Chapter II

LAND LEGISLATIONS AND SOCIAL LEGISLATIONS


Land was the most prized of all the wealth in Travancore and land system formed the basis for all the social changes in an agriculture state like Travancore. The land system was a legacy of the ages, which received the attention of the Government throughout the ages. The establishment of British hegemony in Travancore marked the beginning of a series of changes in the tenurial system. The
difference in the nature of the rights of land-holders gave rise to various land tenures in Travancore and such tenures reflected the economic and social status of the people. The superior tenure rights were the privilege of the high castes. The monetization of the economy and commercialization of agriculture during the colonial period undermined the status aspect of the land and introduced competition.

Land-relations varied according to the functions performed by the land itself. Land constituted a factor of production, a status symbol and a source of security and influence. In the traditional Travancore Society, tenures reflected economic and social status. On account of the growing pressure on land and the slow development of alternative opportunities, the competition for land increased. The landlords, to whom land was not merely a means of living but a source of profit, demanded more rent and evicted the tenants to make room for those who offered them more profit. Land thus, became increasingly a source of conflict among different social groups, which received the immediate attention of the Government.

The Jenmi Kudiyan Regulation – 1932

The Government appointed a committee in 1915 to enquire into the grievances of the tenants and landlords. Based on the recommendations of the Jenmi-Kudiyan Committee the Jenmi-Kudiyan (Amendment) Regulation of 1932

1 Ronaled J. Herring, Land to the Tiller, p.35.
2 Powell, Baden, The Land Systems of British India, p.113.
3 Neale, C., Land is to Rule, pp. 6-7.
was adapted unanimously by the Legislative Council. It became the only source of law to regulate the Jenmi-Kudiyan relations in the State.

The Act conferred proprietary right on the kudiyan and the obligation of annual payment of Jenmi’s dues, called jenmikaram. The kanam tenant was declared complete owner of the land with the entire rights incident to ownership of the land. From and after the commencement of the Amendment Regulation the Jenmi shall not have any right, claim or interest in any land in a holding except the right to receive the jenmikaran there on and the kudiyan shall be deemed to be owner of the land subject only to the payment of the jenmikaran. The right of revision or enhancement of jenmikaram rested with the Government.

The Regulation granted absolute freedom to the tenants in the use of his land by converting wet land into garden or by converting garden land into cultivable wet land, or in any other manner to cut down and appropriate any trees standing there, or to after the course of cultivation in respect thereof, and in short to do suffer anything to be done on the land without reference to or interference with the jenmi.

The Regulation made it clear that the jenmikaram was to be remitted by the kudiyan to the state, and the state took the responsibility of remitting the jenmikaram

to the jennies. It swept away many of the old and well-established practices connected with *kanam* tenancy. The tenancy reforms institutionalized the rights to the *kanam* tenants.

**The Travancore Prevention of Eviction Act-1949.**

The Government of Travancore passed The Travancore Prevention of Eviction Act on March 3, 1949, corresponding to Meenam 6, 1124 M.E. The purpose of the Act was to make provision for the prevention of the arbitrary eviction of the *kudikidappukar*. This Act protected the interests of the *kudikidappukar* whose interests would be inheritable, but not alienable. No *kudiyiruppukaran* could be evicted unless he had committed acts of waste on the holding. It was also possible for an owner to evict a *kudikidappukaran* if the owner required the land for the construction of a building or for such other purposes. At the same time, provisions were made in the Act to ensure that the landlord continued to retain his ownership and possession of the whole property of which the *kudiyiruppu* formed a part of the property.


9 The Malayalam term, *kudikidappukar* means tenants; those who are living in the property of a landlord, upon his mercy.


It was provided in the Act that no suit could be maintainable, from a
kudiyiruppu, and that all claims in respect of any kudiyiruppu could be sufficient for
the purpose of fixing the location of the kudiyiruppu. Notwithstanding anything
contained in any provision of this Act, the owner of a holding could require the
kudiyiruppukaran to shift to a new building. No such suit could be instituted without
giving the kudiyiruppukaran one months notice by registered anchal post. In order to
ensure justice to the poor kudikidappukaran, the Government was pleased to decree
that in every pakuthi (village) a detailed register\textsuperscript{12} showing the survey number of the
land holding, the location of the kudiyiruppu, the name of the owner and that of the
person in possession of such holding, etc., should be maintained, so that the
Government might look into the matter effectively.

Also, the Government declared that all the provisions contained in the Act
would be carried out strictly and effectively. The Travancore Prevention of Eviction
Act 1949 is a fine instance of the policy followed by the Government of Travancore
towards the poor people. It is an important point that if a kudikidappukaran was
shifted to a new kudiyiruppu, the whole expense including the cost of construction of
the new building had to be met by the owner. The Act was a protection to the poor
kudikidappukaran

\textsuperscript{12} Ibid., p. 7
The Travancore-Cochin Prevention of Eviction of Kudikidappukars

Act – 1955

In the Travancore-Cochin State, there was no uniform Act regarding prevention of eviction of kudikidappukars. In the Travancore area, The Travancore Prevention of Eviction Act, 1124 (Act XXII of 1124) and in the Cochin area The Cochin Proclamation of XVIII of 1122 were in force. The Government of Travancore-Cochin passed the Travancore-Cochin Prevention of Eviction of Kudikidappukars Act, 1955, for the purpose of making provisions for the prevention of eviction of kudikidappukars except under certain special circumstances. The Act came into effect on June 7, 1955, and it was extended to the whole of the State of Travancore-Cochin. The Act was not applicable to certain lands such as lands in the possession of the Government or lands administered by the Administrator General, Official Receiver or any officer appointed by a court under the provisions of any law in force or by any person holding under or deriving title from any of them, or lands or buildings or both given on lease for industrial or commercial purposes.

The most revolutionary provision of the Act was that it provided for the kudikidappukaran to have permanent right of occupancy in the kudiyiruppu.

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14 ‘Eviction’ meant the recovery of possession of a kudiyirippu from a kudikidappukaran.
16 kudikidappukaran is a person who had no homestead or land of his own to erect a homestead and has been permitted by an owner of land to have the use and occupation of a portion of the land for the purpose of erecting a homestead with or without an obligation to pay rent for the use and occupation of the site so given.
17 kudiyiruppu means the site so given together with the house, hut or shed thereon which is used as a place of residence by the kudiyidappukaran with the permission of the owner.
Accordingly, every *kudikudappukaran*, who, was at the date of commencement of the Act was in occupation of a *kudiyiruppu* to which the Act applied had the right to have a permanent right of occupancy in such *kudiyiruppu*, and was not to be evicted therefrom except in accordance with the provisions of the Act. Such permission or consent had to be made in writing and registered.18

Usually no suit would be maintainable for the eviction of a *kudikudappukaran* except under the provisions of the Act. Again, in respect of the *kudiyiruppu*, the *kudikudappukaran* could have claims in return for the recovery of the possession of the property.19 Only under special circumstances could the original proprietor recover his property. In fact, as per the provisions of the Act, the court had the power to relocate the *kudiyiruppu*. In this case the court might direct the *kudiyiruppuvar* the original dweller, to re-erect his house on another site at the cost of the owner. In order to enjoy such a protection, every *kudiyiruppuvar* had to register his name under the Travancore Prevention of Eviction Act. By the passing of the Act, The Travancore Prevention of Eviction Act of 1124 M.E. and the Cochin Proclamation XVIII of 1122 M.E. were repealed. The Travancore-Cochin Prevention of Eviction of Kudikudappukars Act of 1955 was a continuation of the land reform policy, and the protection of *kudikudappukars* followed by the Government of Travancore.

