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Why did the British Government leave the Untouchables in the cold without any care or attention ?

The explanation for so criminal a neglect was furnished by Sir Reginald Craddock. In replying on behalf of the Government of India on the Resolution moved by Sir Maneckji Dadabhoy in the Imperial Legislative Council in 1916, he stated what the position of the British Government took with regard to the Untouchables in the following terms :—

“With regard to them (i. e. the Untouchables) the difficulty is not that Government does not recognize them, but that, until the habits and prejudices of centuries are removed, the hands of their neighbours must necessarily press upon them you must remember that these people live mostly in villages and very often in the back lane of towns, and that their neighbours have not yet come under these broad and liberal minded influences. Therefore, as many speakers have indicated, the problem in dealing with this question is more social and religious than purely administrative.

“I know myself of many difficulties in the matter of schools. There are many places where the Mahar boys will not be allowed into the school; they may be allowed in the Verandah and get only a small part of the master’s attention there, or they may be entirely excluded. But it is only gradually that the difficulty can be met. I have constantly dealt with this very problem on the spot. I have reasoned with people ; I have said to them. There are tax payers like yourselves, either let them come into the school, or if you wish to indulge in your own prejudices—they may be reasonable prejudices, as you consider them—but if you wish to indulge them, should you not contribute something in order that these boys may have a school of their own ? In that what some of the better people have come forward to help in the matter of wells, and schools for the low castes ; they have assisted, and the difficulties have been got over. But of course it is a matter which must take time, and Government itself cannot use compulsion. They go rather near to it sometimes, for example, in travelling by railway : and when petitions are presented in Court. But they cannot ensure that these people shall always be well-treated in their offices. Very often, I think, some of these classes refrain from seeking service they might otherwise wish to secure, because their neighbours are not likely to treat them warmly. Although the Hon’ble mover described the statement made by the Government of Bombay as a ‘magnificent *non-possumus*’, I think that it very accurately describes that the real difficulties of the situation are. Even though Government is willing to help in every way these unfortunate people, yet it remains true that’ the position

of these castes and tribes in the future depends partly on their own selves, and partly those more favoured Indian Communities, which by extending the hand of human comradeship or hardening their hearts and averting their faces, have it in their power to elevate or to degrade them.'

"That Sir, I think, represents very truly and accurately the position of affairs as regards these Depressed Classes. * * *"

The same attitude was reiterated in 1928 when the resolution of Mr. Jayakar was discussed in the Central Legislative Assembly. Mr. Bajpai speaking on behalf of the Government said:—

"it is not by increasing the number of special schools or by providing special facilities that you are going to solve this problem (of the Untouchables) You will solve this problem only by a quickening and broadening the spirit of all sections of the community towards the so called depressed classes."

Leaving the problem to be solved by the quickening of me consciences of the Hindus, the British Government just neglected the Untouchables and believed that as a Government they were not called upon to do anything to help to improve the lot of the Untouchables. How did the British justify this neglect of so helpless and so downtrodden a class of their subjects as the Untouchables ? The answer is very clear. They did it by taking the view that the evil of Untouchability was not of their making. They argued that if they did not deal with the evil of untouchability, they are not to be blamed for it because the system did not originate with them. This was clearly enunciated by the Government of Bombay in 1856. In June 1856 a petition was submitted on behalf of a Mahar boy to the Government of Bombay complaining that though willing to pay the usual Schooling fee, he had been denied admission to the Dharwar Government School. In disposing of the application, the Government of Bombay thought the matter so important that it issued a Resolution dated 21st July 1856 of which the following is the full text:—

- "1. The question discussed in the correspondence is one of very great practical difficulty.
2. There can be no doubt that the Mahar petitioner has abstract justice on his side ; and Government trust that the prejudices which at present prevent him from availing himself of existing means of education in Dharwar may be ere long removed.

