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HUMANITARIAN IDEAS IN MADRAS, 1800-1835.

Ideas take wing. And the humanitarian ideas of the early nineteenth century which influenced the British administration influenced also not a little the Company's administration in India. It must not be supposed that these ideas one and all emanated from the Court of Directors. Nor should it be supposed that they formed the monopoly of a chosen few who governed Madras. They appealed with equal force to some of the district officials. If the Directors were inspired by Charles Grant, the Evangelical, and James Mill, the Radical, the Government were inspired by statesmen like Bentinck and Lushington and the company's subordinate service ~~was~~ contained in its ranks men of enlightened views, like Baber, Cotton, C. M. Lushington and Newnham. It was the combined ~~actions~~ ^{influences} of all these that purged the administration of most of its harsh characteristics.

Humanitarianism as a philosophy acclaimed by social reformers like Bentham and Howard, Evangelicals like Wilberforce, Tories like Pitt and whigs like Gray, constituted, in the main, certain doctrines of potential value. They were: that slave-trade should be abolished; that legislation should be aimed at the greatest happiness of the greatest number; that the law, especially criminal, should be simplified, codified and disseminated



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among the people; that the great end of punishment being the prevention of crime the punishment of evil doing should be exactly suited to the purpose; that attempts should be made to reform the criminals; that they should not be harshly treated in prisons, should be given medical aid, should be segregated, men and women, debtors and felons, novices and hardened criminals; that, in short everything should be done to abolish all patent forms of oppression and suffering.

3. These doctrines were actually implanted in Madras on a soil favourable for their reception. For here, the Cornwallis system with a separate judiciary and with laws based largely on British jurisprudence was introduced in 1802. What was necessary was to humanise these laws especially those which related to crime and punishment and prison administration and to devise other laws or rules for improving public health and removing social evils like domestic slavery, slave trade and Sati. This task however was by no means easy. It demanded caution, perseverance and, in some instances, courage, to introduce reforms running counter to established customs and religious practices.

4. The first of the humanitarian measures was the introduction of vaccination. This was introduced in Madras in 1802 but only with partial success on account of the unsystematic manner in

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which it was done and on account of the religious prejudices of the people. In 1805 Lord William Bentinck deplored these prejudices, hoped to overcome them by official propaganda, and formulated a comprehensive plan for the spread of vaccination. He appointed a Superintendent, placed under him a large establishment of Surgeons and Indian vaccinators and laid down specific rules for carrying on their activities in an efficient and systematic manner. He held that "the health of the inhabitants was one of the first duties of the magistrate" and with this view directed all district magistrates to encourage vaccination.

5. The plan seems to have worked well under the energetic Dr. Mackenzie, the first Superintendent. Within one year the number of persons vaccinated was reported to have increased from 7070 to 1,78,074 and within two years it was reported to have risen to 2,43,173. In the city of Madras itself to arrest the progress of small-pox an isolation hospital was built outside the bounds of the Black-Town. The Directors applauded these measures but cautioned the Government not to "alarm the minds of the natives with respect to either their custom or religion". The Government, however, appear to have avoided opposition by skilful propaganda. And being encouraged by the results they endeavoured to spread

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it also in Coorg, Mysore and Java. The Directors rejoiced "at the blessings we have been the instrument of diffusing over the whole of Indian population."

6. It is to this same sentiment of relieving suffering that we must attribute the endeavours made by the Government to check the ravages of cholera, which broke out in 1819. In all districts in which the epidemic appeared the magistrates were authorised to incur the necessary expenses for providing the sick with attendance and medicines. To the same sentiment must also be ascribed the erection of lunatic hospitals at the headquarters of the 14 Provincial Courts. Further medical assistance to the out-lying parts of every district was rendered by assistant surgeons who ~~xx~~ were ordered to tour the districts specially for that purpose.

7. While the first set of humanitarian measures related to public health, the second related to public morality. No where was the society more over-ridden by ancient customs and religious prejudices than in India. No where, therefore, was the State which had to look after the welfare of the society more harassed by obstacles in its social reforms. Every step in this direction demanded vigilance to avoid as far as possible interference in religion - an interference which, in those early days of the

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Company's administration, was fraught with danger to the very existence of the Company in India. And it was this vigilance and not any reluctance to eradicate social evils that restrained the enthusiasm of some of the district officials and delayed the progress of ameliorate ^{the} measures.

8. Slave-trade and domestic slavery were two of these evils which called for redress. Both were particularly rampant in Malabar and Tanjore and both thrived under the vicious cloak of customary sanction. Domestic slavery was, for a long time, tolerated by the British chiefly because of the time-honoured nature of this institution. They, however, thought that this "degraded institution" would die of itself when the very means by which it prospered namely, slave-trade, was removed. But even in the case of domestic slavery they did much to improve the lot of the unhappy victims. In 1820 circular orders were issued to the magistrates directing them to penalise all persons who might ill-treat their slaves, as Muhammadan law did not sanction such cruelty. They also ordered the magistrate of Tinnevely to put a stop to the practice of selling young girls to dancing women to be brought up as prostitutes, since such a practice ^{was} is prohibited by the existing law. Indeed, the Government held that if they were to tolerate slavery, simply because it was sanctioned by custom and usages, it

was incumbent upon them "to take care that the slave received the full benefit of such safeguards as those very customs and usages had provided against the oppression and cruelty of the master". On this principle they directed the second Judge of the Court of Circuit of Malabar to permit the married slaves to live together wherever that was the ancient usage. But it was not till 1841 that the Government took courage to declare that no domestic slave could be sold or purchased, and not till 1846 that they enacted legislation for removing the distinction between the master and the slave.

9. In regard to the slave-trade, however, the British pursued a more energetic policy. From the very beginning of their administration in Malabar, this "nefarious traffic" had claimed their attention. Kidnapping persons with a view to selling them as slaves had been punished with whipping and transportation to the Andamans. The Malabar Commissioners of 1793 had decried this traffic and ordered the chief and Factors of Tellicherry to suppress it wherever it prevailed. But still the practice continued unabated in the beginning of the nineteenth century.

10. Soon after the passing of the Statute, George III (Cap. 51) declaring Slave trade a felony throughout the British Empire, Mr. Baber, the Magistrate of Malabar, drew the attention of the Government to

to Malabar, and selling them as slaves and recommended special legislation for its suppression. At the same time he arrested some of the ring-leaders, punished them for the crime of kidnapping and set at liberty some of the free-born slaves.

11. The Government approved his action but found ^{it} difficult to pass special legislation. The Advocate-General, it was true, held that the provisions of the statute might be incorporated into a Regulation with additional safeguards to prohibit the import of slaves both by sea and land. But the subject was of all-India importance and the Government felt that the Supreme Government alone was competent to legislate upon it. They therefore referred it to the supreme Government. And by the time the Supreme Government authorised local legislation on the lines of Bengal Regulation ~~...~~ of 1811 the Government began to entertain serious doubts as to whether any special legislation might not be looked upon by the people as an infringement of their established customs and religious usages. Finally they pitched upon the only cause which the statute provided. The Magistrates in their capacity as justices of the peace were to arrest all persons concerned in the slave-trade and send them up for trial before the Supreme Court of Judicature or the Court of Admiralty. This course ~~was~~ was suggested to Mr. Baber as well as to

Mr. Cotton, the Magistrate of Tanjore, when the latter reported that the crime of kidnapping children and transporting them by sea to sell them as slaves was prevalent in Tanjore and recommended special legislation for its suppression.

12. A similar caution coupled with greater enthusiasm and greater boldness was shown in the case of Sati a social evil of no less magnitude in some of the districts. The proposal to abolish this evil was first made by Mr. C.M. Lushington. Both as Magistrate of Tanjore (1813) and as Magistrate of Trinopoly (1819) he recommended its suppression. "I look upon this inhuman practice" he said "as one tolerated to the disgrace of the British Government." But the Government on both these occasions authorised him to discourage it only by persuasion. The Directors, however, felt that mere persuasion was not enough. "This barbarous practice," this terrible method of proving her attachment to her deceased husband, they wrote, must be tolerated only if the widow of her own free will resorts to it. The Bengal Government had proposed to prohibit it in the case of widows who were in a state of pregnancy, who were intoxicated, or who were below 16 years of age, as being contrary to the Shastras and established usages. These restrictions they thought, might well be enforced in Madras. ^{But} And they wished to be fully informed of the gravity of the evil. ~~before a Committee~~

13. It should not be forgotten that this was the age in which men were not wanting in courage in Parliament to openly criticise the Company's administration. In ~~1818~~ 1819 Mr. Hume pressed for an enquiry into the Judicial administration of India. In 1821 Mr. ^Fowell ^Burton moved for all papers on the burning of Hindu widows in India and deprecated its continuance under the British Government. In 1823 the Bedford Society presented a petition to terminate Sati and the petition was warmly commended by Wilberforce.

14. It was in this atmosphere that enquiries on Sati were instituted in Madras. The Foujdarry Adawlut to whom the remarks of the Directors were referred submitted a detailed report in 1821. They observed that the evil prevailed to a considerable extent only in the districts of Ganjam, Masulipatan, Chittoor, Tanjore and Canara and suggested that it might be restrained not only by enforcing the provisions of Hindu Law against it, but also by requiring the magistrates to carry on an intensive propaganda against it. But the Government deemed it advisable to avoid drawing public attention to the evil. They however asked the magistrates to strictly enforce the provisions of the Hindu Law and penalise all persons who contravened them.

15. The matter, however, did not end here.

As soon as the Bengal Regulation for prohibiting Sati was received in Madras, ^{Stephen Parnell} Mr. R. Lushington, the Governor, recorded a strong minute recommending its instant abolition. He condemned the practice ^{as} "revolting to the feelings of human nature," maintained that its existence was solely attributable to the "joint rapacity" of the priests and the widows relations, and asserted that it received no sanction in Manu's Dharma Shashtra, which, on the other hand, preached "an exalted course of temperance and virtue" to the widows. His colleagues happily concurred with him and so was enacted Regulation 1... of 1830 for abolishing Sati in the Madras Presidency.

16. Turning to the spheres of Law and prison administration we witness a whole crop of reforms ^a of humanitarian character. That the law, especially criminal, should be simplified, codified and disseminated among the people was again and again urged by the Directors. Simplification and codification, however, could not be efficiently undertaken by the Government, though they attempted to do something in these directions by issuing from time to time revised Regulations consolidating the provisions of previous ones and by encouraging Mr. Campbell to publish a code of un-repealed Regulations. It was not till the Law Commissions of 1833 and 1853 were appointed and

not till a Macaulay was found to initiate the task that the prospect of a thorough codification of the Laws became a certainty. But for the dissemination of the laws the Government issued instruction to the Collectors and Tahsildars to tour the various parts of their districts explaining the provisions of the Regulations, to proclaim by beat of tom-tom these provisions in the languages of the districts and to affix the translations of Regulations to the most conspicuous parts of their offices.

17. That the arrests should be soon followed by trials, that none should be confined without trial, was also a principle repeatedly stressed by the Directors. To cite only two instances:

They found fault with the Government for having ^{denied the prisoners the right to be tried before the Magistrate and to be released} detained certain prisoners in Malabar and Cochin without trial. "Nothing short of most imminent danger" to the state they remarked "could in our opinion warrant such a departure from every principle of British law and British justice".

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 2 also mentioned
 took for having
 tried certain persons
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18. That punishment should be proportionate to the crime was another principle urged by the Directors. They censured the Government for having transported the children of certain political prisoners to the Prince of Wales Island, ordered their immediate recall and release and required them

to be amply compensated by stipends in land or money for their adequate support. They abhorred the principle of visiting the sins of the parents upon the children and condemned all cases of retrospective punishment declaring it "contrary to the first principles of justice". In all these matters the Government had to abide by the wishes of the Court of Directors and to issue, where necessary, suitable instructions to their subordinates to avoid similar errors in future.

