“To study a banyan tree, you not only must know its main stem in its own soil, but also must trace the growth of its greatness in the further soil, for then you can know the true nature of its vitality. The civilization of India, like the banyan tree, has shed its beneficent shade away from its own birth place …..India can live and grow by spreading about ….. not the political India but the ideal India.”

In the previous chapter we have analysed the distinct socio – cultural and economic features that distinguished Malabar from the other two – thirds of the state – Travancore and Cochin. In the present chapter, we intend to examine the various streams of International migrations that India witnessed in the past. The migrations from Kerala and Malabar are part and parcel of migration from India. It started and developed along with the migrations from other parts of the country. So, a brief general look into the migratory traditions of the country is attempted here.

The extract cited in the beginning of this chapter is taken from a letter written by Tagore to C.F. Andrews. In this letter, Rabindranath Tagore depicts the role of Overseas Indians, who are now living in more than a hundred nations. On 10\textsuperscript{th} August 1972, the then Deputy Minister Surendra Pal Singh, speaking in the Lok Sabha stated that about 3,400,000 people of Indian origin were settled abroad.\textsuperscript{2} A report of the Canadian Indian Times published on 1 September 1980 said that the people of Indian origin are scattered through the world and that these people have accepted citizenship in

\footnotesize{\textsuperscript{1} See Hugh Tinker, The Banyan Tree: Overseas Emigrants from India, Pakistan and Bangladesh (Oxford University Press, New Delhi, 1971), p.1.}

\footnotesize{\textsuperscript{2} Ibid, p.11,}
as many as 91 countries. This figure is about half of that of overseas Chinese and about 8 times more than that of overseas Pakistanis.

**Background**

In the early years of the 19th century the tropical and sub-tropical colonies of European powers witnessed wide expansion and consequent production of cash crops especially plantation crops such as sugar, tea, coffee, rubber etc. The situation called for a large workforce. Since the region was sparsely populated and the indigenous people engaged in some traditional occupations, the labourers were recruited from outside, mainly Negroes from Africa. For years, sugar cultivation in these colonies of Britain solely depended on imported slaves. The crisis that began by the abolition of slave trade in 1807 reached its summit in 1834 when slavery was abolished throughout the British Empire.

The Act of Emancipation passed by the British Parliament had involved certain clauses so as to meet the exigencies that the emancipation may cause. These include:

1) The liberated slaves will be the apprentices to the old masters for a period of six years.

2) During the period of apprenticeship, the old masters will educate the slaves how to lead a free life.

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4. For example, in Mauritius, the production of sugar which was 1 million lb in 1809 rose to 24 million lb in 1824. In the years between 1825 and 1829, the average annual production was 42 million lb. i.e. an annual increase of more than 100 per cent. In other colonies also, production increased sharply.

5. The number of slaves working in Mauritius was 87,352 in 1815 and 80,000 in 1819.

6. When the Act passed in 1833 and made it a law in the following year, a slave population of around 665,000 were freed in British Caribbean alone (See B.W.Higman, *Slave Population of the British Caribbean 1807 - 1834* (Johns Hopkins University Press, Baltimore, 1984)). The slave population of the British West Indies declined from 800,000 to 650,000 between 1808 and 1830 (Hugh Tinker, *A New System of Slavery: The Export of Indian Labour Overseas 1830-1920* (Oxford University Press, Bombay, 1974), p.1).
3) The apprentices are obliged for 40 hours of unpaid work for their old masters each week.

4) A stipulated amount will be granted by the government as compensation to slave owners.

As a matter of course, the clauses in the Emancipation Act, especially apprenticeship did not work properly. Conflict arose between the emancipated slaves and their old masters. Much of the former slaves withdrew from the plantations. In essence, the apprenticeship was a half way point between slavery and freedom. The former masters on their part made the apprentices work hard during the hours of bounded labour. The slave apprentices on the other hand demanded exorbitant wages after the promised forty hours of work. There was also an ego problem. The planters could not adapt with these freed people who were once their slaves, and liberated slaves could not forget the bitter experiences at the hands of their old masters. The total outcome was a big shortage of labour in various sugar plantations. The picture is vividly depicted in the words of Governor Higginson. “The almost total absence of the emancipated race from plantation is a striking feature in our social economy. They took various profession from cultivation to poultry farming.”

“For a time, planters attempted to keep the ex – slaves labouring on estates through many means, including offers of huts, provision grounds and wages”.

The offering of high wages and the introduction of new machineries by some planters to meet the challenge did not prove successful. The only alternative was to import labour from outside. The first move towards this direction was made by Jamaica by importing labourers from various North

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European countries. Due to several reasons, the experiment turned out to be a failure. A new venture was tried by exporting Negro workers from various African countries. But from the very beginning, this move also proved to be disappointing.

