

## CHAPTER 11

### Brief Notes on Some Aspects of British Rule

#### BRITISH SOCIAL AND CULTURAL POLICY IN INDIA

Till 1813, the British followed a policy of non-interference in social, religious and cultural life of the country. After 1813, measures were taken to transform Indian society and its cultural environs because of the emergence of new interests and ideas in Britain of the nineteenth century in the wake of significant changes in Europe during the 18th and the 19th centuries. Some of these changes were—

(i) Industrial Revolution which began in the 18th century and resulted in the growth of industrial capitalism. The rising industrial interests wanted to make India a big market for their goods and therefore required partial modernisation and transformation of Indian society.

(ii) Intellectual Revolution which gave rise to new attitudes of mind, manners, and morals.

(ii) French Revolution which with its message of liberty, equality and fraternity, unleashed the forces of democracy and nationalism.

The new trend was represented by Bacon, Locke, Voltaire, Rousseau, Kant, Adam Smith and Bentham in thought and by Wordsworth, Byron, Shelley and Charles Dickens in literature.

#### Characteristics of New Thought

Some of the characteristics of the new wave of thought were-

- (i) Rationalism which advocated faith in reason and a scientific attitude.

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(ii) Humanism which advocated love of man—the belief that every man is an end in himself and should be respected and prized as such. No man has a right to look upon another man as a mere agent of his happiness. These ideals gave rise to liberalism, socialism and individualism

(iii) Doctrine of Progress according to which nothing is static and all societies must change with time. Man has the capacity to remodel nature and society on just and rational lines.

#### Schools of Thought

These new currents of thought caused conflicts among administrators and produced different schools of thought:

##### Conservatives

They advocated introduction of as few changes as possible. Indian civilisation, they felt, was different from the European one but not necessarily inferior to it. Many of these thinkers respected Indian philosophy and culture. If at all, Western ideas and practices were to be introduced gradually and cautiously. Social stability was a must, they felt. Early representatives of this school of thought were Warren Hastings and Edmund Burke and later ones included Munro, Metcalfe, and Elphinstone. The Conservatives remained influential throughout and most of the British officials in India were generally of a conservative persuasion.

##### Paternalistic Imperialists

They became influential especially after 1800. They were sharply critical of Indian society and culture and used to justify economic and political enslavement of India.

##### Radicals

They went beyond the narrow criticism and imperialistic outlook of the Conservatives and the Imperialists and applied advanced humanistic and rational thought to the Indian situation. They thought that India had the capacity to improve and that they must help the country do that. They wanted to make India a part of the modern progressive world of science and humanism and therefore advocated the introduction of modern western science, philosophy and

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literature. Some of the British officials who came to India after 1820 were Radicals. They were strongly supported by Raja Rammohan Roy and other like-minded reformers.

But predominantly, the ruling elements in the British Indian administration continued to be imperialistic and exploitative. They thought that the modernisation of India had to occur within broad limits imposed by the needs of an easier and more thorough exploitation of its resources. In this respect, often the Radicals also towed a conservative line. They desired most of all the safety and perpetuation of the British rule in India; every other consideration was secondary.

#### Dilemma Before the Government

The Government feared that too much modernisation might generate forces hostile to their interests; thus it was thought to be appropriate to opt for partial modernisation—introducing it in some respects and blocking it in others, in other words, a 'colonial modernization

#### Role of Christian Missionaries

The missionaries regarded Christianity to be a superior religion and wanted to spread it in India through 'westernisation' which, they believed, would destroy the faith of the natives in their own religion and culture. Towards this end, the Christian missionaries

- supported the Radicals whose scientific approach, they believed, would undermine the native culture and beliefs.

- supported the Imperialists since law and order and the British supremacy were essential for their propaganda.

- sought business and the capitalist support holding out the hope to them that the Christian converts would be better customers of their goods.

