INTRODUCTION

The native State of Travancore, the southernmost part of the Indian sub-continent, situated between 8° 4' and 10° 21' north latitude and between 70° 13' and 77° 38' east longitude, formed an integral part of ancient Tamilakam. The State was bounded on the north by the State of Cochin and by the British Indian district of Coimbatore, on the east by the Western Ghats and the districts of Madurai, Ramnad and Tirunelveli, while on the south and west it was surrounded by the Indian Ocean and the Arabian Sea. The total area of the State was 764.84 sq. miles and it stood next to Hyderabad and Mysore among the Indian States in terms of population. The credit for the transformation of Travancore into a separate, viable political entity goes to Marthanda Varma (1729-1758) who has rightly been celebrated as the 'Maker of Modern Travancore.'

The Maharaja of Travancore was the centre and source of political as well as legislative authority in the State. The Treaty of Perpetual Alliance between Travancore and the British Government contemplated the tendering of advice by the Government in certain subjects for the advancement of the Maharaja's interests, the happiness of the people of Travancore, and the mutual welfare of the above states. But the sovereignty of the ruler was to remain intact even after the Treaty of Perpetual Alliance, and hence the State could take advantage of the principles of British laws while keeping to the old moorings. Thus the laws passed by the

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Government of Travancore were the result of a judicious blending of the two systems.²

The princely rulers of Travancore, especially from the days of Visakham Tirunal Rama Varma, had shown a desire to allow their subjects to participate in the management of public affairs.³ Probably, Travancore was one of the earliest Indian states which took the initiative to participate its subjects in the administration of the State.⁴ Though Maharaja Sri Mulam Tirunal Rama Varma (1885-1924) had the practice of securing the views of his subjects in making legislation and executing administration, it was carried out only in an informal manner during the first three years of his reign.⁵ The year 1888 is a landmark in the history of social legislation in Travancore. The Maharaja found that the consultations with the people by the Dewan were of great use in shaping the administrative policies of the State. This was the background that paved the way for the formation of a council of legislation on March 30, 1888 by Sri Mulam Tirunal Rama Varma.⁶ The purpose of the Council was to make laws and regulations. To start with, the council had eight members, six officials and two non-officials. The Maharaja nominated all the members and the Council was presided over by the Dewan. The tenure of office of the Council was

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⁴ 100 Years of Legislative Bodies in Kerala 1888-1988, *Centenary Souvenir*, p. 87.


⁶ 100 Years of Legislative Bodies in Kerala, p. 87.
three years. The Legislative Council had set the princely State of Travancore on the right direction of social progress. It is to be pointed out that this Council was a law making body and not a petitioning body. Thus the State of Travancore was able to develop constant touch with public opinion through the Legislative Council and hence several measures of social legislation could be introduced by the Government without offending the sentiments of the people.

In 1904 Sri Mulam Tirunal took steps for the formation of the Sri Mulam Popular Assembly\(^7\), which was established with the aim of associating the people of Travancore in matters of social legislation. Formed on the advice of the Dewan V.P. Madhava Rao, the Assembly had also functioned as a Legislative Council. Representatives of landholders and merchants were members of the Assembly. The members were nominated by the Government from among the agricultural, trading, industrial and other classes of people. The object of the Council was to enable the Government to ascertain at first hand, the feelings and aspirations of the people. The intellectuals in those days considered the service in the Assembly to be a privilege or honour. The performance of the members of the Assembly reflected public opinion and the Government gave due consideration to popular will, granting vast powers to the Assembly. It is significant that on the advice of the Dewan Raja Gopalachari, Maharaja Sri Mulam Tirunal conferred upon the members of the Popular Assembly the freedom of electing majority of the members of the Legislative Council. At the same time, members of the Assembly were permitted to make the selection by votes.

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\(^7\) T.K. Velu Pillai, *op. cit.*, p. 320.
In 1909, the British Parliament passed the Government of India Act, which enabled the Imperial Council and Provincial Council in India to discuss the annual budget, to interpolate the Government, and to move resolutions on matters of public importance. The people of Travancore demanded all those rights and soon a good deal of public opinion was focused on it. The response of the Government of Travancore to those demands was positive, as could be understood from the words of T.K. Velu Pillai: "No Indian ruler had a more genuine sympathy for the aspirations of the people than Sri Mulam Tirunal Maharaja." It is noteworthy that representatives of the people in the Legislative council and the Sri Mulam Assembly had done commendable services. For extending the rights and privileges to the representatives of the people, the Maharaja Sri Chitira Tirunal (1924-1956) promulgated the Legislative Reforms Act III of 1108 M.E. (October 28, 1933). The new bicameral system was the result of the Maharaja’s ardent desire to associate the people with social legislation and administration. The Lower House of the Legislature was the Sri Mulam Assembly and the Upper House, the Sri Chitira State Council. The Sri Mulam Assembly consisted of 72 members, of whom 62 were non-officials, and Sri Chitira State Council had 37 members of whom 27 were non-officials. Some special qualifications were made compulsory for the candidates to contest in the case of certain constituencies. This bicameral legislature continued as such till September

