
***The Last Reform:
Breaking with
the Past***



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*Dedicated to the
youth of India*

Publisher's Note

“The Last Reform: Breaking with the Past” by Hardial Bains was presented to the conference “Building the Future” organised by the Committee for People’s Empowerment in Delhi, India, August 13-15, 1997, to mark the 50th anniversary of the formal independence of India, Pakistan and other countries of South Asia on August 15, 1947. It is published by the Hardial Bains Resource Centre on the 70th anniversary of their independence.

Introduction

Hardial Bains points out right in the beginning of his paper, "The main thesis of this paper concerns the fact that all economic and political theories as well as philosophy and world outlook which exist at the present time, all systems and institutions need immediate renewal. Renewal means either starting afresh – the sure way to create the present and future – or a restructuring of what has already been – the renewal of the past so as to ensure its continuation. All countries of South Asia need renewal of the former kind, a fresh start, as all their problems stem from the fact that the break with the past was not made fifty years ago, a fresh start was not made at that time."

Discussing the Indian constitution, its history and practice, the author goes to the central issue: the Indian constitution is not based on the struggles of the peoples of South Asia and thus it does not codify the arrangements for which they had shed torrents of blood to win liberation.

"A Constitution which does not enshrine basic principles which a people have fought for in practice, which does not codify the new arrangements which people have brought into being through their struggles, will not enshrine the sovereignty of the people. It is an insurgent people who establish their rule, establish their state and write their constitution. In the case of India, it is not the

principles for which the Indian people fought and shed their blood which were enshrined in the Constitution. The primary source of the Constitutional principle was not the struggles of the peoples themselves. It is not for nothing that the struggles of the Indian people for independence are not even mentioned by the historians as a source which inspired the Constitution when it was drafted."

Hardial Bains proposes that the people of South Asia must undo this basic structure of power which completely marginalizes them from decision-making. They must create a new political power based on their struggles and thought and the experience of the world's people to solve problems faced by them. This is the basic reform that they need to get rid of grinding poverty, misery and exploitation and lead a life of dignity and justice.

Referring to the criteria introduced by Elizabeth I when she issued the Charter of the East India Company in 1600 that the arrangement must be "beneficial," Hardial Bains points out: "The question which arises is this: Should the peoples of South Asia not extinguish this power which the British transferred to their counterparts in India in 1947 so as to establish their own power which will not only be 'found beneficial' to them but with which they will also establish relations with the peoples and countries of the world on the basis of 'mutual benefit'?"

Hardial Bains points out: "When Elizabeth I issued the Charter to the East India Company in 1600, she threatened to withdraw it if it was not 'found beneficial' but she never spoke of establishing relations of trade, commerce and culture on the basis of 'mutual benefit.' All the measures taken in South Asia which finally led to its entire takeover by British colonialism were 'found beneficial' only to the British, their allies and the classes they were creating in

whose interest it was to defend this system later on. Such a system can be overthrown and a new one established if the past power is extinguished and a new power is built. Such is the question which presents itself today to the peoples of South Asia.”

Several themes run through this paper that the youth of today can elaborate:

1. Why was the formal independence of 1947 a defeat for the peoples of South Asia? What is the nature of the present political institutions in South Asia – in words and in deeds?

2. What were the struggles of the peoples of South Asia for? What was their aim and how did they get diverted and hijacked?

3. How does the Royal Prerogative operate in the Indian constitution through the notion of Trusteeship? What was the nature of the *Transfer of Power Act*?

4. How does the theory of White Man’s Burden work today in the Indian democracy?

5. What mechanisms must be built today to ensure and enshrine Sukh and Raksha of the people?

6. How can Praja rather than the Trustee be sovereign once again?

The Last Reform: Breaking With the Past

Hardial Bains

One of the greatest defeats for the peoples' of South Asia in 1947 was that they won their formal independence on the basis of the full acceptance of the British colonial institutions, their economic system and their theories and practices as well as the formal division of their sub-continent on the basis of religion. Such a defeat for the peoples of South Asia is, fifty years later, the source of all their tragedies, including the danger of a world war which the superpowers will launch in order to conquer the Indian ocean as an integral part of conquering the Atlantic and the Pacific.

The title of this paper, "The Last Reform: Breaking With The Past," has been chosen for very definite reasons. The most important reason is that people do want to know what must be done at the present time to open the door for the progress of the societies of South Asia. This is one of the questions which not only concerns the experts but millions of down-trodden, more than fifty percent who are on the margins of life, workers, peasants, women, youth and intelligentsia, and specifically the working class, peasantry and all the toilers of the lands of South Asia. They all want to set a course for their countries for the next fifty

years and more which will guarantee their interests. What is it that they must do to overcome grinding poverty, break the cycle of exploitation and oppression which is getting worse with every passing day? What is it that they must do to make history not repeat itself? What is it that they must do to break with the past because their past is the past of a marginalised people under the sway of alien systems and institutions and only by breaking with that past can they create a present and future for themselves.

