

THE
COLLECTED
WORKS
OF
MAHATMA
GANDHI

VOLUME TWELVE



THE PUBLICATIONS DIVISION

87. LETTER TO PRIVATE SECRETARY TO
MINISTER OF INTERIOR¹

JOHANNESBURG,
June 28, 1913

THE PRIVATE SECRETARY TO
THE MINISTER OF THE INTERIOR
PRETORIA

DEAR SIR,

I have endeavoured to study the Immigrants' Regulation Act, and observe with thankfulness that it is an improvement upon the original Bill.² But I respectfully beg to point out that it fails to carry out the provisional settlement of 1911 in at least four important particulars. In my humble opinion, if redress is granted in regard to these four particulars, the policy of the Government will not be affected, and yet the terms of the settlement, as my countrymen read it, will be just, but only just, satisfied.

The points are:

- (1) According to the definition of the term "domicile", those indentured Indians who arrived after the Indian Immigration Law Amendment Act of 1885 and their descendants appear to become prohibited immigrants.
- (2) The descendants of this class, although born in South Africa, will, if the above interpretation be correct, be unable henceforth to enter the Cape Province.
- (3) Women married in South Africa according to the rites of Indian religions, and going to India, and returning with their husbands will not be on the same footing as those [married]³ in India. Nor are the hundreds of women married according to non-Christian faiths provided for by the amendment.
- (4) The Free State difficulty seems to remain as it was before.

With reference to the first point, in view of the fact that the Minister has respected the right of the South Africa-born Indians to enter the Cape, if they are born of Indian parents domiciled

¹ This was published in *Indian Opinion*, 13-9-1913, under the title "Revival of Passive Resistance".

² A detailed comparison of the draft Bill and the Act as gazetted was published in *Indian Opinion*; *vide* Appendix VI.

³ The original is not legible here.

in South Africa, but not of indentured parents if they were indentured after the Natal Act 17 of 1895. It seems to me to be a small matter for the Government if they were to recognize the status of the descendants born in South Africa of those Indians who were indentured after the Act of 1895. I am sure the Government do not intend to set up distinctions between one class of Colonial-born Indians and another. Nor can it affect the policy of the Government to recognize the right of domicile of such indentured Indians themselves. There could not be more than seven thousand such Indians at the outside. This number, compared with the Indian population of Natal, which is estimated at 133,000, cannot fairly be deemed a dangerous permanent increase to the Indian population, especially when it is borne in mind that these men are wanted by the Europeans of Natal.

To the Indian community both the first and the second points are of the highest moment. According to the judgment of the Natal Courts, these men, if they are paying the annual tax of £3, have a right to remain in Natal as permanent residents. Are they now to become prohibited immigrants? I presume that the Government do not intend to deport them, but do they intend to enforce the provisions of the Act as to trading or the holding of land by them?

As to the marriage question, the difficulty raised by me is, in my humble opinion, obvious and calls for consideration.

As to the last point, in the correspondence that took place between General Smuts and myself,¹ doubt was expressed whether, in spite of the reservation clause, the declaration referred to in Section 8 of Chapter 33 could be required of an Indian who might be permitted to enter that Province under the new Act. What the people of the Free State want, I hope, is not a humiliating declaration from an Indian immigrant, but his legal disability to hold land, to farm, or to trade. If this be particularly mentioned in the Act itself, they cannot reasonably object to the removal of the clause which requires the declaration.

For the moment, and for the purposes of a settlement, I do not raise the question of the ousting (now only partial, I admit) of the jurisdiction of the Supreme Court, and the other drastic provisions of the Act which at once make it far more illiberal than the previous Provincial Acts which it replaces.

If Mr. Fischer considers that it is possible for the Government to meet the Indian community, and give an assurance that

¹ *Vide* Vol. XI.

the necessary amendments will be made next year, and if he considers it worthwhile to discuss the points personally with me, I shall be pleased to wait on him. I hope that Mr. Fischer will see his way to consider my letter in the spirit in which it has been addressed. I beg to assure him that I have no desire to precipitate an acute crisis, which is certain to arise if no settlement can be arrived at between the Government and the Indians.

In the event of an appointment being made, it will be necessary to discuss at the interview the administration of the Act as to the admission of married women in cases where the marriage is not monogamous, as also the mode of regulating the entry of educated Indians. I do not discuss them here for fear of making this letter too long, and because I believe that, if the law can be set right, the question of administration is a comparatively easy matter.

I need hardly say that I have throughout this letter assumed that there are no other existing rights disturbed by the Act which have not formed the subject matter of correspondence, telegraphic or written, between the Government and myself.¹

As I shall await your reply before advising my fellow-workers, may I ask for a telegraphic reply?²

*I remain,
Yours faithfully,*

From a photostat of the typewritten office copy: S. N. 5811

88. LETTER TO SECRETARY FOR INTERIOR

[JOHANNESBURG,]
July 2, 1913

SIR,

With reference to the interview between us this morning, and in accordance with your wishes, I reduce to writing the points discussed between us:

1. With reference to Indians born in South Africa and their right under the Cape Immigration Act to enter the Cape, in my opinion, under Section 5 of the new Act, such men will not be able to enter the Cape by reason of the Proviso of Section 5. If the Government intend to recognize their right to enter the Cape on

¹ This paragraph, in Gandhiji's hand, appears to have been added later.

² This letter was followed by an interview on July 2. Gandhiji reduced the points discussed to writing; *vide* the following item.