18 *ibid.*, p. 50
19 *ibid.*, p. 50
The Travancore-Cochin Requisitioning and Acquisition of Property Act 1955

In the united State of Travancore-Cochin, there was no enactment regarding the requisitions and acquisition of property for public purposes. But the Travancore-Cochin Public Safety Measures Act, 1950 (Act V of 1950) contained some provisions regarding the acquisition of property, but they were not sufficient. Therefore, the Government brought forward The Travancore-Cochin Requisitioning and Acquisition of Property Act of 1955, otherwise called Act 1 of 1956. The Preamble of the Act clearly stated that the purpose of the Act was to acquire any land, which did not serve the interest of the Government, in view of public interest.

The Act said that if the Government was confirmed of the necessity of a particular property for public use, it should give a requisition in writing to the owner of a property. The requisition should have specified the purpose. Also, the owner of the property had to be given the chance of objecting to the acquisition. Accordingly, he should submit a letter of objection within 15 days showing why the property should not be acquired by the Government. He should not sell or effect any repair for attracting the property, after having it requisitioned by the Government. The Government might at any time release the property from requisition and restore it in original condition as far as possible.

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20 Statement of Objects and Reasons, Travancore-Cochin Gazette Extraordinary, dated 10.3.1955


22 The Travancore-Cochin Gazette Extraordinary, dt: 1..12..1956.
When the owner of the property or his agent was not found, a notice to the
effect that the requisitioned property was to be released, should be published in the
Gazette and a copy of it was to be affixed in some conspicuous part of the property.\textsuperscript{23}

But the Act particularly specified that even when the property requisitioned under the
Act was wholly or partly destroyed by fire or earthquake or flood or volcano or by
an army or a mob or irresistible force, the requisition might be void as well as the
option of the Government.

The Travancore-Cochin Requisitioning and Acquisition of property Act of
1955 was an act of considerable social significance. In this Act, the Government had
taken all possible steps for giving justice to the owner of a land when it was acquired
for public purpose. In the Act, individual liberty was also protected.

**Removal of disabilities**

The non-caste Hindus who formed a major section of the Hindu society in
Travancore were reduced to the status of untouchables and unapproachables. They
were subjected to several social disabilities and considered as polluting communities.

The temples consecrated to the Brahmanical deities, and their precincts, were
considered as sanketam grounds, and reserved exclusively to the caste Hindus. Such
temples remained out of bounds for the non-caste Hindus. Though the non-caste
Hindus were regarded as members of the Hindu society, who professed the same

Hindu customs and manners, believed in the same sacred books, and worshipped the same gods. They were not permitted entry into the temples. Physical cleanliness, intellectual attainments, economic means, high status in life did not help the non-caste Hindus to enter the prohibited areas near the temple. The Brahmins cunningly manipulated customs and conventions, administrative and socio-economic systems and brought the entire society under the provisions of their Sastras. Among the caste Hindus, the pujaris (priests) mostly Brahmins, were alone permitted to enter the inner shrine of the Garbhagriha of the temple. People who assumed the status of the Kshatriyas were allowed to approach up to the steps in front of the Garbhagriha for devotional acts like reciting Vedas, mantras and prostrating in front of the image. They were allowed to go as far as the steps of namaskaramandapa. People who belonged to the category of Sudras went up to pradakshinaavazhi outside nalampalam, but not nearer.²⁴

The Smritis like the Dharmasastras of Manu and Yajnavalkya condemned the use of liquor as one of the five great crimes or panchamahapatakas²⁵. Irrespective of their economic status, people connected with certain professions were labeled as untouchables and subjected to severe social disabilities. They were prohibited from touching or coming near the upper caste people owing to tindal or distance pollution. They were not permitted to use freely the public roads and wells. They were strictly

²⁴ B.Sobhanan, 'Genests of Temple Entry Agitation in Tamilnadu', Indica, Vol. XX, No.1, pp. 3-14
²⁵ Manu XI. 55 Slaying a Brahmin, drinking intoxicating liquor, theft, committing adultery with the wife of a Guru (are) they say, the great crimes and association with those (who commit these crimes is) also a great crime (Edward W. Hopkins, Hindu Policy The Ordinance of Manu, pp. 331-32.
prohibited from entering the compounds of temples consecrated to Brahmical
deities. They brought their little offerings of fruit, flowers and confectionery, which
they handed over to a temple priest and waited outside the shrine till he came out
again, and after returning the baskets or trays in which they brought the offerings,
dismissed them with his blessing. It should be pointed out in this connection that
Hindu worship is not congregational and the worshippers, even if they belong to
“clean” castes and are able to enter the temple, do not make offerings personally. A
Hindu temple is not intended for a congregation, but is a shrine for the idol and for
the performance of ceremonies by priests, and offerings are made not by the votaries
themselves but the priests acting on their behalf26.

The governments controlled by the caste Hindus preserved the Sastric rules
and age-old customs in their pristine purity. They openly expressed their fear that
laxity in this matter would destroy the social structure and disastrous consequences
would follow. Consequently they acted as the “trustees” of the privileges of the caste
Hindus. Accordingly they identified these privileges with the laws of the land, and
refused to effect any innovation in the existing order that pressed hard upon the self-
respect and honour of the inferior castes. The privileges of the caste Hindus become
the disabilities of the non-caste Hindus; and the government wanted to perpetuate
this arrangement by denying the right of the lower castes to walk along the roads
around the temples and worship in the temples. In spite of their massive strength, the

26 L.S.S.O Malley, Indian Caste Customs, pp. 143-144.
non-caste Hindus accepted the spiritual and temporal predominance of the caste Hindus and gave implicit obedience to all their arbitrary laws. They were afraid of questioning the long established system.

In 1905 one Kochu Kunju Channar, an Ezhava member in the Legislative Assembly raised the question of permitting the Ezhavas to walk along the roads passing near the Haripad temple. His appeal went without any favorable response. Again in 1916 Kumaran Asan, the founder Secretary of the Sree Narayana Dharma Paripalana Yogam drew the attention of the Government and demanded the removal of tindal patakas (the prohibition boards) placed near the temples.

Unapproachability in general and the prohibition to walk along these roads in particular had been made the subject of specific petition in the Assembly. When Government refused to remove these social evils, the avarnas further claimed their right of entry and worship in all Sircar temples in opposition to the long established customs and usage. In 1919 T.K. Madhavan pleaded the Assembly for the removal of untouchability and unapproachability, but the Dewan disallowed the motion on religious grounds. He made systematic campaign both in and outside the legislative Assembly from that time onwards the question of entry of all classes of

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Hindus into all Sirkar temples without caste distinction was placed before the Government for their immediate consideration.

**The Travancore-Cochin Removal of Social Disabilities Act – 1950**

In different parts of the integrated State of Travancore-Cochin, a lot of social injustices existed on the basis of caste and religion during the year 1949.⁹ Such injustice even went to the level of manhandling the backward people at different places of the state during that period. The backward communities were not permitted to take tea from tea shops. One day, a person belonging to backward community went to a teashop at Nedumangad to have a cup of tea. The owner of the tea shop tried to prevent his entry, and that person was brutally attacked by a group of persons. A number of such incidents were happening in different parts of the State at the time. Many barbershops of the states were exclusively for Nayars and Brahmins, and even such boards were exhibited inside the shops.⁹¹

People belonging to backward communities were manhandled in temple surroundings at different places during that time. Such incidents had become common, and hence it was known to everybody.⁹² The backward classes were

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³¹ *Ibid*

³² *Ibid*

³³ *Ibid*
denied even pure drinking water at certain places. It so happened because they were not allowed to touch at the well. Similarly, the avarnas were not allowed to enter ponds or canals in many places. Even in many public institutions, which were bound to be secular, entry was allowed only to people belonging to one community. In certain institutions Hindus were admitted but Christians and Muslims were not.

