

Morals By Legislation?

by M. R. MASANI

'Councillor Busy and Mr. Nose, the Member for Misery Wood.

And the Secretaree for the Societee for Making the Public Good,

Were walking up and down the town with a frown, for everywhere they saw

The bold, bad Britisher doing things which weren't against the law;

And "This won't do!" said Councillor Busy:

"It certainly won't!" said the Secretaree of the S.M.B.P.G.

"Let's stop somebody from doing something!"

Everybody does too much.

People seem to think they've a right to eat and drink,

Talk and walk and respirate and rink,

Bicycle and bathe and such.

So let's have lots of little regulations,

Let's make laws and jobs for our relations,

There's too much kissing at the Railway stations—

Let's find out what everyone is doing,

And then stop everyone from doing it."

THESE lines from a jingle by A. P. Herbert, while brought to mind by many things that happen in India today, also serve to stress the universality of the problem as to whether people can be made moral by legislation.

In Britain, if we are to believe Honor Croome writing in *Lloyd's Bank Review* of July 1949, "a man may not build himself a house, nor change his occupation, nor open, equip and operate a business, nor, if a farmer, rotate his crops and feed his stocks, nor, if a shopkeeper, supply what his customers want, nor, if a professional man, import books essential to his work, nor travel abroad, without more or less detailed official sanction; he cannot correspond with friends overseas without the risk of having his letters tampered with; he cannot regulate the laying out of his own income, since that is either directly determined by rationing and the provision through taxes on that income, of communal services, or more subtly directed by the apparatus of special tax and subsidy. . . . Even Tudor officialdom is not recorded to have ordered the ploughing-in of a crop ready for harvest, because its sowing had not been sanctioned, nor made it an offence for a man to give a neighbour a pitcher of milk, nor forbidden him to repair his own house with his own hands. No guild tyranny was tighter than that of the officially encouraged closed shop, no sumptuary law more explicit than many prohibitions of the non-utility and no official debasement of coinage more effective, as barrier against the winning of independence through personal savings, than the fiscal policies of today."

In our own country, the prohibition of drinking, the laws against gambling, the regulations providing for the early closing of shops and restaurants, the censorship of films and plays, the Sarda Act against child marriage are only a few of the many legislative fruits of a state of mind which believes that desirable social ends can be furthered by the enactment of laws which "stop somebody from doing something".

While the limited utility—some would

call it futility—of such efforts is well understood by large sections of the Indian intelligentsia, the expression of such dissatisfaction is apt to take too restricted and superficial a form

Morals and morality are very wide concepts, and their most important aspects are not necessarily confined to personal behaviour relating to sex or drink. The dictionary defines morality as "ethics" or "good conduct", while a moral person is defined as one who is "concerned with right and wrong conduct or duty towards one's neighbour." Properly understood, then, morals embrace all the activities of a man or citizen which impinge on his neighbours or fellow-citizens. Behaviour that is anti-social is immoral, while social and economic injustice or the exploitation of man by man cannot but be held to be contrary to morality. Fair dealing by citizens, the integrity of State officials, honesty in profession and business, and indeed the achievement of social justice therefore fall within the scope of our problem.

Can individual goodness and social justice be achieved by law? Is the building up of the "free and equal society", of which Lenin used to talk, to be envisaged as a path on which milestones are provided by successive Acts of Parliament?

POLITICAL THOUGHT

There are broadly two schools of thought on the issue at hand. The first is what might be called the *etatist* school of thought which thinks in terms of political, social and economic advance being achieved by successive acts of legislation and State administration. There is little need to elaborate on this thesis since it is to be found explicitly or implicitly stated in the larger part of what is somewhat ironically called the "capitalist" press of India. It is curious that with all their furious differences, the Fascist, the Communist, the Marxist, the New Dealer and the "New Delhi-ite" are all agreed that the State is the instrument and agent for the attainment of socially desirable objectives. James Burnham made a brilliant analysis of the common thread that runs through the thinking of these various schools of thought in his book *The Managerial Revolution* published a decade back.