The main thesis of this paper concerns the fact that all economic and political theories as well as philosophy and world outlook which exist at the present time, all systems and institutions need immediate renewal. Renewal means either starting afresh – the sure way to create the present and future – or a restructuring of what has already been – the renewal of the past so as to ensure its continuation. All countries of South Asia need renewal of the former kind, a fresh start, as all their problems stem from the fact that the break with the past was not made fifty years ago, a fresh start was not made at that time.

In the book *Our Constitution* (1995), the author, Subhash C. Kashyap, who had written extensively on the Indian Constitution and who was Secretary-General of the Lok Sabha from 1984 to 1990 and “is an advocate and consultant in constitutional law, parliamentary affairs and political management,” writing about well known facts, confirmed that the “founding fathers” “took a conscious decision not to make a complete departure from the past.” He writes, “In fact, the sources of some of the provisions of the Constitution can be traced back to the beginnings of East India Company and British rule in India.” “...nearly 75 percent of the Constitution can be said to a reproduction of the *Government of India Act, 1935* ... The basic

structure of the polity and provisions regulating Union-State relations, declaration of *Emergency Act*, etc. were largely based on the 1935 Act ... the concept of Directive Principles were borrowed from the Irish Constitution. The parliamentary system with ministerial responsibility to the legislature came from the British and provisions making the President the executive Head of the State and the Supreme Commander of the armed forces and the Vice-President the *ex-officio* Chairman of the Council of States were based on the U.S. model. The Bill of Rights enshrined in the U.S. Constitution could also be said to have inspired our Fundamental Rights." "The Canadian Constitution *inter alia* influenced the federal structure and the provisions relating to the Union-State relations and the distribution of powers between the Union and the States. The Concurrent List in the Seventh Schedule, provisions regarding Trade, Commerce and Intercourse and parliamentary privileges were modelled presumably on the Australian Constitution. The Emergency Provisions were influenced *inter alia* by the Constitution of the German Reich. For understanding the ambit and scope of provisions like those pertaining to the issue of writs and parliamentary privileges one has still to go to the British Constitution."

Kashyap, however, failed to mention that the present British system takes its origin and power from the "divine right of kings" with its mighty expression "royal prerogative." As a result of this and in order to ensure that this basic presumption is neither questioned nor thrown overboard, the British have no written constitution. They deal with their fundamental law as they go along according to the vicissitudes of life, keeping however, the Royal Prerogative as the constant, the fundamental feature to ensure that the sovereignty rests with the "Queen-in-Parliament," not the

people of England, let alone her "possessions." It enables British imperialism and the propertied classes to ensure the perpetuation of their system and keep themselves in power.

In the foreword to the book *Constitutional History of India*, by V. D. Mahajan, a well-known historian and another specialist on the Indian constitution and constitutional history of India, Bisheshwar Prasad of the University of Delhi writes in 1960 that "It is remarkable how in India, in spite of the revolutionary character of the national political movement which heralded the dawn of freedom, the structure of government has exhibited so little departure in its main outlines and legal forms from the framework of Constitution under British sway. The British themselves had adopted the administration design of the previous governments; and though the spirit on which the system worked may alter, the form in the essentials remains the same. This reflects the genius of the people who have assimilated revolutions without breaking from tradition. The present constitution is one example of this."

Bisheshwar Prasad, through this small para, raises the most important question that "the structure of government has exhibited so little departure in its main outlines and legal forms from the framework of Constitution under British sway." He makes a serious error in stating that "The British themselves had adopted the administration design of the previous governments..." He also makes an error when he concludes that "although the spirit on which the system worked may alter, the form in the essentials remains the same."

The entire period of the East India Company and British Raj coincides with the period of transition in Europe from feudal absolutism to capitalist "king-in-parliament," that is the period of establishing the capitalist system and capitalist democracy with representative democracy as its form. As the

capitalist institutions developed in England and later Britain, the same institutions with their modifications to the concrete conditions of the Indian sub-continent were established there. The culmination was the proclamation of the Indian constitution which, as Mahajan details in the *Constitutional History of India*, is the summation of the entire experience of the East India Company and British Raj in India.

The question which begs an answer in such discussions on the Indian Constitution is, what was the contribution the “founding fathers” themselves made to the Constitution of India? Those fighting for the independence of the sub-continent of South Asia must have received some due as to what they wanted even if in the formal sense only. The fundamental law of the land, a Constitution, is either an instrument to consolidate the socio-economic system as it exists at that time or it is used to lay down the basic line for the creation of the new. The fundamental laws, nonetheless, precede the socio-economic system. The Indian Constitution and the constitutions of other countries of South Asia are intended to strengthen the socio-economic system as it existed at the time of the partition of the sub-continent in 1947. The “founding fathers” were actually the admirers of the British system. They not only admired what existed in South Asia at that time – the system and the institutions planted by the British, but they were also intellectually proud of it, having received their formal education in Britain and been exposed to the British conception of civilization and all the values which go along with it.