3. But Government are obliged to keep in mind that to interfere with the prejudices of ages in a summary manner, for the sake of one or few individuals, would probably do a great damage to the cause of education. *The disadvantage under which the petitioner is not one which has originated with the Government, and it is one which Government cannot summarily remove by interfering in his favour, as he begs them to do.*"

This is of course an easy view of the duties of a Government. It is not a responsible view. It is certainly not a view which a civilized Government would take. A Government which is afraid to govern is not a Government. It is only a corporation formed to collect taxes. The British Government undoubtedly meant to be more than a mere tax gathering machinery. It claimed to be a civilized Government. Then why did it not act to prevent wrong and injustice? Was it because it had no power or was it because it was afraid to use them or was it because it felt that there was nothing wrong in the social and religious system of India?

The answer is that it had the power, the amplest power. It did not use it because for a part of the period it did not think that there was anything wrong in the social system of the Hindus and during the period when it became convinced that things were wrong it was overpowered by sense of fear.

It is notorious that the beginning of its career the British had a dread and a horror of the consequences of permitting the diffusion of "Christian truth". But it is not quite as notorious that the British at the same time were showing a corresponding respect for native prejudices. Mr. Ward, a Missionary in Calcutta records in his journal for 1802 the following fact:—

"Last week a deputation from the Government went in procession to Kali Ghat, and made a thank offering to this Goddess of the Hindoos, in the name of the Company, for the success which the English have lately obtained in this country. Five thousand rupees were offered. Several thousand natives witnessed the English presenting their offerings to this idol. We have been much grieved at this act, in which the natives exult over us."¹

Another illustration of the same is furnished by Mr. Robert Lindsay who was a civilian in the employment of the East India

¹ Quoted in History of Serampore Mission Vol. I, p. 157.

Company in the time of Warren Hastings. Describing his initiation into his new office of Resident at Sylhet he says —

“I was now told that it was customary for the new Resident to pay his respects to the shrine of the tutelar saint, Shaw Jullol. Pilgrims of the Islam faith flock to this shrine from every part of India, and afterwards found that the fanatics attending the tomb were not a little dangerous. It was not my business to combat religious prejudices, and I therefore went in state, as others had done before me, left my shoes on the threshold, and deposited on the tomb five gold mohurs as an offering. Being thus purified I returned to my dwelling and received the homage of my subjects.”

How much the British Government had become associated with and interested in supporting native prejudices can be seen from the following memorial which was submitted to the Government of Madras by Bishop Corrie in 1833. The instances cited in the Memorial were these :—

“First, that it is now required of Christian servants of the Government, both civil and military, to attend to Heathen and Mahomedan religious festivals, with the view of showing them respect Second, that in some instances they are called upon to present offerings, and to do homage to idols. Third, that the impure and degrading services of the pagodas are now carried on under the supervision and control of the principal European, and therefore. Christian officers of the Government, and the management and regulation of the revenues and endowments, both of these pagodas and mosques, so vested in them, under the provision of regulation vii of 1817, that no important idolatrous ceremony can be performed, no attendant of the various idols, not even the prostitutes of the temple, be entertained or discharged, nor the least expense incurred. without the official concurrence and orders of the Christian functionary. Fourth, that British officers, with the troops of the Government, are also now employed in firing salutes and in otherwise rendering homage to Mahomedan and idolatrous ceremonies, even on the Sabbath day ; and Christians are thus not unfrequently compelled by the authority of Government to desecrate their own most sacred institutions and to take part in unholy and degrading superstitions.”

This is enough to show that the British Government in India “not content with their exertions to suppress the diffusion of the saving truths of the Gospel was openly and authoritatively aiding and abetting the worst forms of devil-worship; that they were taking all the hideous indecencies and revolting cruelties of Hindooism under their especial patronage; sending their own masters-of-the-ceremonies to preside over the hellish orgies ; and with paternal tenderness managing the property of the idol temples pampering the priests, cherishing the dancing girls, and doing

such honour to heathen is generally as was best calculated to maintain it in a high state or exultant obesity."

It was not till 1841 that Government dissociated itself from actual participation in the Hindu and Mahomedan religions ceremonies and that too after a great deal of agitation by the Missionaries.

