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A BRIEF ACCOUNT OF THE KANDYN LAW

INTRODUCTION

01. Judicial system and adopted judicial procedures of the ancient Sinhala Kings era, cannot be seen as written documents today. But, during the Colonial period, introduction of changes to the Sinhala judicial system including the procedures, structure, punishments and judicial powers and the areas they applied could clearly be seen. Specially they could be seen as customs and Kandyan Law is a clear example for the existence of the Sinhala Laws during the period of Kings in the form of customs¹. Colonial rulers have given much thoughts to the Sinhala Laws as they were barriers to their basic aims. Hence, they were very careful to not apply the Sinhala Laws to them. In the broad sense, although, these laws were in the form of customs and oral tradition of passing down from one generation to another, Kings have maintained a systematic judicial system and for the implementation there were a stipulated structure and system of delegation of power of punishment. But, the concepts which explain the difference between Laws and Customs are not visible within this Judicial system. Things that are commonly accepted are "Customs" and King's arrangements to have a organized control over the public are seen as "Laws". During the Portuguese and Dutch periods Kandyan Kingdom was independent and laws of Kandyan Kingdom was remained changed. In 1815 Ceylon including the Kandyan Kingdom was conquered by the British and they introduced changes to the laws that were existed and those changes are existing even up-to-date(e.g.:- Marriage, Legitimacy, Divorce, Property care taking, Minor, Parents and Children, Gifts and Properties without a Testimony).
02. Cooray², states, ancient law records of Ceylon are unavailable since, the systematic digests or written documents were not prepared during the King's era. But there had been an officer called 'Lekamge' for the purpose of draft the edicts that were issued in the name of the King, Tambiah³ stated. AS Robert Knox⁴ has stated," there were no laws, but the will of the King and whatsoever proceeds out of his mouth is immutable law and certain usages and customs were used as laws". Until 1815, Kandyan kingdom was independent and its customs and laws remained intact and they were later put into written document by some authors in the British colonial era. These sinhala laws applied in the Kandyan provinces are called "Kandyan Laws" today.
03. The King held exclusive and specific jurisdiction powers over certain matters.
 - a. Disputes among the Principle Chiefs of the kingdom,
 - b. Disputes and charges involving the Royal retinue or those who directly served the king and the royal family,

¹Introduction to the Laws of Sri Lanka-Block 1,page 2.

²Cooray.L.J.M:The Legal System of Ceylon,p,100

³Tambiah,H.W:The Judicature of Sri Lanka in its historical settings.Colombo.Gunasena.1977,p,1

⁴Robert Knox:A Hitorial Relation of Ceylon(1681)(Reprint1981,M.D.Gunasena,p,137



- c. Grave crimes such as treason, rebellion, conspiracy and homicide.⁵
 - d. As the ultimate arbiter of justice which was extended to all in the kingdom to appeal to him directly for the resolution of disputes through the supplicating at a royal audience or other appropriate occasion.⁶
 - e. Functioned as a deterrence upon unjust or unfair decision-making on the part of royal officials and tribunals.⁷
04. There were officials and institutions assigned to assist the King for the purpose of better administration and jurisdiction.
- a. **Adhikaramwaru** – Usually two officers who carried the honorific “Great Officer”, the principle ministers of the king and of the Kadyan kingdom. Judicial powers of these ‘Adhikarams’ were circumscribed by the authority vested in the king and *maha naduva*.⁸
 - b. **Disaves** – Governors of the 12 principle divisions which the kandyan kingdom was divided into. Their judicial powers were limited and extended over all persons and lands within their respective regions.
 - c. **Muhandirams and Ratamahathmayas** – They held territorially or subject-matter based offices with restricted jurisdictions, typically only over those persons who were directly subjected to their respective offices.
 - d. **Vidanas and Minor Officials** – Had highly circumscribed powers and they were limited to the particular locality within which they exercised their general duties.
 - e. **Great Court or Maha Naduwa** – Foremost constituted judicial body of the Kandyan kingdom. Only the King ranked higher than the maha naduwa in the administration of justice and could not exceed the jurisdiction of the *Adhikaramwaru*. It consisted of all the principle chiefs, *Adhikaramwaru*, *Disaawas* and *Muhandirams*. It heard cases which were referred to it by the King or cases directly brought before the Court.⁹
 - f. **Rata Sabha** – This was an assembly of the principle personage and officials of the administrative sub-division(Rata). This was assembled to resolve disputes relating to Agriculture and the conflicts relating to social status and social conduct(e.g.: Marriages, Sexual relations).
 - g. **Gamsabha** – The best known among the offices and tribunals which associated with the administration of justice in ancient Ceylon, especially in the Kandyan kingdom. Frequently held and consists of an assembly of the Principal and

⁵Hayley, op.cit.,p.71.

