

JUDICIAL ADMINISTRATION OF THE IMPERIAL CHOLAS

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Introduction:

The Chola judicial system was the forerunner of the present Indian judicial system. The principle of “All are equal before law” or the present ‘Rule of law’ was pursued in the Chola kingdom. There is a tradition in the Chola Empire that *Manuneethi Chola*, a legendary Sangam ruler, in order to redress the grievances of a cow, put his son to death by running over him his chariot, for having killed a calf by running his chariot over it. But this doesn’t mean that there was no discrimination before law, which form the basis for the principle, ‘Rule of law’ and even the king should not be spared from the course of law.¹ Montesquio’s ‘Sprit of law’ was written in the modern period but the system of spirit of law was existed in the Chola Empire during the medieval period. The king was the head of the judiciary and he was the only moderator of law and not the sovereign of law.

Village Assembly:

The Chola kings gave enough care for the judicial administration. The village level judicial administration was carried out by the village assembly. Minor disputes were heard by the village assembly. Disputes were settled with proper evidences. Village assemblies exercised large powers in deciding local disputes. Punishments were awarded by the judicial officers. The trial of serious offences and major cases were conducted by the king himself. The king played a major role in the punishment of his subjects and his duty is discussed in the Code of Manu.² Manu says the duty of the king is to render those likely to compromise the public order, unable to do so. The only way for the king to maintain the order is with punishment. A common theme, "the logic of the fish", illustrates this idea well. Without a king to maintain order, the big fish would devour the little fish and it is through the king's punishment that the state is maintained. The creator of this ‘Manu Sastra’ lived during the second or third century A.D. During the period of Kulothunga I, Vigneswara wrote a law book known as *Midaskshana*. This work was based on Manusastra. This *Midakshana* work high suits to the present day activities. Hence this law work,

Mildakshana because on the basis of the judicial proceedings of the Britishers also. On the basis of *Midakshana* another law work known as *Thayabagam* was created by Jeemugha Vathana.³ *Manusastra*, *Midakshana* and *Thayabagam* were the basis on which the code was drafted. The law codes drafted on these three *sastras* were in vogue in the Chola administration. There is no complete list of what is punishable and to what extent, but the king has the full discretion to decide it. Manu recommends that the king consider the circumstances of the crime and of the offender's ability to bear a specific penalty.

The Dharmasastras:

The *Dharmasastras* were written texts that lay out rules dealing with dharma. It says that the punishment is a powerful tool and it can't be delivered by the king without the advice of Brahmins; however, the king still has the ultimate decision. In the case of sins, Brahmins were in charge of delivering the penance, but often a sin constitutes a crime. According to Manu, men who are punished by the king go to heaven like those who performed a good deed. There is much debate though on the way of penance and punishment worked together. Although the king could not make a decision without the advice of others, he was able to initiate investigations and administer punishment for certain criminal offenses.⁴ Those offenses included violations of a ruler's decree or action against the state itself, according to the *Naradasmr̥ti*. When there was a conflict within a corporate group that could not be resolved, the king was able to intervene and rectify the situation with administration of his own punishment. At the end the king was in charge of punishment and was designed to correct human vices and restrain them in order to lead them to a fulfilling life. They are essentially the legal texts of ancient Hindu society. These texts were written for the purpose of describing the ideal behavior of members in the society. Dharmasastras date back to ancient India; however, there have been edits to the original texts over time. The Dharmasastras were even written to encompass the method, by which, one would urinate or defecate. This is an indication that the authors of the texts knew that members of society were not following what had been written and decided to revise the original contents.⁵ The main function of imprisonment, for ancient Indians, was deterrence. Prisons were to be situated near main roads where the offenders could easily be seen. The Dharmasastras do not lay out specific crimes for which imprisonment is required; moreover, it did not state how long a prisoner should be kept. It was left to the king to decide who would be imprisoned and for how long. The Chola kings did not create a law code as we find the law codes being codified by Hammurabi. The legal system of the Chola Empire was the outcome of the evolutionary growth of the ethical values. The laws which prevailed in the Chola Empire were the

result lessons taught by *Sastras*. The *Sastras* had a collection of laws derived from the Sanskrit work *Manu sastra*. *Arthasastra* of Kautilya implies that the people who sought safety contributed 1/6 of their produce to a leader and made him to be on guard for their safety. Thus the society emerged which made the king as the guardian of law.⁶

Codification of Law:

