Chapter IV
SOCIAL WELFARE LEGISLATIONS


The Government pursued several welfare measures especially for the mentally retarded persons, protection of the agriculturists from natural calamities, relief measures, prevention of begging, granting of universal adult franchise, prohibition of the manufacture, sale and use of intoxicating drinks and drugs, precautionary measures to prevent fatal accidents, prevention of opium smoking in public places and finally suppression of corruption and bribery.

The Government of Travancore took interest in the protection of lunatics as early as 1869 AD. In the same year, a building was purchased near the General Hospital, Trivandrum, for the treatment of insane patients. But that building was fit only to serve as a temporary Lunatic Asylum. For the treatment of female lunatics a separate asylum was opened between 1878 and 1879. The work of the commodious
building at Ulampara. intended to be the Lunatic Asylum, was completed between 1903 and 1904 and the lunatics were removed to the new shelter.

The Lunatic Asylum at Ulampara was changed into “The Hospital for Mental Diseases” in 1921. That change was relevant, and the institution as an asylum for patients from the adverse reactions of the world had to be changed into a hospital for patients with recognisable disease forms which could be treated successfully or for patients whose conditions might be ameliorated. The lunatics should be made to feel more at home in a world of their own after the removal of the adverse factors. That idea could evidently exercise an unconscious influence on the public mind since a brighter outlook on the fate of the mental patients was foreshadowed by the change in name. A feeling of helplessness was induced by the fatal view that the origin of mental disease was the result of the visitation of evil spirits on some unfortunate section of humanity, or of some Karma.  

The general outlook of the staff in treating mental patients changed immediately, and sympathetic approach and systematic treatment came to be introduced. A consultant staff consisting of a Gynecologist, an Ophthalmologist, an E.N.T specialist and a Dentist assisted the medical officer. The staff was given special instructions to treat the patients with kindness and sympathy. The buildings

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2 Ibid., p. 218

3 Ibid.
in the hospital were made convenient to the patients with the object of giving them the idea that they were patients and not a peculiar lot of people. 4

The law relating to the lunatics, their reception and detention in lunatic asylums, contained in the Travancore Lunacy Regulation was defective for some material reasons. 5 The summary procedure for the protection of lunatics was to lodge them in lunatic asylums under the orders of a magistrate. That procedure was available under the Regulation them existing, only if the lunatic could be deemed a dangerous lunatic. There were, however, other classes of lunatics who wandered wanted about the streets or were poor and uncared for or cruelly treated, in respect of whom no provision was made. The Government felt that they also needed protection obtained in a summary and expeditious way. For the care of the persons and the management of the estates of lunatics by taking proceedings through the District Court, there was some provision in the existing regulation but that was insufficient. In British India, the law then in force was the Indian Lunacy Act 1912. It was considered that a law on the lines of that Act would be beneficial to Travancore also. Accordingly a bill was prepared on the lines of the British Indian Act. Report of the Select Committee and the Travancore Lunacy Bill were presented to the Assembly and it was subjected to a very detailed discussion. There were debates among members about certain clauses. 6

4 Ibid.


The Travancore Lunacy Regulation - 1935

The Travancore Lunacy Regulation was passed on 15 July 1935, corresponding to 31 Mithunam 1110, under Section 23 of Regulation II of 1108. The purpose of the Regulation, as noted therein, was to consolidate and amend the law relating to lunacy. The Regulation was called the Travancore Lunacy Regulation 1110, which extended to the whole of Travancore.

The second chapter of the Regulation dealt with the reception of persons in Asylum. Accordingly, no person other than a criminal lunatic or a lunatic so found by inquisition could be received or detained in an asylum without a reception order served, provided by Section 7, 15 and 70. There are detailed provisions in this chapter, dealing with the application for reception orders and further procedure. The Regulation also dealt with reception orders otherwise than on petition; and accordingly, every officer in charge of a police station not below the rank of an Inspector could arrest or cause to be arrested all persons found wandering at large within the limits of his station, whom he had reasons to believe to be lunatics. The officer could also arrest or cause to be arrested all persons found wandering at large within the limits of his station, if he found them dangerous by reason of lunacy. The

7 The Regulations and Proclamations of Travancore, Vol. VIII, op. cit., p. 47.

8 “Asylum” means an asylum or mental hospital for lunatics established and declared to be such by the Government.

9 “Lunatic” means an idiot or person of unsound mind.
person so arrested had to be taken forthwith before the Magistrate. The Magistrate would examine the person and if he found grounds for proceeding further, he would cause him to be examined by a medical officer and make such other enquiries as he thought fit. If the Magistrate were satisfied that such person was a lunatic to be detained, he might, if the medical officer who examined the person gave a medical certificate with regard to the person, make a reception order for the detention of such a lunatic in an asylum.

The Regulation also protected the poor lunatics from cruelty and ill treatment. If it came to the notice of the Magistrate that any person within the limits of his jurisdiction deemed to be a lunatic was not under proper care and control, or was cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may cause the alleged lunatic to be produced before him and summon such relative or other person as had or ought to have the charge of him. It was further provided that if such relative or other person was legally bound to maintain the alleged lunatic being properly cared for and treated, and if such relative or other person willfully refused to comply with the said order, the Magistrate could sentence him to imprisonment for a term which might extend to one month.

11 Ibid., p. 56
According to this regulation every medical certificate\textsuperscript{12} had to be made and signed by a qualified medical practitioner, had to and shall contain a declaration that the person who so made and signed the certificate was not a disqualified person.

The Regulation declared that a lunatic identified by the inquisition might be admitted and detainted in asylum on an order made by the district court. According to this Regulation, the cost of maintenance of lunatic was to be recovered from the estate of the lunatic\textsuperscript{13} or of any person legally bound to maintain him. If at any time it appeared to the satisfaction of the court that the lunatic had not sufficient property and that no person legally bound to maintain such lunatic had sufficient means for the payment of such cost, the court would certify the same instead of making such order of the payment of the cost.