A Constitution which does not enshrine basic principles which a people have fought for in practice, which does not codify the new arrangements which people have brought into being through their struggles will not enshrine the sovereignty of the people. It is an insurgent people who

establish their rule, establish their state and write their constitution. In the case of India, it is not the principles for which the Indian people fought and shed their blood which were enshrined in the Constitution. The primary source of the Constitutional principle was not the struggles of the peoples themselves. It is not for nothing that the struggles of the Indian people for independence are not even mentioned by the historians as a source which inspired the Constitution when it was drafted.

It is acknowledged that South Asia has a rich history of ruling and governing, of establishing economic and political systems that can be traced to the period of the Vedas. But there is no trace of any clause put into the Indian Constitution from those times or of their rich experience of more than five millennia. The “founding fathers” did not analyze and sum-up the experience of the peoples of South Asia. On the contrary, they streamlined and sophisticated the experience of British colonialism in India. They took up from where the British left off through the “transfer of power” in 1947. The British power was not extinguished with the furling of the Union Jack and the unfurling of the Tricolour on August 15, 1947. On the contrary, it was passed on to their South Asian “representatives” who have ever since defended it and used it for their own ends and for the ends of their foreign friends. Since then not only has the British interest in South Asia grown manifold, but so has the interest of the U.S., Japan and other countries.

The issue here is not that the Indian Constitution was written by the British or British-educated people according to what suited them. It is also not a problem that the British drafted a fundamental law when they established their dominions. They drafted the *British North America Act*, founding the dominion of Canada in 1867, the Australian

Constitution when they established the Dominion of Australia or when the Irish Free State was carved out of the partitioned Island of Ireland. The issue is that the peoples of India, Pakistan, Bangladesh and other countries of South Asia, have now close to fifty years experience of their system and such constitutions. Should they not think about their experience with this set-up and what deep-going reforms they must bring about in order to serve their own interests?

CHALLENGES OF INDIAN POLITICAL THOUGHT

Two things that emerge from the summation of the experience of the polity during the past fifty years and by keeping in mind the experience of the Veda period, the periods of Vedanta, Mahabhart, Shastras, of Ain-i-Akbari and of Bahadur Shah Zafar and of the period of the first war of independence is that: 1. this experience is unique and is based on a complete break with all experiences of Indian state-craft from time immemorial to the First War of Independence in 1857 and 2. the notion of the state from time immemorial to the present is diametrically opposed to what the present states in South Asia are in theory and practice. If the crisis of parliamentary democracy and of the socio-economic system are to be overcome, even a cursory study will show that Indian Political Thought as summed up from time immemorial to the present is very well developed and indispensable. The ideas concerning state polity and statecraft abound in Indian Thought through all the ages. One finds that the ideals which emerged from these experiences and from the summation carried out through debates during different historical periods were upheld through the centuries and modified according to the changed circumstances and the needs of the times. Their modernisation and renewal according to the requirements of the present

period will also contribute to the overcoming of the all-sided crisis with the economic crisis at its foundation.

According to these ideas spanning over the centuries, the main content or purpose of the state is to provide Protection – Raksha – and Prosperity – Sukh. It seems that specific forms of state were established by people themselves in order to protect themselves and to provide themselves with a life of prosperity. The ideas behind these states were not just general but were the manifestation of concrete situations.

The fact that all the activities of the state have to be geared to provide Raksha and Sukh also indicates that these were societies based on the division between classes or on the tribal basis. There have to be those in these societies who must have been threatening the people Praja. For all intents and purposes, it seems that people in these states were sovereign and they never deprived themselves of this sovereignty and willingly handed it over to their “representatives.” Their own power was such that if the state did not provide Raksha and Sukh, they used the power in their hands to change such an unusual state of affairs.

The function of such a state was to provide Protection – Raksha. This function is fully defined as Raksha from: 1. Forces of Nature, 2. External invaders and 3. Internal vested interests. Each one of these from which Raksha is sought are further defined as follows:

1. Raksha from forces of nature: The state has to take measures to humanize nature, so the elements and forces of nature can yield what is needed by the people and the society to fulfil their needs.

2. Raksha from external invaders: It is the duty of the state to protect what the people and society have achieved from the loot and plunder of the external invaders.

3. Raksha from internal vested interests: The state has to take measures that the unscrupulous vested interests do not endanger the prosperity and security of the citizens and of society.

For example Rig Veda, Mahabharata, Arthashastra, amongst others, all talk about taking measures against merchants and traders who cheat the citizens and charge whatever they wish for goods and services, against those who endanger life and liberty.

The function of the state to provide Prosperity – Sukh is fully defined as follows: Protection (Raksha) without prosperity (Sukh) has no meaning. Raksha and Sukh constitute a dialectical unity of opposites. While the very essence of Raksha means the creation of the condition of Sukh, Sukh itself is the pre-condition for the existence of Raksha. The aim of one is materialised in the function of the other. Therefore it is the duty of the state to carry out all those activities in all realms to ensure the prosperity of the people. The state has to carry out construction of irrigation works and roads, plant trees, look after forests, cattle, education, medicine and so on. In short, as the most important of human endeavour, all activities necessary for the ennobling of Sukh. The state has to create an environment where all the citizens actualize themselves and fulfil their Svadharma.