Codification of law was with the people but the Jurisprudence of law is with the *Ur mantram* and the king. Hence the king was through as the ‘guardian of law’ and not the creator of law. The same system even now prevails in India. The Supreme Court is deemed as the guardian of the Indian constitution and not the creator of any law. The Cholas followed the humanitarian law code only within the Chola Empire. But the law of the Chola kingdom was entirely different when relations with the nearby or foreign countries had. The Chola emperors were very harsh when they thought of having contact with the nearby kingdoms. The Imperial Chola Empire was an Empire of military aggression. When they fought against any kingdom they followed certain rules and regulations during the war period. The war regulation followed by the Imperial Cholas was known as the ‘Code of chivalry’. There is a vast different between the law code of Hammurabi of the Mesopotomina civilization and that of the Chola empire. During the period of Hammurabi codification of law was executed by the king and imposed on the people. But in the Chola Empire no law code was codified by the king.⁷ The people of the Chola Empire had long tradition and their customs and usages just like the government of Great Britain have gradually evolved laws. These laws which were brought into vogue through experience had become the guide lines for the *Ur mantram* and the *Dharmasanam* to decide cases.

Judgements:

As the product of customs and social training self legislating citizens law had become the guiding factor in the Chola empire. Those self made laws of the citizens of the Chola Empire through ages and on humanitarian grounds had brought in notable changes in the Chola kingdom. In *Ur* courts and king’s courts the Brahmins who were high specialised in these *Sastras* decreed judgements based on this judicial code. There were many law colleges in the Chola Empire.⁸ The law colleges of the Chola Empire were known as “*Thirubhuvani*”. In the law colleges law *Sastras* were taught to the Brahmins. In Chaturvedimangalams and educational centre associated with the temples, law subject was taught to the Brahmins. These Brahmins who were educated at the law centre became the intellectual custodies of the Chola system of justice. They

performed the function of providing excellent judgments. Brahmins and Vellalas were exempted from attending the courts. The judicial convention in the Chola Empire was since the Brahmins and Vellalas belonged to the high castes they were deemed to be the privileged class. Apart from the privilege, the pronouncement of judgment under the Chola Empire was mostly based on secularism.⁹ Differentiation on the basis of caste was in vogue. An inscription dated in the 17th year of Rajaraja I records that the manager of the temple at Govindaputhur was given full control over the temple servants, with the power of expelling such of the Vellala servants who opposed his authority and of imposing a fine of 25 *kalanchu* of gold on the Brahmanas guilty of similar insubordination. Another inscription of Kulottunga II records that the death sentence should not be imposed on Vellalas.

The Law Code:

The law code was unwritten and judgments were pronounced on traditional basis. There is no specific reference to the jury system in Chola inscriptions. But it could be presumed that except when the royal orders were issued, the cases were decided by the local assemblies which consisted of more than one member.¹⁰ Hence a special mention of juris doesn't arise and the judgement left in the hands of the majority of the members of the village assemblies was an instance of clear proof that justice was not tampered with. Justice was rendered to the people in its full propriety and in a democratic way. Prejudicial judgement had no place in the assemblies. For any judgment documentary evidence was considered to the most one. Hence forgery was considered as one of the worst crimes during the Chola period. Stealing of cattle was another prominent crime.

Uttiramerur Inscription:

Uttiramerur inscription says that those who were involved in theft were considered as having committed criminal offence and hence such people were not permitted to become members of any Board in Villages. In every Village *ur mantram* was in charge of deciding cases. *Ur mantram* issued the judgments. Those who were not satisfied by the decisions and decrees of the *Ur mantram* appealed before the next high judicial centre.¹¹ The superior judicial centre above the *ur mantrams* were known as *sabhas*. Those who were still not satisfied with the decrees of the *sabhas* proceeded to the next court known as the *nadu* court or the Taluk court. Above all those courts the king's court was considered to be the highest court of appeal. The King's court was now equivalent to the supreme court of India. In those days labourers sought judgment through the 'Guild Association'. The persons who were discharging the duties of judicial activities were

elected by the people. Usually men with conscience were elected.¹² They were known as *Nyaththaars* (Nyayan-justice, Thars-members, men who offered justice). The Chola society was a caste and religions based one and hence judgment had to be issued without any caste considerations. So members who were having broad view were also elected to the *ur mantram*. Thus the *ur mantram* considered of several men of letters. The Thirumuniyoor inscription mentions that the Jain poet Jeyamkondar the author of *Kalingathuparani*, Sekkilar the author of *Periyapuram* were members of the courts. The central judiciary next to the king was constituted in Thanjavur.¹³ During the period Rajendra I the central law court was shifted to Ganagaikonda Cholapuram. In the law court at the capital the king was represented by a judicial officer known as “*Thandal officer*” and nine officers of notary public. In addition to these judicial officers the law court at the centre had representation from the *Nyayaththaar* of the *Ur mantram*. Thus the highest court of appeal was consisting of Thandal officer, nine notary public and Nyayaththars.