It is noteworthy that the Regulation also provided that if it appeared, after the reception of any lunatic into an asylum on a reception order, that the order upon which he was received or the medical certificate or certificates upon which such order was made or was or were defective or incorrect, the same might at any time afterwards be amended\textsuperscript{14} by the persons or person signing the same with the sanction of two or more of the visitors of the asylum, one of whom was to be a medical officer.

\textsuperscript{12} Ibid., p. 59
\textsuperscript{13} Ibid., p 60
\textsuperscript{14} Ibid.
Chapter III of the Regulation dealt with the care and treatment of the 
lunatics and accordingly the Government would appoint for every asylum not less 
than three visitors, one of whom at least was to be a medical officer. Another visitor 
ex-officio of the asylum was to be the district magistrate of the place. Two or more 
of the visitors, one of the whom shall be a medical officer, had once at least in every 
month to inspect together every part of the asylum of which they were visitors and 
see and examine every lunatic and the order and certificate for the detention of every 
lunatic admitted since the last inspection of the visitors. They had to enter in a book 
any remarks, which they might deem proper in regard to the management and 
condition of the asylum and the inmates thereof.

It was also provided that out of the three visitors of an asylum one had to be 
a medical officer and he might direct the discharge of any person detained in the 
asylum. Further it was provided that the order under this sub section would not be 
applicable in the case of criminal lunatics. In such cases, notice of the order of 
discharge had to be immediately communicated to the authority under whose order 
the person had been detained.

In the Regulation there was provision regarding discharge of persons 
subsequently found on inquisition not to be of unsound mind. Accordingly, if a 
lunatic detained in an asylum an a reception order made under section 6, 9, 13 or 14 
was subsequently found on inquisition under chapter IV not to be of unsound mind,
the person in charge of the asylum should forthwith on the production of a certified copy of such finding discharge the alleged lunatic from the asylum.\textsuperscript{15}

The Regulation also ordered management of the estates of the lunatic,\textsuperscript{16} and for this purpose the Division Peishkar should thereupon appoint a manager of the estate and a guardian of the person of the lunatic. Similarly, any person appointed manager of the estate by the Division Peishkar had to enter into a bond in such form and with such sureties as the court of the Division Peishkar required. But, in certain cases, the maintenance of a lunatic’s estate was managed without appointing a manager of the estate. In such cases, the property, if money or if of any other description the produce thereof, when realized, was to be paid to such person as the court might think fit to be applied for the purpose\textsuperscript{17}. The manager or guardian of the person of a lunatic appointed for the maintenance of the estate would be paid such allowance, if any, as the district court or the Division Peishkar might think fit for his care and pains in the execution of his duties. The duty of the care of the person of a lunatic and his maintenance would entrusted to the person appointed to be the guardian of the lunatic.

Every manager of the estate of a lunatic appointed as per this Regulation was to exercise the same powers in the management of the estate as might have been

\textsuperscript{15} \textit{Ibid.}, p. 65

\textsuperscript{16} \textit{Ibid.}, pp 66-67

\textsuperscript{17} \textit{Ibid.}
exercised by the proprietor or if not a lunatic.\textsuperscript{18} The manager had to collect and pay all just claims, debts and liabilities due to by the estate of the lunatic. At the same time the manager of the estate should also furnish to the court or to the Division Peishkar, annually within three months of the close of the year, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands. The court would summon the manager\textsuperscript{19} if any relative of the lunatic or the Division Peishkar by petition to the District court impugns the accuracy of the said inventory and statement of any annual account. In such cases the court would inquire summarily into the matter and make such order thereon as it thought fit, or the court at its discretion would refer any such petition to any subordinate court or to the Division Peishkar, if the manager was appointed by the Division Peishkar.

The Lunacy Regulation also provided for the removal of managers and guardians,\textsuperscript{20} and accordingly the District Court, for any sufficient cause could remove any manager appointed by it and may appoint any other fit person in his place and compel the person so removed to make over the property in his hands to his successor and to account to such successor for all money received or disbursed by him. The guardian of the lunatic could also be removed for any sufficient cause by the court. The Regulation further provided for the penalty on the manager for

\textsuperscript{18} Ibid., p. 68.
\textsuperscript{19} Ibid., p. 70.
\textsuperscript{20} Ibid.
refusing to deliver accounts or property and accordingly the District court could impose a fine not exceeding five hundred rupees on any manager of a the estate of lunatic, who will fully neglected or refused to deliver his accounts or any property in his hands within the time fixed by the court. In addition to penalty, the recusant would have to suffer imprisonment until he delivered such accounts or property.

The Lunacy Regulation further provided for penalty for improper reception or detention of lunatics, and accordingly any person who otherwise than in accordance with the provisions of the Regulation received or detained a lunatic or alleged lunatic in an asylum or for gain detained two or more lunatics in any place not being an asylum was punishable with imprisonment \(^{21}\) which might extend to two years or with fine or both

In this Regulation every possible step for the maintenance and protection of the lunatic was taken. The managers and guardians appointed for the lunatic had several responsibilities. It is noteworthy that this Regulation contained even provisions for the imprisonment of the manager of the lunatic who failed to present correct annual accounts. Penalty and imprisonment were also provided for improper reception or detention of lunatics.

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\(^{21}\) *Ibid.*, p. 74
The Travancore Agriculturists Relief Regulation-1937

In Travancore, the Department of Agriculture was taking an active interest in everything connected with the life of the agriculturists.\(^{22}\) Owing to the continued abnormal fall in the money value of agricultural products, which had started in the\(^{23}\) year 1105 M.E. and the consequent economic condition of the agriculturists, the burden of the debt of the agriculturists had become heavier. Therefore, the need to devise special measures for giving relief to the agriculturists was realized. For this purpose the Government of Travancore brought forward and passed\(^{24}\) "The Travancore Agriculturists\(^{25}\) Relief Regulation" 6 January 1937 corresponding to 23 Dhanu 1112.

Part II of the Regulation dealt with "Conciliation" of debts by which an amicable settlement between the debtor\(^{26}\) and his creditors\(^{27}\) for the discharge of the debt incurred on account of agriculture or loan by a proprietor, lessee, or lessee of such owner or tenant or by the member of such family shall, for the purpose of making the debt incurred binding on the family or joint Hindu family shall, for the purposes of such debt, be deemed to be an agriculturist under this regulation even though he may otherwise be a non-agriculturist.

