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Research Paper / Article / Review

The Age of Consent Act of 1891 through the lens of Vernacular Press

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Abstract: The Paper analyses The Age of Consent Bill of 1891 on the bases of discussion and debates in the vernacular press. It covers the background of the Age of Consent Act through vernacular press. The paper discussed various supporting, opposing arguments and proposed amendments of the bill. It evaluates amendments proposed by common people for passing of the Age of Consent Bill. Through vernacular press, common people raised their voice for passing of new laws by British Government. The paper examined various newspapers like *The Aftab-i-Punjab, The Delhi Punch, The Rahbar-i-Hind, The Bharat Sudhar, The Paisa Akhbar, The Punjab Punch, The Gham-Khwar-i-Hind, The Akhbar-i-Aam, The Aina-i-Hind, The Pate Khan, The Imperial Paper, The Koh-i-Noor, The Lahore Punch, The Mulla Dopiaza, The Durbin and The Khair-Khawah-i-Kashmir published from Lahore. The <i>Aftab-i-Hind* and *The Akhbar-i-Kaisari* issued from Jallundhar. *The Arya Gazette* circulated from Ferojepur, *The Punjab Gazette* and *The Wazir-i-Hind* from Sialkot. *The Akmal-ul-Akhbar, The Bemisal Punch* and *The Chalta Purza* distributed from Delhi. *The Taj-ul-Akhbar* (Rawalpindi), *The Sadiq-ul-Akhbar* (Bahawalpur) and *The Sirmour Gazette* printed from Nahan. The whole data related to the age of consent studied from the Selections from the vernacular newspapers of National Archives of India.

Keywords: Age of Consent, Consummation of marriage, Garbadhan, Dwiragaman, Muklawa.

1. INTRODUCTION:

On 19th March 1891, The Age of Consent Act also known as Act X of 1891 was passed under the Viceroy of Lansdowne and marriageable age raised from 10 to 12 years. Behind the passing of the Age of Consent Act was the significant efforts of the Behramji Malabari, a social reformer in England as well as India during nearly ten years supported by the patriotic zeal and learning of his friend Dayaram Gidumal to pass the Age of Consent Act.¹ This act increased the age of consent for sexual intercourse for all the girls, married or unmarried from 10 to 12 years of age. The Age of Consent Act of 1891 became saviour for the many girls as it raised the age for sexual intercourse. The age of Consent Act of 1891 just fixed the age of the girls to give their consent to make physical relation. The number of newspapers gave their supporting, opposing arguments on the Bill of 1891.

Various vernacular newspapers gave support to the Age of Consent Bill of 1891. *The Delhi Punch* published a communication in which approved The Age of Consent Bill and condemned those people who have raised their voices against the measure. Some of the opponents of the bill have given publicity to groundless and stupid imputations against the Government while others have even gone the length of appealing to the prejudices of the people by using impassionate language of the following description 'O Hindu brethren, Your religion is being defiled, you should therefore excommunicate those persons who were in favour of the age of Consent Bill.'² *The Bharat Sudhar* remarked that it was a mistake to supposed that the measure in question will in any way interfere with the religious laws of the Hindus in as much as none of the *Shastras* except *Shagar Budh* (which however was not an authoritative work) enjoins the marriage of females before the age of 16. The Bill was that Government so far from interfering with the religious affairs of the Hindus indirectly advise the latter to the Bill up to the tenets of their religion and none but the enemies of the Hindu nation will regard this measure as Bill of religious interference.³ It depicts that the Hindu *Shastras* did not supported early marriages. Due to wrong interpretations of *Shastras*, some people opposed the bill.

The Akmal-ul-Akhbar observed that western education has created a new sect of reformers among the Hindus and Bengalis were advising Government to interfere with the religious and social reformers of the Hindus and to introduce social reforms by legislative measures.⁴ Most of the educated class of the society were in favour of passing of the bill.



The Aftab-i-Hind said that considerable excitement prevails among the Hindus owing to the bill recently introduced into the Supreme Legislative Council to raised the age of consent from 10 to 12 years and that subscription were being raised to start agitation against the measure. The institution of child marriage has proved itself to be an injurious one both from a physical and moral point of view. It was to be hoped that the educated people of the Native community will not oppose a measure which if passed would prove beneficial to future generations.⁵ Child marriages were condemned on the moral and physical grounds.

