

## ABOLITION OF TRIAL BY ORDEAL IN TRAVANCORE UNDER COLONEL MUNRO

### Abstract:-

In ancient days, only a famous Siva temple was considered as a suitable venue for the conduct of the ordeal. It was because Lord Siva was reputed to be the ferocious deity. Thus ordeals were conducted in Siva temples like those of Kartigappalli and Cengannur. But, a distinctive factor, which appears to have prompted the introduction of ordeal in Suchindram, was the association of Indra's purification with this sacred flame. In order to release himself from the curse of Gautama, Indra underwent the process of submerging himself in boiling ghee at Suchindram. This mythical story is served as the cause for the institution of the ordeal at this place. It must be mentioned that besides Suchindram, there were many other places in India and outside, where ordeals were conducted from early times.

The Hindus adopted the ordeal in nine different ways. They were by the balance, by water, by fire, by poison, by the Gosha or drinking water in which images of Sun and other deities had been washed, by chewing rice, by hot oil, by red-hot iron, and also by drawing two images out of a jar into which they have been thrown. Literary references are many in our country to the adoption of these various ordeals. In Travancore, ordeals were conducted in the famous temples of Suchindram, Kartigappalli, Cengannur and Ettumanur down to the end of the 19th century. The original records relating to the ordeal in Suchindram indicate that it was confined only to the Nambudiri Brahmins. As a scheme of judicial organization, Colonel Munro, took all possible steps to abolish trial by ordeal. This step by Colonel Munro was a great measure of judicial reform in the history of Travancore.



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## INTRODUCTION

### THE ORIGIN OF THE ORDEAL IN TRAVANCORE

The date of introduction of the ordeal in Travancore is one of the most difficult problems to settle. On the one hand, tradition claims that it was instituted in the Suchindram temple at a very ancient period. While popular belief ascribes its establishment to *Parasurama* himself, some hold that it was set up by the joined efforts of the early Chera Chola and Pandya sovereigns. Others ascribe it to Mahodaya Perumal, who is said to have reorganized the social customs and institutions among the people of Travancore.

On the other hand, all the *Kaimukku* or ordeal records, so far available, pertain only to the 18<sup>th</sup> and 19<sup>th</sup> centuries. The earliest evidence of a written document takes us back only to 1627, has been found in the Vattappalli Madam. This being the only direct basis of information, other sources have to be sought for estimating the period of its first appearance in Suchindram. The *Kaimukku* or ordeal at Suchindram has been exclusively reserved for the *Nambudiris*, it is very likely that it was introduced only after the establishment of Venad supremacy over the place in the 12<sup>th</sup> century.

### THE IMPORTANCE OF THE ORDEAL

No institution has attained a unique celebrity in the history of Travancore as the time-honoured ordeal conducted in the temples, which is popularly known as *Kaimukku* ordeal. It was a peculiar mode of testing the innocence of an offender. He was to dip his hand into boiling ghee at the temple, and if his hand was left unhurt, his innocence was established.

Originally this ordeal was instituted in the temple of Suchindram because of its antiquity and the sacredness of the temple. The establishment and frequent adoption of the ordeal proclaim the sanctity and popular esteem of the temple. The circumstance that the ordeal was exclusively restricted to the *Nambudiris* or the Malabar Brahmins, added a special reputation to the temple. Thus for the conduct of the ordeal increased the fame of the temple all the more.

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### ANCIENT ORDEAL

The Hindus adopted the ordeal in nine different ways. They were by the balance, by water, by fire, by poison, by the Gosha or drinking water in which images of Sun and other deities had been washed, by chewing rice, by hot oil, by red-hot iron, and also by drawing two images out of a jar into which they have been thrown. Literary references are many in our country to the adoption of these various ordeals. For example, reference found the epic story of the virtuous Sita, after her deliverance from Lanka, proving to her jealous husband her innocence by passing through fire. The fire ordeal is vividly explained also in the Hindu codes of *Yajnavalkya* and others.