⁶Pieris, op.cit.,p.156

⁷Introduction to the Laws of Sri Lanka-Block,2,page 3.

⁸Introduction to the Laws of Sri Lanka-Block 1,page 4.

⁹Hayley,op.cit.,p.70.



experienced men of a village, inquired into matters relating to Petty Thefts, Quarrels, Limits and Debts & etc., After inquiring into the case, if possible settle it amicably, declaring the party which is in fault, adjudge restitution or compensation and dismissing with reproof and admonition. Their endeavours being directed to compromise and not to punishment.¹⁰

- h. **Sakki Balnda** – There is little information regarding this institution and it was a either a tribunal of inquiry constituted to ascertain the causes of death in a village and consisted of principle men of the district concerned, including minor officials such as *vidanas*.¹¹

Evolution of the Kandyan Law

- 05. **Kandyan Convention-1815** – It is also known as the Proclamation of 1815. This contained a guarantee that the laws and institutions that were existed in the Kandyan provinces prior to 1815 would be continued. But, the British have created a difference between Kandyans with the settlers and military personnel knowing the territorial nature of the Kandyan Law which applicable to all in the Kandyan territory (*Campbell v.Hall*). This is to avoid these laws to the British themselves.¹²
- 06. **Charters of Justic-1801 and 1833** – After 1815, under the regime of British 1801 Charter of Justice was repealed by 1833 Charter of Justice which did not declare any laws applicable to citizen. After this Proclamation of 1799 was revived and should have become the source of the law applicable to migrants population in the kandyan provinces.¹³
- 06. **Proclamation of 1816** - Proclamation of 1816 has attempted to exclude persons coming into the newly acquired territory from the application of the indigenous Kandyan Law and that it cannot be interpreted to mean that the territorial application of Kandyan Law was continued until a new system for the administration of justice was introduced by the British.
- 07. **Proclamation of 1818** – After the suppression of kandyan rebellion in 1818, this was enacted and with this enactment the earlier Proclamations were ceased to have legal effect. It drew a distinction between the tribunals which were to have jurisdiction over Kandyans and over the people of the Law country and foreigners coming into the Kandyan Provinces respectively. Continued application of laws according to the ancient and established usage to the inhabitants were provided by this Proclamation.
- 08. **Ordinance No 5 of 1852** – This was passed limiting the application of Kandyan Law. This Ordinance introduced following changes.
 - Section 5 – When there is a gap in the Kandyan Law, the Law of Maritime Provinces should be used to fill the gap.

¹⁰D'Oyly,op.cit.,p.28
¹¹Pieris,op.cit.,p.151.
¹²Goonasekara, *Introduction to Laws of Sri Lanka*,p.82
¹³Goonasekara, *Introduction to Laws of Sri Lanka,Block 1,1984*,p.81.



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- Section 7 – Kandyan Provinces be governed by the Criminal Law of the Maritime Provinces
- Section 8 – Law of the Maritime Provinces should apply in regard to inheritance rights and marriages of Europeans and Burghers.
- Section 9 – Mohommadan Code should apply to all Muslims in Sri Lanka.

09. Legal developments up to 1852 clearly shows that Kandyan Laws were applied as a territorial law within the whole Kandyan Province. But it was the Williams v. Robertson(1886) , case that decided for the first time that the Kandyan Law should apply only to Kandyans and that others who migrated after 1815 should be governed by the Law of the Maritime Provinces. Few years later, the Supreme Court held in Narayane v. Muthuswamy(1894) that immigrant Tamil parties resident in the Kandyan provinces could not marry under the Kandyan Marriage Law. That shows that the Kandyan Law was not applied to settlers in the Kandyan provinces after the inception of British rule in these provinces.

CONCLUSION

10. Until end of the Regime of Sinhala Kings the Sinhala Kingdom managed its Judicial System through exclusive structures and procedures. After the British invasion of Kandyan Kingdom in 1815, they introduced changes to the Kandyan Law. The Kandyan Law was then territorial in nature and with the British tactical changes introduced from 1815 to 1917 through various means including Proclamations, Constitutions, Charters and etc., And ultimately it became a Personal Law which is applicable only to Kandyans.

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