The Dharmasanam:

All those judicial officers were collectively known as “*Nyaya- Mydalis*”. Information about the central judiciary is provided in the Chenglepet inscription. This judicial system was followed by the Vijayanagar administrators. Thiruvaikavoor inscription stands as a testimony to this. The highest office of the judicial section was known as *Dharmasanam* (Dharma stands for Justice-Asanam for place). Appeals from the *Ur mantram* alone were heard by the king.¹⁴ The Chola emperors usually did not interfere in the judicial organisation. Just like the present administrative system the Chola judiciary functioned as an independent body. Chola’s was not a committed judiciary. The elite Brahmins, Nyayaththars and members of the *Urmantram* were fully in charge of the judiciary. Very few cases which came for appeal before the king were heard by the *Dharmasanam*. One such concrete evidence can be noted for the pronouncement of judgement by the *Dharmasanam* as follows. At Thirunageswaram temple the accountant of the temple swindled the goods worth of 40,000 *kasus* from the temple. They were punished by the concerned *Ur mantram* that they should remit a five of 40000 *kasus* as equivalent to the worth of goods they had stolen from the temple.¹⁵ The affected party put up an appeal before the King’s Bench, *the Dharmasanam*. The *Dharmasanam* also confirmed the decree of the *Ur mantram* and maintained justice. The existence of juries in the villages is also confirmed by Sathianatha Iyer. The Chola kings were in general very kind. The avoided issuing severe punishments light punishments were given for capital crimes.¹⁶

During the period of Rajendra II, one *Nadalvan* killed his officer. The matter was reported by Rajaraja II to the *Ur mantram*. The *Ur mantram* under the declaim of Rajaraja II decreed that the culprit should contribute 96 sheep to the temple and the entire income from the 96 sheep should go to the temple.¹⁷ Thus for capital crime light punishment was given. Rajaraja's brother Aditya Karikalan was killed by certain traitors of the Chola kingdom. Even those traitors were not given capital punishment. They were imprisoned and their properties were confiscated. This information is derived from Udayargudi Copper plates. Thus the highest appellate jurisdiction, the *Dharmasanam* was very particular that culprits and criminals should be reformed and there should not be any retribution.¹⁸ The policy of handing a criminal has drawn the attention of the entire society of India at present. The cancelling of such capital punishments has been realized by the present government only in the early part of the twenty first century. But the humanitarian view of the Chola Empire had annulled the capital punishments even during the tenth century itself. The law code of the Chola Empire was thus based on reformist tendency rather their re tributary tendency. Before a war started or completed messengers were sent to the opposite camps and they were treated considerably well. No harm was done to any messenger who came from the nearby or foreign country. But during the time of war the Chola kings followed a policy of annihilation and no human consideration was shown. The riches were snatched and brought to Thanjavur and the war captures were treated as slaves.¹⁹ They were brought to Chola kingdom and forced labour was imposed on them. Indiscriminate killing was common in the war fields and the cities and villages of the enemies were set ablaze. In the war fields the Cholas like the often two Tamil dynasties, the Pandyas and Cheras followed a policy of victory or death.

The principle of withdrawing hastily without achieving victory was considered a shame and hence the Chola war law was that the soldiers should either die or achieve. Thus the Imperial Cholas followed two types of law, one meant for the Chola kingdom and the other meant purely for other countries. In the internal level the *Ur mantram* granting light punishments for the crimes.²⁰ At the same time in the war field the contrary jury practice was followed. Annihilation, destruction, mass killing, taking possession of the riches of the enemy and arresting the war prisoners as slaves were the existing law associated with the nearby kingdoms of the Chola empire. The important role of the king as head of judiciary was derived from his duty to protect his people. His judicial function grew out of to sources, the patriarchal and his position as leader of the men of the Chola Empire. As a head of the government he was the highest authority for the administration of justice in kingdom. The king was said to have heard complaints even when he was in

camp. If the case was found complicated he consulted his officers and directed the matter to be settled by the learned men and locality.²¹

Appellate Jurisdiction:

The King's court was the appellate jurisdiction and the cases were brought before the king only through certain officers. The certain officers were the governor of the *mandalam* or provinces. Without the governor of the province knows case could be brought for appeal before the king. The Brahmins who adorned the court of the Chola kings were highly educated and they were well versed in the law of the country. In case the king was not capital a judge administered justice on behalf of the king. The judge in the capital, in the absent of the king was known as *Pradani* and he was also known as *Danaik*. When the *Pradani* or *Danaik* left the court chamber, umbrellas of different colours were born before him. Before he reached the king he had to pass through seven gates.²² Before the king he presented the reports and judgment carried out by him. The *Pradani* conducted cross examination and it was conducted by the *Pradani* in public but no secrecy was maintained in the cross examination. Whenever the governors of the provinces came to the headquarters they were permitted by the king to hear cases, because unsettled cases which came for appeal before the king were innumerable. To decide the unsettled cases as early as possible the king deputed provincial governors also to settle cases.²³