The most recent manifestation of this way of thinking is to be found in the proposals adumbrated by a sub-committee of the Congress Working Committee for amending—the second time within five years—the Constitution of the Indian Union. It has been proposed that the right of the Supreme Court and the High Courts to pronounce on the validity of laws in the light of the Fundamental Rights guaranteed by the Constitution should be truncated in certain important fields, such as the right to compensation for compulsory acquisition of property and the right of public servants to security of tenure. Encroachments on the right of the superior

Courts to issue writs and to superintend the work of other tribunals have also been proposed.

The plea advanced to justify this attempt to give Parliament the sovereign which was, after the fullest consideration in the Constituent Assembly, denied to it is that such constitutional safeguards come in the way of rapid social advance. The fact that these proposals would, if adopted, strike a blow at the independence of the Judiciary, endanger the rights of the citizen and undermine the existence of the Rule of Law is lightly brushed aside. This shows the extremes to which well intentioned persons can be driven by a misguided passion for bringing about social change through the enactment of laws.

One of the earliest expressions of the other point of view is to be found in the Biblical precept: "Render therefore unto Caesar the things which are Caesar's, and unto God the things that are God's."

INDIVIDUALIST PHILOSOPHY

The basic thesis of what may be called the individualist or libertarian philosophy is that the modern State is at once an all-powerful Leviathan and a devouring Moloch; that its organised coercion is inherently bound to carry within it the seeds of corruption and despotism; and that all genuine progress made by man through history has been that which has come freely and voluntarily from within.

In our own time, Mahatma Gandhi has been the foremost exponent of the thesis: "that Government is best which governs least." Pyarelal reports in the *Harijan* of October 25, 1952, a discussion on these matters that took place between Gandhiji and some of his colleagues in the Aga Khan Palace Detention Camp on 13th December, 1942, during 'Quit India' days. Talking of "the owning class and the distribution of its assets among the people", Gandhiji said: "So long as we have not got power, conversion is our weapon by necessity. But after we get power I maintain that conversion would have to be our weapon of choice. Conversion must precede legislation. Legislation without conversion remains a dead letter. As an illustration, we have today the power to enforce rules of sanitation but we can do nothing with it because the public is not ready."

Picking up the thread where it had dropped from Gandhiji's hands, Acharya Vinoba Bhave has now come forward with the slogan that instead of *Rajniti* (politics or statecraft), he would like to have *Lokniti* (people's policy). Deprecating dependence on the State, political parties and elections resulting in majority rule, Vinobaji points out that inspiration for the concept advanced by him is provided by ancient Indian tradition. In the old days, religious issues, which then aroused as much excitement as do ideological issues today, were not settled by majority rule. People voluntarily worked together to the extent that they agreed and settled their differences by discussion and debate

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Varying the metaphor, Vinobaji has used the conflict by distinguishing between *Himsashakti*, the power of violence; *Adashakti*, the power of legislation and State; and *Janashakti*, the power of the people. Eschewing the first two, he for one would rely on *Janashakti* to bring about real changes through the voluntary action of the people. While others talk of centralisation of industries and economic power, Vinobaji understands that this in fact mean the decentralisation of the State. Bhoodan Yagna is thus a concrete embodiment in action of the idea of centralisation.

"So long as the people believe that the State alone can guarantee the progress of society, the leadership of the world will remain in the hands of those who wield power," observes Vinobaji.

"The law like rain," Vinobaji goes on to say, "does not spread equally over the fields. But in Bhoodan every individual will get justice."

"My duty is clear," he asserts, "I demand that without taking recourse to legislation we should be able to bring about a change of heart among the people so that they may voluntarily distribute wealth without waiting for any to die, a revolution. Is it because of legislative mothers suckle their children?" At Monghyr, on October 21, 1953, Vinobaji went further and exhorted the people "not to give up under the threat of force or law."

The second most important feature in the Bhoodan movement, though he is a socialist, has now come out equally clearly against the path of redemption through law-making. Addressing the session of the All-India Sarvodaya Sammelan on April 19, 1954, Jayaprakash Narayan expressed the view that the land problem could not be solved by legislation. It was the course of his historic announcement of *Jeevandan* that he said: "Laws are enacted but it is to be seen how far they are used."

Early marriage and untouchability are prohibited by law; we find them still going on."

In a speech at Poona in June, 1954, Jayaprakash expressed the view that even the socialist way of social change through legislation implies violence because legislation means coercion."