8 Ibid., p. 321
9 Ibid.
10 100 Years of Legislative Bodies in Kerala, p. 89.
11 The Sri Chitira State Council Electoral Rules, p. 3.
4, 1947, when the Maharaja Sri Chitira Tirunal of Travancore proclaimed the establishment of responsible government in the State.

The new Assembly, which was a representative body, had to function as a Constituent Assembly. The representative body consisted of one hundred and twenty members elected on the basis of adult franchise. The first sitting of the Constituent Assembly was held on March 20, 1948 and its first President was Sri. A.J. John.

The economy of the erstwhile Travancore was based mostly on agricultural pursuits of the people and paddy remained the main cultivation. Land was broadly divided into three categories viz., Pandaravaka, Brahmswom and Dewaswom and these were further sub-divided. In the year 1816, the 'Pattavilamburangul' (Pattom Proclamation) was issued and it granted the right of cultivation to the lower castes. In the social hierarchy of Travancore higher castes had large areas of land under their control. It was a hierarchical system which accommodated various castes. Naturally the overall pattern was that higher the caste, greater the land control and privileges. This was the case of education. At the base of the society existed the lowest castes which supplied the category of primary producers, the tillers of the soil. Missionary activities paved way for educational progress in the state. It increased social mobility in Travancore, especially in the case of the lower castes. But in the upper castes, gradual emergence of nuclear family was the outcome.
In Travancore, the Nayars lived in matrilineal joint families known as *taravads*. The *taravad* consisted of all the matrilineal descendants of a common ancestress. At the same time some of the *taravads* contained a much wider span of relatives. It might have had twenty, thirty or even more members, all living together in one large house. The *taravads* were independent economic units and their members collectively owned property from which they derived their livelihood.\(^{12}\)

The central feature of matrilinial system was that it conferred on women, permanent right of maintenance and residence in their *taravad*. That gave them some degree of autonomy which was not there in the patrilineal system. In fact property, particularly landed property that passed from generation to generation through women was the foundation of matriliny. The three basic institutions of Nayar matriliny were the *taravad*, the marriage system, which included polyandry, polygamy, divorce and re-marriage and the system of inheritance was through female lineage. The concept of family elsewhere in the world is patriarchal and hence it is a unique aspect of the society of Travancore\(^ {13}\) and Kerala. In matrilinial system the marriage of a girl never separated her membership from birth, nor it created any membership in her husband’s family.\(^ {14}\) Under the Marumakkathayam law mutual rights of inheritance between spouses was not there.\(^ {15}\)


\(^{13}\) K. Sreedhara Variar, *Marumakkathayam and Allied systems of Law in Kerala* State, p.3

\(^{14}\) Ibid.

\(^{15}\) Ibid., p.4
Matriliney was practiced by a large number of people in Travancore both upper and lower castes Hindus, tribes as well as by a small number of Christians and Muslims. Even though the Kshatriyas also followed matriliney, Nambuthiris while adopting certain customs of the Nayars in the matter of family management, followed patriline in other aspects.

The Ezhavas, Nanjinad Vellalas and Kurukkals were migrants to Kerala and followed patriline as it was the system in their place of origin. In Travancore both these systems of inheritance co-existed and there is no evidence to say that the Maharaja discriminated communities which followed patriline.

It is not easy to trace how and when matriliney originated in Kerala. There is no unanimity of opinion among historians in this matter. The commonly agreed argument is that Kerala also was patrilineal in the past and matriliney was of a recent origin. It is about the period of the origin of matrilinial system that historians have difference of opinion. Prof. A.Sreedhara Menon is of the view that matrilinial system and patriliney were not unknown in Kerala. At the sametime Elamkulam Kunjan Pillai, opined that matrilinial system began in Kerala only recently due to

17 Ibid.
19 K. Saradamoni, opcit., p.60
20 A.Sreedhara Menon, A Survey of Kerala History, p.197.
some special circumstances not known now. Padmanabha Menon stated that Matrilinial system was introduced to Kerala by the fourteenth century A.D. while P.T. Sreenivasa lyengar an acknowledged historian of Tamil Nadu is of view that it was unknown till tenth century.²¹