Literary as well as epigraphic evidences prove that the ordeal was adopted quite often in different places of South India. It is learnt that 'Tiruttakka Devar', the author of '*Jivakacintamani*', had to undergo the ordeal of handling a piece of red hot iron in order to prove his purity. The Puranic story of Nanda, the devotee, in order to prove his sincerity by emerging unscathed from the ordeal of fire, is well-known. Further in *Periya Puranam*, it is stated that in the great religious contest between the Jain Pandits and Tirujnanasambanda, their respective holy books were subjected to the fire ordeal in order to prove their sanctity, and that the Saiva cause finally triumphed. Moreover we hear of the ordeal to which Kulasekhara Alvar pushed forcibly his hand into a pot containing a snake in order to prove the innocence of the Vaisnava devotees who were charged with the theft of some jewels in a temple.

An interesting instance of ordeal took place in the 13<sup>th</sup> century. In connection with a theft of cash and jewels in the temple of Tirunelakkunramudaiya Nayanar, the suspected temple servants were asked to handle a red-hot ploughshare in the court. It is stated that the hands of all the suspected priests were burnt and that they admitted their guilt.

In later days there have been found the practices of devotees jumping into fire-pits or pouring boiling water over the body in order to evince their divine inspiration in various parts of South India. The more cruel practice of beating the chest with a red-hot chain of iron was also in vogue. These are ordeals that

have been largely resorted to by the devotees to impress upon the populace of their sincerity and devotion.

The people of Malabar adopted several kinds of ordeals for testing the guilt of people. Fra Bartolomeo writes- "In former times, if a suspected person waded through the stream infested with crocodile or put his finger into boiling oil, melted lead or a cocoanut shell in which a snake was concealed and drew it out unhurt, he was declared to be innocent", and these strange methods of trial were in practice so late as the 19th century. Forbes is of the opinion that, in the British District of Malabar, ordeals of different kinds were resorted to, and that they were conducted under the superintendence of the British Officers. He further adds that the seal of the East India Company was printed on the waxcloth covering of the hand. These facts give us proof that the British Government recognized and employed the age-old systems of trial by ordeal in the early days.

In Travancore, ordeals were conducted in the famous temples of Suchindram, Kartigappalli, Cengannur and Ettumanur down to the end of the 19th century. An important feature about these trials in Travancore is that the ordeals were invoked not only in cases in which Hindus were involved, but the suspected offenders belonged to other religions, ordeals of one kind or other were employed. But they were not permitted to conduct the test inside the temple. Even Moors, Jews and Christians in Travancore having been subjected to such tests. A Jew complained to the British Resident of Travancore in 1821 that, under a burden of suspicion, he was asked to plunge his hand into a vessel full of boiling oil.

#### THE NAMBUDIRIS AND THE SUCINDRAM ORDEAL

The original records relating to the ordeal in Sucindram indicate that it was confined only to the *Nambudiri* Brahmins. Local tradition fully supports this. But, the sacred ordeal was not resorted to by any one other than a Nambudiri. The palm-leaf records indicate that, by far the largest number of ordeals occurred in respect of sexual offence. Out of a dozen records, barely one deal with the crime of murder; all the others pertain to violation of sexual morality. Apparently, the explanation for this circumstance is found in the great importance attached by the Nambudiris to feminine.

A peculiar social custom among the *Nambudiris* in Travancore was that the eldest man of the family alone was entitled to marry from his own caste. While it led to the junior members keeping company with girls of other castes, this social custom resulted in a numerous body of *Nambudiri* women remaining spinsters. The great emphasis on a high standard of feminine chastity is largely ascribable to this feature. The regulation of women's conduct in private life and the dreadful penalty meted out to women convicted of normal lapses prove unmistakably the supreme prominence attached to womanly conduct. In addition to a number of stringent injunctions, the *Nambudiris* had also developed in their villages a peculiar mode of trial for sexual offences - the trial known as *Smartavicaram*.