The Government of Travancore-Cochin decided to put an end to those social inequalities. Accordingly, a Bill was prepared and presented in the Legislative Assembly. Sections 3 and 4 of the Bill were of great importance because in the former it was mentioned that in secular institutions all people should have access. In Section 4, it was mentioned that all Hindus irrespective of caste should have admission to all institutions, as a legal right. This Section four provided for the use of canals, ponds, wells, pathways, hotels and such other places where all Hindus should have access.

Many members of the Legislative Assembly had presented written requests to the Government in favour of a legislation, which should end social inequalities. When the Bill was presented for discussion, it was followed by serious debate in the Assembly. Shri P K Deever made it clear in the Assembly that the backward and

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34 Ibid. p.73
35 Ibid. p.74
36 Ibid. p.74
37 Ibid.
the avarnas were denied access to many temples in the State. Shri. R. Sankar one of the members of the Travancore Devaswam board could not even go to all temples because of this social disability. Later, R. Sankar became Chief Minister of the State of Kerala. P.K. Deevar also made it clear that at Kanyakumari separate places for sea bath were provided to people of different castes. There, Muslims and Christians were not allowed to take sea bath along with Hindus. This was not due to the presence of any temple, but because of the legislations in the social systems which existed in those days.

The Government of Travancore-Cochin passed The [Travancore-Cochin] Removal of Social Disabilities Act (Act VIII of 1125) in 1950. The purpose of the Act, as stated in the preamble, was that it was deemed expedient to provide for the removal of social inequalities. The Act extended to the whole of the State of Travancore-Cochin. The Act provided that no person owning or being in charge of any secular institution should impose or cause or suffer to be imposed on or against any person, any restriction or discrimination in the matter of admission to or service in such secular institutions on the ground that he belonged to a particular religion or

38 Ibid. p. 75
39 Ibid. p. 74
41 'Secular institution' means any refreshment room, restaurant, café, coffee house, eating house, boarding house, lodging house, hostel, hotel or any other place where persons were provided with food, drink, shelter of sleeping or other accommodation, any place of public entertainment or amusement, and any premises where goods are sold, any laundry, any shaving or hair-dressing saloon, or any other place where services were rendered to customers.
caste or creed. In the same way, no person could, on grounds only of his religion, caste or creed, be prevented or disabled from having access to or using any stream, river, well, tank, bathing place, pathway, sanitary convenience or means of transport maintained wholly or partly out of State funds or the funds of the local authority, or used as of right by or dedicated to for the benefit of the general public. No Hindu could, by reason merely of his belonging to any particular caste or class or sub-caste among Hindus, be prevented or disabled from having access to or using any stream, river, well, tank, bathing place, pathway, sanitary convenience or means of transport to which all or any of the other classes, castes or sub-castes among Hindus had a right of access, or a right to use. The Act prohibited refusal of sale of articles; accordingly, no dealers could refuse to sell or withhold from sale any article, which was kept by him for sale, to any person on the ground that he belonged to a particular caste or creed. Whoever contravened the provisions of Section 3, 4, 5 or 6 or molested or obstructed any person in the exercise of any right conferred by or under this Act, was punishable with imprisonment for a term which might extend to six months, or with fine which might extend to one thousand rupees, or with both. In the same way, whoever attempted to commit or abetted the commission of any offence punishable under Sub-section 1 of Section 7 was punishable with imprisonment for a term which might extend to six months, or with a fine which might extend to one thousand rupees, or with both. Notwithstanding anything contained in the Code of Criminal Procedure for the time being in force, all offences punishable under this Act were cognisable.
The most revolutionary social legislation of Travancore-Cochin was the Removal of Social Disabilities Act, 1125. The Act put an end to the injustices that prevailed in the society to a great extent. The idea was to cut off the oppression, torturing and restriction imposed on the backward classes in the State. Here one can find that caste system existed in Travancore-Cochin State with all its evils even during the year 1950. Though it was very late, the measures brought forward by the Government through that Act were satisfactory.

The Travancore-Cochin Removal of Civil Disabilities Act-1950

In the integrated State of Travancore-Cochin, it was necessary to enact a law preventing the forfeiture of rights to property and inheritance on a person renouncing or being excluded from the communion of any religion or his being deprived of caste. For that purpose, a bill was prepared. The bill sought to provide for the preservation of the forfeiture of such property rights and to vest in him an absolute right to his share in the family properties. At the same time the bill precluded him from exercising his rights of residence in the family house or to exercise the rights the Manager or Karanavar of a Joint or Marumakkathayam family.

The Government of Travancore-Cochin passed The Travancore-Cochin Removal of Civil Disabilities Act in 1950 and it was extended to the whole of the

42 Objects and Reasons. United State of Travancore-Cochin, Gazette Extraordinary dt.25-11-1949
state of Travancore-Cochin. According to this Act no person was to incur forfeiture of his right of inheritance or of rights to property by reason of his renouncing or having been excluded from the communion of any religion or being deprived of caste, notwithstanding any law, custom or usage to the contrary. The Act further provided that where a member of a joint Hindu or Marumakkathayam family renounced or was excluded from the communion of his religion or was deprived of caste, he would be deemed to have served his joint status from such family with full rights to partition of his share of the family properties and he would not be entitled to the right of residence in the family house or to exercise the rights of a manager or Karanavan of such family.

The Travancore-Cochin Removal of Civil Disabilities Act was a guarantee to property right to those who had renounced his religion. At the same time, the Act was defective in one respect. The Act forfeited even the right of residence in the family house. That Section cannot be considered a progressive one.

**The Travancore-Cochin Temple Entry (Removal of Disabilities) Act-1950**

By the Temple Entry Proclamation of Nov 12, 1936, by the Maharaja of Travancore all temples under the management of the Travancore Government were thrown open to all Hindus irrespective of their caste or sect. After a few years, temple entry was allowed in Cochin State also, by the promulgation of the Cochin

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Temple Entry Authorisation Proclamation\textsuperscript{44} V of 1123. Whereas the Travancore Proclamation applied only to temples under the management of Government, the Cochin Proclamation allowed all Hindus to enter and worship in all Hindu temples which were dedicated for the benefit of or used as of right by Caste Hindus in general whether they were under Government management or not. The scope of the Cochin proclamation was further extended by Amending Act X of 1950 and Hindu temples used by particular sections of the Hindu community also were brought within the purview of the Proclamation. In the Travancore area also, Hindu temples under private managements were then thrown open for worship to all sections of the Hindu community by the Travancore Temple Entry (Extension of Application) Ordinance\textsuperscript{45} IX of 1950.

Thus, in both portions of the State of Travancore-Cochin, all disabilities imposed by custom or usage in respect of temple entry were removed and all Hindu temples were thrown open for entry and worship by all sections of the Hindu community.

For the purpose of integrating the law relating to temple entry, and to introduce a common measure for the whole State, the Travancore-Cochin Temple Entry (Removal of Disabilities) Bill was prepared. While the Bill was introduced in the Legislative Assembly, the Chief Minister, T.K. Narayana Pillai, pointed out that

\textsuperscript{44} The Travancore-Cochin Government Gazette, Extra ordinary dt. 19-9-1950.