The planters now thought of China and India, two Asian countries having abundant manpower to meet their demands. There were many difficulties in procuring Chinese labourers in addition to high cost of their importation. So, the remaining option was India. “The Indians, on the other hand, had a disciplined culture adapted to tropical agriculture, and they were willing to work. The huge Indian population was an inexhaustible reservoir of manpower, sufficiently advanced to be ready to migrate but insufficiently backward to accept cheap terms. India was under the British, whose empire controlled most of the tropical lands where plantation agriculture was practised. Under these circumstances it was only natural that an exodus from India should arise at the time of it did”. Mr. Crawford in his Minute points out the qualities of Indian labourer in the following words, “From all the inconvenient prejudices of Hindustan, they are wholly free. But “they must be paid the full value of their labour, or otherwise there will no making anything of them. In a word they must be treated with the same consideration as any class of British labourers. If they are not, they become inevitably discontented, disorderly and roguish.”

Thus started the emigration of Indian labourers first to West Indian colonies of Trinidad, Jamaica, and Guiana followed by Mauritius. Slowly South Africa, Fiji, Burma, Ceylon, Malaya etc also became their destinations. This only means a steady flow of migration. Even before that Indians were working in various parts of the world. For example even as early as 1790

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10 C.O 318/160 1 September 1843. Memorandum of I. Crawford in Respect of Chinese Immigration into the West Indies (Quoted in Panchanan Saha, n.7, p.16.)
there were 1000 Indians settled in Malaysia.\textsuperscript{11} In the initial stage, the recruitment was mainly from tribal areas. The ‘hill coolies’ as they were called, mainly hailed from various districts of Bengal Presidency. Gradually the recruitment was extended to other parts of the country.

\textbf{Types of Migration}

On the basis of historical analysis, the international migrations occurred so far in India can be broadly classified under two heads i.e. ‘assisted migration’ and ‘unassisted migration’. Five major international migrations that took place in India and which are mentioned below come under one of these two categories.

1. Indenture System of Migration

It was an assisted system of migration carried out under the patronage of British government. “Under the Indenture System, a prospective employer of labour placed an order with a recruiting agent based in India for the supply of a stipulated number of labourers. The recruiting agent thereupon sent his subordinate contract – men into the villages and picked the required number of men. These men, on signing a contract, were said to be under ‘indenture’ to the employer for a period of five years. This meant that they did not have the right to change their employer or employment. At the end of this period, they could be re-indentured for a further five years, or released from the indenture”.\textsuperscript{12} It was the indenture system that supplied most of the Indian labourers to Malaysia, Burma and Ceylon in the second half of the 19\textsuperscript{th} century. It was the so – called ‘Push factors’ probably had more to do with migrants’ decision to indenture themselves abroad than did the ‘pull factors’


of promised opportunities.\textsuperscript{13} “The transportation \textit{en masse} of Indians through the indenture system was a direct consequence of British penetration into the entire economic and social fabric of Indian society. The introduction of landlordism, excessive revenue demands, commercialisation of agriculture, change in rent in kind to cash, decline of indigenous handicrafts, discriminatory taxation on Indian goods, and persistent famines and pestilence were among the many reasons for migration, which offered the only avenue of hope to many.”\textsuperscript{14} Nagapatnam was the chief port of departure and the labourers recruited were mainly South Indians. Towards the close of the 19\textsuperscript{th} century, the system came under vehement criticism from various corners. The British Collector of Tanjore called it a regular system of kidnapping.\textsuperscript{15}

The speech made by Gopala Krishna Gokhale, the popular Indian leader in the Imperial Council, while introducing the motion for the abolition of indenture system summarises the attitude of Indian nationalism towards the system.

Under this system, those who are recruited bind themselves, first to go to a distant and unknown land, the language usage and customs of which they do not know, and where they have no friends or relatives. Secondly, they bind themselves to work for an employer to whom they may be allotted, whom they do not know, and who does not know them, and in whose choice they have no voice. Thirdly, they bind themselves to live there on the estate of the employer, must not go anywhere without a special permit, and must do whatever tasks are assigned to them, no matter however irksome those tasks may be. Fourthly, the binding is for a certain fixed period, usually five years, during which time they cannot voluntarily withdraw from the contract and have no means of escaping from its hardships, however intolerable. Fifthly, they bind themselves to work during the period for a fixed wage, which