Rajaraja and Rajendra I:

During the period of Rajaraja and Rajendra I in Thanjavur and in Gangaikonda Chola Puram the appeal cases were simultaneously heard by the *Pradani* and the Provincial governors. The *Pradani* directed the governors to be present before him to depose the problems associated with case. Thus in the centre arrangements were made to settled the cases as early as possible. Now days there are thousands of the cases remain unsettle in the courts.²⁴ This kind of paradox was not prevalent during the period of Imperial Cholas. Brahmins also provided legal guidance to other communities and became a model to corporate governance. Corporate groups in ancient India included villages, castes and military associations, among many others. These individual groups produced laws for their members and the group to which one belonged was essentially predetermined by birth. What is seen from the historical records of legal practice in ancient India is that the law making activities of numerous corporate groups was quite prevalent. Justice was mostly a local matter in the Chola Empire, where minor disputes were settled at the village level. Village assemblies exercised large powers in deciding local disputes. Small committees called *Nyayattar* heard matters that did

not come under the jurisdiction of the voluntary village committees.²⁵ The punishments in most cases were in the form of donations to the temples or other endowments. The convicted person would remit their fines at a place called *Darmaasana*. There is not much information available on the judicial procedures or court records. There was no distinction between civil and criminal offences. Sometimes civil disputes were allowed to drag on until time offered the solution. Crimes such as theft, adultery and forgery were considered serious offences. In most cases the punishment was in the order of the offender having to maintain a perpetual lamp at a temple. Even murder was punished with a fine.

In one instance a man had stabbed an army commander. In this connection an epigraph dated 1010 A.D. from Tamilnad would be read with interest. The inscription, in Tamil dated in the 25th regnal year of the Chola king Raja Kesarivarman (Rajaraja Chola I) is found on a pillar in the mandapa in front of the Varadaraja perumal temple, in Kaveripakkam village, Arakonam taluk, North Arcot district.²⁶ It records some regulations, banning the service of women as decided by the Great Village Assembly (Mahasabha) of Kavidipakkam alias Avaninarayana Chaturvedimangalam in Paduvur kottam, on an order received by them from the king through Venbaik-kudi nattu velar (Avaninarayana was a title of Pallava Nandivarman III). It is learnt that the assembly comprised the committees of Ur-variya, Udasina-variya, Eri-variya, Kalani-variya, the Bhattas and Visishtas of the village.²⁷ When the *nattar* themselves were not able to settle the case due to its complicated nature the *mahajanas* of the surrounding villages were asked to decide the case. After the decision taken by the *mahajanas* appeals were made to the regular court of the justice which was under the control of the king.²⁸

Criminal Cases:

Murder, theft, adultery and forgery were considered as criminal cases. If the cases based on criminal system was not properly settled in the village court and the cases were taken to the court of king's officers those who were in charge of the administration of the local area like the Nadu. Heinous crimes were punished with decapitation or by being trampled to death by an elephant. The temples were supervised by special officers whenever the religious rights of the people were questioned. Such cases were heard by the temple judge. The temple judge was known as *Samaya cariya*. The *Samaya cariya* was other way known as *dasarisi*. The *Samaya cariya* was the controller of the morals.²⁹ The *Samaya cariya* was functioning in all the temples. Any problem associated with marriage was decided by *Samaya cariya*. Thus to settle moral problems and marriage issues the *Samaya cariya* was the sole judge to decide cases. The king's court tried

both civil and criminal cases. When cases were heard all the available documentary and oral evidences were examined. Clear procedure was followed in deciding the cases. Capital punishment was uncommon even in the cases of first-degree murder.³⁰

Conclusion:

The Chola kings gave enough care for the judicial administration. The village level judicial administration was carried out by the village assembly. Minor disputes were heard by the village assembly. The trial of serious offences and major cases were conducted by the king himself. The king played a major role in the punishment of his subjects and his duty is discussed in the Code of Manu. Codification of law was with the people but the Jurisprudence of law is with the *Ur mantram* and the king. Hence the king was through as the 'guardian of law' and not the creator of law. The law code was unwritten and judgments were pronounced on traditional basis. Justice was rendered to the people in its full propriety and in a democratic way.

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