\textsuperscript{45} Ibid.
regarding temple entry a lot of agitations had taken place in the State previously. The objective of the Bill in his opinion was not to prevent possibilities of such agitations in future.

In November 1950, the TC State Assembly brought forward and passed the Travancore-Cochin Temple Entry (Removal of Disabilities) Act, otherwise known as Act XXVII of 1950. The Act was extended to the whole of the State of Travancore-Cochin, and was to come into force at once. According to this Act, not withstanding any law, custom or usage to the contrary, every Hindu, irrespective of the caste or sect to which he belonged was entitled to enter any temple and offer worship therein in the same manner and to the same extent as Hindus in general or any section thereof did. Without prejudice to the generality of the foregoing provision, it was thereby declared that the right conferred by Sub-section (1) would include the following rights to the extent to which they were enjoyed by Hindus in general or any section of Hindus: (a) the right to bathe in, or use the waters of any sacred tank, well, spring or water-course appurtenant to the precincts thereof; (b) the right passage over any sacred place including a hill or hillock or a road, street or pathway


48 "Temple" means a place by whatever name known, which is dedicated to, or for the benefit of, or used as of right by, the Hindu Community or any section thereof, as a place of public religious worship, and includes subsidiary shrines as well as tanks and mantapams appurtenant or attached to such place.

49 "Worship" means such religious service as the bulk of the worshippers may participate in or offer in a temple, and includes the right to bath in tanks appurtenant to the temple subject to such rules and regulations as may be made under that Act.
which was required for obtaining access to the temple. At the same time, the trustee or other authority in charge of a private temple could have power, subject to the control of the Travancore or Cochin Devaswam Board, as the case may be, and to any rules which might be made by them, to make regulations for the maintenance of order and decorum in the temple and the due observance of the religious rites and ceremonies performed in the temple, but such regulations should not discriminate in any way against any section of Hindus. The Act further provided that no suit for damages, injunction or declaration, or for any other relief, no prosecution for any offence and no application or other proceeding under any law, should be instituted or continued in respect of any entry into or worship in, by a Hindu who belonged to a particular caste or sect. The Act also empowered the Government to decide disputes, and accordingly, if any question arose as to whether a place was or was not a temple as defined in this Act, the question had to be referred to the Government and their decision was to be final, subject, however, to any decree passed by a competent civil court in a suit filed before it within six months of the date of the decision of the Government.

Similarly, whoever prevented any Hindu, to whatever caste or sect he might belong from exercising any right conferred by that Act, or molested or obstructed any such person in the exercise of any such right, should be punished, in the case of a first offence, with imprisonment which might extend to three months or with a fine which might extend to two hundred and fifty rupees, or with both, and, in the case of a second or subsequent offence, with imprisonment which might extend to six
months, or with a fine which might extend to five hundred rupees, or with both. Whoever contravened any rules or regulations made under the Act was punishable with imprisonment which might extend to three months, or with a fine which might extend to two hundred and fifty rupees, or with both. The Act also made clear that all offences punishable under Section 7 should be punishable. The Travancore or Cochin Devaswom Board might make rules for the purpose of carrying into effect the provisions of this Act in respect of temples generally or of any temple or class of temples and such rules in particular might provide for the maintenance of order and decorum in temples, and the due observance of the religious rites and ceremonies performed in temples, but such rules should not discriminate in any way against any section of Hindus. But in the case of the Sree Padmanabha Swami Temple, the Ruler of Travancore had the right to make such rules.


The Travancore-Cochin Temple Entry (Removal of Disabilities) Act was a revolutionary measure in the true sense. It was a stride towards the attainment of social equality and a landmark in the history of the T.C. State.
Measures for the Protection of Women and Children

The women and children constituted an integral part of the entire social mechanism. Usually the standard of a particular society would be decided on the basis of the treatment meted to the weaker sections. In Travancore the women who once held a predominant status lost their individuality and became the victims of caste and communal chauvinism. The period under study witnessed the adoption of certain measures to correct the social maladies pertaining to the womenfolk and their children. Among them the Hindu Widow Remarriage Act, restraint of similar Acts which are the echo of similar Acts which were enacted in the British empire. The Maternity Benefit Act and the Suppression of Immoral Traffic Act are remarkable in its spirit and content. Similarly the Special Marriage and Succession Act represents earnest attempt to prepare the kingdom safe for democracy, above the caste and commercial barriers.

Though in Travancore the proportion of widows to the total number of females was less than in other parts of India, it was large enough to deal with. According to the latest Census Report, which was available in September 1938, there were 119 widows per 1,000 females as against 155 in India. It was a fact that widow re-marriage was not prohibited among the majority of the population in Travancore with the result that a comparatively low proportion of widows in Travancore was recorded. At the same time, there were several communities in Travancore among whom early marriage was common and widow re-marriage was prohibited. Among Brahmins other than Nambutiris and Pottis, pre-puberty marriage of girls was
compulsory and widows were prohibited from re-marrying. Pre-puberty marriage of girls was not compulsory among the Nambutiaries and Pottis, but widow re-marriage was prohibited. It was not allowed among the Vellalas also.

It is to be noted that in Travancore, as per official records available in September 1938, widows below 45 years of age, which may be taken as the maximum age of the child bearing period, formed 35.2 of the total number of widows as against 40.3 per cent in India, 21.3 per cent in the United States and 12.3 per cent in England and Wales. In the words of the Travancore Census Commissioner, these figures show that the proportion of women who had become widows was greater in Travancore than in western countries, though it was less than in India.

The Travancore Hindu Widow's Remarriage Regulation - 1938.

The Government of Travancore brought forward and passed the Travancore Hindu Widows Remarriage Regulation\(^50\) on 22 September 1938 A.D, corresponding to 6 Kanni 1114 M.E. The purpose of the Regulation was the removal of the legal obstacles to the re-marriage of such Hindu widows as wished to re-marry and the legitimizing of the children born of such wedlock. The Travancore Hindu Widows\(^51\) Re-marriage Regulation extended to the whole of Travancore, and applied to all

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\(^51\) The term "Hindu" used in this Regulation means any person governed by the Hindu law.
marriages of Hindu widows contracted before the commencement of this Regulation or contracted on or after the commencement of this Regulation, whether such marriages were allowed by custom or not. The Regulation came into operation at once.

The Regulation made clear that notwithstanding any custom and any interpretation of Hindu law to the contrary, no marriage contracted between Hindus should be invalid and the issue of no such marriage should be treated as illegitimate by reason of the woman having been previously married or betrothed to any person who was dead at the time of such marriage. It is also provided that whatever words spoken or ceremonies performed at the time of marriage of a Hindu female, no marriage shall be declared invalid on the ground that such words, ceremonies or engagements were inapplicable in the case of a widow. In the case of widows who had not completed sixteen years, sanction of their guardian was necessary for remarriage whereas in the case of widows who had completed the sixteenth years their consent itself was sufficient to establish her marriage as lawful and valid.

The Travancore Hindu Widows’ Remarriage Regulation put an end to the sufferings Hindu widows who had rendered for hundreds of years. It became a revolutionary step towards the social progress of the State. It was also a contribution to the Theory of Individual Right.