19. It should also be observed that the Government took the initiative in some notable matters relating to crime and punishment. It was the Government who proposed and abolished the exceedingly harsh modes of corporal punishments with the corah and rattan and substituted in their place the less harsh mode of stripes with the cat-o'-nine-tails. It was the Government, who, on their own initiative, ordered that such of the convicts as ^{were} weak or sick should not be whipped, and that whipping should, in all cases, be done in the presence of medical men. It was again the Government, who, on their own initiative, exempted females from whipping, and even went to the extent of seriously considering the possibility of abolishing all forms of corporal punishment.

20. In prison administration too the credit for humanitarian reforms was evenly shared by the Government and the Directors. The Government passed

a series of measures to lessen the harshness of the lot of prisoners. The prisoners ^{were} should be transferred from one jail to another only under medical inspection at each stage of their journey; they ^{were} should not be linked together in jails. Prisoners awaiting trial ^{were} should, on no account, be confined in fetters. Felons alone ^{were} should be subjected to the degradation of wearing chains. The fetters ^{were} should not be heavy and ^{were} should be removed when the prisoner ^{is} ill or unfit to bear them. The criminal judges and the surgeons were to visit the jails weekly. The surgeons were to report to the judges on the health of the prisoners, the quality of food supplied ^{to} them and the cleanliness of their apartments. Prisoners were to be supplied each with a cumby, ^(blanket) first on their admission and then once a year. They were to be provided with bamboo-mats to sleep on and their sleeping rooms were to be aired and cleaned daily. And as per ^{the} provisions of Section ²⁹ ~~XVII~~ of Regulation X of 1816, men and women, those under sentence of death and those sentenced to confinement, those awaiting trial and those convicted for petty offences, were to be segregated and never allowed to mix with one another.

21. Further the Government approved and extended the interesting experiment, originally made

made by Mr. Newnham, the Judge of Cuddapah, that
 "of improving the morals of the convicts and rendering them useful members of Society" by employing them according to their different avocations and aptitudes in manufacturing the various implements of industry, bricks, tiles, charcoal, cumbles, coarse cloth and even paper. It was reported that the paper manufactured in jails was found sufficient for the consumption of the revenue and judicial officers of the districts. The Government also encouraged the magistrate of Guntur to reform the character of the criminal tribe of Chenseos by teaching them arts and crafts so as to wean them of their criminal instincts and make them useful members of society.

22. The part played by the Court of Directors in these fields was not less noble. The mere passing of the rules and regulations, they stressed, was not enough; the rules should be systematically enforced and the persons breaking them taken to task. Every time, therefore, a rule was broken or an arbitrary procedure ^{was} adopted by their servants the Government ^{were} could be sure of receiving a reproof. Thus, when 24 convicts were, on one occasion, taken from Canara to the Nilgiris for constructing roads and some of them died on account of the severity of the cold and for want of medical aid, the Directors complained that the procedure amounted not only to an enhancement of the sentence but

also to a deliberate act of cruelty. When, in order to fill up the Negapatam Ditch, 100 convicts were summoned from Trichinopoly and ^{Kan} Cumbaconum and some of them being old and sick died on the way, the Directors characterised the affair as an "unfeeling mockery" of justice. But the subject on which they felt ~~xxx~~ very strongly was the mortality in jails. In some cases this was attributed to the unhealthy situation of the jails, in others to over-crowding, and yet in others to periodic out-breaks of cholera and other diseases. The high percentage of mortality, which ranged from 20 to 38 per cent in some of the jails in 1834 stirred the wrath of the Directors. It is, they wrote, "a reproach on your Government". It superadded the penalty of death to the penalty of imprisonment imposed under the law. Such a travesty of justice should be avoided, they insisted, by building all prisons upon a uniform plan in healthy localities and by providing the prisoners with proper food and medical assistance.

Condy Paraghar?

Humanitarian Ideas

in Madras 1800-1835.

The humanitarian ideas which influenced the British administrations in the early 19th century influenced also the Company's administration in India. The ideas of universal import were shared alike by the Court of Directors, the Madras Government and certain district officials. And though they were implanted on a soil more favourable for their reception by the Cornwallis system they had to be nurtured carefully and sheltered from the blasts of ~~the~~ religious passion and long-established superstition. For they vitally affected such important matters like public health and public morality in which there was every reason to apprehend popular clamour raised on the pretext of religious interference.

As regards public health, systematic vaccination was for the first time introduced by Lord William Bentinck in 1805. He entrusted the supervision of this work to a Superintendent assisted by a large establishment of European and Indian vaccinators and started official propaganda for spreading it.

this measure, which proved an unexpected success in the face of religious prejudices, was ultimately extended to Mysore, Coorg and Java. To the same sentiment other measures for relieving suffering connected in the construction of a small-
Pon Isolation Hospital in the city of Madras, the attempt made by the Government to check the ravages of Cholera in 1817 which broke out in 1819 and the erection of Lunatic Hospitals at the head quarters of the four Provincial Courts. All these were highly approved by the Directors.

As regards public morality, the Government made every attempt to alluviate the evils of domestic slavery, to penalise slave-trade and to suppress Sati. Though they prohibited the sale of domestic slaves only in 1841 and refused to recognise any distinction between the man and the woman only in 1846, long before this they ordered the apprehension and punishment of all masters who ill-treated their slaves, penalised the sale of girls to dancing women for the avowed purpose of prostitution and prohibited the separation of married

slaves by their masters whenever custom did not sanction such separation. And though they did not pass any special legislation against slave-trade, as recommended by some prominent British officials like Macleay and Cotton, they penalised kidnapping an auxiliary to slave-trade, and attempted to give the people itself by enforcing the provisions of the Statute of George III against it, by directing the magistrates to arrest all slave-traders and their accomplices and to send them up for trial before the Supreme Court. In regard to the suppression of Sati also, they at first proceeded with caution, attempting to discourage it only by special punishment, though a bold course was urged by Mr. C. H. Cunningham. Both when he was magistrate at Tanjore and when he was magistrate at Tirunelveli. Thus, in 1818 when the Directors wrote that it might be safely enforced, and permitted only in cases where Hindu law permitted it. The Government adopted this policy. But even as the practice was abolished in Bengal it was also abolished in Madras. Adverting to criminal law

and prison administration, that these laws
should be simplified, compiled and disseminated
among the people, that there should be
no imprisonment without trial, except
for ~~an offence against the state~~ ^{an offence against the state} the state, that
punishment should be proportional
to the crime, and should not be retributive,
that the criminal trials should be reforms,
that convicts should not be crowded together
in jails, should be rendered ~~with~~ medical
assistance, all these principles were constantly
urged by the Directors of the Government,
at the same time, abolished whipping with
the cane and the nation, and substituted
in its place the less harsh mode of whipping
with the cat-of-nine-tails, prohibited
whipping in the case of the sick, the weak
and the women, insisted on the weekly
visits of the criminal judges and the
surgeons to the jails, ~~ordered~~ ^{ordered} the provision
of blankets and bamboo-mats to the
prisoners, equipped each prison with
a resident Indian doctor, directed
segregation in prisons of men and women,
debtors and felons, rogues and hardened
criminals, and, what is more, inaugurated
the policy of instructing the convicts and the
criminal trials, ^{in all possible ways} with a view to making

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M. V. K. S. S. S.
6/8/11.

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1. Charles Grant was either first appointed Deputy Chairman in 1804 and Chairman in 1805. He was four times re-elected to one of or other of these offices, and afterwards represented the interests of the Company in Parliament. He died in 1823.
2. He was appointed in 1819 as Assistant Examiner of India Correspondence. In 1821 as second Assistant to the Examiner, in 1823 as Assistant Examiner, and in 1830 as Examiner. He continued as Examiner until his death in 1836.

among the people; that the great end of punishment being the prevention of crime the punishment of evil doing should be exactly suited to the purpose; that attempts should be made to reform the criminals; that they should not be harshly treated in prisons, should be given medical aid, should be segregated, men and women, debtors and felons, novices and hardened criminals; that, in short everything should be done to abolish all patent forms of oppression and suffering.

3. These doctrines were actually implanted in Madras on a soil favourable for their reception. For here, the Cornwallis system with a separate judiciary and with laws based largely on British jurisprudence was introduced in 1802. What was necessary was to humanise these laws especially those which related to crime and punishment and prison administration and to devise other laws or rules for improving public health and removing social evils like domestic slavery, slave trade and Sati. This task however was by no means easy. It ^{demand}~~demanded~~ caution, perseverance and, in some instances, courage, to introduce reforms running counter to established customs and religious practices.

The first of the humanitarian measures was the introduction of vaccination. This was introduced in Madras in 1802 but only with partial success on account of the unsystematic manner in

*Manual of Administration
of the Madras Presidency.
Vol I. p. 511 - note.
Judicial Consultations
18th June 1805.*

which it was done and on account of the religious prejudices of the people. In 1805 Lord William Bentinck deplored these prejudices, hoped to overcome them by official propaganda, and formulated a comprehensive plan for the spread of vaccination. He appointed a Superintendent, placed under him a large establishment of Surgeons and Indian vaccinators and laid down specific rules for carrying on their activities in an efficient and systematic manner. He held that "the health of the inhabitants was one of the first duties of the magistrate" and with this view directed all district magistrates to encourage vaccination.²

*Bentinck's Minute in
Judl Cons. 18th June 1805.
Military Despatches to England.
Vol. 36. Despatch dated
8th September 1805 paras 435-442.
Judl Despatches to England.
Vol I Despatch dated
8th September 1805 paras
102-113.
Judl Despatches to England.
Vol I Despatch dated
12th Feb 1806 paras 35-37.
Idem. Despatch dated
21st Oct. 1806 paras 45-49.
Judl. Despatches to England.
Vol I. Despatch dated 21st
Oct. 1807 paras 77-79.
Judl. Cons. 15th Feb
1811, 8th Nov 1811, 6th
Dec. 1811, and 18th Feb 1812.
Judl. Despatches to England,
Despatch dated 29 Feb. 1812. para 104.
Judl Despatches from England.
Vol I Despatch dated 8th April 1811
para 46-47.*

The plan seems to have worked well under the energetic Dr. Mackenzie, the first Superintendent. Within one year the number of persons vaccinated was reported to have increased from 7070 to 1,78,074³ and within two years it was reported to have risen to 2,43,173.⁴ In the city of Madras itself to arrest the progress of small-pox an isolation hospital was built outside the bounds of the Black Town.⁵ The Directors applauded these measures but cautioned the Government not to "alarm the minds of the natives with respect to either their custom or religion".⁶ The Government, however, appear to have avoided opposition by skilful propaganda. And being encouraged by the results they endeavoured to spread it

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*Despatches to England
Vol 3. Despatch dated
29 Feb 1812. para 102-3.
Judl Cons dated 5th Feb 1811,
29 March 1811, 14th June 1811
and 15th Aug 1811.*

*Despatches from England
Vol. Despatch dated
2nd June 1814 para 45-48.*

*3. Judicial Despatches to
England Vol 4. Despatch
dated 11th March 1820
para 136.*

*4. Judicial Despatches to
England Vol 4. Despatch
dated 11th March 1820
para 117.*

*5. Judicial Cons dated
9th Feb 1821.
Judl Despatches to England
Vol 4 Despatch dated
14th Jan 1822 para 4.*

Company's administration, was fraught with danger to the very existence of the Company in India. And it was this vigilance and not any reluctance to eradicate social evils that restrained the enthusiasm of some of the district officials and delayed the progress of ameliorative measures.

