

Civil liberties
By
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With compliments from

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PATNA 3.

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By

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*Speech delivered at the inaugural meeting
of the Bihar Branch of the All-India
Civil Liberties Council on the
18th September, 1949, at
the Wheeler Senate
Hall, Patna.*

Mr. President and Gentlemen,

After the illuminating address by the President and the great lawyer and jurist Mr. P. R. Das, there hardly remains much for me to speak on the subject which is the objective of the meeting of to-day. The legal and juristic side of the subject has been amply dealt with and it is said that it is not a political body. If by this expression "political body" is meant that it has no objective to gain political power or to run the Government by winning elections for a party, I shall agree to its present limited aim. But if it be meant that nothing should be said which will reflect any criticism of the purpose or policy of a Government, or warn the Government or a dominant party of the perils and dangers to the national cause by the following of a particular policy or programme or the enactment of a particular law or constitution, then

I am afraid I have no apology to offer for being political in my thoughts and expressions. For in my opinion, in a free country, politics, in some shape or degree cannot be divorced from any activity of a social, economic or cultural character which aims at the betterment of the lot of the people, much less from the activities of an association whose aim is to define and emphasise the rights of the individual and therefore of the nation, and to guard them against all onslaughts from all quarters, governmental or otherwise. To my mind, the objective of this Union or Conference will be lost if it were to be confined to mere lawyers and jurists and if its aims and ideals were not to permeate the masses for whose protection and happiness it is designed. No doubt it is the duty of all intellectuals to act as watchdogs of the liberty of citizens and to draw the attention both of the government, the party in power, as well as of the public to any likelihood of encroachments on the rights of citizens—those rights which they are fundamentally as the noblest of God's creation entitled to, not merely by the laws of Man but also by the Laws of God and Nature.

In his march towards his ultimate Destiny Mankind has passed through many stages. There has been the age of the autocrat Pheroahs and his toiling slaves who built the pyramids, there has been age of all-powerful barons and their helpless serfs, there has been the period of white settlers and their black slaves prospering on their farms and plantations; in our country there has been an age when only certain chosen few were entitled to learning and State privileges. Human history throughout the ages has been a history of

struggle by or on behalf of the myriads against the monopolistic privileges and prerogatives of the few. It was through Religion and religious teachers who were also law-givers that the Rights of man were sought to be defined, emphasised and operated. By doctrines of all religions, autocrats and tyrants were sought to be subdued and tamed and were made to recognise the rights of their subjects and slaves. Religious teachers and leaders were the earliest warriors in Man's struggle against tyranny and oppression. But fear of God and Retribution were found to be not always strong safeguards against injustice, cruelty and the tyrants' lust of power and greed. Then came civil struggles by subjects against kings and privileged classes for the Rights of Man. We have seen how in Europe and America, citizens of countries have fought their way through to what is termed Civil Liberty, some countries by evolution and some countries by revolution. The Magna Charta, the Bill of Rights, the French Revolution, the Russian Revolution and last but not the least, the struggle and the ultimate victory of the Indian National Congress are all landmarks in this age-long struggle of Man for his inherent and fundamental rights—rights of freedom and justice. We have now reached a stage in human evolution, when rights of individuals to freedom of speech and belief, freedom of organisation and association, freedom from violations of person and property have been recognised as essential fundamental rights of Man for which not only that individual or the country in which he lives is entitled to fight against all aggressors and oppressors, but also the entire world is expected to take up arms in defence of such rights.

wherever and in whatever country these rights are in jeopardy. Indeed one of the avowed aims of the victors of the last war was to put an end to encroachments on human rights in Germany and Japan and they fought to victory not merely to release portions of the outer world which had been subjugated by Germany and Japan but also to liberate the citizens of countries from the oppressions of their own rulers. One of the main conditions for a country to be allowed to join the U. N. Organisation for that country to recognise these fundamental rights of its citizens and to make declarations thereto. We are happy to note that we have commenced our independent existence by declaring our membership of the U. N. O. with all its attendant obligations and implications about human rights. Therefore even if there were no clouds on the political horizon and the country was all placidly and calmly marching towards democracy which it has adopted for good or evil as its political goal, there was the need for a Civil Liberties Union or Conference in every part of the country to awaken the masses to a consciousness of their own rights which they have to exact from their democratic Government, and to raise their voice against any dereliction by their chosen leaders. There was also the need for such a Union or Conference to make the people and their leaders realise their responsibilities to the world by which we are honoured and respected as a genuine democracy willing to discharge our obligations about human rights.