52 Ibid., p. 144

Though child marriage was not very popular in Travancore, the number of girls getting married up to the age of 15 was smaller in Travancore than in other parts of India, such marriages continued to take place among some communities. According to the Census of 1931, forty-two girls out of 1000, between the ages of five and fifteen, were either married or widowed in Travancore, as against 221 in India. The corresponding number in the case of boys was smaller, it being only 5 out of 1000. But during the age-span of 15-20, the number of males married was 187 out of 1000. The Travancore Census Commissioner said that the “marriage of immature persons is a serious social evil and its existence on however small a scale, tends to undermine the health and vigor of future generations”.53 The object of the Child Marriage Restraint Bill, which was prepared under the direction of the Government, was to prevent the “serious social evil” of child marriage. The fact that the evil did not exist on a large scale was not enough reason why it should be tolerated or condoned. It was an important matter because, though in Travancore itself child marriages were less prevalent than in other parts of India, there were instances in which people from British India came to Travancore and performed such marriages to avoid the punishment imposed by the Sarada Act.54 The Indian Census Commissioner said significantly that in spite of the Sarada Act, it was still “easy


54 Sarada Act was the Act by which Child Marriage was prohibited in British India.
enough to evade the Act entirely by celebrating a marriage outside the British territory and special instances were quoted of parties in British India going to other states to celebrate marriages declared illegal in British India.

The Travancore Child Marriage Restraint Bill was prepared on the lines of the Sarada Act. But a slight change was effected in the Bill and that was in the matter of age. The age limit fixed for the marriage of girls was 15, instead of 14 provided in the Sarada Act. To meet some exceptional cases, where either of the parents of a girl might desire, for special reasons, to see that their daughter got married during their life time, a new Clause was added in the Bill, under which a girl who was below 15 and above 13 could be married under the orders of the District Magistrate having local jurisdiction, provided that consummation should take place only after the attainment of 15 years. Thus, the Child Marriage Restraint Bill was prepared in the State of Travancore with necessary modifications and additions suited to the natives.

The Government of Travancore passed the Travancore Child Marriage Restraint Act on 1 June 1941 A.D., corresponding to 19 Idavam 1116 M.E. The

56 Ibid.
57 Ibid.
58 Ibid., p. 495.
59 Ibid.
purpose of the Act as stated in the Preamble, was to restrain the solemnization of child marriages. The Act was extended to the whole of Travancore and came into force at once. According to this Act, whoever above eighteen years of age and below twenty-one contracted a child marriage should be punished with a fine which might extend to one thousand rupees. Whoever being above twenty-one years of age contracted a child marriage should be punished with simple imprisonment which might extend to one month or with a fine which could extend to one thousand rupees, or with both. The Act also provided that whoever performed, conducted or directed any child marriage should be punished with simple imprisonment which might extend to one month or with a fine which might extend to one thousand rupees, or with both, unless he proved that there was reason to believe that the marriage was not a child marriage. Punishment was also provided for the parents and guardians who promoted child marriage, or permitted it to be solemnized, or negligently failed to prevent it from being solemnized, with simple imprisonment which might extend to one month or with fine which might extend to one thousand rupees, or with both. But no woman was to be punished with imprisonment as per this Act.

Notwithstanding anything contained in Section 170 of the Code of Criminal Procedure, no court other than that of a Magistrate of the First Class could take cognizance of or try any offence under this Act. Accordingly, the court could take

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60 'Child' means the person who if a male is under 18 years of age and if a female under 14 years of age. 'Child Marriage' means a marriage in which either of the contracting parties is a child.

6: Ibid., p 494
cognizance of an offence under the Act, either upon complaint made or information laid before it, within one year from the date on which the offence was alleged to have been committed. If the court was satisfied from information laid before it through complaint or otherwise that a child marriage in contravention of this Act had been arranged or was about to be solemnised, it could issue an injunction against any of the persons mentioned in Sections 3, 4, 5 and 6 prohibiting such marriage. Whoever knowing that an injunction had been issued against him under Sub-Section (i) disobeyed such injunction could be punished with imprisonment of either description for a term, which might extend to three months or with a fine, which might extend to one thousand rupees, or with both. This Clause also provided that no women should be punished with imprisonment. At the same time, the Government enjoyed the authority to exempt any marriage in Travancore from the operation of this Act on application made in that behalf by the legal guardian of the bride or bridegroom whoever was a child.

Child marriage is a terrible sin and its prohibition is a must for a progressive society. The Government of Travancore passed the Child Marriage Restraint Act only in the year 1911. There was huge cry for the abolition of child marriage all over India right from the beginning of second half of the nineteenth century. The Brahmo Samaj, The Arya Samaj, Sree Ramakrishna Mission and many other social reform movements protested against this social evil and did everything possible to undermine this practice. But, in the State of Travancore, it took nearly another
century for the attainment of such social justice. The concept of Travancore as a ‘Model State’ could not be upheld in this regard.

The Travancore Suppression of Immoral Traffic Act – 1941

It cannot be denied that there should be a law to prevent the evils arising from prostitution. According to the reports under the custody of the Government of Travancore, the absence of such a law was taken advantage of by persons outside the State who were tempted to settle down in Travancore. The Government made investigations on the basis of public health statistics, and realised that, apart from decency and public morality, at least on grounds of public health, it was imperative that steps should be taken to deal with prostitution. Accordingly, the Government directed to prepare the Travancore Suppression of Immoral Traffic Bill. While agreeing generally with the principle underlying the Bill, the Select Committee thought it necessary to revise Clauses 5 and 9 and to restrict the powers proposed to be conferred on the police.

The Government of Travancore brought forward and passed The Travancore Suppression of Immoral Traffic Act, 1117 on 25 December 1941. The purpose of

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the Act was to make better provisions for the suppression of brothels and of traffic in
women in Travancore. This Act enabled the Government to take any penal action
against brothels or prostitutes by arresting them and putting them in prison, or by
imposing a fine, or by both. Accordingly, a Magistrate having the rank of I Class
was authorized to take action against brothels or persons committed to prostitution.

The Act provided that nobody should be allowed to take or attempt to take
any woman from one place to another with a view to her carrying on the business of
prostitution. Similarly, any person who detained any woman against her will in any
house, room or place in which the business of prostitution was carried on or any
premises with the intention of carrying on sexual intercourse with any person other
than her legal husband, was liable to punishment under the Act either with
imprisonment or with a fine, which the Magistrate could fix.

An interesting aspect of this Act was that if any man or woman withheld from
her any jewellery or apparel or property belonging to her or threatened her with legal
proceedings at he took away with her any jewellery or apparel, the woman was not
liable to be proceeded against. The Act further provided that a person taking a
woman with the intention of doing prostitution would be punished with

66 "Brothel" meant any house, room of place which the occupier or person in charge
habitually allowed to be used by any person for the purpose of prostitution.

67 "Prostitution" meant promiscuous sexual intercourse for hire.
imprisonment for two years or with a fine of Rs.1000/-, or with both.68 If a woman by words or gestures or by indecent exposure of her body endeavoured to attract attention for the purpose of prostitution or solicited or molested any person for intercourse would also be punished69. Under such circumstance, any police officer not below the rank of Inspector could arrest without a warrant70 any person committing any offence punishable under this Act. Protection of the morality of women is one of the pre-requisites of social life. Provisions contained in the Act were sufficient and effective for the prevention of immoral traffic. This was another contribution of the Government towards the moral and social well being of the people.

The Travancore Maternity Benefit Act – 1943

Legislation making maternity benefit compulsory in respect of women workers employed in industrial establishments had been recommended in the Whitley Commission Report. The International Labour Conference had also passed a convention urging upon all the state members of the League of Nations to bring it on the Statute Book. The Maternity Benefit Act had been in force for some time past in several of the British Indian provinces and in the neighboring state of Cochin.