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bited by the existing law.³ Indeed, the Government held that if they were to tolerate slavery simply because it was sanctioned by custom and usages, it

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*Judl Despatches to England
Vol. 3. Despatch dated
5th March 1813 para 106.*

*2. Circular Orders of the
Court of ^{Foundation} Adalat.
1805-1846. Order
dated 27 Nov 1820 pp 33-34.*

*3. Judicial Despatches to England
Vol 5 Despatch dated
29 Dec. 1826 para 107-108.
Judl Cons 13 Jan 1826
Nos 3 and 4.*

was incumbent upon them "to take care that the slave received the full benefit of such safeguards as those very customs and usages had provided against the oppression and cruelty of the master".¹ On this principle they directed the second Judge of the Court of Circuit of Malabar to permit the married slaves to live together wherever that was the ancient usage.² But it was not till 1841 that the Government took courage to declare that no domestic slave could be sold or purchased,³ and not till 1846 that they enacted legislation for removing the distinction between the master and the slave.⁴

✕ In regard to the slave-trade, however, the British pursued a more energetic policy. From the very beginning of their administration in Malabar, this "nefarious traffic" had claimed their attention. Kidnapping persons with a view to selling them as slaves had been punished with whipping and transportation to the Andamans. The Malabar Commissioners of 1793 had decried this traffic and ordered the chief and Factors of Tellicherry to suppress it wherever it prevailed. But still the practice continued unabated in the beginning of the nineteenth century.

✕ Soon after the passing of the Statute, 57 George III Cap. ^{XXIII} declaring Slave trade a felony throughout the British Empire, Mr. Baber, the Magistrate of Malabar, drew the attention of the Government to the practice of kidnapping children from Travancore

1. *Judl. Despatches to England*
Vol 5. Despatch dated
23 Jan'y 1827 para 10.

2. *Idem* para. 10.

3. *Circular Orders of the*
Court of Foujdary Adalat
1805-1846 Order dated
10th Feb 1841 pp 250-9

4. *The Legislative Acts*
of the Governor General
in Council Vol I 1834
1851 by William
Theobald pp Act V
of 1843 pp 392-3.

5. *Judl. Cons.* 31st March
1812. See Mr Baber's
letter.

6. *East India Com*
Charters and Statutes
pp 1059-1061.

to Malabar, and selling them as slaves and recommended special legislation for its suppression. At the same time he arrested some of the ring-leaders, punished them for the crime of kidnapping and set at liberty some of the free-born slaves.¹

1. *Judl. Cons.* 31 March
1812, and 29 May 1812.

Judl. Despatches to England
Vol. 3. Despatch dated
5 March 1813. paras 92-94.

✕ The Government approved his action but it found difficult to pass special legislation. The Advocate-General, it was true, held that the provisions of the statute might be incorporated into a Regulation with additional safeguards to prohibit the import of slaves both by sea and land. But the subject was of all-India importance and the Government felt that the Supreme Government alone was competent to legislate upon it. They therefore referred it to the supreme Government.²

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2. *Judl. Cons.* dated
31 March, 29 May,
31 July, 14 Aug. 11th
Sept, 23 Oct. 20th
Nov. and 1, 4, and 8,
and 22 Dec. 1812.

Judl. Cons. 22 Jan'y and
18th and 26 July 1813.
Judl. Despatches to England
Vol 3. Despatch dated
5th March 1813 paras
92-113.

3. *Bengal Regulations*
and Acts 1806-1834
Vol. II pp 176-78.

✕ *Judl. Despatches to England* Vol 3.
Despatch dated 1 March 1815
paras 50-54.

5. *Judl. Despatches to England* Vol 3.
Despatch dated 1 March 1815
para 54.

Judl. Cons. dated 30 April and 9 July 1813.

Mr. Cotton, the Magistrate of Tanjore, when the latter reported that the crime of kidnapping children and transporting them by sea to sell them as slaves was prevalent in Tanjore and recommended special legislation for its suppression.¹

18. A similar caution coupled with greater enthusiasm and greater boldness was shown in the case of Sati a social evil of no less magnitude in some of the districts. The proposal to abolish this evil was first made by Mr. C.M. Lushington. Both as Magistrate of Tanjore (1813) and as Magistrate of Trinopolis (1819) he recommended its suppression. "I look upon this inhuman practice" he said "as one tolerated to the disgrace of the British Government." But the Government on both these occasions authorised him to discourage it only by persuasion.² The Directors, however, felt that mere persuasion was not enough. ~~This~~ This barbarous practice, "this terrible method of proving her attachment to her deceased husband," they wrote, must be tolerated only if the widow of her own free will resorted to it. The Bengal Government had proposed to prohibit it in the case of widows who were in a state of pregnancy, who were intoxicated, or who were below 16 years of age, as being contrary to the Shastras and established usages. These restrictions, they thought, might well be enforced in Madras. ^{But} And they wished to be fully informed of the gravity of the evil.³

1. Judl. Cons. 28 June 1825 Nos 11-12; 22 July 1825 Nos 8-9; 9 August 1825 Nos 6-8; and 2 Sept. 1825 Nos 5-6
Judl. Despatches to England Vol. 5.
Despatch dated 29 Dec 1826 paras 102-106

2. Judl. Cons. 2 Feb 18. See the concluding portion of the Preside Minute and the appx. to the Minute.

3. Judl. Despatches to England Vol. 3
Despatch dated 1 March 1815 paras 93-94

4. Despatch Judl. Despatches from England Vol. 3
Despatch dated 4 March 1818 paras 36-41.

17. It should not be forgotten that this was the age in which men were not wanting in courage ^{in Parliament} to openly criticise the Company's administration. In ~~1818~~ 1819 Mr. Hume pressed for an enquiry into the Judicial administration of India.¹ In 1821 Mr. Fowell Buxton moved for all papers on the burning of Hindu widows in India and deprecated its continuance under the British Government.² In 1823 the Bedford Society presented a petition to terminate Sati and this petition was warmly commended by Wilberforce.³

18. It was in this atmosphere that enquiries on Sati were instituted in Madras. The Foujdarry Adawlut to whom the remarks of the Directors were referred submitted a detailed report in 1821. They observed that the evil prevailed to a considerable extent only in the districts of Ganjam, Masulipatam, Chittoor, Tanjore and Canara and suggested that it might be restrained not only by enforcing the provisions of Hindu Law against it, but also by requiring the magistrates to carry on an intensive propaganda against it. But the Government deemed it advisable to avoid drawing public attention to the evil. They however asked the magistrates to strictly enforce the provisions of the Hindu Law and penalise all persons who contravened them.⁴

1. Judl. Cons. 6 April 1821 Nos 2 and 4; 27 July 1821 Nos 11-12.
Judl. Despatches to England Vol. 4.
Despatch dated 19 Jan 4 Jan 1822 paras 29-30

15. The matter, however, did not end here.

As soon as the Bengal Regulation for prohibiting Sati was received in Madras, ^{Stephen Rumbold} ~~Mr. R.~~ Lushington, the Governor, recorded a strong minute recommending its instant abolition. He condemned the practice ~~as~~ "revolting to the feelings of human nature," maintained that its existence was solely attributable to the "joint rapacity" of the priests and the widows' relations, and asserted that it received no sanction in Manu's Dharma Shastra, which, on the other hand, preached "an exalted course of temperance and virtue" to the widows. His colleagues happily concurred with him and so was enacted Regulation I. of 1830 for abolishing Sati in the Madras Presidency. ^{2.}

16. Turning to the spheres of Law and prison administration we witness a whole crop of reforms of humanitarian character. That the law, especially criminal, should be simplified, codified and disseminated among the people was again and again urged by the Directors. ³ Simplification and codification, however, could not be efficiently undertaken by the Government, though they attempted to do something in these directions by issuing from time to time revised Regulations consolidating the provisions of previous ones and by encouraging Mr. Campbell to publish a code of unrepealed Regulations. ⁴ It was not till the Law Commissions of 1833 and 1853 were appointed and

⁴ Eq. Regulations VI of 1816, IX of 1816, XIII of 1816, VII of 1818, I of 1825.

⁵ ~~Do~~ Judl Despatches from England Vol. V. Despatch dated 4 July 1828 para 32-34. 23 Feb 1829 and 19 Dec 1823 and 23 Feb 1829

1. Regulation XVII of 1829. Bengal Regulations and Acts 1806-1834. pp. 878-880.

2. Judl Cons. 2 Feb 1830 See the President's Minute of 19 Jan'y 1830 and the Government order.

3. Judl Despatches from England. Vol. I. Despatch dated 8 April 1807. para 35. Despatch dated 26 March 1812. paras. 87-88. Judl Despatches from England Vol. II. Despatch dated 29 April 1814 paras 18-20, 24-26, and 110. Judl Despatches from England Vol. V. Despatch dated 6 May 1828 para 65.

not till a Macaulay was found to initiate the task that the prospect of a thorough codification of the Laws became a certainty. But for the dissemination of the laws the Government issued instruction to the Collectors and Tahsildars to tour the various parts of their districts explaining the provisions of the Regulations, to proclaim by beat of tom-tom these provisions in the languages of the districts and to affix the translations of Regulations to the most conspicuous parts of their offices. ¹

17. That the arrests should be soon fol-

lowed by trials, that none should be confined without trial, was also a principle repeatedly stressed by the Directors. ² To cite only two instances:

They found fault with the Government for having denied the opportunity to certain political prisoners in Malabar detained certain prisoners in Malabar and Ghooty before they also reprimanded the Government for having detained without trial. "Nothing short of most imminent danger" to the state, they remarked, "could in our

opinion warrant such a departure from every principle of British law and British justice".

18. That punishment should be proportionate

to the crime was another principle urged by the Directors. They censured the Government for having transported the children of certain political

prisoners to the Prince of Wales Island, ordered their immediate recall and release and required them

1. ~~Do~~ Judl. Despatches to England Vol. I. dated 8 Sept. 1805 para 54-8.

Judl. Despatches from England. Vol. I. Despatch dated 8 April 1807. para 35.

Judl Despatches to England Vol. II. Despatch dated 26 April 1836. para 18.

2. ~~Do~~ Judl Despatches from England Vol. I. Despatch dated 28 Aug 1805 para 12.

Judl Despatches from England Vol. II. Despatch dated 29 April 1814 para 100 sqq.

Judl. Despatches from England Vol. II. Despatch dated 12 Oct 1814 para 23.

Idem. Despatch dated 9 Nov. 1814 para 165.

3. Judl. Despatches from England Vol. I. Despatch dated 28 Aug. 1805 para 12.

Judl Despatches from England Vol. II. Despatch dated 12 Oct 1814 para 23.

Judl Despatches to England Vol. VII. Despatch dated 23 Oct 1832. para 37.

to be amply compensated by stipends in land or money for their adequate support.¹ They abhorred the principle of visiting the sins of the parents upon the children² and condemned all cases of retrospective punishment declaring it "contrary to the first principles of justice".³ In all these matters the Government had to abide by the wishes of the Court of Directors and to issue, where necessary, suitable instructions to their subordinates to avoid similar errors in future.⁴

19. It should also be observed that the Government took the initiative in some notable matters relating to crime and punishment. It was the Government who proposed and abolished the exceedingly harsh modes of corporal punishments with the corah and rattan and substituted in their place the less harsh mode of stripes with the cat-o'-nine-tails.⁵ It was the Government, who, on their own initiative, ordered that such of the convicts as ^{were} ~~are~~ weak or sick should not be whipped, and that whipping should, in all cases, be done in the presence of medical men.⁶ It was again the Government, who, on their own initiative, exempted females from whipping,⁷ and even went to the extent of seriously considering the possibility of abolishing all forms of corporal punishment.⁸

20. In prison administration too the credit for humanitarian reforms was evenly shared by the Government and the Directors. The Government passed

¹ Judl Despatches from England, Vol 3. Despatch dated 14 March 1818. paras 58-59.

² Idem.

³ Judl Despatches from England Vol I. Despatch dated 31 Jan 1810 para 29.

⁴ Judl Despatches to England, Vol 4. Despatch dated 11 March 1820. para 32-39.

⁵ Madras Regulation VIII of 1828 and II of 1830.

⁶ Judl Despatches to England Vol. VI Despatch dated 25 June 1830 para 21-22.

⁷ Circular Orders of the Court of Foujdary Adalat. 1805-1846 Circular dated 2 Aug 1821 p. 39.

⁸ Madras Regulation I of 1833.

