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## From Massacre to Immunity: The Role of the Indemnity Act in Obstructing the Hunter Committee Inquiry (1919)

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### ABSTRACT

The Jallianwala Bagh massacre, which occurred on April 13, 1919, is widely regarded as one of the most distressing incidents in the history of colonial India. General Dyer indiscriminately opened fire on a defenceless crowd without issuing any warning, resulting in the deaths of numerous individuals, and causing significant anguish in Punjab. Subsequently, martial law was implemented over Punjab to legitimize Dyer's actions in Jallianwala Bagh. Subsequently, upon the dissemination of information regarding the situation in Punjab throughout the nation, a sense of astonishment pervaded the populace. To convince progressive Indians about the security of the Empire, Montague made the decision to dispatch an inquiry commission to investigate the disturbances in Punjab. However, his dedication was not well-received by the other colonial officers due to their fear of being implicated if the truth were to be revealed. To alleviate the existing tension among the colonial officials, the administration made the decision to enact legislation that would shield them from the impending investigation. It is worth mentioning that while the government assured Indians of a fair investigation, they also introduced the Indemnity Bill in the Legislative Council to provide protection for colonial officials who used excessive powers and committed crimes in

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the name of restoring law and order. This article is focusing on the overlooked development that took place around the Jallianwala Bagh massacre. The author has thoroughly analyzed the then contemporary newspapers, Legislative Council discussions, and other sources to gain insight into the colonial mindset. The final segment of the paper is focused on how the Hunter Committee and its report were mere deceptive ploys orchestrated by the colonial authorities to manipulate the infuriated populace.

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## Introduction

In the annals of colonial India and the British Empire, the year 1919 stands as a momentous turning point. Following a break of sixty-two years since the Great Mutiny of 1857, the colonial authorities once again confronted a deep feeling of fear and apprehension as they experienced renewed opposition from their subjects. The April 10, 1919 incidents of violence, particularly at Amritsar, were a clear indication to the British of the instability and possibility of rebellion within their colonial territory. The colonial authority was greatly alarmed by this outbreak of violence, as they saw it as a potential forerunner to a broader rebellion similar to the last mutiny. As a result, this deeply ingrained fear reached its peak during the tragic events at Jallianwala Bagh on April 13, 1919, when General Dyer's ruthless actions led to the slaughter of hundreds of innocent Indians. The subsequent repressive actions in Punjab, like as extensive detentions and escalated brutality, demonstrated the colonial government's urgent need to regain authority and avert the potential escalation of a bigger, unmanageable uprising. This time highlights the vulnerability of colonial rule and the degree to which the recollection of 1857 continued to influence the behavior and mentality of the British colonial government.

Following the mass killing of numerous innocent individuals in Amritsar and other locations including Gujranwala, Kasur, and Lahore, the people of Punjab were deeply devastated. The implementation of martial law in Punjab further exacerbates their anguish. Individuals encountered the harsh reality of colonial governance during the Martial Law rule. Individuals who believed that their extensive efforts in supporting the British Empire during World War I would result in receiving certain advantages. Nevertheless, in 1918, a 'Sedition Committee' was established with the appointment of a British Justice named Sydney Rowlatt. This committee promptly compiled a report that meticulously documented past seditious activity and expressed concern about them. The advocacy involved endorsing



severe actions, including as the imprisonment of individuals without a trial by provincial governments, and expediting trials through special tribunals that do not allow for appeals against their rulings.<sup>1</sup> The Indians were discouraged by the suggestions put forward in the Rowlatt Bill.

Mahatma Gandhi initiated a nationwide protest the law, and individuals affected by the consequences of the war, such as inflation, epidemic, unemployment, and the issue of *khilāfat*, also participated in the movement. The substantial reaction to Gandhi's appeal is evident in Punjab, where regional leaders like Dr. Satyapal and Saifuddin Kitchlew orchestrated demonstrations against the Rowlatt Bill. On April 6, 1919, the widespread call for a general strike in Punjab was met with exceptional success. In addition, the Ram Navami procession that took place on April 9, 1919, serves as a notable illustration of inter-religious unity amidst a time of increased political strain in colonial India. The event showcased an exceptional degree of religious camaraderie, as Hindus and Muslims came together in a public exhibition of communal concord. The consolidation of this unity, however, caused concern among the British colonial government, as they had traditionally employed the tactic of "divide and rule" to effectively govern the heterogeneous populace. The unforeseen unity of the communities during the march heightened the administration's apprehensions, causing them to envision a recurrence of broad turmoil similar to the Great Mutiny of 1857. The worry was intensified by the continuing nationalist activities and the increasing dissatisfaction with colonial rule, causing the authorities to be highly alert to any indications of communal unity that may potentially strengthen anti-colonial sentiments. Consequently, the British reaction to these incidents grew more oppressive, laying the groundwork for future clashes between the colonial administration and the Indian population. Miles Irving, the former Deputy Commissioner of Amritsar, made the decision to address the situation by deporting Dr Satyapal and Saifuddin Kitchlew from Punjab.

