



# TRIAL AND PUNISHMENT SYSTEM IN MEDIEVAL TRAVANCORE

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## Abstract

With the evolution and development of man and society, crime also grew in diverse forms and degrees. People were prone to do crime for certain reasons or needs. Crime was not something peculiar to Travancore. When we analyze history, we can find that there is no organized crime, nor even professional criminals. The commonest offences were those against the person, against property and those involving disputes regarding the possession of land with cases of smuggling and forgery. There are, both criminal and civil, crimes were happened. But there were any distinction in early days regarding the criminal and civil offences. In that time heinous offences were crime against the King, assemblies and the temples etc.

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## Introduction

To check the crime and to regulate social order, there emerged the need for correctional institutions. Various traditional methods were used to detect the crime, these methods have no empirical and had a scientific base. These ordeals are mainly based on mere faith in super natural force. In the medieval Travancore, there were no such structure of judicial system or written code of law in these matter. As the King was the highest authority, he was the last voice to the settlements of the trials. There were no uniformity in trials and punishment of same crime, it varied from caste to caste and place to place. Later on new rules were framed partially for the controlling of criminal and civil cases, based partly on the Dharmasastras in the earlier days, but not strictly enforced. Judicial cases scientifically and rationally solved through the East India Company's structural institutions. In the early period, a popular method

employed in detecting crime was dealt with the traditional system of **trial by ordeal** and how it was replaced by other modern techniques like conducting enquiry, examination of witnesses and evidences.

The ordeals were not applied to all sections. They were held based on their caste distinction. The Brahmins were tried by the ordeal by balance whereas Kshatriyas by fire, the Vaishyas by water and the Sudras by poison. But those who were below the status of Nairs were subjected to trials by ordeal. Generally, ordeals were held in front of King's palace, in a temple or in the public market. Ordeal for the accused involved in heinous crimes was held in the premises of a temple and the person accused of treason were held in front of the king's palace. Persons born of high caste mother and low caste father were tried in the public market. Ordeals proved that causes or motives for murder were jealousy, sex, property dispute and money dispute. Implements used for perpetration of crimes were knife, chopper, dagger, axe, pestle, plank, hammer and the methods were strangulation and drowning.

## 1.0 Types of ordeals

There are different types of ordeals for different castes.

### 1.1 Water Ordeal

Different methods of water ordeal were followed, for the trial of murder cases. Among them the most popular one was that, the accused was forced to collect three vessels of water, used for washing the deity and directed him to drink it for fourteen days continuously. If he was not affected by any sickness, he was considered innocent. But if he was affected by any sickness or internal pain, he was proved guilty and proper punishment was given to him.

In the later half of the 17th century, a different form of water ordeal was followed at Kodunganallur. In this ordeal, the accused was compelled to swim across the river infested with crocodiles from the temple of Trikkatakka Palli situated on the western bank of the back water to the south of Pallipuram or Paliport, a distance of about half-a-mile. If he returned safe, he was considered innocent. If the crocodiles devoured him on his way, he was proved guilty.

Another kind of water ordeal was that the images of God of Justice in silver, iron and clay were put in water. Then the accused was directed to take one image from the water. If he picked up the silver image he was adjudged innocent. On the other hand, if he picked up iron or clay image, he was considered as guilty.

An interesting water ordeal was that both the defendant and the plaintiff were directed to remain under the water holding fast stakes. Those who remained in water for longer time were considered innocent. But in once instances, both the defendant and the plaintiff were drowned, and so the case was not settled. Hence, this method of trial was dropped in course of time.

## 1.2 Fire Ordeal

Barbosa, a Portuguese missionary in his account mentioned about fire ordeal. As per that, a Moorish culprit was directed to place a red hot axe in his tongue for criminal offence. On July 30, 1749, a Nair was suspected of stealing gold, based on the false evidence of a Moore man. To find out the truth, both of them were directed to take the ring placed in the boiling ghee. Their hands were sealed and opened after three days. As there was no mark like a burn, they were released from the charge. This system was very popular and effective and it was also adopted among the higher castes including the Brahmins.

