MAKING OF EMIGRATION POLICY
Government, especially colonial rulers, have always played an important role in enacting laws. The enacted law which has to be recognised by the community as a binding one, often does not satisfy all sections of the society. In this context laws very rarely satisfy the ruler and the ruled. In this situation, it is relevant to know about the emigration laws relating to the first half of the 19th century, as for whom it was beneficial and to what extent.¹

Only during the 1830's laws were enacted to regulate emigration, though there were some sporadic attempts for emigration from the territories of the East India Company and the French settlements. This was to engage labourers to serve for terms of years at Mauritius and Reunion.² Since the flow of emigration was alarming as never before during 1834-1836, it raised an imperial issue of the first magnitude. Above all, occurrences of kidnapping of men, women and children out of the Company territory, forced the Government of the day to interfere, as it was their 'White Man's burden'.

The first ever enactment was made on May 1, 1837 and it was called the Act V of 1837.³ The Act prevented the natives of the Bengal Presidency engaging in a contract for emigration, unless an emigrant obtains an order from the Governor of the Presidency or a permit from an officer
authorised by the Governor. The Act required the emigrant and the authorised agent to appear before the officer of the Presidency. They were also required to show the memorandum of the contract specifying the nature, terms, wages etc.; and the contract was not to exceed a period of five years. At the end of the contract, the labourer was to be 're-conveyed' to the port from where he embarked.

Under the provision of this Act, the officer concerned had to examine the native and the contractor and the contract would not be valid unless and otherwise the officer gave his consent and signed in the memorandum paper. If an agent wanted to take more than twenty emigrants the officer-in-charge had to inspect the vessel, to find out whether the accommodation, food and medical requirements were upto the mark. According to this Act, the officer was to maintain a register with particulars of the natives who emigrated (their name, place of destination, date of permit, period of contract and the name of the vessel which they boarded). This Act also prescribed the payment of Rs.1/- by the agent to the officer as registration fee. Under the provision of this Act, an agent who carried a native without the consent of the said officer, was to be fined for Rs.200/- for each emigrant, failing which he was to suffer imprisonment of 30 days for each native.
Even though emigration had taken place from other Presidencies also, this Act V of 1837 was meant for the Bengal Presidency only. So the Government at Madras and Bombay urged the Government at Calcutta to extend the measure to their territories. Hence a recourse was made for fresh legislation, and the consequence was the passing of the Act XXXII of 1837. This Act repealed the Act V of 1837 and re-enacted it for the whole of the territories of the East India Company.

In spite of these regulations, the Government noticed abuses in the process of emigration. Especially the provisions already noted were merely on paper, and most of the coolies could not understand what the agents spelt out to them, and the officer-in-charge was a mere signing authority rather than an officer who officiated. Hence the Government had to notice a 'new system of Slavery' as Hugh Tinker named it. The French merchants at Pondichery also had a free-for-all business in the territories of the East India Company. The anti-slavery society, and the members of the English Parliament were disturbed by the very Act. In June, the echo of the agitation in England against the deportation of Indian labourers to Mauritius and Reunions reached in India. This agitation necessitated the Company Government to suspend emigration through Act (XIV of 1839) which repealed the Acts V and XXXII of 1837 and it declared that "any
person contracting with a native of India for labour apart from the East India Company territories shall be liable for a fine of Rs.200/- for every such native contracted." The same punishment was imposed on any who aided or abetted any native for this cause.

In the meanwhile a committee was appointed in Calcutta to enquire into the whole matter of emigration. The report, submitted in 1840, revealed that abuses were undoubtedly found in connection with recruitment of labourers. However it concluded that "the evils which had attended the system hitherto were preventable". Hence, reopening of emigration to Mauritius was recommended. Simultaneously the Government at Mauritius took a decision to issue an ordinance in the Council on 20th August 1842 in favour of the Indian immigrants. The ordinance, (No.II of 1842) pronounced that all "Panel obligations which shall be established in India shall, in case of infringement, be cognizable in the island of Mauritius". The ordinance was enacted in such a way that "any ship carrying any emigrant without proper licence or document be prosecuted and the vessel be confiscated". Under this ordinance, a fine of one hundred pounds for each emigrant illegally conveyed, may be imposed. Provision was also made for the fine on agents who conveyed emigrants and whose name was not found in the list. Even if any alteration
in the certificate was done or who favoured illegal importation of emigrants, fine was to be imposed. The major provision was the appointment of a protector of emigrants, who would in future take care of emigrants from India, in protecting, safeguarding the emigrants. Without the protector's certificate or licence every contract should be null and void.