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\(^{22}\) T.K. Velu Pillai, op cit p.147.

\(^{23}\) The Regulations and Proclamations of Travancore, Vol. IX, 1112 M.E. Trivandrum, 1937, p. 38

\(^{24}\) Ibid.

\(^{25}\) ‘Agriculturist’ means a person who earns his livelihood mainly by agriculture and also is either an owner or a tenant of agricultural land in Travancore or a servant of such owner or tenant or ii, who earns his livelihood as a village servant paid in cash or in kind for work connected with agriculture; iii, and every junior member who as such becomes jointly liable with the karanaavan or manager who is an agriculturist for the purpose of making the debt incurred binding on the taravad or joint Hindu family shall, for the purposes of such debt, be deemed to be an agriculturist under this regulation even though he may otherwise be a non-agriculturist.

\(^{26}\) ‘Debtor’ means an agriculturist by whom a debt owes.

\(^{27}\) ‘Creditor’ means a person to whom a debt owes.
debts owed by the former to the latter was intended. For the purpose of effecting this conciliation, the Regulation ordered to establish Debt Conciliation Boards. The Government was to define the local limits of the area in which a Board would have jurisdiction. The Government would also determine the pecuniary jurisdiction of any Board. According to this Regulation the Board would consist of only one member who was either an officer or was appointed as an officer in the service of the government. It was also provided that the Government might cancel the appointment of any conciliation officer, dissolve any Board and, in the case of cancellation of appointment or dissolution of Board, the Government shall notify the same in the government gazette. After dissolution of a Board, the Government might at any time establish another Board for the area for which the former Board was established, and declare the Board newly established to be the successor in office of the Board, which had ceased to exist, and such Board could exercise the powers under the Agriculturists' Relief Regulation.

As per the Regulation, a debtor might make application to the concerned Board in which he held immovable property. If the debtor had not made an application under Sub-section (1), any of his creditors could make an application to a Board to which the debtor might have applied under that Sub-Section. On receipt of an application under Section 4, the Board would call upon the debtor and his

28 'Debt' means any liability of an agriculturist due in cash or in kind, secured or unsecured, payable under a decree or order of a Civil Court or otherwise, and whether mature or not.

29 Ibid., p. 48.
creditors and exhibit fully and correctly the position of the debtor and of the creditors as well as the entire assets of the debtor and his entire debts. In view of these aspects and also in view of the economic conditions of the debtor and the creditor, the Board would propose an equitable adjustment for the discharge of the debts. In the conciliation proposed was acceptable to the debtor and his creditors, it would become final and would be reduced to writing and given the force of a decree. It was also provided that if the parties did not agree to the conciliation proposed, they were not bound by it and were quite free to pursue the usual remedies open to them. It is noteworthy that the "Conciliation", though it might involve a sealing down of the amount of the debt, was purely voluntary. If the debtor and the creditors did not agree to the conciliation proposed by the Board, the Board might, for reasons to be recorded in writing, reject the application for conciliation. The Board would record a certificate setting forth the attempts made by the Board to being the parties to agreement, the various methods of conciliation suggested to them, the attitude of each parties towards such methods, and also what in the opinion of the Board would be a most satisfactory manner of settlement between the debtor and the creditors, and what amount in the opinion of the Board would, having regard to all the circumstances, be a fair amount for both creditor and the debtor to accept to and offer. Here, one can find that some compulsion was added to the "conciliation". But this compulsion was not considered to be substantial, and did not substantially interfere with any vested individual rights.

30 Ibid., p. 51
The Regulation also empowered the Board to decide whether a person was an agriculturist or not and such decision of the Board would be conclusive for all the purposes of the Board and for the purposes of all proceedings arising out of any conciliation or certificate received by the Board. Further, it was provided that no civil court should question the validity of any procedure of a Board or entertain a suit by any person to recover any amount due under, or any debt covered by, a conciliation agreement binding on him.

Part III of the Regulation contained certain temporary provisions for giving relief to agriculturists and such provisions will remain in operation only for a period of three years from the commencement of the measure. In the case of debts arising after the commencement of this enactment, interest was not proposed to be dealt with. The maximum interest that could be allowed for a period of three years from the commencement of this enactment was six percent, whereas nine percent of interest was fixed in the case of secured debts, and in the case of decree debts it was always six percent.

Part IV of the Regulation declared limitation of the arrest of agriculturists and accordingly the court was not to order the arrest or detention in the civil prison of any agriculturist in execution of any decree for the payment of money, without

31 Ibid.
32 Ibid., pp. 57-58.
33 Ibid., p. 60.
giving him an opportunity of showing cause why he should not be committed to
prison. In this matter, the court for reasons recorded in writing should be satisfied
that the agriculturist with the object or effect of obstructing or delaying the execution
of the decree, was likely to abscond or leave the local limits of the jurisdiction of the
court, or had after the institution of the suit in which the decree was passed
dishonestly transferred, concealed or removed any part of his property or committed
any other act of bad faith in relation to his property. Further some more detailed
provisions were also added. The Regulation also made clear that nothing in Sub-
section (1) would apply in the case of any decree for the payment of money passed
on the basis of, or on account of any transaction entered into before the
commencement of the Travancore Agriculturists’ Relief Regulation.

Debt of peasants was an important social problem in Travancore. But, unfortunately, the steps taken by the Government were not satisfactory. The Regulation was only a relief and not a solution. The Debt Conciliation Board did not enjoy sufficient powers. The Government did not give any monetary assistance to the peasants and kept away from the hardships of those poor people.

The Travancore Prevention of Begging Act-1945

The Government of Travancore felt the need to prevent begging. For that
purpose, the Travancore Prevention of Begging Act, 1120 was passed on 26
February 1945, corresponding to 15 Kumbham 1120. The Act extended to the whole
of Travancore. According to this Act, whoever in any public street, road or thoroughfare or any place of public resort, begs or applies for alms or exposes or exhibits any sore, wound, bodily ailment or deformity with the object of begging or of extorting alms, could be punished with imprisonment for a term which might extend to one month or with a fine which might extend one hundred rupees.\textsuperscript{34} The Act also made clear that any person who was found guilty of an offence under Sub-section could be punished under that Sub-section notwithstanding any law or order of court declaring any such person to be under the custody or guardianship of another person.