68 Ibid., p.560
69 Ibid.
70 Ibid.
71 Statement of Objects and Reasons, The Travancore Government Gazette dt: 27-10-1942
The Board of Conciliation appointed by Government to inquire into and report on the conditions of labour in Central Travancore had reported that a maternity benefit legislation would be not only a welcome but a necessary addition to the labour legislation in force in the State. The Government of Travancore was satisfied that it was inadvisable in the interests of both labour and capital to postpone legislation enabling women workers to get maternity benefits. The Bill closely followed the provisions of the Madras Maternity Benefit Act.\(^2\)

It was a fact that the Government of Travancore took care of the welfare of women through different Acts. Women were given property rights and inheritance. As a continuation of the steps towards the social well-being of women, the Government of Travancore brought forward and passed The Travancore Maternity Benefit Act \(^1\) on 8 June 1943 A.D., corresponding to the 25 Idavam 1118 M.E. The purpose of the Act, as stated in the preamble, was to prevent the employment of women in factories for some time before and some time after confinement and also to provide for the payment of maternity benefit \(^4\) to them. The Act prohibited the employment of women in factories immediately after pregnancy, that is, four weeks following the day of her confinement. The Act provided that every woman worker in a factory not being a seasonal factory would be entitled to the payment of maternity

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\(^4\) "Maternity Benefit" meant the amount of money payable under the provisions of this Act to a woman worker in a factory.
benefit \(^{15}\) at the rate of fourteen chulkrams (about half a rupee) a day for the actual days of her absence during the period immediately preceding her confinement and for the four weeks immediately following her confinement. The maximum period for which any woman would be entitled to the payment of maternity benefit was fixed to be eight weeks, that is, four weeks up to and including the day of her confinement and four weeks immediately after the confinement. If a woman died during this period, maternity benefit would be paid only for the days up to and including the day of her death.

The Act provided that if any employer\(^{76}\) contravened the provisions of this Act, he should be punishable with a fine, which might extend to two hundred and fifty rupees. But no prosecution for any offence against this Act could be instituted without the previous sanction of the Inspector of factories. Only a magistrate of the first class could try any offence against this Act.

The Government of Travancore took special interest in the security and social well being of women, as is best understood from this Act. Sufficient provisions were provided to protect the rights of expectant women before, during and after confinement. This was indeed a gesture of the Government towards promoting the welfare of women workers in Travancore.

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75 \textit{Ibid.}, p. 151

76 "Employer" included an "occupier of a factory" as defined in the Travancore Factories Act, VIII of 1114, and the Manager of a factory.
There was difference of opinion among the members of the committee, which was appointed to the report on the Special Marriage and Succession Bill in Travancore, on the question of the exact scope of the Bill. Some members of the committee were of the opinion that the Bill should provide for a Civil Marriage Law applicable to all persons in the State, while others were of the view that the object of the Bill should be only to permit and validate marriages, which under the existing law or custom were invalid. The marital law governing persons in Travancore was different from and more complicated than the law that prevailed in British India. The legislative activities at that time had resulted in a large number of enactments governing the several major communities in the State. The Nayar Act, the Ezhava Act, the Nanjinad Vellala Act, the Kshatriya Act and the Krishnanvaka Marukakkathayam Act are fine instances, which provide for the marriage amongst those communities. One typical feature common to all these enactments was that marriages between persons belonging to the same community alone were recognized as valid with certain exceptions in the case of a few. Among the Christians, marriage was governed by the Cannon Law, and amongst Mohammedans, by Mohammedan Law. Hindus other than those belonging to the several communities already

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79 Ibid.
mentioned were presumed to be governed by the Hindu Mithakshara Law\textsuperscript{80} with certain modifications in certain cases. Hence, it was clear to the Select Committee that so far as Travancore was concerned, the vast majority of its people had a well-defined marital law, but such law did not recognize as valid certain inter-caste or inter-communal marriages\textsuperscript{81}. The committee was of the opinion that the obstacles then experienced to valid unions between persons belonging to different castes in the same community, or to different communities, alone demanded recognition by legislation and that the requirement necessitated by the altered conditions in social life would be amply met by providing facilities for such marriages. The Committee was of the view that there was no necessity at that time for providing a civil marriage law applicable to all persons.

The Government of Travancore brought forward and passed the Travancore Special Marriage and Succession Act 1119\textsuperscript{82} under the date 13 Chingam 1119 M.E., corresponding to 29 August 1943 A.D. The purpose of the Act as stated in the preamble, was to provide a form of marriage for persons who could not otherwise validly contract a marriage and whose marriage would otherwise be invalid and to provide a law of intestate succession for them. The Act applied to all persons domiciled in Travancore and also to such persons not so domiciled as had or should

\textsuperscript{80} Ibid.

\textsuperscript{81} Ibid.

have marital relation in the form prescribed under the Act with persons domiciled in Travancore.

The first part of the Act dealt with marriage and its dissolution and accordingly marriage might be celebrated between persons, marriage between whom was not sanctioned as valid under any law or custom by which such persons were governed, subject to four conditions:\(^{83}\)

1. Neither party must at the time of the marriage have a husband or wife; 2. The man must have completed his age of twenty-one years and the woman eighteen years; 3. A woman who had completed the age of eighteen years must have obtained the consent of her father or guardian; and 4. The parties must not be related to each other in any degree of consanguinity which would, according to any law or custom to which either of them was subject, render a marriage between them illegal. It was a noteworthy feature of this Act that utmost care was taken to respect moral values through these four conditions.

According to this Act, every person married under this Act, who, during the lifetime of the husband or wife of such person, contracted any other marriage was subject to the penalties\(^{84}\) provided for in Section 497 or Section 498 or the Travancore Penal Code for the offence of marrying again during the lifetime of a husband or wife, whatever might be the religion which such person professed at the time of such second marriage.

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\(^{83}\) *Ibid.*, p. 78

\(^{84}\) *Ibid.*, p. 82
Dissolution of marriage was permitted only in one of the three conditions:
1. By the death of either party, 2. By mutual consent evidenced by a registered instrument, or 3. By a formal order of dissolution. A husband or wife might present a petition for dissolution of the marriage under Section 20 Clause (iii) in the court of the District Judge and in all such cases the petitioner had to offer in the petition reasonable compensation to the respondent.

Maintenance of wife and mind children rested upon the husband or father as the case might be. In the case where the wife had minor children by a former husband, deceased or divorced, she had to be the legal guardian of such children and also of the separate property belonging to them.

A typical provision of this Act is non-forfeiture of rights or property on account of marriage under the Act. Accordingly, a person who married under this Act could not by reasons of such marriage incur forfeiture of rights or property nor could it be held in any way to impair or affect any right of inheritance by reason of his or her renouncing, or excluded from the communication of any religion or being deprived of caste, notwithstanding any law or usage in force. Any person who

85 Ibid
86 Ibid., p 83
87 Ibid
88 Ibid., p 84
married under this Act enjoyed testamentary power and accordingly he could dispose of by will the whole or any portion of his or her self-acquired or separate property.

The Travancore Special Marriage and Succession Act-1943 was a revolutionary legal measure in the history of Travancore. Through this Act inter-caste and inter-religious marriages got validity. This Act was also an attempt to liberate people from caste and communal barriers for the purpose of marriage. At the same time, the Act also provided for the dissolution of marriage and intestate succession.

The Travancore Children Act-1945

The government had long felt that strict and better control of young persons who were either vagrants or ill protected or convicted of offences had become of paramount importance. The well being of society is bound up with the care of the child. The Reformatory Schools Act under which very good work had been turned out so far the amelioration of the conditions of the youthful offenders had become insufficient to meet the growing needs of a growing society.  

