or engagement, conditioning that if such prisoner or prisoners shall again sit *dhurna* on any one, or perform any act of a nature similar to *dhurna* as shall, on their being prosecuted before the Court of Circuit, be deemed by the judges of the said court present at the trial, or the majority of them, equivalent or tantamount to *dhurna*, the said prisoner or prisoners shall respectively for such second offence, suffer the full penalty of *dhurna*, as provided for by the order of the Governor General in Council, by being expelled from the province, and by being made to forfeit all right and tide to the claim in question.

How Rajkoomars are to be tried for leaving or causing their female infants to perish for want of nourishment

XIII. In the month of December 1789, the tribe of Rajkoomars having bound themselves to discontinue the practice of causing their female infants to be starved to death ; it is now accordingly ordained, that from the establishment and opening of the city and Zillah courts and of the Court of Circuit in Benares, if any Rajkoomar shall designedly prove the cause of the death of his female child, by prohibiting its receiving nourishment, as set forth in the preamble to this regulation, or in any other manner, the magistrate, on receiving information thereof upon oath, or such other information or proof as he shall deem sufficient to render the charge highly probable, shall cause such Rajkoomar to be apprehended in the manner prescribed, and make due enquiry ordered, in Section 5, Regulation IX, 1793 ; when if it shall appear to the magistrate that the crime has been actually committed, and that there are grounds for suspecting the prisoner to have been concerned in the perpetration of it, the magistrate shall cause

him to be committed to prison to be tried before the Court of Circuit, and shall at the same time take all the other precautions required in the section and regulation last quoted, relative to securing the attendance of the original complainant or informant, and of the witnesses ; and the prisoner shall be tried accordingly, in the manner directed in Regulation IX, 1793, and Regulation XVI, 1795, with respect to other cases of murder.

The second piece of social Legislation which the British undertook is contained in Bengal Regulation VI of 1802. It is a regulation for preventing the Sacrifice of Children at Saugor and other places. It enacted as follows :—

REGULATION VI

A. D. 1802

A Regulation for preventing the Sacrifice of Children at Saugor and other Places. Passed by the Governor General in Council, on the 20th August 1802.

I. It has been represented to the Governor General in Council, that a criminal and inhuman practice of sacrificing children, by exposing them to be drowned, or to be devoured by sharks, prevails at the island of Saugor, and at Bansbaryah, Chaughadh, and other places on the Ganges. At Saugor especially, such sacrifices have been made at fixed periods, namely, the day of full moon in November and in January, at which time also grown persons have devoted themselves to a similar death. Children thrown into the sea at Saugor have not been generally rescued, as is stated to be the custom at other places; but the sacrifice has, on the contrary, been completely effected, with circumstances of peculiar atrocity in some instances. This practice, which is represented to arise from superstitious vows is not sanctioned by the Hindoo law, nor countenanced by the religious orders or by the people at large ; nor was it at any time authorized by the Hindoo or Mahomedan Governments of India. The persons concerned in the perpetration of such crimes are therefore clearly liable to punishment, and the plea of custom would be inadmissible in excuse of the offence. But, for the more effectual prevention of so inhuman a practice, the Governor General in Council has enacted the following Regulation to be in force from the promulgation of it in the provinces of Bengal, Orissa, and Benares.

II. If any person or persons shall wilfully, and with the intention of taking away life, throw or cause to be thrown, into the sea or into the river Ganges, or into any other river or water, any infant or person not arrived at the age of maturity, with or without his or her consent, in consequence whereof such person, so thrown into water, shall be drowned, or shall be destroyed by sharks or by alligators, or shall otherwise perish, the person

or persons so offending shall be held guilty of wilful murder, and on conviction shall be liable to the punishment of death; and all persons aiding or abetting the commission of such act shall be deemed accomplices in the murder, and shall be subject to punishment accordingly. The trials of prisoners convicted as principals or accomplices of the crimes specified in this section shall be referred to the Court of Nizamut Adawlut, which is to pass sentence thereupon according to Section LXX, Regulation IX, 1793 whatever may be the *futwah* of the law officers of that Court. (or report to the Governor General in Council the case of any prisoner who may appear to that court to be a proper object of mercy, in conformity with Section LXXIX, Regulation IX, 1793).

III. If a child or any person not arrived at maturity, be thrown into water, as stated in the preceding section, and be rescued from destruction, or by any means escape from it, the persons who shall have been active in exposing him or her to danger of life, and all aiders and abettors of such act, shall be held guilty of a high misdemeanor, and on convicting shall be liable to such punishment as the Courts of Circuit, under the *futwah* of their law officers, may judge adequate to the nature and circumstances of the case.