The provisions of Sections 5 to 8 of the Act would be applied only if the Government had notified a place as a workhouse\textsuperscript{35} or as a Special Home\textsuperscript{36}, and the provisions of Section 9 would apply only if the Government had notified a place as a workhouse, and the provisions of Section 10 would apply only if the Government had notified a place as a Special Home. The Act also provided that the persons arrested by a police officer for an offence under Section 3 were to be examined by a medical officer not below the rank of Assistant Surgeon. If the medical officer was

\textsuperscript{34} \textit{The Acts and Proclamations of Travancore 1119 – 1920}, Vol. XIV, part I, p. 244

\textsuperscript{35} ‘Workhouse’ meant a place notified by the Government in the Government Gazette as suitable for the reception of persons physically capable of ordinary manual labour, who were committed to a workhouse under any of the provisions of this or any other Act.

\textsuperscript{36} ‘Special Home’ meant a place notified by the Government in the Government Gazette as suitable for the reception of persons not physically capable of ordinary manual labour, who were committed to a special home under any of the provisions of this or any other Act.
of opinion that the arrested person had not attained the age of sixteen years such person had to be immediately produced before a Juvenile Court, along with the medical certificate, and the provisions of Section 12 would then apply to the case. If the arrested person had attained the age of sixteen according to medical opinion, he had to be immediately produced before a Magistrate of the First or Second Class, together with a medical certificate and report by the police officer of the facts of the case. The Magistrate was to make a summary inquiry into the facts of the case and circumstances and the character of the person produced before him. During such enquiry, the Magistrate had to explain to such person the facts alleged against him in the police report and record any statement, which he might wish to make with reference thereto. If such person disputed the correctness of the police report in any material respect, the Magistrate could proceed, as nearly as might be in accordance with the procedure laid down for the trial of Summons cases in the Code of Criminal Procedure.

If the Magistrate found that the person in respect of whom an enquiry was made under Section 7 was guilty of an offence under Section 3 but had not attained the age of sixteen years, the Magistrate would pass any order, which a Juvenile Court could have passed, if such person had been produced before it under Section 2. The Magistrate enjoyed the power to commit able-bodied accused of 16 or above.

37 Ibid., p. 245
38 Juvenile Court meant a court established under Section 17 of this Act and if no such court was established in any area; a Magistrate of the First or Second class was specially authorized by the Government to exercise the powers of such court.
to a workhouse for a specified period not exceeding three years. If the Magistrate found that the accused had attained the age of sixteen years but was not physically capable of ordinary manual labour, he could commit the accused to a special Home instead of sentencing him under Section 3, for such period as he deemed fit.

According to this Act whoever employed or used any person to ask for alms, or abetted such employment or use, or whoever having the custody, charge or care of a child, connived at, abetted or encouraged such employment or use could be punished on conviction before a Magistrate with imprisonment for a term of one month or with fine which might extend to one hundred rupees. If the person was found not to be a Travancore subject, the Magistrate could order the beggar to be expelled from Travancore. Any person returning to Travancore after being so expelled was liable on conviction before a Magistrate to imprisonment of either description for a term, which may might to three months and after the expiration of that term liable to be expelled from Travancore.

The Government would provide for the establishment in any area of one or more separate courts for the conduct of proceedings under this Act in every case where the person proceeded against had not attained the age of sixteen years. At the same time, the Government would by notification in the Government Gazette, make rules to carry out the purposes of the Act.

39 Employing people for begging being a terrible sin, the punishment fixed was not sufficient
When the Travancore Prevention of Begging Act came into force, the Sri Chitra Home in Trivandrum was declared a Charitable Home, as envisaged under the Charitable Endowments Act and as a Special Home and Workhouse under the Prevention of Begging Act. The administration and management of the Home were vested in a committee appointed by the Government. The inmates were given all facilities for general academic education and technical training in arts, tailoring, weaving, spinning and gardening. All the able-bodied inmates were made to work in the garden. A dispensary was also attached to the institution.

In an ideal society, nobody should be allowed to beg. If a person is not physically fit to find out the requisites of his daily life, the Government should look after such person and carry out necessary steps for his rehabilitation. It is this principle, which one can find operative in this legislation. The sincerity of purpose of the Government can be best seen in this Act.

The Adults Act –1947

It was a time when democratic ideals got widespread acceptance all over the world. As a preliminary step, the Government of Travancore passed the Adults Act of 1122 on June 20, 1947 corresponding to Mithunam 6, 1122 M.E. In the Preamble of the Act, it was stated that the Act was passed to introduce the right of franchise to all adults of the State. In effect, the State adopted the general principle of "Universal
Adult Franchise: The State felt the urgent need for a proper census of the adult population. For that purpose, necessary provisions were made in the constitution of the State. Compulsory provisions were made in the Act which came to be known as the Travancore Registration of Adults Act, 1122 ME, extending to the whole of Travancore and coming into effect at once. The Act empowered the Government officers to prepare a census of the adult population as and when it was necessary.  

The officers in charge of the census had the right to ask numerous relative questions such as their age, occupation, possession of land, nature of land tenure, etc. Every person under question was legally bound to answer such questions to the best of his knowledge. Therefore, every person occupying a house or enclosure or place, had to allow census officers sufficient access. Any person who intentionally put any offensive or improper question or willfully furnished any false information, or any person who intentionally furnished false census data was also liable to punishment.

