

CHRISTIANITY AND INHERITANCE RIGHTS PRIOR TO THE EARLY 16th CENTURY

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Abstract

Medieval Christianity portrayed the picture of a well settled Christian Community in Malabar, who were called as the St. Thomas Christians or the Syrian Christians. The faith, though alien to the Malabar region, and to India, began its hasty development to the area even before the advent of the Portuguese. In the socio-economic and political arena of Malabar, the Christians exerted and exercised immense power. The rulers of Malabar from time to time bestowed them with certain rights and privileges. Thus they emerged at the top of the economic ladder with the high caste Hindus of the land and they acquired large tracts of landed property. The Syrian Christian society had been following the patriarchal system of inheritance. The paper focus on the two main milestones of medieval age Malabar-the grant of Syrian Christian copperplates and the Synod of Diamper.

Keywords: Syrian Christians, Synod of Diamper. Oath of the Coonan cross, Inheritance rights, Syrian Christian Copperplates

The concept of private property and property rights are as old as the evolution of society. Engles in his '*Origin of family, Private Property and State*' converse on the emergence of Private property and argued that the triumph of the male dominated society was the result of the production of the 'surplus'. The male folk took over the control over the production process which finally gave them to a relatively superior power in society than their female counterparts. Thus the control of the resources enabled them to be more predominant and they considered women as property. Engels' argument was that the abolition of sexual division of Labour and the communal management of Property and women's entry into the public service will abolish all sorts of subordination of women. The very concept of Private property in India dates back to the days of the India's greatest law giver Manu in his '*Manusmrithi*'. His theory on property is that of 'first come - first serve'. He cited with example that the carcass of a deer belongs to the person who drove the first arrow to the animal. Similar is the case with the land too. The land belonged to the person who dug in it the first plough. Manu had looked upon 'woman', who is to be controlled by a man all throughout her life. To quote '*Manusmrithi*', A woman is always dependent on her father during her child hood, to her husband after marriage and during her old age, she is protected by her son and as such she's denied of property or her share in property was meagre when compared to her male counterparts. It is to be noted that the concept has been changing from time to time in the economic evolution and changes in the structure of society.

During the period of the old stone age when man led a primitive life, where hunting and fishing were his only occupations, the ownership of property and use went together. The very next stage of human civilization was the period of the Neolithic age when man

processed the knowledge of agriculture. Land and cattle were regarded as the main forms of property. Later on with the passage of time, many changes had occurred in the society in relation to property and inheritance rights. The ingenuous Indian Institution of joint family which was characteristic feature of the Medieval Hindu families was perhaps unique in the world. In such a context, whatever any member earns became the family property. customs and manners varied in different sections of the Hindus. Among the upper castes in Hinduism-the Brahmins and the Nairs-the Brahmins followed the patrilineal system of inheritance and practiced primogeniture. Only the eldest male member of the family married from his own caste,so that the property of the family is not divided among the members but the Nairs followed the matrilineal marumakkathayam system of inheritance ,based on the matrilineal joint-family called the Tharavad. All the members of the taravad were descended from a common female ancestor, but the irony was that the management of the affairs of the taravad was conferred on the eldest male member, the system of matrilineal. Many Ezhava families too followed thematrilineal system of inheritance. The Islamic law of Succession and inheritance was attached to the body of personal laws prevalent in tribal Arabia. The tribal laws of the land allowed only male members to inherit property. But later on changes brewed into the Muslim personal laws and women got a meagre share in the property of the family. Contrary to all these, the Christians during the medieval period followed the patriarchal system of inheritance. Both in theory and practice, women were kept aloof from property and property rights.

Early Christianity in Kerala

Christianity, as a religious faith entered the land of mountains and lagoons not as invaders but as the faith of those who were considered very valuable to the society in general and to the ruling class in particular for the great functions they performed in the political economy of Malabar, consisting of the native kingdoms like Cochin, Travancore and other petty loyal principalities. The Syrian Christians or as they are known from the very earliest times - the St. Thomas Christians, claim their origin from one of the Apostle of Jesus Christ, St. Thomas. The trade route through red sea facilitated the arrival of St. Thomas to the Malabar Coast. Tradition asseverates that St. Thomas landed in an island called (Malankara) near Cranganore on 52AD and converted some native inhabitants to Christianity. It is said that St. Thomas who started his journey from Syria in 35 AD ,spent some of his time in Northern India and then entered the Malayalam land. Christianity was introduced into Malabar, even before it gained official recognition in Europe or became the official religion in Rome. They are the most ancient Christians of Malabar, on the South-west coast of India as it is certain that as early asAD 1stcentury they had established their firm foundation on the Indian soil. All down the Malabar Coast, as far as the capital of Travancore, the Syrian Christian Churches produced a remarkable and spectacular architecture. More over the Church had its ancient and impressive liturgy, the picturesque dress of the priests and Bishops and its long and steady witness in the midst of idolatrous surroundings, all attracted the attention of not only the natives but also the foreigners. The