The marumakkathayam system contributed to the social solidarity and economic well being of the people in its own way for several centuries. With the passage of time in the system might have decayed. The solidarity of the family became weak and the allegiance to the maternal uncle was felt to be unnatural. The artificial relationship between the uncle and the nephews paved way for paternal affection which gained upperhand.²² Domestic disputes became a common event in many families. The high handedness of the karanavar had become intolerable. Litigations increased in the 19th and early 20th century²³. Eventually many bills were introduced in the legislature which changed the system of inheritance in respect of the Nayars, Nanchinad Vellalas, Ezhavas and other marumakkathayis. Virtually those communities have become marumakkathayis by then. One wholesome feature of the makkathayam system is that women are also entitled to a share in their ancestral property

While legislative bodies were developing in Travancore, the State was facing some social agitations. Some agitations were instrumental in persuading the rulers to

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²¹ K. Saradamoni, op. cit., p.60.
²³ Ibid.
bring about some significant social legislations. The first in this series of social agitations was the Shannar Agitation. The Nadars of South Travancore who had migrated from the Pandya country had been agitating for the right to cover the upper part of the body of their women even before the advent of Protestant missionaries. This restriction was uncivilized. Encouraged by the missionaries, the Nadars intensified their agitation, with the result that an order was issued in 1814, during the Diwanship of Col Munro, permitting Nadar women who embraced Christianity to cover their bosoms with kuppayams (Jackets). But they were not permitted to dress like upper caste Hindus. Although there was no serious and immediate resistance against the aforementioned restriction, South Travancore witnessed a communal conflagration in 1858-59, involving Nadars and caste-Hindus particularly Nairs. The Nadar women violated the restriction and dared to dress like Caste Hindu women. They began to wear jackets and also used an upper cloth. This agitation eventually led to a Royal proclamation on July 26, 1859, giving the Nadar women the right to wear jackets. The Nadar revolt was generally defensive, socially liberal and forward-looking, and calculated to restore what the Nadars had lost, a ‘golden past’, after their settlement in Travancore.

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26 Ibid.
27 R.N. Yesudas, op. cit., p. 4.
The memorials and representations were the most popular devices adopted by the common people to ventilate the grievances and seek redressal. The last decade of the nineteenth century witnessed an unprecedented rush of memorials at the local and national levels seeking rectification of their grievances. The Indian National Congress which became the pioneer spokesman of Indian independence activated its followers through a process of systematic representations to the British which turned the early phase of the freedom movement into an era of prayers, petitions and protests. In Travancore, though less influenced by the larger national sentiments, the last decade of the nineteenth century became a virtual decade of memorials at its literal sense. It inaugurated the dawn of the modern epoch in the history of Kerala.

The demand for genuine sharing of power through representative bureaucracy provided further dynamism to the memorial movement. The eve of memorial decade witnessed a new alignment among outcaste and upper class Hindus, mainly the landed aristocracy and two other religious communities—Christians and Muslims. The memorial era, started as the first effort of the united elites of all major communities of Travancore, was essentially the beginning of their mobility along the axis of power28. Obviously the memorial movement represents a milestone in the along march of the suffering millions and more than that it served as the beacon light in the transition of the state to modernity.

28 When members of a lower caste or community advance themselves by securing position of power in an organ of Government or a party or pressure group, we call it mobility along the axis of power. R. Ramakrishnan Nair, Social Structure and Political Development in Kerala, Trivandrum, 1976, p.22.
Under the impact of the diverse social, economic and cultural influences, a powerful social current with a renaissance spirit gained ground in the stagnant society of Travancore. It extinguished feudal customs, institutions and several other vestiges of the old order and emanated an altogether new social order. An offshoot of this social renaissance was the emerging ‘enlightened new class’ from all castes and communities, who considered the outmoded institutions of the old social order, as the obnoxious legacy of the inglorious past. This firm onset of the cultural renaissance of the Malayalis sowed the seeds for the foundation of ‘Malayali Sabha’ which strengthened the ‘son of the soil’ concept and offered an ideological basement to the socio-religious reform movements of the late nineteenth century. At this stage, the trio political visionaries Sir C. Sankaran Nair, Dr. T. M. Nair and G. Parameswaran Pillai, explored the distressing state of events further and found out the unprecedented Tamil Brahmin domination in the administration as the root cause for the existing socio-political malady. The exhortations of the spiritual trio, Chattampi Swamikal, Sri Narayana Guru and Ayyankali and their emphasis on the revival of the glorious traditions of Hinduism, awakened the Hindu middle class communities and instilled a new confidence in them. The growing awareness among the Nayars about their decline in socio-political domination due to the infiltration of Brahmins in their domestic as well as social life, reflected in the demand for tenancy reform and share in bureaucratic power. The Ezhavas under the leadership of Sri Narayana Guru, Kumaran Asan and Dr. Palpu became conscious of the socio-economic backwardness and stagnation in the intellectual life29 and mobilized the movement