\textsuperscript{13} Steven Vertovec, n.8, p.59.
\textsuperscript{15} Sinnappah Arasaratnam, n.12, p.13.
invariably is lower and in some cases very much lower than the wage paid to free labour around them. And sixthly and lastly and this is to me the worst feature of the system, they are placed under a special law, never explained to them before they left the country which is in a language which they do not understand and which imposes on them a criminal liability for the trivial breaches of the contracts, in place of the civil liability which usually attaches to such breaches. Thus they are liable under this law to imprisonment with hard labour, which may extend to two and in some cases to three months, not only for fraud not only for deception, but for negligence, for carelessness – will the Council believe it? – for even on impertinent word or gesture to the manager or his overseer.16

Justice J Beamount, a former chief Justice of British Guiana described the indenture as “a monstrous rotten system, rooted upon slavery, grown in its stale oil, emulating its worst abuses, and only the more degenerate because it presented itself under false colours, where as slavery had the brand of infamy written upon its forehead.”17 S.N.Banerji, when asked to become the Chairman of the ‘British Guiana and Fiji Emigration Committee’, said “we cannot assent to any form of colonization or emigration to any British colony except upon the basis of civic self respect. Once assured that equal rights for Indians existed in regard to public, municipal, legal and commercial matters in British Guiana... he (Gandhiji) would not oppose any scheme of free colonization”.18 The system, which became increasingly unpopular, was completely abolished in 1920, immediately after the First World War.19 After the abolition of this system migration to Malaya, Burma and Ceylon continued under other names.

16 Quoted in Kingsley Davis, n.9, p.104.
17 Kernia1 Singh Sandhu, n.11, p.76.
18 Hugh Tinker, n.6, p.364.
19 The speech made by S.H.Fremantle, spokesman of the government during the discussion of the motion moved by Gokhale reveals the attitude of the government to indenture system. He said, “They will not thank Gokhale for the attempt...to cut away the ladder to becoming proprietors of land and self-respecting citizens of this empire” (Hugh Tinker, n.18, p.320).
As a device of labour recruitment, the system was full of abuses sufficient to be termed as half way stage between slavery and free labour.\(^{20}\) It enabled the employer maximum exploitation of the labourer in the cases of wages, time of work, type of work, renewal of indenture etc. “During the eighty years of its existence, the system of indenture, which formally survived from 1830 to 1916, was responsible for the transportation of over one million Indians who provided the necessary cheap labour required for the global development of British capitalism”.\(^{21}\) Though notorious, as the first system that made thousands of Indians reach foreign lands, it paved the way for future migration.

\section*{2. Kangani System}

Towards the end of the 19\(^{th}\) century, a new form of labour recruitment system was developed first to Srilanaka, then to Malaya and Burma. Migrants under this system hailed mainly from Tamil and Telugu districts of Madras Presidency. The name was derived from the Tamil word ‘Kangani’ which means headman or overseer. “It received its name because of the peculiarly important role of the Kangani, or headman, who was both recruiter and field foreman. Sent by an employer or association of estate owners to bring back his friends, neighbours and relatives in his home district, the Kangani overtook to provide food, clothing and transit for the recruits in connection with the overseas trip. Frequently, he was empowered to discharge their local debts or to leave money with their relatives. Considerable responsibility rested on him to choose the right sort of recruits and as compared with indenture, there was a better chance that whole families or neighbourhood groups come together.”\(^{22}\) One effect of this method of securing Indian labour was to encourage the transplantation of Indian culture to a new region. In

\begin{thebibliography}{9}
\bibitem{20} Kingsley Davis, n.9, p.104.
\bibitem{21} Hugh Tinker, n.6.
\bibitem{22} Ibid.
\end{thebibliography}
Ceylon and Malaya, the South Indian coolies acquired a paternalistic security that they did not have in India. It enabled him to live with his own community among neighbours and relatives from his homeland, without greatly disturbing his native customs.\textsuperscript{23} As the 1931 Census declared, “Ceylon is no more foreign to Trichinopoly labourer than Madras.”\textsuperscript{24} Emigration under this system reached its peak in the late 1920s; between 150000 and 160000 were departing from Madras every year of whom about half came from the depressed classes, the untouchables.\textsuperscript{25}

Though Kangani System was far better in many respects from indentured system, it was also not without abuses. Soon the system became the targets of ill will of many humanitarians. National leaders of India raised hue and cry for the abolition of Kangani System. V.S. Srinivasa Sastri, the Indian liberal leader in the Central Legislative Council, who was sent to Malaya to investigate the conditions of Indian labourers recommended the abolition of Kangani System.. He called the system the labourers’ ‘concealed obligation to the Kangany, which will act to his disadvantage’.\textsuperscript{26} The Government of India abolished all assisted migration including the Kangani System in 1938.