The trial undertaken by the Village Headmen of cases of alleged conjugal infidelity is described as '*Smartavicaram*', because these trials were conducted under the auspices of the 'Smartan'(Judge) of the village.

#### THE PROCEDURE OF THE ORDEAL AT SUCINDRAM

The technicalities of procedure adopted in respect of the ordeal in the temple as gathered from the *Acarakkanakku*, royal *nittus* (commands), and other records of the temple may be described as follows: used, if he desires to prove his innocence, requests the *Bhattadiri* (headman, invariably the *Smarta* himself) of the village Panchayat which charged him with the crime, to grant him a letter of authorization to undergo the ordeal at Suchindram. First, the accused takes the letter to the residence of the Maharaja and respectfully places it at his feet along with a fee of 66 *fanams* on a silver plank, and representing to the ruler his grievance, states his readiness to submit himself to the ordeal in the temple. The Maharaja then orders to prepare a *nittu* or communication addressed to the *sabhai* of the temple and sends it through a *Tevvari*.

On reaching the temple, the *Tevvari* intimates the *Koyikkaran* the object of his mission. Soon after, the members of the *Sabhai* i.e. the *Yogakkar* or *Uranmaikkar*, together with the Srikaryam Nambudiri, assemble in the *mandapam*, when the *Tevvari* announces to them the royal order for conducting the ordeal. If the *Yogakkar* finds any difficulty or inconvenience in the matter of conducting the ordeal within a few days, they intimate to the Maharaja this circumstance. After such temporary difficulties are got over, or if the *Yogam* is ready to institute the ordeal immediately, the members assemble at the *mandapam* at an appointed time.

*Puttillam*, one of the *Uranmaikkar*, takes the letter from the Maharaja consulting the Srikaryam Nambudiri, enquires of the accountant of the *sabhai* whether the royal command is in order and is in conformity with the established form. When it is found that there is nothing irregular, *Puttillam* passes it on to the accountant, who respectfully receives it from him. Then the accountant, with the permission of all the members of the *Yogam* and the *srikaryam Nambudiri*, reads out the order.

On completion of this preliminary procedure, the assembly rises for the day. The *poppane Bhattadiri*, takes his seat on a wooden plank and places the *nittu* on another. About the same time, the *Tevvari*, the royal messenger, accompanied by the accused reaches the house of *Bhattadiri*, and bowing before the latter, places the original order and a sum of 66 *fanams* before him. The *Bhattadiri*, after perusing the original letter hands over the royal *nittu* to the accused. The *Tevvari* and the accused proceed to *Sthanikar*

or the eldest male member of the Madam. Placing before him a fee of two *fanams*, they acquaint him with the object of the mission. The *Pattar* immediately proceeds along with them to the temple. The accused enters the temple by the *Puppiravatukkal* and takes his stand to the east of the entrance. The kinsmen of the accused, the representative of the villages of the defendant, and also the person who had written the letter, take their stand to the west of the doorway. It is stated that before the *Yogakkar* and the *Srikaryam Nambudiri* take their duly appointed seats near the *Puppiravatukkal*, none should set his eyes on the lamp inside. About the time of sunset, the members of the *Sabhai* come to the spot and sit in their allotted places.

The *Srikarayam Nambudiri* takes his seat in the *Kannimula* with the royal letter held out in his right hand. To his north sits *Mullamangalam*, to the north of the latter is *Pudumadam*; still further to the north sit the Madam (the *Tekkuman Madam Uranmikka* is invariably called as the Madam) and further north is *Veliyara*. To his east, is *Somasimangalam*; to his south *Kurrampalli*, and still to his south *Arasila*, and still further south sits *Sridharamangalam* and at the southernmost extremity is *Puttillam*. During the time that the *Sabhai* is thus formed and is in session.