There is nothing to be shocked or alarmed by any party on the creation or organisation of this Civil Liberties Union. Its aim is constructive, not destructive.

tive. I am sure there is no sabotage, or rebellion or even revolution on its programme. We do not even intend to displace any party in power provided it keeps correct to the path of freedom and democracy. We do not intend to raise our voice to mislead, to confuse and to create alarm or panic. We do not intend to organise rebellion against the state or to create chaos and anarchy. Our aim is to see that our Government and our leaders are not misled by honest error, or by interested machinations to deviate the country from the true path of democracy and human freedom unto the direction of oligarchy, or autocracy or even to some sort of Oriental Fascism. Personally speaking, I want to give democracy a fair trial in this country as there is no other practicable alternative to it. I am aware that we are taking a leap in the dark, and we do not know where the western form of democracy with its uneducated adult suffrage will lead us to, in this caste-ridden country of numerous languages and races. There are honest sceptics about the success of democracy in this country (Mr. Mavlankar, the speaker, is one). But all the same, so long as democracy is our basic constitution, and there is no other alternative to it, it should be given a fair trial. And the essence of democracy is opposition. Its role is to keep the party in majority in its correct position as the party in charge of national interests by its potent weapon of open criticism and publicity. Remove the opposition and you relegate the political system of one-party rule into a potential oligarchy or a group autocracy. It is no use saying that an erring one-party rule can be displaced at the next election by the electors. The

party in power without the encumbrance of any opposition sees to it that the party rule goes on. Having removed and crushed the opposition, Hitler and Mussolini always got the votes of confidence which they wanted from the populace as a reason for their own capricious action. With the opposition leaders all shot or banished, have Stalin or his party ever been changed or are likely to be dethroned? Coming nearer home Chiang-kai shek always used to get his required votes till the mass of the people saw no way out of him and his foreign subsidised party except by rebellion and civil war. It is fair to assume that those who would like to see all opposition crushed and stifled are not genuine believers in democracy. One of the aims of this Civil Liberties Union is to see that fair criticism of governmental actions and measures is not bound by enactment of any law and no removal of opposition leaders to kill opposition is facilitated by simply throwing them into prisons or concentration camps under the authority of executive bodies whose very actions or policies are likely to be challenged or exposed by the opposition. It is against this power of destruction of opposition by the interested party in power that the Civil Liberties Union stands.

Our attitude is helpful to the Government and the state. Democracy always reacts to and is swayed by public opinion. We aim at inculcating this constitutional habit in our Government and leaders. This cannot be attained by crushing opposition and throwing opponents into jail.

I am aware of the fact that not all opposition to the Government is bonafide. There are subversive elements prowling about who would strike at the

nation and the state in the delusive hope of bringing about a new order of things. Such elements are out to create disorder and anarchy often in the interests of foreign powers. I am personally of opinion that to deal with them requires some extraordinary exercise of power by the Government. Personally I would not be averse to arming the Government with extraordinary powers to deal with such traitors. But I would like to have a safeguard that these extraordinary powers are not misused or abused to the detriment of any person or organisation who is not an enemy of the state though he may be an opponent of the party in power. For such purposes to distinguish between a genuine and bonafide critic and political opponent of a politically dominant party and a veritable traitor to the country and the state, the court and not the Executive should be armed with the authority to sift and discriminate. At some stage all such persons whose liberty of speech is curtailed should have the right to approach a court for a declaration in his favour and to secure his release if he is found to be not a traitor to his country or the state. That is to say, it is not the opponent of the individual concerned who should be made his Judge for his detention but a neutral outside, respected body like the High Court which should be in a position to wean out traitors and protect mere political critics or workers in opposition to Government policy and programme. Why cannot our Government trust our Judges in this matter and thereby inspire confidence and faith in all concerned. Remember our courts and judges serve as a safety valve for the Government and the State. Without them, discontented and aggrieved groups will have no other way open to them for redress of

their real or fancied wrongs except by rebellion and revolution. It is distressing to see that confidence in our courts is not being shown to an appreciable extent by the framers of the present political policy of the Government and more and more matters are becoming non-justiciable.

To be frank there is one more aspect of the present political situation which requires an organisation to serve as a sentinel of democracy. Looking back at our history, one will notice that popular leaders were seated on thrones on the support of the populace. Shivaji, Maharaja Ranjito Singh all rose to power and founded free states and for the time being the country rose to prosperity and greatness. But soon the heirs, the officers, and leaders began to scramble for power with the result that within a generation or two the Mahratta Empire was torn into shreds with so many ruling chiefs all quarelling and the Sikh State disintegrated into a number of petty chieftainships. The reason was obviously because the leaders thought not of the country or state but of their own power. In the India of to-day do we not find trends, tiny and imperceptible at present, which may lead us to our historic doom? We have elected a party to govern us on the system of English parties. In towns and villages that party is not merely seeking to formulate policies for the Government which it would be their legitimate function to do, but it is acting on a peculiar theory that any member of the party should have control over Police and administrative officers in villages and should have control over subordinate courts. The Congress President is banning the party from taking part in Civil Liberties Conference. Are these trends ominous? The nation must be on its guard, lest our precious freedom may be short-lived.