3. Free Migration

The above-mentioned two migrations – indentured and kangani – were state assisted labour migrations. As coolie migrations they brought only discredit to the country.\textsuperscript{27} The information availed from the earlier assisted migrants about the chances in the tropical lands paved the way for a new stream of unassisted migration. The new developments in the economy and

\textsuperscript{23} Kingsley Davis, n.9, p. 104.
\textsuperscript{24} Census of India, 1931, Vol 14, (Madras), 1932, Part 1, Report, P. 83.
\textsuperscript{25} Hugh Tinker, n.1, p.6.
society like educational development, change in style of life, acquisition of new skills from foreign lands etc also gave a boost to people to think of moving freely. “An army of petty contractors, merchants, bankers, shopkeepers, and peddlars followed the indentured and assisted labourers.”

This new stream of unassisted migration that developed after the decline of indentured and kangani system of migration was mainly to Burma, Malaya and Ceylon. “Whereas in 1920 about 88 percent of Indian labourers entering Malaya were recruited, in the middle of 1930s less than a percent were.”

The free individual labourers included mainly dockers, miners, construction workers, cooks and household labourers. Trained and educated migrants held posts in clerical, administrative and technical fields.

A stream of semi-skilled workers also migrated to East Africa. Winston Churchill, the British Prime Minister praised the commitment of Indian labourers in the following words. “It was the Sikh soldiers who borne the honourable part in the conquest of the East African countries. It is the Indian trader who penetrating and maintaining himself in all sorts of places to which no white man would go or in which no white man could earn a living has more than anyone else developed the early beginning of trade and opened up the first slender means of communication.”

The educated migrants proved to be invaluable in the clerical and technical services of colonial governments and Indian Sikhs were sought after to fill such positions as Policemen, caretakers, and guards.

In the 20th century, there was a continuous flow of commercial migrants from India to Ceylon, Malaya, Burma, Kenya, Uganda, Tanganyika, Zanzibar, the Persian Gulf States, Hongkong and Fiji. In contrast to the earlier labour migration non – labour

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28 Kingsley Davis, n.9, p.105.
29 Ibid, p.104.
32 Ibid. p.461.
migrants fared better, and some groups even prospered.\(^\text{33}\) The free migration got a temporary setback from the Worldwide Depression of 1930s. The migration which again got acceleration towards the end of thirties got a permanent impede by the break up of Second World War. The aftermath of Second World War saw the independence of all these countries. The new emigration rules passed there paved the way for the evacuation of the migrants there. The newspapers and the rulers were engaged in the discussion of their rehabilitation.\(^\text{34}\)

4. Professional Migration

The emigration of Indians having professional and technical qualifications started after the Second World War. This new migration flow was towards the advanced nations of the West, mainly, the United States, Canada, United Kingdom and Australia. Like any other international migration from the country, information on this migration is also scanty. The studies already made were based on the immigration statistics available in these countries. Nearly 750,000 Indian emigrants have become permanent residents in developed countries, with the United Kingdom accounting for 44 percent of that inflow, the United States for 26 percent, Canada for 14 percent, Western Europe (excluding United Kingdom) for 11 percent, and Australia for 5 percent.\(^\text{35}\) A scholar has made an elaborate study regarding the trends in the international migration of Indian professionals to these industrialised countries.\(^\text{36}\) A fourth country to which a significant number of

\(^{33}\) Ibid. p.460.
\(^{34}\) The labour minister of Kerala said that till 31\(^{\text{st}}\) July 1969 168 families and 3068 persons have returned form Burma and the government has spent Rs. 18.37 lakhs for their rehabilitation. From Ceylon 280 families have reached. Government has spent 1.79 lakhs for their rehabilitation (Report, ‘Niyama Sabha Chodyotharangal’, (Malayalam), Mathrubhumi Daily (Kozhikode,18 October, 1969).
\(^{35}\) M.C.Madahavan, n.31, p.462.
\(^{36}\) The study is by Deepak Neyyar, Migration, Remittances and Capital Flows, The Indian Experience (Oxford University Press, New Delhi, 1994). According to this study, when the number of Indian immigrants in the USA and Canada increased after 1960s, that of UK decreased drastically. Of the total immigrants in the USA, the share of Indians was negligible before 1960s. During the period 1951-60, Indian immigrants constituted about 0.1% in this
Indians migrated was Australia. The share of Indian immigrants to the total immigrants in Australia in 1990 was 4.25. It rose to 5% in 1999.37

5. Gulf Migration

Fresh pastures with abundant job opportunities opened up before Indian migrants in 1970’s. The destinations were the small oil – rich Arabian states that line the Persian Gulf – Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates. The Indo-Arab relations have a history that dates back to the dawn of history and which have its historical base on trade and also on mutual cultural exchanges and population mobility. Many literature, historical references and travellers’s accounts speak of the extensive contact that existed between Arabian peninsula on the one hand and India on the other. This relationship remained stable throughout history probably because of the indirect geographical closeness between Arabia and India since the two regions are situated on the either sides of the Indian Ocean.