Within these ideals of Raksha and Sukh, a government will be considered good if it creates the conditions for the citizens to satisfy their all-sided needs. A bad government will be the one which fails in this ennobling act, and deserves to be overthrown and replaced by a new one.

It can be said that the Directive Principles enshrined in the Indian Constitution approved by the Constituent Assembly on November 26, 1949 and later proclaimed on January 26, 1950, resembles what a state must do within

the ideas developed in the Indian Political Thought over the centuries even though these principles were borrowed from the Irish Constitution. However, these were merely directive principles, just policy objectives which may or may not be fulfilled. They lacked the essential aspect, the power of a sovereign people who could demand that if such and such a government did not turn these principles into deeds such a government would be overthrown.

Why is it that the Raksha and Sukh of the peoples of South Asia did not find a constitutional guarantee?

CONSIDERATIONS OF BRITISH RULE OVER SOUTH ASIA

When Elizabeth I issued the charter authorising the founding of the East India Company on December 31, 1600 she clearly stated: "This privilege be found unprofitable for the Realm then no m. two years warning given under the private scale the shall be voyde. That if it shall be found beneficial then the same to be rendered with some addicions." (*Spellings and English as in original – HB*)

It is to be presupposed that all the measures proposed and taken by the British from the end of 1600 to the promulgation of the Indian Constitution on January 26, 1950 must "be found beneficial" to them in the over-all general sense. If they had been otherwise the British would not have continued with them. Obviously, there could be no other reason for them to take those measures, in the general sense, if those measures were to go against their own interests.

The question which arises is this: Did the "founding fathers" borrow all what is mentioned earlier from the British and British imposed constitutions on Canada, Ireland and Australia because to do so "shall be found beneficial" to the peoples of India? What is the verdict now, after fifty

years of formal independence and five decades of the Indian Republic? Has the Republic of India as the state and economic system as it has existed for this period been “found beneficial” for the peoples of India or South Asia? This question has remained on the minds of all the peoples of South Asia from 1947 and before and needs to be answered today. It has to be answered in accordance with the challenges to Indian Political Thought.

The British established their political thought for India according to the Charter of the East India Company in 1600 and established their state and the successive governments to achieve it. The British had the aim to plunder the natural and human resources. Accordingly, they established a state which, instead of providing the people with a state for Raksha and Sukh, terrorized them. Such a terrorist state, with institutionalized rape and plunder of the land and the peoples of South Asia, carried out a “transfer of power” in 1947. But it did not dissolve itself. The main pillars of this state, the army, the police forces and the prisons as well as the same fundamental law, judiciary and the considerations on which British rule were based, remained. It is common knowledge that all the institutions of the British Raj such as the Army, Police, Judiciary, Bureaucracy, Educational institutions, Church and other religious bodies facilitated the enslavement and plunder of the peoples of South Asia. Alas, after the “transfer of power,” after the formal independence, all the same institutions of the British Raj were given pride of place. This is why even though there are directive principles in the Indian Constitution, the peoples of India have no power whatsoever in the constitutional sense to ensure that they are enforced. The same is the case with the other peoples of South Asia in their respective countries.

The British Raj boasted that they brought a central state and rule of law to South Asia, the same which is applauded by many a politician and scholar. But the aim of this rule of law was to ensure that their Raj is “found beneficial” to them. As their political system developed in Britain, along with various political theories to justify it, these justifications were brought to South Asia. They were planted in the minds of those in whose interests it was to defend the British system and all its institutions in India. At the present time, besides liberalism, liberal democracy, conservatism, social democracy as represented by the British Labour Party, there is the broad promotion of neo-conservatism, the entire justification of “liberalisation and privatisation,” the notions of “unity of the left with the centre” as in the case of the Indian United Front Government which was comprised of more than fourteen political parties, and so on.

“DIRECT” OR “REPRESENTATIVE” DEMOCRACY

According to Kashyap, “In a democracy, sovereignty vests in the people and ideally people govern themselves. But ... direct democracy is no more feasible.” Kashyap suggests that, on the contrary, in the absence of being able to govern themselves through direct democracy, the “inalienable right” given in the Indian Constitution to the people of India is “to decide... by whom they should be governed.”

The question which arises is this: after fifty years and more during which time the peoples of South Asia have been “searching” “by whom they should be governed,” should they not look at this question afresh? There may be a flaw in the logic upon which this arrangement is based and in the constitutional law based on it which must be

corrected. In place of looking for “by whom they should be governed,” the people can establish a fundamental law, a political process and enabling legislation in such a manner that they can rule and govern themselves.