for civic rights and social status. The absence of a regular system of recruitment to the public service resulted in inefficiency, incompetency and corruption in public services, which were mainly in the hands of Tamil Brahmins and Raos. Against this background, regionalism, factionalism, sectarianism and casteism gained momentum for obtaining economic uplift, social elevation and political privileges to all groups. No wonder, all Travancoreans irrespective of their caste differences rallied under the banner of the Malayali Memorial in their fight for representative bureaucracy and launched a joint campaign against the predominance of Brahmins.

The grievances of the Travancore people had two dimensions: first, the educated could not secure their due share in government jobs and second, it was impossible to be silent spectators when non-Travancoreans enjoyed all privileges, which, should have been theirs. According to the official statistics of 1889, the representation of Malayali Hindus, foreign Hindus and Christians in the Travancore Public Service were as follows:

<table>
<thead>
<tr>
<th>Officers drawing Salary of Rs. 10 and above</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Malayali Hindus</td>
<td>1650</td>
</tr>
<tr>
<td>Foreign Hindus</td>
<td>1440</td>
</tr>
<tr>
<td>Christians</td>
<td>272</td>
</tr>
</tbody>
</table>

More than one half of the higher appointments (those with a monthly salary of Rs. 50/- and above) were monopolised by foreign Hindus. Even among the Malayali Hindus, the employment was confined to a very limited section. The public service was rather an unapproachable field for the vast majority of low caste Hindus. For example, not even a single post was held by Ezhavas who constituted nearly 1/5 of the total population of the State. The following table shows the division of middle and higher administrative posts in Travancore according to caste in 1891.31

<table>
<thead>
<tr>
<th>Caste</th>
<th>Posts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nayars</td>
<td>1575</td>
</tr>
<tr>
<td>Foreign Brahmins</td>
<td>1000</td>
</tr>
<tr>
<td>Non-Brahmin Foreign Hindus</td>
<td>444</td>
</tr>
<tr>
<td>Latin Christians</td>
<td>196</td>
</tr>
<tr>
<td>Syrian Christians</td>
<td>76</td>
</tr>
<tr>
<td>Nambutiris</td>
<td>75</td>
</tr>
<tr>
<td>Illavas</td>
<td>00</td>
</tr>
</tbody>
</table>

The large scale employment of foreign Hindus had another aspect of injustice as well. Foreign men employed in a foreign soil are merely birds of passage and their accumulated earnings would only go to swell the resources of a foreign land32. Economically this policy was not agreeable to the common sense and to the common public.

31 P.J. Cherian, Perspectives on Kerala History, the Second Millennium, Kerala Gazetteer, Vol. II part II, p.442
32 M.J.Koshy, Genesis of Political Consciousness in Kerala, p.35.
The submission of a mass memorandum by the representatives of the middle class of Travancore to the Maharaja Sri Mulam Thirunal urging him to give an adequate share in the State administration was an event of extra-ordinary significance in the history of Travancore. The master-mind of Nayar community superbly managed to bring the major sister communities of Travancore to a political focus which ultimately resulted in the submission of the Travancore Memorial, widely known as the Malayali Memorial. The representatives of the disgusted caste Hindus and others submitted before the Maharaja "The Petition of Rights" popularly known as Malayali Memorial containing 10038 signatures on January 11, 1891. The deputation consisted of K.P. Padmanabha Menon, G.P. Pillai, John Nidiri, M.K. Padmanabha Pillai, Sivan Pillai and Kavalam Nilakanta Pillai. Among the signatories there were landlords, merchants and officials like district judges, munsiffs, tahsildars, magistrates, school masters, inspectors of schools, police officers, medical officers, and engineers. The Malayali Memorial "gave vent to the pent-up feelings of despondency, indignation and disappointment of the non-Brahmin subjects of Maharaja caused by the denial to the right of employment for them under the state service".

33 The Travancore Nayars were not only worried by the middle ranking communities below them; they also perceived a threat to their progress in the Tamil Brahmins above them. C.J. Fuller, op.cit., p.20.