The accused, and the personal servants accompanying him, are required to have observed a complete fast the whole day. Upon the unanimous approval of the *Yogam*, the accused is asked to lay down 8 *fanams*. First, the amount is placed by the side of *Somasimarigalam*. Then, the accused, again taking the amount in his hand, requests the members of the *Yogam* individually to permit him to enter upon the test. The amount of 8 *fanams* is, thereafter, passed on to the accountant of the *Sabhai*. The accountant credits two *fanams* to the temple treasury and pays the remaining six into the hands of the *Kaniyatccai Ilvaniyan*, who must then bring six rolls of betel leaves, their stalks having been already removed.

Soon after the members of the *Yogam* take their respective seats the relatives of the accused and the *Koyima Manusyam* are to stand to the south of the *Kalasa Mandapam*. After the various people have assumed their assigned places, the accused, bringing six bundles of betel leaves and 60 arecanuts from the *Ilvaniyan*, proceeds to the front to the east of the northern door of the *Arikal* by the side of the bell hung up the accused takes his stand. Still further to his east, his personal (*sannadhi*) of *Tekkedam* passing through the *Cempakaraman Mandapam*. To the east of the northern door of the *Arikal* by the side of the bell hung up the accused takes his stand. Still further to his east, his personal attendants are to stand ready for any kind of odd service. Then the *Bhattadiri* formally ascertains whether the *Naduvali Manusyams*, and the relatives of the accused have arrived.

The accused is also ordered to abstain completely from any kind of cooked food on the day of the test; only tender coconuts and fruits are allowed; the usual food can be taken only after the ordeal is over. Issuing the instructions, the *Yogam* disperses for the day.

The next morning, the accused, his friends and relatives, together with the *Koyima Manusyams* arrive at the *Currumandapam* (or the *Sribalipura*). The *Poppane Bhattadiri*, reading out the *Pampu* once, asks the accountant of the *Sabhai* to have a copy of it taken. This having been done, the order is handed back to the party. Then the accused is taken to the *Kailasanatha* shrine and in the porch at its front, his hand is examined and its condition observed. Then to that spot, the *Vattappalli Pattar* brings the big vessel for boiling the ghee, a silver lamp, a gold pitcher, two pots with spout, (*kindis*) one of gold and another silver, a silver plate for holding the flowers, another silver vessel containing sandal paste and a *Pujapatram*. He sees to it that various other sundry requirements like ghee, *gingelly* oil and coconut oil are brought to the spot.

After the various people assume their respective positions, the *Poppane Bhattadiri* ascertains whether all the individuals concerned in the conduct of the ordeal have come. Then he asks the members of the *Yogam*, individually beginning from *Puttillam* in the order down to *Mullamangalam*, whether the accused may be called upon to present the betel leaves, in other words, whether the ordeal may be commenced. When everything is found satisfactory and in perfect order, the command is issued to the accountant of the *Sabhai* to commence the proceedings.

The accused is called upon to produce before the *Yogam* 21 bundles of betel leaves, 310 areca nuts, 26 *fanams* and two cash, as also one *kindi*, a pot with a spout, for pouring water. Should a paid servant of the accused be available, he is allowed to place these articles before the *Yogam*.

The *Poppane Bhattadiri*, addressing the accused, asks him to proceed to the *Indrapalanturai* (i.e., the spring just to the east of the *Indrapalavinayaka* shrine) and have his bath there. The accused is also to change clothes; getting two newly washed clothes, he wears one around his waist and the other over his shoulders. After his return, he is not to be polluted by the touch of any one. Issuing the above mentioned instructions, the *Bhattadiri* writes on a palm-leaf the deed of oath and the time honoured verse employed on the occasions of the ordeal.

Meanwhile the ghee and the oil get boiled to a high pitch. Then, the leaves of '*mahisa*' plant, and the bark of *Ilanni* (*Mimusops Elengi*) are thrown in to test whether the boiling has reached the required stage as specified. When the leaf and the bark made a cracking sound, it is an indication that the boiling has reached the required point. At this stage, the defendant is called upon to dip his hand into the boiling liquid

and take out the Rsabha seal. On doing this, he is led by the *Sribalipura* one round and thence to *Tekkedam*, where, either the *Bhattadiri* or any Brahmin representing him ties up his hand containing the *Rsabha-Mudra* with a freshly washed cloth. Thereafter, the accused is taken to the residence of the *Bhattadiri* and made to stay there.