To speak of democracy in general is both unacceptable and objectionable. Democracy is a feature of all societies based on class divisions. All societies in South Asia are based on class divisions. The twentieth century has seen two distinct democracies – socialist democracy with direct democracy as its political process and method of governance and capitalist democracy with representative democracy as its political process and method of governance. All the countries of South Asia have capitalist democracies with representative democracy as a political process and method of governance.

Peter Hennessy, a British journalist and professor who has written many books on problems of the unwritten constitution of Britain, writes: “Like David Judge, I am convinced that our parliamentary practice is ‘representative’ rather than ‘democratic’ and has remained so ever since 1950, the first general election in which the British people polled on the basis of one person, one vote.” Hennessy quotes Judge as follows:

“The enduring features of the parliamentary tradition in England, and later in the United Kingdom, have stemmed from the practical requirements and consequences of the process of representation, not from popular participation. The parliamentary tradition has thus been one of transmission of opinion between the ‘political nation’ – variously defined throughout history – and the executive. Through this simple process of transmission, governments have been controlled, executive actions have been consented to by the representatives of the ‘political

nation' and changes of governors legitimised."¹

This open admission by Hennessy that Britain does not have democracy, lands him into the same unacceptable and objectionable position as mentioned above. In fact, what he hides is that the British have a democracy which is capitalist, whose political process and method of governance are representative democracy. Hennessy claims to be in favour of a democracy in which, according to Kashyap, "sovereignty vests in the people and ideally the people govern themselves." If Kashyap's definition is to be accepted, the warranted conclusion should perhaps then be drawn that Britain is not democratic. If this definition is adhered to, it could be concluded that it must have been "found beneficial" for Britain not to be democratic. Can it be concluded from this that if such a democracy is not "found beneficial" for Britain then it is not beneficial to the peoples of South Asia either? It does not follow. What is certainly the case is that the democracy which is not "found beneficial" to Britain will be "found beneficial" for the countries of South Asia. Is it "beneficial" to the people of these countries to have such a state of affairs in which they "elect" those who govern them every few years and curse them for being corrupt, dictatorial and protecting a system of exploitation and oppression in the periods between the elections?

Peter Hennessy, in his other book *Muddling Through* (1996) quotes Enoch Powell to suggest that "confidence" and "representation" "are the two pillars on which – our system rests." Powell states that "The British Constitution has the device of confidence ... it's one of our major political discoveries, because it enables us to combine the effective exercise of government functions, where that exercise depends upon

1. Peter Hennessy, *The Hidden Wiring, Unearthing the British Constitution*, first published by Victor Gollancz, London, 1995 p. 147.

an alteration in the position from day to day and from hour to hour, with the final supremacy and power of decision of the electorate through the House of Commons."

What are these discoveries of "confidence" and "representation"? The "confidence" is discovered by using brute force to deprive the people from exercising the sovereignty which belongs to them. "Representation" is the device with which the electorate is deprived of the right to elect and be elected and to governance. The system in India today is also based on these same "discoveries" even though Indian Political Thought rebels against them.

Hennessey further quotes from Powell according to whom, "We've been considering power: not how it's exercised in detail, but who has it, where they got it, to whom they're accountable and how they can be removed." Hennessey writes that "both Tony Benn and Enoch Powell believe that they get that power from the same place, by persuading their fellow countrymen; and that is the business of their lifetimes." But Hennessey, a British journalist and professor; Tony Benn, a left-wing member of the Labour Party of Britain and a long-time Member of the British Parliament; and Enoch Powell, a right-wing member of the Conservative Party of Britain and a long-term member of the British Parliament, fail to observe the obvious. If "power" really belonged to their "fellow countrymen," then it is these same countrymen who will wield the "royal prerogative." Sovereignty would be vested in them and they would "ideally govern themselves." The Royal Prerogative, on the contrary, belongs to the "Queen-in-Parliament" and the "fellow countrymen" are reduced to exercising "their inalienable right to decide... by whom they should be governed" every few years.

The “representatives” within such a system of “representative democracy” act on behalf of the “sovereign.” They organise themselves into political parties, carry out the most vicious competition for positions of power and go to their “fellow countrymen” every few years to provide themselves with credibility in the form of a mandate that they have the right to continue. Where did these “representatives” originate from? In the British system, they came from the propertied classes, the ones who gave themselves the franchise at the time the system of “representative democracy” was first put in place. To this day, even though the franchise has been broadened on the basis of the principle of universality, it is the propertied classes who have the wherewithal, the financial resources and the connections to participate in the elections, to elect and be elected. These “representatives” go to the people to demand that they must divide along party lines and decide which one of these parties will govern during the period until the next election.

At the time this system of “representative democracy” was devised, the popular demand for democracy in which “sovereignty vests in the people and ideally the people govern themselves” was such that the British propertied classes substituted it with a formality – the right to vote. They established a political process called a “representative democracy” as the method of governance of their capitalist democracy. It is the substitution of “direct democracy” with “representative democracy” which is the source of the constitutional and political crisis in Britain and in many other countries including the countries of South Asia.