The Hindus and the Muslims who have protested against the measure on religious grounds were certainly suffering from some mental derangement in as much as they do not seem to realized the Bill that the religion of a conquered people was always at the mercy of the conquerors. The people of India should therefore quietly agree to embrace any religion of the British Government wishes them to. When the life and death of the people of this country were in the hands of government there was no reason why the latter should not interfere in such matters as the age of consent. It concluded by suggesting that Government should pass a law in order to prevent women from dying at childbirth and for putting a stop to the *parda* system.⁶ *The Rahbar-i- Hind* condemned child marriage and suggests that Indian girls should be married between the ages of 12 and 16.⁷ Both The *Delhi Punch* and *The Rahbar-i-Hind* stands in favour of The Age of Consent Bill.

The great misapprehension prevailed in the country regarding the Age of Consent Bill. The measure in question does not in any way interfere with the matrimonial rites of the Hindus its object being to prevent the consummation of marriage before the age of 12 which means that the *muklawa* ceremony should not be performed before the bride has attained that age. Thus it is apparent that no age limit for marriage has been fixed. The Hindu religion enjoined the marriage of female before the commencement of menstruation but that it was a mistake to confound this with consummation of marriage or the *muklawa* ceremony. The *Dwiragaman* ceremony was quite different from *Garbhadhan.*⁸ The *Akhbar-i-Aam* analyzed that the age of consent bill restrained early consummation not early marriages. Those were in favour of the Bill said that Government has introduced the Bill for the betterment of the society. It was a mistake to credit Government with bad motives. It was only the conservative Hindus and papers of the type of the *Amrita Bazar Patrika* that were spreading misapprehension among the people regarding the motives of the Government.⁹ The orthodox section of the society and newspapers like *Amrita Bazar Patrika* opposed the efforts of British Government regarding pass the bill.

On 25th September 1890, *The Ravi* published the comments on Malabari advised the followers of Dayanand and the members of the *Sanatan Dharam* to sink their petty differences and to submit representations to the government of India protesting against the introduction of the said reforms which if enforced by law would be regarded as undue interference on the part of Government and would lead to the outbreak of another mutiny in India.¹⁰ Behramji Malabari gave suggestion to the members of *Sanatan Dharam* and followers of Swami Dayanand Saraswati to unite on the issue of age of consent. The Punjab Government has done well in publishing an explanation of the object of the Age of Consent Bill thus removing the misapprehension which existed as to the intention of Government to interfere in the religious affairs of the people.¹¹ The Government of Punjab supports the Age of Consent Bill of 1891. The paper highlights the opposing and supporting arguments on the Age of Consent Bill of 1891. It discussed different opposing points like to pass act without the consent of the common people, Government did not gave respect of religious beliefs of Hindus, police interference in social customs, social disgrace of high caste people and do not want to social change by foreign government. It also describes various supporting point of views like prevent women from dying at child birth, *Shastras* did not recommended marriage before the age of 16 and early marriages deteriorates physical and moral health. Most of the educated class were giving support to pass the Age of Consent Bill.

One of the strongest arguments urged against the measure was that it would interfere with the religious laws of the people and was therefore opposed to the solemn pledges contained in Her Majesty's proclamation of 1858. Lord Lansdowne however thought differently and the remarks made by him on this point in his speech showed that His Excellency may at any time force his own notions of morality on the people even when such notions were opposed to their religion. In other words, the Government of India will in future be at liberty to amend or repeal the religious laws of the people whenever it finds it necessary to do so. New Christian notion of morality differ greatly from those of the Hindus and the Muslims. For instance idol worship was not only countenanced but enjoined by the Hindu religion. It is an immoral one according to Christianity will Lord Lansdowne pass the Bill making idol worship an offence punishable with transportation for life? Similarly the *purdah* system enjoined by the Muslim religion was looked upon with great disfavour by Christians but will the legislature pass the Bill rendering those who keep their wives in *purdah* liable to imprisonment for life? Lord Lansdowne probably has no idea of interfering in such matters but His Excellency interpretation of the Queen proclamation certainly justified the interference that Government may do so at any time. Since the Hindu and the Muslim notions of morality differ entirely from those of the Christians, His Excellency the



Viceroy should respect the religious feelings of all classes of the people instead of endeavouring to force his own views of public or rather Christian morality on them.¹² The main opposition of the Bill was on religious grounds.