Since the late nineteenth century, the Gulf was strongly linked to this region both politically and economically as the major decisions concerning the Gulf regions was taken in India by the British Government in India and the currency that was in circulation in the region was Indian rupee. This age long relationship was further strengthened by the oil-boom that was launched in 1970s.

Demand for Labour

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The economic progress and social development that the Gulf Arab states witnessed in the last three decades has few parallels in history. Viewed from any parameters of human development - level of literacy, health care, transport and communication, standard of living – the attainments made by these people are astonishing.

The international migration to the Arab world has its initial start in 1930s when economic growth began in the Arab world, thanks to the discovery of crude oil. But the large-scale migration has been a response to the demand for labour force in the oil-rich states, when the rulers of these nations triggered an era of ambitious development programmes to transform the small states into welfare society.

The statement made in one of the articles on migration is significant. “In history the Arabs got lucky draw in two occasions. One, the advent of Islam in the 7th century A.D. Second, the explosion of oil price in the 1970s”. The ruling Sheikhs in the Gulf states with flooded treasuries at their disposal reaped from the oil business especially after the explosion of oil prices in 1973 – 74 decided to share the petro – dollar with their own denizens through the process of industrialisation and development. “The Gulf states share common strategies: they have each decided to share the wealth with their own population, through the expansion of social services and Government employment, to diversify their economy by industrial investment

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39 The extent of the increase in the price of crude oil since the beginning of 1973 is clear from the following table.

Table Showing Posted Prices on Typical Crudes

and to erect modern infrastructure – airports, roads, communication networks”.

This development drive called for immense labour force of all types. The Gulf States, with their small size of population had little choice but to depend on other countries. Nowhere in the Arab world have societies experienced such massive labour shortages satisfied not through open migration but through the use of temporary imported workers. Young age structure and low female participation made the labour force participation very low. Moreover, the skill of the available indigenous labour force was very poor. In the beginning, these small capital-rich Arab states looked to the low-capital Arab states in their neighbourhood. From Egypt mainly and from Lebanon and Syria came educated professionals like doctors, teachers and civil servants.

But when the demand increased, the neighbouring Arab states could not supply sufficient qualified labour force required by them. At the same time major South Asian countries like India and Pakistan were ready to provide adequate work force at low cost than the Arab nations could. There were inexhaustible reservoirs of human resources of all types. Moreover, the remuneration offered was higher than those prevail in the home countries. As development plans and technical demands changed, the labour-importing countries welcomed more highly-skilled South Asians from India, Pakistan and Bangladesh. Thus the above mentioned pull factors in the Arab Gulf matched with the push factors in the sending countries such as the high employment and Low wages paved the way for Gulf migration.

40 Ibid. p.3.
42 A detailed sketch of the Gulf Nations at the time of migration is given as a separate chapter.
44 The following Table showing the proportion of migrants to total population even as early as 1975 will reveal how much the Gulf nations depended on imported workers.


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relationship was one of complementarity between the labour-short and capital-abundant Arab region and the labour-abundant and capital-deficient countries of Asia.”

Thus, the migration to the Arabian Gulf that started along with the discovery of oil, continues with more vigour and speed even today.

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<th>Percent</th>
<th>Percent</th>
<th>Total</th>
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<td>23,000</td>
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<td>995,000</td>
</tr>
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<td>76.1</td>
<td>70,500</td>
<td>23.9</td>
<td>295,200</td>
</tr>
<tr>
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<td>69.5</td>
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</tbody>
</table>


Emigration Rules in India

Emigration is the act of leaving one’s native country or region in order to settle in another country permanently or temporarily for different purposes. Accordingly, governments of various nations stipulate certain rules and regulations regarding the departure of their nationals. These are called emigration rules or emigration laws. Three Ministries and their various departments in India involve in the matters regarding the emigration of its citizens – Ministry of Labour, Ministry of External Affairs and Ministry of Home Affairs. And regulation of external labour migration flows from the country are governed according to the provisions of the Emigration Act of 1983.

The most important office as far as emigration is concerned is the Office of the Protector of Emigrants under the Ministry of Labour. This Office is empowered to by law to regulate the deployment of Indian nationals seeking employment abroad. The main intention behind the state intervention in the emigration is to ensure safety of its nationals in all levels. This is achieved mainly by setting minimum employment standards and verifying employment contracts, regulating recruitment through licensing the agents, issuing emigration clearances for certain categories of migrants, especially those considered less able to protect their own interests and handling public grievances related to violation of employment contracts and recruitment abuses.