BREAKING WITH THE PAST

The main content of the thesis “The Last Reform: Breaking with the Past” is that so long as all links with

the past are not broken in terms of the economy, politics and culture, are not broken at a time when a country is formed, as took place in India, Pakistan, Bangladesh and other countries created out of South Asia, it is not possible to speak about the present. It is not possible to speak about independence in the profound sense of the word. The present, in this case the situation as it stands in South Asia after fifty years, is merely an extension and continuation of the past. This is the case in Britain, Canada, Australia and many other countries in the world as well. There have been quantitative changes in these countries but no qualitative changes have taken place. Furthermore, these quantitative changes have, in many important aspects such as the political process and the economic system, been for the worse. These quantitative changes have now created the conditions for a qualitative leap. Such a leap can only take place through deep-going reform which will ensure the breaking with the past.

After having recognized that the present of India, Pakistan and Bangladesh and other countries of South Asia remains merely an extension and continuation of the past, the past which has entrenched itself and blocked both the present and future, it is to be appreciated that no problem can be sorted out in these countries unless a radical rupture is made with this past. By this past is meant the economic and political system as it existed before partition in 1947, the past which begins with Queen Elizabeth I's edict of December 31, 1600, granting the Charter of the East Indian Company, the past which was transformed into the Indian Constitution which borrowed nothing from the leaders of the First War of Independence, from Bahadur Shah Zafar and others, or from what the personalities such as the martyrs Shaheed Bhagat Singh, Rajguru and

Sukhdev who gave their lives in the fight against colonialism and for social liberation stood for.

There is no evidence proving that the "transfer of power" was to be "found beneficial" to the peoples of India. It was "found beneficial" for "some" people of India, the new classes of capitalists and the landlords, the classes created during the period between the year 1600 when Elizabeth I issued the Charter to found the East India Company and its first emissary, John Mildenhall, arrived at the court of Akbar and was granted firman by Akbar to carry out trade in 1605 and the year 1947 when India received formal independence. It was in the interest of these classes as well as in the interests of their counterparts in Britain and elsewhere not to let the power of British colonialism be extinguished in South Asia. This is the power which resided in the "divine right of kings" and continues in the form of the "royal prerogative," the power which deprived the peoples of India of their power and substituted it with "the inalienable right to decide ... by whom they should be governed." This power was transferred to its representatives in India and they have flourished during this period of formal independence, the period of the last fifty years.

The question which arises is this: Should the peoples of South Asia not extinguish this power which the British transferred to their counterparts in India in 1947 so as to establish their own power which will not only be "found beneficial" to them but with which they will also establish relations with the peoples and countries of the world on the basis of "mutual benefit"? When Elizabeth I issued the Charter to the East India Company in 1600, she threatened to withdraw it if it was not "found beneficial" but she never spoke of establishing relations of trade, commerce and culture on the basis of "mutual benefit." All the measures taken in South Asia

which finally led to its entire takeover by British colonialism were “found beneficial” only to the British, their allies and the classes they were creating in whose interest it was to defend this system later on. Such a system can be overthrown and a new one established if the past power is extinguished and a new power is built. Such is the question which presents itself today to the peoples of South Asia.

As it happened, the East India Company was “found beneficial” until 1858 at which time what was “found beneficial” was the replacement of the company with the direct annexation of the Indian subcontinent by the British state. This period marked the zenith of industrial capitalism in Britain. It was a time when Britain was summing up its experience of economic and political developments and consolidating its institutions. It was during this time when, in 1867, the much celebrated British journalist Walter Bagehot put together his essays in the form of a book titled *The English Constitution*. Since then, not only have the countries of South Asia gained formal independence but this unwritten English Constitution and the political system under it have become anachronistic. The political system does not work for Britain or any other country whose system is modelled on it, making it extremely difficult for the past to continue, giving rise to all round political and constitutional crisis with economic crisis at the base.

This past which is facing extreme difficulties to continue is putting up a brave face. It is expounding economic, political and philosophical theories to justify the continuation of a practice which has already been proven to be out of time and out of place. These theories, whether of a “multi-party system” in place of a “parliamentary democracy with a party in power and party in opposition” or the theories of coalitions with the “unity of the left with the centre”

or “unity of the right with the centre” or of a “third way” are now being presented as if they are new and fresh and applicable to the existing concrete conditions. British liberalism came up with the theory of the “white man’s burden” at the time of momentous development of industrial capitalism. According to theory of “white man’s burden,” the Liberals claimed that they wished the colonial peoples to have the same benefits from the advances they had made in various spheres, especially in the economic and political spheres. The hidden agenda in this claim of the Liberals was that British industrial capitalism could not develop without streamlining the colonies according to its own interests. British industrial capitalism and later British monopoly capitalism needed colonies for their development, in the manner stipulated by Queen Elizabeth I in granting the East Indian Company Charter when she said it would hold as long as it is “found beneficial.” They needed colonies to dump their goods, export capital and capture sources of raw materials.