"No heart or mind has been changed by law; no individual made virtuous by coercion," says Jayaprakash, and proceeds to give an insight into the political theory of the Bhoodan movement. "It does not," he writes, "at capturing the State in order to use it for its ends. As a corollary, it does not wish to create or become a political party in order to capture the State. It aims rather at persuading the people, independently of what the State may or may not want, to carry out a revolution in their lives, and through that a revolution in society. It aims further at creating those conditions in which the people may man-

age their affairs directly, without the intermediation of parties and parliaments. Gandhism, like anarchism or communism, visualizes ultimately a stateless society. In the present world the State not only in its totalitarian form but also in its welfare variety is assuming larger and larger powers and responsibilities. The welfare state, in the name of welfare, threatens as much to enslave man to the State as the totalitarian. The people must cry halt to this creeping paralysis. The fact that the welfare state is a creature of the people, in the sense that it is set up by them, does not affect the matter. The device of democratic elections cannot equate five hundred representatives with eighteen crores (counting only the adults) of the people. To the extent the eighteen crores look after their affairs directly, to that extent the powers and functions of the State are restricted and real democracy is practised.

THE PETAL-DAZED VALLEY

Wind and weather in the petal-dazed valley
Play at the rain god's feet.
And the sperm in time turns once and breaks
Where the ray and the earth meet.
The wail in the disc of the yellow storm,
The sunflower's murmured death,
Swells on the mast of a parting song
In a last subtle breath.
The nightmare's measured by the reel,
The minute keeps step with the hour,
From the edge of speech the grey deep valley
Spreads petal-dazed and far.

RAKSHAT PURI

"The experience of communist countries shows that if the immediate steps that are taken are not consistent with the ultimate goal, we may arrive at places that are vastly different from the destination. Placing before them the great ideal of a stateless society, the communists set out to do everything through the power of the State. The result was that the State went on acquiring greater and greater powers and, in place of the State withering away, there emerged the total State."

It may be easy to discount the point of view urged by Acharya Vinoba Bhave and Jayaprakash Narayan by describing them as people who can afford to take this line in the absence of an opportunity of exercising State power and authority. This is hardly possible, however, in regard to the opinions expressed at the recent Conference of the All-India Sarvodaya Sammelan by none other than Dr. Rajendra Prasad, the President of the Republic. The best form of democracy, according to him, is possible when the individual is properly disciplined and there is no necessity for the administration to exist.

"Totalitarian nations exercise control over human life at every step," said Dr. Rajendra

Prasad. "Nations which do not accept totalitarianism are also tending to move in the direction of expanding controls. We are seeing in this country that the control of the administration over the individual is growing. A proof of this is in the piling of laws passed by the legislatures and Parliament day by day. There seems to be no end to it. The administration and some people believe that laws can solve all problems. We want laws to end the dowry system, to abolish the zamindaries and to enable the Harijans to enter the temples. We also want laws to safeguard the property attached to temples and to improve the relationship between the workers and the employers. We enact legislation to save ourselves from epidemics and disease. No one knows how much more legislation we want."

This great debate as to the role of legislation will undoubtedly proceed for many decades and generations to come. Perhaps all one may at this stage say is that a single-track approach on this issue needs to be avoided. Human progress is many sided and democracy has many facets. Parliamentary government based on the party system is one facet of the free way of life. There is another side to democracy which consists in the initiative and activity of the individual and the group coming forward voluntarily in furtherance of some purpose which is considered to be of value. This is the "grass roots" aspect of democracy and is well understood in the Anglo-Saxon countries as well as those of Scandinavia. The popular film *Mr. Smith Goes to Washington* is illustrative of the very important part played in American democracy by the initiative of the aroused citizen who gets together with his fellows at the parish pump level to combat corruption or to undo an injustice.

It is significant that such an advocate of the Welfare State as Professor William A. Robson should, in an article in *The Political Quarterly* of April-June, 1954, contributed on return from a protracted visit to India, write: "The problem of dealing with poverty in some of its aspects—or at least of making a start—is not only one of lack of resources. It is also a problem of awakening the social conscience and of developing a sense of compassion."

While there are undoubtedly dangers arising from the absence in recent centuries in India of that tradition of sturdy individualism on which democracy is reared in the most advanced countries of the world, India possesses on the other hand an age-old tradition of arriving at the real answer to the choice between anarchy on one side and regimentation on the other. In his Inaugural Address at the Annual Conference of the Indian Committee for Cultural Freedom in 1953, Mr. C. Rajagopalachari, then Chief Minister of Madras, recalled attention to this national asset.