The Prohibition Act-1948

In 1123 M.E., the Travancore Government came out with a revolutionary Act for the betterment of Travancore social life. This celebrated Act was the Prohibition Act of 1123 M.E., corresponding to 1948. Prohibition was introduced by the Maharaja in 1123 M.E. for compelling his subjects to a moral life and also to

42 Ibid., p. 4.
economic well-being. The idea was to introduce and to extend the prohibition of manufacture, sale and consumption of intoxicants like liquors and drugs, in Travancore. The Preamble stressed the immediate prohibition of liquor, except for its use for medicinal, scientific, industrial and other similar purposes. To bring about a healthy and peaceful life to the people at large, the Government undertook pragmatic measures so as to effect the principle of prohibition in its true spirit. And as a first step, the principle of prohibition was introduced only in certain selected areas, and in the second stage, it was effected in the entire State. In taluks like Towala, Agastuswaram, Kalkulam, Vilavancode, Neyyattinkara and Shencotta, the Prohibition Act came into force with effect from Chingam1, 1125 M.E. The implementation of the Act in Travancore was effected by a Government notification which entrusted an officer to enforce such rules and regulations concerning the Prohibition Act. In fact, it was declared that Travancore government should have power to issue notifications and rules for enforcing at any time any of the settlement of abkari provisions. A detailed schedule as to what the ordinary merchant should do or should not do was necessarily appended and it was deemed to be of great use to the consumers.

The merit of this Act is that it laid down a series of laws closely to be observed, and distinguished between what should be done and what should not be

44 Ibid., p.15
45 Act V of 1124, Government of Travancore, p.4.
done. The gist of these provisions was to effect the correctness in the person rather than encouraging one to increase one's tendency to drink.

The Travancore Fatal Accidents Act-1948

The Travancore Fatal Accidents Act\textsuperscript{46}, of 1124 M.E., dated December 22, 1948, was aimed to educate the people on their mutual responsibility in society. The larger interest envisaged by this Act was to create civic consciousness among the members of the society so that each would be responsible to the other, in relation to their living and maintenance. This is an Act of great significance in the sense that it encouraged the members of the society to develop corporate life, even without the prompting of the Government. The Preamble also made clear that the Act itself was a law-making process by which a culprit could be booked for offending a public citizen,\textsuperscript{47} because none in the society had the right to cause death or even damage to another.\textsuperscript{48}

This Act assured the safety of Travancore from irresponsible acts of offenders. According to this Act, whenever the death of a person was caused by wrongful act or neglect of an offender, the party injured was liable to damages. The

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\textsuperscript{46} \textit{Ibid.}, p.3
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\textsuperscript{47} This Act reminds us of the great 18\textsuperscript{th} century English philosopher – politician, John Stuart Mill who brought forward the Theory of Individual Right. Mill says that a father has no right of deciding where his child should study, whereas he has absolute right to decide whether the child should study or not. Mill says that it is the duty of the father to see that his child does not fall a dead-weight on the society.
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\textsuperscript{48} Act \textit{V of 1124}, p.3
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offender was liable to answer in a court of law the reason for his offending the injured party.

Even if the death might have been caused by other conditions like shock or heart failure, the action suit had to be for the benefit of the aggrieved. This benefit was to be extended to certain relations such as children, husband or wife, father or mother of the aggrieved.

In every such action or suit, the court would grant a compensation, proportionate to the loss such as death, damage, etc. It was to benefit the whole family, for the court had viewed that the offender was innocent. In assessing the damages, there was not to be taken into account any sum paid to or payable to at the time of the death of the aggrieved.

Thus the act is one that considers human being the most valuable object of the world and hence he has the right to claim damages from the offender as a matter of right.

The Travancore Opium Smoking Act-1949

The Government of Travancore felt the need to control the practice of smoking prepared opium, in Travancore, and for that purpose The Travancore Opium

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49 This is an attempt to keep the balance of the surviving members of the family of the aggrieved.

Smoking Act was brought out. The Act was passed on March 19, 1949. According to this Act, one who was a smoker of prepared opium, but not registered, was punished for the first time with a fine of Rs. 500/- or an imprisonment, which extended up to six months or both. If the offence was repeated for the next time, the imprisonment could be extended up to one year or a fine raised up to Rs. 1000/- or both.

Again, the Act laid down that even the possession of prepared-opium or any apparatus used for smoking, provided the custodian was not registered, would be liable to punishment. Similarly, whoever manufactured or possessed or kept for sale, or attempted to sell, any prepared-opium or assisted any other person, whether an opium smoker or not, would be punished with imprisonment extending up to two years or with a fine extending up to Rs. 2000/- or with both. Similarly, one who keeps or permitted any place for the purpose of keeping opium, unless registered, could be severely punished. The next Clause prohibited smoking of prepared-opium in an assembly of two or more, whether registered or not, in a public place, on penalty of fine as well as imprisonment.

51 This also is an earnest attempt on the part of the Maharaja's Government to correct the people from doing offences. This reminds us of the ancient lawgiver Chanakaya who defines the purpose of government as the well-being of the governed. This means that the government has the right to punish individual wrong-doer for the good of the society. Perhaps this is a repetition that appears in James Stuart Mill.

52 These measures show the sincerity of the Government in maintaining the high morality of the people committed to it. Unlike our modern government it was not a licence - government.

53 This process seems to be arbitrary. But arbitrary government, according to Kautilya is essential in the case of people who do not seem to be law-abiding.
In the provision for granting opium licensee, no person was allowed to register himself as an opium-smoker, provided he was below the age of 25 years. The ensuring part of the Act is dealt with the process of arresting the offender\textsuperscript{54}.

In the fourth chapter of the Act, there was a provision for safeguarding the interest of the offender against the fancy of the police officer who had the right to arrest him, provided he had the reason that the offender was liable to be arrested. In such cases, the concerned police officer had to make a full report of such arrest to his immediate official superior as well as to the nearest Magistrate having jurisdiction, within 24 hours of the arrest\textsuperscript{55}. It depended on the superior officer to release the accused after a course of appearance before the Magistrate, provided the police officer had reason to release the accused. Again, the provision said that the accused could be released on bail provided the police officer decided that he had reason to do so. In order to work out the law effectively, the Government entrusted the Revenue Department to make the people duty-conscious.

From the available records, this seems to be the last legislative Act of the Maharaja of Travancore, since the States of Travancore and Cochin were merged together into a new State on July 1, 1949, that is, soon after the last piece of independent legislation was taken up by the Travancore Government.