Another wing concerned with the emigration in India are the Indian Embassies and Consulates in various countries which are under the Ministry of External Affairs. They are responsible for monitoring and reporting on the conditions of Indian nationals and liaising with the government authorities abroad on various matters concerned with the migrants. The Ministry of External Affairs also addresses current issues that may affect the migrants
during bilateral diplomatic negotiations especially with major destination countries. The Immigration Department under the Ministry of Home Affairs is another Office that deals matters relating to emigration. This office is responsible for the exit of Indian nationals. By investigating complaints against the recruitment abuses, the Police Department under the Home Ministry also a play an important role in the emigration process.

**First Emigration Rule**

The earliest international labour movement from India, as we noted, seems to have taken place from the southern parts of the country in the last decades of the eighteenth century. This was towards the Straits Settlements, then to Tenasserim Provinces and to Ceylon. The first official intervention with regard to international migration was reported in 1830, when Joseph Argand, a French merchant, carried some 130 merchants to Bourbon. The government of India permitted the departure on condition that each man has to appear before the Magistrate of Calcutta and declare that he went voluntarily. The second state-known migration was towards Mauritius in 1834 immediately after the abolition of slavery in British colonies. Hereafter the government started to regulate the migration. When 40 coolies intended to migrate to Mauritius the government of India asked the intending migrants “to appear before a Magistrate to satisfy him of their freedom of choice and knowledge of circumstances of the case”. However the government didn’t impose any penalty for the unregistered emigrants.

The Government of Mauritius in 1836 asked the Government of India to look into the conditions of the voyage of emigrants and ensure the safety of the emigrants in the trip. The Government of India, on the other hand, took this opportunity to ask the Government of Mauritius to give some accounts on

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47 The contracts looked liberal on paper. The contract was for a term of five years. A monthly salary of eight rupees and ample dietary was offered.
the conditions of Indian migrants in that colony. The Government of Mauritius published its report in December 1836. At the same time, the Indian Government had asked the Law Commission to study the conditions of Indian emigrants. Two members of the civil service – Messrs. Parry woodcock and T.C. Scott who had recently visited Mauritius also submitted a report on the conditions of emigrants in that colony. The Law Commission also submitted the report in the same year. The result of all these proposals was the Act V, 1837, which became law on the 1st May of that year.

The important provisions of the Act were

1) No emigrant to be received on board ship without a permit.
2) Before grant of permit, both parties to appear before the officer authorised to grant permits with a memorandum of the contract.
3) Contract to be determined after five years.
4) Officers to examine the parties.
5) And if satisfied, to endorse the memorandum of contract.
6) If a vessel carries more than 20 emigrants, measures to be taken to ensure proper accommodation, food and medical attendance.
7) Unless these are satisfactory, permit not to be given.
8) A register is to be kept for each emigrant.
9) A fee of one rupee is to be levied on employer for each emigrant.
10) Clear – cut penalties were marked out for breach of rules.
11) Contracts with seamen or menial servants were exempted from the operation of the Act.
12) The Superintendent of Police, Calcutta, was appointed the officer in charge.
This was the starting of indentured migration from India first to Mauritius and then to different of Tropical and sub-tropical lands. During the period 1834-1910, over half a million indentured migrants entered Mauritius.

In the beginning, the Act was observed and applied only in the Fort William. However, by the Act of XXXII of 1837, which was passed on 20th of November of the same year, the law was extended to Madras and Bombay provinces also. An important incident in the history of Indian emigration was the agitation by the abolitionists in England against Indian emigration. Its echo reached in India and the provincial governments were directed to withhold permits for vessels carrying emigrants to West Indies and to appoint committees to consider the whole question of emigration, its abuses and their remedies. Immediately, the prohibition was extended to other colonies also. Committees were appointed in each province to look into the alleged abuses attending emigration. The Calcutta Committee acknowledged the alleged abuses, though the report of each member was different. The Minute of the sixth member, Mr. J.P. Grant, is the most valuable document in this respect. His important findings and recommendations were:

1) The evils, which had attended the emigration were casual and are preventable.

2) Emigration to Mauritius to be opened without delay.

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49 The extension of the law to the Madras Presidency was a big boost to the migration dreams of the people of Malabar. The official documents during this period contain references regarding migration from this region of Kerala. The report of the collector of Malabar to the Madras Council on 11 July 1938 mentions clearly about the Malabareans’ migration to Mauritius (See, Panchanan Saha, n.7, pp.9-16, p.46). Another scholar writes that it was from the Malabar coast that coolies were taken to Ceylon and Mauritius in the early days (Hugh Tinker, n.6, p.55).

