

THE
COLLECTED
WORKS
OF
MAHATMA
GANDHI

VOLUME TWELVE



THE PUBLICATIONS DIVISION

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GANDHI

XII

(1913-1914)



Passive Resistance, as a lawful weapon, has thus once more been vindicated. The lengthy reference made by Lord Gladstone to the settlement shows its importance. We are grateful to His Excellency for clearly placing before the people of South Africa the Imperial aspect.

It now remains for the Union Government to follow up this happy solution of a difficult problem by a sympathetic and just administration of the laws that affect the Indian community and for the latter to show by its action that it is ever worthy of just treatment. If the community is permitted to enjoy rest, it will be possible to find an easy method of dealing with the matters dealt with in Mr. Gandhi's letter and which some day or other will demand attention in order that the resident population may be restored to the ordinary rights of citizenship. For it must not be forgotten that, though there is cause for thankfulness in that the most pressing grievances have been removed, we shall still labour under legal disabilities which intense colour prejudice has brought into being. Administration of trade licence laws, largely on racial lines, the deprivation of the right to own land in the Transvaal, the precarious position under the Transvaal Gold Law, inter-provincial restrictions—these and many other such limitations of our liberty show how true were Lord Gladstone's words when he said that the Indians' Relief Bill did but the barest justice. Indeed, it can only be taken as an instalment and as an earnest of the future. The struggle will, therefore, have done much more than give us the Bill and the administrative measures, if it has also altered the repressive policy of the Government to a progressive one, such that we may look forward to a steady improvement in the future.

Indian Opinion, 8-7-1914

352. THE END OF THE STRUGGLE

The struggle that went on for eight years has come to an end, and such an end as, we believe, hardly any other movement in modern times has been crowned with. The foundation of the struggle was laid in Johannesburg in September, 1906. The issue then concerned only the Registration Act. The Government refused to listen to us. Gaol-going was resorted to. While the struggle had not yet ended, the Immigration Act was passed. A conditional settlement followed. The Government failed to honour its commitment. The movement was revived and had to be

extended to cover the effect of the Immigration Act on the Registration Act. A new issue was thus added, that there should be no racial discrimination in the Immigration Act. Naturally, our feelings were aroused still further in consequence. The struggle was prolonged and a second deputation went to England.¹ The Union Government, however, refused in so many words to remove the racial discrimination. While the struggle was thus being prolonged, in 1911 again a provisional settlement came about. This covered a third issue. Since a problem created by a law of the Transvaal had to be solved by the Union Parliament, the satyagrahis took the stand that they could not accept legislation which, though it might meet their requirement, would endanger the rights of others. Accordingly, a condition was included in the provisional settlement of 1911 to the effect that the existing rights of Indians in all the parts of the Union should be left untouched. There was no decision, however, until 1913. In the meantime, there was the visit of Mr. Gokhale. The Government gave him a promise that the £3 tax would be removed. Even so, had the Government granted the satyagrahis' demands in full during the settlement in 1913, the movement would not have been revived and the £3 tax would have had to be taken up as a separate issue.

Meanwhile, the Scarle judgment raised the marriage question. This also entailed the loss of existing rights. In 1913, the late Mr. Fischer carried through the Immigration Act in the face of our protests. It conceded much, but also denied a few things. The marriage question was left unsolved and in other ways, too, existing rights were endangered. This led to the resumption of satyagraha a fourth time and our demands naturally increased. Now that the Government has had to concede all the demands, the struggle has ended.

We can see from this, if we will, that every time the Government went back on its word, it was obliged to yield more to us. This it is which makes one say that chicanery never pays. Double-dealing may remain unexposed only where both sides play more or less the same [dirty] game. In satyagraha, one side alone plays this game. The satyagrahi himself cannot conceivably do so.

We can also see that the more the struggle was prolonged the greater became the strength of the people and their capacity to suffer, so that the suffering that the masses endured towards the end of the last year was unparalleled in modern history. And, if the suffering has been great, the relief obtained has also been

¹ This was in 1909; *vide* Vol. IX.

proportionately great. This correlation goes to prove another eternal law of Nature. Man can be happy only in the measure that he suffers. He who merely scrapes the soil on the surface can harvest nothing but grass. He alone can harvest grain who ploughs deeper. In other words, it is vain to hope for happiness without undergoing suffering. Thus it is that the life of austerity, the fakir's self-denial and other such practices have everywhere been held in high esteem and their praises sung.

What the community has bought at the cost of so much suffering it will be able to keep and add to, only so long as it retains the same capacity for suffering. If it loses that capacity, it will lose all it has gained, and more. All this is plain enough, but we often lose sight of it.