In response to this ordinance, and pressure from England the Government of East India Company reopened emigration to Mauritius by repealing the Act XIV of 1839 and passing the Act XV of 1842.\textsuperscript{9} The Act XV of 1842 apart from reopening emigration to Mauritius from, Calcutta, Madras and Bombay Presidency also made some other vital provisions which deemed fit for the safety and security of the emigrants.\textsuperscript{10} This Act at the outset, made provision for the appointment of Emigration Agent at the ports of embarkation. Each ship carrying labourers was to secure licence from the Government by paying a fee of Rs.1/- for each emigrant; the master of the ship was to execute a bond for Rs.10,000/- to confirm the prescribe conditions. The Act fixed a maximum length of the voyage.\textsuperscript{11} If any emigrant was illegally carried, a fine of Rs.200/- was to be imposed; and penalty for taking emigrant to board after clearance, and penalty for crimping (sic) was to be Rs.500/- for each emigrant or an imposition of 3 months imprisonment for each emigrant.\textsuperscript{12}
In spite of the careful enactment there were still need for inclusion of other provisions, such as for the appointment of protector of Emigrants at the embarkation centre, prevention of females of immoral character and stringent rules for 'crimping' (sic), etc.\textsuperscript{13} The immediate need for another Act was necessitated by another course was the requirement of limited number of labourers in 1842 itself. It was felt that annual requirement would not exceed 2,000 coolies from India, and the Calcutta port would be sufficient to fulfill that requirement. So it was felt in the latter stage that the appointment of other agencies\textsuperscript{14} at Madras and Bombay would be a waste. Hence another Act (XXI of 1843) was passed in November in 1843.

The Act XXI of 1843, confined emigration only to Calcutta port thereby Madras and Bombay ports were closed for emigration. Secondly it prohibited the appointment of Emigration Agents and protector of emigrants to these Presidencies. The third provision included was to increase the number of women emigrants in future. However the Act XXI of 1843 was in force just for a year, and this Act was repealed and another Act was passed (ACT XXV of 1845) which came in to force from August 31, 1846.\textsuperscript{15} According to this Act a Protector was to be appointed at each port of
embarkation. This Act permits emigration to West Indies from Madras.

Yet another change that had taken place during this time was the demand for supply of more labourers from India. William Gomm, the Governor of Mauritius in his letter to the Secretary, Government of India said that "the emigration of labourers to a limited extent should in future years be allowed from Madras. Especially a minimum of 2,000 should be from Madras and the rest of 4,000 should be from Calcutta. At the same time he proposed that the Indian Government would see no objection to the emigrants from Madras being apprised that if they choose to leave Mauritius prior to agricultural service of five years, they would have to refund a proportion of the passage money paid for bringing them hither to Mauritius corresponding with the number of years, which may remain short of such five years of agricultural service. He also substantiated, how at Mauritius the emigrants amass sufficient wealth within very short period of residence. No doubt, the Government of India was to yield to the pressure of that Government and thereby the Madras Government was required to send 3,000 labourers annually to that colony. The content of his letter hence was, that the Calcutta government can not secure 6,000 labourers, so the Madras Government can share half of that number. On 8th May 1847, ultimately it was officially
recognised by passing the Act VIII of 1847". According to this Act "emigration to Mauritius might lawfully take place under the provision of Act XV of 1842 as modified by section 2 of XXI of 1842 from Madras as well as from Calcutta". Yet, the Emigration Agent for the West Indies and Madras expressed his unwillingness to act as an agent for Mauritius on the ground that "the large sum per head paid to the maistries for procuring emigrants would lead to propitiating of the subordinate native collectorate and police officials in the districts". His argument was that if more number of coolies were to be procured, all sorts of men and women might be tended to emigrate thereby agricultural labour would not be available for the West Indies as well to the Mauritius. Hence, the commencement of emigration would result in the reduction of numbers of West Indies emigration.