"State regulation," observed Rajaji, "began as a protest against the anarchy created by indiscriminate individual freedom and the greed and competition that resulted from it. The practice of State regulation has resulted in the discovery of several evils in the remedy worse than the disease. In the cycle of human progress the slogan of 'freedom' has therefore been raised as a counter to excessive State-regulation." According to Rajaji, "The culture of people is essentially the prevailing pattern of joyous restraint accepted by the people.... Not freedom which may deteriorate into licence and anarchy, not State-regulation which may deteriorate into tyranny, but 'self-control' is the right slogan. As against the culture of unrestrained liberty which is the slogan on one side and the culture of all-round State regulation which is the slogan on the other side, India stands for self-control, which is neither freedom nor regulation from outside. This is what Gandhi stood for, what the Bhagavad Gita preached and what was solemnly voiced forth in the ancient Upanishads." Rajaji's conclusion therefore is that "it is self-restraint, control from within, that makes art artistic, beauty beautiful, and order orderly and enjoyable."

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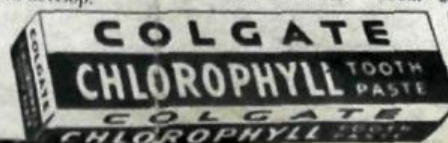
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Hinduism is the only thing in this country from which Communism has anything to fear, and the chances are that Communism will be beaten by Hinduism.

The point I have been trying to make so far is that the popularity of the cinema, the growing influence of Communism, and the hold of traditional Hinduism are all, in their different ways, indications of an ever-increasing exiguity in our cultural life. The pattern of culture which was established in India by the end of the last century and had remained more or less stable till the twenties of this century, has not only been disturbed, it has been almost pulverized. This is confirmed by an examination of contemporary cultural activities. Nearly all of them are anaemic. Now, I do not intend to say that literature, painting, sculpture, and music, to consider only the more tangible expressions of culture, are dead. To say so would be an obvious absurdity. But the really crucial question to ask when appraising the living quality and power of a culture is whether it is diffused among the people and is a force among them, or whether it is confined to esoteric circles. It has always been seen that when any cultural activity ceases to interest and grip the community as a whole it does not take long to die, although it may be preserved for better times and other peoples by cliques and commentators. Generally speaking, very highbrow or fine-spun glosses are a sign of the moribund state of a culture. There is in India today a clearly perceptible esotericism in regard to culture, just as there is also as its counterweight an immense volume of indifference.

THEN AND NOW

This was certainly not the case when I was young. To take only one cultural activity, literature had a prestige and influence among the intelligentsia which is hard to conceive now. I was born and brought up till the age of twelve in a small town of East Bengal, sixteen miles from the nearest railway station. The community, too, was not highly educated. Nonetheless, even in that backwater I began to recite the Bengali epics, both ancient and modern, from the age of six, and Shakespeare in the original when I was ten. In all this I was in no wise exceptional. Other boys were also doing this, and we were all conforming to the norm of the times. I do not think in similar surroundings now an Indian boy would do these things, though he would be well-posted in regard to cinema stars, comedians, dancers, and champions in the various forms of sport.

Now I have to face the most pertinent issue raised by this discussion. Nothing that I have said so far really proves that there is a cultural vacuum in India, all that it establishes is that we are passing from one kind of culture to another. So our present cultural condition should be described as a phase of transition and not as one of decay. This position is unchallengeable from the standpoint of the anthropologist. For to him every human activity is a cultural activity, and all human communities possessing characteristic ways of life and material goods, and exhibiting individual

patterns of behaviour, are possessors and creators of culture. As an American anthropologist writes: "Culture is regularities of behaviour in the members of a particular society." We are certainly showing these regularities as patently today as we did fifty years ago. If we were to abandon literature and art altogether, and revert to making pots or even flint tools, we would still be cultured in the anthropologist's sense of the term.

But to affect such catholicity would be to reduce this discussion to pointlessness. If it is to be conducted from the point of view of the civilized man with a sense of values, the question of quality in culture, however subjective and elusive, cannot be shirked. So we are driven to ask whether our cultural activities at the turn of the century and the new manifestations I have mentioned are comparable or not.