## 1.3 Ghee Ordeal

The ghee ordeal was followed mainly to prove adultery. It was popularly known as *satya pariksha* in Malayalam and *kaimukku* in Tamil. *Kaimukku* literally means dipping of the hand in boiled ghee. The palm leaf records indicated that *Kaimukku* ordeal was conducted for the violation of sexual morality. It showed the importance given to feminine chastity. It was adopted mainly to determine the guilt of the accused. If the suspected persons were *Nambudiris* (kerala brahmins), the ordeal was held in the temple at Suchindram near Cape Comorin in South Travancore, for others the ordeal was held in a temple at Karthigapalli. The adulteress was set apart from the family and the partner involved in crime was given an opportunity to prove the innocence by putting the finger in the boiling ghee. The Sukasandesa of Lakshmidasa evidence reveals that this ordeal was introduced in the 13th century. The *Kaimukku* records of Tekkuman Mathen Potti and Vattapalli Sthanikar reveal the date, trial and result of the ordeal conducted there.

After dipping the fingers in the ghee, the hand was tied with a cloth. On the third day, the cloth was removed from the hand and if the hand had no wound or blister he was declared innocent. On the other hand if the hand had blister, his guilt was confirmed. The punishment for this was that the accused was declared as an outcaste. Out of the eight incidents mentioned in the palm leaves in Suchindram Temple, three were proved innocent. The last of such trial took place in 1844 in which two Nambudiris were set free. But in 1844, Maharaja Swati Thirunal abolished this system on the ground that it was outdated, unscientific and cruel.

## 1.4 Ordeal of Poison

Giving poison to the culprit was another kind of ordeal. There were two kinds of poison ordeals. In one form, the Brahmins used to chant mantras and mixed three barley corns of a poisonous root or white arsenic along with ghee. The accused was compelled to eat it. If it did not affect him he was proved innocent. Otherwise, he was declared guilty. 26 The second form of such ordeal was that a cobra or any other venomous snake was placed in an earthen pot and the accused was asked to put his hand inside. If he was bitten, he was considered guilty. Otherwise he was proved innocent.

## 1.5 Ordeal by balance

It was an ordeal for the Namboodiri to prove his innocence. The weighing apparatus for this purpose was decorated with garlands. On one scale of the apparatus the clay from the temple tank was put and on the other scale the Namboodiri was made to sit. As per this ordeal if the scale in which the Namboodiri sat, went up he was considered innocent. On the other hand if the scale went down, he was adjudged guilty. Tao Bahadur O. Charidu Menon, the famous Malayalam Novelist, witnessed this ordeal.

Another type of ordeal was popularly known as *Smarthavicharam*, which was practiced mainly among the Namboodiri women. This type of enquiry was mainly in the charges of immorality against Namboodiri women. After the trial woman was exile from her family.

The Hindu law followed in Travancore was known as *Vyavahara Malaka*. Justice was administered according to this Hindu law. The judgment based on this was extravagant and cruel. Even then, this system was followed till the middle of 19th century. But, due to the spread of Western education and work of Christian Missionaries, awareness was created among the people. As a result, the trial by ordeal system was replaced by examination of witnesses, conduct of enquiry and evidences. With the adoption of the new system, the traditional system of ordeal vanished.

There were rules regulating the seasons during which the several kinds of ordeals were applied. They were designed to prevent the consequences of the ordeal from being prejudiced one way or the other by abnormal atmospheric conditions. Mostly all the trials happened in the April, May and December months. Ordeal by water was to be applied in the hot weather and also in October and November but never in cold weather. Poison was administered in December and March. but not in the rainy season.

## 2.0 Types of punishments

There are different punishments for different crimes. Some of them follows,

### 2.1 Punishment on Debtors

In Travancore, a peculiar method of punishment was given to debtors and criminals during 18th and 19th centuries. The Government or Chief of the district confirmed the punishment. The method of collecting money from the debtor was that, the defaulter was taken by the chief of the district and placed him within a circle drawn around him. A sharp stone was placed on his head and if the defaulter still persisted in non-payment, the Chief placed another sharp stone and tied the two stones firmly. Additional weights were placed again and again, till he accepted to pay the amount. As the weights of the sharp stones penetrated into the head of the defaulter, he had either to make the payment or to

suffer in pain. Defaulters of payment of tax were also punished severely. They were made to stand in the hot sun for hours with huge stone on their back and finally were put in prison.

Corruption and bribery were serious crimes. Public servants, involved in these crimes were punished severely. Temple servants, appointed as accountants were expected to discharge their duties without any corruption and to keep correct account. If they were involved in corruption, severe punishments were given to them. For instance, during the reign of Maharaja Balarama Varma (1798-1810) the accountants of Suchindrum temple maintained false accounts and swindled money. The government viewed it seriously and the then Dalawa Velu Tampi punished them severely. The temple accountants were directed to sit on wooden planks by placing their palms on the thigh and a nail of two feet was pierced through the palm. Moreover, two statues of this kind were made and kept in the northern entrance of the temple at Suchindrum as a warning to the people.