⁹ Judl Despatches to England Vol X Despatch dated 10 Nov 1835 para

a series of measures to lessen the harshness of the lot of prisoners. The prisoners ^{were to} ~~should~~ be transferred from one jail to another only under medical inspection at each stage of their journey.¹ They ^{were not to} ~~should not~~ be linked together in jails.² Prisoners awaiting trial ^{were} ~~should~~, on no account, be confined in fetters.³ Telons alone ^{were to} ~~should~~ be subjected to the degradation of wearing chains.⁴ The fetters ^{were} ~~should~~ not be heavy and ^{were to} ~~should~~ be removed when the prisoner ^{was} ~~is~~ ill or unfit to bear them.⁵ The criminal judges and the surgeons were to visit the jails weekly. The surgeons were to report to the judges on the health of the prisoners, the quality of food supplied ^{to} ~~them~~ and the cleanliness of their apartments. ^{Indian prison doctors were to reside in the vicinity of the} Prisoners were to be supplied each with a cumby, ^(blanket) first on their admission and then once a year. They were to be provided with bamboo-mats to sleep on and their sleeping rooms were to be aired and cleaned daily.⁶ And as per ^{the} ~~provisions~~ of Section ²⁹ ~~XXII~~ of Regulation X of 1816, men and women, those under sentence of death and those sentenced to confinement, those awaiting trial and those convicted for petty offences, were to be segregated and never allowed to mix with one another.⁷

21. Further the Government approved and extended the interesting experiment, originally

made

¹ Circular Orders of the Court of Foujdary Adalat. Circular dated 22 July 1814. pp 5-6.

² Idem p. 6.

³ Idem Circular dated 8 Oct 1821 p. 41

⁴ Idem Circular dated 27 June 1831 pp 149-150

⁵ Idem Circular dated 8 Oct 1821 Rule 17-19. pp 43-44

The walls of the prisons were to be scraped and white-washed once in every quarter. The linen of the prisoners was to be regularly washed at stated periods. The sick prisoners were to be immediately removed to the hospital.

⁶ Idem Circular dated 8 Oct 1821 Rules, 1, 2, 11, 12, 13, 21, 47, 48, 51, and 52.

made by Mr. Newnham, the Judge of Cuddapah, ^{namely} that "of improving the morals of the convicts and rendering them useful members of Society" by employing them according to their different avocations and aptitudes in manufacturing the various implements of industry, bricks, tiles, charcoal, cumbles, coarse cloth and even paper. ^{It was reported that} ~~the~~ paper manufactured in jails was ^{meant intended} ~~found~~ sufficient for the consumption of the revenue and judicial officers of the districts. The Government also encouraged the magistrate of Suttur to reform the character of the criminal tribe of Chensoos by teaching them arts and crafts so as to wean them of their criminal instincts and make them useful members of society. ²

22. The part played by the Court of Directors in these fields was not less noble. ^{The more passing} ~~Further, they insisted~~ ^{all} of the rules and regulations, they stressed, ^{which were issued from time to time} ~~was not~~ enough; the rules should be systematically enforced and the persons breaking them taken to task. Every time therefore, a rule was broken or an arbitrary procedure ^{was} adopted by their servants the Government ^{could} be sure of receiving a reproof. Thus, when 24 convicts were, on one occasion, taken from Canara to the Nilgiris for constructing roads and some of them died on account of the severity of the cold and for want of medical aid, the Directors complained that the procedure amounted not only to an enhancement of the sentence but

1. Judl. Cons. 3 Feb 1815
Judl Despatches to Eng
Vol. IV. Despatch dated
5th Jan'y 1816. para
31-33.
Judl Despatches from
England Vol III -
Despatch dated 31st
1817 para 22.

2. Judl Cons 13 Feb
1821. Nos 14-15.
Judl. Despatches to
England Vol IV.
Despatch dated 4th
Jan'y 1822 para
Idem Despatch
dated 3 Feb 1821
para 93.
Judl Despatches
England Vol V
Despatch dated
31 Dec 1817 para

3. They recommend
that even the most
numerous and most
powerful dangerous
criminal tribes of
Pharisgans, Madras
Yamadis, may be
reformed and as
to the occupation

"civil life" by granting them rent-free allotments of waste lands,
and by encouraging them through their chiefs to betake themselves to agriculture

1. Judl Despatches
from England Vol VII
Despatch dated 30 April
1834 paras 64.

2. Idem.
Despatch dated
30 April 1834 paras
47-77-78.

3. Judl Despatches from
England Vol V.
Despatch dated 6 May
1829. para 34.
Judl Despatches from
England Vol IX.
Despatch dated 11 Oct
1837. para 17-19.
Idem. Despatch dated
13 Dec. 1837 para 18-23.

4. Judicial Despatches
from England Vol IX.
Despatch dated 5th
Jan'y 1838. para 13.
Idem. Despatch dated
13 Dec. 1837 para 23.

also to a deliberate act of cruelty. When, in order to fill up the Negapatam Ditch, 100 convicts were summoned from Trichinopoly and Kumbakonam and some of them being old and sick died on the way, the Directors characterised the affair as an "unfeeling mockery" of justice. ² But the subject on which they felt ~~very~~ very strongly was the mortality in jails. In some cases this was attributed to the unhealthy situation of the jails, in others to over-crowding, and yet in others to periodic out-breaks of cholera and other diseases. ³ The high percentage of mortality, which ranged from 20 to 38 per cent in some of the jails in 1834 stirred the wrath of the Directors. It is, they wrote, "a reproach on your Government". ⁴ It superadded the penalty of death to the penalty of imprisonment imposed under the law. Such a travesty of justice should be avoided, they insisted, by building all prisons upon a uniform plan in healthy localities and by providing the prisoners with proper food and medical assistance.

3. Judl Despatches from England Vol I.
Despatch dated 29 Oct 1813. paras 37-38.

Lord William Bentinck's minutes in
Jurat Com. 18th June 1815. re
"Assassination."

Jurat Com. 9th March 1813. on the
subject of slave trade.

" " 18th April 1813

" " 16th Sept 1813.

" " 23rd March 1813.

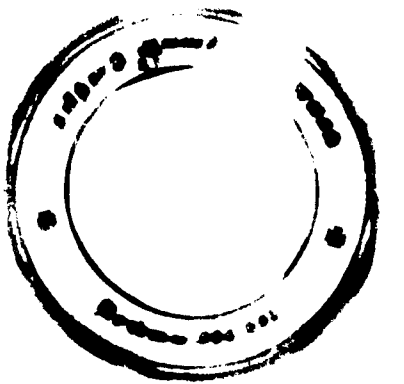
" " 30th April 1813

" " 9th July 1813.

" " 15th June 1813.

" " 13th July 1813.

" " 31st Aug 1813.



Jurat Com. 3 Feb 1813. - Paper
manufacture in ten parts.

Jurat Com. 13 Feb 1821 - on the
suppression of the slave trade.
Nov - 14 - 15.

Jurat Com. 6th April 1821 Nov 2-4 on Salt.
" " 24th July Nov 11-12, 1821
on Salt.

Just Comm. 25th June 1825 Nov 11-12:

22 July 1825 Nov 8-9

9 Aug 1825 Nov 6-8

2 Sept 1825 Nov 5-6

Crime of kidnapping
children and selling them.

Just Comm 24 Feb 1826 Nov 4-6

10th March 1826 Nov 12-13

11th April 1826 Nov 5-6

On Slavery.

Just Comm 2 Feb 1830. containing
the President's message
on Sati.

Comm 23 Feb 1830. Nov 4-9.

abolishing the use of coral.

Comm 1st Feb 1832

Comm 11 Jan 1833 Nov 6-9.

Comm 8th July 1833 Nov 11-18

On Sati.

Just. Comm. 13th June 1805. Lord Bathurst

Benbuck's minute.

In favour of the existing
system of vaccination the most circumstantial
proof is the no of persons reported to have
been vaccinated. The principles which have
been adopted for spreading and preserving
the truth widely are used as a general
European principle of action. The persons
vaccinated have for the most part
received the disease for the sake of the
good and not from any conviction of
its advantage and utility and it was
foreseen that the numbers would decrease
when the advantages of it was reduced.
"It appears to me that the great and
principal object is to convince the
natives of this country of the benefit
of vaccination. If that can be done
every political obstacle is of little and but
temporary consequence. It is not especially
prejudicial to the religion and customs
and to be overcome." and the measures
as far pursued have gained more
than reduced these obstacles.

I have read Mr Mackenzie's
report; I approve his plan.

"Then the objection for the small pox in England is by its nature to the moment commercially obsolete in this country, where it is almost or entirely unknown, where one of the principal objects of our religious belief is a separation from custom.

But difficulties cannot be met and by doubling numbers and by the accidental infection of a few individuals scattered here and there constantly fluctuating and changing.

No reliance can be placed on the wisdom of the vaccinated persons owing to the corruption of the human & village customs.

How as the King's men should be a medical man specially charged with the general supervision of vaccination.

In the 18 Villages, each village should have its separate vaccine etc.

A native vaccinator under the European Surgeon belonging to the Camp.

Surgeon of the Provincial Council should examine the King's surgeons of the Kingdom. He should receive reports and transmit them to the Superintendent.

"Vaccination should be considered as a civil regulation rather than as medical practice. That as the health of the individuals is one of the first duties of the magistrate. Vaccination should be done under his guidance. Superintendent of V. shall correspond directly with the Secretary to the Govt. The Magistrate should give publicity to the vaccination and encourage it.

Until the King's surgeons are appointed vaccination may be undertaken by the government surgeons. Superintendent to send monthly returns of vaccinated to Govt. Lt. Macgregor may be appointed as a superintendent June 13th 1855.

V. Henderson

cont: 6th April 1821.

From the Prudery Advertiser
to the Govt. - sending extract of their
proceedings dated 18th Dec. 1820.

Also the letter from the Govt.
dated 10th April 1819 transmitting for
guidance extract from a letter from
England dated 4th March 1818. with the
views of the Govt. thereon. And also letters
from the 4 Provincial Courts of Circuit
transmitting upon form annexed criminal
judges and magistrates to the queries
circulated by order of the Court on the
practice of Sals.

The Court of Sessions
upon the certain rules & directions of its
exercise, which have been adopted in
Bengal, and which may be adopted also
in Madras.

By the returns submitted
by the Provincial Court of the Northern
Division it appears that in the 3 years
prior to 1816 - (the year in which
magistracy was transferred to the Collectors)
- there were 45 cases of Sals, and
in the 3 years subsequent to 1816, there
were 34 cases of Sals in the Nilla of
Gampah.

The criminal judge of Gomijam advised to a report submitted by the Commissioner of taking the half of the property of widows who have no children" or finding to purchase this matter.

In Vijayapatnam there 6 cases all reported prior to 1816, and 14 cases prior to 1816. The magistrate observed that the occurrence has declined during the last 10 years.

In the district of Mysore 3 cases all reported to have occurred before 1816 and 9, after 1816 - during the 8 years.

In Mandya there during the 3 years prior to 1816, one case (1) is reported, and during the 3 years after 1816, 42 cases all reported.

The magistrate of Gomijam reports, 14 cases during the 3 years prior to 1816 and 10 cases during the 3 years subsequent to 1816.

In Mellor there only 1 case occurred during the 3 years before 1816 and 12 cases during the 3 years after 1816.

Other divisions.

In Kolhapur no case of this kind is said to have occurred during the 3 years.

In Shivajipat only 1 case occurred in the 3 years before 1816, and 6 cases in the 3 years after 1816.

In Chitrapur no case occurred in the 3 years before 1816, and only 4 cases occurred in the 3 years after 1816.

In Chitpur only 3 cases occurred before 1816 and 13 cases in the 3 years after 1816.

Evilum division.

In Trombay no case occurred in the 3 years prior to 1816 and only 2 cases occurred in the 3 years subsequent to 1816.

In Ambarwadi 20 cases occurred in the 3 years before 1816 and 18 cases occurred in the 3 years subsequent to 1816.

In Warananagar no case during the first period and it was not reported after 1816.

In Palm only 1 case was reported, for the last 24 or 31 years.

the two numbers to the Dept. of the Interior it was
frequent.

In Cochin China no cases
occurred during the 3 years prior to 1816,
or after 1816.

In Malacca no case during
the 3 years before 1816 or after 1816.

In Siam no case
occurred during the entire period.