NEW ACT

Let us now have a look at our gains. The new Act covers two things. In the first place, the £3 tax has been abolished. Arrears have also been remitted. In this connection, it has been suggested by *The [Natal] Mercury* and other papers that in gaining one thing we have lost something else; for, though the Government has repealed the tax, the consequence will be that the indentured labourers, poor creatures, will be obliged to leave this country or continue for ever under indenture. This suggestion is entirely unfounded, as is clear from General Smuts' own letter. The other point is about the marriage question. The manner in which it has been solved gives us more, not less, than what we had been demanding. This Act confirms the position that was believed to obtain before the Searle judgment. Prior to that judgment, we had assumed that the local law recognized monogamous marriages celebrated under any faith, including marriages solemnized under our rites. Mr. Justice Searle, however, ruled otherwise and held that Christian marriages could be recognized but not Hindu and Muslim marriages, even if such marriages were in fact monogamous. This was obviously an affront to the two religions. Mr. Cachalia therefore desired amendment of the law. The demand has now been met. The Act does not involve any other change. The position with regard to divorce, inheritance and polygamy remains what it was. The Act safeguards the interests of children by a deceased wife. Its provisions are permissive. No one is obliged to have his or her marriage registered. As for those coming from India, the question just does not arise. The main object of getting a marriage registered is to ensure that children's interests do not suffer. Now that the danger has been removed, it is not

necessary for any Indian to have his or her marriage registered. We would rather advise them not to do so. The situation required a [new] law. It was necessary to undo the affront to [our] religions. It should be sufficient that we have succeeded in this. The Act has been so drafted as to secure children's interests without requiring registration of the marriages. In view of this, the question whether a marriage is monogamous or polygamous will not arise at all. In any case, one who intends to marry more than one woman, would do well not to have his marriage with any of them registered. It was necessary to have provision made for appointment of our priests as marriage officers. But we would not advise that this right be availed of. We are of the view that such appointments will lead to dishonesty in the community and expose the priests to temptations. As for marriages already solemnized, there is no need for such appointments since these marriages can be registered before any magistrate. It is the same with regard to marriages that may be celebrated in future. In other words, we can have a marriage solemnized by any *Moulvi*¹ or *Gor*² and get it registered subsequently before a magistrate whenever we choose. We would, therefore, particularly advise the community, not to take the trouble of getting marriage officers appointed. Before we leave this point, it has to be said that in no other Colony does a [marriage] law go as far as the one passed here does. It has been said that in Mauritius [Indian] marriages are recognized whether polygamous or not, but this is not true and the law there is not as good as the one here, as we show elsewhere in this very issue.

A third point that has been satisfactorily settled in this Act is that, in case of any doubt regarding the domicile certificate of a resident of Natal, the certificate must be accepted as genuine if the thumb-impression on it is identical with the one on the copy in possession of the Immigration Officer. The result will be that people will not be unnecessarily harassed, as at present, with inquiries and sent away for making false claims in spite of the genuineness of the thumb-impression having been established. Those who can prove the thumb-impression to be genuine have their right secured now. This section does not however mean that one who has been away from Natal for a number of years will, just because he has the [domicile] certificate, be safe. Everyone, of course, will have to prove that he had not left Natal for good.

¹ Muslim priest

² Hindu priest

ADMINISTRATIVE RELIEF

The kind of ameliorative measures needed outside the law can be judged from the correspondence between the Government and Mr. Gandhi. These concern issues such as South African Indians, the Free State and the administration of existing laws. Only one of these points calls for comment here. In view of the promise of reasonable administration of the laws in force, with due regard to existing rights, it will be possible for the community to obtain redress in every case of injustice. This clause, we believe, should prove very useful in future. But its usefulness will depend on how the community's leaders exert themselves. If they sleep on, the clause will have been passed in vain. The laws which will most need to be watched are two: the licensing law in each Province and the Gold Law of the Transvaal. Mr. Gandhi has pointed out in his letter that we shall have to agitate in future to secure amendment of these laws. In starting any such agitation, the community will have to be particularly careful in obeying the laws in question; if it does so, it will, for the present at any rate, enjoy peace.

We must admit that on this occasion the Government have displayed a desire for justice and that the leading members of Parliament have also been actuated by the same desire in their speeches. It would also appear from the speeches of the ministers, and especially from that of General Smuts, that he is inclined to deal justly in future. We advise the community to profit by this desire, and this it will be able to do only if it has unity, manly spirit and regard for truth.

[From Gujarati]

Indian Opinion, 8-7-1914