34 C.N. Somarajan and S Sivadasan, op. cit., p. 45.

35 M.J. Koshy, Constitutionalism in Travancore and Cochin, p.6.

36 T.K. Ravindran, Asan and Social Revolution in Kerala, p.L XXI.
The Malaya Memorial represented the reaction of the natives against the predominance of outsiders. The memorialists rallied round the common grievances, like lack of opportunities in the civil service, which was the inevitable evil effect of domination by the foreign Brahmins. The memorialists felt that the foreign Brahmins were systematically dispelling the local people from the civil hierarchy of the state with blessing, or at least with the connivance, of the sovereign. The Brahmin Diwans filled up all the important offices of the state by bringing in outside Brahmins. This tendency had two effects; first, it denied equal or just opportunities to the qualified subjects of the state, and second, it generated an irrepressible hatred towards the Brahmins which became more and more pronounced. The memorial was the natural climax of this accumulated discontent. The request of the memorialists was that the Government should accord to the natives, support which other Governments would give to their subjects. As Madras Mail remarked, “the case as stated in the petition is certainly a strong one, and the reforms demanded have nothing rash or unreasonable about them.”

The memorial reminded the government that the grievances should be redressed at the earliest. It warned that any delay in redressing the grievances would necessarily invite a revolution. As a modest remedy the memorialists requested the

38 The Karnataka Patrika, English weekly, Bangalore, 19 January, 1891.
40 The Indian Light, English Weekly, 25 January, 1891.
government to define the term 'Native of Travancore' and to restrict the appointments to born natives irrespective of class, caste or creed. The memorial prayed that though it was too late to repair the injury done already, the government should take necessary steps to prevent further damages.

The Malayali Memorial was the first organised expression of protest made by the educated section of the people who were so far afraid of criticising the government policies. It was not merely an expression of any grievance of a section of the people, but it reflected the feelings of a community as a whole and therefore it was the outburst of the suppressed natural desire of the people for a fair share in the administration of the state. In April 1891 the Diwan Rama Rao sent an endorsement to K.P. Sankara Menon, the titular leader of the Memorial. Most of the replies were vague and disappointing. The government made it clear that it could not draw line between native Hindus and foreign Hindus, because for generations the latter had adopted Travancore as their home and hence entitled to its consideration and protection as the natives. Altogether the government defended its employment policies and set out its own statistics to disprove those of the memorialists.

41 M.J. Koshy. Constitutionalism in Travancore and Cochin, p.35.
42 Public Department. File No. 1900/M.885, 24 April, 1891, Kerala Government Secretariat, Trivandrum.
43 Public Department . File No. 1899/M.884, Endorsement to the Malayali Memorial.
In order to neutralise the impact of the Malayali Memorial, a counter memorial was submitted to the government on the 3 June 1891.\textsuperscript{45} It was signed by foreign Brahmins, Muslim merchants, Nambudiris, Vellalas, Syrian Christians and Tamil converts to LMS. The counter memorialists refuted each and every argument of their opponents supported by facts and figures. As the signatories claimed “the object of our memorial is to remove a stigma which has been unjustly and unnecessarily cast upon the administration of Your Highness and Your Highness’ predecessor by certain section of Your Highness ‘subjects in a memorial recently presented by them to Your Highness”\textsuperscript{46} Its main object was to condemn the demand made by the Malayali Memorial for the distribution of government appointments among the several classes and creeds in the country according to their numerical strength. They also attempted to prove that the complaints of foreign Brahmin preponderance and of native exclusion and discouragement were entirely baseless. The counter memorialists started arguing that most of the communal groups whom the Malayali memorialists termed as foreigners were not actually foreigners.\textsuperscript{47} All the minor appointments were made mostly from among the natives. The complaint of foreign preponderance in the government service was not based on facts.

Similarly, the closing decades of the 19\textsuperscript{th} century witnessed an awakening among the Ezhavas of Travancore who had been disillusioned due to the denial of

\textsuperscript{45} \textit{Ibid}

\textsuperscript{46} Text of the Counter Memorial, \textit{Madras Times}, 10 July, 1891, p.5.

\textsuperscript{47} For example, non-Malayali Brahmins, Pandi Sudras, Vellalas, the artisan classes, Shanars, Pariahs etc.
their rights of admission to Government schools and appointment in public services. Such a situation induced Dr. P. Palpu to submit a petition to the Maharaja on September 3, 1896, signed by 13107 Ezhavas. This petition has rightly been referred to as the Ezhava Memorial. The major demands of the memorial submitted by Dr. P. Palpu were admission of the Ezhavas into Government schools and their entry into Government service. But the thorough failure of the Malayali Memorial from the Ezhava point of view did not dissuade Dr. P. Palpu from attempting emancipation of the Ezhava community.