Western Division.

In North and South Malabar
the custom is unknown.

In Canara no case occurred
in the 3 years before 1816, and 4 cases
occurred in the 3 years after 1816. —
These cases confined to the tribes of
Kontoral. 34 cases are reported to
have occurred in Canara since its
conquest by the British Govt.,
and the reason is stated to be that
in that tribe "many Chilparan-
Brahmins are settled."

In Swamnapatam
3 cases occurred during the whole period.

x

It will now be seen that the
practice generally throughout the
Western Division particularly in
the tribes of Manipulation and
Jangm and that it exists in a
less degree in the rest of the Western
Division, with the exception of
Rullang in which it may be said to
be unknown; and in the Southern
Division it is almost entirely
confined to Jangm, and in the
Eastern Division it is only to be met
with in Canara.

On the conclusion of
the records of the Court the following
draft resolutions are drawn up,
and then may be enforced:—

It being a fundamental
principle of the British Government
to allow the most complete liberation
in matters of religion to all classes
of its native subjects without at the
same time justice and humanity forbid
that a practice attended with the
destruction of human life, and often
production of enormous consequences
to the children of the deceased should

be permitted beyond the extent of the
code prescribed for it in the Hindu law;
You (the Magistrate) is hereby directed
to furnish copies of the Statutes
or other official codes with the persons
of district police officers, under your
authority... of the annual notice.
- mentions provisions of the Hindu
law as well as of the amended
Statutes and to enforce a strict
observance of the same.

As the practice of widows
burning themselves with the bodies of
their deceased husbands is generally
quarrelsome recognized by the doctrine
of the Hindu Religion; it is the object
of the Government according to the
principle of religious toleration
already noticed to allow the practice
in those cases in which it is
countenanced by their religion and
to prevent it in others, in which,
it is by the same authority
prohibited. It will therefore be
perceived that you should explain

carefully, on all suitable occasions,
to persons of the Hindu persuasion and
religion is further from the intention
of Government than to interfere
any established tenet of their religion,
and that its only object is to restrain
the use of acts and practices, not
conformable to the doctrine of
their own persuasion than repelling
to the disservice of humanity.

Provisions of the Hindu law
regarding Sati...

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Y. 211
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PROVISIONS of the Hindoo Law regarding the practice of Widows burning themselves.

Every woman of the four casts is permitted to burn herself with the body of her Husband; provided she has not a child under three years of age, nor is pregnant, nor in a state of uncleanness, nor under the age of puberty; in any of which cases, with the exception hereunder specified she is not allowed to burn herself with her Husband's body.

But a Woman who has infant Children, and can procure another person to undertake the charge of bringing them up, is permitted to burn.

It is contrary to law to cause any Woman to burn herself against her wish by administering drugs to stupify or intoxicate her, or by any other means.

A Woman may not ascend the pile of her deceased Husband for twenty nights after bearing a Son, and for a month after bearing a Daughter.

When Women burn themselves they pronounce the Sunkulp and perform other prescribed ceremonies previously to burning.

If any Woman declare her intention of burning, and afterwards recede from her intention, without having pronounced the Sunkulp, and performed the other ceremonies, she is not enjoined by the Shaster to undergo any "prayaschit" or penance, neither is there any thing contained in the law prohibiting her relations from associating with her.

But if a Woman after pronouncing the Sunkulp and performing other ceremonies, should not have courage to proceed to

the funeral pile, she may recover her purity by undergoing a severe penance, and her relations may then associate with her.

The Wife of a Brahmin is positively prohibited by the Shaster from burning on any funeral pile excepting that of her Husband.

The rite of Anoomarana, or burning without the body of the deceased, may be performed by all such Women of the other casts, as are devoted to their lords, and absent from them at the time of their death; or such as are in the first and second day of Menstruation, the disqualifying cause being here removed in a short interval--Women under other circumstances are not permitted to perform the rite of Anoomarana.

A Woman, who being absent from her Husband at the time of his death, does not perform the rite of Anoomarana immediately on becoming acquainted with that event, cannot be considered a "patibrata" or devoted to her lord, and is not at liberty to burn herself at any subsequent period.

Also a Woman, who being present at the time of Her Husband's death, and unrestrained by a legal impediment, omits the act of Sahamarana (burning with the body of the deceased) cannot be considered a "patibrata", or devoted to her lord, and is not at liberty to burn herself at any subsequent period.

Sec. to Government.

The Govt. should have the report on the
practice of Sati is satisfactory.
The Government in Council has felt
apprehension that the persons who
for the guidance of the magistrates
and police officers would have offered
a much stronger caution for the
prevention than it is now
obtained from Govt. and might have
the effect of excluding it by the notice
drawn to the subject. It has therefore
been resolved to address a circular
letter to the several magistrates,
a copy of which is herewith transmitted.
6th April 1841.

Circular—
From a report
recently submitted to Government by
the Koyidungy Magistrate it appears that
the practice of widows burning themselves
with the bodies of their deceased
Husbands does not prevail by any
means generally among the Hindus
north of the inhospitable of the district
subject to this Provision, that in some
districts it is common and in others

of your statement and the Government
Council would have upon the decision.
That a practice so abhorrent to
reason and humanity should entirely
cease is much to be desired, but
the contrary effect might follow
any injudicious interference to
suppress it. It has however been
ascertained that the principle of
the widow is under a great variety
of circumstances prohibited by
Hindu law and that compulsory
marriages are sometimes employed
to bring the unhappy victim to her
dote, which are not more cruel
than unlawful. It is therefore judged
advisable to furnish you with an
accompanying statement of the
provisions of Hindu law regarding
the practice which has been sanctioned
by the law officers of the East India Co.
You will avoid attracting public
attention to the subject but you
will continue to discourage the

unhuman practice whenever your
influence may be calculated to
suppress it, and you will consider
it your duty to bring to punishment
every person or may any unlawful
measures for promoting it.

(Final Comm. 24th July 1825.

Letter from the second
deputant Collo of Tanjong, saying
that all his endeavours failed in
preventing a fine looking young
woman "of the Brahmin caste" in
committing sati.

From the Collo of Tanjong
that a case of "this horrid sacrifice"
had occurred in the last 18 months
in the Tanjong M. as recorded when
in Tanjong Rajah's Hqs. All endeavours
were made to prevent sati, but
without any success.

The Govt express deep
regret and desire the Collo's attention
to their circular orders of 6th April
last. "The object of these instructions
was expressly to prevent the
practice which was sanctioned by
the provisions of Hindu law
and to punish all attempts to
induce or compel unhappy
women to submit to it. The Government

in Council trusts that your influence
and that of all persons under your authority
will continue to be exerted to this end
and that it will not be without effect.
You might not however to go beyond
the circular instruction and avoid
drawing public attention to this
important subject.

Full Court: 2nd February 1830.

✓ President's Minute - of 19th

January 1830.

Since we used the High of
Bengal on the 4th last month declaring
the practice of Sati illegal and punishable
by the criminal courts in Bengal,
I have again reviewed the best books
upon the religious duties of the Hindus
to find out by what authority this
act is sustained and I have examined
the records of the Court to ascertain the
course adopted towards the "extinction
of a practice so repugnant to the
feelings of human nature."

"I am thoroughly
satisfied that this cruel practice is
not enjoined as a duty by the religious
of the Hindus; that it is a heinous
corruption of their true faith which
originates in a misguided spirit of
jealousy and fanaticism and that
this act of apparent self-destruction
is in most cases wretchedly carried
out sustained by wretched feelings of
resentment on the part of disappointed

wives paid by the relations of the unhappy
woman who is murdered as a victim of
their joint "superstition."

I have not discovered a
sentence in Manu or a word which
directly or indirectly countenances the
immolation of Hindu widows on the
funeral pile of their husbands. An
exalted sense of temperance and virtue
is alone prescribed to the widows

Extract from the Manusmriti
Sharma Shashtra:

Fear of exciting the
people against the Government will never
prevent abolishing this most inhuman
practice. "Such an alarm has passed away.
The nation now know us too well not
to be perfectly sensible of our culpability
forwards in all that really concerns
the welfare of their religion, the
endowment and security of their
temples and their cherished traditions
of caste, to entertain any serious fear
that we shall depart from the principle
of liberal toleration and kindness
upon which our Government has been

found and maintained?

I have no expectation of any indisposition to the abolition of this 'abominable custom' except on the part of those who are immediately interested in usurping possession of the widows' personal property and inheritance. All will rejoice.

The Bengal Regn must be immediately extended to Madras.

A proposition to this effect was made in 1813 and again in 1819 by one of the magistrates under this Presidency and his reasoning is in so entirely in unison with the preamble of the Regulation. I annex copies of the letters to this minute. — H. Rushington.

Letter from Mr. C. H.

✓ Rushington, acting Magistrate of Tanjore dated 14 Sept 1813. — to the Govt: that 100 cases of sati have occurred since the establishment of the Council at Calcutta: that the practice is neither prevented by the Charter nor discouraged by

persons of education or influence: that His Highness the Raja has disapproved it; that the prohibition of this practice would give universal satisfaction.

Letter to Govt from C. H.

✓ Rushington dated Dindigul Oct 1, 1819.

I look upon this inhuman practice as one tolerated to the disgrace of the British Government: it is even abominated by the better sort of natives themselves and nowhere is it enjoined by the Hindoo law.

Custom alone sanctions it; but custom can only be legally upheld when it does not militate against law.

No bad consequences can follow the abolition of this inhuman practice.

Government order —

The Board cordially concur in the sentiments expressed by the President and being fully satisfied of the propriety of abolishing without further delay the inhuman practice of sati, resolve to pass Regn I of 1830. based on the Bengal Regn. in all respects.

Received your opinion ~~at~~ in your letter
dated 22nd Dec: 1832 (received 30 Jan'y 1833)
whether any bad consequences have
followed the prohibition of sale.

The Govt and the East India Co to
report on the same.

Judl Comm: 31st March 1812.

From the Judge and magistrates
of North Malabar. dated 29th Feb 1812. —
Reports his proceedings in consequence of
a discovery that a traffic in slaves was
carried on in Malabar —

A considerable number of
persons full-born and born free have been
recently imported from Travancore
where they had been stolen and transported
by water to Malabar and inland.
Some of whom had been converted to
Muhammadanism and others associated
with and made to eat the food of
Portuguese and thereby irretrievably
excluded from their caste.

Formerly this traffic was
by no means uncommon. And during
the last quarter session I had committed
some Magistrates on the complaint of a
Portuguese native of Chivacal, whose 3
daughters, the eldest 12 years, had been
carried off and sold to magpas in
Cannanore, who had had put on them
the magpas dress.

As a result of the enquiry
made on the present occasion I ascertained
that 9 ^{children} children under 12, - girls and boys
were stolen from their education in
Barrabera, at night, clothed in
into their mouths, and conveyed off to
Alleppey and from there sent by water
to H.M. This was done by magistrates
those who did this on other times to whom
the children were sold were apprehended
and committed to Sequestration
at the seat of the Govt. I also ascertained
that 4 other stolen children had been
sent to Mr. Benson, and were
working on his plantation at Rajera-
Handy. Mr. Benson refused to hand
over the slaves and said that for the
last 15 years he had indeed bought slaves,
and that Slavery, was the ancient
custom of Malabar, sanctioned by
Hukam-shahar law.

"The argument to which
the sale of slaves is tolerated in Malabar
is Rented Slavery and this exclusively
to those born in a state of bondage

formerly the degraded race of men were
the exclusive property of the Hindoos of
Malabar but in course of time from
necessity and other causes, they were
transferred and sold to the magistrates
but never was it bargained that they
were to be made perpetual. A person sold
or transferred could not be removed out
of his district, his place of nativity. In
consequence the social ties amongst them
was still preserved. Even the women though
sold, are never separated from their
husbands, whom they still follow, because
often they may change their masters. The
owner of the female however still
maintained his claim to her and to her
offspring. Whorelight is thus perpetuated
from generation to generation. In some
districts the offspring are divided
between the owners of the father and mother,
but they are never separated from their
parents until adults."