Nevertheless, this action ended up exacerbating the condition. Demonstrators proceeded towards the residence of the Deputy Commissioner to advocate for the liberation of the leaders, however, armed forces resorted to gunfire at them. The police's actions exacerbated the public's fury, leading to a transformation of the rallies from anti-Imperial to anti-European in nature. Multiple banks were robbed, resulting in the deaths of European individuals. Subsequently, General Reginald Dyer assumed control of the city and issued a proclamation to forbid any gathering of the public within the city. However, on April 13, 1919, a gathering took place at Jallianwala Bagh, consisting of individuals who were either motivated by political concerns or simply present to celebrate the Baisakhi festival. General Dyer, incensed by the gathering of people, promptly began shooting at the crowd in Bagh without issuing any



warning. Subsequently, Martial Law was implemented in Punjab, subjecting the populace to a harrowing ordeal characterized by extravagant forms of punishment.<sup>2</sup> Upon learning about the situation in Punjab, individuals from neighboring provinces expressed skepticism on the operations of the Punjab Administration. Sir Sankaran Nair resigned from the Viceroy's Executive Council in opposition to the actions of the Punjab Government, while Rabindra Nath Tagore and Gandhi relinquished their titles as a form of protest.

### **Indemnity Bill**

Montague was prepared to implement political reforms in India at that time, but he needed the assistance of liberal Indians to effectively carry out these reforms. To assuage the ire of the Indian population, Montague made the decision to dispatch a committee to investigate the situation in Punjab. The officials in Punjab were alarmed by his statement, as they were aware that an impartial inquiry would likely result in their punishment, given that many officers had abused their authority. The administration held a widespread belief that if the officers were found guilty and subsequently punished, no officer would be willing to serve the government. To alleviate the tension among the officers, the administration presented the Indemnity Bill during the Legislative Council meeting in Simla in September 1919. The Viceroy spoke over the need of this bill and stated<sup>3</sup>:

“After disorders involving so great an upheaval of normal conditions such an inquiry as I have just announced is one inevitable consequence. The second and no less necessary sequel is the passing of an act indemnifying those officers of government who were called upon to undertake the onerous and ungrateful task of restoring orders, and the validation of such acts as the stress of circumstances required. Whatever the findings of the commission may be such a measure would be necessary; and injustice to our officers, we are bound to indemnify them at the earliest convenient moment.”

William Vincent emphasized that “the Indemnity Act is absolutely necessary in consequence of the riots, despite the fact that the Committee of Inquiry would sit, and it was only to indemnify those who acted absolutely bona fide and reasonably.”<sup>4</sup> Moreover, he stressed the importance of safeguarding the officers involved in the Martial Law actions, regardless of their innocence or guilt. If the government fails to protect the officers who diligently enforced law and order during the Martial Law era, there would be widespread dissatisfaction among them. Vincent presented the provisions of the Bills<sup>5</sup>:



- No suit or other legal proceeding, civil or criminal, shall lie in any court of law against any officer of the government, whether civil or military, or against any other person acting under the orders of any such officer for or on account of or in respect of any act, matter, or thing ordered or done, or purported to have been ordered or done, to maintain or restore order in any part of British India on or after March 30, 1919, and before the commencement of the Commonwealth of Nations.<sup>6</sup>
- It will protect officers from legal action in the future. Regardless of its value, the committee's report will not be admitted as evidence in any such case; this is a matter that can only be decided in court.<sup>7</sup>
- Unless the contrary is proven, a certificate from the secretary of the government stating that any act was performed on the orders of a government officer shall be conclusive proof, and all action taken for the above-mentioned purposes shall be deemed to have been taken in good faith and with a reasonable belief that it was necessary.
- Every individual incarcerated under or by a court or any other authority acting in a judicial capacity is presumed to be lawfully incarcerated and shall remain so until released by lawful order or by order of the Governor-General in Council.
- Payment of compensation where the property of any person has been commanded by the military authorities.
- This act does not apply to any penalty or punishment imposed by or on the orders of any committee established under the 1919 Martial Law ordinance.
- This Bill does not affect a person's right to appeal summary court sentences to the Privy Council if he considers he has been treated unfairly.<sup>8</sup>