After 1858, however, the policy of hesitant modernisation was abandoned, since the Indians proved to be apt pupils and shifted rapidly towards modernisation of their society and assertion of their culture and demanded a rule in accordance with the modern principles of liberty, equality and justice.

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Now, the British came to side with the socially orthodox and conservative elements of society. They also encouraged casteism and communalism.

[For the humanitarian measures undertaken during the British rule and after independence, refer to the chapter "Religious and Social Reform Movements".]

#### CIVIL SERVICES

Cornwallis (governor-general, 1786-93) was the first to bring into existence and organise the civil services. He tried to check corruption through

- \* raising salary,
- \* strict enforcement of rules against private trade,
- \* debarring civil servants from taking presents, bribes etc,
- \* enforcing promotions through seniority.

In 1800, Wellesley (governor-general, 1798-1805) set up the Fort William College for training of new recruits. In 1806 Wellesley's college was disapproved by the Court of Directors and instead the East India College

was set up at Haileybury in England to impart two years' training to the recruits.

#### Charter Act of 1853

This Act ended the Company's patronage, enjoining recruitment to be through an open competition henceforth.

The Indians, however, were barred from high posts from the 'very beginning. Cornwallis thought, "Every native of Hindustan is corrupt."

The Charter Act of 1793 had reserved all posts worth 500 pounds per annum for the covenanted servants of the Company. The reasons for exclusion of Indians were—

- the belief that only the English could establish administrative services serving British interests.
- the belief that the Indians were incapable, untrustworthy and insensitive to the British interests.
- the fact there was high competition among the Europeans themselves for lucrative posts, so why offer them to the Indians.

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Although the Charter Act of 1833 theoretically threw open the services to the Indians, the relevant provisions were never really implemented. After 1857, when the Indians claimed a share in higher services, the Proclamation of 1858 declared the British intention of including the Indians, freely and impartially, in offices under the civil service.

#### Indian Civil Service Act, 1861

This Act reserved certain offices for covenanted civil servants but the examination was held in England in English language, based on classical learning of Greek and Latin. The maximum permissible age was gradually reduced from 23 (in 1859) to 22 (in 1860) to 21 (in 1866) and to 19 (1878).

In 1863, Satyendra Nath Tagore became the first Indian to qualify for the Indian Civil Service.

In 1878-79, Lytton introduced the Statutory Civil Service consisting of one-sixth of covenanted posts to be filled by Indians of high families through nominations by local governments subject to approval by the secretary and the viceroy. But, the system failed and was abolished.

#### The Indian National Congress Demand

The INC raised the demand, after it was set up in 1885, for

- lowering of age limit for recruitment-. And
- holding the examination simultaneously in India and Britain.

Aitchison Committee on Public Services (1886) Set up by Dufferin, the committee recommended—

- dropping of the terms 'covenanted' and 'uncovenanted';
- classification of the civil service into Imperial Indian Civil Service (examination in England), Provincial Civil Service (examination in India) and Subordinate Civil Service (examination in India); and,
- raising the age limit to 23.

In 1893, the House of Commons in England passed a resolution supporting holding of simultaneous examination in India and England; but the resolution was never implemented.

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Kimberle, the secretary of state, said, "It is indispensable that an adequate number of members of civil service shall always be Europeans.

Montford Reforms (1919) These reforms— stated a realistic policy—"If a responsible government is to be established in India, the more Indians we can employ in public service, the better.

- recommended holding of simultaneous examination in India and England.
- recommended that one-third of recruitments be made in India itself—to be raised annually by 1.5 per cent.

Lee Commission (1924) The commission recommended that—

- the secretary of state should continue to recruit the ICS, the Irrigation branch of the Service of Engineers, the Indian Forest Service, etc.;
- the recruitments for the transferred fields like education and civil medical service be made by provincial governments;
- direct recruitment to ICS on basis of 50:50 parity between the Europeans and the Indians be reached in 15 years;
- a Public Service Commission be immediately established (as laid down in the Government of India Act, 1919).