Nazarani Christians followed the Syriac medim of liturgy in their rites, hence the name Syrian Christians. In socio-economic and political sphere, the Syrian Christians were more developed and wielded tremendous power. They were a group who were proud of their independence from the European Christians and this resulted in the memorable and historic oath of the Coonan cross. This paper centres on two main mile stones of medieval Travancore, the grant of Syrian Christian Copper plates and the Synod of Diamper.

The early Christianity provides the picture of a well settled Christian community in Malabar. The area had extensive trade relations with the Mediterranean countries even before the Christian era. The Jews who landed Cranganore had described in their traditional accounts on a well-established Christian Community at Cranganore. The head of the Alexandrian School, Pantaenus, who visited Kerala in the 2nd century, describes the presence of a flourishing Christian community here and the writings of Cosmas Indicopleustus, the Byzantine monk give ample evidence on the existence of a well-established Christian community. During the early years of the Christian era large number of Christian traders, arrived the Kerala coast and many of them settled down here and intermingled with the native population. Christianity, though alien in its origin, came to be accepted as an indigenous faith and its growth in the land of Kerala was fast. They had a long history of supremacy and privilege that they had enjoyed under the regimes of local rulers. They were a powerful and influential community and they were equipped with some sort of civil and judicial authority. They performed their high caste social rites and ceremonies with important events of their life. They followed the customs and manners of high caste Hindus in matters of untouchability, dress, and food and so on. No annexation and colonization was written in the social history of the Syrian Christians. In the year 325 AD an ecumenical council was held at Nicea, in which emperor Constantine was attended and among others Johannes, who was described as the Metropolitan of Persia and Great India too participated.

The year 345 AD can be regarded as the golden period in the trade history of the Syrian Christians. As the St. Thomas tradition was an important part of the Syrian Christian lore, so as was with another Thomas tradition, the Thomas of Cana. The mass migration of Christians from the land of Cannan under the leadership of merchant Kanai Thoma (Thomas of Cana) produced far reaching changes in the life and trade of the Christianity in Malabar. The then Chera King welcomed them and was given all benefits of the land grants. As the Syrian Christians were a prominent business community, the rulers from time to time bestowed them with all favours and privileges. Thus the community acquired more wealth in the land. There were evidences of certain grants given to the community, which made the community more powerful and privileged among other sections of the population. The Therissapalli copper plate executed in 849AD by Ayyan Adikal Thiruvadikal of Venad during the reign of Emperor Stanu Ravi confers several rights and privileges on the Christians of Quilon. The Tazhakad church inscription of Rajasimha gives reference to the grant of certain privileges to two Christian merchants, Chathan Vadakan and Iravi Chathan who were the members of the merchant guild Manigramam other than this there is the

mention of the copperplate grant (1225 AD) issued by Vira Raghava Chakaravarthi, the ruler of Mahodayapuram to Iravi Kortanan, a Christian merchant of Mahodayapuram. This was the grant of the headship of the merchants of Manigramam, in addition of certain other rights and privileges. The Christians were treated by the respective local rulers of the country on an equal footing with that of the upper caste Hindus. Many rulers of Travancore had special respect to Christians and Christianity and they had offered lands to Christians to build churches and also for their settlement. Thus it is seen that the Syrian Christians were on the top of the social and economic ladder of the society in Travancore and they were processing large tracts of landed property.

Syrian Christian Society from its inception itself was a patriarchal society and as such the male members were given more importance than the females and this trait of this could be seen even later. From the outset, the patriarchal system adopted an explorative and degenerating tendency towards women which led them to lose their identity as dignified equal partners with men and also to lose their work space to be confined within the four walls of the house. Moreover, men assumed that the physical weakness of women sanctions ill-treatment. It gave way to a suppressed status for women of the Christian community as well. Unfortunately, this man-made phenomenon stimulated the society to look down upon women and exploit them berefting their opportunities in education, employment and so on. In most cases women were reduced to powerless losers of their rights. Themselves being regarded as private property, women had no right to inherit property, especially among the Christians. This was the case with the inheritance rights of the Syrian Christian women in Travancore. They were placed in a secondary position with the male counterparts. Sources for reconstructing the history of medieval Christianity is meagre and the area related to inheritance rights among the Syrian Christians has been mistreated in Historical studies and the topic with regard to inheritance rights among Syrian Christian women needs special attention in the socio-economic and religious studies.