The memorials had far-reaching repercussions which brought about radical reforms in the history of Travancore. The Government of Travancore adopted the policy of repression to the memorial movement of the awakened sections of Travancore and that put the reform movement of the state in a new direction. The oppressive state policy only helped the general degradation of the oppressed classes and their socio-religious, intellectual, cultural and economic condition in a state of stagnation. Finding the doors closed for the genuine claim of the memorialists, the agitators sought organisational means to press their demand in lieu of mass memorial. It made the aggrieved masses of Travancore to plunge deep into hectic reform activities that quickened the tempo of social regeneration of the sons of the soil.

48 C.N. Somarajan and S. Sivadasan, op. cit., p. 49.

Dr Palpu continued his struggle in his individual capacity, and in later years Kumaran Asan and I.K. Madhavan added strength and vigour to the struggle of the Ezhavas through their legislative, literary, journalistic and organizational capacities. The social reformers like Sri Vaikunda Swamikal, Sri Narayana Guru, Sri Chattampi Swamikal and the Christian missionaries marked the dawn of the reformations which paved way for the social legislations in Travancore.

It is necessary to understand the interrelationship between the culture of a society and man-made law. Toynbee has described the characteristics of such laws. “It is intended to apply consistently in uniform circumstances in all human situations that are deemed to fall within the scope of whatever the particular law may be. By implication the law is intended to be imposed impartially, and to be enforced effectively, upon all and sundry who come within its ambit. Furthermore, the law is intended, not only to be consistently formulated and applied and to be impartially and effectively administered, but also to be, and to be recognized by all concerned as being, morally right.” In short, law in relation to a society might be described to be the bundle of rules and regulations laid down for the functioning of the society.

The process of legislation must reflect the intellectual, ethical and spiritual values of the society which it is designed to regulate. There is a controversy between “those who believe that law should essentially follow, not lead, and that it should do so solely in response to clearly formulated social sentiment, and those who believe

50 M.C Setalvad, Law and Culture, pp. 3-4.
that the law should be a determined agent in the creation of new norms". Law was “found” and not “made”\(^5\). He was of the opinion that the legislature should act only when popular opinion had fully expressed itself. Bentham and his followers believed that law is an active legislative instrument “effecting social reforms partly in response to and partly in stimulation of felt social needs”.\(^5\)

The most important purpose of law making is the maintenance of social stability. It has to respond to social changes and respond so as not to leave too long a time-lag before it brings itself into line with social development. It does not mean that law has to play only “the role of the obedient servant”. Law can have a constructive and positive function in society so that it may become the instrument of social change.

The manner in which social and cultural changes can interact with the law of the society depends in a substantial measure on the form of the government under which the state functions. In a democratic system it is not possible to impose a law on a community that is entirely opposed to it. But, notwithstanding the democratic system and popular representation in the legislatures, the control of legislation really lies even in such states, in the hands of a small number of the leaders of the society. If those leaders are confident of commanding a following among members of the society, they sometimes act far in advance of the social opinion and, as it were, lead.

\(^5\) Ibid.

\(^5\) Ibid. pp 4-5
the way to social and cultural changes. But this can only be done after preparing the community for such a change. On the other hand, in societies governed by absolute rulers, whether in the shape of a powerful revolutionary party or a dictator, it is the law fashioned by these absolute rulers, which brings about changes sometimes of a very radical character in the structure and the views of the society.

The interaction of law and social values can be understood through the story of the great change in society brought about by abolition of slavery in America. Abraham Lincoln, the great President of the United States, took advantage of the Civil War to emancipate slaves. Even though Lincoln was a foe of slavery he was not an abolitionist. He himself said, "My paramount object in the struggle is to save the Union and not either to save or destroy slavery. If I could save the union without freeing any slave I would do it; if I could save it by freeing all slaves I would do it". By the summer of 1862 Lincoln realized that for the success of war and for the existence of the Union, the slaves must be emancipated. The emancipation of slaves was proclaimed on New Year Day, 1863. The Proclamation was potentially more revolutionary than any other event in history of America since its Independence. It lifted the Civil War to the dignity of a crusade. The proclamation of Emancipation of slavery brought about a historic change in American society and its human values.