The Kaiser-ul-Akhbar admitted that child marriage produces very injurious results but legislative interference in such matters on the part of a non-Hindu Government so far from remedying the evil will tend to rouse the suspicious of the people as to its motives. The Mutiny of 1857 was due to the rebels suspected or pretended to suspect that Government was interfering with their religion.¹³ It shows legislative interference in religious matters of Hindus was not good for British Government. The *Kaiser-ul-Akhbar* gives warning to British Government through the example of Mutiny of 1857.

The Government has shown no respect for the religious beliefs of the Hindus in thus passing the Bill into law. Lord Lansdowne speech clearly shows that the matter will not rest here and that the time was not far distant when the marriage of girls under 12 years of age will be prohibited. Educated Native were generally in favour of the measure and it would have been far better if Government had induced them to take steps for remedying this social evil instead of resorting to legislative interference. The Legislative Council has insulted the religious feelings of an important and numerous section of the Hindu community by passing the age of Consent Bill in opposition to their wishes.¹⁴ *The Aina-i-Akhbar* and *The Rahbar-i-Hind* also condemned the Bill and strongly depreciates Government interference in the domestic affairs of the people. The people are not likely to approve of a measure which will interfere with their liberty in domestic and social affairs.¹⁵ *The Bemisal Punch* stated that by passing the age of Consent Bill into law Government has undoubtedly interfered with the social customs of the people.¹⁶ It depicts that people did not like the interference of British Government into religious, social and domestic matters.

The passing of the Age of Consent Bill will be a useless piece of legislation. The age at which consummation of marriage was lawful according to the Indian Penal Code was 10 years but hundreds of girls of not more than 10 years of age may be seen carrying babes in the arms. Unless therefore the people themselves learn to realise the advantages of raising the age of consent any legislative measures in this direction will be useless and will only lead the people to believe that Government wishes to interfere with the religion.¹⁷ It shows the difference between passing and implementation of the acts.

The Bimsat Punch published some verses of the effect that The Age of Consent Bill has destroyed the religion of the people as with a sword.¹⁸ *The Kaiser-ul-Akhbar* observes that if the age of consent is raised to 12 years people will be compelled to marry their daughters at an advanced age through fear of the law. It was therefore idle to suppose that the Bill in question will not touch the Hindu marriage laws which enjoin the marriage of female children before the occurrence of first menstruation. If the Bill becomes law, it creates fear among people to arrange marriage at later ages. The Government should have introduced such a measure at the instance of Mr. Malabari who being a Parsee can scarcely be expected to know much about the religious and social customs of the Hindus and concludes by calling upon the educated community to oppose a Bill which if passed will establish a dangerous precedent.¹⁹ Some of the people opposed Mr. Malbari, a reformer has proposed the raising of the age of consent without any regard either for Hindu public opinion or for the tenets of the Hindu religion.²⁰ So people were opposing the age of consent on the grounds that those persons were in favour of the new Bill does not know the religion of Hindus. So passing of the Bill will be useless.

It was admitted by all Sanskrit scholars that the English language is as yet incapable of expressing the full sense of Sanskrit words. How is it then that those Europeans who have only studied a few translations of the religious books of the Hindus said that the Age of Consent Bill does not touch the religious laws of the Hindus. Whether pressure has been brought to bear on the legal member from home or whether he has been misled by insufficient medical evidence it was not easy to said but there can be no denying the Bill that he has committed an egregious blunder in introducing the Bill into the Council. The Hindus and the Muslims have been living side by side for centuries but they have not acquired much knowledge of each other's religious and social customs. How then can it be presumed that the Anglo Indians who live in India like nomadic tribes can acquire this knowledge. The Sanskrit scholars blamed that the translation of religious texts of Hindus by the British was not authentic in nature. The Native community was very slow in adopting measures to reform crying social evils themselves neither do they like the idea of Government interfering in social and religious questions. If the age of Consent Bill will passed without doubt afford an opportunity to unscrupulous people to make a false report before a magistrate in order to bring discredit on those with whom they happen to be at enmity.²¹ It discussed about the implications of passing of the Age of Consent Bill of 1891.