"In a circular letter signed by the Military Secretary to the Government of Fort St. George, and addressed to the Commander-in-Chief, under date of July 6, 1841, it is intimated, "under instructions from the Court of Directors, conveyed through the Government of India", that "the attendance of troops or of military bands at native festivals or ceremonies, and the firing of salutes on occasions of that nature," were "in future to be discontinued, with the object of separating the Government and its officers, as far as possible, from all connexion with the ceremonies of the Hindoo and Mahomedan religions." The ordinary marks of respect paid to native princes on the occasions of their going forth or returning from such festivals or religious observances were, however, to be paid; and the change was to be effected "in a manner calculated not to alarm the minds of the natives or to offend their feelings. "These orders were circulated by the Commander in-Chief to the Generals commanding divisions, and by them to the regiments under their several commands."

What reform could be expected from a Government which had become so steeped in native prejudices and which wasted such official resources to tend them and keep them up ?

It was stricken and paralyzed by sympathy. When it ceased to sympathise with the prejudices it was overtaken by fear. This fear arose out of two considerations.

The first consideration related to the promises it had made to the people of India. On assuming the Government of any new territory, previously under native rule, it was the practice of the British Government to announce to the people that they would be protected in the free exercise of their religions and that neither their institutions nor their usages would be assailed. Thus in 1801 a solemn declaration was made, in the following terms to the people of the Carnatic :—

"Although the Right Honourable the Governor in Council trusts that the experience which the inhabitants of the Carnatic have already had, will have rendered it unnecessary for His Lordship to explain the general principles of moderation, justice, protection, and security, which form the characteristic features of the British Government, yet His Lordship in

accepting the sacred trust transferred to the Company by the present engagements, invites the people of the Carnatic to a ready and cheerful obedience to the authority of the Company, in a confident assurance of enjoying, under the protection of public and defined laws, every just and ascertained civil right, with a free exercise of the religious institutions and domestic usages of their ancestors”.

In may 1834 the following proclamation was issued to the people of Coorg when it was conquered :—

“Whereas it is the unanimous wish of the inhabitants of Coorg to be taken under the protection of the British Government, His Excellency the Right Honourable the Governor-General has been pleased to resolve that the territory heretofore governed by Veer Rajunder Woodyer shall be transferred to the Honourable Company. The inhabitants are hereby assured that they shall not again be subjected to native rule; that their civil rights and religious usages will be respected, and the greatest desire will invariably be shown by the British Government to augment their security, comfort, and happiness.”

In 1849, on the annexation of the Punjab, the following assurance was given to the people :—

“The British Government will leave to all the people whether Mussulman, Hindoo, or Sikh, the free exercise of their own religions; but it will not permit any man to interfere with the other in the observance of, such forms and customs as their respective religions may either enjoin or permit.”

Other similar proclamations may be cited. They were treated as pledges. Whether it was just and politic that such pledges should have been given, it was felt that it was unpolitic to ignore them once they were given. This was the general view. But there were always some who construed them literally and whose point of view was not to draw any distinction and make any reservations and who wished to interpret the pledges as amounting to saying to the Indians, “You have enjoyed it undisturbedly under the new” and who argued that “any departure from this would be a breach of faith.” Fear of breach of faith was one consideration. Fear of open rebellion was another. Fear of rebellion so far as the British Government in India was concerned was not a fear of the unknown. It was a fact of experience, There was one rebellion in 1801 which was known as the Vellore Mutiny. There was another rebellion in 1857. It was known as

the Sepoy Mutiny. The Vellore Mutiny was a small flame. But the Sepoy Mutiny was a conflagration. In both cases the cause alleged was an interference with the religious practices of the Hindus. Two rebellions are enough to teach a lesson and the lesson of these two rebellions was not lost upon the British Government. The Vellore Mutiny of 1801 had made the British Government cautious in the matter of social innovations. The Sepoy Mutiny of 1857 made hostile to any kind of social reform. The British did not want to take any risk and from their point of view the risk was very great. The Mutiny made them so panicky that they felt that loss of India was the surest consequence of social reform and as they were anxious to keep India they refused to look at any project of Social Reform.