Amongst the betel leaves and areca nuts placed by the accused, 27 bundles of betel leaves and 20 areca nuts are passed on to the *Vattappalli Pattar*. Soon after the plunging of the hand is over, any one of the younger members of the *Yogam* takes his bath and wearing fresh clothes, spreads the wet cloth near the place where the *Sabhai* had met. The *Bhattadiri* then takes 4 bundles of betel leaves and some areca nuts and places them on the cloth. Subsequent to this, the young *Potti* distributes three betels and one areca nut to each one of the younger *Pottis* and also to the *Melsantikkar* and *Kilsantikkar* of the temple as well as to the *Tevari* who had accompanied the accused.

The rest of the betel leaves is distributed among the *Srikaryam Nambudiri* and the members of the *Yogam*; even the accountant of the *Sabhai* is given his share of betel leaves and areca nuts. Three bundles of betel leaves and twenty areca nuts as well as the sum of 26 fanams are entrusted to the *Bhattadiri*. Out of this sum, 6 fanams are reserved by the *Bhattadiri* for himself, while 20 fanams are left with the *Sribhandarappattar* or the person in charge of the sacred treasury.

On the third day, after the *Sribali* processions are over at noon, the members of the *Yogam* assemble at *Tekkedam* in front of the shrine. The servant, *Palavelakkaran*, fetches the accused from the house of the *Bhattadiri*, and leading him by the southern entrance and taking him by the *Arikal*, reaches the front of *Tekkedam*. Chanting *mantrams*, the *Bhattadiri* unties the cloth covering the hand of the defendant. If the hand is found free of any wound or blister, the *Bhattadiri* announces it. In that case, the accused is to bow before the deity and proceed to that ghat in the tank where he has taken his bath before. Bathing there and wearing newly washed clothes, he reaches the *Currumandapa* where the *suddhapatram*, or exonerating document, is executed.

When the *suddhapatram* is being written down, the *Naduvali Manusyar*, the *Srikaryam Nambudiri* and the members of the *Yogam* are all present. The *suddhapatram* is to be signed by the *Bhattadiri* and the accountant. On the *Melsanti* ascertaining from the accountant whether the *suddhapatram* is in order and whether it can be handed over to the party, the accused is summoned inside and the *suddhapatram* is delivered to him. Besides, the *Bhattadiri* warmly tells him that in the temple, food as well as *Namaskaram* i.e., cooked rice offered to the deity are available for him to partake. Further, the *Bhattadiri* suggests that during his stay, he may have his meals at the *Illam* (house) of any particular *Nambudiri*, and finally he blessed him to lead a happy and peaceful life. The unjustly accused person is then allowed to offer worship as a free man, exonerated from all slur and stigma, and get *Prasadam* and *tirtha* from the temple. The acquitted *Nambudiri* has, however, to bear the cost of the betel leaves and arecanuts supplied earlier by the *Ilavaniyan*.

If, on the contrary, the hand of the accused is found blistered or burnt, the *Bhattadiri* announces the fact and the guilt is confirmed. The victim is then led by the southern doorway of the *Sribalipura* and hence to the Eastern street as far as the *Kulasekhara Pillayar* temple and left here. His fate is doomed; he becomes a social outcaste, and has thereafter to lead only a despicable existence.

The *Kaimukku* records, now in the possession of *Tekkuman Mahtam Potti* and the *Vattappalli Sthanikar*, reveal several entries recording the cases of *Kaimukku* ordeal conducted in the *Suchindram* temple. They indicate the names of those who underwent the ordeals, the dates when they took place, as also the results of the trial. It is interesting to learn that, among those who were subjected to the ordeal at *Suchindram*, some were found guilty and others 'not guilty' accordingly as the hand of the accused was found blistered or free from hurt. In a few records, however, the results are not indicated. As a scheme of judicial organization, Colonel Munro, took all possible steps to abolish trial by ordeal. This step by Colonel Munro was a great measure of judicial reform in the history of Travancore.