The passing of the Age of Consent Bill into law was likely to bring disgrace on respectable families by dragging their females into court. Girls must now be regarded as a curse to their parents and considered that those who wish to save their honour should kill their daughters as soon as they were born.²² *The Taj-ul-Akhbar* shows that the passing of the Age of Consent Bill will enable the police to oppress the people and extort money from them.²³ *The Gham Khwar-i-Hind* remarked that the object with which the bill has been introduced was no doubt a praiseworthy one but it was to



be feared that the measure will give unscrupulous persons an opportunity of dragging respectable people into court on a charge of premature cohabitation.²⁴ If the Age of Consent Bill passed it will lead to respectable females being dragged into court through the machinations of wicked people.²⁵ The 14 years rigorous imprisonment was too heavy and will do more harm to the wife than to her husband as during the absence of the latter in jail there would be nobody to support her.²⁶ The passing of Bill will be disgrace of the respectable families to going court and police stations.

According to the *Deccan Parkash*, a girl below the age of 12 years having given birth to a child, her husband has been prosecuted under the Age of Consent Bill. The accused however denies having had sexual intercourse with his wife and was unable to account for the birth of the child. *The Durbin* ironically remarked that if husbands in order to escape punishment advance pleas similar to the above, the Age of Consent law will have a very wholesome effect on the country. It was however difficult to understand why the Bill which has only recently been passed should be enforced with retrospective effect. If the prosecution of the accused in the case cited above was held to be legal then all persons whose child wives have become pregnant during the past 6 or 7 months should take warning. The age of Consent Bill can only be regarded as a disgrace to the country.²⁷ It revealed that the applicability of the Bill was not practical in nature.

The Lahore Punch remarked that some girls attain the age of puberty at the age of 8 or 9 years while others do not reach that state until 15 years of age. The Age of Consent Bill as defective and likely to bring disgrace on parents whose daughters may now remain unmarried after they have attained the age of puberty.²⁸ *The Patiala Akhbar* condemns the measure as useless. It will on the one hand prevent consummation of marriage in the case of girls who attain puberty before the age of 12 years and will on the other afford no protection to those who attain the age of puberty at 14 years of age.²⁹ The *Wazir-i-Hind* condemned the Age of Consent Bill on the ground that in India females arrive at puberty before the age of 12 years and that the Hindu religion enjoins consummation of marriage as soon as the first menstruation has taken place.³⁰ *The Lahore Punch, The Patiala Akhbar, The Wazir-i-Hind and The Sirmour Gazette* opposed The Age of Consent Bill on the basis of puberty attained at different ages like at the age of 12, 14 and 16 years.

The Chalta Purza, condemned the passing of the Age of Consent Bill and endeavours to prove that the measure was one calculated to convert India into another England.³¹ It shows that British Government wants to create another England to sort out the issue of early marriages. But It was a matter for regret that the Government of India does not even stop the sale of wine, opium and *bhung* which have almost ruined the country. The Bill, it does not like to sacrifice a revenue by prohibiting the use of these commodities and it is therefore clear that Government cares more for its revenue than the welfare of its subjects.³²

Some people urged the passing of the Age of Consent Bill on the ground that it will put an end to early marriage. The Bill however was that it does not aim at early marriage the object of Government being to protect girls against premature cohabitation. It pointed out the evils likely to result from the passing of such a law and after showing that the evil which it sought to remedy was either unknown or of very rare occurrence called upon Government to withdraw the measure.³³ It shows that the bill was not right in its true sense. The Age of Consent Bill forms a topic of general conversation among all the classes of the people. After giving an account of a meeting held by the supporters of the measure at Lahore, it observed that the people were now fully convinced of the evils resulting from early marriage but that they do not relish the idea of Government interference in such a matter. If Government was to postpone the passing of the Bill in question the writer feels sure that the people would of their own accord discontinue the problem of marrying girls before the age of 12.³⁴

The newspaper like *Chalta Purza* published a cartoon in which the Age of Consent Bill was represented as a giant. The native ladies were made to exclaim 'God save us. O God, Thou art all powerful. Save us from this calamity.'³⁵ The Delhi Punch publishes a cartoon in which the Hindus were represented as strongly protesting against the proposed raising of the age of consent bill. The letter runs as following 'Oh kind mother, save us from this calamity which is threatening us.'³⁶ The Newspapers like *Chalta Purza* and *Delhi Punch* opposed The Age of Consent Bill through publishing cartoon as a big giant.