Christianity and Property Rights

The inheritance rights of the Syrian Christians of Travancore during the early centuries were not based on any rules and regulation of the land. And as such there are no old writings to show what the laws of succession and inheritance among these people were. They were said to have followed the Biblical law in matters of inheritance rights which was laid down by Moses for ancient Jews. These rules lie scattered in various parts of the Pentateuch or the five Books of Moses. It is stated that the first born son was to get a double share in the father's wealth. To the son of a concubine was no bar to inheritance. For a father to transfer the birth right of the first born contrary to the social usage is prohibited. When a man dies leaving no sons, his brother or other next of kin must marry his widow and her first born son in his union become the heir of her previous husband. These were the rules to be followed by the Jewish community, and it is to be noted that many of these were not followed by the Syrian Christians of Travancore and as such they could not fully agree to the policy of marrying brother's widow.

Status of Christianwomen's Property Rights in Medieval India

The most striking feature in regard to inheritance rights was the fate of the daughters in a family. A Christian woman whether married or not, were excluded from inheritance rights. And this is more tragic when it is found that even if they have no brothers to succeed their father in his property. The property of that particular family devolved on male collaterals of the intestate. A daughter's right to inherit to her father is not taken away simply because she marries outside any family circle. Later on with the passage of time, the community evolved certain customary usages following the Hindu law, with certain modifications. During the later period, with regard to the mother and the wife it is recognized by all Syrian Christians that they have at least the right for maintenance, if not for more out of the deceased's estate.

Changes Imposed in the Synod of Diamper

The advent of the Portuguese in 1498 into the land of Malabar produced far-reaching changes as far as the Syrian Christians of the land was concerned. They were eager to bring forth the Syrian Christian community under their fold and control of the pope. This finally resulted in the Synod of Diamper in 1599 AD. The Synod issued 200 decrees distributed in nine "actions". There was a special mention on the inheritance rights of the Syrian Christians practiced till then. In session IX which deals with the reformation of Manners, Decree XX says on the inheritance rights of the female children. It is said that: FEMALES TO INHERENT IN DEFAULT OF MALE ISSUE. Whereas an unreasonable custom has obtained in this diocese ,viz, That males only inherit their father's goods, the females having no share at all thereof; and that not only when there are sons, but when there are daughters only, and they unmarried ,and many times infants, by which means great numbers of them perish, and others ruin themselves for want of necessities, the father's goods falling to the males that are next in blood, though never so remote or collateral, there being no regard had to daughters any more than if their parents were under no obligations to provide for them; all which being very reasonable, and contrary to the natural right that sons and daughters have to succeed, to the good of their parents; the kindred who have thus possessed themselves of such goods, are bound to restore them to the daughters as the lawful heiresses to them; wherefore the synod doth decree and declare this custom to be unjust, and that the next akin can have no right when there are daughters to inherit their father's estate; and being possessed of such estates, are bound in conscience to restore them, without giving an equal portion to the females; or if they have not done it already, they stand indebted for their portions; or if the father has disposed of the third part of his estate by will, the remaining two parts shall be equally divided betwixt the sons and daughters, the portion that have been received by those that are married being discounted; all which the synod doth command to be observed, in treating and commanding all the Christians of the diocese to receive this decree as a law, and observe it entirely , it being laid as a duty upon their consciences; and if any shall act otherwise, and being a kinsman , shall seize upon the goods belonging to daughters; or being a son ,shall deny to give portions to his sisters, or being in

possession of the said goods, shall refuse to make restitution; the prelate, if it cannot be done otherwise, shall compel them to it by penalties and censures, declaring them excommunicate, without any hope of absolution, until such time as they shall pay an effectual obedience, and shall make restitution.

Changes to be Made While Executing Wills

There was also the practice of bequeathing one's property by means of a Will, to a certain extent was in common among the Syrian Christians of Travancore, for centuries. It is to be noted that other than the Syrian Christians, no other community followed this practice. In matters relating to the execution and enforcement of Wills and adoption deeds, the Bishops and the prelates exercised powers. It was seen that, the Wills once executed have always been given effect to, it was not a problem how they are made and had to be accepted by all. Thus it was seen that the authority of the Syrian Bishop extended to all temporal and spiritual matters among Syrian Christians. This has been clearly depicted in the Synod of Diamper, session VIII, Decree XXXVIII, Bishop to see the execution of Wills. The Synod doth declare, that the execution of last wills lawfully made by deceased Christians does by the canon law belong to prelates and bishops who are to take care that they be observed; and that whatsoever Christians has made a will that is valid according to the custom of the place, if it is not compiled within a year after the death of the testator, the Bishop shall by censures, and other penalties, if found necessary, constrain the heirs, or others, whose duty is to fulfil the same.