1. V. Nagam Aiya, The Travancore State Manual, Vol.I, Thiruvananthapuram, 1999, p. 210.
2. Kunjukkutta Tampuran's 'Keralam' Saraga 3 verse. 84.
3. K.K. Pillay, The Suchindram Temple, Madras, 1952, p. 322.
4. J.R.A.S, 1884, pp.401, 403.
5. The Tamil word 'Kaimukku' emphasizes the actual mode of conducting the ordeal. Literally it means 'dipping the hand'.
6. K.K. Pillay, Op.cit., p. 299.
7. V. Nagam Aiya, Op.cit., p. 585.
8. K.K. Pillay, Op.cit., p.300.
9. Introduction by Mahamahopadhyaya V.Swaminatha Aiyar to the edition of 'Jivakacintamani'.
10. M. Raghava Aiyangar, Alvarkala Nilai (Tamil), Part I, p. 177 and C. Chellam's Sri. Kulasekharalvar Caritam, pp 9-14.
11. A.R.E, No, 372 of 1906. Madras.
12. K.P. Padmanabha Menon, Op.cit., p. 125.
13. A.S. Barholomew, Voyage to the East Indies, London, 1800, p. 132.

- 14.K.K.Pillay,Op.cit,p.303.
15. K.K. Pillay, Op.cit., p.176.
16. These documents regarding ordeal are found in the Vattappalli Madam. They deal with the details connected with a number of cases of ordeal conducted in the temple. The earliest among the available documents pertains to the ordeal held in 1627. The 'Acarakkanakku' or the accounts of the temple also furnish some date.
17. William Logan, Malabar Manual, Madras, 1951, p.65.
18. Bhattadiri means headman invariably the Smarta himself.
19. The word Tevari means one who offers puja to the deity,K.K.Pillay,Op.cit,p.309.
20. The term Koyikkaran means one who stands in front of the temple as a watchman or a guard.
21. Kunjukutta Tampuran's 'Keralam' sarya 3 verse 75.
22. K.K. Pillay Op.cit., p. 309.
23. Suchindram Vatta Palli madam Records.
24. The Srikaryam Nambudiri is the head priest in the Suchindram temple. He plays a leading role in the conduct of the Kaimukku.
25. Poppane Bhattadiri used to officials as judge in cases of smartavicaram in his locality. On every occasion of the conduct of Kaimukku in Suchindram, he was specially called upon to be present.
26. The doorway of the room where flower garlands are kept.
27. L.K. Ananta Krishna Aiyar, Op.cit,p.210.
- 28.K.K. Pillay, Op.cit., p.311.
29. A Fanam is equivalent to 2 annas 3 pies.
30. 'Ilavaniyan' is the name of a caste in south India Originally, the members of the caste traded on betel leaves. In connection with the Kaimukku also the Illavaniyan was the person entrusted with the supply of betel leaves.
31. Suchindram Vatta Palli Madam Records.
32. K.K. Pillay,Op.cit., p. 313.
- 33.K.K. Pillay, Op.cit., p.314.
34. Suchindram Vattapalli Madam Record.
35. Personal Interview with Dr. Sharma, Vattapalli Madam, dated 8.2.2010.
- 36.K.P. Padmanabha Menon, Op.cit, p. 263.
37. Personal Interview with Dr. Sharma, Vattapalli Madam, dated, 8.2.2010.
38. Ibid.
39. The term Arikal seems to indicate a pathway of stone. Even now there is one such leading from the southern Sribalipura to Tekkedam.
40. William Logan, Op.cit, p.66.
- 41.K.K. Pillay, Op.cit., p. 318.
42. Ibid.