## 2.2 Mutilation

Mutilation of limbs was another kind of punishment that was meted out to criminals in ancient Travancore. One of the post Sangam literatures, Naladiyar mentions that one who trespassed into another's dwelling house with the intention of committing adultery, had his legs cut off. A thief arrested with stolen property was beheaded.' In 1799, Velu Tampi Dalawa demanded arrears of taxes from a Christian Mattu Tarakan. He expressed his inability to pay the large sum of money. So he was punished by cutting off his ears. For certain kinds of offences, the offender was imprisoned in a tiger cage and exposed to public gaze and ridiculed.

People converted to Christianity faced many hardships and punishments. In 1752, Devasahayam Pillai a convert to Christianity was taken on a buffalo from village to village. On the way, he was beaten with strips and pepper was rubbed in his wounds. He was exposed to the sun and was given stagnated water to drink. In 1829, the Christian converts at Padmanabhapuram were chained and their legs were swollen by the iron's.

## 2.3 Exile

Exile was another kind of punishment. It was a common punishment for those who were disloyal to the government. Those who were involved in such activities were exiled to Puloipino, an island near the coast of Burma or other equally far off places. In later days, it was meted out to robbery and anti-social elements also. For the easy identification of exiled criminals, they had "tattoo" marked on their foreheads. It helped to identify them when they escaped from captivity. Sometimes a rebel was sent to thick forests or mountains of Malabar with strict orders of not to return. The aim of branding was to humiliate the offender by attaching some marks on the body. There are evidences to show that during the reign of King Martanda Varma branding was in existence. Inscription of a special letter or sign on the forehead, or hands using the juice of some herbs was the method of branding. Tattooing on the forehead the figure of

a dog was the punishment meted out to four Brahmins who were proved guilty of conspiring against the king. The Mathilakam Records furnished details of branding fourteen Brahmins for the offence of eating non-vegetarian items. The mark of dog was branded on their forehead and they were transported to Thovala.

## 2.4 Punishment of Death

Punishment of death was reserved for severe cases like acts of violence or protest against rulers or Naduvazhi or Chieftains. Capital punishment was awarded for counterfeiting currency, theft, murder, treason and harassment of women. As killing of cow was a severe offence, capital punishment was also given for it.

Ibn Batuta, the Moorish traveller who visited India between 1333-1345 mentioned that the Hindus in Travancore were put to death, even for stealing a nut. When a fruit dropped on the ground, no body had the right to pick it up except the owner. In one instance a Hindu passed by the road picked up a nut without the knowledge of the owner. As it was considered a crime, the governor ordered a stake to be driven into the ground and its upper end to be cut and fixed on a wooden plank in such a way that a portion of it showed up above the plank. The culprit was placed on it and fixed the stake so as to enter his abdomen. He was left in this posture to serve as a warning to the spectators.

## Evolution to modernization

The Temples of the Medieval Travancore served as law courts with civil, criminal and ecclesiastical jurisdiction. Based mainly on local traditions and customs and the Dharmasastras, the temple authorities dispensed justice free of charges. At the reign of Swathi Thirunal, he reformed the judicial system by starting Munsiff courts for settling the police cases. Hence, all these traditional and irrational methods of ordeal were abolished.

In the 19th century, the police played a vital role in the detection of crime, because trial by ordeal was abolished. Modern methods of investigations started, for bringing efficient and accurate investigation, the departments like Fingerprint bureaus and CID system started.

Criminal Investigation Department men help detecting cases very differently. The department men appeared only in plain clothes and visited all sathrams, railway stations, markets, bazaars, traveller's bungalows, campsheds, public office premises, printing press, festival crowds, public meetings, in order to capture the culprits and collecting the evidences.

Taking fingerprint was a method of detecting crime In Travancore, this system was started in 1900. The experts from the Finger Print Bureau visited the scenes of crime and took the fingerprints and footprints found in the scene of crime and subsequently compared them with the fingerprints and footprints of the suspected person.



Detecting crime and to find out the culprit was an important task of the police department. In order to give effective security to the people and the property, the police took some severe measures to prevent crime.

On 11 November 1944, Sri Chitra Thirunal, the Maharaja of Travancore made revolutionary changes in the administration of criminal justice by abolishing capital punishment. Travancore was the first country in the whole of Asia to abolish capital punishment. This humanitarian reform of the criminal law, based on the reformatory theory of punishment was a monumental testimony of the vision and farsightedness of the Maharaja.

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