IV. The magistrates of districts wherein the sacrificing of children may have been hitherto practised are required to be vigilant to prevent the continuance of the practice, and shall cause the provisions of this Regulation to be from time to time proclaimed at the places, and in the season, where and when such sacrifices have hitherto been effected.

The Second piece of Social Legislation is one dealing with Suttee. It is Bengal Regulation XVII of 1829; It enacted as follows:—

REGULATION XVII

A.D. 1829

A Regulation for declaring the practice of Suttee, or of Burning or Burying alive the Widows of Hindoos, illegal, and punishable by the Criminal Courts. Passed by the Governor General in Council, on the 4th December 1829.

Preamble

I. The practice of suttee, or of burning or burying alive the widows of Hindoos, is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindoos as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferable inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed; in some

extensive districts it does not exist; in those in which it has been most frequent, it is notorious that, in many instances, acts of atrocity have been perpetrated, which have been shocking to the Hindoos themselves, and in their eyes unlawful and wicked. The measures hitherto adopted to discourage and prevent such acts have failed of success and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether. Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the presidency of Fort William.

II. The practice of suttee, or burning or burying alive the widows of Hindoos, is hereby declared illegal, and punishable by the Criminal Courts.

III. *First.*—All zamindars, talookdars, or other proprietors of land, whether malguzarry or lakhiraj; all sudder farmers and under-renters of land of every description; all dependent talookdars, all naibs and other local agents; all native officers employed in the collection of the revenue and rents of lands on the part of Government, or the Court of Wards; and all munduls or other head men of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police station of any intended sacrifice of the nature described in the foregoing section; and any zemindar, or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted, of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the magistrate or joint magistrate in any sum not exceeding two hundred rupees, and in default of payment, to be confined for any period of imprisonment not exceeding six months.

Police Darogas, how to act on receiving the intelligence of the intended sacrifice

Second.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police darogah shall either repair in person to the spot, or depute his mohurrir or jamadar, accompanied by one or more burkundauzes of the Hindoo religion, and it shall be the duty of the police officers to announce to the persons assembled for the performance of the ceremony, that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the

event of their persisting in it, they will involve themselves in a crime, and become subject to punishment by the Criminal Courts. Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony, into effect, it shall be the duty of the police officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal person aiding and abetting in the performance of it; and in the event of the police officers being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the magistrate or joint magistrate for his orders.

How to act when the intelligence of sacrifice may not reach them until after it shall have actually taken place

Third.—Should intelligence of a sacrifice declared illegal by this Regulation, not reach the police officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the magistrate or joint magistrate to whom they may be subordinate.

IV. *First.*—On the receipt of the reports required to be made by the police darogahs, under the provisions of the foregoing section, the magistrate or joint magistrate of the jurisdiction in which the sacrifice may have taken place shall inquire into the circumstances of the case, and shall adopt the necessary measures for bringing the parties concerned in promoting it to trial before the Court of Circuit.

Persons convicted of aiding and abetting in the sacrifice of a Hindoo widow, shall be deemed guilty of culpable homicide, and liable to punishment

Second.—It is hereby declared, that after the promulgation of this Regulation, all persons convicted of aiding and abetting in the sacrifice of a Hindoo widow, by burning or burying her alive, whether the sacrifice be voluntary on her part or not shall be deemed guilty of culpable homicide, and shall be liable to punishment by fine or by imprisonment, or by both fine and imprisonment, at the discretion of the Court of Circuit, according to the nature and circumstances of the case and the degree of guilt established against the offender, nor shall it be held to be any plea of justification, that he or she was desired by the party sacrificed to assist in putting her to death.

Third.—Persons committed to take their trial before the Court of Circuit for the offence above mentioned, shall be admitted to bail or not, at the discretion of the magistrate or joint magistrate, subject to the general rules in force in regard to the admission of bail.

The Court of Nizamut Adawlut not precluded from passing sentence of death in certain cases

V. It is further deemed necessary to declare, that nothing contained in this Regulation shall be construed to preclude the Court of Nizamut Adawlut from passing sentence of death on persons convicted of using violence or compulsion, or of having assisted in burning or burying alive a Hindoo widow, while labouring under state of intoxication, or stupefaction, or other cause impeding the exercise of her free will, when, from the aggravated nature of the offence proved against the prisoner the court may see circumstances to render him or her a proper object of mercy.