The way in which social, cultural and economic changes can affect law and legal concepts is aptly illustrated by developments with regard to the social concept.
of the family. Before the development of an industrial society, the family was an insular unit, which was little concerned with trade or exchange. The family was dominated by the father as its head, and the mother had sway only over matters in the domestic sphere. The organization of modern industrial society greatly weakened the family as a social unit. This decline has been quickened by urbanization of modern society and the growth of large cities. The waning influence of religious ideas and the growth of rationalistic beliefs based on developments in science and technology also affected the strength of family ties. These social and economic changes, which have given rise to new beliefs and social ideals brought about striking changes in the laws governing marriage. The marriage tie, considered indissoluble in most systems of law, can now be severed on many grounds and sometimes even at the will of the spouses. The emancipation of women in the society, which has been the inevitable result of the changing modern social conditions has resulted in the relaxation or removal of most restrictions on women's rights to property.

Even the firm and the established orthodoxy of the Muslim world, based as it is on the law of the Shariat, is being affected by the social changes of societies surrounding the Muslim countries. Some of the Islamic states have introduced reforming legislation based partly on the Shariat and partly on the jurisprudence of modern countries. Even in the Muslim family laws, there have been changes. It is particularly on the question of the status of women that these changes are most noticeable. It is interesting to note that some of these changes are based, on a more liberal interpretation of the Shariat than that was accepted in earlier days. The devise of altering the law in the guise of interpretation has been used for centuries by
commentators on Hindu and Muslim law in order to bring the law in accordance with new social ideas and views. Hence it is clear that changes in law were made to conform to the broad prevailing sense of changing social values.

Legislation has an important role as an agent of social evolution. At the same time, law can play only limited part in reshaping the society. Law has mainly two functions in society, the preservation of stability and ensuring security against disorder. For the fulfilment of these purposes, it must always be prepared to pay heed to social changes and march with the time. Law may also on occasion march forward and lead society to its desired ends. But this role should necessarily be conditioned in an appreciable measure by public opinion and change in social values. Law cannot afford to flout them and if it does, law may be said to have failed to serve its purpose. A delicate and continuous adjusted equilibrium must be maintained between law and the cultural values of society, one should not lag far behind the other. If the modern democracy is to weather all storms and preserve the great heritage of culture, the legislators should take care of this equilibrium.

The present study is an attempt to analyse the impact of social legislations in the history of modern Travancore and the growth of social awareness that led to greater strides in democracy. In Travancore, the upper castes played a leading role in decision making and the government was only too pleased to foster their interests. The impact of western education in Travancore was tremendous. When people enlightened through education, they organized themselves into groups for specific purposes. Such groups took the leadership to bring about social changes as desired
by them. These people compelled the government to effect necessary social legislations to protect their interests and grant their needs. It paved way for the formulation of a series of social legislations in the history of Travancore during the period under review of this study.

The period in question (1925-56) witnessed sincere attempts by the rulers, their governments and the people to seek remedies for the major evils that prevailed in the society. This study is an attempt to evaluate in detail the circumstances which necessitated the social legislations, their aims, objectives, and the nature. The study also takes note of the lessons learnt from history, the steps that the government could take in advance, and finally the extent of forward vision that these social legislations reflected, thus paving the way for a better future.

The period from 1925 to 1956 is impregnant with a series of social legislations, which made tremendous changes in the social life of the people. Besides this, the two states of Travancore and Cochin were merged into a single State (TC State) in July 1949 as a part of integration in independent India. By this integration, the Raja of Travancore became the Rajapramukh of the new united states.

**Theoretical assumptions**

Social changes occur as a result of multiple factors. It is not a simple development, but a result of the complex processes of socio-economic development and corresponding advance of political consciousness. The forces like colonial and western impact, missionary activities, the rule of enlightened rulers, leadership of
educated middle class, political leaders, community and caste reformers all were instrumental to these developments.

The legislation can not just be interpreted as a dropping of decisions from above. Although, policy decisions originated from above, it was invariably in response to the needs and pressures from below. Very often these social pressures originated from below, starting from downtrodden castes and were carried forward to the enlightened leaders and ruling authorities. So the legislation can be said to be the result of a two way process: one from below and the other from above.

**Relevance and Scope of the Study**

The published works on the social change of Kerala both by the oriental and occidental scholars did not bestow much importance to the social legislation. The missionaries and social reformers made tremendous efforts to correct and reform some of the social evils existing for centuries together. For instance the matrilineal system or marumakkathyam system of succession, slavery, jenmi system, uliyam, viruthi, animal sacrifice, sambandham, child marriage etc. were subjected to severe criticism from different quarters even before this period. But only during the period under study that the Government initiatives were made to regulate certain customs and practices among the higher castes, especially the Nayars, the Vellalas, the Krishnanvakakkars, the Nambudiris.
Review of Sources

The study is largely based on original data collected from the archival repositories. The primary sources comprise of the proceedings of the Travancore Legislative Council, Acts, proclamations, government orders, reports of high level commissions, administration reports, revenue records, survey reports, census reports, newspaper reports, letters, memoirs etc. It is further supplemented by most of the available secondary works viz published books, journals, newspapers and souvenirs.