"But I ascertained that
within the range of Malabar now the
Hukam-shahar law could apply to
Mr. Benson, after the enactment of the

British legislation abolishing the Slave Trade.

He being in common with every other

British subject prohibited from purchasing

slaves. [See Mr. Duncan's report on slave trade]

To men, women and children -

- Slaves were found in Mr. Brown's (including 10 infants)

plantation. - all declared they had

been stolen or forcibly carried away

by Malays and others from the ^{South} of Malabar, Cochin & Travancore

and transported to Mr. Brown's plantation.

- Some of them were free born. The

Magistrate asked the opinion of the

Provincial Council: to which Mr. Brown

had also put in an application. After

much trouble, Mr. Brown gave the names

of the persons who sold him the 6 free-

born persons. This person was examined,

and it appeared that he had bought

the slaves at the desire and orders of Mr.

Brown.

The Minister of Travancore

stated that about 400 persons had been

taken from Travancore to be sold

as slaves in Malabar during the

last 4 months.

Some of the persons responsible
for stealing and selling children as
slaves, have been sentenced to 3 months
imprisonment (for kidnapping).

The persons it would appear
had done what by law they were not
accounted to do, and the officer was
apprehensive in this having stolen the
children in the Mupla Mupayam,
which in Malabar is held equivalent
to purdah. This officer has always
been punished: it was punished last in
1804, with 3 years imprisonment & hard-
labour and so others.

But from the earliest period
of the administration in Malabar,
kidnapping, being involving a loss
of caste as well as liberty has been
considered a most heinous offence, so
early as April 1793: Two natives of
Tellicherry were charged with abducting
children and selling them as slaves, were
sentenced to be flogged through the
bazaar of Tellicherry, then to be sent to
Bombay, for the purpose of being
transported to the Andamans.

The Commissioner of the
Bureau of Prisons and Penitentiaries in a letter
of 15th June 1892 wrote to the Chief-
Justice of Malabar thus:

"Finding it
amenable by Sharnamath that the practice
of shipping kidnapped and other
natives as slaves from the several
ports on this coast is still more or
less continued, notwithstanding
the various prohibitions which have
been issued against a practice so
highly repulsive, so destructive and
so inhuman in whatever light
considered, we do think it our duty
to require your most unwearied
attention to prevent any such transaction
in time to come."

And in a letter from
the Company to Govt of Bombay
dated 5th May 1896 the Council of
Directors were pleased to find that
from the measures pursued by the
Malabar Commissioners, so much
to their honour, and the orders issued
in consequence thereof, an entire
stop has been put to this inhuman

trade on the shores of Malabar.

Requisition copies of the
Govt in regard to the action to be taken
by the Hon. Mr. Munro, and
hoping that Govt will issue special
orders under Regn II of 1809, without
which the Municipal Court will not
proceed with the trial.

Some of the free born slaves have
been returned to their parents: Govt. may
even order for the liberation of the rest.

Thomas Henry Palmer
Judge & Magistrate

Jud. Comm. 29 May 1892.

No 288. The Govt and the above
letter to the Govt. Malabar Court and their
opinion.

Jud. Comm. 29 May 1892.

No 293. To the Judge &
Magistrate of North Malabar —

Supervising him that the Govt
has under consideration the most
effective means of putting a stop to
the repulsive traffic in slaves which

has prevailed on the Malabar coast;
and in the meantime approving the
actions taken by him: sending the
Advocate General's opinion on the Act
in the case of Mr. Hudson.

Court: 29 May 1812.

No 266. From the Lord High Chancellor:
Advocate: saying that the Privy Council
could not have right to enquire into
Mr. Hudson's complaint: that Mr.
Hudson should have appealed to the
Supreme Court against the High Court;
that the Govt. should pass legislation
to suppress slavery. "whether free born
or slaves by birth according to the
law and usage of any of the neighbouring
states."

Court: 29 May 1812.

No 241

From the Advocate General.

I should have been glad
to find that the infamous traffic had
been within the provisions of the Act
for the abolition of the slave trade.
84 George III c. 56. But I find that

it applies exclusively to the African
Slave Trade, and to the importation of slaves
from places in Africa or from Foreign
Colonies in the West Indies & America.

Even writing the above the Act
of 1811 has come. And it needs examination.

Court: 29 May 1812.

No 331

From the Advocate General

Statute 51 George III c. 23 extends
to India the prohibition to British
subjects engaging in such traffic. The
penal consequences attach in India
from 1 Jan'y 1812. Mr. Hudson therefore
perhaps cannot be tried for acts done
previously. It would be proper, however.

for the Govt. to publish throughout the
Provinces the substance of the Act, which
applies to all persons residing within
the King's or Queen's Territories, including
throughout the Western subjects of this Govt.

for Court 31 July 1812

No 412

The Govt. authorized the
Judge & High Court of N. Malabar to bring
to trial certain persons who had entered

1812 & 1813, 1814, 1815.

Court: 31 July 1812.

No 481. From the Magistrate.

Resolved: — Sunday.

Court: 14 Aug 1812.

No 486

To the Supreme Court
concerning the opinion of the Assistant
General: and making known and in what
manner the Act of 1811 can be enforced.
against Slavery. (copy in Malacca)

Court: 14 Sept 1812.

No 421. From the Magistrate of

North Malacca requesting orders with
regards to 5 slaves imported from
Mocha: stating that the persons formerly
apprehended for being concerned in
the Slave Trade have not yet been
brought to trial.

No 513. Authorizing the Magistrate
to proceed against the persons —

Court: 1812.

Jud Court 30th Oct 1812

No 364.

The Supreme Court say
that the Act of 51 George III Chap 23. is
not applicable to the importation or
removal of slaves by land.

A Regn similar to Bengal
Act 10 of 1811. for preventing the
importation of slaves by land in to the
Madras Presidency may be passed.

The Act may be published
as has been done in Bengal.

Jud Court: 30th Oct 1812.

No 620.

The Court ask the
opinion of the Assistant General
as to what measures may be pursued
on account of Act 51 George III Chap 23
and the Supreme Court's letter.

Jud Court: 20 Oct 1812

No 943.

H.G. advocates the
publication of the Statute, or to enact
a Regn containing its provisions
The Supreme Court has decided that
the Statute only related to the
importation of slaves by sea, and
as the objection equally applies

to the introduction of slaves by land.
and ought to be guarded against
by similar precautions. a Regn to the

Cont: 20th Nov. From H.C. dated 5th Nov 1812.

1812. Advancing the enactment of
a Regn embodying the provisions
of the Act of 1811. The Bengal Govt
sent to India that the act applies
only to importation by sea;
importation by land also should
be prohibited.

Cont: From the Reg 14 Dec 1812

Reviewing his former
opinion, and suggesting that
slaves belonging to non-British
subjects may be permitted to
enter the British territories provided
that they are not sold.

~~1st Cont~~

20th Nov. 1812.

To Bengal - conveying
the foregoing letters of the H.C. and
suggesting a General Regn for the
control of such a.

Cont: 9th March 1813.

Return to Bengal
Advancing. Advancing Govt to forward a
Regn in conformity to the suggestion
from Bengal and to include
in it provision for kidnapping.
— Bengal say that their Regn
with some amendments may be
forwarded in March.

Cont: 9th May 1813.

Regn. Sec. 2. Clause 7. Sec. 4 clause 3
of Regn XV of 1803—

against kidnapping.

Suggesting the forwarding of
and the Govt for prohibiting kidnapping
by sea — all over.

Circular
Orders of
the
Court of
Sudder
Adawlat:
1805-1846.

20th January 1809. - Ordered that the Judges of the Provincial Courts and the Ditta Adawlat be, by precept, instructed to provide chairs for the accommodation of their law officers in Court taking due care in the disposition thereof, to place the seat of the Nootie on the right hand of the bench; and that of the Pandit on the left.

24 July 1821. Sudder Court being desirous for the purpose of reference to be furnished with the fatwas and law opinions that have been delivered by the Muhammadan and Hindoo law officers of the several Courts of Judicature, in answer to questions of law put to them on the trial of civil cases, direct that you will cause to be made copies and translations in English of all such questions and answers from 1802 to 1820, and transmit them, when completed to the Court of Sudder Adawlat; and you will, in like manner, annually furnish copies of the law opinions delivered by your law officers on civil cases in each year.

25 August 1823. - The Judges of the Sudder Adawlat deem it prudent to be a fit opportunity of inculcating the importance of sending all

public officers, as well as other persons, on their appearance before the Civil Courts with the attention and respect due to their rank and position in society, and they direct that the Village and District Messengers be particularly enjoined to a due observance of this principle on all occasions.

23 February 1829. — "Complaints having been made to the Government that Kaminidars and other individuals of rank and respectability are frequently required to give evidence in trivial and unimportant matters before the Courts, and are subject to great annoyance, and, in their opinion, degradation thereby: I am directed to request that the Sadr and Panydary Adawlat will take a suitable opportunity to explain to the Courts in the Provinces that it is the wish of the Government that they should avoid summoning persons of this description so much as possible, and that, when their attendance in Court is indispensable, they may be treated with the ~~then~~ consideration and attention which is due to their rank and situation in life." — To be circulated.

4th December 1829. To the Government enclosing extract of the Sadr Court's proceedings of 16th November 1829 — The Judges of the Sadr Adawlat are decidedly of opinion that it is of the greatest importance that District Messengers should investigate the suits assigned by them in a public manner, and that for this purpose, they should, as provided in Sec XII Regulation VI of 1816, be furnished with a "Public Cutcherry" or Court room: for the practice of deciding suits in their private residences may give rise to the most serious abuses. It appears that the District Messengers are already very generally provided with accommodation, in buildings, such as Chaudhairs, Munsifpans, or Pagodas, which, whether the property of the Government or of individuals, are places of public resort, where this is not the case. It appears desirable that the District Collectors should be instructed on the application of the Judge, or Assistant Judge, to provide suitable accommodation for the Messengers.

Copy order was to be circulated to the Collectors.

24th December 1829. - an extract from a general
letter from England dated 8th April 1829 circulated
to the Provincial Courts for the guidance of
their subordinates, and desired that information
be given to the Muhammadan law officers
attached to the criminal Killa Courts that a
knowledge of the country languages will be
considered a strong recommendation to their
Court, in promoting them to the vacancies
which may hereafter occur in the highest
Court. The extract states "... In the
future selection of law officers, a knowledge
of the country languages ought to be
considered a strong recommendation.
It is not only the inconvenience of the
Persian Translation which we are desirous
to avoid, but we are satisfied that in a
great many cases, perhaps in the majority
of cases, it is essential to the due
administration of justice, that the law
advisers of the Court should be masters
of the language in which the proceedings
of the Court are carried on."

Circular 2nd February 1805 - The Court direct that it
be a standing order that all convicts
continued to be transported shall, at the end of
Foujdarry every session in each district, be sent to Chingle-
Pur - to the intent that execution, on the
said sentence, may be done, as opportunity
offers for carrying it into effect.

The Court further direct that the
Criminal Judge, in the Killa of Chinglepur
be instructed to have in readiness the convicts
in that jail under sentence of transportation,
for the first opportunity of sending them
to the Prison of Wales Island.

22nd July 1814. (Vide C.O. 26 April 1823, & C.O.
18th Oct 1822 and 10th Nov 1831. Vide Circular
7th Dec. 1835 Appendix A. Vide C.O. no 96, 136,
138, and 143.)

Before any prisoners are sent
from a Killa station to the Depot, they shall be
examined by the Surgeon of the Killa who shall
certify to the Criminal Judge that they are in
a fit state of health to proceed on a journey.
If the Surgeon should consider it necessary that
any of the prisoners should be allowed medicine
on the journey, or should find that any of them
are in want of medicine existing to protect
them from the effects of weather, and he shall
state such opinion in his certificate. The

Criminal judge shall be authorized throughout
to issue an order for the supply of such
necessary extra food or clothing.