50 Since no serious emigration existed from Bombay, the Bombay Committee didn’t report any such abuses from that side. The Madras Committee also didn’t contribute anything of value.

51 For more details regarding (See, Geoghegan, n.46).
3) At each port of embarkation a Protector of Indian Emigrant might be appointed.

4) For due control of masters and owners of emigrant vessels Imperial legislation is needed.

5) Government of India only to allow emigration to colonies where it was assured the emigrant would enjoy freedom and protection from wrong.

The Governor General and his Council declined to allow any relaxation of the existing law till the matter was considered by the Parliament. Though the Report was taken before the House of Commons, ultimately the matter was left to be settled by the Colonial Office in consultation with the Board of Control and Court of Directors. After a long discussion with the Government of Mauritius and detailed deliberations, on 2nd December was passed the Act XV, 1842. Afterwards a series Acts related to emigration were passed in India at various times.

Various Rules and Acts passed between 1834 and 1922 regarding emigration from India when recruitments were made to foreign lands under state – assisted migration systems viz. Indenture and Kangani system of labour recruitment. So the laws were mainly aimed at protecting the migrants from “force and fraud and securing his health during the passage and upon arrival”.52 As time passed, the number of Indians abroad increased and a number of unforeseen problems sprang up which were harmful to the Indian citizens abroad and disgraceful to Indians as a nation. The process of international migration during the colonial period in the form of indentured labour mainly to the British and French colonies came to an end by the end of the First World War. The manpower outflows from India thereafter governed by the Emigration Act of 1922. The Act of 1922 which

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52 Kingsley Davis, n.9, p.105.
attempted to consolidate and renovate previous regulations, “was a partial transition from Laissez – faire to a much stricter form of legal control.”

According to this Act, migration of unskilled workers were not allowed. Only skilled workers were permitted to go abroad through licensed recruiting agents under the rules and regulations of the Act. The intending migrants had to get clearance from the Protectors of emigrants at the ports of embarkation after signing employment agreement in standard forms prescribed by the Government which stipulated the terms and conditions of employment binding on both the migrant and the employer. “These forms underwent revisions from time to time in the light of experience by migration authorities in the settlement of claims and disposal of complaints.”

Other important provisions of the Act were

1) Persons below eighteen years of age, have to migrate accompanied by parent.

2) Women to migrate accompanied by a relative over eighteen years.

3) The Governor General in Council could suspend emigration to specific countries if he thinks it essential.

4) Recruiting has to be made in the hands of a responsible official appointed by the government of the recruiting country.

5) Any person emigrating or attempting to emigrate except in conformity with provisions of the Act was punishable with a maximum fine of 50 rupees, and person inducing another to emigrate was subject to a maximum penalty of 500 rupees.

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53 Kingsley Davis, n.9, p.106.
6) The Emigration Commissionaire of each country to which emigrants were to go was solely responsible for all the recruitment transactions carried out in the name of his government.

7) The Emigration Commissionaire was responsible for information about his country, for all recruitments by his staff and for appointment of emigration agents and inspectors.

8) Any person desiring to emigrate was required to apply for permission of the local government of the port from which the emigrant was to depart.

9) A copy of the permit, if granted, was to be forwarded to the Protector of Emigrants at the port of embarkation, who issued a recruiting certificate after ascertaining that each emigrant had received in writing a full explanation of the period of his engagement and the general conditions in the country of destination.

The oil price – hike of 1973 opened up vast opportunities for unskilled labourers in various Gulf countries. The provisions of the Act proved to be a big handicap for the gulf migrating aspirants. To exploit the situation at its maximum the Government of India sought to several measures. Emigrants who find jobs through own efforts were exempted from payment of required security deposits; Protectors were instructed to issue emigration clearances within 78 hours after the receipt of the required documents. New passport offices were opened in different parts of India. Moreover to help the unskilled and semi – skilled workers, to fulfill their migration dreams, Government relaxed the provisions of the 1922 Act in 1976 by suspending the operative part of the law. This relaxation of the emigration rules created chaotic atmosphere in the entire spheres of international migration especially West Asian migration from India. The consequences of this measure was very
serious. “In the legislative void thus created, private, unlicensed recruiting firms and agencies mushroomed. Complaints about malpractices by such firms and agencies increased … Several thousands of persons opted to emigrate without valid passports and employment contracts under the aegis of middlemen and touts. Hundreds of complaints about exploitation of Indian workers abroad appeared almost daily in the media.”\(^{55}\) In 1979, the Supreme Court of India gave directions as to how proceed with the migration in the absence of an emigration rule. It was in this context the Indian Parliament passed a comprehensive Emigration Rule – the Emigration Act of 1983. It came into force on December 30, 1983.