Methodology

The study attempts to trace the historical antecedents of the social legislations. It undertakes a comprehensive analysis of the social formations which ultimately led to the social legislations. It aims at making a descriptive as well as interpretative scrutiny of the data. The period is resplendent with data. A historical deductive method is resorted to arrive at conclusions based on the nature of sources consulted.

The Scheme of the Study

The Scheme of the study is to analyse the social legislations in Travancore and Cochin. A land, which is labeled as a lunatic asylum by a great saint no other than that of Swami Vivekananda, witnessed a series of multi-dimensional and multifaceted, social legislations immediately after his departure from Travancore.
They were calculated to correct the out dated customs prevailing in the society. Among the social evils that existed, the government gave top priority to the correction of the outmodelled and fossilized customs that existed as communal rituals and practices. The social welfare legislations were intended to ensure well being and security of the weaker sections of the society especially the women and children. The women who were once a source of strength to the family and society were being subjected to severe hardships and miseries.

Chapter Plan

The study is conceived in four chapters. The first chapter analyses the impact of memorials coupled with the rising spirit of nationalism, which activated the process of social change in Travancore. Unlike the other parts of India, Travancore popular assemblies were initiating the needed legislative steps for the removal of the evil and unjust customs and practices prevailing among the Nayars, Nambudiris, Ezhavas, Vellalas, Krishnanvakakkar, Kshatriyas and even among Muslims. The period under study witnessed the introduction and enactment of a series of legislations, which were mainly targeted against the social maladies like marumakkathayam, sambandham and management of taravads.

The Second Chapter discusses the major land reforms carried out by the Government of Travancore during the period under review. A series of reform measures were undertaken to protect the kanam tenants and kudikidappukar. The
ryots who became the victims of eviction, arbitrary taxation and other atrocities were given protection

This section also describes the laws enacted for the removal of social disabilities. The non-caste Hindus who were the victims of social restrictions and taboos received legal rights through Social and Civil Disabilities Acts, Temple Entry Act etc.

This section also brings out the adoption of certain measures to change the practices that are enimical towards the womenfolk and their children. Among them the Hindu Widow Remarriage Act and Restraint of Child Marriage, are the echoes of similar Acts that were enacted in the British empire. The Maternity Benefit Act and the Suppression of Immoral Traffic Act are remarkable in their spirit and content. Similarly the Special Marriage and Succession Act represents earnest attempt to prepare the kingdom safe for democracy, above the caste and communal barriers.

The third chapter on educational reforms examines the importance of education, which became the most powerful catalyst in the process of social change. Education, which once remained the monopoly of the Brahmin pundits and temple sanketams, came down to the non-Brahmin communities mainly through the initiative of the Christian Missionaries. Once it was liberated from the grip of caste Hindus, the Government of Travancore extended co-operation through a series of legislations, which consolidated and promoted the education at different levels from
the primary to the university. It virtually led to the beginning of a new era in the history of social legislations.

Another section of this chapter traces the legacy of cultural regulations. Since drama and cinema are the most effective means of cultural entertainments in the modern context, the Government of Travancore undertook certain solid measures to prevent its misuse and mismanagement. The Government brought about the Cinematograph Regulation in 1927 for the social and moral well being of the people. This Regulation was further amended in 1955. Likewise, steps were taken to prevent the misuse of dramatic skill for scandalous, defamatory, seditious and obscene purposes.

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

The period from 1925-56 witnessed far-reaching changes with regard to inheritance to property rights, system of marriage, position of women, status of junior members of taravads and above all authority of the Karanavar. The change had its impact among the Nayar, Ezhava, Nanjinad Vellala, Brahmin, Kshatriya,
Muslim and Krishnan Vaka communities. It paved the way for the emergence of nuclear families on one side and the disintegration of joint family system on the other. Shift from matrilineal system to patrilineal system was the crux of the change. Measures by the Government for the protection of women and children through these legislations accelerated the pace of social progress. Educational and cultural regulations further improved their position. The Government had taken effective steps for the protection and rehabilitation of the lunatics through the enactment of Travancore Lunacy Regulation 1935. Even the animals and birds came under the purview of social welfare legislations of the Government.