This attitude of the British Government to Social reform is quite understandable. However sovereign a Government may be its authority as pointed out by Prof. Dicey¹ is circumscribed by two limitations :—

“There is first of all the internal limitation which arises from the character, motives and interests of those who are in power. If the Sultan does not abolish Mahomedanism, Pope ban Catholicism, the Brahmin condemn caste, or the British Parliament declare the preservation of blue-eyed babies illegal, it is not because they “cannot” do things, but it is because they “will” not do those things. In the same way if the Executive in India did not do certain things most conducive to progress, it was because by reason of its being imperial and also by reason of its character, motives and interests, it could not sympathize with the living forces operating in the Indian Society, was not charged with its wants, its pains, its cravings and its desires, was inimical to its aspirations, did not advance Education, disfavoured Swadeshi or snapped at anything that smacked of nationalism it was because all these things went against its grain. But an irresponsible government is powerless to do even such things as it may like to do. For its authority is limited by the possibility of external resistance. There are things which it would do but dare not do for the fear of provoking thereby resistance to its authority. Caesar dare not subvert the worship of the Roman people, a modern parliament dare not tax the Colonies, however much they would. For the same reason the Government of India dared not abolish the caste system, prescribe monogamy, alter the laws of succession, legalize intermarriage or venture to tax the tea planters. Progress involves interference with the existing code of social life and interference is likely to cause resistance. None the less a

¹ Law of the Constitution 1915 pp. 74—82.

Government which is of the people and is not detached from them can venture on the path of progress, because it is in a position to know where the obedience will end and resistance will begin. But the Indian Executive, not being of the people, could not feel the pulse of the people. The gist of the matter is that the irresponsible Executive which had been in power in India was paralysed between these two limitations on its authority and much of what to make life good was held up. Part of the programme it would not undertake and the other part it could not undertake. That there was some advancement in material progress is not to be denied But no people in the world can long remain contented with the benefits of peace and order, for they are not dumb brutes. It is foolish to suppose that a people will indefinitely favour a bureaucracy because it has improved their roads, constructed canals on more scientific principles, effected their transportation by rail, carried their letters by penny post, flashed their messages by lightening, improved their currency, regulated their weights and measures, corrected their notion of geography, astronomy and medicine and stopped their internal quarrels Any people, however patient, will sooner or later demand a Government that will be more than a mere engine of efficiency."

People wanted freedom political, economic and social. This the British Government declined to create :—

"As a result of this, so far as the moral and social life of the people was concerned, the change of Government by the Moghuls to a Government by the British was only a change of rulers rather than a change of system. Owing to the adoption of the principle of non-interference partly by preference and partly by necessity by the British 'the natives of India found themselves under a Government distinguished in no vital respect from those under which they had toiled and worshipped, lived and died through all their weary and forgotten history. From a political standpoint, the change was but the replacement of one despotism by another. It accepted the arrangements as it found them¹ and preserved them faithfully in the manner of the Chinese tailor who, when given an old coat as a pattern, produced with pride an exact replica, rents, patches and all.'

This policy of non intervention though understandable, was so far as the Untouchables were concerned, mistaken in its conception and disastrous in its consequences. It may be granted that Untouchables can only be lifted up by the Hindus recognizing his human rights and him as a human being as correct. But that

¹ The poll tax has been continued in Burma simply because it was found to exist there on the day of conquest.

2. Bernard Houghton, *Bureaucratic Government*.

does not dispose of the matter. Question remains how is this recognition of his rights as a human being to be secured. There are only two ways of helping to realize this object One way is to make him worthy of respect and the other is to punish those who disrespect him and to deny him his rights. The first way involves the duty to educate him and to place him in positions of authority. The other way involves social reform by making recognition of Untouchability a penal offence. Neither of this the British Government was prepared to do. It would not give the Untouchables any preferential treatment in public service. It would not undertake to reform Hindu Society. The result was that Untouchable has remained what he was before the British, namely an Untouchable. He was a citizen but he was not given the rights of a citizen. He paid taxes out of which schools were maintained but his children could not be admitted in to those schools. He paid taxes out of which wells were built but he had no right to take water from them. He paid taxes out of which roads were built. But he has no right to use them. He paid taxes for the upkeep of the state. But he himself was not entitled to hold offices in the state. He was a subject but not a citizen. The Untouchable stood most in need of education and supply of water. He stood mostly in need of office to protect himself. Owing to his poverty he should have been exempted from all taxes. All this was reversed. The Untouchable was taxed to pay for the education of the touchable. The Untouchable was taxed to pay for the water supply of the touchable. The Untouchable was taxed to pay for the salary of the touchables in office.