In the 1840's there was a heavy demand for labourers, since, emigration was legalised to the West Indies and other places. In 1849 the emancipation of slaves took place at Reunion. So, the French merchants and agents at Pondichery by manipulating the licenced maistries of the Madras Presidency (meant for Mauritius) enhanced the rate of labourers. This enhancement of the labourer's price per head lead to abetment and crimping in the Madras presidency. As
this was brought to the notice of the East India Company Government at Calcutta, to prevent the French subjects from doing such things, it set those complaints at rest, since, the Board of Directors were not concerned about this issue. However the company Government passed an Act (XXIV of 1852) to regulate emigration.

The Act XXIV of 1852 defined the terms 'crimp', 'emigration', etc. A crimp was one "who forces or tries to decoy or tries to intoxicate or fraudulently cause any one to depart from East India Company territory", emigration as "departure of any person out of the territory of East India Company by land or water". Under this Act a crimp was liable to be imprisoned for a term not exceeding six calendar months, and to pay a fine of not exceeding Rs.500/-. The previous Acts gave power only to the magistrates to deal with the crimps, whereas this Act XXIV of 1852 extended powers even to joint magistrates, and those who exercised the powers of magistrates. 19

As usual, this passing of the Act did not produce the expected result, since the French authorities always had dealt with the higher authorities in England. So they neglected the requests of the British authorities in India. Whereby it was suggested in India, in order to check movement of people from company territory to the French, to
open a agency either at Nagapatnam or at Tranquebar. But this does not seem to have materialised.

During the 19th century nothing had stopped emigration from India, in fact this was stopped only in the beginning of the 20th century. Whatever the efforts that the authorities had taken, the final decision always rested with court of Directors. The court of Directors, some time in September 1856\(^{20}\) gave the option to the Governor-General in India to "suspend emigration by notification in the Gazette if he has reason to believe that proper measures have not been taken for the protection of emigrants immediately upon their arrival in such colony".\(^{21}\) Accordingly the Madras Government was instructed to stop emigration of natives to Mauritius, from 24th October 1856.\(^{22}\) The same notification was converted into an Act (Act XIX of 1856).

In summing up, the policy of the East India Company towards emigration was not completely successful. These laws regulated only the flow of emigration and it failed to check, irregularities in the course of emigration. For example, the Defiance, a vessel of 512 tons 'burden' under the law should have been licenced to carry only 256 (commuted) emigrants (2 tons to each person), carried 260 emigrants and Robert Passenger which should have carried only 239 (commuted) emigrants actually conveyed 261
emigrants. There were no checking inspectors or supervisors. "In Calcutta and Bombay the customs department possessed the rights of search and detention, and there were preventive officers of customs and pilots but, with regard to the Port of Madras the case is not so". The emigration which started in 1834 was brought under control only in 1838 and the process of regulating the flow of emigration continued till the end of the 19th century. When there was a regulated flow of Madras, side by side, illegal, non-regulated flow existed at Pondichery. The problem of checking infiltration was not a success. There were many cases of infringement. However experience till 1856, led the authorities to find alternative policies for future policy making.


3. See Appendix I

4. Madras and Bombay

5. Passed on 20th November 1837. See Appendix II

6. Geoghegan J., Note on Emigration from India, Office of the Superintendent of Government Printing, Calcutta, 1873, p.4

7. Public Consultation, Madras, Vol. 682, 25th May 1838
8. Sanderson, *Report of the Committee on Emigration from India to the Crown Colonies and Protectorates*, 1910, p. 3

9. Ibid.


11. From Calcutta to Mauritius

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From Madras to Mauritius

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13. Ibid.


16. Ibid., p. 18

17. Ibid.

18. Public Consultation, Madras, Vol. 810, 28th May, 1847

19. Madras Almanac, 1853, pp. 689-90

20. Public Consultation, Madras, Vol. 984, 2nd December, 1856


22. Telegraph Message – Public Consultation, Madras, Vol. 984, 28th October, 1856

23. Public Consultation, Madras, Vol. 952, 7th August, 1855

24. Ibid. Vol. 748, 30th September, 1842