The number of the Hindus in the Punjab against the age of Consent Bill showed that the evil which the bill aims at removing does not really exist in the province. It was true that child marriage was not unknown in the Punjab but the *muklawa* ceremony which does not take place before a girl attains the age of puberty prevents premature cohabitation.³⁷ The *muklawa* and other ceremonies in order to showed that premature cohabitation was unknown in the Punjab and that it was useless to attempt to put down an evil which does not exist.³⁸ Though early marriages were controlled among the Hindus yet the *Muklawa* ceremony was not performed before the wife attains the age of puberty which varies from 12 to 15 years.³⁹ One of the strong reason to oppose the bill was that *muklawa* ceremony was prevalent in the region of Punjab. If Government really wished to raised this country socially let it afford every possible facility for the education of the people and social evils will then gradually die out of their own accord.⁴⁰ Most of the newspapers like *The Koh-i*-



Noor, The Wazir-ul-Mulk and *The Kaiser-ul-Akhbar* suggests that British Government do not interfere in matters of religion and give suggestion to educate the peoples about social evils. People should take initiative themselves. It will be more beneficial to curb the evils like child marriages.

Some vernacular newspapers propose amendments like Aftab-i-Punjab highlights that if Government has any regard for public opinion it should no longer hesitate to withdraw the measure. If this course be considered inexpedient the following amendments should be made. That none but the aggrieved wife should have the power to prosecute her husband through her parents or near relations. Such cases should invariably be referred to a *panchayat* and that the Court should be bound to agree with the decision of the said *panchayat*.⁴¹ The police should not interfere in cases of child marriage. The punishment of transformation for life or 14 years imprisonment should be greatly reduced and enquiry into such cases should be instituted through *panchayats*.⁴² *The Ghar-Khwar-i-Hind* supported the Age of Consent Bill and recommended the adoption of amendments similar to the above with this difference that no Magistrate other than the District Magistrate should be authorized to try such cases.⁴³ The Government should postpone the passing of the Bill for a year and see how many cases of premature cohabitation occurs. If during this period the opponents of the measure take adequate steps to put down the evil the Bill may be withdrawn.⁴⁴It highlights the convict should be present in front of the *panchayats* also. The lower rank than the district magistrate did not allowed to sort out the cases of early marriages.

The Akhbar-i-Aam publisheed a case in which a Muslim was maliciously charged with having had sexual intercourse with his wife who was under age. The court dismissed the charge on the evidence of the medical officer who stated that the girl appeared to be more than 12 years old. The writer asked Nawab Abdul Latif Khan to carefully considered the case and remarked that Government made a mistake in passing the age of Consent Bill without providing for the trial of such cases before Native juries.⁴⁵ Through Vernacular press demand raised that suspect should be present in front of native juries before actual trail in the courts.

The Government has introduced the Age of Consent Bill with a view to interfering with the marriage laws of the people remarked that if Government wishes to put an end to early marriage it should raised the age of consent to 14 or 15 years of age but if it merely aims at protecting females against premature cohabitation it should provide for the punishment of those who cohabit with a girl before she has attained puberty and not before she is 12 years of age as some girls attain puberty before the age of 12 years while others attain that state long after the age.⁴⁶ *The Victoria Paper* recommended some amendments in the Bill were that no complaints shall be filed against any husband unless the permission of the Local Government has been previously obtained for the purpose. The Local Government shall not grant such permission without hearing the defense of the accused and the accused if convinced shall be liable to a fine of 200 Rupees.⁴⁷ It mainly focused upon more authority given to local Government in cases of early marriages.

The Aftab-i-Punjab observed that Government has made ample provision for protecting young girls from being outraged. But it has done nothing to save young lads from being enticed by old hags and prostitutes and falling victims to various kinds of contagious diseases. Government should pass a law to the effect that a woman enticing or compelling any boy under 15 years of age to cohabit with her shall be punished with imprisonment or fine.⁴⁸ The *Aftab-i-Punjab* appealed the British Government should include punishment given to women's if they were cohabit with the boy of under the age of 15 years.