\textsuperscript{54} \textit{Travancore Acts and Proclamations}, Act XII of 1124, \textit{op. cit.}

\textsuperscript{55} Today we have the Habeas Corpus right in such cases.
The Travancore-Cochin Prevention of Corruption Act – 1950

In the Travancore-Cochin State, it was expedient to make more effective provision for the prevention of corruption and bribery. There existed an ordinance in Travancore-Cochin State for the prevention of corruption, but it was not effective in solving the problem. Hence, the Government prepared The Travancore-Cochin Prevention of Corruption Bill-1950, which bill was presented in the Legislative Assembly for discussion. There was serious debate over the Bill. Some members pointed out that if that Bill was passed that would be against civil liberty of the people, arguing that on its basis the police might start arbitrary arrest of all citizens. This was one opinion expressed by the members during the discussion.

Some members opposed the aforesaid view and affirmed that the bill was essential for the State. They were of the opinion that, for the welfare and security of the people and progress of the State, such enactments should be made and implemented without fail. One allegation levelled against the Bill was that it would justify arrest without warrant. But to a great extent it was necessary for preventing corruption. The Legislative Assembly discussed all Clauses of the Bill in great detail.


57 Ibid., pp. 1397-1409
Thus the Government of Travancore - Cochin passed the Travancore - Cochin Prevention of Corruption Act, 1950, which came into force\textsuperscript{58} on 2-6-1950. The Act was extended to the whole of the State of Travancore-Cochin and it was applied to all public servants\textsuperscript{59} in or outside the State.

According to the Act, an offence punishable under Section 153 or Section 157 of the Travancore Penal Code or Section 147 or section 151 of the Cochin Penal Code.

\textsuperscript{58} The Acts and Ordinances of Travancore-Cochin, 1950, p. 33.

\textsuperscript{59} ‘Public Servant’ meant -

1. every officer appointed by Government under Government sanction;

2. every servant appointed by Government or under Government sanction or by Government officers under the authority conferred on them by any law for the time being in force;

3. every member of the Legislative Assembly, every member of the Travancore or Cochin Dewaswom Board, every member of a Municipal Council, every member of the Trivandrum City Corporation, every member of a Village Panchayat, every member of a Village Uplift Committee, every member of a Village Union, every member of a village court, every office-bearer and every member of a committee or society and other body constituted under the law for the time being in force relating to co-operative societies and every member of any committee constituted by Government.

4. every servant of any institution under the control or management of Government, every officer or servant under the Travancore or Cochin Dewaswom Board and every officer or servant under a local authority;

5. every Arbitrator or other person to whom any cause or matter had been referred for decision or report by any court of justice or any other competent public authority;

6. every person who held any office by virtue of which he was empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election. The word ‘election’ denoted an election for the purpose of selecting members of any Legislative, Municipal or other public authority of whatever character, the method of selection to which was by or under any law prescribed for election.
Code was deemed to be a cognizable offence for the purpose of the Travancore and Cochin Codes of Criminal procedure, notwithstanding anything to the contrary contained therein.

It was provided that a police officer below the rank of Assistant Superintendent of Police should not investigate any such offence without the order of a Magistrate of the First Class or makes any arrest therefore without a warrant. The Act further made clear that notwithstanding anything contained in Section 15 of the Travancore or Cochin Penal code, the term ‘Public Servant’ would, for the purpose of Sections 153 and 157 of the Travancore Penal Code or Sections 147 and 151 of the Cochin Penal Code, have the meaning assigned to it under this Act.  

According to that Act, a public servant had to furnish particulars of property on demand. The Government or the Commissioner appointed under the Act might require any person, who had been or was a public servant, to furnish a true and correct statement of all properties whether movable or immovable, income and such other particulars in respect of his own property for the purposes of instigation or inquiry into offences under this Act or under Section 153 or Section 157 of the Travancore Penal Code or Section 147 or Section 151 of the Cochin Penal Code. Any such person, who failed to furnish the information required under Sub-section 1 of Section 7 or who furnished information which he knew or had reason to believe to be false, could be punished with simple imprisonment for a term which might extend

60 Ibid., p. 34
to one year or with a fine, or with both. Similarly, the Government or the Commissioner appointed under this Act might call upon any person whatsoever with whom a public servant was known to be having or to have had financial or other transactions, to furnish in such form as might be prescribed by the Government or the Commissioner, particulars of such financial or other transactions. Such person, notwithstanding anything contained in the Bankers Books Evidence Act of Travancore of Cochin, should thereupon furnish within such time as might be specified by the Government or the said Commissioner, a true and correct statement embodying the particulars called for. Any person who failed to furnish the particulars called for under Sub-section (1) of Section-8 or failed to allow access for inspection of any books, papers or other documents, or to produce any books, papers or other documents for inspection, within the time prescribed by the police officer or any other officer under Sub-section 2 of Section 8 was punishable with simple imprisonment for a term which might extend to one year, or with a fine, or with both.

The Government might appoint a Commissioner for the more effective working of this Act and confer on him such powers as they might by rules prescribe. The Government might appoint police officers under the Commissioner and confer on such Commissioner all the powers of a police officer of such rank as the Government might deem fit.

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Any person charged with an offence punishable under Section 153 or Section 157 of the Travancore Penal Code, or Section 147 or Section 151 of the Cochin Penal Code or under Sub-section (2) of Section 5 should be a competent witness for the defence and might give evidence on within disproof of the charges made against him or any person charged together with him at the same trial. It was also provided that no suit or prosecution or other legal proceeding should lie against any person for any act done or purporting to be done by him under the Act except with the sanction of the Government. At the same time, the Government might by notification in the Gazette make rules for carrying into effect the provisions of the Act.

The merit of the Act was that it had brought under its purview all Government servants including members of the Legislative Assembly. Here the Government of Travancore seemed to have applied the principle of equality before law. The Travancore-Cochin Prevention of Corruption Act was a stride towards the attainment of a welfare state.