“WHITE MAN’S BURDEN” AND TRUSTEESHIP

A version of the colonial “white man’s burden” is still in place at this time. South Asian economic development is unabashedly linked at this time with “privatisation and liberalisation,” with the import of capital and export of raw materials and some manufactured goods, all for the benefit of the native and foreign financial oligarchs. Even the government led by the Communist Party of India (Marxist) in West Bengal came up with the thesis of building infrastructure on the basis of foreign capital as the prelude to economic development, a euphemism for facilitating the export of raw materials and manufactured goods.

In the political sphere, all the modern institutions owe

their origins to before 1947 and have seen their full development since 1947. This political system in India is in complete crisis at this time. Why is this the case? Is it because the system is alright save for some dishonest and corrupt people who are misusing it? No doubt, there are dishonest and corrupt people in India but this does not explain why the political system is in crisis. In fact, the political system in Canada is also in deep crisis as is the case in Britain, the U.S. and all over the world. Is there something which these systems have in common which is the root-cause of the problem?

Many times it is said that the fundamental law of the land and the political process are alright in themselves but they are not properly followed by various people in power. It is suggested that this is why they are not working for the people and the illusion is created that they can be made to work. However, this does not and cannot explain the reasons for the crisis either. People do not formulate fundamental laws just for the heck of it. Nor do they create political processes which are unworkable for them. The fundamental law and political process which were enshrined in 1947 and subsequently encoded in 1950 were suitable to the transfer of power at that time and both those who transferred the power and those to whom it was transferred found it "beneficial." The conditions for these arrangements no longer exist. It is a known fact that if the conditions for something do not exist, even if something is alright in itself, such things cannot become operational. In the absence of a proper habitat, a species can become extinct. In the presence of new conditions, old coherences, old considerations, old fundamental laws and political processes also become extinct.

There are certain political facts concerning South Asia which must be always kept in mind in order to fully appreciate how far this past has blocked the present and future. In 1947 when partition took place or since 1950 when various countries in South Asia gained formal independence or became republics, there has been no government which has put on the agenda deep-going economic, political and other reforms in order to make the system consistent with the modern conditions. Why have old arrangements and old considerations been stuck to like a miser sticks to gold? Why is this the case? Why did no government bring about such reforms which could make the country finally break with the past, usher in the present and pave the way for the future?

Present Indian political structures include the President, the Prime Minister, the Cabinet, the Civil Service and Parliament – the Lok Sabha and Rajya Sabha. This is the highest development from the structure which was chartered by Queen Elizabeth I at the end of 1600 just before her death and which metamorphosed over a period of some 400 years into what exists in India at this time. All the reforms undertaken from that time had one thread running throughout – the condition Elizabeth I put on the Charter that it must be “found beneficial” for the British. If since that time any measure taken had been found not to be “beneficial,” not to be profitable and benefit them, it would have been rejected by the British and others. Whether we go back to 1605 when John Mildenhall was granted firman (a mandate) by Akbar, or to 1609 when it was granted to Capt. William Hawkins by Jehangir, or to the capture of Bengal in 1757, or to the proclamation of Queen Victoria annexing India in 1857, or any other measure to date, it can be seen that no arrangement has gone against the spirit

and letter of the Charter issued by Elizabeth I. On the contrary, this spirit is what has been vigorously pursued by her descendants to the present day. But again, the central question which arises is this: Have these developments proven to be “beneficial” to the peoples of South Asia, a sub-continent where many nations and nationalities have been divided so as to keep the nations, nationalities and tribal peoples in check under the baton of “national unity and territorial integrity”? Whether we speak of India, Pakistan, Bangladesh or some other countries, this question arises.

The Indian central state and its institutions have access to all residual powers in the constitution making the state (or province) structure merely a method of convenience to control the peoples of India. Through these mechanisms, the ruling circles do each other favours while remaining fully loyal to the central state. The permanence of the central state and of the institutions of President, Prime Minister, Cabinet, Civil Service and the Parliament block the present and the future. What takes place is a competition amongst the propertied classes to capture these positions while the form and content of these institutions remain the same. The form and content of these institutions are developed to control the people, extract monies from them in the form of various taxes, to protect the institutions, defend the laws and procedures and ensure that no danger ever comes to them. The argument that is advanced, if it can be called an argument, is that if there were no position of President or Prime Minister, if there were no Cabinet or Civil Service or Parliament, the entire polity would slide into anarchy. In actual fact, if there were no such institutions, there would be no barrier to the people to placing themselves in the position of power, vesting sovereignty in themselves and governing themselves.