Government of India Act, 1935, The Act recommended the establishment of a Federal Public Service Commission and Provincial Public Service Commission under their spheres. But the positions of control and authority remained in British hands and the process of Indianisation of the civil service did not put effective political power in Indian hands since the Indian bureaucrats acted as the agents of colonial rule.

#### POLICE

1791 Cornwallis organised a regular police force to maintain law and order by going back to and modernising the old Indian system of thanas (circles) in a district under a

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daroga (an Indian) and a superintendent of police (SP) at the head of a district. He relieved the zamindars of their police duties.

1808 Mayo appointed an SP for each division helped by a number of spies (goondas) but these spies committed depredations on local people. 1814 By an order of the Court of Directors, the appointment of darogas and their subordinates was abolished in all possessions of the Company except in Bengal.

Bentinck (governor-general, 1828-35) abolished the office of the SP. The collector/magistrate was now to head the police force in his jurisdiction and the commissioner in each division was to act as the SP. This arrangement resulted in a badly organised police force, putting a

heavy burden on the collector/ magistrate. Presidency towns were the first to have the duties of collector/magistrate separated.

The recommendations of the Police Commission (1860) led to the Indian Police Act, 1861. The commission recommended

\* a system of civil constabulary—maintaining the village set-up in the present form (a village watchman maintained by the village) but in direct relationship with the rest of the constabulary. inspector-general as the head in a province, deputy inspector-general as the head in a range, and SP as the head in a district.

The police gradually succeeded in curbing criminal acts, such as dacoity, thuggee, etc. But, while dealing with the public, the attitude of the police was unsympathetic. The police was also used to suppress the national movement.

The British did not create an All-India Police. The Police Act, 1861 presented the guidelines for a police set-up in the provinces. The ranks were uniformly introduced all over the country.

1902 The Police Commission recommended the

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establishment of CID (Criminal Investigation Department) in the provinces and a Central Intelligence Bureau at the centre.

#### JUDICIARY

Earlier, the administration of justice used to be under the zamindars and the process of dispensing justice was often arbitrary. Reforms under Warren Hastings (1772-1785)

- District Diwani Adalats were established in districts to try civil disputes. These adalats were placed under the collector and had Hindu law applicable for Hindus and the Muslim law for Muslims. The appeal from District Diwani Adalats lay to the Sadar Diwani Adalat which functioned under a president and two members of the Supreme Council.
- District Fauzdari Adalats were set up to try criminal disputes and were placed under an Indian officer assisted by qazis and muftis. These adalats also were under the general supervision of the collector. Muslim law was administered in Fauzdari Adalats. The approval for capital punishment and for acquisition of property lay to the Sadar Nizamat Adalat at Murshidabad which was headed by a deputy nizam (an Indian Muslim) assisted by chief qazi and chief mufti.
- Under the Regulating Act of 1773, a Supreme Court was established at Calcutta which was competent to try all British subjects within Calcutta and the subordinate factories, including Indians and Europeans. It had original and appellate jurisdictions. Often, the jurisdiction of the Supreme Court clashed with that of other courts. Reforms under Cornwallis (1786-1793)
- The District Fauzdari Courts were abolished and, instead, circuit courts were established at Calcutta, Dacca, Murshidabad and Patna. These circuit courts had European judges and were to act as courts of appeal for both civil and criminal cases. The Sadar Nizamat Adalat was shifted to Calcutta and

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was put under the governor-general and members, of the Supreme Council assisted by the chief qazi and the chief mufti.

- The District Diwani Adalat was now designated as the District, City or the Zilla Court and, placed under a district judge. The collector was now responsible only for the revenue administration with no magisterial functions.
- A gradation of civil courts was established (for both Hindu and Muslim laws)–
  - (i) Munsiff's Court under Indian officers,
  - (ii) Registrar's Court under a European judge,
  - (iii) District Court under the district judge,
  - (iv) Four Circuit Courts as provincial courts of appeal,
  - (iv) Sadar Diwani Adalat at Calcutta, and
  - (vi) King-in-Council for appeals of 5000 pounds and above.
- The Cornwallis Code was laid out- There was a separation of revenue and justice administration.
- European subjects were also brought under jurisdiction.
- Government subjects were answerable to the civil courts for actions done in their official capacity.
- The principle of sovereignty of law was established.