**The Travancore-Cochin Prohibition Act – 1950**

In the State of Travancore-Cochin, two types of Prohibition Acts existed, one in Travancore area and the other one in Cochin area. The Government of Travancore passed the celebrated Prohibition Act in 1123 M.E. (September 9, 1948) and the government of Cochin also passed a similar Act in the same year. (September 25th

1948). After the integration of both the States, it became necessary to have a unified
legislation with regard to prohibition of liquor and other intoxicating things except
for its use for medicinal, scientific industrial and similar purposes. For that purpose,
the Government of Travancore prepared a bill and the same had come for discussion
in the Legislative Assembly along with the report of the Select Committee and it was
subjected to detailed discussion.

The Government of Travancore-Cochin passed The Travancore-Cochin
Prohibition Act in 1950 and it was extended to the whole State of Travancore-
Cochin. But as a first step, the principle of prohibition was introduced only in certain
selected areas and the idea was to extend it gradually with the gained experience.
Accordingly, the principles of the Act first came into force in the Taluks of Thovala,
Agasteeswaram, Kalkulam, Vilavancode, Neyyattinkara, Trivandrum, Nedumangad,
Chirayinkil, Shecottah, Chittur and Talappilli, and in any other local area in the State
of Travancore-Cochin on such date as the government might, by notification appoint.
At the same time notwithstanding any thing contained in Sub-section (3) of Section
1, the Government might, by notification in the gazette and with effect from such
date as might be specified therein, suspend the operation of the provisions in areas in
which the said provisions were in force. Notwithstanding the extension of this Act to
any area in which a Government distillery or a Government Ganga store was
situated, spirit or jaggery arrack might continue to be distilled in the Government

63 Proceedings of the United State of Travancore Cochin Legislative Assembly,
Vol. III. 1949. p. 575

distillery and stored in the warehouse attached thereto or ganja stored in the
Government ganja storehouse and continue to be exported, transported, or sold from
the Government warehouse or storehouse as it this Act had not been extended to such
area and such distillation, storage, export, transport and sale would continue to be
governed by the Travancore Abkari Act, IV of 1073 or the Cochin Abkari Act I of
1077 as amended.65

According to this Act, whoever imported, exported, transported or possessed
liquor or any intoxicating drug or manufactured any intoxicating drug or cultivated
the hemp plant except in accordance with the Government rules or tapped any toddy
producing tree or drew toddy from any tree or constructed or worked any distillery or
brewery, or used or kept any material for the tapping of toddy or the manufacture of
liquid or any intoxicating drug, would be punished. The punishment might be with
imprisonment, which might extend to two years or with a fine which might extend to
five thousand rupees. or with both. But, in certain cases, the punishment was limited
to six months imprisonment, or with a fine, which might extend to one thousand
rupees, or with both.66

The Act further provided that whoever printed or published in any
newspaper, book, leaflet, booklet or any other single or periodical publication, or
otherwise displayed or distributed, any advertisement or other matter, commending,

65 Ibid., p. 336
66 Ibid.
soliciting the use of, or offering any liquid or intoxicating drug, other than liquor or drugs exempted under section 21 would be punished with fine, which might extend to one thousand rupees. The Act provided punishment for conspiracy, punishment for vexatious search, or arrest and punishment for abetment of escape or persons arrested.

The Travancore-Cochin Prohibition Act of 1950 was both a preserver of liberty and a preserver of morality. Hence, in preserving the atmosphere of liberty to all, the Government maintained even in law-making, the spirit of equality.

The Travancore-Cochin Drugs (Control) Act – 1950

It is an important matter to provide for the control of the sale, supply and distribution of drugs in the State. For that purpose, the Government of Travancore-Cochin introduced The Travancore-Cochin Drugs Control Act of 1950. The Act was extended to the whole of the State of Travancore-Cochin, which came into force at once. According to this Act, the Government might, by notification in the Gazette, declare any drug to be a drug to which this Act would apply. The Government might, by such notification, fix in respect of any drug the maximum price or rate

67 Ibid. p.338

68 Ibid. p.337


70 "Drugs" included all medicines for internal or external use of human beings or animals and all substances intended to be used for or in the treatment, mitigation or prevention of disease in human beings or animals (other than medicines and substances exclusively used or prepared for use in accordance with the Auurvedic or Unami systems of medicines) in respect of which a declaration has been made under Section 3.
which could be charged by a dealer\textsuperscript{71} or producer\textsuperscript{72}, and the maximum quantity which could in any transaction be sold to any person. The prices or rates and the quantities fixed in respect of any drug under Section 4 of the Act might be different in different localities or for different classes of dealers or producers. But no dealer or producer could sell, agree to sell, offer for sale, or otherwise dispose of to any person any drug for a price, or at a rate exceeding the maximum fixed by notification under Clause (a) of Sub-section (1) of Section 4. No dealer or producer could have in his possession at any one time a quantity of any drug exceeding the maximum fixed by notification under clause (b) of Sub-section (1) of Section 4, or sell, agree to sell or offer for sale to any person in any one transaction a quantity of any article exceeding the maximum fixed by notification under Clause (c) of Sub-section (1) of Section 4\textsuperscript{73}.

The Act also fixed the general limit on the quantity which might be possessed at one time, and accordingly no person could have in possession at any one time a greater quantity of any drug to which this Section applied than the quantity necessary for his reasonable needs. This Section was applicable only to such drugs as the Government might, by order published in the Gazette, specify for the purpose, provided that nothing contained in this Section should apply to a dealer or producer.

\textsuperscript{71} "Dealer" meant a person carrying on either personally or through any other person the business of selling any drugs whether wholesale or retail.

\textsuperscript{72} "Producer" meant a manufacturer.

\textsuperscript{73} \textit{Ibid.} p. 536
in respect of any drug sold or produced by him. It was the duty of the dealer to declare possession of excess stock, and accordingly any person having in his possession a quantity of any drug exceeding that permitted by or under this Act was to report forthwith the fact to the Government or other officer empowered in this behalf by the Government, and was to take such action as to the storage, distribution or disposal of the excess quantity as the Government might direct. No dealer or producer could, unless previously authorized to do so by the Government, without sufficient cause refuse to sell to any person any drug with the limits as to quantity, if any, imposed by the Act. The Act also explained that the possibility or expectation of obtaining a higher price for a drug at a later date should not be deemed to be a sufficient cause for the purpose of this Section 74.