What good has British conquest done to the Untouchables ? In education, nothing ; in service, nothing; in service, nothing. There is one thing in which they have gained and that is equality in the eye of the law. There is of course nothing special in it because equality before law is common to all. There is of course nothing tangible in it because those who hold office often prostitute their position and deny to the Untouchables the benefit of this rule. With all this, the principle of equality before law has been of special benefit to the Untouchables for the simple reason that they never had it before the days of the British. The Law of Manu did not recognize the principle of equality. Inequality was the soul of the

Law of Manu. It pervaded all walks of life, all social relationships and all departments of state. It had fouled the air and the Untouchables were simply smothered. The principle of equality before law has served as a great disinfectant. It has cleansed the air and the Untouchable is permitted to breathe the air of freedom. This is a real gain to the Untouchables and having regard to the ancient past it is no small gain.

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PART III

I. *Lectures on the English Constitution.*

II. *Paramountcy and the claim of the Indian States to be Independent.*

In the Government Law College Magazine, following observations are made in the 'College Notes, 8th January 1936 issue:—

“We however note with satisfaction that Mr. Fyzee has handed over charge to no less a person than Dr. Ambedkar. A lawyer of repute, he is a close student of Economics, an authority on Constitutional Law and a personality known throughout India and elsewhere. To write more about him would be otiose. Expecting much from our Principal we shall not embarrass him now. We prefer to wait and see.”

I

**LECTURES ON THE ENGLISH
CONSTITUTION**

Contents

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- II. What is Parliament ?
- III. The Crown.
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PREFACE

These are lectures on the English Constitution which I delivered to the students of the Government Law College, Bombay, in 1934-35. In publishing these lectures I have not forgotten how presumptuous it may be deemed for an Indian to attempt to expound the principles of the English Constitution. Sir Austen Chamberlain in the course of his cross-examination of a certain Indian witness who appeared before the Joint Committee on Indian Constitutional Reform observed: I listen to the witness with great respect when he talks of Indian conditions, but when he expounds the British Constitution he must permit me to remain of my own opinion (Minutes of Evidence, Vol. 11c, Q. 9812). There is undoubtedly a great deal of truth in this remark and it should make every Indian who wishes to write on the English Constitution pause. An Indian, however, who wishes to enter into the field may well take courage from the fact that much of the English Constitution have been expounded by foreigners who have not only been heard with respect by Englishmen but whose writings have compelled a change of opinion. Be that as it may the remark made by Sir Austen Chamberlain need not come in my way. I am not expounding anything of my own. I am not expounding it to Englishmen. I am merely trying to make Dicey's English Constitution easier for Indian students to follow and to understand. From the stand-point of Indian students Dicey's treatise suffers from two defects. It presupposes a knowledge of certain parts of the English Constitution. For instance it presupposes a knowledge of what is Parliament, how it is constituted and how it functions. This presupposition, howsoever justifiable it may be in the case of English students, would be without warrant in the case of Indian students who are called upon to take up the study of Dicey for the first time. Without a complete knowledge of this part of the English Constitution Indian student feels completely bewildered and fails to grasp the full import of such fundamental principles as supremacy of the rule of law or the role of conventions in the working of the Constitution. In order that the Indian student may follow in an

intelligent way the exposition of Dicey regarding the operation of these principles the teacher is forced at every turn to present to the student the framework of the English Constitution which finds no place in Dicey's treatise. Secondly, the English Constitution has grown enormously both as regards rules of law and also as regards conventions since the last edition of Dicey's English Constitution was published. The result of this growth has been felt in two different ways. It has rendered some of the illustrations given by Dicey quite inappropriate. Secondly, it has altered the character of the English Constitution especially the relations of the Crown and the British Parliament to the Dominions to such an extent that an Indian student who depends upon Dicey alone will not be up-to-date but will be missing a great deal that is vital in it. Except for additions of matter and changes of form there is nothing new in these lectures. They constitute a revision of Dicey's treatise on the English Constitution with a view to remove its defects and to adapt it to the needs of Indian students.