The Emigration Act of 1983 consists of 8 chapters and 45 Sections dealing with various matters on the subject. Chapter I of the Act - Preliminary, includes title, extent, application, commencement and definition of various terms related to migration. According to the Act “emigrate” or “emigration” mean the departure of out of India of any person with a view to taking up any employment (whether or not under an agreement or other arrangements to take up such employment and whether with or without the assistance of a recruiting agent or employer) in any or place outside India.\(^{56}\)

It defines work as

i) any unskilled work, including any form of industrial or agricultural labour;

ii) any domestic service;

iii) any service, not being service in a managerial capacity in any hotel, restaurant, tea – house or place of public resort;


iv) work as a driver of a truck or other vehicle, mechanic, technician or skilled labourer or artisan;

v) work as an office assistant or accountant or typist or stenographer or salesman or nurse or operator of any machine;

vi) work in connection with, or for the purpose of, any cinema, exhibition or entertainment;

vii) any such work of a professional or of any other nature as the Central Government may, having regard to the need for the protection of citizens of India, who may be employed in such work outside India and other relevant circumstances, specify by notification.

Provides that the Central Government may, if satisfied that it is necessary so to do having regard to the conditions of service applicable with respect to employment in any of the afore-mentioned categories of work or any sub-category there of, whether generally or in relation to any particular country or place and other relevant circumstances, declare by notification that such category of work or sub-category of work shall not be deemed to be work within the meaning of this definition.\textsuperscript{57}

Chapter 2 deals with Emigration Authorities. It consists of 6 Sections. Appointment of Protectors of Emigrants, their duties, starting of Emigration Checkposts, appointment other Emigration officers and staff are the main topics of this chapter.

Chapter 3 is about registration of recruiting agents and terms and conditions of registration. This chapter has 6 Sections.

Chapter 4 is about permits for recruitment by employers. It is divided into 6 chapters. Section 16 states, “Save as otherwise provided by or under

\textsuperscript{57} Ibid Section 2 (o), p.3.
this Act, no employer shall recruit any citizen of India for employment in any
country or place outside India except –

i. through a recruiting agent competent under this Act to make such
recruitment, or

ii. in accordance with a valid permit issued in this behalf under this
chapter”. 58

Chapter 5 deals with Emigration Clearance. Section 22 of the Act
states that no citizen of India shall emigrate unless he obtain under this
chapter from the Protector of Emigrants authorisation in the prescribed
manner and form (such authorisation being hereinafter referred to as
emigration clearance) for emigration. 59

Chapter 7 has 5 Sections dealing with Offences and Penalties.

Chapter 8 consists of 17 Sections and deals with miscellaneous things.

The emigration rules have been subjected to vehement criticisms from
various corners. A state like Kerala whose main industry is the export of
manpower is suffering from the red tap emigration formalities. This had led to
undesirable trends like corruption, bribery etc in the concerned departments. 60

The discussion on emigration will be incomplete without a reference to
passport. Passport is a modern development. It was after the First World War
passport in its modern sense introduced. Passport is a document of nationality
and identity usually granted only to person who is a national of the issuing
country for identification and protection when travelling abroad. The first
Passport Act in India was passed in 1967. The Passport Act of 1967 (Act No.
15 of 1967) as it is called is an “Act to provide for the issue of passports and

58 Ibid Section 16, p.10.
59 Ibid section 22(1), p.11.
60 For details See, M. Ayishath Suhra, ‘Chavittikkettal’ (Malayalam), Mthrubhumi Weekend
Magazine (Kozhikode, 24 November 1985).
travel documents to regulate the departure from India of citizens of India and other persons for matters incidental or ancillary thereto."\(^{61}\) Before this, there existed in India another Act related to passport. The Passport (Entry into India) Act, 1920 (Act No. 34 of 1920) was an Act to take power to require passports of persons entering India. Section 2 of the Act 1857 defines passport as document which, by its nature and purpose, is a political document for the benefit of its holder. It recognises him as citizen of the country granting it and is in the nature of a request to the other country for his free passage there. There can, therefore, be no doubt that a passport is a document of importance for travel abroad and is of considerable value\(^{62}\) to its holder. Section 3 says that no person shall depart from, or attempt to depart from, India, unless he holds in this behalf a valid passport or travel document.

In short, India was the major supplier of human resource among the Asian countries from the time of assisted indentured migration that started in the second half of the 19\(^{th}\) century to the present Gulf migration. And at the very time the country started the human export, the government has started to supervise the process. The purpose of this official interference was to systematize the process of international migration and to make it hitch less and non-exploitative.\(^{63}\)


\(^{62}\) Ibid. Section 2, p.4.