The Government might direct dealers or producers in general or any dealer or producer in particular to mark any drug exposed or intended for sale with the sale prices or to exhibit on the premises a price list of the drugs held for sale, and may further give directions as to the manner in which such direction as was to be carried out. No dealer was to destroy, efface or alter any label or mark affixed to a drug and indicating the price marked by a producer. At the same time, the dealer had obligation to state the price separately on composite offer 75. In the same way, where the Government had requisitioned any drug under Sub-section (1) they might use or deal with the drug in such manner as might appear to them to be expedient, and

74 Ibid., p.537

75 Ibid.
might acquire it by serving on the owner thereof or where the owner was not readily traceable, or the ownership was in dispute, by publishing in the Gazette a notice stating that the Government had decided to acquire it in pursuance that Section.

Whoever contravened any of the provisions of this Act or any direction made under authority conferred by this Act, was be punishable with imprisonment for a term, which might extend to three years, or with a fine, or with both. The Act also provided that any person competent to investigate any offence under this Act might search any place in which he had reason to believe that an offence under this Act had been, or was being committed, and take possession of any stock of drugs in respect of which the offence had been or was being committed. A typical provision was that no suit, prosecution or other legal proceeding was to lie against any person for anything in good faith done or intended to be done under this Act. The provisions of this Act were in addition to, and not in derogation of, any other law then in force regulating any of the matters dealt with in this Act\textsuperscript{76}.

The Travancore-Cochin Drugs (Control) Act of 1950 may be viewed as the first step towards the achievement of the welfare state because everyone rich or poor, forward or backward, big or small was to be benefited by its provisions. At the same time the consumers were given protection from the exploitation or cheating of the dealers or owners, and thus the Act was a sufficient guarantee to the people.

\textsuperscript{76} Ibid., p. 540
The Travancore – Cochin Animals and Birds Sacrifices Prohibition Act – 1953

There was no legislation regarding the prohibition of sacrifice of animals and birds in Travancore and Cochin. Animal sacrifice had existed as a form of worship in some of the temples of the State. That form of worship had practically disappeared in the Travancore area without an enactment, but it continued in some places in the Cochin area. Hence, the Cochin Devaswom Board requested the Cochin Government to bring forward an Act for the prohibition of that practice. The Government of Cochin had also prepared a bill for that purpose, but it could not be introduced in the Legislative Assembly. Therefore, it was necessary to prepare a bill which should be applicable to both Travancore and Cochin. Accordingly, the Travancore Cochin Animals and Birds Sacrifices Bill was prepared and tabled for discussion in the Legislative Assembly of Travancore - Cochin.

The Travancore-Cochin Animals and Birds Sacrifices Prohibition Act came into effect on 7 July 1953. The Preamble of the Act made it clear that it was

expedient to prohibit the sacrifice79 of animals and birds in or in the precincts80 of Hindu temples81 in the State of Travancore-Cochin.

According to that Act, no person could sacrifice any animal or bird inside any temple or its precincts. No person could officiate or offer to officiate at, or perform or offer to perform or serve, assist, or participate, or offer to serve, assist or participate in any sacrifice in a temple or its precincts. It was also provided that no person should knowingly allow any sacrifice to be performed at any place, which was situated within any temple or its precincts, or was in his possession or under his control82.

The Act also provided for penalties and accordingly whoever contravened the provisions of section 3 or 4 could be punished with a fine, which might extend to three hundred rupees. It was further provided that if the offender was an officer, servant, authority, trustee or priest of the temple, or the holder of any office in receipt of emoluments or perquisites for the performance of any service in the temple, he

79 'Sacrifice' meant the killing or maiming of any animal or bird for the purpose or with the intention of propitiating any deity.

80 'Precincts' in relation to a temple included all lands and buildings near a temple, whether belonging to the temple or not, which were ordinarily used for purposes connected with the worship conducted inside the temple or outside and in particular the mandapams, prakarams, back-yards, front yards and foot-yards of temple, by whatever name called, and also the ground on which the temple car ordinarily stood.

81 'Temple' meant a temple as defined in Section 2, Clause 1 of the Travancore-Cochin Temple Entry (Removal of Disabilities) Act, 1950.

82 Travancore-Cochin Gazette dt: 7.7.1953.
could be punished with simple imprisonment for a term which might extend to three months or with a fine which might extend to three hundred rupees, or with both. 83 Whoever contravened the provisions of Section 5 was punishable with simple imprisonment for a term which might extend to three months or with a fine which might extend to three hundred rupees or with both. A Magistrate of the First or Second class alone could inquire into or try offences punishable under the Act.

By the prohibition of animal sacrifice, the Government made clear that killing birds or animals with the intention of propitiation of gods was a crime. 84 The idea of the Government was to urge the society to practise a better code of conduct, which would not encourage the killing or maiming of birds and animals. 85

The legislative measures initiated by the Government of Travancore for the social well being of the people had few parallels in the history of princely states of India. The Lunacy Regulation of 1935 exposes the sincerity of the government towards mentally retarded persons. The government had introduced the principle of universal adult franchise through the Adults Act of 1947. The Prohibition Act of 1948 introduced and extended the prohibition of manufacture, sale and consumption of intoxicants like liquors and drugs in Travancore. The government controlled the

83 Ibid.

84 Certain temples, particularly of goddesses, like those at Chertalai, Crangannur, etc, were notorious for sacrificing goats or cocks as a means of propitiating the goddess. This practice trained certain people to spill the costly blood of mute animals which in due course of time gave encouragement to commit human killing.

85 It is said that the Naxalites, to get courage for committing the crime used to rehearse by murdering in cold blood either a goat or a cow lodged at the stable in the previous night.
practice of smoking prepared opium and also prevented corruption of public servants. The welfare activities of the government were not confined to people, but even to birds and animals. All these legislations were the manifestation of the genuine interest of the government.