Both the opponents and supporters of the bill have condemned it in its present form and the eyes of entire Indian population were turned towards the Marquis of Lansdowne. If his excellency ordered the bill to be withdrawn or largely amended he will save 300 millions of people from great calamity. If however, the measure was forced on the people the later will infer that the British Government means to govern India by the sword. If this bill was passed in opposition to the wishes of the people the British Government which has done so much to put down slavery in all parts of the world will lay itself open to the charged of having reduced the natives of India to the status of slaves.⁴⁹ The Government has paid no heed to the agitation set on foot against the Age of Consent Bill and has passed that measures into law without the slightest regard for the public opinion of the country.⁵⁰

The Government was fully justified in introducing the age of Consent Bill into the Legislative Council as the Hindus if left to themselves will never do anything to put down evils of this nature. If they do not like the idea of government interfering with social matters let them take measures for putting a stop to the premature cohabitation and Government will withdrew the Bill of its own accord. It remarked that his prophecy that the bill would meet with strong opposition has been fulfilled but condemned the outcry raised on the ground that Government was justified in interfering in such matters in the interests of morality. 'But there were several evils such as intemperance, gambling, forgery, perjury and bribery which government ought to put down leaving such questions as the age of consent to be settled by the people themselves.'⁵¹ Government claimed that if people take initiative to end early marriage they would withdraw the bill of 1891.



Hundreds of native newspapers condemned the age of Consent Bill and thousands of meetings were held to protest against the measure and that it was a matter for extreme regret that Government has passed the Bill into law in direct opposition to the wishes of the people.⁵² The age of Consent Bill has caused great excitement in India and that all classes of the people were loudly protesting against the measure. The newspaper strongly condemned the Bill and remarked that respectable women of the Hindu community would rather die that appeal to a court of justice for protection in such cases.⁵³ Through vernacular press, proposed different amendments for the Bill like more powers given to Local Governments or *panchayats* to deal with the issue of early marriages, punishment would be include for women; sthose arrange marriage with a boy under the age of 15 years, the rank of the District Magistrate would be given permission to sort out the issues of early marriages.

2. CONCLUSION:

The paper highlights the different supporting and opposing arguments in relation to the bill of 1891. It proposed amendments on the bill of 1891. Some of the Newspapers like The Delhi Punch, The Bharat Sudhar, The Dharam Jiwan, The Paisa Akhbar, The Punjab Punch, The Gham-Khwar-i-Hind, The Arya Gazette, The Akhbar-i-Aam and The Rahbar-i-Hind were opposed the Age of Consent Bill. The vernacular press opposed the Bill on the grounds of religious interference by foreign Government, social disgrace through police intervention and trail in courts, attained puberty at different ages of 12, 14 and 16 years and bill was not practically applicable. Newspapers like the Akhbar-i-Aam, The Chalta Purza, The Punjab Gazette, Kaiser-ul-Akhbar, Wazir-i-Hind, The Koh-i-Noor, The Lahore Punch, The Mulla Dopiaza, The Sadiq-ul-Akhbar, The Sirmour Gazette, The Bemisal Punch, The Pate Khan, The Taj-ul-Akhbar, The Durbin, The Akmal-ul-Akhbar, The Akhbar-i-Kaisari, The Aina-i-Hind, The Aftab-i-Punjab, The Patiala Akhbar, The Imperial Paper, The Gulzar-i-Bhera, The Singh Sahai and The Wazir-ul-Mulk were in favour of passing the Bill of Age of Consent. Some of the newspapers gave supports to the age of consent bill and highlights certain points like social welfare of the society, better moral and physical health, prevent women form dying at child birth and became child widows at early ages. Newspapers like The Akhbar-i-Aam, The Victoria Paper, The Aftab-i-Punjab and the Kaiser-ul-Akhbar suggests some amendments such as more powers given to local Governement or panchayats, Native authorities and District Magistrate to deal with the issues of early marriages. The literate section of the society gave support to The Age of Consent Bill of 1891.

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- 51. The Rahbar-i-Hind, Lahore. (16th February, 1891), (p. 70).
- 52. *The Mulla Dopiaza*, Lahore. (30th March, 1891), (p. 133).
- 53. The Aftab-i-Punjab. (23rd January, 1891), (p. 43).