#### Reforms under William Bentinck (1828-1833)

- The four Circuit Courts were abolished and their functions transferred to collectors under the supervision of the commissioner of revenue and circuit. Sadar Diwani Adalat and a Sadar Nizamat Adalat were set up at Allahabad for the convenience of the people of Upper Provinces.
- Till now, Persian was the official language in courts. Now, the suitor had the option to use Persian or a vernacular language, while in the Supreme Court English language laced Persian.

1833: A Law Commission was set up under Macaulay or codification of Indian laws. As a result, a Civil Procedure

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Code (1859), an Indian Penal Code (1860) and a Criminal. Procedure Code (1861) were prepared.

1860 It was provided that the Europeans can claim no special privileges except in criminal cases, and no judge of an Indian origin could try them.

1865 : The Supreme Court and the Sadar Adalats were merged into three High Courts at Calcutta, Bombay and Madras.

1935 The Government of India Act provided for a Federal Court (set up in 1937) which could settle disputes between governments and could hear limited appeals from the High Courts.

#### Positive Aspects of Judiciary under the British

- The rule of law was established.

- The codified laws replaced the religious and personal laws of the rulers.
- Even European subjects were brought under the jurisdiction, although in criminal cases, they could be tried by European judges only.
- Government servants were made answerable, to the civil courts.

#### The Negative Aspects

- The judicial system became more and more complicated and expensive. The rich could manipulate the system. There was ample scope for false evidence, deceit and chicanery.
- Dragged out litigation meant delayed justice. Courts became overburdened as litigation increased. Often, the European judges were not familiar with the Indian usage and traditions.

#### DEVELOPMENT OF CONSTITUTION FROM 1773 TO 1858

After the Battle of Buxar (1764), the East India Company got the Diwani (right to collect revenue) of Bengal, Bihar and

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Orissa. An annual subsidy was to be paid to the Mughal Emperor, Shah Alam II, and an annual pension to the Nawab of Awadh, Shuja-ud-Daula. The Company appointed two Indians as the deputy diwans—Mohammad Reza Khan for Bengal and Raja Shitab Rai for Bihar.

1767 The first intervention in Indian affairs by the British Government came in 1767. It demanded 10 per cent share in the plunder amounting to 4 million pounds annually.

1765-72 The dual system of government where the Company had the authority but no responsibility and its Indian representative had all the responsibility but no authority continued for seven years. This period was characterised by—

- \* rampant corruption among servants of the Company who made full use of private trading to enrich themselves;
- \* excessive revenue collection and oppression of peasantry;
- \* the Company's bankruptcy, while the servants were flourishing.

In the meantime, the British Government decided to bring some order into the Company's affairs. This included the following: The Regulating Act of 1773 The directors of the Company were required to submit all correspondence regarding revenue affairs and civil and military administration to the Government. (Thus for the first time, the British cabinet was given the right to exercise control over Indian affairs.) In Bengal, the administration was to be carried out by governor-general and a council consisting of 4 members, representing civil and military government They were required to function according to the majority rule. Warren Hastings and four others were named in the Act, later ones were to be appointed by the Company. A Supreme Court of judicature was to be established in Bengal with original and appellate jurisdictions where all

subjects could seek redressal. In practice, however, the Supreme Court had a debatable jurisdiction vis-a-vis the council which created various problems. The governor-general could exercise some powers over Bombay and Madras—again, a vague provision which created many problems. The whole scheme was based on checks and balances.

Amendments (1781)

- The jurisdiction of the Supreme Court was defined—within Calcutta, it was to administer the personal law of the defendant.
- The servants of the Government were immune if they did anything while discharging their duties.
- Social and religious usages of the subjects were to be honoured.