Far from recognizing that the President is "head of state," an in-depth inquiry into the position of President will show that the president is presented as a "trustee" who heads the state and carries out his/her functions as a trustee of the people. There have been heads of states in India in the name of Rajas, Maharajas, Kings and Emperors from time immemorial. But the content of this particular presidential form is to usurp the position of trustee in the name of the people so as to deprive them of all their power. As Kashyap cogently stated, "... with the growing complexities of administration and the size of the nation States, direct democracy is no more feasible." It is like stating that the world must return to the period of "divine right of kings," to the period of medievalism, as "growing complexities of administration and the size of the nation states" make it impossible to open the door for the progress of the society. Such "arguments" have been given by dying classes since the time of the slave system. The people have always been condemned as a "mob" and the rule of the people termed "mob rule" while the rule of the slavocracy was presented as the "highest development" of "democracy."

Who provided the President with this form and content of a trustee? Mahatma Gandhi is the one who used the word trustee to describe the President. According to C. Rajgopalachari, "Gandhi's theory of trusteeship is a valuable contribution to social theory. The rich man will be left in possession of his wealth of which he will use what he reasonably required for his personal needs and will act as a trustee for the remainder which shall be used for the benefit of the society."

We were told that "C. Rajgopalachari, in a thoughtful analysis of trusteeship written in 1959, extended the meaning given to it by Gandhi to include the idea that

everyone who holds a position and everyone who owns property should hold them as trustee for all those who had dealings with them and the community at large. If you are a trader you are a trustee for your customers; if you own land you are a trustee for your family, for your tenant and for the community, and so on in every case."²

Our enquiry shows that the form and content of trustee conferred on the position of the President is given by the "act of transfer of power" from the British through their Viceroy and Governor General to the proclamation of India as a Republic and the election of the President. In like manner, the form and content of Prime ministership, of Cabinet, Civil Service and Parliament all owe their origin to the "act of transfer of power."

In other words, the British colonial regime did what did not belong to it to do – it established what would happen after it had departed from South Asia. According to the political theory put forward by Bahadur Shah Zafar, one of the great fighters of the First War of Independence, it is the people of India who must determine what kind of system they would want to have. But, in 1947, the "act of transfer of power" decided what kind of system South Asia would have during this period of formal independence. This usurpation of the power which belongs only to the people of India was handed over to the President who began to call himself the "trustee" of the people, the head of the state, the commander-in-chief of the armed forces, etc. It is not the people of India who handed over this trusteeship to him as there is no direct democracy in India at this time. If there were a direct democracy, the people would have been able to instal whosoever they wanted as President and they would have assigned him his duties and rights

2. Indian political thinking in the twentieth century, page 97.

and kept the power to remove him if these duties were not performed in a manner beneficial to them. This is not the case during this period of rule and governance of the "representatives." In fact, what rightfully belongs to the people of India has been usurped through this trusteeship. If this trusteeship is removed through deep-going reform and the power which belong to the "trustees" is taken by the people themselves, then all links with the past will be broken. This will be the last reform which will be a prelude for the ushering in of the present and for the continuation of the present into the future. In the absence of this reform, in the absence of breaking with the past, history will repeat itself. The political crisis will continue to deepen and broaden until such a time as the break is made.

This notion of trusteeship is another name for "whiteman's burden." It presupposes that the people are not capable of exercising their sovereignty, that they cannot exercise control over their lives themselves and that there is a need for a power standing above them, usurping all that belongs to them and giving nothing to them in return. It is the notion of a "benevolent dictator" or of the "divine right of kings," notions needed by the plutocracy, those who claim that they are destined to be the "trustees" of the people, because they alone consider themselves capable of ruling over the people.

It must be firmly grasped that the content of the last reform which it is incumbent on the peoples of South Asia to bring about is to break with the past. The last reform was "the transfer of power" in 1947, which means that it was no reform at all. It was the most sinister move to update and impose all that the British colonial system had brought forth in order to ensure that the independence of South Asia remains only formal. It is important to refer to the "transfer of power" in 1947 as "the last reform" which

blocked the possibilities of opening the door for the progress of the society. The phrase "the last reform" must refer to the reform which is overdue, the reform which will be last on the basis of which the path for the progress of the society will be opened.

For fifty years, the peoples in South Asia have fought in order to take the entire region from this stage of formal independence and division to the stage when all the peoples of South Asia will have emerged as truly independent, in which they alone determine which kind of economic and political systems they want to have. This struggle for their true expression is not directed against this or that institution or a theory or a practice just because it is foreign. The struggle is directed against all that has become anachronistic, everything which is out of date and out of time and against the smug satisfaction that what exists at the present time is good enough or the best we can expect. Far from conciliating with the situation, the peoples must realize their aspirations, their *taangh*, in order to achieve the development of the new stage at which the well-being of one people in the region will be conditioned by the well-being of all the peoples. To bring this about, the peoples of South Asia will have to be extremely broad-minded. On one hand, they will have to pay attention to all the experiences in all spheres in the entire world and choose only that which is the most advanced and beneficial for all. On the other, they will have to keep in the forefront the aim of undoing the present situation.

All the countries in the world need renewal. All countries of South Asia have the same needs. By renewing themselves – that is, by starting afresh on the basis of the experience of the entire world and most particularly their own, they will be making their own contribution to the renewal of the world.



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