MISSED OPPORTUNITIES

In the case of the most popular manifestation the answer is easy to give. The Indian film is not an expression of culture of any kind, though it might well have been. The missed opportunities of the Indian cinema industry are really tedious, perhaps useless as well, to list, and I shall single out only one. It should surely have occurred to the Indian producers that the best medium for rendering religious and mythological subjects, for which there seems to be a popular demand, is the cartoon. The filming of the Krishna cycle with motifs taken from the paintings of the Pahari schools and of epic themes with those from Indian sculpture would have assured to these products not only aesthetic adequacy but also a spiritual quality unattainable through any other means. This would have saved these films from the forbidding crudity they have on account of their attempts to produce the gods out of the machine in a literal sense.

The Indian cinema is still held in its foreign leading-strings, and is totally unrelated to any tradition of Indian culture, old or new. In actual fact, what the Indian cinema is doing is to force Indian sensibilities into alien moulds. Its disruptive effect is going to be, and already is, far-reaching among the common people. It is rapidly destroying their folk culture and converting them mentally into a typical town rabble, a disgusting *plebs urbana*, always crying for the circus.

I do not personally believe in the cultural possibilities of Communism either. It is intrinsically a dogma, with materialistic tendencies, and so far as it fosters imagination and emotion it hardly generates anything besides self-pity and hatred, out of which no culture can ever emerge. It is difficult to accept contemporary Russian culture as a proof of the cultural power of Communism. For there is no means of ascertaining as yet whether this culture is organically related to Communism or whether it is only the culture of the Russian Slavs under the control or bondage of Communism. In India at all events the infiltration of Communism into literature, art, or scholarship has only resulted in a barren and strident querulousness, and not in any creative effort. What we find is only an indoctrination in the Communist sense

of the already exhausted cultural activities.

Coming now to the Hindu revival, it seems hardly necessary to discuss its cultural consequences. It can only take us back to the grooves of thinking, feeling, and acting, which at one time did canalize a living civilization, but had become dead matrices even before the Muslim conquest. By that time the Hindu's adherence to the outward forms of his culture had become a matter of habit, and foreign conquest made this habit an expression of patriotism. To most Hindus this habit is still a point of honour, and the unreasoning loyalty to the Hindu equivalent of what the Romans called *mos majorum* is reinforced by the Hindu tendency to exaggerate the importance of external forms. Even Swami Vivekananda, who gave a new significance to Hinduism in recent times, shared this respect for forms and declared in a speech delivered at Los Angeles that "once the ideal is chosen and the means determined, we may almost let go the ideal, because we are sure it will be there, when the means are perfected." This fallacy has led the Hindus again and again into mistakes, the survival of the outward forms of a civilization for a genuine survival. The Hindu resurgence of today is also giving the impression of being a reassertion of the loyalty to external forms in every case. It is as if levers pulled by immensely strong springs are slipping from the exhausted hands that had held them back so long and are falling into their ancient bearings. This is not a process which can lead to the creation of a new civilization.

THE PRESENT SITUATION

So one is led back to the hypothesis of a cultural vacuum, or in more precise terms of a cultural decadence. The movements which can be observed today and are disrupting our old cultural values can be easily taken for new cultural forms but they are really a-cultural things which are making their way into the emptiness of our mental life, and are being weaned as anodynes to the growing sense of hollowness of life. At all events, that is the contemporary situation, whatever the future may have in store for us.

One last question cannot be avoided on the day this article is being published. What influence has political independence exercised so far on our cultural life? The question is easily answered. It has been completely irrelevant to all our cultural activities. Where attempts at novelty are seen they are all confined to the redress of the emotional grievances under British rule. There is no evidence of any new outlook. What is even more strange, the present ruling order appears to be wholly incapable of giving any lead to culture. It is not moored to fixed points, nor moving in any definite direction. So it reverts to the pillars of Asoka when choosing a national emblem, and to the Upanishads for a motto, but stands for freedom from hide-bound tradition when it comes to entrusting the design of a city to Le Corbusier. The next moment it names an aeroplane Rani of Jhansi. Perhaps this nerveless eclecticism is as good a sign of the cultural vacuum as any other symptom I have pointed out.