Vincent asserted that without the protection of the provisions of the Bill, individuals would be disinclined to perform their work with integrity in the future. Moreover, he contended that in times of turmoil and the declaration of Martial Law, it becomes necessary to undertake some actions that may not be strictly lawful but are morally defensible, and that an Indemnity Act typically ensues as a logical outcome.

### **Discussion on the Bill**

The Indian members of the Legislative Council strongly criticized the Bill. Kamini Kumar Chanda expressed his dissent towards the Bill and raised apprehensions regarding the lawfulness of Martial Law in Punjab. Moreover, he contended that the justification for implementing Martial Law is ambiguous



since the people did not partake in any acts of violence during their nonviolent demonstration against the Rowlatt Bill. He emphasized, “If you proceed with this Bill, what is left for the committee to investigate? What would remain for the committee to investigate if you now assume that there was a need for Martial Law?”<sup>9</sup> Sir Manindra Nath Chandra emphasized the need for a prompt probe and the temporary suspension of the Bill.<sup>10</sup> The Indian members expressed their clear and unambiguous agreement with the Indemnity Bill, nevertheless, the government established a committee to examine the state of Punjab. What would be the scope of the committee’s investigation if the measures were passed? Several members stressed the need of postponing the Bill until the committee’s work is finished.

Several Indian newspapers have published pieces expressing opposition to the measure, asserting that prioritizing justice for the victims is of greater significance than providing legal protection for the officers. Citizens sought answers from the administration in response to the considerable discontent caused by the incidents. Sachchidanand Sinha vehemently denounced the government for disregarding public opinion during the Council session.<sup>11</sup>

“It is not right for the Government of India to flout public opinion in this way and say to us: ‘Oh, we are responsible for the maintaining law and order, the responsibility is cast on us by parliament, and we shall do what we think proper’. That, my lord, is a wholly wrong attitude. Public opinion has got to be appreciated; it has got to be considered and given due weight to. We are apt to believe that public opinion came into existence in this country only with British rule and that it came here along with certain other western ideas. As a matter of fact, even in the early days’ people who had not acquired English education knew the value of the public opinion.”

On the one hand, various Indian members of the Council were retaliating against the Indemnity Bill and on the other hand, a few members supported the Bill such as Sundar Singh Majithia, who argued that “no government could allow lawbreakers to go unpunished.” It is also important to safeguard cops who have carried out their responsibilities in maintaining law and order. But I want to be fully assured that the government has no intention of affording protection to those who have acted against the strictest sense of justice and good faith.”<sup>12</sup> Sita Nath Ray Bahadur commented on this Bill<sup>13</sup>

“I beg to reiterate that it is the paramount duty of Government to protect its officers who in an emergency are called upon to act and who act under orders and in the discharge of



their duties, and I have no mind to say that Government should not protect its servants nor any mind to minimize the gravity of the situation created in the Punjab.”

M.K. Gandhi took a different stance and supported the Bill, emphasized that “punishment of the erring officers is not our goal. Honorable discharge of the men whom we hold to be innocent and whom we believe to be wrongly convicted is our deliberate aim.”<sup>14</sup> Further, Gandhi stressed that “I think that it would have been graceful, even tactful, on the part of the Viceroy not to have mentioned the Indemnity Bill in the same breath as [the] Commission.”<sup>15</sup> Nevertheless, P. Malaviya disagreed with Gandhi’s remarks and asserted that his conscience held greater authority than those who opposed supporting this Bill. Subsequently, he delivered an extensive oration on the Bill that exceeded a duration of five hours, while also scrutinising the validity of said Bill. He contended that implementing Martial Law in the province was unnecessary as no further disruptions occurred after the events on April 10, 1919. He also expressed doubt over the necessity of punitive measures implemented by the Martial Law officials, such as the practice of crawling salaming. In addition, he advocated for the instances in which Martial Law authorities denigrated esteemed individuals in the city by compelling them to serve as constables. He emphasised the importance of withholding the passage of the Bill until the conclusive findings of the forthcoming investigation are available.<sup>16</sup>