The third piece of Social Legislation is the Caste Disabilities Removal Act XXI of 1850. It enacts as follows :—

**THE CASTE DISABILITIES REMOVAL ACT
(XXI OF 1850)**

An act for extending the principle of section 9, Regulation VII, 1832, of the Bengal Code throughout the Territories subject to the Government of the East India Company.

Preamble

WHEREAS, it is enacted by section 9, Regulation VII, 1832, of the Bengal Code that “whenever in any civil suit the parties to such suit may be of different persuasions, when one party shall be of the Hindu and the other of the Muhammadan persuasion, or where one or more of the parties to the suit shall not be either of the Muhammadan or Hindu persuasions, the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled, and whereas it will be beneficial to extend the principle of that enactment throughout the territories subject to the Government of the East India Company it is enacted as follows :—

Law or Usage which inflicts forfeiture of, or affects, rights of change of religion or loss of caste to cease to be enforced

1. So much of any law or usage now in force within the territories subject to the Government of the East India Company as inflicts on any

person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance, by reason of his or her renouncing, or having been excluded from the communion of, any religion, or being deprived of caste, shall cease to be enforced as law in the Courts of the East India Company, and in the Courts established by Royal Charter within the said territories."

The fourth piece of Social Legislation is the Hindu Widows' Remarriage Act XV of 1856. It enacts as follows:—

An Act to remove all legal obstacles to the marriage of Hindu Widows.

Preamble

WHEREAS, it is known that, by the law as administered in the Civil Courts reestablished in the territories in the possession and under the Government of the East Indian Company, Hindu widows with certain exceptions are held to be by reason of their having been once married, incapable of contracting a second valid marriage, and the offspring of such widows by any second marriage are held to be illegitimate and incapable of inheriting property ; and

WHEREAS, many Hindus believe that this imputed legal incapacity, although it is in accordance with a true interpretation of the precepts of their religion, and desire that the civil law administered by the Courts of Justice shall no longer prevent those Hindus who may be so minded from adopting a different custom, in accordance with the dictates of their own conscience ; and

WHEREAS, it is just to relieve all such Hindus from this legal incapacity of which they complain, and the removal of all legal obstacles to the marriage of Hindu widows will tend to the promotion of good morals and to the public welfare; it is enacted as follows:—

Marriage of Hindu widows legalized

1. No marriage contracted between Hindus shall be invalid, and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindu law to the contrary notwithstanding.

**Rights of widow in deceased husband's property to cease
on her re-marriage**

2. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

The fifth piece of Social Legislation prescribed an age limit for sexual intercourse with a woman. It is Act XLV of 1860 (Penal Code) Sec. 375. It enacted as follows:—

“A man is said to commit ‘rape’ who except, in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following:—

First: Against her will.

Secondly: Without her consent

Thirdly: With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fourthly: (Left blank—ed.)

Fifthly: With or without her consent, when she is under ten years of age.

Explanation: (Left blank—ed.)

Exception: Sexual intercourse by a man with his own wife not being under ten years of age, is not rape.”

WHAT ABOUT THE UNTOUCHABLES ?

Caste and Untouchability are the two great social evils in India. Caste has disabled the whole Hindu Society. Untouchability has suppressed a large class of people. And yet the British Government has completely ignored the two evils. One may search in vain the Indian Code to find any law dealing with Caste or with Untouchability. It is true that caste and untouchability are social matters. They will vanish when people will begin to inter-dine and intermarry. Law cannot compel a person to dine with another. It is true, law cannot compel a person to marry with another. But it is also true that Law can prohibit a Caste

from preventing a person from marrying a person outside his caste. Caste continues because a Caste can conspire to punish its members if they break the rules of caste by declaring a social boycott against him. It would have been perfectly possible to have enacted a law declaring such social boycott to be a crime. Again in the matter of Untouchability the disabilities are not merely social. They are fundamentally civic. Inability to get admission to school, to be able to take water from a public well, to be able to get into a public conveyance, to be able to get into public service, are all civic disabilities. It was the duty of the British Government to legislate at least to the extent necessary to protect their civic rights. It was possible to do so. A short Enactment on the lines of Caste Disabilities Removal Act would have been sufficient. Yet the British Government has gone on as though these two evils did not exist at all. Indeed it is most extraordinary thing to note that although Legislative Bodies were established in India in 1861 and have been passing laws on every social questions and discussing public questions, yet except on two occasions the Untouchables were not even mentioned. The first occasion on which they were mentioned was in 1916, when one Parsi gentleman Sir Maneckji Dadabhoy moved the following Resolution in the Central Legislature :—

“That this Council recommends to the Governor General in Council that measures be devised with the help, if necessary, of a small representative committee of officials and non-officials for an amelioration in the moral, material and educational condition of what are known as the Depressed Classes, and that, as a preliminary step the Local Government and Administrations be invited to formulate schemes with due regard to local conditions.”