Pitt's India Act of 1784

- The Government's control over the Company's affairs was greatly extended. A Board of Control consisting of the chancellor of exchequer, a secretary of state and four members of the Privy Council (to be appointed by the Crown) were to exercise control over the Company's civil, military, and revenue affairs. All dispatches were to be approved by the board. Thus a dual system of control was set up. In India, the governor-general was to have a council of three (including the commander-in-chief), and the presidencies of Bombay and Madras were made subordinate to the governor-general.
- A general prohibition was placed on aggressive wars and treaties (breached often).

The Act of 1786

Cornwallis was allowed to override, the council's decision in if he owned the responsibility for the decision.

Later, this provision was extended to all the governor general.

The Charter Act of 1793

- The Home Government members were to be paid out of Indian revenues.

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The Charter Act of 1813

In England, the business interests were pressing for an end to the Company's monopoly over trade in India because of a spirit of laissez-faire and the continental system by Napoleon by which the European ports were closed to Britain. The 1813 Act sought to redress these grievances

- The Company's monopoly over trade in India ended, but the Company retained the trade with China and the trade in tea.
- The Company's shareholders were given a 10.5 per cent dividend on the revenue of India.
- The Company was to retain the possession of territories and the revenue for 20 years more, without prejudice to the sovereignty of the Crown. (Thus, the constitutional position of the British territories in India was defined explicitly for the first time.)
- Powers of the Board of Control were further enlarged.
- A sum of one lakh rupees was to be set aside for the revival, promotion and encouragement of literature, learning and science among

the natives of India, every year. (This was an important statement from the point of state's responsibility for education.)

The Charter Act of 1833

- The Company's monopoly over trade with China and In tea also ended.
- The lease of 20 years to the Company was further extended. Territories of India were to be, governed in the name of the Crown.
- All restrictions on European immigration and the acquisition of property in India were lifted. Thus, the way was paved for the wholesale European colonisation of India.
- In India, a financial, legislative and administrative centralisation of the Government was envisaged:
  - The governor-general was given the power to superintend, control and direct all civil and military affairs of the Company.

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- Bengal, Madras, Bombay and all other territories were placed under complete control of the governor-general.
- All revenues were to be raised under the authority of the governor-general who would have complete control over the expenditure too.
- The Governments of Madras and Bombay were drastically deprived of their legislative powers and left with a right of proposing to the governor-general the projects of law which they thought to be expedient.
- A law member was added to the governor-general's council for professional advice on law-making.
- Indian laws were to be codified and consolidated. No Indian citizen was to be denied employment under the Company on the basis of religion, colour, birth, descent, etc. (Although the reality was different, this declaration formed the sheet-anchor of political agitation in India.)
- The administration was urged to take steps to ameliorate the conditions of slaves and to ultimately abolish slavery. (Slavery was abolished in 1843.)

The Charter Act of 1853

- The Company was to continue possession of territories unless the Parliament provided otherwise.
- The strength of the Court of Directors was reduced to 18.
- The Company's patronage over the services was dissolved—the services were now thrown open to a competitive examination.
- The law member became the full member of the governor-general's executive council.
- Six members were to be added to the executive council while legislating but the executive council retained the veto over the Legislative Council.

The Act for Better Government of India, 1858

The 1857 revolt had exposed the Company's limitations in administering under a complex situation. Till then, there had

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not been much accountability. The 1858 Act sought to rectify this anomaly

\* India was to be governed by and in the name of the Crown through a secretary of state and a council of 15. The initiative and the final decision was to be with the secretary of state and the council was to be, just advisory in nature. (Thus, the dual system introduced by the Pitt's India Act came to an end.)

- Governor-general became the viceroy (his prestige, if not authority, increased).

The assumption of power by the Crown was one of formality rather than substance. It gave a decent burial to an already-dead horse—the Company's administration.

[For constitutional development from 1861 onwards refer to relevant chapters on, freedom struggle.]