## Conclusion

Despite the vigorous resistance put forth by P. Malaviya and other Indian lawmakers, the Bill was successfully enacted on September 25, 1919, as Act No. XXVII.<sup>17</sup> However, the endeavors of P. Malaviya brought attention to the significant hardships faced by Punjab. Upon learning about the atrocities endured by the Punjabis during the Martial Law era, a widespread sense of anger began to emerge across the nation. The Indemnity Act provides evidence that Indian subjects were consistently regarded as inferior during the colonial era. On one side, the government appointed a committee to examine the disturbances in Punjab, while on the other hand, they enacted a measure to protect its officials who were responsible for committing atrocities in Punjab. The clauses of this legislation exemplify the British Government’s real intention towards Indians, wherein the lives of innocent Indians had little significance. As Helen Fein argued that the racial structure of British rule in India allows them to slaughter Indians.<sup>18</sup> The Indemnity Act had a significant influence on the outcomes of the Hunter Committee, as the committee failed to yield any productive findings. The Committee’s Majority report has just determined that Dyer’s actions were a consequence of his erroneous assessment of the situation.



The conduct of the other officers during the investigation was negligent, as they were aware that the committee's findings could not be admissible as legal evidence against them. The Hunter Committee's investigation report, which aimed to scrutinize the circumstances surrounding the Jallianwala Bagh massacre, was significantly undermined by the enactment of the Indemnity Act. This legislation granted legal immunity to British officers and officials, shielding them from prosecution for their activities in suppressing rebellion in Punjab. As a result, it virtually invalidated the conclusions and suggestions made by the Committee. Although the Hunter Committee recognised the severe and unjustified use of disproportionate force, the Indemnity Act guaranteed that those accountable would not be held legally responsible, thereby rendering the report as merely a compilation of unenforceable opinions. The Act not only subverted the Committee's endeavors to establish responsibility, but also bolstered the imperial mentality that favored colonial power over fairness, so deepening the entrenched culture of exemption from punishment that defined British governance in India. Therefore, comprehending the Indemnity Act is crucial for grasping the mechanisms and mentality of the colonial rulers, who disregarded the lives of their people, particularly in their colonies, and extinguished any prospect of justice from the British Government for Indians.

## Reference

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- <sup>2</sup> Fancy punishments such as *Salaming, crawling, public flogging etc.*, for more details see Kishwar Desai, *Jallianwala Bagh, 1919: The Real Story* Chennai: Westland Publications, (2018).
- <sup>3</sup> *The Indian Legislative Council*, Vol. 58. 3<sup>rd</sup> September 1919: (Cited here after as ILC) P. 4.
- <sup>4</sup> *The Times of India*, 19<sup>th</sup> September 1919. (1861-2010). P. 9.
- <sup>5</sup> *A Collection of the Acts passed by the Governor General of India in year 1919*. Calcutta. Superintendent government printing. 1920, P. 86. (Cited here after as CAPGG).
- <sup>6</sup> *Ibid*, pp. 86-7.
- <sup>7</sup> *ILC*, 19<sup>th</sup> September 1919. P. 384
- <sup>8</sup> *ILC*, 18<sup>th</sup> September 1919. P. 282.
- <sup>9</sup> *ILC*. 18<sup>th</sup> September 1919. P. 393.
- <sup>10</sup> *Ibid*. P. 355.
- <sup>11</sup> *Ibid*. P. 372



<sup>12</sup> *ILC*. 18<sup>th</sup> September 1919. P. 294.

<sup>13</sup> *ILC*. 19<sup>th</sup> September 1919. P. 356.

<sup>14</sup> *CWMG*. Vol. 18, P. 413.

<sup>15</sup> *Ibid.*

<sup>16</sup> *ILC*. 19<sup>th</sup> September 1919. P.459.

<sup>17</sup> *CAPGG*. P.86.

<sup>18</sup> Helen Fein. (1977). *Imperial Crime and Punishment: The massacre at Jallianwala Bagh and British Judgment, 1919-1920*. University of Hawaii Press.