There was no sympathy to this resolution. The Hindu members of the Legislature were angry with the mover for his having brought such a subject before the Legislature.

Pandit Madan Mohan Malviya said:—

“Sir, it seems rather ungracious to say so, but a sense of the dignity of the proceedings of this Council compels me to utter a protest against the manner in which sometimes subjects are brought before it for consideration

“In moving the Resolution the object of which I may at once say, has my whole-hearted support, my friend, the Hon’ble Mr. Dadabhoy, went out of his way to make remarks against the Hindu community which,

I think, the ought to have avoidedI am not here to defend everything Hindu that exists. I am not here to appologize for the many prejudices or superstitions, which I am sadly conscious are to be found among one portion or another of our community. But it is not the Hindu community alone which finds it difficult to get rid of prejudices Without meaning the smallest disrespect, I would instance the case of the marriage with a Deceased Wife's Sister Bill We Hindus have got some much worse prejudices to fight against But I do not think it is within the province of a member of this Council either to lecture to the Hindus present here or to those outside as to the socio-religious disabilities among themselves which they might fight against and remove. I think the province of Members of this Council is limited to dealing with matters of legislation or other administrative matters which may properly be taken up by the Government. As has been already pointed out, the Government have, in pursuance of a wise and liberal policy, laid it down that they shall not interfere in matters of a religious or socio-religious character, and accusations of the character in question ought, therefore, to be avoided there I do not wish to descend into a disputation as to the merits of the imputations or the justification for the general observations that have been made And yet, if I do not, I am left in the position that I have heard without protest remarks showing that the Hindu Community from one end of the country to the other was guilty of all that my friend, the Hon'ble Mover of the Resolution, has suggested I am conscious that we Hindus have many prejudices to fight against and conquer; but I submit that this is not the place to tell us of them."

Even a social Reformer like Sir Surendranath Bannerjee was not happy. He said :—

".....I regret very much that my Hon'ble friend the Mover of this Resolution went somewhat out of his way to level (I do not think he did it intentionally) an attack against the Hindu Community. He must bear in mind that we are the inheritors of past traditions, of a civilization as ancient as the world. That civilization undoubtedly had its defects, but that civilization in the morning of the world was the guarantee for law and order and social stability. In the past it afforded consolation to millions. We are trying to evolve a national system in conformity with our present environments, but we cannot push aside all those things which have come down to us from the past. We reverence the venerable fabric which has been built up by our ancestors. We notice their defects, and we are anxious to get rid of them gradually and steadily, not by any revolutionary movement, but the slow, steady process of evolution. My friend must have a little sympathy with us ; he must extend to us the hand of generosity in our efforts to deal with the problems. My Hon'ble friend suggests that Government should take measures..... We welcome

the action of Government in a matter of this kind, but after all, if you analyse the situation, it is a social problem, and the British Government, very properly, as I think, in conformity with its ancient traditions, holds aloof from all interference with social questions.

“Government can do a great by way of education, a great deal by helping forward the industrial movement among the Depressed Classes. But the vital problem, the problem of problems, is one of social uplifting, and there the Government can only afford to be a benevolent spectator. It may sympathize with our efforts, but it cannot actively participate in them

The Hon'ble Mr. Dadabhoy had to defend himself. In his reply he said:—

“Sir, I find myself in a very peculiar and unfortunate position. There are two parties in this Council, and they are both on the defensive on this occasion. My justification for bringing in this Resolution, if any justification were needed, is to be found in the unenthusiastic and half hearted support which I have received from my non-official colleagues. It was no pleasure, I assure you, Sir, to me to bring in this Resolution. If I could possibly have avoided it, I would have very cheerfully and very willingly done so. This is the sixth year of the life of this Reformed Council, as Hon'ble Members are aware, and the second term is now approaching expiration. During the major portion of that time—the five years that I have been on this Council—I anticipated that the champions of public liberty, public spirit and public enterprise and culture—men like my friends the Hon'ble Surendra Nath Bannerjee or the Honourable Pandit Madan Mohan Malaviya—would take the trouble of moving a Resolution to this effect. I waited all this time to see if one of these enthusiastic members would bring in a Resolution for the amelioration of the Depressed Classes, but when I found that none of them had taken up the matter—though at times this matter is discussed even in the Congress Pandal in a certain manner; when I found that it was not taken up in this Council— I, as a Parsee, representing a Hindu constituency thought it my duty to bring this matter for public discussion in this Council.”

