

Panal Code of the Kachari Kings

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The Kacharis had their customary penal laws when they ruled their kingdom from Dinapur. The laws were little modified in the medieval period when the Kachari Kings established their capital at Maibong. The Hindu priests influenced the administration and certain principles of Hindu laws were incorporated into their custom. But the legal system took concrete shape when the Kachari rulers came down to the plains and got settled at Khaspur near Silchar. Raja Suradarpa Narayan (1708-1730) was the first ruler to codify the laws of the Kingdom. The criminal law assumed its Hindu form during that king; however, the old tribal influence was also retained. The Kachari Penal Code in its present form came into existence during the rule of Raja Krishna Chandra (1773-1813). The credit goes to Achyut Charan Choudhury, the celebrated writer of "Srihatter Itibritta" (History of Sylhet) who published them for the first time in 1911 from Calcutta.

Krithna Chandra was a Sanskrit Scholar. So he instructed the compilers of the code to use the Sanskrit text. However, Bengali explanation was also there with illustrations. According to Upendra Chandra Guha, the writer of "Cacharer Itibritta" (History of Cachar) the Kachari Kings were under pressure to compile a specific legal code for the Bengali Hindu people in the plains of Cachar as the customary law of the Kacharis did not suit the Bengali Hindus. During the reign of Suradarpa there were no Muslim subject of the Kachari Kings and the number of Muslims during the reign of Krishna Chandra was not significant. Thus the Penal Code of Krishna Chandra was a code adapted from Hindu Samhitas where the Brahminical influence had been predominant.

Of all the punishment fine was the common mode of punishment. The Brahmins were usually exempted from punishment. The persons who offended the Brahmins were severaly punished. The hands of the person could be severed who beat a Brahmin with the hands. Even taking the seat along with the Brahmins was a culpable offence. The punishment for stealing the gold and silver or deception was the cutting off the nose and the ear. In serious

cases of theft of elephant, cow, horse etc, the thieves' hands and legs were chopped off. But if the thief happened to be a Brahmin he was not punished in the above manner. He received only insults. According to the explanation in the code the insult of a Brahmin was equivalent to his death. To illtreat the old and orphans was treated as a criminal offence. Intoxicating drinks were contraband goods and drinking was an offence. Offering of wine to a Brahmin was considered a serious offence and the offender received death sentence. The use of garlic was prohibited. The violation of this rule entailed punishment of fine.

The rate of fine depended upon the nature of the offence. The death sentence of the convict could be commuted if he paid one hundred gold coins to the king. There were several jails with wardens but there only undertrials lived. There was no provision for life sentence so there were no permanent jail birds.

The punishment for the defiance of royal order and sedition was death sentence. Disrespect to the king was considered a felony. The king's person was sacred as he was of divine origin and a person who threatened the person or the body of the king had to meet the end of his life. Gulu Mian was a baron and a money lender. The last king Gobinda Chandra owed a huge amount to him. The baron was a powerful lord. He married by force his beautiful mother-in-law much to the chagrin of his master. The king summoned him to the court at Khaspur and insulted him but the baron affronted the king by saying that the king had also committed adultery by marrying the elder brother's wife who according to Hindu scripture was as respectable as the mother. The Raja took serious exception to this reply and charged the baron with sedition. Death sentence was awarded to him summarily by the king himself. Gulu Mian was thrown into the prison and there he faced death accompanied by starvation. The baron was wealthy he could pay one hundred gold coins to get rid of the sentence but he was not allowed to avail the opportunity. The case of Gulu Mian is a test case. It is a glaring instance of royal despotism and miscarriage of justice. There was no regular trial of the baron; neither he was allowed to plead his case. If a powerful baron could not get legal justice, the condition of the poor subjects could easily be imagined. All the authorities both European and native are of opinion that there was no uniformity of justice and the problem of law and order was not praiseworthy in the Kachari Kingdom. The case of Gulu Mian, however, is significant as it indicated that

the Kachari Penal code was applicable to all the subjects of the Kingdom whether he was a Hindu or not.

One special feature of the criminal code of the Kachari Kingdom had been the elaborate provisions of offences relating to women. A special proclamation of the king was issued on the first date of Baisakh of 1739 Saka era enforcing the penal provisions on offences relating to women or women's body. These provisions are embodied in the fourth book of the customary law (Kachari Ain).

Rape was a serious offence punishable with death. The mode of punishment prescribed was the medieval savage cruelty. The convict was to be placed on a red hot iron cauldron to be charred to death. However, a Brahmin committing rape had to undergo imprisonment. But the code is silent about the king or the crown prince or the King's son committing rape. May be they were exempted from punishment as the King was of divine origin. According to Dalton, an authority on the Kacharis and other allied tribes (North Eastern Tribes), the Kuki Chief had a right to enjoy any beautiful woman married or unmarried in his territory. Upendra Chandra Guha had cast aspersion on the character of the last king of Kachar. One commendable feature in the Kachari penal code was that the husband could be charged with rape if he had intercourse with the wife against her will. However, the punishment in this case was not severe.

Adultery in comparison to rape was not a serious offence. The adulterer had to pay a prescribed fine to the king and not to the affected husband. The usual fine was fifteen "Kahon" and ten "Pan" (about three rupees). However, that was a considerable amount in those days. But if the adulterer was a Brahmin or Khastriya and the woman was a Sudra or Baisya, the amount was much lower. The lower caste male committing adultery with a higher caste female had to face deprivation of the body. Any other sexual act other than intercourse with other man's wife was also a punishable offence. To offer immoral proposal or solicit love from other man's wife was also equally punishable like adultery. The Kachari code also prescribed severe punishment for the woman sex offenders. The punishment for a lower caste woman having unlawful sex with a Brahmin was however, only fine. If the wife proud of her beauty and father's wealth neglected her husband and had intercourse with another man, to deject the husband the punishment was severe. She was to be bound hand and foot to be swallowed by the hunting dogs. Another interesting feature was that if the husband punished his disobedient and quarrel-

some wife by forcibly ravishing her he had to face severe punishment.

The punishment for murder was death sentence but before death the executioner mutilated (*angachheda*) the body of the convict in public. However, if the murderer was a Brahmin, his heads were shaven, woman's private part was inscribed on the forehead with the help of a sword and he was exiled from the Kingdom. It is really inexplicable why a woman's private organ was branded (*Bhaganka*) on the forehead on charges of murder. May be the murders in those days were mostly connected with sex. The Kachari penal code dealt with the offence of defamation elaborately. Any body offending others by the use of insulting words or threats (*bakparusya*) were liable to heavy fine. There were also the provisions for social offences.

One deficiency of the Kachari legal system is that it had not discussed the issue of burden of proof. The system is also silent about the machinery of justice. Who were the judges and what were their legal qualification we do not know. The king and his nobles passed the sentences.

A comparative study of the customary laws of the Mizos, Lakheres, Chakmas and Tripuris go to show that Kachari penal laws were much less compact and lacked in details. The Gobinda Chandra's Penal Code was an admixture of Tribal and Hindu jurisprudence invested with certain local peculiarities. The legal code of the Kacharies certainly suffered from many defects but according to Tattvanidhi and Guha the crime was rare and the provisions of the code were sparingly used.

Notes & References

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