89 Ibid., p. 8

90 Objects and Reasons of the Travancore Children Act 1945, Travancore Government Gazette, dt 6 2 1945
There were children Acts in the major provinces of British India like Madras, Bombay and Bengal. Various salutary provisions for the control and care of the young, vagrant and the delinquent were attained in those Acts. In Travancore, time and again public bodies had been stressing the need for comprehensive legislation in the state. The government then felt that the time was ripe for a new Act. Accordingly, the Travancore Children Bill was prepared on the lines of the Bombay Act of 1924, which was the most modern of the Acts then in British India.

The Government of Travancore passed the Travancore children Act on 29th Karkatakam 1120 M.E. corresponding to 13th August 1945 A.D. The purpose of the Act was to consolidate and amend the law relating to the custody and protection of children and also the custody, trial and punishment of youthful offenders. The Act was called the Travancore Children Act, 1120 which extended to the whole of Travancore.

According to this Act any police officer or other person authorized in this behalf by the Government might bring before a court who is apparently a child and

91 Ibid.
92 Ibid.
94 Child means a person under the age of sixteen years and when used with reference to a child sent to a certified school applies to that child during the whole period of his detention not with standing that the child might have attained the age of sixteen years. The Acts and proclamations of Travancore 1119-1920, Vol. XIV – part I op.cit., pp. 35-57.
who is found wandering and not having any home or settled place of abode or was found destitute or is under the care of a parent or guardian who is unfit to have the care of such person or frequents the company of any reputed thief or prostitute or is lodging or residing in or frequenting a house used by a prostitute for the purpose of prostitution or is found drunk or under the influence of intoxicating drugs in any street or public place. It is provided that when any such child has a parent or guardian who has actual control over the child, the police officer or other person as aforesaid should make a report to the court in the first instance. The court called upon such parent or guardian to show cause why the said child should not be removed from his care and might on suitable security being offered for the safety of such child and for his being brought before the court permit the child to remain in the actual charge or control of his parents or guardian or might order his removal till the court passes orders under this Act. If the court is satisfied on enquiry that such person is a child as is described in sub-section 1) the court might order him to be sent to a certified school or may order him in the prescribed manner to be committed to the care or a relative or other fit person named by the court until the child attains the age of eighteen years or for any shorter period, under such cases the court might order the fit person or such relative to execute a bond with or without sureties to be responsible for the good behaviour of the child and for the observance of such other conditions as the court might impose for securing that the child might lead an honest

95 'Fit person' in relation to the care of any child includes any society or body corporate established for the reception or protection of poor children or the prevention of cruelty to children which undertakes to bring up or to give facilities for bringing up any child entrusted to its care in conformity with the religion of its birth.

96 Here one can find the sincerity of the Government in introducing a legislation.
and industrious life. It is also provided that the court, which makes an order committing a child to the care of relative or other fit person under this section should order that the child be placed under the supervision of a probation officer or other person named by the court.

Further provided that the Magistrate might allow such child to remain in the custody of a parent or guardian with a direction that he be placed under the supervision of a probation officer or other person named by the court might from time to time adjourn the enquiry and compel the production of child in court to satisfy that the said undertaking is being carried out. In part III of the Act punishment for offense against children and their prevention is ordered in detail which includes all kinds of offences.

The Act provided punishment for cruelty to children and accordingly whoever having the actual charge of or control over a child abandon, exposes or willfully neglects or ill-treats such child unnecessary suffering or injury to his health should be punished with imprisonment for a term which might extend to six months or with fine of rupees one hundred or both. The act further provided that whoever for his own profit allows a child to be in any street, premises or place for the purpose

98 Ibid., p. 354
99 Ibid.
of begging should be punishable\textsuperscript{100} with improvement for a term of one month or with fine of four hundred rupees or both. There is a clause regarding penalty for giving intoxicating liquor to child. The police officers exercised the power to seize any beedi, cigarette, tobacco or smoking mixture in the possession of the child and the police officer should have power to search any boy so found smoking but not girl.

Whoever allows a child to reside in or frequent a brother should be punishable with imprisonment\textsuperscript{101} for a term of one month or with fine of rupees one thousand or with both. It is significant to note that special care is being given in the case of girls in this act and accordingly whoever courses or encourages the seduction or prostitution of a girl below sixteen years or causes or encourages any one other than her husband to have sexual intercourse with her should be punishable with imprisonment for a term of three years and should also be liable to fine. Similarly if it appears to a court that a girl under the age of sixteen is being treated with cruelty by her parent or guardian or that such girl with the knowledge of her parent or guardian is exposed to the risk of seduction or prostitution or living a life of prostitution the court should direct the parent or guardian to exercise due care and supervision in respect of such girl.

\textsuperscript{100} \emph{Ibid.} p 356

\textsuperscript{101} \emph{Ibid.} p 362
The Act provided bail of children arrested\(^{102}\) and accordingly if a person below the age of sixteen years is arrested on a charge of non-bailable offence and could not be brought forth with before a court, the officer in charge of the police station might in any case release him unless the charge is one of culpable homicide or any other offence punishable with death or imprisonment for life. Similarly when any girl under the age of sixteen years is arrested the officer in charge of a police station should release her\(^{103}\) advance if any person is a sufficient surety enters into a bond for such sum of money as the officer considers sufficient to produce her before the court. Similarly the government established ratified schools\(^{104}\) and other institutions for the reception of children and youthful offenders. In addition the government provided juvenile courts\(^{105}\) for the conduct of proceedings under this act.

The Travancore Children's Act of 1120 is a fine instance of the policy followed by Government of Travancore towards children. It was an act calculated to the well being of the children and also to prevent all possibilities to misuse the children for selfish ends. Unfortunately in the state of modern Kerala a large number of children are being used for begging in public places, railway compartment and in buses. Effective steps should be taken to prevent this evil practice at the earliest. Using innocent children for begging is a terrible sin.

\(^{102}\) Ibid.

\(^{103}\) Ibid., p.374

\(^{104}\) Ibid.

The Travancore-Cochin Suppression of Immoral Traffic Act - 1952

In the Travancore area, The Travancore Suppression of Immoral Traffic Act 1117 (Act X VI of 1117) was in force. That enactment prohibited the keeping of brothels, importation of women for prostitution, procreation and soliciting for purposes of prostitution\(^{106}\). In the Cochin area, there was no such law in force, and while the state of Cochin was thinking of formulating a bill on the Travancore model, the integration took place. Thus the integration of the State of Travancore and Cochin states necessitated the formulation of a uniform act for the suppression of Immoral traffic. Accordingly, a bill was prepared and the same was discussed in detail in the Legislative Assembly. Shri. A.P.UdayaBhanu emphasised the need for preventing this social evil and he also presented different reasons for immoral traffic\(^{107}\). The bill, was passed in the Legislative Assembly, became law as The Travancore-Cochin Suppression of Immoral Traffic Act on 29 June, 1952\(^{108}\). The Act of 1952 repealed the Travancore Suppression of Immoral Traffic Act of 117 M.E. The Act enabled the Government to take any penal action against brothels or prostitutes by arresting them, putting them in prison and/or imposing a fine or both. Ordinarily, a Magistrate having the rank of I Class was authorized to take action against brothels or persons committed to prostitution.

\(^{106}\) Objects and Reasons, Travancore-Cochin Gazette Extraordinary, dt. 2.10.1950.