The Government naturally felt relieved by this quarrel. Resting behind the moral support of the Hindu members of the Legislature for covering up their delinquency Sir Reginald Crad-dock speaking on behalf of the Government disposed off the Resolution in the following terms :—

“Sir, we sympathize with the objects of the Hon'ble Mr. Dadabhoy's Resolution. We are willing to go so far as to ask Local Governments to put on record what they have done, are doing, and what further they can do,

to improve the condition of these people. But we can place no faith in special committees. Have I not indicated to the Council how wide are the problems, and how impossible it would be to deal with them by means of Committees? The problems extend over the whole range of Government from top to bottom. What I say is that, while extending our sympathy to the objects aimed at by the Hon'ble Mr. Dadabhoy, we can go no further than promise to refer the question to Local Governments, and ask them whether they can do more than they are doing. That is as far as we can go, and with that assurance, I will ask the Hon'ble Member to withdraw his Resolution."

The second time the Untouchables are mentioned in the proceedings of the Legislature was in 1928 when Mr. M. R. Jayakar moved the following Resolution :—

"This Assembly recommends to the Governor-General in Council to issue directions to all Local Governments to provide special facilities for the education of the Untouchables and other depressed classes, and also for opening all public services to them, specially the Police."

On this occasion the Government of India was no more enthusiastic than it was in 1916. Mr. G. S. Bajpai, speaking on behalf of the Government of India said :—

"The Local Governments are alive to their responsibility, they are doing what they can. It is not my privilege to claim for them that they have achieved the ideal, but I do claim that there is an awakening and an awakened and roused sense of responsibility and a roused sense of endeavour for improving the position of these depressed classes. That being so, it is no function to interfere by direction or by demand. They (i.e. the Government) can, if the House wishes, communicate to them the views of the House on this very national problem."

For this speech, Mr. Bajpai, according to the official report of the proceedings, was cheered ! !

Such is the record of the British Government in the matter of social Reform. What a miserable record it is? How meagre a record it is; Six social Laws in sixty years of legislative activity!! From the very beginning, its attitude to social reform has been of a very halting character. It kept on some mask of a responsible Government up to 1860. After 1860 it threw off the mask. The Government would not move and reform came to a dead stop. In 1881 a great agitation was started in favour of legislation prohibiting child marriage. Rather than be pestered

with social reform, it took courage to announce publicly and once for all its policy of opposition to reform. In a Government Resolution of that year, the British Government proclaimed :

“In dealing with such subjects as those raised in Mr. Malabari’s Notes, the British Government in India has usually been guided by certain general principles. For instance, when caste or custom enjoins a practice which involves a breach of the ordinary criminal law, the State will enforce the law. When caste or custom lays down a rule which is of its nature enforceable in the Civil Courts, but is clearly opposed to morality or public policy, the State will decline to enforce it. When caste or custom lays down a rule which deals with such matters as are usually left to the option of citizens, and which does not need the aid of Civil or Criminal Courts for its enforcement, State interference is not considered either desirable or expedient.

“In the application of such general principles to particular cases, there is doubtless room for differences of opinion; but there is one common-sense test which may often be applied with advantage in considering whether the State should or should not interfere in its legislative or executive capacity with social or religious questions of the kind now under notice. The test is, ‘Can the State give effect to its commands by the ordinary machinery at its disposal?’ If not, it is desirable that the State should abstain from making a rule which it cannot enforce without a departure from its usual practice or procedure.

“If this test be applied in the present case, the reasons will be apparent why His Excellency in Council considers that interference by the State is undesirable, and that the reforms advocated by Mr. Malabari, which affect the social customs of many races with probably as many points of difference as of agreement, must be left to the improving influence of time and to the gradual operation of the mental and moral development of the people by the spread of education.

“It is true that the British Government in India has by its legislation set up a standard of morality independent of, and in some material respects differing from, the standard set up by caste; and it may be that the former standard has had some beneficial effect in influencing native customs, practices, and modes of thought. But legislation, though it may be didactic purposes; and in the competition of influence between legislation on the one hand, and caste or custom on the other, the condition of success on the part of the former is that the Legislature should keep within its natural boundaries, and should not, by overstepping those boundaries, place itself in direct antagonism to social opinion.”

The policy laid down in this Resolution has ever since remained the policy of the British Government in the matter of Social Reform.