Whenever the party shall arrive at
any Indian station, the person charged with
the criminal judge's orders, shall report
his arrival to the criminal judge at
such station and shall produce to him
the name of order and the surgeon's
certificate. The surgeon at an Indian station
shall examine the prisoners, and if he finds
them in a fit state to proceed on the journey,
he shall certify the same on the back of the
original certificate. If he should be of
opinion that from fatigue, debility or
other cause the prisoners, although able to
continue their journey, should be allowed
longer rest, or to go to shorter stages, than
they are originally fixed by the criminal
judge of the route from which they were
first brought; he is to state his opinion to
the criminal judge who will if necessary
order the order and deliver the same to the
Person in charge, and ~~person~~ who will proceed
to the next station and make the like report.
If the surgeon at any Indian station
should be of opinion that any one or
more prisoners, ought not, on account

of debility or ill-health, to continue his journey
for a longer time than the party may be
permitted to halt: he is to certify the same to
the criminal judge of his station, who will,
thereupon, give an order to the detention of the
said sick prisoner, a copy of which order
shall be delivered to the Person in charge, who
shall be authorized to give up the said prisoner
and placed on his journey. The prisoner so
detained shall be forwarded to Chingaput,
when sufficiently recovered, by the criminal
judge, in whose charge he has been left.

Upon the arrival of the party at
the Depot at Chingaput, the Person in charge
shall deliver his order and surgeon's
certificate to the Criminal judge who shall
forward the same for the inspection of the
Magistrate Adawlut together with a report
of the general state of health and condition
in which the prisoners have been delivered
into his charge.

The government approve this
order on 1st July 1874 and add that execution
orders may be sent to the Criminal judge,
prohibiting the practice of keeping prisoners
together when confined in jail; and if it
shall be absolutely necessary to detain prisoners
in that manner when they are marched from
one station to another, it be done with moderation

harm cups, and not with terms which are
wished."

1st May 1845: — It would appear that the
provisions of Section XXXII of Regn VII A.D.
1802 are not enforced.

The court upon demand
necessarily to call the attention of the Courts
of Circuit to the provisions of the section
above mentioned, and to direct that in
all cases in which a sentence of transpor-
tation may be ~~may be~~ passed and confirmed
by this court, the Court of Circuit, by
which such sentence may be communicated
to the Criminal Judge of the District, in
whose charge the convict may be, do, in
transmitting such sentence, direct that the
instructions, prescribed by the section above
quoted, be made on the person of the
convict. (See also C.O. of May 1846).

5th June 1845: The Court upon demand
upon the trial No 55 shall direct 9 of the
prisoners, in the said trial were acquitted
by the Fatawa of the Provincial Law
Officers, but under an impression that
their being turned loose upon society,
without giving security for their future
good behaviour, would endanger the

public tranquility, he has directed the
Magistrate not to set them at liberty until
they shall have given the security required
by Clause VI, Sec II Regulation XI A.D. 1803.

The first part of the section quoted
by the Magistrate prescribes that no part of
Regulation XI shall be considered to authorize
the infliction of any punishment whatever
upon suspects only (known by the Muhammadan
lawyers, whom Shuck, or Shaikh-i-Zadeh)
when the evidence against the prisoner is
undervaluing of credit, or the presumption
of his guilt (arising from credible testimony
or circumstantial evidence) is weak, and
does not amount to the degree of strong
presumption held sufficient for conviction,
recognized as such in the Muhammadan
law under the denomination of Ghaliqaz-
-sun. Utkur-oo-rac and Shaikh-e-Quere,
or Shudid.

The section then runs as follows:
"When the judge, before whom a prisoner
may be tried, shall not consider him
convicted on such presumptive proof, or
on the evidence of credible witnesses or on
his own confession, he shall not sentence
the prisoner to suffer any punishment;
whatever may be the fatwah of the law officers;

but in case of strong suspicion, though not amounting to conviction, as well as upon proof of notorious bad character, the judge of Circuit may direct the criminal judge to detain the prisoner in custody until he shall give security for his future good behaviour and appearance when required.

The Court are of opinion that the foregoing section authorizes the judge of Circuit to require security in cases where notorious and bad character may be proved to their satisfaction, whatever may be the nature of the law offence.

29 May 1816. - The criminal judge of Cuddalore wishes to be informed whether with reference to section XXXII Regn VII of 1802 prisoners sentenced to be transported to Penae of Woods Island are liable to Godena, and whether, as in the case of Gunderado, a certificate purporting a knowledge of the penalty consequent on a return from transportation shall be taken in future from persons under such sentence.

The criminal judge states that some persons have been sentenced without the enactment contained in section XXXI Regulation VII of 1802 be strictly applicable

to convict transported for life to Penae of Woods Island "he cannot be advised that the convicts on that Island are not kept continually confined to a part-gall; but, at times, are employed on various duties about that small locality." The

The Court think that the object of the sec 35, Regn VII of 1802 is to facilitate the re-employment of convicts sentenced to confinement for life who may make their escape from gall; this consideration must therefore also apply to convict transported beyond the seas: in fact the section declares that "all convicts of that description (i.e. who are sentenced to confinement for life) are to have the following particulars inserted on their foreheads" &c. The Court therefore repeat their order made of 1st May 1815 and declare that such inscription provided by the Regn be made on the forehead of all convicts sentenced for transportation.

24th Nov. 1820.

As the 5th of the provisions
submitted by the 3rd Judge appeared to
imply that, under the existing law,
personal injuries done to a slave
by his master are not punishable,
the Court have abstained from their
law opinions, whether the ill-treatment
of a slave, by his master, is duly
punishable by the Mohammedan law.
The law, it empowers the master to
chastise the slave only if the latter
has committed offences, not otherwise,
and not on any account ill-treat-
ment with violence and cruelty.
The Court therefore consider that the
existing regulations sufficiently
provide for the punishment of
owners of slaves, who may treat
them with cruelty. The general
provisions of the Mohammedan law
must be understood. The Police officers
must be enjoined to apprehend all
persons charged with cruelty towards
their own slaves; if the criminal

Judge thinks that punishment greater
than the law could inflict is
necessary, the case must be referred
to the Circuit Judges.

2nd May 1821

A case having been
brought to the notice of the Court in
which the punishment of stripes with
a rattan has been attended with fatal
consequences, the Court give the following
orders:

All persons sentenced by
the Court of Sessions or by the
Court of Circuit to be punished
with stripes should be brought before the
criminal judge immediately before
punishment so that he may by
personal observation or by reference to
the surgeon satisfy himself that the
prisoner does not labour under any
bodily infirmity, and that his general
state of health at the time is such
as to render him capable of enduring
the punishment without the probability
of its endangering his life. The surgeon
is to be positively required to advise.

the punishment on the upper part of the back only: with every possible attention to prevent the blood falling on any other part of the body. The punishment directed by a criminal judge to corporal punishment was to be executed by the surgeon of the station, or in the event of his absence by the nation doctor previously to his being punished and the punishment is to be performed of any prisoner when the surgeon or the doctor may consider in his opinion a state to require it. The nation doctors attached to the criminal judge are to be present on all occasions when prisoners are punished with stripes: and the punishment is to be stopped at any stage of it if the doctor is of opinion that the infliction of the remaining stripes will endanger the prisoner's life: in which case the remainder of the punishment is to be performed until the surgeon of that station shall consider the prisoner capable of sustaining it.

9th Oct 1821.

The Council are of opinion that the practice of punishing in prison persons ordered to be tried by the Court of Sirant who may be charged with offences not of a heinous nature, or who may be committed to prison from inability to find sufficient bail, is improper as being unnecessary & even their appearance at the time of trial and in being the current intention of the High Court in prison before he is brought to trial, should suffice with respect to the prisoner's personal property which are unavoidable for his wife & family. (Vide C.O. 27 June 1831)

9th Oct 1821.

The Rules for the management of public jails. —
Only the following points are of great interest. The Criminal judges are always required by the High Court to visit the jails, once a month: it is desired that such visits should be weekly.

The Surgeon General, or his
deputy, or his assistant, shall
attend to the hospital shall also
inspect the jail once a week, and
report to the criminal judge on each
visit, on the general health of the
prisoners, the quality of the food
supplied to them, the state of the jails
with regard to the cleanliness and
generally any circumstances relating
to the care and condition of the
prisoners.

The allowance for the
daily support of each person in
confinement, whether in money or
otherwise is to be provided in the Jail
Regulations.

Each convict is to be
supplied with one blanket, or
covering blanket, on his admission
into the jail, and once annually.

Each convict is to be
allowed a blanket mat to sleep upon.

The clothing apparatus
and to be stored of everything in them

once a day, except in rainy weather,
and the doors and windows of the
jail must be to remain open all
day to admit fresh air.

The fetters generally used
shall be of light and uniform
construction, and no fetters ~~shall~~
exceeding the usual size and weight
shall be put upon a prisoner, without
the special sanction of the criminal
judge.

Whenever the Surgeon or
the medical doctor thinks it necessary
to take off the prisoner's fetters,
in consequence of cold or illness,
the jailer shall remove them and
report the matter to the criminal judge.

Prisoner's apparatus in
jails shall be appropriated, as far
as may be practicable, to the particular
description of prisoners, who are
required to be kept separate as per
provisions of section xxix, Page
X of 1846. The different classes of prisoners
shall, on no account be permitted to

~~interfere~~ any interference: and the
court and judges are required to be
particularly careful that persons
in confinement for examination
be never imprisoned in the same
ward with prisoners under
sentence of imprisonment.

The wives and other female
connections of the prisoners shall
not be permitted to enter the jail.

Intoxicating liquors and
drugs are expressly prohibited
from being admitted into the goal.

Any convict who shall
be found to have torned his chains
shall be fettered with hand cuffs
and neck chains.

The walls of the jail
shall be scraped and white-washed
once every quarter.

The linen of the prisoners
shall be regularly washed at
short intervals. Water in the wards
shall not be allowed to be polluted.

The European nursing ladies
employed in the jail shall all possess
and be actually such and require
medical attendance and removal
immediately to the hospital.

The native doctors shall
reside in the vicinity of the jail.

A sufficient no of cells of
common construction shall be
provided for the accommodation of the
evils confined in the hospital.

1st Aug. 1824.

The Court observes that at
certain stations it is the practice to
allow convicts, sentenced to hard labour,
on leave on the public works or
other public works, to work on private
grounds of the European civil officers.

This practice, contrary to
the Regs must be stopped. —

1st June 1829.

All inmate prisoners

who may prove dangerous to the society shall be confined in the Hospital attached to the jail under the care of the European medical officer. From their compulsory labours shall be sent to Madras to be lodged in the Lunatic Hospital.

Ward to buy cows in which inmate prisoners are charged with crimes.

sup 126-27.

25th Jan'y 1830-13.

To check abuses. the allowance to all prisoners in the criminal jail should be issued in grain exclusively instead of money. And to maintain discipline no luxuries such as betel, tobacco, and opium should be issued to the prisoners except on the requisition of the medical officer. See also

24th Oct 1830, 25 Jan'y 1832 and

5th June 1832.

12 July 1830. Prisoners should not be allowed to come before the court.

19th Jan'y 1831. When prisoners have not been made over to the military authorities, and the improvement or repair of the high roads in the vicinity of the station does not give employment to all of them, it is desirable that such as are in good health should be employed on works giving a profitable return. Of this description are the manufacturing and sale of bricks continuously, or when stone is quarried and for building, the breaking it into pieces fitted for that purpose. the cutting of fire-wood, the digging of wells, and works of a similar description. If necessary, a few persons may at first be entrusted to teach the prisoners these duties. Persons weak in body and all prisoners sentenced to imprisonment and labour under 7 years, as well as those held to answer, the court all of whom may be most advantageously employed, within the walls of the jail.

in the manufacture of paper for the use of
the post and Revenue, weaving cloth
or umbrellas, for the use of the prisoners
themselves or for sale; sewing wear,
forging nails and other iron implements
of labour, or making gunny bags,
baskets and even mats for sale. This
last kind of work is best suited for
females. The Criminal Judge of
Nellore, in the Northern Division,
of Cuddapah in the Central Division,
and of Madras in the Southern Division,
can transfer prisoners temporarily to
other divisions districts, to give
instructions in the manufacture of
paper.