Synod of 1603

The meeting of the Synod of Diamper was the first organized attempt to westernize the Kerala society as a part of the colonization. They had a desire to substitute the supremacy of the pope of Rome over the Kerala Church. And as a result, another Synod was held at Angamaly in 1603 to purify the faith and customs of native Christians to purify the faith and customs of the native Christians. But the fact is that the native Christians considered the Synod of Diamper and the one that took place at Angamaly were an attempt on the encroachment by the western colonists on the religious and social life of the native Christians. So the success of both the Synods was short-lived, and the final result of this was Revolt of the Coonan Cross in 1653. The native Syrian Christians adhered to their own belief, customs, manners and culture and were not ready to accept suzerainty of the pope of Rome. Even in matters of inheritance rights to the native Christians refused to observe the decrees of the Synod and they continued to follow their own customs in matters of succession.

The Struggle for property rights did not end, the fight continued even in the modern era. As there was no properly organized system of administration of justice in the area of Travancore, for the proper administration of justice, later on courts came to be established and the judicial system handled by the bishops and the elders came to be adjudicated upon by the judiciary. And as such the earliest decision which laid down the order of Succession among the Syrian Christians of Travancore was made only in the year 1868. This can be

regarded as an important land mark as far as the Syrian Christian women were concerned. The decision published in the Gazette can be summarized as follows: "The order of succession among the native Syrian Christians was that first sons, failing daughters, failing these, brothers and their children and lastly sisters and their children. The transformation from nothing for women changed to something or there was a chance for the succession rights. It is to be noted that the struggle continued for years, till the women of Kerala was able to emerge victorious in Mary Roy Vs State of Kerala (1986). These long years reflected the backwardness of the Syrian Christian women, in the socio-economic sphere of Kerala.

Notes and References

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3. Robin Jeffery, 'The Decline of Nair Dominance society and Politics in Travancore 1847-1908' (New Delhi: Manohar Publishers, 2014) 11
4. Ibid, 14
5. Ibid.
6. Ibid, 20
7. Uma Devi K, (Ed)' Property Rights of Women' (New Delhi, Serials Publications, 2006) 4
8. In ancient times, Malabar was the name given to the region in the western part of the peninsula of India, the land probably between the mountains and the seas. The region consisted of the native kingdoms of Cochin, Travancore, and other petty royal principalities.
9. Agur, C M, Church History of Travancore, (New Delhi, Asian Educational Services, 1990), 9
10. A Sreedhara Menon, 'A Survey of Kerala History' (Madras, S Viswanathan, 1994) 84
11. The term 'Nazranis' were used as they were the followers of Jesus of Nazereth.
12. Syriac was a dialect of Aramaic, the language of Jesus Christ and it became the language of the Mother Church of Persia with which the Church of Malabar had ecclesiastical communion. So naturally Syriac became the sacred language of the Syrian Christians.
A Sreedhara Menon, 'A Survey of Kerala History', (Madras, S Viswanathan, 1994) 84
13. Ibid. Saint Pantaenus, the philosopher was a Greek theologian in the Catechetical School of Alexandria. According to Eusebius, he went on a missionary journey to India in A D 189. There he was able to see the seeds of Christian faith. He brought home with him Gospel of Matthew written in Hebrew, that had evidently been carried to India by Bartholomew
14. They came to the Malabar region with 400 Christians from 72 families belonging to seven tribes in Bagdad, Nineveh and Jerusalem.

15. Belongs to the period from 1028- 1043 AD
16. A Sreedhara Menon, op.cit
17. Report of the Christian Committee, Travancore, 1912, 7
18. Ibid, 8
19. Sebastain Champappilly, 'Christian Law of Succession in India' (Cochin, Southern Law Publishers,1997)14
20. Ananthakrishna Ayyar, L k, 'Anthropology of the Syrian Christians', (Ernakulam, 1926) ,119
21. The synod began on the 3rd Sunday after Pentecost ,20th June to 26th June 1599, under the president ship of Alexis Menezes, the then Arch Bishop of Goa was attended by 813 delegates of whom 133 were priests, 20 deacons and 660 laymen chosen by members of each parish.
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