In the Act, the Government was specific in defining 'brothel' and 'prostitution'. By means of precautionary measures, the government took much interest in developing social justice, expecting all members to behave in a decent way without immoral activity, either among them or among other members of the society. For this purpose, the Government took the step of suppressing prostitution and the keeping of brothels. Morality demands that to keep a brothel or to prostitute with others for the sake of hire is a terrible sin; sin not in the religious sense but in the social sense. It is likely to affect the general morality of the people and a government has every responsibility to guide them not only in the political destinies of the people, but also in their morality or spiritual destiny. The Government took serious cognizance of any person who was aiding, abetting or compelling any woman to prostitute with others. Any woman who prostituted on her will with others would incur of government displeasure. Similarly, nobody was allowed to take or attempt to take any woman from one place to another with a view to her carrying on the business of prostitution. In the same way, any person who detained any woman against her will in any house, room or place in which the business of prostitution was carried on or any premises, with the intention of carrying on sexual intercourse with any person other than her legal husband, was liable to be punished under the Act. The punishment was either with imprisonment or with a fine, which the Magistrate alone could fix according to the degree of gravity of the offence.

109 ibid., p 77
In this context, one has to remember the fact that while woman was punished, the man, in spite of the fact that he was equally responsible, was set free. But, if any man or woman was found to withholding from her any jewellery or apparel, or property belonging to her, or threatened her with legal proceedings, if he took away with her any jewellery or apparel, the woman was not be liable to be proceeded against. Similarly, a person taking a woman with the intention of doing prostitution could be punished with imprisonment for two years, or with a fine of Rs. 1000/- or with both. A woman by words, or gestures or by indecent exposure of her body endeavoured to attract attention for the purpose of prostitution or solicited or molisted any person for intercourse was also to be punished. For that purpose, any police officer not below the rank of a sub Inspector could arrest without warrant any person committing any offence punishable under the Act. That provision was sufficient guarantee to the majority of the people to safeguard their interest from molestation by the prostituting people though there was every chance for the police officers to misuse their authority for oppressing innocent women for their selfish end.

Immoral traffic is a problem, which could not be completely solved through enactment. The main reason for prostitution is psychological. People engage in such activities not only for monetary benefit. In the same way, the social background of a person also contributes to such tendency. The most important thing in this matter is the health point of view. The solution to this problem is the development of a high range of morality in the minds of the people so that they never engage in immoral
activities. Judged from this angle, the Suppression of Immoral Traffic Act was a significant measure conducive to social welfare.

The Travancore-Cochin Maternity Benefit Act – 1952

In the Travancore area, The Travancore-Cochin Maternity Benefit Act (Act IX of 1118) and in the Cochin area The Cochin Maternity Benefit Act (Act XXVII of 1113) were in force. Those enactments provided for the prevention of employment of women in factories for some time before and some time after confinement and also for the payment of maternity benefit to them. Since the passing of the enactments referred to above, conditions had changed. For the purpose of repealing those enactments and for enacting a uniform measure, which would be applicable to the whole state of Travancore-Cochin, The Travancore-Cochin Maternity Benefit Bill was prepared.

The Government of Travancore-Cochin passed the Travancore-Cochin Maternity Benefit Act, 1952 on October 21. It was an Act to prevent the employment of women in factories and plantations for some time before and some time after confinement and to provide for payment of maternity benefit to them. The Act was extended to the whole of the State of Travancore-Cochin. According to

110 Statement of Objects and Reasons, Travancore-Cochin Gazette Extraordinary dt. 17.6.1952

111 Ibid.

this Act, no employer should knowingly employ a woman in any factory or plantation during the four weeks immediately following the day of her confinement. In addition, every woman in a factory or a plantation was eligible for the payment of maternity benefit at the rate of five rupees and four annas a week for the actual days of her absence during the period immediately preceding her confinement and for the eight weeks immediately following her confinement, as mentioned in Sub-section (2). It was also provided that a woman would not be entitled to maternity benefit unless she had been employed in the factory or plantation for at least one hundred and fifty days during the period of twelve months immediately preceding the date on which she gave notice under sub-section(1) of Section 5. The maximum period eligible for the payment of maternity benefit was twelve weeks, four-weeks up to and including the day of her confinement and eight weeks immediately following the confinement.

The Act further provided that if a woman died during the period for which she was entitled to maternity benefit, the employer was to pay the amount of maternity benefit due to the person who undertook the care of the child if the child is living and if the child was not living, to the nominee mentioned in the notice given under Sub-section (1) of Section 5, and if there was no such nominee, to the heir of the deceased woman.
When a woman absented herself from work in accordance with the provisions of this Act, it was not lawful for her employer to give her notice of dismissal\textsuperscript{114}. Herein we can find an attempt on the part of the Government to protect the woman from the exploitation of the employer.

If any employer contravened any of the provisions of the Act, he could be punished with a fine which might extend to two hundred and fifty rupees, and where the contravention was of the provision relating to the payment of maternity benefit, the court could recover the amount due on account of maternity benefit as if it were a fine and pay such amount to the person entitled thereto\textsuperscript{115}.

The Act further provided that no prosecution for any offence against the Act, or any Rules thereunder, could be instituted except by or with the previous sanction of the Inspector. No court inferior to that of a Magistrate of the First Class had power to try any offence against the Act. No court could take cognizance of or convict a person for any offence against the Act or any Rule thereunder, unless complaint thereof had been made within six months of the date on which the offence was committed\textsuperscript{116}.

\textsuperscript{114} Ibid.

\textsuperscript{115} Ibid., p. 142

\textsuperscript{116} Ibid.
The Act repealed The Travancore Maternity Benefit Act, XIX of 1118 and the Cochin Maternity Benefit Act, XXVII of 1113.

The Travancore Cochin Maternity Benefit Act of 1952 was another step forward towards the protection of women. It was a continuation of the policy of the Government towards the social well being of women and children. The Government took utmost care to prevent the exploitation of the employer and thus assured the protection of women employees.

As a result of the land reforms more than 75 per cent peasants of Travancore had their own land by the beginning of the 20th century117. It was the impact of the land reform policy of the government in the years 1818, 1865 and 1896118. Position of the peasant in Travancore was for better than that of Malabar. In the erstwhile Malabar state the revenue policy and the judicial system of the company-aided landlords in devising new methods to maximize their share of the peasant’s produce119. The peasants of Travancore were free from this hardship. The Travancore Jenmikudiyan Regulation of 1932, Prevention of Eviction Act of 1949 and the Travancore-Cochin Prevention of Eviction of Kudikidappukars Act of 1955 were fine instances of the policy of protection of Kudikidappukars followed by the

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118 Ibid.

119 K.N. Panikkar. Against Lord and the State, p.18.
government of Travancore. The initiative for these reforms had come from the government.

Similarly social injustices existed on the basis of caste and religion were removed. The Travancore Removal of Social Disabilities Act of 1950 was passed with a view to cut off the oppression, torturing and restriction imposed on the backward classes in the state. The Travancore-Cochin Removal of Civil Disabilities Act was also passed in the same year. The demand for these legislations had come from the people.

Likewise, the measures, adopted by the government of Travancore towards protection of women and children gives the impression of a paternal care. The Travancore Hindu Widow's Remarriage Regulation of 1938 was the most revolutionary step. The Brahmin Widows had to suffer a lot of atrocities in Travancore. There was a time in Travancore when people looked with wonder when they heard about widow remarriage. The Travancore Child Marriage Restraint Act of 1941, though a little bit late, was very progressive in ideology. Primary importance was given to the protection of morality of women. The Travancore-Children Act of 1945 acted as a safety valve to the protection of children. While the initiative for Restraint of Child Marriage had come from the government the other legislations were the result people's demand.