14th March 1831

Govt will not object to
sanction the grant of a gratifying fund
to prisoners who may have distinguished
themselves by their industry, of a
sum of money out of the proceeds of
their labour, proportional to the
comparatively superior quantity of
labour performed by them.

27 June 1831.

The Govt having reason to
believe that the practice in regard to the
confinement of prisoners in chains, is
not uniform in the several jails,
and being of opinion that, except in
cases of absolute necessity, no prisoner
should be subjected to the degradation
of wearing chains, which consists of a
previous offence, ordered that Criminal
judges, joint-criminal judges and Native
criminal judges shall not confine in
chains, previous to conviction, any
person who may be charged with a
bailable offence. (Vide C.O. 8th Oct 1831
Rules 40 and 42). Orders for warrants
of capias issued in writing, previous
conviction for trial before the Circuit
Courts shall not be confined in chains.
The criminal judges shall not sentence
a prisoner convicted of a non-bailable
to be confined in chains, nor shall chains
be used in such cases, except for special
necessity arising out of bad conduct
of the prisoner during his imprisonment.
- the ground reason also should be recorded.

24 Feb 1832

The Court direct that

the annual magistrates be instructed to
the Courts of Provincial Courts of
Circuit, to warn all heads of villages
and subordinate police officers,
that they are required on pain of fine
or dismissal, to make known
immediately to the head of the Police,
whenever they may be informed that
a riot is intended; and the Court
further direct that the provisions of
clause 4. Reg. I of 1830,
be generally proclaimed throughout the
villages.

10 May 1833.

From the acting judge of
Circuit in the Court Division for
all the district of the Madras Presidency: —
14 persons committed for trial died
out of 134. The disease called Cholera
has caused off 9 out of the 14.
It appears that the committed persons,
among whom this disease has reigned
are not required to perform any
labour whatever and yet that the

same diet allowance as the morning ~~stars~~
convicts. The medical officers say that
this will be the cause of the disease —
It may be urged to direct that all
prisoners go at the public expense,
where state of health and want of life
may not forbid, and who are not
otherwise profitably employed in
labour, should be supplied with grain
in the house and required to beat it
out for themselves. The occupation and
exercise could not but be beneficial to
them. — The Court approve these suggestions
and direct that.

10 Feb 1841.

Having been informed, the following
called on the late of slavery as recommended
by the Commissioners have officers sent to
the General court for their guidance:

"We request the slaves of this
country (whether they are of African or
Asiatic race or any other race.) be
supplied with food from their parents
either during famine or at other times.
— and slaves are not? unless the

Muhammadan law, for to be sold and
purchased. If they go away from the
house of their masters without their
permission, they are at liberty to live
wherever they please - and they are not
liable to any trial under the law in
question.

Regulations.

Regn II of 1902 - Establishing courts of justice
for the trial of civil suits

Regn III of 1902 - for establishing & providing
- civil Courts of Appeal for hearing
appeals from decisions rendered in
the High Courts.

Regn IV of 1902 - Establishing Sudder-
Adawlat or the chief court of
civil jurisdiction for trying the
appeals from the decisions of the
Provincial Courts of Appeal.

Regn V Establishing Courts of circuit
for the trial of persons charged
with crimes. - Judges of the
Provincial Courts of Appeal
shall be judges of the Courts of
circuit.

Regn VI for establishing the
Presidency Adawlat for the
trial of criminal ~~cases~~ cases
in the Port of Calcutta. - ^{Like the}
Sudder Court. Not court also is to
consist of the Governor and the
members of the Council.

Regn XI of 1802 - appointment of Hindu
& Muhammadan law officers, of
the civil & criminal courts.

Regn. XV of 1803. determining the punishment
to be assigned by the courts in
cases wherein a direction is left
by the Muhammadan law for
assigning the crime & punishment
by testimony &c. and for declaring
what crimes shall be liable to
transportation &c.

Regn II of 1806 for establishing & enacting
of Adawlat in the several districts in
which the Muhammadan establishment
has not been introduced. &c.

Regn IV of 1806. To separate the legislative
& executive authorities, the Court
of Sadr & Fyzdary Adawlat
shall consist of 3 judges; - the
Chief judge shall be the Governor
& Council. the 2nd & 3rd judges
shall be selected from among the
experienced civil servants, not
being the members of the Council.

Regn I of 1807. for amending the
constitution of the Court of
Sadr & Fyzdary Adawlat. -
The Chief judge of these Courts
shall be selected from among the
Company's experienced civil
servants, not being the members of
the Council.

Regn III of 1807. for modifying the
constitution of the Sadr & Fyzdary
Adawlat. - Chief judge shall be
a member of the Council but not
the Governor or the Commander-in-
Chief. 3 puisne judges shall be
selected from among the Company's
experienced servants.

Regn VI of 1808. - to withdraw the Senior
Judges of the Courts of Criminal
from proceeding upon the circuits
and to extend the authority of the
Fyzdary & Sadr Adawlat.

Regn. XII - for the suppression of persons
charged with dacoity or gang-
-robbery

Regn. IX of 1816. — for transferring the
office of the Hindu magistrates from
the Judge to the collector.

Regn. IX of 1816. Judges of the Hindu-
Courts shall be criminal
judges of their respective
jurisdictions.

Regn. I of 1818. — To cut the extraordinary
Advocate with direction to pass
sentence of punishment in cases,
although the fact of the law officer
may not declare the prisoner to be
guilty of the fact or facts charged
against him, or liable on strong
presumption to discretionary
punishment, the Judge of the
court may be of opinion that the
proof against the prisoner is
sufficient to convict him of the
whole or any part of the charge;
to modify Muhammadan law
in cases of Zina or whoredom
as in cases of accidental homicide;
as also to dispense with the process
of "Godna" in cases of conviction of

the crime, of perjury, subornation of
perjury, or forgery; &c. — Clause
I see 3 Regn. VI of 1811 remained.

Regn. VII of 1818. — Paypee Regn.

Regn. II of 1819. — Regulation for the
confinement of State prisoners.

Regn. IV of 1819. for punishment of
obedience, opposition &c on the
part of the native officers of
Police.

Regn. I of 1821. allowing the jurisdiction
of the Hindu & Provincial Courts

Regn. I of 1822. — For the more
effectual punishment of robbery
by open violence.

Regn. II of 1826 — Regn. for the more
easy conviction of the crime of
perjury.

Regn. X of 1824 — for the gradual introduction
of trial by jury into the
criminal judicature.

— Regn. VIII of 1828 — for abolishing the
use of the Kaddan as an instrument
of punishment and for

substituting in lieu thereof the cat-of-
-nine-tails.

Whereas it has been found
that stripes with a catan are a
very unequal mode of punishment,
varying with the size of the
instrument and the strength of the
person using it, and occasioning
serious bodily injury, far beyond
the intention of the law: Therefore,
this Act has been enacted —

"The use of catan as an
instrument of punishment is
fully abolished.

III Those entitled to receive
stripes with a catan shall receive
lashes with a cat-of-nine tails.

IV 5 lashes with a cat-of-
nine tails shall be considered
equivalent to one stroke of a catan.

I Cat-of-nine-tails to be
supplied from the stores of Govt.

Act VI of 1824. Whereas in section VII
Regulation I of 1825 requires the
judge of circuit to pay for the

contents of the Court of Poydony had under
every trial in which the conviction of the
prisoner depends exclusively or
principally upon the evidence of
witnesses objected to by the Prosecution
law officer; and whereas the intention
of this enactment shall be maintained
and the administration of justice
quadruply accelerated, by enabling the
judge of circuit to pay and receive
without expense to the ^{Prisoner} ~~Govt~~ ~~Prisoner~~
on persons convicted of crimes
punishable by death, and on which
the objection taken to the evidence
by the law officer consists exclusively
of certain personal objections to the
deponent, and is not founded on the
inefficiency of the testimony given
by them, or on other grounds apparent
and distinct from such personal
objections: this Act is passed.

Sept 1 of 1930. for declaring the
practice of Sati illegal and
punishable by the criminal
courts.

The practice of Sati
or of burning or burying alive
the widows of Hindus, is revolting
to the feelings of human nature,
it is no whim enjoined by the
religion of the Hindus as an
imperative duty, on the contrary,
a life of purity and retirement
on the part of the widows is more
especially and properly incumbent,
and by a vast majority of the
people throughout India the
practice is not kept up nor encouraged;
in some extreme districts it does
not exist: in those in which it has
been most frequent it is notorious
that in many instances acts of
atrocious have been perpetrated
which have been shocking to the
Hindus themselves, and in these

eyes unblinded and unclouded. The
means adopted to discourage
and prevent such acts have failed of
success, and the Government in Council
is deeply impressed with the conviction
that the abuse in question cannot
be gradually put an end to without
abolishing the practice altogether.
Actuated by these considerations,
the Government in Council, without
intending to depart from one of
the first and most important
principles of the system of British
Government in India, that all
classes of the people be secure in the
observance of their religious usages,
so long as that system can be
shown to withstand violation of the
paramount dictates of justice
and humanity, has deemed it
right to pass the following Act.

" The practice of Sati is declared
illegal and punishable by criminal
courts.

First
in all numerous calculations etc held
responsible for an immediate
communication to the officers of
the nearest police station of
any individual suspected - otherwise
they shall be liable to a fine not
exceeding \$500 or in default of
payment imprisonment not
exceeding 6 months.

Second. Heads of police or members
of information shall proceed in
person to the spot and announce
to the persons that the act is illegal
and endeavor to prevail on them
to disperse. Should the parties
still continue to ~~stay~~ ^{gather} the police officers
shall use all lawful means in
their power to prevent the assembly
from taking place, and to
suppress the persons
aiding and abetting in the perpetration
of it &c.

Third. The magistrates or justice
magistrates shall ~~invest~~ ^{investigate} enquire
into the circumstances of the
case and shall advise the

necessary measures for bringing
parties concerned in murdering it
to trial before the Court of Circuit.

Second. Persons convicted of aiding and
abetting in said shall be
deemed guilty of culpable
homicide and liable to punish-
ment by fine, or by imprison-
ment at the discretion of the
Court of Circuit.

Third. Persons committed to trial
trial before the Court of Circuit
shall be admitted to bail or not
at the discretion of the criminal
judge.

V. The Court of King's Bench
not precluded from passing
sentence of death on persons
convicted of using violence or
compulsion or of having
committed in burning or burning
above a window or window, while
labouring under a state of
intoxication or stupor or
other cause impairing the

exercise of his free will.

Reyn II of 1830. for abolishing the
use of the corah as an
instrument of punishment
and substituting in lieu thereof
the cat of-nine tails.

Whereas by clause first
section II Regulation II of 1811
"worthy stripes with a corah"
formed part of the sentence when
a judge of circuit is authorized
to pass on persons convicted of
perjury, or forgery - and
whereas it is desirable that one
uniform instrument of
punishment should be used.
for inflicting & stripes in all
cases. This Reyn is passed.

11 The use of the corah is
abolished and 5 stripes with a
cat-of-nine tails substituted for
one with a corah.

Reyn VII of 1831 for uniting in
single judges of the court of
Sass and Koyidany Adawant
and six single judges of the
Provincial court of Appeal.
under certain restrictions.
The power exercised by two or
more judges of these courts
separately.

Reyn X of 1832. to create the criminal
judges, joint criminal judges,
native criminal judges and
magistrates in charge of the
public justice, to maintain
good order and discipline
in their jurisdiction and among the
persons employed in the
public roads and in other
public works.

11 The criminal judges so
shall be guided by the rules which
have been prescribed by the govt
of the court of Koyidany Adawant
by the better management of such judges.

to So also for the prisoners
employed on public works

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Regulation II of 1833. for exempting
female from corporal
punishment.

" No female shall hereafter
be confined to corporal punishment
by orders by the Magistrates
and their assistants, by any
of the courts of criminal justice,
or by any other authority
to whom the power of adjudicating
that punishment may be given
by any Regulation enacted by
this Government.

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